

J
103
H7
1936
P7
A1

SESSION 1936
HOUSE OF COMMONS

STANDING COMMITTEE

ON

PRIVILEGES AND ELECTIONS

MINUTES OF PROCEEDINGS

No. 1

TUESDAY, JUNE 9, 1936

TUESDAY, JUNE 16, 1936

J
103
H7
1936
P7
A1

OTTAWA
J. O. PATENAUDE, I.S.O.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1936

ORDERS OF REFERENCE

FRIDAY, February 21, 1936.

Resolved,—That the following Members do compose the Standing Committee on Privileges and Elections: Messieurs Anderson, Beaubien, Bennett, Bertrand (*Laurier*), Bothwell, Cahan, Campbell, Chevrier (*Ottawa East*), Duff, Factor, Fleming, Fournier (*Hull*), Gariépy, Hall, Kuhl, Lawson, MacInnis, Mackenzie (*Vancouver Centre*), McQuaig, McLarty, McNiven (*Regina City*), Massey, Pouliot, Power, Ryan, Sinclair, Slaght, Thorson, Turgeon—29. (Quorum 10.)

Attest.

ARTHUR BEAUCHESNE,
Clerk of the House.

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

Attest.

ARTHUR BEAUCHESNE,
Clerk of the House.

MONDAY, March 23, 1936.

Ordered,—That the Standing Committee on Privileges and Elections be instructed to inquire into, study and report on, the usages, customs and practices respecting the status of the Speaker of the House of Commons during the period of time which may elapse between any dissolution of the House of Commons and the assembly of a new Parliament, and in particular the rights, prerogatives, privileges, jurisdiction and duties ordinarily and customarily exercised by the Speaker under such circumstances in previous years in Canada;

And, also, the status of Clerks, Officers, Messengers or other persons attendant on the House of Commons, distinguishing between such persons as are *permanent* officers and such as are *temporary* and those whose duties are of a *sessional* character;

And the right and proper procedure to be adopted with respect to the retention or dismissal of any such employees;

And that the Committee have power to print such papers and evidence from day to day, as may be ordered by the Committee for the use of the Committee and members of the House.

Attest.

ARTHUR BEAUCHESNE,
Clerk of the House.

TUESDAY, May 5, 1936.

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

Attest.

ARTHUR BEAUCHESNE,
Clerk of the House.

MINUTES OF PROCEEDINGS

TUESDAY, June 9, 1936.

The Standing Committee on Privileges and Elections met at 11 a.m., the Chairman, Mr. Chevrier (*Ottawa East*), presiding.

Members present: Messrs. Beaubien, Bothwell, Cahan, Factor, Mackenzie (*Vancouver Centre*), McCuaig, McNiven, Ryan, Thorson, and Turgeon.

In attendance, Dr. Arthur Beaudesne, C.M.G., K.C., Clerk of the House of Commons.

The Clerk read the Order of Reference.

On motion of Mr. Ryan,

Resolved,—That a subcommittee of five be appointed by the Chairman, to prepare an agenda, and report to the Committee on Tuesday, June 16.

The following members were then selected by the Chairman, to constitute the said subcommittee, viz: Messrs. Beaubien, Factor, Ryan, Lawson, and Hall.

Dealing with the scope of the Reference, the Chairman expressed the following views:—

1. That by the terms of this reference, the Committee is limited to the study of the right of the Speaker to appoint or dismiss employees, and not the effects of the exercise of such right.

2. That the status of clerks, officers, messengers or other persons attendant on the House of Commons, should be apparent from the statute creating such status, and that it should not be difficult for the Committee to determine who are permanent and who are not.

3. That it should also be an easy matter for the Committee to determine "the right and proper procedure to be followed in the future with respect to the retention or dismissal of employees" referred to in the Order of Reference.

After a brief discussion, the Chairman ruled that under the terms of the reference, the Committee had no power to inquire into the merits or demerits of all or any appointment or dismissal which may have been made by the present or previous speakers of the House of Commons.

On motion of Mr. Cahan, the Committee adjourned.

R. ARSENAULT,
Clerk of the Committee.

TUESDAY, June 16, 1936.

The Standing Committee on Privileges and Elections met at 11 a.m., the Chairman, Mr. Chevrier (*Ottawa East*), presiding.

Members present: Messrs. Beaubien, Bothwell, Cahan, Campbell, Factor, Gariépy, Lawson, Mackenzie (*Vancouver Centre*), McLarty, Ryan, and Turgeon.

The Clerk read the minutes of the previous meeting.

After discussion on the Chairman's ruling as recorded in the minutes, Mr. Campbell moved that the minutes be adopted. Motion carried on division.

On behalf of the Subcommittee appointed to prepare an agenda, Mr. Factor submitted the following report:—

The Subcommittee appointed to prepare an agenda, recommends:—

1. That an official of the Justice Department be requested to attend at the next sitting of this Committee to tender in evidence such laws or statutes as presently govern the status of the Speaker of the House of Commons and in particular the rights, prerogatives, privileges, jurisdictions and duties exercised by the Speaker, during the period of time which may elapse between any dissolution of the House of Commons and the assembly of a new Parliament, more particularly with reference to the following circumstances,—
 - (a) the Speaker being defeated and the Government being elected,
 - (b) the Speaker being elected and the Government defeated,
 - (c) the Speaker being defeated and the Government being defeated.
2. That Arthur Beaufesne, K.C., LL.D., Clerk of the House, be requested to attend the sittings of the Committee and testify concerning the status of Clerks, Officers, Messengers or other persons attendant on the House of Commons, distinguishing between such persons as are,—
 - (a) permanent officers,
 - (b) temporary officers,
 - (c) those whose duties are of a sessional character.

All of which is respectfully submitted.

(Sgd.) S. FACTOR.

On motion of Mr. Lawson,

Resolved,—That the report be amended by adding the name of Major M. F. Gregg, Sergeant-at-Arms, to the list of witnesses suggested by the Subcommittee.

On motion of Mr. Bothwell,

Resolved,—That the report of the Subcommittee, as amended, be adopted.

On motion of Mr. Cahan,

Ordered,—That 500 copies in English and 200 copies in French of the Committee's Minutes of Proceedings and Evidence be printed.

On motion of Mr. Turgeon, the Committee adjourned until Thursday, June 18th, at 11 a.m.

R. ARSENAULT,

Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 231,

June 9, 1936.

The Standing Committee on Privileges and Elections instructed to inquire into the status of the Speaker of the House of Commons between dissolution and a new parliament and matters relating to the staff of the House of Commons, met at 11 o'clock, Mr. E. R. E. Chevrier the chairman presided.

The CHAIRMAN: Gentlemen, we will call the meeting to order. I thank you very sincerely for the great honour you have done me in asking me to preside over this very important committee, and I trust that our work will be done expeditiously, and will be fruitful. I will ask the clerk to read the order of reference.

(Clerk reads):—

Ordered,—That the standing committee on Privileges and Elections be instructed to inquire into, study and report on, the usages, customs and practices respecting the status of the speaker of the House of Commons during the period of time which may elapse between any dissolution of the House of Commons and the assembly of a new parliament, and in particular the rights, prerogatives, privileges, jurisdiction and duties ordinarily and customarily exercised by the speaker under such circumstances in previous years in Canada;

And, also, the status of clerks, officers, messengers or other persons attendant on the House of Commons, distinguishing between such persons as are *permanent* officers and such as are *temporary* and those whose duties are of a *sessional* character;

And the right and proper procedure to be adopted with respect to the retention or dismissal of any such employees;

And that the committee have power to print such papers and evidence from day to day, as may be ordered by the committee for the use of the committee and members of the house.

Attest.

ARTHUR BEAUCHESNE,

Clerk of the House.

Mr. RYAN: Mr. Chairman, you said in opening that you trusted the committee would act in an expeditious way, and I think we are more or less in agreement with that. I do not know in what better way that can be accomplished than by the appointment of a sub-committee of five to prepare an agenda for this committee, and I would make a motion that that sub-committee be appointed by the chair and report back to the general committee, say, next Tuesday, if that meets with the approval of the committee.

Mr. McNIVEN: I have much pleasure in seconding that.

(Carried).

The CHAIRMAN: I suggest that the committee be composed of Messrs. Beaubien, Factor, Ryan, Lawson and Hall.

The CHAIRMAN: Now, as to the scope and jurisdiction of this committee: by the order of reference we are instructed:—

To inquire into, study and report on the usages, customs, and practices respecting the status of the speaker of the House of Commons during the period of time which may elapse between any dissolution of the House of Commons and the assembly of a new parliament, and in particular the rights, prerogatives, privileges and jurisdiction and duties ordinarily and customarily exercised by the speaker under the circumstances in previous years in Canada.

In other words, had the speaker, in previous years, in Canada during that period the right *inter alia* to appoint and/or to dismiss employees? But by those very terms we are limited to the study of the very right, *qua* right, and not the effects of the exercise of the right. The order of reference continues to provide in the terms following:—

And also the status of clerks, officers, messengers or other persons attendant on the House of Commons, distinguishing between such persons as are permanent officers.

That I should think should be apparent from the statute creating such status, and it may not be for us to construe the statute; it speaks for itself.

Then last, is the following direction, very helpful to construe the whole order:—

and the right and proper procedure to be adopted with respect to the retention or dismissal of such employees.

This is the only place where the word "dismissal" appears in the order of reference: "Dismissals as to the future;" and it refers but to the procedure in case of retention or of dismissal.

I suggest that we should dispose of the matters referred to us in all speed and diligence, giving to them, however, all the serious consideration to which they are entitled and which is expected of us, but that we should not lose sight of the fact that many members of this large committee are also members of other very important committees, and that many members of this committee are decidedly anxious to participate in the most important measures which presently are requiring and for some time yet will continue to require the attention of the house.

I suggest that the public is not much desirous that we waste its time and money in an effort to determine which of the two political parties is the lesser or the greater sinner in the matter of dismissals. We might as well admit that in the past and following an accepted custom speakers of an incoming administration have, rightly or wrongly, dismissed many appointees of the former administration, and have replaced them by adherents of their own political faith. Had speakers power to do that?

It should be easy to determine who are permanent employees and who are not, within the meaning of the statute. I presume that all will agree that, as in the past, they should not be disturbed except for cause and after having been heard in the manner prescribed by the statute.

It should also be an easy matter to determine "the right and proper procedure to be adopted with respect to the retention or dismissal of any such employee" in the future. With the exercise of due diligence and good will our investigations and deliberations should not consume a great length of time.

That expresses my view concerning the purview and jurisdiction of this committee: that we may inquire into everything, as I have said; but we have not got the right to inquire into the merits or demerits of all or any of the dismissals that have been made.

Hon. Mr. CAHAN: That is so restricted in its application that I think we might just as well move the adoption of the chairman's report and report to the house accordingly, and then move to adjourn the proceedings; because there is very little left for this committee to enquire into.

Hon. Mr. MACKENZIE: We could assist the speaker in the future. This committee might make some very constructive suggestions for the actions of the speaker in the future.

Hon. Mr. CAHAN: I do not know that even that is included within the purview.

Mr. TURGEON: We have appointed a subcommittee.

Hon. Mr. CAHAN: The reference is not very large.

The CHAIRMAN: That is my interpretation of it.

Mr. TURGEON: The subcommittee will have the chairman's interpretation of the reference before it.

The CHAIRMAN: In order to simplify matters so that the subcommittee may be guided accordingly, if you like I will rule now that under the terms of the reference as read by the clerk and by which we are instructed, that we have not got the power to investigate into the merits or demerits of all or of any appointment or dismissal which may have been made by the present or previous speakers, and I will not allow any evidence to be submitted as to the merits or demerits of any case of appointment or dismissal.

Mr. BEAUBIEN: That is the scope of the order of reference.

The CHAIRMAN: In my opinion, that is the scope of the reference; and if the subcommittee finds that that is not so, and if they want to recommend to the house that the order of reference be made so precise in its terms as to cover that, they can move accordingly.

Hon. Mr. CAHAN: It is very expedient that the chairman should give his ruling at once, because, undoubtedly, he will be supported by the committee, and it will save a great deal of time and discussion.

The CHAIRMAN: I believe in expeditious manners.

Hon. Mr. CAHAN: I move that the committee adjourn.

The committee adjourned to the call of the chair.

MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 231,

June 16, 1936.

The Standing Committee on Privileges and Elections instructed to inquire into the status of the Speaker of the House of Commons between dissolution and a new parliament and matters relating to the staff of the House of Commons, met at 11 o'clock, Mr. E. R. E. Chevrier the chairman presided.

The CHAIRMAN: Order, gentlemen. The clerk will read the minutes.

(Minutes read by the clerk.)

The CHAIRMAN: What is your pleasure?

Hon. Mr. LAWSON: I did not have the advantage of being present at the last meeting, Mr. Chairman; would you mind having the clerk read the last paragraph in which the chairman gives his ruling?

(Clerk reads):—

After a brief discussion, the chairman ruled that under the terms of of the reference, the committee had no power to inquire into the merits or demerits of all or any appointment or dismissal which may have been made by the present or previous speakers of the House of Commons.

Hon. Mr. LAWSON: With all due respect, that ruling would seem to be directly contrary to the order of reference. The last part of the order of reference says that we are to enquire “. . . in particular the rights, prerogatives, jurisdiction and duties ordinarily and customarily exercised by the speaker under such circumstances in previous years in Canada. . . .”

I have no desire to enter upon an inquisitorial investigation as to what may have happened at any particular time, but that ruling seems to be directly contrary to the last clause of the reference; otherwise, the words “in previous years in Canada” in the reference are given no effect whatever.

Mr. FACTOR: As I interpret the ruling the reference is a guide for the future, rather than going into the facts of every dismissal.

Hon. Mr. LAWSON: I am not dealing with the interpretation of the ruling, but with the reference from the House of Commons.

Mr. FACTOR: I meant the reference.

Hon. Mr. LAWSON: I am sorry. You said the ruling.

The CHAIRMAN: Does anybody else desire to say anything about the point or order, or question the ruling?

Mr. BEAUBIEN: I think the order of reference definitely says “the rights”. Now, what right has the speaker to dismiss or to hire? What is his jurisdiction? I think that is what we are supposed to find.

Hon. Mr. LAWSON: “. . . customarily exercised by the speaker under such circumstances in previous years in Canada.”

Mr. BEAUBIEN: All we want to find out is his jurisdiction and his rights.

Hon. Mr. LAWSON: That is not what the reference says.

The CHAIRMAN: I have ruled that: “In other words, had the speaker in previous years in Canada during that period—that is in the inter-session,—“the right inter alia to appoint or to dismiss employees? But by those very terms we are limited to the study of the very, qua right, and not the effects of the exercise of the right.” That is my ruling.

Mr. CAMPBELL: I move the adoption of the minutes.

Mr. McLARTY: It is not a matter of how the speaker has actually acted in previous years, but what his rights were in respect to such action.

The CHAIRMAN: Quite so. You have heard the minutes; do you want to challenge the minutes or the ruling?

Mr. BOTHWELL: There is a motion that the minutes be adopted, and I second it.

The CHAIRMAN: Carried.

Hon. Mr. LAWSON: On division, Mr. Chairman.

The CHAIRMAN: A sub-committee was appointed at the last meeting for the purpose of submitting an agenda. Have you met, gentlemen?

Mr. FACTOR: (Reads report of sub-committee.)

The sub-committee appointed to prepare an agenda, recommends:—

1. That an official of the Justice Department be requested to attend at the next sitting of this committee to tender in evidence such laws or statutes as presently govern the status of the speaker of the House of Commons and in particular the rights, prerogatives, privileges, jurisdictions and duties exercised by the speaker, during the period of time which may elapse between any dissolution of the House of Commons and the assembly of a new parliament, more particularly with reference to the following circumstances.

- (a) the Speaker being defeated and the government being elected.
- (b) the Speaker being elected and the government defeated.
- (c) the Speaker being defeated and the government being defeated.

2. That Arthur Beauchesne, K.C., LL.D., clerk of the house, be requested to attend the sittings of the committee and testify concerning the status of clerks, officers, messengers or other persons attendant in the House of Commons, distinguishing between such persons as are,—

- (a) permanent officers,
- (b) temporary officers,
- (c) those whose duties are of a sessional character.

All of which is respectfully submitted.

(Sgd.) S. FACTOR.

The subcommittee unanimously agreed to this agenda.

Hon. Mr. LAWSON: Subsequent to the meeting of the committee, and after glancing at the rules, it occurred to me that we should have asked for one other gentleman—the subcommittee should have recommended to this committee that one other gentleman be called. I notice under the rules that certain of the employees of the House of Commons come under the Sergeant-at-Arms, and he appoints with the approbation of the speaker; and I would recommend that the subcommittee's report be amended so as to include the Sergeant-at-Arms as well as Dr. Beauchesne. I move that in amendment.

Mr. FACTOR: The Sergeant-at-Arms will make three. That the Sergeant-at-Arms be requested to attend and testify.

The CHAIRMAN: Now, gentlemen, you have heard the reading of the report, will we adopt it as amended?

(Moved by Mr. Bothwell that the report of the subcommittee as amended be adopted.)

The CHAIRMAN: Now, then, there is nothing else before the chair at the moment. When does the committee want to meet again to hear these gentlemen?

Hon. Mr. LAWSON: Are they not here this morning? Is none here?

The CHAIRMAN: No. There has not been sufficient time to get the officials of the Justice Department.

Hon. Mr. MACKENZIE: If we are adjourning on Saturday we had better hurry up.

The CHAIRMAN: It is necessary to give sufficient time to the officers of the Justice Department to prepare their statement. I could not summon them without knowing whether the committee was willing to proceed along that line. There is nothing else for us to do now. Will the committee say when they want these gentlemen summoned to appear?

Mr. BEAUBIEN: Have you any idea when they can be ready?

The CHAIRMAN: We will have to give them a few days.

Hon. Mr. MACKENZIE: They could be ready by Thursday. It is not a very difficult matter. It is only the study of a statute.

Hon. Mr. CAHAN: I think it will require two or three days for deliberation on precedents.

The CHAIRMAN: I do not think it would be fair to ask them to come here on too short notice.

Mr. BEAUBIEN: Why not leave the matter in the hands of the chair. He will call them as soon as he is able to get the officials from the Justice Department.

Mr. McLARTY: Possibly Thursday.

Mr. RYAN: I wonder if there will be morning sittings in the house, and whether it will be necessary to ask the house for permission to sit while the house is sitting?

The CHAIRMAN: My difficulty with this committee has been that it is a large committee, and without flattery, it is one of the most important committees considering the names of the distinguished gentlemen who are members of it. Apart from that, a number of our members have been chairmen of other very important committees—

Hon. Mr. LAWSON: Now I know why you were selected as chairman.

The CHAIRMAN: —but my modesty would not allow me to say so. However, that has been the difficulty in getting this committee together before, and it is a continuing difficulty.

Mr. FACTOR: I think we should allow you to call the meeting as soon as you can.

The CHAIRMAN: Suppose I endeavoured to get them for Thursday; do you want me to get them for Thursday?

Hon. Mr. MACKENZIE: Do the best you can.

Mr. BEAUBIEN: There is a caucus to-morrow morning.

The CHAIRMAN: Let us call the committee for Thursday.

Mr. BEAUBIEN: It is essential that we make a report this session.

Hon. Mr. CAHAN: I think we might have your opinion as chairman printed.

The CHAIRMAN: I thank you for the honour, Mr. Cahan.

Hon. Mr. CAHAN: No; but it is important, and it goes to the root of the matter.

STANDING COMMITTEE

The CHAIRMAN: Quite right. Will somebody move that the minutes of evidence be printed. I am advised by the clerk that it is usual to print 500 copies of the evidence.

Mr. CAMPBELL: 500 copies in English and 200 in French.

Mr. RYAN: Once the matter is set up it is just as cheap to print that number.

Moved by Mr. Cahan, seconded by Mr. Ryan that 500 copies in English and 200 in French of the evidence be printed.

The committee adjourned to meet Thursday, June 18th, at 11 o'clock.

SESSION 1936
HOUSE OF COMMONS

MINUTES OF PROCEEDINGS

STANDING COMMITTEE

ON

PRIVILEGES AND ELECTIONS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 2

THURSDAY, JUNE 18, 1936

WITNESSES:

Arthur Beaudesne, C.M.G., K.C., LL.D., Clerk of the House of Commons.
C. P. Plaxton, Esq., K.C., Department of Justice.

OTTAWA
J. O. PATENAUDE, I.S.O.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1936

MINUTES OF PROCEEDINGS

THURSDAY, JUNE 18, 1936.

The Standing Committee on Privileges and Elections met at 11 a.m., the Chairman, Mr. Chevrier (*Ottawa East*), presiding.

Members present: Messrs. Beaubien, Bothwell, Campbell, Factor, Gariépy, Lawson, MacInnis, Mackenzie (*Vancouver Centre*), McCuaig, McNiven, Ryan, Turgeon and Kirk.

In attendance: Dr. Arthur Beaudesne, C.M.G., K.C., Clerk of the House of Commons, C.P. Plaxton, Esq., K.C., Dept. of Justice, and Major M. F. Gregg, V.C., M.C., Sergeant-at-Arms, House of Commons.

Mr. Plaxton was called and examined.

Witness retired.

Dr. Beaudesne was called and examined.

Mr. Lawson having asked the witness if he would read to the Committee the names of those persons employed by the House of Commons immediately prior to 1936 who were not re-employed in the session of 1936, giving in each case the length of the service of such employees prior to 1936, the Chairman ruled that the names only could be given, and not the length of service, since this latter information would lead to the discussion of merit or demerit of appointments or dismissals.

A similar question by Mr. Beaubien, with respect to employees of the House prior to 1930 who were not re-employed during the session of 1930, was ruled out of order for the same reason.

Mr. Lawson appealed from the Chairman's ruling on his question to the witness. The question having been put: "Shall the chairman's ruling be sustained," and a vote having been recorded, Yeas 7, Nays 1, the Clerk informed the Chairman of the absence of a quorum.

The Committee rose.

R. ARSENAULT,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS,

Room 231,

June 18, 1936.

The Standing Committee on Privileges and Elections instructed to inquire into the status of the Speaker of the House of Commons between dissolution and a new parliament and matters relating to the staff of the House of Commons, met at 11 o'clock, Mr. E. R. E. Chevrier the chairman presided.

The CHAIRMAN: Gentlemen, will you come to order. At the last meeting it was decided that we would call an official of the Justice Department to attend at the next sitting of this committee—that is, to-day—to tender in evidence such laws or statutes as presently govern the status of the Speaker of the House of Commons and in particular the rights, prerogatives, privileges, jurisdictions and duties exercised by the speaker during the period of time which may elapse between any dissolution of the House of Commons and the assembly of a new parliament, more particularly with reference to the following circumstances.

- (a) the Speaker being defeated and the government being elected.
- (b) the Speaker being elected and the government defeated.
- (c) the Speaker being defeated and the government being defeated.

Mr. Plaxton, K.C., from the Justice Department is here, gentlemen, and if it is your pleasure to hear him now, he is ready to tender his evidence.

C. P. PLAXTON, K.C., Law Branch, Department of Justice, called:

WITNESS: Is it your wish, Mr. Chairman, that I should answer questions as they are presented?

The CHAIRMAN: Have you a brief, Mr. Plaxton?

WITNESS: I have some notes.

Hon. Mr. LAWSON: I suggest, Mr. Chairman, that Mr. Plaxton has before him under three different sets of circumstances the matter with respect to which the committee should be advised; and I would suggest that Mr. Plaxton be just asked what the statutes are and what the law is in respect to the matter as he has determined it.

The CHAIRMAN: Very well, if that is the wish of the committee.

Mr. CAMPBELL: We can ask questions as he goes along.

WITNESS: Mr. Chairman and gentlemen: My opinion is as follows: apart from the statute the office of Speaker would constitutionally expire with the dissolution of parliament. That position was modified by the Internal Economy Act which was first enacted by chapter 27 of the Statutes of 1868. The provisions of that statute are now embodied subject to some modifications in sections 15 to 22 of the House of Commons Act. Section 15 provides that "the person who fills the office of Speaker at the time of any dissolution of parliament shall for the purposes of the following provisions of this Act be deemed to be the Speaker until a Speaker is chosen by the new parliament." My view is that the Speaker is continued in office during the dissolution of parliament and until a new Speaker is chosen only for the purposes of these provisions; that is to say, sections 16 to 22 of the House of Commons Act.

By the Chairman:

Q. For the benefit of the committee probably it would be well for you to state what the sections are?—A. Yes. Section 16 provides for the appointment by the Governor in Council of four members of the King's Privy Council for Canada, who are also members of the House of Commons, to act with the Speaker of the House of Commons as commissioners for the purposes of sections 17, 18, 19 and 20 of the House of Commons Act. Three of the commissioners whereof the Speaker of the House of Commons shall be one may carry the said provisions into execution. Section 17, by sub-sections 1 and 2, provides for the preparation of annual estimates by the Clerk of the House of Commons and by the Sergeant at Arms covering the annual expenditures referred to in these sub-sections. Sub-section 3 provides that these estimates shall be submitted to the Speaker for his approval, and shall be subject to such approved and such alteration as the Speaker considers proper. Subsection 4 provides that the Speaker shall thereupon prepare an estimate of the sums requisite for the several purposes aforesaid, and shall sign the same. Subsection 5 provides that such several estimates of the Clerk, Sergeant-at-Arms and Speaker shall be transmitted by the Speaker to the Minister of Finance for his approval, and shall be laid severally before the House of Commons with the other estimates for the year.

Section 18 provides that all sums of money voted by Parliament upon such estimates, or payable to members of the House of Commons under the Senate and House of Commons Act, shall be subject to the order of the commissioners, or any three or them of whom the Speaker shall be one.

Section 19 provides for the issue of credits for all the sums mentioned in the preceding section, that is, section 18, from time to time in accordance with the directions of the commissioners. The credits are required to be issued on one of the banks of Canada in favour of the accountant and his assistant, or of such two officers as the commissioners from time to time may designate.

The commissioners shall from time to time apply for such credits as they deem necessary for that purpose in favour of the said accountant and his assistant, or of the other officers designated by them, by an order signed by the Speaker and two others of the commissioners.

Section 20 requires the officers in whose favour the credit is given to give such security and in such form for the faithful performance of their respective duties as the commissioners require.

Now, those are the provisions up to section 20 with regard to which the commissioners of Internal Economy exercise their authority, and sections 21 and 22 are sections under which the Speaker alone exercises his authority.

Section 21 provides that if any complaint or representation is at any time made to the Speaker for the time being of the misconduct or unfitness of any clerk, officer, messenger or other person attendant on the House of Commons, the Speaker may cause an inquiry to be made into the conduct or fitness of any such person. If, thereupon, it appears to the Speaker that such person has been guilty of misconduct, or is unfit to hold his situation, the Speaker may, if such clerk, officer, messenger or other person has been appointed by the Crown, suspend him and report such suspension to the Governor General, and, if he has not been appointed by the Crown, suspend or remove him.

By Mr. Ryan:

Q. If he has not been appointed by whom?—A. If he has not been appointed by the Crown, suspend or remove him. In other words, if appointed by the house under the authority of the house, the Speaker may suspend or remove him.

By Mr. Beaubien:

Q. Who gives the authority to appoint him from the house? How is that done?—A. Under standing orders.

[Mr. C. P. Plaxton.]

WITNESS: Section 22 requires that the Clerk of the House of Commons shall subscribe and take before the Speaker the oath of allegiance, and all other officers, clerks and messengers of the House of Commons shall subscribe and take before the Clerk of the House of Commons the oath of allegiance. The clerk is required to keep a register of such oaths.

That is a brief summary.

By Mr. Factor:

Q. The Speaker is a member of the Internal Economy Commission, according to the provisions of the statute?—A. Yes.

Q. Well now, in order to assume the character of Speaker he has to be a member of the house hasn't he?—A. Of course, he must be a member of the house at the time he is chosen Speaker; but I take it that for the purposes of these provisions it does not matter whether he is a member, whether the government changes or anything like that.

By Mr. Ryan:

Q. Or whether he is defeated?—A. Or whether he is defeated; he continues to be Speaker.

By Mr. Campbell:

Q. But only for the purposes of these provisions?—A. Right.

By the Chairman:

Q. Does that apply, Mr. Plaxton, in the case of the Speaker being defeated also?—A. Yes, I should say so, Mr. Chairman.

By Mr. Campbell:

Q. Have you checked up on any of the practices previous to that Act which you say was passed in 1868?—A. Yes, Mr. Campbell, I have.

Q. Could you give us a brief summary of that?—A. In 1879 during the dissolution of parliament—it may not have been in 1879, that dissolution, but the discussion took place in 1879—Mr. Speaker Anglin during the period of dissolution proposed to make certain appointments to the staff of the house. The matter came to the attention of Sir John MacDonald who was then Prime Minister, and Sir John MacDonald instructed the Clerk of the house not to recognize these appointments. Mr. Speaker Anglin was elected to the next parliament and he brought the matter up in debate in the House of Commons, and Sir John took the position that the Speaker had no authority to make these appointments for the reason that he was Speaker only for the purposes of the Internal Economy Act and otherwise he had ceased to be Speaker when parliament was dissolved; and I have read that debate.

Q. In other words, the other privy councillors who carried on Internal Economy had gone out of office?—A. Yes.

By Hon. Mr. Mackenzie:

Q. May I ask you a question with regard to section 21 which says that if any complaint or representation is at any time made to the Speaker for the time being of a misconduct or unfitness of any clerk, officer, messenger or other person attendant on the House of Commons—and these are the words I stress, "or other person attendant on the House of Commons"—the Speaker may cause an inquiry to be made into the conduct or fitness of such person. In your judgment what do those words "attendant upon the House of Commons" mean?—A. I would suppose that they included the temporary as well as the permanent officers, clerks and messengers of the house.

The CHAIRMAN: If I am not interfering with your questioning Mr. Mackenzie, I would like to keep the record in order as much as possible, and if it meets with the views of the committee, Mr. Plaxton is here to tender in evidence

such laws or statutes as presently govern the actions of the Speaker. If that would meet with your approval, I would ask Mr. Plaxton to tender in evidence such laws or statutes as presently govern the status of the Speaker of the House of Commons; once he has done that we would like him then to give us his views with respect to the rights, prerogatives, privileges, jurisdictions and duties exercised by the Speaker, during the period of dissolution and during the period during which the house has been dissolved. First I would ask him to give us the statutes and laws that presently govern the office of Speaker, and then to go into the question of customs, if he can; the rights, prerogatives, privileges, jurisdictions and duties exercised by the Speaker during that period during which the house is dissolved.

Mr. BOTHWELL: The first thing we should find out, Mr. Chairman, is whether there are any other statutes that have any bearing other than those that Mr. Plaxton has given.

Mr. RYAN: I think Mr. Campbell asked that question. He asked if there was any modification of any statute other than those given. Are there any other statutes or laws that govern the status of the Speaker other than those you have given?

WITNESS: Yes, there are. There is the British North America Act, sections 44 to 49 inclusive; the Speaker of the House of Commons Act, chapter 148 of the revised Statutes of Canada, 1927; the House of Commons Act, chapter 145 of the Revised Statutes of Canada, 1927; the Senate and House of Commons Act, chapter 147, in particular sections 31 and 32; the Library of Parliament Act, chapter 146, revised Statutes of Canada, 1927. And then, of course there are various other statutes in which he is mentioned, like the Civil Service Act and the Dominion Elections Act. We ought to include the Standing Orders and Rules of the House of Commons.

Hon. Mr. MACKENZIE: In the Journals of the House of Commons, 1929, there is a special resolution dealing with the whole thing.

WITNESS: I was not aware of that, sir.

Mr. BEAUCHESNE: And the Superannuation Act.

Hon. Mr. MACKENZIE: May I say that this matter is dealt with in the Journals of the House of Commons, 1929, page 675.

The CHAIRMAN: As we are more particularly concerned with the rights, prerogatives, privileges, jurisdictions and duties ordinarily and customarily exercised by the Speaker, we should get the names of the other acts that you have mentioned.

Hon. Mr. MACKENZIE: On page 675 of the Journals of the House of Commons, 1929, I find the following:

Mr. Speaker laid before the House the organization and establishment of the permanent positions of the staff of the House of Commons, 1929.

The CHAIRMAN: If it meets with the views of the committee, would you give us a short synopsis of the various acts?

WITNESS: I have not them all here, sir, but so far as your particular question is concerned I have already stated my view. In my view the only sections which are material are sections 15 to 22 of the House of Commons Act.

By Mr. Campbell:

Q. Are there any more practices that have been carried on since 1868? You mentioned one in 1879. Are there any others?—A. Yes; I can give you an opinion which was expressed by Sir Alexander Campbell, Minister of Justice in 1882. He expressed an opinion with regard to the right of Mr. Speaker [Mr. C. P. Plaxton.]

Blanchet to receive the salary of the office of Speaker during the dissolution of parliament.

By Mr. Lawson:

Q. That would be from the date of dissolution of one parliament until—
A. Until the meeting of the next parliament. This opinion is dated 1882, published in the Auditor General's report for 1882 at page 143. Sir Alexander Campbell stated:

The Act respecting the internal economy of the House of Commons, 31 Victoria, chapter 27, enacts in its eighth clause as follows: "For the purposes of this act the person who shall fill the office of Speaker at the time of any dissolution of parliament shall be deemed to be the Speaker until a Speaker shall be chosen by the new parliament; and in the event of death or disability or absence from Canada of the Speaker during any dissolution or prorogation of parliament, any three of the Commissioners may execute any of the purposes of this Act."

The question having been raised by the Auditor General as to the payment since the dissolution of the late parliament, of the salary of Mr. Speaker Blanchet,

I am of the opinion, that, under the Act to which I have referred, that gentleman continues to be Speaker until a new parliament shall choose a new Speaker. It is true that he is continued as Speaker only for the purposes of the Act, but nevertheless he is so continued, and I do not think the salary attached to his office can be in any way apportioned by the executive government, but am of opinion that, as he is Speaker for one purpose, he is in office still and entitled to his salary as such. This view is confirmed by the fact that, when the point arose on a former occasion, with reference to Mr. Speaker Anglin, the House of Commons in the supplies for the year 1880—Supplementary estimates for that year—voted a sum to pay him the "salary attached to the office of Speaker of the House of Commons, from the 1st October, 1878, to the 12th of February, 1879," that was, for a period analogous with reference to that parliament, to the period to which Mr. Speaker Blanchet now claims his pay. Parliament thus seems to have adopted the view that the Speaker, although only declared to be such for the purpose of the Internal Economy Act, is nevertheless entitled to his salary until a new Speaker is chosen, and I refer also to the case of Mr. Speaker Cockburn, who was paid under similar circumstances (without any special vote however). I think, therefore, there can be no doubt of the intention of the legislature, and I advise that Mr. Speaker Blanchet be paid his salary accordingly.

By Mr. Campbell:

Q. Are there any others?—A. A similar question arose in the case of Mr. Speaker Lemieux. My recollection is he was appointed to the Senate during the period of dissolution and the question was whether he was entitled to exercise certain functions during that period as Speaker, after his appointment to the Senate. The Deputy Minister of Justice on June 9, 1930, gave this opinion,—the opinion is addressed to the Honourable Rodolphe Lemieux, Speaker of the House of Commons, and is as follows:—

Referring to your conversation with me regarding your status as Speaker of the House of Commons I am of opinion that the mere fact that you have been summoned to the Senate does not operate to override the provisions of sections 15 to 22 inclusive of the House of Commons Act, R.S.C. 1927, chapter 145, until a Speaker is chosen by the new parliament, or until you take your seat in the Senate. I do not think

you are under any disability within the meaning of subsection 4 of section 16 of the said Act.

Q. Are there any other customs that you have knowledge of?—A. I don't know—some time ago I referred to the debate in 1879. I happen to have the debates here.

By the Chairman:

Q. Those are some of the rulings that have been made? You have not gone into the rights, prerogatives, privileges and jurisdiction and customs of the Speaker. Those are decisions that have been handed down.

Hon. Mr. LAWSON: I believe Mr. Plaxton gave us his opinion very clearly on that at the outset. I believe he made it very clear.

WITNESS: I tried to.

Hon. Mr. LAWSON: He started off with two primary principles, and said insofar as the authority of the Speaker is conferred by statute, the Speaker automatically ceases on the dissolution of parliament. Starting with that he says we have a statute which continues the former Speaker in office and confers upon him certain powers, and that all those powers are contained in sections 15 to 22 of the House of Commons Act. Was that not correct?

WITNESS: Correct.

The CHAIRMAN: That is perfectly all right.

Hon. Mr. LAWSON: I think he made it very clear and concise. He put the whole thing in the three first sentences.

The CHAIRMAN: Up to that point it is all right.

Mr. CAMPBELL: Regardless of defeat.

WITNESS: Regardless of what happens to the Speaker or the government.

By Hon. Mr. Mackenzie:

Q. Did you make any distinction in your evidence between a permanent and non-permanent employee?—A. No.

Q. Did you cite the Civil Service Act?—A. I did not cite the Superannuation Act. I believe Mr. Chairman or someone mentioned it. I did cite the Civil Service Act.

Q. The words "permanent official" are clearly defined there.

By Mr. Bothwell:

Q. I should like to ask one question dealing with Mr. Mackenzie's remark a while ago as to the persons who are attendant on the House of Commons. I should like to ask Mr. Plaxton if those fellows who are on the cleaning staff, sweeping the floors and so on, are considered within section 21 as persons who are attendant on the House of Commons?

Mr. CAMPBELL: They are employed by the Public Works department.

WITNESS: I do not know whether they are persons attendant on the House of Commons; they are certainly employees here, and I would make no distinction between temporaries and permanents so far as the disciplinary control of the Speaker is concerned.

Mr. CAMPBELL: Are they under the jurisdiction of the Speaker and the internal economy commission or under the jurisdiction of the Department of Public Works? Does anybody know?

Hon. Mr. MACKENZIE: I suggest the matter of permanency of certain employees of the House of Commons under the provisions of section 22 referred to by Mr. Plaxton is covered by the Journals of the House of Commons for the year 1929, page 675. You will find there the employees who are recognized as on a permanent basis. And from year to year in your estimates you will find

[Mr. C. P. Plaxton.]

that. It was there last year and it is there this year. If you are going to distinguish between permanents and non-permanents I think you will find that the permanent staff had to take the oath of allegiance when they became permanent. I am inclined to agree with Mr. Plaxton when he says there has been a marked distinction ever since 1867 between the permanent and non-permanent cases. That matter was dealt with by the special resolution which was adopted in the House in 1929.

Hon. Mr. LAWSON: I may say, Mr. Chairman, that the request to the Department of Justice was to have someone advise the committee with respect to certain matters that had been raised by the committee. The question that is now being raised by Mr. Mackenzie puts Mr. Plaxton in the unfortunate position of having to give an offhand opinion. I hardly think it is fair to ask Mr. Plaxton to give an opinion on this matter without having had the opportunity of going into research and considering the whole matter. I do not think he should be asked for an opinion upon which he has had no warning.

The CHAIRMAN: I wanted to keep the record in order as much as I could. Mr. Plaxton, up to the present, has given, or tendered in evidence the statutes that presently govern the status of the Speaker of the House of Commons. He was also asked to give an opinion on the rights, prerogatives, jurisdictions, privileges and duties exercised by the Speaker during the period of time which may elapse between any dissolution of the House of Commons and the assembly of a new parliament. I believe he has covered that by giving the statutes that govern. I think he should complete his evidence under three points before we go into the question of permanency and the like. He has already given the statutes that govern the three cases of the Speaker being defeated and the government being elected; the Speaker being elected and the government defeated; and the Speaker being defeated and the government being defeated. Then we can go into the other side of the story.

Mr. BEAUBIEN: I think he has covered that.

Hon. Mr. LAWSON: He says it makes no difference.

Mr. BEAUBIEN: The Speaker is Speaker until a new speaker is elected, whether he is defeated or whether the government is defeated, or whether he is elected.

Hon. Mr. LAWSON: For the purposes of sections 15 to 22 inclusive of the House of Commons Act.

By the Chairman:

Q. So that there be no misunderstanding, would you mind giving us a resume of the whole paragraph so that we will know just where we stand as to what you are called upon to tender evidence upon this morning?—A. I have already submitted in evidence a list of the statutes which presently govern the status of the Speaker of the House of Commons. I have not cited all of them, but I have cited the leading enactments. Then with regard to the rights, prerogatives, privileges, jurisdictions and duties exercised by the Speaker, during the period of time which may elapse between any dissolution of the House of Commons and the assembly of a new parliament, I have expressed the opinion, rightly or wrongly, that he is continued in office only for the purposes of sections 16 to 22 of the House of Commons Act, no matter what happens to him or to the government which causes him to be chosen as Speaker.

By Hon. Mr. Lawson:

Q. Then you gave us this morning, Mr. Plaxton, a list of the statutes governing the Speaker. I should like to ask if any of those statutes, other than the House of Commons Act to which you referred, have any provisions relative to the jurisdiction of the Speaker in respect of engaging and dismissing either permanent or temporary employees of the House of Commons?—A. I do not think so.

Q. Then, Mr. Plaxton, I presume that you are familiar or have familiarized yourself with rules 85 and 87, subsections 4 and 5, of the House of Commons Act?—A. I would like to see it.

Q. I judge from something you said previously that you are familiar with them. 85 reads as follows:—

85. The Clerk shall employ at the outset of a session, with the approbation of Mr. Speaker, such extra writers as may be necessary; engaging others as the public business may require.

Then rule 87—Standing Order, I guess it is—

Dr. BEAUCHESNE: Yes.

By Hon. Mr. Lawson:

Q. Standing Order 87, paragraphs 4 and 5 read:—

87. (4) The Sergeant-at-Arms shall employ at the outset of a session, with the approbation of Mr. Speaker, such constables, messengers, pages and labourers as may be necessary, engaging others as the service of the House may require.

(5) The Sergeant-at-arms has the direction and control over all the constables, messengers, pages, labourers and other such employees subject to such orders as he may receive from Mr. Speaker or the House.

The question I wish to ask with respect to that is if those are the only provisions of which you have knowledge by virtue of which the Clerk of the House and the Sergeant-at-Arms of the House, respectively in each case, with the approbation of the Speaker, has power to engage employees of the House of Commons?—A. I think that is so with regard to the Clerk and the Sergeant-at-Arms. Of course, there is Standing Order 91.

Q. Oh, yes; that deals with the right of the Speaker to fill vacancies?—A. Yes.

Q. I meant so far as power of appointment is concerned?—A. I rather think that deals with the permanent service.

Q. I beg your pardon.—A. I should think that 91 deals with the permanent as distinguished from the sessional staff.

Dr. BEAUCHESNE: That is covered by the Civil Service Act.

WITNESS: Of course, these orders were modified by the Civil Service Act in 1908.

By Hon. Mr. Lawson:

Q. So far as power of appointment is concerned, is it your opinion that Standing Order 85 and Standing Order 87, paragraphs 4 and 5, govern solely the power of appointment?—A. Only temporary employment.

Q. Temporary employees?—A. Yes, because permanent employment comes under the Civil Service Act.

Mr. FACTOR: What is the meaning of the term—

The CHAIRMAN: Just a minute, Mr. Factor.

Hon. Mr. LAWSON: Would you mind letting me follow up with one more question? I am trying to follow a line of thought and trying to get something clear in my own mind.

The CHAIRMAN: Yes.

By Hon. Mr. Lawson:

Q. Mr. Plaxton, is there any power of appointment to either permanent or temporary positions in the House of Commons conferred upon the Speaker by sections 16 to 22 inclusive of the House of Commons Act?—A. None whatever, I would say.

[Mr. C. P. Plaxton.]

Q. Thank you. That is all.

By Mr. Factor:

Q. One question. What is the meaning of "With the approbation of the Speaker" referred to in Standing Orders 85 and 87? What Speaker does that mean?—A. The Speaker for the time being, of course.

Q. As interpreted in these sections of the Act?—A. Are you speaking of a period of dissolution?

Q. Yes, a period of dissolution.—A. Of course, I have got to accept the view that is recorded here in 1879, that Mr. Speaker's authority to make any appointments lapses entirely when parliament dissolves. That view is stated very categorically by Sir John Macdonald and appears to have been acquiesced in.

Q. If the Clerk or Sergeant-at-Arms, under Standing Orders 85 and 87, has to obtain the approval of the Speaker in connection with these appointments, what person does he obtain approval from if there is no Speaker appointed until the House meets again?

Mr. RYAN: For that period.

Mr. FACTOR: For that period.

Hon. Mr. LAWSON: He cannot obtain approval until the Speaker is elected.

WITNESS: He cannot obtain any Speaker's approval, as far as I can see.

Hon. Mr. LAWSON: Frankly, that is where I was heading by my question, because I expected that Dr. Beaudesne and the Sergeant-at-Arms, when they came on, would say it was their function.

By Mr. Bothwell:

Q. The situation would be this: either the Sergeant-at-Arms or the Clerk of the House of Commons could engage such employees as they saw fit in order to make preparation for sittings of the house, and have their appointments confirmed when the Speaker was appointed?—A. Well, I think that is the practical situation. As a matter of fact, that was the position taken by the Clerk of the House in 1879 with regard to those appointments which Mr. Speaker Anglin desired to make.

Q. Has it been the usage or custom since that time, as far as you can ascertain?—A. I cannot answer that question. I do not know.

Hon. Mr. MACKENZIE: The very opposite, I think, has been the usage.

Mr. RYAN: Yes.

Hon. Mr. MACKENZIE: I must say that I cannot see that.

Hon. Mr. LAWSON: I would agree in that if Mr. Bothwell changed the words "such employees as they saw fit" to the words "such employees as they are authorized to engage" under Standing Orders 85 and 87.

Mr. BOTHWELL: Yes.

Hon. Mr. MACKENZIE: Section 8 reads:—

For the purposes of this Act, the person who shall fill the office of Speaker at the time of dissolution of parliament shall be deemed to be the Speaker until a Speaker shall be chosen by the new parliament.

Hon. Mr. LAWSON: Which Act is that?

Hon. Mr. MACKENZIE: Internal Economy. I am not accepting the decision in 1879 for a second.

Mr. FACTOR: Internal Economy would include the staff.

The CHAIRMAN: Order, gentlemen.

Hon. Mr. LAWSON: No, it includes the preparation of appointments for the staff, but not the appointment of the staff itself.

Hon. Mr. MACKENZIE: That is the whole point at issue. What does it include?

The CHAIRMAN: That is all right. It is a question of argument. Has anybody else anything that he wants to take up? I do not want to butt into anybody's examination.

Mr. RYAN: Mr. Chairman, at the commencement of it, Mr. Plaxton made a distinction between employees appointed by the Crown and those appointed by the Standing Orders.

WITNESS: I said the statute makes the distinction.

Mr. RYAN: Yes, the statute makes the distinction.

By Mr. Ryan:

Q. Who would be in that category who are not appointed by the Crown, in your opinion—A. Well, the officers, clerks and employees who are appointed under the authority of the House under the Civil Service Act.

Q. They would be temporary employees, would they not?

Hon. Mr. LAWSON: No, just the reverse. They would be permanent.

WITNESS: Of course, these provisions go right back to 1868, and certain modifications in the situation have occurred since. Until 1908 the House itself exerted complete control over the appointment of permanent as well as temporary officers, clerks and employees. In 1918, their powers were modified by the Civil Service Act passed in that year. With regard to permanent employees, for certain purposes the Civil Service Act applies with regard to permanent appointments. Their hands are still free, as I see it, with regard to temporary employees.

By Hon. Mr. Mackenzie:

Q. You mean the Speaker's hands?—A. Yes.

By Mr. Bothwell:

Q. There are two sets of permanent employees in this House; there are those who are appointed by the Civil Service Commission and those who are appointed by the Internal Economy Commission?—A. No, sir. I should not think so, unless there are permanent employees who were appointed to the Service under the authority of the House antecedent to 1908.

Mr. FACTOR: What about this resolution that Mr. Mackenzie referred to, whereby the House approves of the appointment of certain officers?

Hon. Mr. MACKENZIE: "Mr. Speaker laid before the House the organization and establishment of the permanent positions of the staff of the House of Commons, 1929," and then is given the organization and establishment of the permanent positions on the staff of the House of Commons, starting with officers of the House, Clerk of the House, Clerk Assistant and so on.

WITNESS: That is just the organization.

Hon. Mr. MACKENZIE: That is perfectly true.

WITNESS: Just the organization.

By Mr. Bothwell:

Q. Who appoints those?—A. They are appointed by the Civil Service Commission to-day, or since 1908.

Hon. Mr. LAWSON: If you will permit a suggestion, I think probably the members of the committee could get information as to the permanent and temporaries of the House as distinguished from those appointed by the Civil Service Commission, with much greater facility from Dr. Beauchesne. I have a recollection of Dr. Beauchesne coming before the Civil Service Committee and giving us a very clear outline of the distinction, and certain recommendations he had at that time.

[Mr. C. P. Plaxton.]

The CHAIRMAN: In answer to that, Mr. Lawson, may I say that I have been trying to keep strictly to the Order of Reference. I have allowed a lot of latitude in cross-examination and cross-fire. What you say is perfectly right. Dr. Beauchesne has been asked to tender that evidence. Mr. Plaxton was asked to tender in evidence the statutes, rules or laws. Now, if there is no other question to be asked just at the moment, I should like to ask Mr. Plaxton one.

By the Chairman:

Q. Mr. Plaxton, you have quoted an opinion from the Department of Justice dated July 8, 1930?—A. No, I did not quote that.

Q. Well, there is one.—A. There is one of June 9.

Mr. RYAN: Before you go on with that, Mr. Chairman, I would like to ask a question.

The CHAIRMAN: Just a minute, please.

By the Chairman:

Q. I understood you to say, Mr. Plaxton, that the Speaker is the Speaker until a new Speaker is appointed.

Hon. Mr. LAWSON: No.

WITNESS: For the purposes of sections 16 to 22 of the House of Commons Act.

By the Chairman:

Q. Sections 16 to 22?—A. Yes.

Q. Then suppose I ask you this question: Can temporary appointments be made during the dissolution either by Mr. Speaker, the Clerk or the Sergeant-at-Arms?—A. Well, I would think that temporary employees might be employed under the authority of the Clerk of the House or the Sergeant-at-Arms without the approval of Mr. Speaker.

Mr. BEAUBIEN: What is that? I did not get that.

Hon. Mr. LAWSON: Without the approbation of the Speaker. He cannot get the approbation of the Speaker.

Mr. BOTHWELL: Would you repeat that answer, please?

WITNESS: I think that the clerk of the house or the Sergeant-at-Arms within their respective branches might employ temporary employees during a period of dissolution without reference to the speaker at all.

By the Chairman:

Q. Suppose that a government has been defeated and the former speaker has been defeated, can that defeated speaker make any appointments until the new speaker has been selected?—A. Well, under the position taken by Sir John A. Macdonald in 1879, the answer is no, emphatically.

Q. The former speaker could not make any appointments or make any dismissals, but a moment ago you suggested that those appointments might be vested in the clerk or the Sergeant-at-Arms?—A. If they should find it necessary.

Q. Quite.

By Mr. Beaubien:

Q. May I ask a question? Are you of the opinion that when the session terminates on Saturday, as we hope it will, stenographers will be going home, messengers will be going home, and many employees who have been working in the House of Commons since the opening of the house will all be going home; now, does their employment cease when parliament prorogues? When the House of Commons prorogues, does their employment cease? They do not draw any salary. They have no status in the House of Commons at all?—A. If they are employed merely for the period of the session.

Q. I am asking you that: are they employed for the period of the session?
—A. I cannot tell you; it depends on the terms of their employment. I would like to modify what I said a moment ago by stating this, that the standing orders apparently envisage the employment by the clerk or the Sergeant-at-Arms only of a sessional staff.

Q. Then, as soon as the session is over the staff is finished?—A. I daresay—within a few days, subject to cleaning up the business in hand.

Q. And when the next session opens, the Sergeant-at-Arms or the Clerk of the House have the right to hire enough people for the period of the session with the approbation of the speaker?—A. Yes, sir.

By Mr. Ryan:

Q. I am looking at chapter 145 of the revised statutes. You called our attention to sections 15 to 22. Section 15 deals with internal economy?—A. Yes.

Q. And section 21 says:—

If any complaint or representation is at any time made to the speaker for the time being of the misconduct or unfitness of any clerk, officer, messenger or other person attendant on the House of Commons, the speaker may cause an inquiry to be made into the conduct or fitness of such person.

And then subsection 2 says:—

If thereupon it appears to the speaker that such person has been guilty of misconduct or is unfit to hold his situation, the speaker may, if such clerk, officer, messenger or other person has been appointed by the Crown, suspend him, and report such suspension to the Governor General, and, if he has not been appointed by the Crown, suspend and remove him.

In other words, if his appointment is not made by the Crown the speaker has absolute jurisdiction over him?—A. I beg your pardon?

Q. If this person has not been appointed by the Crown the speaker has absolute jurisdiction over that person?—A. For disciplinary purposes only.

Q. For whatever purpose it may be.—A. The purposes are set out in the statute.

Q. The words are there: "If any complaint or representation is . . . made to the speaker. . .," he has the right to dismiss that person if he wants to. Now, I take it the speaker there is acting under the Internal Economy Act. Surely his jurisdiction must be wider than to deal with offences.

Hon. Mr. LAWSON: He is acting under that very act, the House of Commons Act.

Mr. RYAN: Certainly; and under that he has the right to dismiss or remove on his own initiative.

WITNESS: Is it your point that the power to dismiss implies the power to appoint?

Mr. RYAN: That is another question.

WITNESS: I would not agree to that for a moment.

Mr. RYAN: I am talking about dismissals only—people in that category. If his jurisdiction is not wider than that he can dismiss any person who is not appointed by the Crown.

WITNESS: Undoubtedly.

By Mr. Beaubien:

Q. Is it not a fact that immediately this session ends many employees who are working today will be dismissed, because they will not get any salary?—A. Certainly. We all know that.

[Mr. C. P. Plaxton.]

Hon. Mr. LAWSON: The term of appointment is ended.

By Mr. Beaubien:

Q. The speaker, the clerk, or the Sergeant-at-Arms have the right to hire either the same people or some other people when the session opens next year, with the approbation of the speaker?

Hon. Mr. LAWSON: Yes. If they are temporary or sessional appointees.

WITNESS: They are only temporary employees.

By Mr. Beaubien:

Q. They are only temporary, but their employment ceases. They are not temporary employees after the session is over?—A. No. Their employment terminates.

The CHAIRMAN: Gentlemen, please put your questions one at a time so that the reporter may have an opportunity of taking them down. He cannot report so many speaking at the same time.

Mr. TURGEON: I wanted to try and see if I could get a clearer understanding of Mr. Beaubien's questions and the answers given to them. Are there any permanent employees of the house whose work stops at the close of the session, and whose work does not commence again until the opening of the next session?

WITNESS: I am not sufficiently familiar with the situation to say.

Hon. Mr. MACKENZIE: In my opinion there are three categories: one, the sessional staff; two, those employed from year to year; three, those defined in the resolution of the House of Commons in 1929—that is, permanents.

The CHAIRMAN: I was waiting until you exhausted your questions about the laws that govern the status of the speaker.

Mr. FACTOR: What I am not clear about is the interpretation of the section referred to by Mr. Ryan that the speaker has, undoubtedly, authority to dismiss the employees mentioned in that section under the conditions mentioned in that section. Now, what speaker has that authority?

Hon. Mr. LAWSON: The speaker in office for the time being.

WITNESS: The speaker in office for the time being, while parliament is in session or parliament is dissolved.

By Mr. Factor:

Q. And it does not make any difference if that speaker is defeated?—A. It does not matter at all.

Q. Then, the law should be amended?—A. I should like to add this, that the Internal Economy Act of 1868 was modelled upon Imperial legislation.

By the Chairman:

Q. Now, you have given us the various statutes that govern the status of the speaker. Some of them are very old. Coming down to more modern statutes, that is the law; but there may have been customs that were contrary to that law.

Hon. Mr. LAWSON: Custom cannot be contrary to a law. Where there is no law, custom may have the force of law.

The CHAIRMAN: Just a moment, please.

By the Chairman:

Q. That, you say, was the law that governed the status of the speaker. There may have been certain derogations sanctioned by custom; are you aware of those?—A. No.

By Mr. Campbell:

Q. To clarify the whole situation, Mr. Factor's suggestion is as to what the department would like to have?—A. I would not like to say anything on a matter of policy.

Hon. Mr. LAWSON: The government would have to decide if they want to change the law.

Mr. RYAN: Mr. Mackenzie referred to the resolution of the House of Commons. What is contained in that we do not know, but it is here. It would be well to have some idea as to what is covered by that resolution.

The CHAIRMAN: Dr. Beausnesne has been asked to attend the sittings of the committee and to testify concerning the status of clerks, officers, messengers or other persons attendant on the House of Commons, distinguishing between such persons as are permanent officers and temporary officers and those whose duties are of a sessional character. We might proceed in order by asking Mr. Plaxton about the law before us and then ask Dr. Beausnesne to distinguish between permanent, sessional and temporary employees, and then the Sergeant-at-Arms can give us whatever evidence he has with reference to the matter before the committee, so that we have the three points, and should not mix them.

Hon. Mr. MACKENZIE: I think we have had good evidence from Mr. Plaxton.

The CHAIRMAN: Mr. Plaxton, on behalf of the committee I thank you for attending this morning.

Witness retired.

ARTHUR BEAUCHESNE, C.M.G., K.C., LL.D., Clerk of the House of Commons, called.

By the Chairman:

Q. Will you proceed, Dr. Beausnesne?—A. Mr. Chairman, in order to define the status of our officers and employees it is necessary that we should consult the Civil Service Act. The Civil Service Act does not apply wholly to the House of Commons; there are only a few sections which do apply. Section 61 of that Act says:—

The provisions of this Act relating to appointment, transfer, promotion, salaries, increases thereof, classification, political partisanship and payment of gratuities on death shall apply to the permanent officers, clerks, and employees of both Houses of Parliament.

Now, that means that when we have anything to do in connection with the appointment, transfer, promotion, salaries, or increases of salaries, classification, political partisanship with regard to permanent employees—this section uses the word "permanent"—these provisions shall apply to the permanent officers, clerks and employees of the house; which means that the House of Commons has divested itself of the right to make these permanent appointments. It kept the right to dismiss them. The word "dismiss" is not included in section 61.

By Mr. Beaubien:

Q. In the Civil Service Act?—A. In the Civil Service Act. The dismissals are provided for in section 21 of the House of Commons Act, which says:—

If any complaint or representation is at any time made to the speaker for the time being of the misconduct or unfitness of any clerk, officer, messenger or other person attendant on the House of Commons, the speaker may cause an inquiry to be made into the conduct or fitness of such person."

[Mr. Arthur Beausnesne.]

I take it for granted that this only applies to those who are attendant on the House of Commons. I do not think that the man who brings the paper or the towels to the toilet rooms is an attendant of the House of Commons. I do not think it is necessary for the speaker when he wants to dismiss an officer or a clerk or a sweeper that a complaint should be made against that person and that the speaker should hold an investigation, because I think those employees are not attendant on the house.

Section 2 of section 21 says:—

If thereupon it appears to the speaker that such person has been guilty of misconduct, or is unfit to hold his situation, the speaker may, if such clerk, officer, messenger or other person has been appointed by the Crown, suspend him and report such suspension to the Governor General, and, if he has not been appointed by the Crown, suspend or remove him.

There are three officers appointed by the crown in the House of Commons; they are the Clerk Assistant, the Clerk and the Sergeant-at-Arms. Each of us is appointed by Royal Commission. We are appointed by the Governor in Council; after we have been appointed we become the servants of the House of Commons. If there was any complaint of interference or misconduct against any one of us, and if the Speaker found that the charges had been proven, it would be his duty to report to the Governor in Council which appointed us. The other employees of the house who are appointed by the Civil Service Commission are not appointed by the crown, and these officers the Speaker may dismiss.

Now, as to appointments: Mr. Plaxton has given an opinion which is not exactly the same as has been given by the Department of Justice. On July 8, 1930, I wrote to the Department of Justice and asked:

Is Hon. Mr. Lemieux still the head of the House of Commons department in the same sense as he was prior to dissolution, and can he still continue to administer the affairs of the House of Commons?

And they answered:

While the standing orders and rules are silent as to the authority of the Speaker under S.O. 82, upon and after a dissolution of parliament, I think it may reasonably be inferred from section 15 to 22 inclusive of the House of Commons Act, more particularly sections 21 and 22, that he is intended to exercise such authority until a Speaker is chosen by a new parliament.

That kind of complicates matters.

By Hon. Mr. Lawson:

Q. What is the date of that opinion?—A. The 8th of July, 1930.

There is no doubt in my mind that the opinion given by Mr. Plaxton to-day is the right one, that the Speaker is only Speaker for certain purposes, for the purposes of the administration of the Internal Economy Act; and the law is so drafted that I do not think there can be any conflict. Section 16 says, the Governor in Council shall appoint four members of the King's Privy Council for Canada who are also members of the House of Commons who, with the Speaker of the House of Commons, shall be commissioners for the purposes of this and the four next following sections. Does that mean that they must be members of the House of Commons and they cease to be members of the Internal Economy Commission after dissolution, and that the Speaker is the only one left to continue it? There is no board of Internal Economy after dissolution, according to this Act.

Now, it has always been the custom here for the government to indicate who is going to be Speaker. I have seen Speakers come here and take charge a

month and a half before hand. Naturally when the Clerk and the Sergeant-at-Arms know who is going to be Speaker they consult him. We realize that he is to be responsible for the management of the affairs of the house, and that he must have the say with respect to staff. We explain to him the law and the practice. The practice has always been that there are two kinds of employees, permanent and temporary. Those who are not permanent and who have not been appointed by the Civil Service Commission are all temporary and may be dismissed at any time.

I forgot to mention this, that the House of Commons in 1929 passed a resolution approving its organization. You will notice in the section of the Civil Service Act which I read that the word organization is not mentioned. We have our own organization. In all the other departments the Civil Service Commission can send its organization officers in to look into the situation and to decide into how many branches it is to be divided, what salaries will be paid, what the duties of the respective employees shall be and so forth. That cannot be done with the House of Commons. The house retained this right to itself, and we have since organized and our organization has been approved by the house. Every now and then when there have been a number of changes and it becomes necessary for us to revise our organization the Speaker, the Sergeant-at-Arms and myself prepare an organization of our staff, which is a list of our officers and employees. In this organization there are three classes; there are three crown appointees—the Clerk of the house, the Clerk Assistant and the Sergeant-at-Arms. In the Law Branch there are 2 joint law clerks, 1 clerk grade 4, 1 stenographer grade 3; in the Law Translation Branch—translators, as you should know, have since been transferred to a bureau; then in the Journals Branch, 1 chief of English journals; then 1 chief of French journals, 1 assistant chief of French journals and so on. In other words, our organization is given there.

By the Chairman:

Q. For the purpose of making the record clear you might indicate where that is to be found?—A. This can be found at page 675, of the journals of the House of Commons, 1929.

The names can only be added after the appointments have been made by the Civil Service Commission. Under the Civil Service Act the Clerk of the House of Commons sends a requisition to the Civil Service Commission when there is a vacancy, and asks that an appointment be made. And the appointment is made of these permanent employees in the same manner as it is in the departments. Now, every one of these officers after he is appointed must take the oath before the Clerk. If he is appointed to a department he takes the oath before the Clerk of the Privy Council, but for the House of Commons he takes it before the Clerk of the House; and we have always regarded only officers so appointed as being permanent. Mr. Speaker could not dismiss any of them unless he had an investigation at which the employee would be represented, and so forth.

Q. Just at this stage, could you say of your own knowledge whether any one of the employees coming within that category has been dismissed?—A. Yes. Since I came here—I have been here some twenty years—there was the case of a man by the name of Healey, a clerk in the Stationery Branch, Library of Parliament; there was an investigation made by the Sergeant-at-Arms. The man was present at the investigation, but he resigned. He might have been dismissed.

Q. At the last convocation of Parliament, or before that, did the present Speaker take action with respect to any employees in this category?—A. Oh, no. The Speaker did not dismiss anybody, because during dissolution there were no temporary employees employed.

[Mr. Arthur Beauchesne.]

Q. Then may I ask, Dr. Beauchesne, did the present Speaker dismiss any employee of the House of Commons covered by that organization?—A. No. He did not dismiss any of these permanent employees who were appointed by the Civil Service Commission.

By Hon. Mr. Lawson:

Q. Just before you proceed, so as to have it clear in my mind; the permanent staff of the House of Commons whose positions are outlined in the Journals of 1929—A. And who are appointed by the Civil Service Commission.

Q. —can only be dismissed by the Speaker for cause under the provisions of section 21, of the House of Commons Act.—A. Exactly, yes.

By the Chairman:

Q. And none of those were dismissed?—A. None of them were dismissed.

Hon. Mr. LAWSON: I would just like to draw one thing to the attention of the Committee: the Chairman has been asking questions which are directly contrary to the ruling which he made in this Committee. I presume that opens the subject up for the rest of us?

The CHAIRMAN: No, I ruled—

Hon. Mr. LAWSON: I point it out now.

The CHAIRMAN: I ruled that we were not to go into the merits or demerits of dismissals at all; but I said that we could investigate the right to dismiss—has the Clerk that right; but not the merits or demerits of any dismissals.

WITNESS: Prior to 1912 when Dr. Sproule was the Speaker, there was no staff of stenographers appointed in the House of Commons for the members' correspondence. In 1912 Mr. Speaker Sproule with, of course, the consultation of the members and the ministers decided to appoint stenographers and typists for the use of members at salaries ranging from \$50.00 to \$80.00 per month; 37 English speaking and 13 French speaking stenographers were then appointed as temporary.

By Mr. Campbell:

Q. What year was that?—A. That was in 1912. The report of the Auditor General gives the names of those who were employed. Those girls were paid on a certificate from the member that they had worked for them. They were not considered as being appointed on a salary. The salary was, of course, from \$50.00 to \$80.00 per month; and it might be I presume that some of the stenographers would only work half the month and perhaps they would have some days' pay deducted by the accountant who would not pay them unless they produced a certificate from the member for whom they were employed.

By Hon. Mr. Lawson:

Q. Had there not been a sessional staff of stenographers prior to that time?—A. No. There were what were called sessional clerks then. There was not much shorthand done, it was just beginning here in the House of Commons. The house employed a good many clerks, 25 or 30, which was large for the time, and they attended to the members' correspondence and did all kinds of general work like addressing envelopes and sending out circulars, and they did a lot of copying of returns laid on the table. There were no stenographers. The staff went on increasing gradually until it was decided a couple of years after, in the session that followed Dr. Sproule's term of office as Speaker, that the stenographers should be appointed permanent. Since then we have had redistributions and the membership of the house has increased and finally the staff has reached 123 stenographers. They are appointed under a standing order which was referred to a moment ago, by myself:—

Standing Order 85—The Clerk shall employ at the outset of a session, with the approbation of Mr. Speaker, such extra writers as may be necessary; engaging others as the public business may require.

I have always interpreted these last words, "engaging others as the public business may require" as authority for me to engage anyone who might be required when the house was not in session; and the same words are used in the section which refers to the Sergeant-at-Arms, that is paragraph 4 of section 87, which was only included in our standing orders in 1927. Prior to that the Clerk would make all appointments himself, but the staff was so large that I asked the committee to relieve me from that responsibility as I did not have anything to do with those people; and since then the Sergeant-at-Arms appoints them and has full control over them. Those not appointed by the Civil Service Commission have no claim to remain here at any time if we think that for some reason or other we can do without their services.

Q. In other words, you can dismiss them without cause?—A. No, I do not think we can dismiss them without cause.

Q. No; but I say, legally?—A. Legally he has no claim to stay here at all. He is in the same position as a temporary employee in a department, suppose a temporary employee in a department is appointed for six months, when his six months is over they have a perfect right not to keep him. We claim we have the same right.

Q. I merely said "without cause" to distinguish it from those that are "with cause" under this House of Commons Act?—A. I quite understand. We need not give any reason. Having had an employee here last session who was not taken on this session does not mean that we dismiss him but rather that we simply refuse to appoint him.

By Mr. Campbell:

Q. Is not the appointment made in each case for the session?—A. For the session, and some sessions we have sent notices to the stenographers that they need not expect to be appointed at the next session; and I think we are going to do that again, because it seems to be thought that these stenographers are permanent.

Hon. Mr. MACKENZIE: In other words, they claim security of tenure?

Hon. Mr. LAWSON: Otherwise, they think they have security of tenure.

Hon. Mr. MACKENZIE: They have found out differently.

WITNESS: We usually see the Speaker and consult with him, and we make up our lists on all the employees that we will need.

By Mr. Campbell:

Q. You mean, the Speaker designate?—A. Oh, we do not need to do that until the Speaker is appointed.

Q. In your earlier evidence you stated that you have known cases where Speakers have come here a month or more before the house opened, ahead of the session, and that you co-operated with him?—A. Yes. Mr. Speaker Lemieux used to come here two months before the house would open.

By Hon. Mr. Mackenzie:

Q. You have kept on for a number of years some people in a temporary capacity from year to year?—A. No. We have not. On occasion we have kept stenographers for the convenience of members who were re-elected. They like to have the same stenographer. We do not appoint anybody from year to year. We appoint anybody for the work required. We consider them temporary, and we consider that we have a perfect right to dismiss.

Q. As a matter of actual practice have you not kept people here for a number of years?—A. Some people have been here for fifteen or twenty years.

[Mr. Arthur Beaudesne.]

We have one stenographer, Miss Weilbrenner, who has been here for twenty-four years.

By Mr. Campbell:

Q. They are reappointed?—A. They are reappointed. The auditor general would not recognize my pay list for a preceding session. That is why I have to make a list which I certify and hand to the Speaker, and when it passes the Speaker it becomes the authority for the accountant to pay salaries; and that is required by the auditor general in order to prove that payment has been authorized.

By Mr. Factor:

Q. Has it not become such a general practice as to have acquired the force of unwritten law that the responsible officers consult the Speaker designate and co-operate with him in the preparation of the list of the staff of the house?—A. They cannot be appointed until the Speaker has authority to sign the lists.

By Mr. Campbell:

Q. It is a case of where you have to come in to look after the situation?—A. Yes. Sometimes we write letters to some stenographers telling them not to take the trouble to go to the expense of coming to Ottawa as they are not going to be appointed. That is not a dismissal.

By Mr. Bothwell:

Q. Dr. Beauchesne, take the case of the appointment of a new Speaker—A. Yes?

Q. You and the Sergeant-at-arms have to build up a staff here?—A. Yes.

Q. You cannot get the approval of the Speaker because he cannot be appointed before parliament meets?—A. But we can prepare for the approval.

Q. You must have your staff here?—A. Well, no; I am told usually about a week or so—sometimes about two weeks before, who the Speaker is going to be, and he comes to me and tells me confidentially, secretly, that he is going to be the Speaker. I say to him, then, Mr. Speaker, you will be responsible for the management of the affairs of the House of Commons. That is absolutely necessary, so I can get his approval of the appointment of the temporary staff. I have received lots of letters of recommendation—I have no doubt you receive some as well—I have a list, and I give him the names of those who are not coming back. Then we get together and select a new list and make the appointments, and I advise the Speaker that they will be approved after his election as Speaker.

By Mr. Campbell:

Q. That has always been the custom?—A. That has always been the custom.

By Mr. Turgeon:

Q. Are you prepared to make a recommendation not as to a change in the custom or practice, but in the statute relating to the continuation in office of the Speaker after the defeat of the government and the Speaker himself. There seems to be something out of focus in the statute.

Mr. BOTHWELL: And the custom.

WITNESS: It seems to me if you made any change it should only take effect after the term of this Speaker. For instance take the last election. Mr. Bowman was defeated; the government was defeated and Mr. Bowman was in Dauphin. He was not here. If I had—and I had—a couple of important matters to deal with, I would then consider the Prime Minister as my chief. I would go to him and explain the circumstances and say that I had to do such and such a thing now, but Mr. Speaker is not here. I would explain to him that it

had nothing to do with the purpose of the board of internal economy and I would ask for his approval. I would say, I should like to have your approval on these matters. That is the way I have done it. I have done it with Mr. Bennett and I have done it with Mr. Mackenzie King.

By Hon. Mr. Lawson:

Q. Dr. Beachesne, qua appointment of temporary and/or seasonal employees to the House of Commons, you could not go to the former Speaker because there is no authority for you to do so?—A. No.

Q. Except for the part which is specified in sections 16 to 22 inclusive of the House of Commons act?—A. Yes. I had the estimates prepared in that case and signed by the outgoing Speaker who was not a member at all.

Q. That would be because it comes within the provisions of sections 16 to 22?—A. Mr. Rhodes did not run in the election of 1921. There was a change of government and the new treasury board pressed us to send in our estimates. We could not wait because the treasury board was considering the estimates before the session opened, so we went to see Mr. Rhodes and asked him to sign our estimates, and he did. We then sent them in. That was something that had to do with the board of internal economy, but appointments have not.

Q. You went to him because he was the Speaker designate by statute?—A. We went to him in the Jackson building. He was not in a government building at all; he was president of a nickle company.

Q. The Speaker by statute, not designate, for the purpose?—A. He was deemed to be Speaker. We went to an office building in the city.

Q. He was Speaker by statute.

By Hon. Mr. Mackenzie:

Q. For the time being.—A. Now, the Department of Justice, through Mr. Edwards, has confirmed the opinion that the Clerk has the right to make appointments during the hiatus, but not the Speaker. I shall read you the decision:—

I am disposed to think that the Clerk, under standing order 85, and the Sergeant-at-Arms, under section 4 of standing order 87, probably have authority to engage temporary employees during a dissolution of parliament if the business or service of the House so requires. Mr. Speaker, does not, however, appear to be vested under any of the standing orders with authority to engage temporary employees during a dissolution of parliament.

and he has never done so. If he did his appointments would be rejected by the Auditor General.

By the Chairman:

Q. What are you referring to?—A. I am reading from a letter written by Mr. Edwards of the Justice department.

By Mr. Turgeon:

Q. What is the date of the letter?—A. The letter is dated 8th July, 1930.

By Mr. Beaubien:

Q. In other words the practice has been carried out in this way for years?—A. That is it.

MAJOR GREGG: Before Dr. Beachesne finishes, I should like to refer to one point, apropos of what Mr. Mackenzie said, where the pages disappear at the end of the session, and the people who work in the restaurant disappear. At the same time there is a nucleus of staff such as the protective staff, the messengers and cleaning staff, and so on. They do stay on from year to year. The point then rises as these are temporary, as indicated, if it is desirable to replace them at a

[Mr. Arthur Beachesne.]

new session, it is necessary to let the people who are on our staff prior to the opening of the session go. This just covers the matters to which you referred.

WITNESS: We need a staff the whole year round. We do not need only temporary employees during the session, we have a number of employees who work all year round, but they are temporaries in that we have never appointed them permanent.

By Hon. Mr. Mackenzie:

Q. You have control over them?—A. We have absolute control over them. They have been appointed under the Sergeant-at-arms recommendation to the Speaker, or my recommendation to the Speaker. When we speak of an appointment by the Clerk or the Sergeant-at-arms with the approval of the Speaker, it means that they are appointed in consultation with these two officers and the Speaker. Practically the Speaker makes the appointment. We have men here who have been with us a good many years, men like Mr. Laundry who is chief of the constable staff, and Mr. Jones, who has been here twenty years. Then we have Miss Kearns who has been in the Debates office for twenty-five years, but they are all classed as temporaries. We have Mr. Gibson who has been in the stationery office for fifteen years; Mr. Simpson who has been in the post office for fifteen years or so. If we asked the Civil Service Commission as we are bound to do under the Act to appoint them permanently, the Civil Service Commission would call for an examination. The commission takes no consideration of the fact that they have been here for twenty years, and does not appoint them. It appoints temporary men from the outside in their places, and removes the service of good men. That is one of the reasons we have not been able to appoint them. We have tried—I shall not name them—to have some of them appointed permanently, and an examination was called for. One of those who tried the examination was a returned soldier who was still working for us. He did not pass. The fact that he had been here for years and had given satisfaction and we were keen on having him on the staff, had no effect on the Civil Service Commission. That is the reason we do not ask the Civil Service Commission to appoint them.

Q. In your opinion the committee should recommend the approval of the existing practice?—A. I think the committee should recommend in the first place that all the employees who are required to work the whole year round should be appointed permanently by the Civil Service Commission.

Q. But not the sessional staff?—A. I think they should be added to the establishment of the House. I think a resolution should be put to the House confirming that and I would afterwards request the Civil Service Commission to appoint them.

By Hon. Mr. Lawson:

Q. Would they not then come under the system of competition?—A. In the report of the committee of which you were the chairman, Mr. Lawson, I believe there is a paragraph which says that the Civil Service Commission is required—that is, asked by the House of Commons, to make appointments to the House of Commons staff from among the temporary employees of the House.

Q. From among them?—A. From among them. We have tried—

Q. With such a limited competition do you think they would undoubtedly succeed in being appointed?—A. The Civil Service Commission is requested—that is the point. The Civil Service Commission was requested to appoint Mr. Laundry and they refused to grant that request.

Q. The Civil Service Commission?—A. The Civil Service Commission. They took the ground there was no law under which they were bound to choose the House of Commons appointments from among the House of Commons employees.

By Hon. Mr. Mackenzie:

Q. That would be the understanding of the meaning of the resolution of 1929?—A. Yes. I think we have had several instances of blanketing of employees who have been working in the service for a long time. I may say the House of Commons is somewhat different from any other department with regard to making appointments. It would be very interesting to notice that the House of Commons is not mentioned in the Civil Service Act amongst the bodies who have no right to make appointments. Section 19 of the Civil Service Act says:—

Save as otherwise provided in this Act or in any regulation made hereunder, neither the Governor in Council nor any minister, officer of the Crown, board or commission, shall have power to appoint or promote any employee to a position in the civil service.

Please note the House of Commons is not mentioned. When we make appointments through the Estimates we never include the words "notwithstanding anything in the Civil Service Act."

Q. It is mentioned in the Superannuation Act, chapter 24.—A. That Act gives a definition of "permanent employees." There is a very good distinction here although it is a little obscure towards the end. The Superannuation Act, which is chapter 24 of the Revised Statutes of Canada, says:—

Permanent officer, clerk or employee means a person who is appointed during pleasure to perform the duties of an office or position of continuing indeterminate duration by act of parliament or by order of the Governor in Council in the competent exercise of subsisting executive powers in that behalf, or under and in pursuance of authority in that behalf conferred upon an officer or agent of the Crown by act of parliament or by order of the Governor in Council as aforesaid.

You see it refers to the Civil Service Act as governing permanent employees.

And in the case of any officer, clerk or employee of the Senate or House of Commons or of the Library of Parliament, a person who has been or is appointed as aforesaid...

I suppose that is of continuing indeterminate duration.

...or by or under resolution, order or other authorization of the Senate, House of Commons or both houses of parliament jointly, as the case may be, to perform such duties as aforesaid or duties from year to year during or having relation to the sessions of parliament.

There is no comma after the word "order" or after the word "during." I looked up the old act and the French act to see if there was any, and there was none. That means, in my opinion, anybody who is appointed to do any work in connection with the session of the House of Commons, but who works from year to year; but those who do not work from year to year, sessionals, are not permanent.

Hon. Mr. LAWSON: Some member of the committee made this suggestion, that the definition of the permanent organization of the House of Commons is contained in the Journals of 1929, and that should be expanded so as to include, for example, those whom you mentioned, members of the protective staff and some other old employees. Would you care to express an opinion, Doctor, as to the efficacy of such a move from the practical standpoint of operation and efficiency of the staff?

WITNESS: Well in the first place, I think it is unfair to these men that they should be deprived of their superannuation and their pension. They cannot get it because they are not permanent. It is a staff that has grown on the House of Commons. In the first years of Confederation there was no staff at all, no

[Mr. Arthur Beauchesne.]

constables. One might have been needed once in a while, but it was not the custom. They had none. Now, it is absolutely necessary when you consider that you have thousands and thousands of visitors every day, and this is a public place. We have a big staff. We have about 545 members on our staff, and 245 members of the House of Commons. We have a payroll of nearly 800 people every month, and with the visitors and everyone connected with the building it is absolutely essential that we have police. We cannot do without the police, and we want to have our own police. We do not want the Royal Canadian Mounted Police to interfere with the affairs of the House of Commons at all.

Mr. RYAN: Hear, hear.

WITNESS: We do not think of the House of Commons as a department. We think that the House of Commons, being constituted as it is, separately and distinctly from parliament by the British North America Act, ought to manage its own affairs. Then members will understand it is much better that they should control their own police. We think, therefore, since it is absolutely necessary to have police, why not appoint them permanently? We have a very good police. I think the Sergeant-at-Arms will tell you that every member of the staff is a returned soldier.

By Mr. Turgeon:

Q. They may be appointed permanently without coming under the provision of the Civil Service Act?—A. No, we cannot appoint anybody permanently.

Q. They have come now that they are permanent?—A. That is the law at present. You could put them in the estimates at the same salaries they are getting now.

By Hon. Mr. Lawson:

Q. If they were included in that list of the permanent organization of the House of Commons, it would make them permanent for the purpose of superannuation?—A. Yes.

Q. But would not make them permanent in the sense that they could not be dismissed?

Hon. Mr. MACKENZIE: Under section 21.

WITNESS: Yes.

By Hon. Mr. Lawson:

Q. Under section 21 of the House of Commons Act?—A. I would appoint them permanently to all intents and purposes, the same as the other employees; the Speaker could not dismiss them except for cause.

Q. Right. That is what I say. If the House of Commons now included those long-term temporaries, I might call them to define them, in the permanent organization of the House, then they would get all the benefits under the Superannuation Act?—A. Yes.

Q. And they could not be dismissed except for cause?—A. Yes.

Q. In pursuance of section 21 of the House of Commons Act?—A. Yes.

By Mr. Turgeon:

Q. In order to do that—to set my mind clear—what step would be necessary? Does that mean to have them come under the provision of the resolution? A. No. First we have the organization. The Civil Service Commission has no right to organize our staff. We would amend the organization which is included in the 1929 Journals by motion to amend it by adding so and so; and I would have the Civil Service Commission appoint the people.

Q. Naming the persons?—A. Yes.

The CHAIRMAN: Gentlemen, I am very happy that that matter has been discussed. Mr. Lawson will recollect that on previous committees I think he

and I were of the same opinion that there were long term temporaries who should, as a matter of justice, be made permanent. I would welcome with great pleasure the making permanent of a certain number of employees of the House of Commons who have been here for a number of years. Therefore, if you think that would be a proper recommendation, I hope you will say so.

Hon. Mr. LAWSON: My recollection is, Mr. Chairman, that we could not get unanimity of opinion in the Civil Service Committee; and that is why we did not recommend that being done.

The CHAIRMAN: I think the committee now might be of unanimous opinion if, for instance, we said in the case of those who have served for ten years or over, steps should be taken to have them made permanent. That would cover the case of old and very faithful employees of the House of Commons; and following the suggestion that Mr. Lawson made, that they be included in this organization. That would make them permanent to all intents and purposes with both superannuation and dismissal only for cause.

Hon. Mr. LAWSON: I was not making the suggestion that they should be included.

The CHAIRMAN: I wish you would.

Hon. Mr. LAWSON: I was merely asking the effect of their inclusion.

The CHAIRMAN: We might do that. I do not know that it comes within the Order of Reference, but we might do that.

Hon. Mr. MACKENZIE: It is quite open to the committee to suggest it in the report.

Mr. TURGEON: I am prepared to give unanimous consent to it, as long as the names are set out of the Civil Service, as to those who will be appointed.

The CHAIRMAN: Ten years and over I think is fair. A man who has been good enough to serve ten years ought to be made permanent. It takes ten years for the Superannuation Act to come into force. Anybody who has served ten years and passed under a couple of administrations ought to be good enough to be made permanent.

Mr. CAMPBELL: I would agree to that.

The CHAIRMAN: However, I do not know whether we can make a recommendation for that purpose. If you would make a suggestion—

WITNESS: Are you asked by your reference to recommend anything?

Hon. Mr. LAWSON: No. It is outside of our Order of Reference.

WITNESS: You are to inquire into and report on certain things.

The CHAIRMAN: We might express a pious wish, though.

WITNESS: I would not apply that to the members' stenographers. A member's stenographer does some work which is personal to the member. She or he is his secretary; and we could not have a permanent staff of girls or young men who would be forced on members when they come here. I do not believe in that. I would leave that system as it is. We have a little trouble, but it is only at the opening of parliament, and I will tell you why. Changes cannot be helped. We do not look upon a stenographer as permanent, as I say. You take the province of Quebec. In the last parliament there were twenty French Conservative members. This year there is only one. The other members who come in and find that the girls that we have appointed before are not permanent feel that they are entitled to have their own appointed. For instance, the stenographers who were working for those twenty French members cannot be employed again. The same thing will happen again if ever there is any change.

By Hon. Mr. Lawson:

Q. A member wants to dictate letters in respect to political matters to some stenographer in whom he has confidence?—A. That is quite right. We cannot [Mr. Arthur Beaubesne.]

have a girl who will go and take dictation from the Conservative organizer, and half an hour afterwards go and take dictation from the Liberal organizer.

The CHAIRMAN: That is perfectly right and proper.

WITNESS: I think we ought to leave that as it is as regards stenographers, leave it to the members and to the judgment of the Speaker. You know very well that there is no other consideration than the desire to meet the members' wishes.

Mr. TURGEON: Hear, hear.

WITNESS: That is always the case; but it is difficult. You will have a member who will be elected for the first time, and who has had no experience here. He will come up with a stenographer, thinking she can be employed right away. He has to be refused.

Hon. Mr. LAWSON: It is difficult to meet 245 wishes with 80 appointments, is it not?

By Mr. Campbell:

Q. You did have a system of paying them?—A. We did have a system of paying them which has not been a success; we had decided to pay \$4 a day in the first year, \$4.50 the next year and \$5 after that.

Q. Seven days a week?—A. In 1932 or 1933 the government decided that increases were to be stopped for some time.

By Mr. Turgeon:

Q. They decided what?—A. They decided that increases all over the Civil Service were to be stopped.

Mr. CAMPBELL: That is the point I am trying to make. They were in the Civil Service.

WITNESS: I know. I was going to say we tried to follow the wishes of the government in the House of Commons as far as we could and we thought that would be applied to them. There has been a lot of dissatisfaction; and my idea is to have Mr. Speaker appoint them at either \$4 or \$5 a day, and not change.

By Mr. Campbell:

Q. You would have them all paid the same. Why?—A. Well, we had this experience, that a very expert stenographer might come up here from a lawyer's office or business office and would be given only \$4; while we might have one who was an indifferent stenographer, or not very good, who was getting \$5, just because she had been here three years.

By Mr. Ryan:

Q. What is the position now?—A. The position now is that we have left it unchanged, except with a few cases of real hardship, three people, that we are not going to change. Mr. Speaker does not want to change these salaries until next session. We will consider it. He may consider after all that \$5 a day for his stenographer—who is not doing management, but just taking shorthand—and being paid on a seven-day average, is a much higher average than what is paid generally in business.

Q. Of course, they work longer hours.

Hon. Mr. LAWSON: So far as law offices are concerned, having regard to the hours these girls have to put in, the salary of \$5 a day is not out of line.

WITNESS: No? Well, that is another consideration.

Hon. Mr. LAWSON: Now, Mr. Chairman, there is just one other thing I want to get, whenever it is convenient.

The CHAIRMAN: Well, what is it?

Hon. Mr. LAWSON: Shall I go ahead?

The CHAIRMAN: Yes.

By Hon. Mr. Lawson:

Q. Dr. Beauchesne, have you available a list of those temporary employees formerly employed prior to or in the session of 1935 who were not re-employed in 1936, with the length of time each one had served prior to 1936?—A. I have the clerical staff. The Sergeant-at-Arms has the other.

Q. Could this be put in the record and save reading?

Mr. FACTOR: I thought we decided not to have that.

Mr. CAMPBELL: Not going into the merits.

Hon. Mr. LAWSON: The chairman specifically said this morning that his ruling meant that you could not go into the merits or demerits—

The CHAIRMAN: That is right.

Hon. Mr. LAWSON: —of any dismissal or failure to re-employ; but that the right and the fact as to who was or who was not employed was not ruled out by his ruling. I am accepting his own words.

Mr. BEAUBIEN: If you put that in, Dr. Beauchesne, would you also provide a list of the employees that were hired in the session of 1930?

Hon. Mr. LAWSON: A similar list for 1930.

Mr. BEAUBIEN: And who were not hired when the new parliament came in.

WITNESS: I can file a list of all the stenographers from 1911 to date.

Mr. RYAN: What purpose will that serve, Mr. Chairman?

The CHAIRMAN: I am just trying to find out. I ruled that we had the right to inquire into the Speaker's right of dismissal. He has the right to dismiss. We have inquired into that. But we have not got the right to inquire into the merits or demerits.

Mr. CAMPBELL: There have not been any.

Mr. BEAUBIEN: As Mr. Campbell says, there have been no dismissals.

Mr. CAMPBELL: Dr. Beauchesne has already said they did not make any.

The CHAIRMAN: No, no. I am using the words of the reference. Now it happens that there were no dismissals in the ordinary sense of the word. There were no dismissals; they were simply left out and not reappointed. They were not dismissals; and if the demand for the furnishing of names, with the length of time that they have served, is to be used for any purpose of showing the merits or demerits, then I rule that out. But if it is just a question of the names of those who were on the former staff and who are not now, or a list of those who are now on the staff so that there may be a distinction, so that you find out the ones who were not called back, then I say it is quite within the four corners of the reference. But if you add to that the length of time that they served, and that is to be used on the question of the merit or demerit of a case of not dismissal but a case of not having been returned, then I say that I cannot allow that.

Mr. CAMPBELL: I think you are quite correct.

Hon. Mr. LAWSON: You would have a very difficult time, Mr. Chairman, to determine the use which might be made by anyone of the 245 members of the House of Commons of any fact, once he had ascertained that fact. I say your ruling would be on very untenable ground.

The CHAIRMAN: Then, in order to obviate that, I rule that that cannot be given.

Hon. Mr. LAWSON: I appeal from the ruling.

Mr. TURGEON: I was going to ask Mr. Lawson not to press the question because we have decided not to go into recriminations, and to try to improve conditions and practices wherever we can. I am a little afraid that either an

[Mr. Arthur Beauchesne.]

appeal from the ruling on this question, if the question is persisted in, or the question itself of filing the names, will bring us back into recriminations.

The CHAIRMAN: I am decidedly anxious to keep away from any acrimonious discussion or any acrimonious feeling. If you ask for that, Mr. Lawson, somebody will ask for the other.

Mr. BEAUBIEN: There is one thing certain, we are not going to allow him to put the request of Mr. Lawson in the record without having some comparison with other years. That would not be fair.

The CHAIRMAN: If you are pressing it, Mr. Lawson, I would have to rule the other way.

Hon. Mr. LAWSON: Yes, I am pressing it.

The CHAIRMAN: Then I rule that that is not to be finished. Now, gentlemen, is there anything else?

Mr. CAMPBELL: Your ruling is upheld, Mr. Chairman.

Hon. Mr. LAWSON: So that I may have it clearly on the record, I would like to have the specific question put and then have you rule that that question was not proper under this reference. I ask Dr. Beauchesne if he will read to the committee a list of the names of these persons previously employed immediately prior to 1936 who were not re-employed in the session of 1936, giving in each case the length of the service of such employees prior to 1936.

Mr. BEAUBIEN: I would like the record clear on mine.

Hon. Mr. LAWSON: Let us get one at a time. You will get yours next. I will vote for yours as well as my own.

The CHAIRMAN: In that regard I rule that the names be given, but that the length of service may not be given, because that does not come within the purview of the reference nor of my previous decision, because that would lead to the question of the discussion of merit or demerit.

Mr. TURGEON: Mr. Chairman, I am objecting for the moment to the order of precedence. We have already moved Mr. Lawson's question; it was put definitely with a purpose; and you had already ruled that the question was not relevant, but you had not given that ruling until after both Mr. Lawson's question and Mr. Beaubien's question had been put to the chair, so that your ruling declaring the questions not in accordance with your general order is an answer both to Mr. Beaubien's question and to Mr. Lawson's question, and not an answer to Mr. Lawson's question alone.

The CHAIRMAN: Mr. Lawson puts his question now, and I rule—

Mr. TURGEON: Mr. Beaubien had asked his question before you gave your ruling.

Mr. BEAUBIEN: Mr. Lawson changed the wording of his question.

Hon. Mr. LAWSON: No, I did not. The record will show.

The CHAIRMAN: I think we will only be fanning political discord if we allow that.

Mr. BEAUBIEN: Here is a question that has been asked by Mr. Lawson, and it is on the record. The chairman has ruled against it, and it is going out to the country that he has been railroaded—that the majority is Liberal. I would like my question to be put on the minutes of the proceedings and that the rulings be given.

The CHAIRMAN: Mr. Lawson is not being railroaded because he is not a Liberal. It is immaterial what the outsiders think.

Hon. Mr. LAWSON: You have ruled, Mr. Chairman, that my question is out of order. I appeal from that ruling, and I would like a vote taken on the appeal.

The CHAIRMAN: All those in favour of sustaining the chairman's ruling say aye. The ruling is sustained.

Hon. Mr. LAWSON: What is the vote?

The CLERK: 7 to 1.

Mr. BEAUBIEN: Let me put my question.

The CHAIRMAN: 7 to 1; then there would be no quorum.

Mr. TURGEON: Well, there is no quorum and no record. Could you devise a formula whereby at the end of each parliament there will be no change in membership in the House of Commons?

The CHAIRMAN: Be careful, gentlemen, how this committee will end. I saw that.

Mr. BEAUBIEN: Are you ready for my question?

The CHAIRMAN: Yes. Put it if you like.

By Mr. Beaubien:

Q. I would like Dr. Beauchesne to provide the committee with a list, and have that list embodied in the proceedings of this morning, of the employees not employed when the new parliament was brought into being in 1930.

Mr. TURGEON: Not re-employed.

WITNESS: 1930?

Mr. BEAUBIEN: Yes. Their length of service. I refer to those who had been employed previous to 1930, in 1929.

The CHAIRMAN: The ruling I gave with reference to Mr. Lawson's question applies to the question which Mr. Beaubien now puts, and I rule the question out.

Mr. BEAUBIEN: Mr. Chairman, in view of your fairness, I am not going to appeal against your ruling.

Mr. FACTOR: I think, in view of the fact that there is no quorum, that all this by-play that has been going on should be stricken from the record.

The CHAIRMAN: How can we do it?

Mr. CAMPBELL: What about hearing the Sergeant-at-Arms?

The CHAIRMAN: We have no quorum, gentlemen.

Mr. BEAUBIEN: Have you given an opinion on Mr. Factor's point?

The CHAIRMAN: What was that point?

Mr. BEAUBIEN: That not having a quorum all this should be stricken out.

The CHAIRMAN: I cannot entertain it.

Hon. Mr. LAWSON: He has no authority.

Mr. FACTOR: Adjourned by effluxion of time.

The clerk having counted the committee and having found only nine members present, the committee rose.



BIBLIOTHEQUE DU PARLEMENT
LIBRARY OF PARLIAMENT



3 2354 00507 304 7