Canada. Parl. H.of C. Standing Comm.on Industrial Relations, 1947.

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SESSION 1947

HOUSE OF COMMONS

STANDING COMMITTEE

ON

INDUSTRIAL RELATIONS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 1

WEDNESDAY, JUNE 4, 1947

WEDNESDAY, JUNE 25, 1947

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1947

ORDERS OF REFERENCE

HOUSE OF COMMONS,

THURSDAY, 13th February, 1947

Resolved—That the following Members do compose the Standing Committee on Industrial Relations:—

Messrs.

Adamson,	Gibson (*Comox-Alberni*),	Mitchell,
Archibald,	Gillis,	Moore,
Baker,	Gingues,	Pouliot,
Beaudry,	Homuth,	Raymond
Black (*Cumberland*),	Johnston,	(*Beauharnois-Laprairie*)
Blackmore,	Lalonde,	Ross (*Hamilton East*),
Boivin,	Lapalme,	Sinclair (*Vancouver*
Case,	Lockhart,	*North*),
Charlton,	MacInnis,	Skey,
Cote (*Verdun*),	McIvor,	Smith (*Calgary West*),
Croll,	Maloney,	Viau—35.
Dechene,	Maybank,	
Gauthier (*Nipissing*),	Merritt,	

(Quorum 10)

Ordered—That the Standing Committee on Industrial Relations 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.

TUESDAY, May 20, 1947.

Ordered—That the subject-matter of Bill No. 24, An Act to amend the Railway Act, be referred to the said Committee.

TUESDAY, May 27, 1947.

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

WEDNESDAY, June 4, 1947.

Ordered,—That the said Committee be empowered to print, from day to day, 500 copies in English and 200 copies in French of its minutes of proceedings and evidence and that Standing Order 64 be suspended in relation thereto.

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

TUESDAY, June 24, 1947.

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

Bill No. 338, An Act to provide for the Investigation, Conciliation and Settlement of Industrial Disputes.

WEDNESDAY, June 25, 1947.

Ordered,—That the names of Messrs. Jutras, Beaudoin, Lafontaine be substituted for those of Messrs. Dechene, Gingues and Pouliot on the said Committee.

Attest.

ARTHUR BEAUCHESNE,
Clerk of the House.

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REPORT OF THE HOUSE

WEDNESDAY, June 4, 1947.

The Standing Committee on Industrial Relations begs leave to present the following in a

FIRST REPORT

Your Committee recommends:

1. That it be empowered to print, from day to day, 500 copies in English and 200 copies in French of its minutes of proceedings and evidence and that Standing Order 64 be suspended in relation thereto.

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

All of which is respectfully submitted.

MAURICE LALONDE,
Chairman.

(Concurred in June 4)

MINUTES OF PROCEEDINGS

WEDNESDAY, 4th June, 1947.

The Standing Committee on Industrial Relations met at 10.30 o'clock a.m. The Chairman, Mr. Lalonde, presided.

Members present: Messrs. Archibald, Baker, Charlton, Cote (*Verdun*), Croll, Dechene, Gauthier (*Nipissing*), Gillis, Homuth, Knowles, Lalonde, Lockhart, MacInnis, McIvor, Maloney, Merritt and Sinclair (*Vancouver North*).

The Chairman briefly outlined the organizational routines to be considered at this meeting.

On motion of Mr. Knowles—
Resolved,—That Mr. Croll be appointed Vice-Chairman of the Committee.

On motion of Mr. Cote (*Verdun*):—
Ordered,—That permission be sought to print, from day to day, 500 copies in English and 200 copies in French of the minutes of proceedings and evidence of the Committee.

On motion of Mr. Croll:—
Ordered,—That the House be requested to grant leave to the Committee to sit while the House is sitting.

On motion of Mr. McIvor:—
Resolved,—That Messrs. Adamson, Cote (*Verdun*), Croll, Gillis, Johnston, Maybank, and the Chairman ex officio be members of the Steering Committee.

Following a brief discussion, it was agreed that the Steering Committee would consider future procedure.

The Committee adjourned at 10.50 a.m. to meet again at the call of the Chair.

WEDNESDAY, 25th June, 1947.

The Standing Committee on Industrial Relations met at 3.00 o'clock p.m. The Chairman, Mr. Lalonde, presided.

Members present: Messrs. Adamson, Archibald, Baker, Beaudoin, Boivin, Case, Charlton, Cote (*Verdun*), Croll, Gauthier (*Nipissing*), Gibson (*Comox-Alberni*), Gillis, Homuth, Johnston, Knowles, Lafontaine, Lalonde, Lapalme, Lockhart, MacInnis, McIvor, Merritt, Mitchell, Ross (*Hamilton East*), Sinclair (*Vancouver North*), and Skey.

The minutes of the Steering Committee meeting of the 5th of June were read by the Chairman.

On motion of Mr. Cote (*Verdun*), the said minutes were concurred in.

The Committee considered the hearing of representations from interested organizations. The Chairman reported that applications to appear before the Committee had been received from:—

(i) The Canadian Chamber of Commerce.
(ii) The Canadian Congress of Labour.
(iii) The Canadian Manufacturers' Association.
(iv) The Revolutionary Workers Party, and
(v) The New York Central Railroad Company.

Mr. Homuth moved:—

That interested organizations be invited to file written briefs to be printed in the records of the Committee, and that such organizations be invited to have representatives present at all meetings with watching briefs to answer questions as Bill No. 338 is considered clause by clause.

And the question being put, it was resolved in the negative.

Mr. Mitchell moved:—

That

The Canadian Bar Association;
The Canadian Manufacturers' Association;
The Canadian Chamber of Commerce;
The Railway Association of Canada;
The Canadian Construction Association;
The Trades and Labour Congress;
The Canadian Congress of Labour;
The Amalgamated Unions; and
The Canadian and Catholic Confederation of Labour,

be invited to appear and present, on Monday or Tuesday next, written briefs, and that such briefs be printed in the records of the Committee.

And the question being put, it was resolved in the affirmative.

The Committee considered procedure in regard to the subject-matter of Bill No. 24. Following discussion, it was agreed that a decision be deferred until the Minister of Transport is consulted.

The Committee adjourned at 4.35 o'clock p.m., to meet again at 11.00 o'clock a.m., Monday, 30th June.

J. G. DUBROY,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS,

June 25, 1947.

The Standing Committee on Industrial Relations met this day at 3.00 p.m. The Chairman, Mr. Maurice Lalonde, presided.

The CHAIRMAN: Gentlemen, order please. We have two bills before us this year, bill No. 24 and bill No. 338. Following the first meeting of your main committee the steering committee met in my room on the 5th of June. In attendance were Messrs. Adamson, Cote (*Verdun*), Gillis, Johnston and Lalonde. Consideration was given to the procedure and routine to be followed in the main committee and discussion took place on the following:—

1. Consideration of the subject matter of bill No. 24.
2. Consideration of the Labour Code Bill which is now covered by a resolution on the order paper in the House.
3. The procedure to be followed in hearing representatives from organizations and groups interested in the work of the committee.

It was agreed that our recommendations on these points be delayed pending receipt of the bill on the Labour Code. It was also agreed consideration of the subject matter of bill No. 24 and the Labour Code measure be undertaken concurrently. It was further agreed that a meeting of the committee be not called until consideration of the Labour Code bill be undertaken.

(*Sgd.*) MAURICE LALONDE,
Chairman.

I want to put before our committee this question of hearing or discussing briefs presented by outside parties, and I mean labour unions, employers and so on. Up to date I have received representations from:—

1. Canadian Chamber of Commerce, by Mr. G. V. V. Nichols.
2. The Canadian Congress of Labour by Mr Conroy
3 The Canadian Manufacturers' Association by Mr. Willis George.
4. The Revolutionary Workers Party, a communist association from Toronto, submitted by Mr. Ross Dawson.

Mr. ADAMSON: What address is given there?

The CHAIRMAN: 87 King St. W. ,Room 5, Toronto, 1, Ontario.

I also have a fifth representation, from the New York Central Railway Company regarding bill No. 24.

Well, gentlemen, you have to decide the procedure to be followed on that matter. Before going any further we have to decide if, this year, we will hear lengthy briefs or if we will have the briefs printed in the record. Later on, if the members of the committee desire to have further explanations of those briefs, the chairman will be very glad to call on the witnesses so they may appear before us to be questioned by the members of our committee.

The discussion is open on that matter, gentlemen.

Mr. COTE: Mr. Chairman, should we not, before that discussion, agree to concurrence in the report of the steering committee.

The CHAIRMAN: If somebody will move a motion it is in order.

Mr. COTE: I am ready to move concurrence in the report of the steering committee.

Mr. HOMUTH: Just before that motion is made I would ask about the suggestion at the last of the report by the steering committee.

The CHAIRMAN: I did not hear you Mr. Homuth.

Mr. HOMUTH: Was your suggestion in regard to the printing of the briefs considered by the steering committee?

The CHAIRMAN: It has been considered and there has been some discussion on the matter, but it was further agreed it would come before the committee.

Mr. MACINNIS: There is no definite recommendation.

The CHAIRMAN: That is absolutely right.

Mr. ADAMSON: I think, if my memory serves me right, as a member of that committee I recall we decided to leave the matter of hearing briefs to the discretion of the general committee.

The CHAIRMAN: Yes, and the discussion is open on that matter.

Mr. KNOWLES: Before you put the question of Mr. Cote's motion, may I ask what is the meaning now of the last sentence in the report. I believe it was the last sentence which said discussion of bill 24 might wait until discussion of the Labour Code was undertaken.

The CHAIRMAN: Concurrently.

Mr. KNOWLES: That means if we pass this report we will work it out later.

The CHAIRMAN: Yes, whether or not you will take up bill 24 or bill 338.

Mr. KNOWLES: That might be in conjunction with some clause of the bill on the same matter.

The CHAIRMAN: It is up to the committee to decide which of the two bills will be taken up first or if they will be studied concurrently. That is the decision which we arrived at in the steering committee.

Mr. CASE: If we adopt the report of the steering committee we will be deciding it.

The CHAIRMAN: Yes, so Mr. Cote moves, and it is seconded by Mr. Lafontaine, that the minutes of the steering committee be adopted. Is that carried?

Carried.

Now, gentlemen, what about the procedure to be followed on these briefs?

Mr. MACINNIS: I suppose once we get this discussion started it will be hard to stop. It has got to be started sometime, however. The chairman, I think, mentioned that we should proceed—and he can correct me if I am not expressing him accurately—and receive briefs from parties interested in the bill and then, if any member of the committee wanted these organizations or representatives from these organizations to appear before the committee to give further evidence, or to study something further, we could call such witnesses.

The CHAIRMAN: That is my suggestion only.

Mr. MACINNIS: Yes, that is the suggestion that was made. Personally, if I understand that suggestion correctly, I do not think it is a proper way to proceed. We have before us a bill in which many employers, perhaps all employers in Canada, and organized labour are interested, together with individuals or institutions outside of those organizations who may be interested as well. I think we should make it as easy as possible for these people to appear before the committee and say what they have to say and to have the members of the committee question them on any matter that may arise. I think it would be wrong to limit, in so far as unlimited appearances before the committee can be allowed—of course there is a point at which you will have to curtail dis-

cussion—but I think it would be wrong for this committee to try and limit representations that are made to it. You must remember this is one of the ways or one of the methods by which the people can make contact with parliament and what is being done by their representatives in parliament, and I think anything that interferes with those contacts is not in the best interests of our parliamentary system of government. Our efforts should always be to bring people as close to parliament as we possibly can. Therefore, I suggest we invite these organizations that have already indicated they would like to appear before the committee and set a day on which we can hear them.

Hon. Mr. MITCHELL: Mr. Chairman, I see on the agenda here that I am scheduled to make a statement. I think I may say that I do not know of any legislation which has come before parliament where there has been more consultation with the interested parties than there has been in connection with this legislation. I include employers, organizations, and trade unions and, of course, provincial governments. This being national legislation I believe that it would be good judgment to deal with those organizations that have a broad crystallization and speak for the membership of those organizations: for instance the trade unions as such—the Trades and Labour Congress of Canada, the Canadian Congress of Labour, the Railroad Brotherhoods and the national syndicates. I think when you have listened to these ranking organizations to whom come the resolutions from all the smaller organizations—they come up to the top and then the general policy is adopted by the national organization and the national organization speaks for all member organizations in legislative matters—that is about as far as we should be expected to go at the moment.

I do not think we should permit this committee to be turned into a political forum irrespective of the source from which material might come. I am not indicating any political party at the moment. On the employers' side you have the Canadian Manufacturers' Association and the Canadian Chamber of Commerce. The Railway Association of Canada would naturally speak for the railways, and the construction industry is the largest basic industry in Canada. I think we should ask for briefs from these organizations to be presented, say, by next Monday; and then, if they wish to give oral evidence, we should hear them. What I am concerned about as an individual—and I am here as an individual, as a member of this committee—is that this legislation find itself on the statute books at this session of parliament, for this very simple reason that all the wisdom is not around this table and we should try out this legislation in practical application as soon as we possibly can; and then test it in the light of experience. Like all other legislation it will need amendment; amendments will be suggested after its practical application from those people who think it should be amended.

There is another organization, Mr. Chairman, which I think we should hear in justice to that organization, and that is the legal fraternity. There is a clause in the bill which they claim from their point of view strikes at the very roots of, might I say, the discussions between the two parties principally interested in this bill. But I would like to point this out, too, if I may, that this legislation (the I.D.I. Act) has been on the statute books since 1907—

Mr. CROLL: But never applied.

Hon. Mr. MITCHELL: That may be true, but I am just giving facts and expressing no opinion one way or another on it. Wait till we hear the evidence of the persons concerned.

I think I may go so far, Mr. Chairman, as to say that we should move with expedition so that this legislation can at this session of parliament become a feature of our national life. I do not think it would be in the best interests of anybody, particularly not of the two great partners in industry or of the general public, if there were any undue delay; and I now answer the suggestion

which will probably be made by somebody some time, if there is delay, that the delay is the fault of the government, by saying that I think we must all take our share of the responsibility irrespective of where we sit.

I would impress upon this committee, Mr. Chairman, that we move with expedition, and I make the suggestion that public hearings, if necesary, should commence not later than next Monday; because, don't forget that while there are 78 sections in this bill the points that will be argued can be boiled down to not more than ten, and many of the sections are of routine character such as form part of every bill that is introduced to the House of Commons. However, there are one or two things which, to use common jargon of the day, are fundamental to legislation of this character. But I do ask the members, if it is at all possible, to move with expedition. I leave that suggestion with you.

Mr. HOMUTH: Mr. Chairman, speaking on behalf of the members of our party, I agree pretty well with what the minister has suggested. If you have these men come here and read their briefs it is going to mean that they are going to be questioned on them. Their briefs are going to cover every clause in the bill and when their presentation is concluded we are going to be just as much at sea as regards the individual clauses because of the amount of material which will be submitted to the committee; whereas if we get printed briefs and read them over, then I would think that as and when the individual clauses are dealt with, as they will be dealt with—and I think the procedure that we might follow here is not to take the bill as a whole but to take it up clause by clause—

The CHAIRMAN: Exactly, Mr. Homuth.

Mr. HOMUTH: —then if there is something in a particular clause which we would like to have clarified from one brief or another someone should be here to do that for us. Surely these organizations are big enough to have someone here with a watching brief who would be available at all sittings of the committee so that if questions arise they can be answered. If clarification is needed of any point that develops in the brief they would be here and available for that purpose. If we can do it that way then I think we will be able to get the bill through this session. I think there is a lot in what the minister says. If we can get this bill through and get it at work we can find the things that are wrong with it, and that is the only way you can really test legislation of this sort. Then next session if there are a number of amendments required those amendments can be considered.

The minister mentioned four labour organizations. Now, there is another labour organization, and it is true that up to the present time it has not found much favour with the other union organizations, but it does represent tens of thousands of workers across this country and that is the Amalgamated Unions.

The CHAIRMAN: Which one?

Mr. HOMUTH: The Amalgamated Unions. There is no reason whatever why organizations of that kind representing a large number of employees, as they do, should not also be asked to sit in when we are studying this bill. And if that is done, speaking for our group here, I think we are quite agreeable to follow the procedure of having the briefs printed in our Minutes of Evidence; and then let us deal with the bill clause by clause; and if something requires clarification there will be somebody here to do that when required.

The CHAIRMAN: Will you put that in the form of a motion, Mr. Homuth?

Mr. HOMUTH: I would so move.

The CHAIRMAN: Seconded by—?

Mr. ROSS: I would second that motion.

The CHAIRMAN: Mr. Homuth, would you mind putting that in precise form for the benefit of the record? It is moved by Mr. Homuth, seconded by Mr. Ross—

Mr. HOMUTH: That briefs be submitted to the chairman and be printed in the Minutes of Evidence of this committee, and that we suggest to these organizations submitting briefs that it would be well for them to have someone here with a watching brief so that as we deal with this bill clause by clause they will be available to answer any technicalities that may require clearing up as the need arises.

The CHAIRMAN: What are the names of the respective organizations who are to be requested to submit briefs?

Mr. HOMUTH: You have them before you, I believe.

The CHAIRMAN: Yes. I received only five suggestions. I understand that you suggest another one, the Amalgamated Unions.

Mr. HOMUTH: I would not put that in the motion because the minister knows who the organizations are and he could be trusted to look after that.

The CHAIRMAN: What is your pleasure, gentlemen?

Carried.

Mr. CROLL: Just a moment, Mr. Chairman.

Hon. Mr. MITCHELL: I want to say that when I mentioned those eight organizations I just mentioned them as suggestions, but you know a committee of this description, as I said before, we do not want to throw this into an open forum for every organization to come here and take up endless time discussing these matters. We are here speaking for the people of Canada; we have to do the work ourselves.

Mr. CROLL: Mr. Chairman, would you repeat the motion, please? I do not think it is exactly what the committee had in mind. As I recall it, the suggestion by the minister was that these organizations be invited to file briefs and that they be heard on the briefs.

Some hon. MEMBERS: No.

Mr. CROLL: That is what I understood.

Some hon. MEMBERS: No.

Mr. CROLL: Well then, now we understand each other. In speaking to the motion, I think we are making a mistake unless we hear these people on the briefs they submit to us for very special reasons. We might very well limit them to a definite time, and say we will give them 15 minutes, 20 minutes, whatever the committee may decide, in which to make their presentation. It may be difficult for us to get the exact meaning of what is contained in their briefs. This bill 338 is of great importance at the present time. It is important because this is our first attempt at a national labour code of any sort; and as this may well be the cornerstone for labour codes that may follow and may be followed in many provinces of the dominion, I feel that they are looking to us and we have to give them a particularly good example. For this reason we should hear these people. It will not take so very long. I appreciate that there has to be a limit. We have a great deal of literature thrown at us. We have not an opportunity of reading it all. But, as the minister has pointed out there are ten or perhaps fifteen clauses here which will be controversial while with the rest of the bill I suggest we will not have much difficulty. Consequently we ought to hear these people about those clauses. What may be of interest to one or two may not be of interest to others. One may object to clause 55 and another may object to clause 73, but it is important that we hear everybody who wants to be heard; and that is something that we will not be able to do if we have the briefs simply filed. In my opinion this matter is of far too great importance merely to have briefs filed, and I do not think that either the labour organizations or the other organizations will be satisfied with the mere filing of a brief. That might speed up procedure a bit, but at the same time I feel that we would be making a mistake

unless we hear these people and hear their story; if any of them have considerable differences with the bill, and I believe they have judging by information which has come to my notice so far. In any event, they ought to be heard.

Then, Mr. Chairman, I have another suggestion to make. In view of the wide public interest in this bill I suggest that you try to get the railway committee room again. We have people standing in the back of the room here, and I do not think it is in the interests, particularly of this committee, not to have adequate accommodation for people who will come here.

The CHAIRMAN: With the permission of the committee I would like to call attention to this. I do not want to commit the committee with respect to procedure, because I have no right so to do; but I think it is my duty to point out to the committee the right way to proceed and that I intend to apply the rules as they appear in Beauchesne, more particularly standing order No. 76, subparagraph 774, which reads:—

Each clause is a distinct question and must be separately discussed.

We cannot do otherwise, or we will not be able to make any progress. We must keep within the rule. That is just my own personal viewpoint. I suggest that if I, as chairman, were to allow discussion to take place when a brief is presented, such discussion would apply to the whole bill and we would not be able to follow the rules as they apply to our committee.

Mr. CASE: Then we will be here till Christmas, Mr. Chairman.

The CHAIRMAN: The question of time, gentlemen, is very important. May I recall to the committee the excellent work it did last year, and tell the members that I expect them to live up to the high standard set at that time. May I point out that if I do not apply the rules strictly I will be in a most difficult position. At the same time I do not want to curtail discussion or freedom of speech on the part either of members of the committee or those appearing before the committee. May I point out that I am making this statement merely as a suggestion; I am not expressing an opinion at all. My point is this, that if we are to make any reasonable degree of progress we must adhere strictly to the rules. And if we proceed with the discussion of the bill clause by clause, I take it there will be no general discussion of the principles of the proposed legislation.

Mr. MACINNIS: Mr. Chairman, I do not want to give the idea that I thought the chairman had any sinister motive in mind when he made the suggestion. I just came to the conclusion he must have formed an opinion before he made the suggestion. There are two things, I think, we have to keep in mind in relation to this bill. First of all, we passed the bill through second reading in the House—that is when we had an opportunity to discuss the principle of the bill—on the understanding that the bill was going to committee and that there would be opportunity for discussion here.

The point I want to make is this: when we hear the persons who want to be heard, if we are going to hear them, it will be before the committee itself begins discussion of the various sections of the bill. When the committee begins discussion of the sections of the bill, if we hear representatives from outside organizations, we will have those representations in mind. It will not be either desirable or necessary, in my opinion, to have anyone from outside when we are considering the various sections of the bill. If we decide to hear from outside organizations we will have heard their opinion before that and we will have finished with them. I suggest to this committee, in all seriousness—

Hon. Mr. MITCHELL: You are suggesting we should hear the representations from the organizations first and then discuss the bill?

Mr. MACINNIS: Before we discuss the clauses. I wish to suggest to the committee in all seriousness, if you refuse to hear any organization which wishes to appear before this committee with a brief and state its point of view—

Mr. HOMUTH: I am rising on a point of order, Mr. Chairman. My motion does not convey that at all. My motion calls for the hearing of these different people on the various clauses of the bill. We are not going to stop them from being heard; we are going to give them a better opportunity to be heard. They can discuss the various clauses of the bill when we are discussing them. Some clauses may not evoke any discussion at all while others may need a great deal of discussion. It would be far better for them to be here during the discussion of the clauses than to present a whole brief and then be ruled out during the discussion of the clauses.

Mr. MACINNIS: That would be a matter upon which the committee should decide. I think it would be a wrong procedure to have representatives of the manufacturers' association and the Canadian Chamber of Commerce here all the time we are discussing this bill, as well as six or seven labour organizations, each wanting to take part in the discussion of a particular clause. I think that would be a wrong procedure. However, if those organizations—for instance the Chamber of Commerce—want to make a presentation to this committee they can only deal with the principle of the bill as they feel it affects them or as they feel it affects the country. It would be absolutely wrong to refuse to hear them.

I do not know of any committee which when they were dealing with a bill had representatives in when discussing the various clauses. That is something for this committee to decide after we have heard the representations from the outside organizations.

Hon. Mr. MITCHELL: You spoke of, "any organizations"?

Mr. MACINNIS: I was going to modify that. As this is legislation affecting national organizations or organizations of industries that are inter-provincial, organizations which are covered by provincial legislation, local unions would not want to be heard.

Hon. Mr. MITCHELL: That is what I was going to point out.

Hon. Mr. MACINNIS: I am in agreement.

Hon. Mr. MITCHELL: Taking it a step further to make sure we know where we are going, here is the Revolutionary Workers Party, the Trotskyites. They do not represent any trade union, so far as I know. There is this danger. Let us be sure we know where we are going. I have read a press release by the Labour Progressive Party which tore me to bits and did not quite put me together again. I do not know why we should listen to them.

In effect, do we not represent the general public being members of parliament and of the government? Now, in effect, does not our committee protect the public interest? Is not that what we are elected for? Do not the national trade union bodies, in effect, represent a broad crystalization of the organizations affiliated with them? On the other side of the fence, do not the national organizations of employers, in effect—the four I have mentioned here—have their annual convention. They should know what the desires and approaches of their respective organizations are to this form of legislation.

Now, I think that should be the set-up. I agree with Mr. MacInnis that you cannot have local unions in here because once you start that you will have to hear the five or six thousand local unions in Canada. If everyone who wants a soap box is going to be heard by this committee, it will be in session until the next session of parliament.

Mr. GILLIS: Has this become a two man conference?

Mr. MACINNIS: I do not think that is a necessary remark. May I ask the minister a question? How does the construction industry come under this legislation? Is not that industry concerned with provincial labour legislation?

Hon. Mr. MITCHELL: They are, but I say that for this reason: they have a national organization and many of their people are engaged in works over which we have jurisdiction It is probably one of the oldest associations in the

Dominion of Canada and probably has had as much experience in employer-employee negotiations as any other group of people of whom I know in this country. I thought their advice might be of some help to us.

Mr. GILLIS: Mr. Chairman, this committee has a serious responsibility. That is the first thing I should like to impress upon the committee. If you look at conditions in the world to-day you will find a concerted effort on the part of a certain organization—I am not going to name it—to interrupt the industrial life of every country with one end in view. So long as you leave industrial relations in this stage, where it is a matter of drawing fine lines of responsibility and so forth, you are going to make it possible for that machine to manipulate the workers of this country or any other country as they are being manipulated to-day.

Now, as I understand it, it was decided last night by adopting the bill that a national labour code in this country was a desirable thing. It is now the responsibility of this committee to determine whether we are in a position, constitutionally, to enact a national labour code under the B.N.A. Act. Personally, I do not think we are. This bill, so far as I am concerned, can be passed by the House. The amount of discussion you get on it is immaterial; the amount of evidence you take is immaterial; the amount of time you take is immaterial unless the members of this committee are prepared to say that, in order to make this national labour code effective and all-embracing across this country we are prepared to go back to parliament and say we are going to fight for changes in the B.N.A. Act. Unless we do that we are wasting our time and continuing the possibility of agitation and interruption in the industrial life of the country.

Industrial relations are human relations. Seventy-five per cent of the workers of this country, because of their standard of education and so forth are subject to manipulation. The minister knows that, I know it, and so does Mr. MacInnis. They can be taken for a ride by one-half of one per cent of the membership within an organization on any kind of a tangent, unless there is some real law applied. You see at the present time in the United States further restrictive laws are being imposed and these restrictions have instituted an epidemic of upheavals. Strikes are developing all across the country. France is affected. Every country where there is any freedom is affected.

I am not worried about the time this may take. I feel that the most important job I can do now or in the future, for history and for posterity, is to evolve some rule of law under our democratic system which will not permit these people who have not had the advantages of an education to be taken for a ride by those who want to manipulate them for certain ulterior purposes.

Now, I do not think this is a national labour code. I say it is not possible to enact a national code under the B.N.A. Act with your provincial jurisdictions. This is a national labour code only in the sense it embraces certain national organizations over which the federal government has jurisdiction.

The CHAIRMAN: I am sorry to interrupt you, Mr. Gillis, but I would suggest to you that the motion before the committee now does not deal with the merits or demerits of the fundamentals of the bill.

Mr. GILLIS: It deals with hearing of outside representatives, does it not?

The CHAIRMAN: It deals with the procedure to be followed and I would be very glad to hear you on that matter.

Mr. GILLIS: That is exactly the point I am making. The argument advanced has concerned the amount of time which might be involved in bringing representatives before this committee to give evidence on the enactment of this bill.

The CHAIRMAN: We all agree.

Mr. GILLIS: That is the point of argument. What I am trying to tell you is this: no matter how much time we spend on this bill or how many people we

hear in connection with this matter, it is going to be an education to them and to us by giving them an opportunity to come and get some idea of the mechanics of democracy. It will enable us to evolve some kind of machinery to prevent what is happening over in the United States.

I have that point in mind. I do not like to try to fool people. I do not think the minister does and I do not think the chairman does either. I do not like to kid anybody that we are passing an all-embracing national code. We are not. We are passing an Act which gives jurisdiction in the few cases over which the federal government has jurisdiction. Personally, I should like to see it all-embracing; I should like to see it take in every industry in Canada; but evidently we are not prepared to go that far at the present time.

I am going to seriously suggest, Mr. Chairman, that personally I do not think you are going to pass this bill at this session. I am convinced of that. I would seriously suggest this; that the Department of Labour, not this industrial relations committee, advertise the fact that this committee is going to be in session for the purpose of studying this bill clause by clause and any interested body in this country which wants to present evidence to it has the privilege of submitting a brief or sending a representative here. If this means carrying it over to the next session of parliament, that is all right. Then, when we do bring down something by way of a national labour code it will be comprehensive and will represent the viewpoint of the majority of the people of this country who really want something in the way of national legislation in effect.

As I started to say in the first place, Mr. Chairman, do not forget that on this very question of industrial relations, this question of employer versus employee, rests the future of civilization. There is no other point in this country or any other country at which our system can be so disrupted, twisted, mixed up and moved by our communist friends who are out to do that with all the techniques at their disposal, as in this field of industrial relations. Across this country today we have legislation like this provincially. It is working. It is ineffective in many respects but in this field of national endeavour if we are going to do anything at all we should at least study the matter very carefully, get opinions from every source and not rush it through. I am convinced that if you pass that bill as it is at the present time you will be further back than you were in 1907 when the old Lemieux Act was passed because it means nothing nationally. Even the old Lemieux Act in 1907 designated certain industries as national industries across this country.

The CHAIRMAN: I am sorry—

Mr. GILLIS: This bill does not do it at all.

The CHAIRMAN: I have to interrupt a second time to put the motion before the committee. Later on you will have a full opportunity to speak on these very important matters.

Mr. GILLIS: I am talking now on the matter of representation.

The CHAIRMAN: It is moved by Mr. Homuth, seconded by Mr. Ross (Hamilton, East) that the interested organizations be requested to file written briefs to be printed in the committee's records, that such organizations be requested to have representatives present at all meetings with watching briefs to answer questions as the bill is considered clause by clause. That is the motion before the committee. I would suggest that members stick to it, have a discussion on it and a vote if it is the desire of the committee.

Mr. ADAMSON: May I suggest that you change the word "requested" to "invited". I do not think we can request anything.

Mr. BEAUDOIN: Question.

Mr. GILLIS: I am sorry if I went a little beyond the scope of things but let us not try to fool ourselves.

The CHAIRMAN: You will have a full opportunity later on to speak on these matters.

Mr. GILLIS: I was talking about the seriousness of this question and the timing of it, and you cannot do that in four words. We should not fool ourselves that we would be passing a national labour code.

Mr. Ross: Speak for yourself.

Mr. GILLIS: I am talking for you, too.

The CHAIRMAN: Order, please. There is a motion before the committee. Those in favour?

Mr. GILLIS: Mr. Chairman—

Hon. Mr. MITCHELL: I should like to say a word.

Mr. GILLIS: May I conclude by saying that I do not like that word "interested." I should like to have that word "interested" changed to the word "desire", any organization which desires to present a brief to be—

The CHAIRMAN: To be invited.

Mr. GILLIS: To have the privilege to appear before the committee.

Mr. GAUTHIER: That is a play with words.

Mr. HOMUTH: If they desire then they are interested.

Mr. GILLIS: No, there is quite a bit of difference. The Manufacturers Association will be terribly interested. There are a lot of labour organizations that will desire to come here and may not be in the financial position to do so. That raises another question. If they send in requests to present briefs then it is a matter for this committee to decide how they are going to be brought here. I would urge, after giving a lot of consideration to this matter, that we do not rush it, and that we give the widest possible opportunity for labour organizations on the outside to come here to meet this committee and present their views. Let us clarify the mechanics of democracy because they are certainly not being clarified today. Every piece of machinery than can obstruct, misconstrue and obscure the things we are trying to do is in effect today, and this is the one clearing house where we can get people here and clarify the ideas we have in mind.

Mr. McIVOR: I want to ask a question. Will we get these briefs first before those who will present them appear before the committee? I am a little bit slow in my thinking. I like to read things twice. I think I have read this bill twice, and some parts of it oftener. I should like to read the briefs first. Then I think I will understand it better when the personalities connected with these briefs appear here. I think we should stick to our rules as closely as possible. Mr. Gillis has tried to convince us that this is a great question, but I do not need anybody on the committee to convince me of the importance of it because I am already convinced. It is a burning question. I think the less we say and the more we do the better.

Hon. Mr. MITCHELL: Before you put the motion, on second thought I think the best thing to do is to let these people read these briefs. I think it is best to let them read the briefs because we may run into this situation that if these briefs are filed they are a matter of record, of course, for the benefit of our good friend Mr. McIvor, but if we are going to start an argument you have different people representing nine or ten organizations who are going to present views. If they are going to present their arguments every time there is a disagreement in the committee it may be that this situation will arise. Mr. Johnston of Alberta may say to somebody, let us say Mr. Conroy. "What is your opinion on this section of the bill"? He expresses his opinion, and then naturally some other member says to somebody else, "What is your opinion?" It does seem to me that the best thing to do is to let them read their briefs and get them out of the way. We are grown-up men and we can then make up our minds.

Mr. HOMUTH: I am not withdrawing the motion because I can see that these people are going to come here and read these briefs, and while they are reading the briefs they are going to be asked to clarify certain parts of the briefs. When the bill is before the committee clause by clause are you going to say to these people, "No, you are through; you cannot come in and explain a clause." This committee may want some enlightenment on a certain clause or a certain organization's ideas on a clause. Are you going to say to them, "You cannot come in; you are through when you have submitted your brief." I am not going to withdraw my motion.

The CHAIRMAN: I will answer Mr. McIvor's question. If the motion is adopted my intentions are to send the briefs to the printer as soon as they come in so that the members of the committee will have every opportunity to read those briefs in the record the next day after I receive them. It is moved by Mr. Homuth, seconded by Mr. Ross (Hamilton East) that interested organizations be invited to file written briefs to be printed in the committee's records, that such organizations be invited to have representatives present at all meetings with watching briefs to answer questions as the bill is considered clause by clause. Those who are in favour of the motion raise their hands. Those who are against raise their hands. The motion is defeated.

Mr. HOMUTH: What was the vote?

The CHAIRMAN: Fourteen to nine.

Mr. GILLIS: Let me clarify that in my own mind. My understanding is that if any organization wants to submit a brief they submit it.

Mr. MACINNIS: The motion is lost.

Mr. GILLIS: I voted for the motion and I want to understand it. They submit a brief. If they want to send a representative here for the purpose of filing that brief in connection with the bill they are privileged to do that as it is taken up clause by clause?

The CHAIRMAN: We will follow the same procedure we followed last year. If any organization comes here with a brief their representative will be permitted to read it.

Mr. HOMUTH: Are we to understand that there is no limitation as to the organizations that may present briefs here?

Mr. CROLL: That is not the point at all.

Mr. HOMUTH: I want to find out. In view of this motion being defeated is there going to be any limitation as to who is going to be allowed to present a brief here and read that brief to this committee.

The CHAIRMAN: I think that the steering committee has the duty to screen the different briefs and leave out those that may not be pertinent to the subject matter before the committee.

Mr. HOMUTH: Just like you do the immigrants.

The CHAIRMAN: For the sake of argument let us suppose that an organization comes in with a brief that has nothing to do with the labour code. Then the steering committee has the right to refuse that brief.

Mr. HOMUTH: There is not an organization in this country that has not got something to do with the labour code because that labour code is going to affect everybody in the Dominion of Canada.

Mr. MACINNIS: Mr. Chairman, may I try to straighten out this question. This committee will decide whom it is going to hear. All applications to appear before the committee will go to the steering committee first.

The CHAIRMAN: That is right.

Mr. MacInnis: And the steering committee will review them. This committee should have sufficient intelligence to say whom it will hear and not hear.

The Chairman: As we did last year.

Mr. Case: You read from the rules of procedure. As I understand it now even though they appear personally and present their briefs they cannot be cross-examined on the brief.

Mr. Croll: Yes, they can.

The Chairman: They may be.

Mr. Case: The rule is there. You say they must be cross-examined on the clauses. I want that clarified as to whether a witness may be cross-examined on the brief.

The Chairman: Surely they can be cross-examined, but as I told you before I do not know what I will do with the rules of the committee. That will be left to the wisdom of the chairman, but I will surely not permit our committee to get in a mess by throwing away the rules of the committee. Later on we will see how things go.

Mr. Case: What does the rule provide?

The Chairman: The rule is very clear. I will read it to the committee. Standing order 76 applies to our committee.

Paragraph 774 reads:—

> The bill is considered clause by clause. The Chairman usually calls out the number of each clause, and reads the marginal note but he should give the clause at length when it is demanded by the committee. Each clause is a distinct question and must be separately discussed. When a clause has been agreed to it is irregular to discuss it again on the consideration of another clause.

Mr. Case: There is really no rule with respect to witnesses at all.

Mr. Archibald: I have one question. Is this the way it is going to work? We will send out an invitation to various groups to present their briefs. Then the individual briefs come before the steering committee.

The Chairman: That is right.

Mr. Archibald: Then the steering committee will pass on whether a particular brief will be heard and presented by the representative of that organization to the committee?

The Chairman: Right.

Hon. Mr. Mitchell: To get the thing started I should like to make a motion. I move that the following organizations—and I have mentioned them before—the Trades and Labour Congress of Canada, the Canadian Congress of Labour, the Railroad Brotherhoods, the National Catholic Syndicates, the Amalgamated Unions, and the Canadian Manufacturers Association, the Canadian Chamber of Commerce, the National Construction Association and the Railway Association of Canada be invited on Monday and Tuesday next to present briefs orally or written for incorporation in the records of this committee.

Mr. Adamson: Would you include the Canadian Bar Association?

Hon. Mr. Mitchell: Yes.

Mr. Croll: In the first place, if I may speak, I think you ought to take the word "orally" out of the motion. It is too difficult for the committee to have a full discussion without a brief. There has been enough time for preparation and it is difficult enough even with a brief.

Hon. Mr. MITCHELL: I will tell you what I was thinking. There may be some organization which does not want to present a brief orally and they would perhaps just want to file it.

Mr. CROLL: Well these oral presentations are not fair to the committee and they ought to present briefs.

Mr. HOMUTH: Mr. Chairman, there are some organizations that have not had enough chance to study this bill.

Mr. CROLL: They have had longer than you and I have had.

Mr. HOMUTH: Yes, but I am advised the Canadian Manufacturers' Association is not in a position to submit a brief on Monday or Tuesday.

Mr. CROLL: Well they have had the matter before them for six months.

Hon. Mr. MITCHELL: If I knew anything about labour relations I could sit down tonight and prepare a brief in two hours.

The CHAIRMAN: Shall the motion carry?

Mr. ADAMSON: Just one thing before you come to that, one matter of clarification. When we hear these briefs that are submitted in writing, will these representatives have the option of submitting them orally, that is have their representatives file or read them.

Hon. Mr. MITCHELL: File them or read them, yes.

Mr. ADAMSON: That is optional. When this committee goes over the bill clause by clause, it will be the responsibility of the committee to pass on or reject the clauses without outside assistance.

Hon. Mr. MITCHELL: Yes.

Mr. CROLL: I think perhaps the inclusion of the law society may be a mistake, if you will take a look at section 2. I think there are enough lawyers here who will be able to look after their interests.

Mr. MACINNIS: Hear, hear.

Mr. CROLL: We are all in favour, naturally, of having them struck out of the code but you also exclude medical, dental, and architectural professions from the word "employee" and it is for that reason I am objecting. I do not think it is necessary.

The CHAIRMAN: As a matter of fact I think they are here.

Mr. CROLL: Who?

The CHAIRMAN: Representatives of the bar association.

Mr. CROLL: It seems to me we are opening the door to others who may come along.

Mr. CASE: Yes, if you say the lawyers here are speaking for the law society.

Mr. CROLL: I do not think there is any objection to having them taken out of the code. As Mr. Hackett told the House last night, it is in the interests of the people generally to have the clause with respect to lawyers removed from the section in any event, because it has not been in effect since it was passed, and it is there for no good purpose.

Mr. CASE: There was a solution passed by some dental society, was there not?

Mr. GILLIS: In the interests of procedure is it the intention of this committee to hire counsel?

Some hon. MEMBERS: No, no.

Mr. GILLIS: The reason I ask that is that this committee has to decide on a national labour code. It is within the province of our present constitution to establish a national labour code? You have got a lot of lawyers on the com-

mittee but they are all politicians. I think in the best interests of the committee it might be well if this committee had legal counsel, someone who could render impartial decisions without looking for votes. Of course I am not very sure we can do this. I would like to find out, because I do not like to be unconstitutional. The minister's department of course, has a lot of legal counsel and he could bring in somebody to give us legal opinions.

Hon. Mr. MITCHELL: I want to say that with respect to the constitution of this bill I do not need any assistance from any lawyers.

Mr. ROSS: Hear, hear.

The CHAIRMAN: Order, order.

Hon. Mr. MITCHELL: I will see to it that we have some good legal counsel here to advise the members of the committee. Last year the situation was entirely different; that was an enquiry. This is not an enquiry; it is the consideration of a bill. We had a lawyer, Mr. Robinette, rather than the members of the committee, to question the witnesses, but it did not make any difference; you asked your questions anyway.

Mr. SINCLAIR: Last year you had a departmental lawyer. Instead of hiring an outside lawyer why could you not have a departmental lawyer come in.

Hon. Mr. MITCHELL: I will have one there.

The CHAIRMAN: There is a motion by Mr. Mitchell—

Mr. CROLL: I will second it as long as you will take out the word "orally".

The CHAIRMAN: —seconded by Mr. Croll that the Canadian Bar Association, The Canadian Manufacturers' Association, The Canadian Chamber of Commerce, The Railway Association of Canada, The Canadian Construction Association, The Canadian Trades and Labour Congress, the Canadian Congress of Labour, The Amalgamated Unions, and the National Catholic Syndicates be invited, on Monday or Tuesday next, to present written briefs, and that the briefs be printed in the records of the committee. Is the motion carried?

Carried.

Well I think, gentlemen, that is all for today.

Mr. HOMUTH: Mr. Chairman, may I ask this. Is bill 24 going to be dealt with at any time or are we going ahead with the other bill first? Is bill 24 to be delayed until after the other bill?

The CHAIRMAN: It is up to the committee to decide. If the committee wishes it may go on with bill 24.

Hon. Mr. MITCHELL: I think that might be left to the steering committee. It is Mr. Chevrier's bill and he is away at the moment.

Mr. KNOWLES: I suggest that the steering committee consider the matter of bill 24 in the light of the possible relationship between it and one or two clauses in the labour bill. I think that was the reason for delaying the discussion of it until this bill was before us, to see whether or not the effect desired by bill 24 could be achieved by the clauses that are now in bill 338, or possibly, by amending those clauses. I note particularly subsection (2) on page 3, also section 4.

Mr. CROLL: Which section of the section have you reference to on page 3?

Mr. KNOWLES: Subsection (2), "no person shall cease to be an employee within the meaning of this Act by reason only of his ceasing to work as the result of a lock-out or strike or by reason of dismissal contrary to this Act".

In my own view, not speaking as a lawyer, I do not think it covers it; but it comes very close. Then there is a clause on the next page, page 4, clause (*b*) of subsection (2). I am not entering into an argument on the matter at the moment, I am just suggesting the steering committee should decide whether bill

24 should be dealt with entirely by itself or in relation to certain clauses of the code.

The CHAIRMAN: The steering committee dealt with this at its meeting and it has been left to the wisdom of the whole committee.

Mr. KNOWLES: At that time the committee did not have before it bill 338.

The CHAIRMAN: I wonder if the steering committee has authority to decide whether your bill can be incorporated in bill 338 or if bill 338 has something to do with the principle of your bill. I think it would be wise to leave that matter to the wisdom of the whole committee.

Mr. KNOWLES: I was suggesting that the whole committee could, by a motion, refer that point back to the steering committee, to reconsider it in the light of bill 338.

The CHAIRMAN: I am afraid the steering committee has only jurisdiction in relation to the procedure to be followed by the whole committee. We have no authority in the steering committee to decide whether your bill has something to do with the other bill and vice versa. I think that is a matter that can be left for a decision by the whole committee later on.

Well, gentlemen, our committee will meet next Wednesday.

If the committee, on the other hand, desires to go on with the Labour Code right away, without hearing the briefs, I am quite ready to call a meeting tomorrow, but in the light of the procedure you have adopted I think we have to wait for the briefs.

Mr. HOMUTH: Yes, there may be certain information in the briefs which would affect our interpretation and dealing with the clauses. I think we should wait for the briefs because there may be something in them that would affect our consideration.

Mr. GILLIS: We cannot leave this question raised by Mr. Knowles up in the air. At the last meeting of the steering committee that I attended we decided to leave this bill in abeyance pending receipt of the national code from the House. While it is not the responsibility of the steering committee to decide legislation I think this is a matter of procedure; and I am going to move, Mr. Chairman, that the matter of bill No. 24, and its relationship to this national labour code be referred back to the steering committee for advice and that it be reported back at the next meeting of the main committee.

Mr. KNOWLES: Is that for advice as to procedure?

Mr. GILLIS: As to whether we should include that bill in the national labour code, or whether Mr. Knowles should take it back to the House or move again in the House that it be referred directly to this committee, thereby giving this committee the definite responsibility of dealing with it.

The CHAIRMAN: Do you mean the whole committee?

Mr. GILLIS: Yes. What I am suggesting is that not all the brains of this committee are in the steering committee.

The CHAIRMAN: You mean that this bill should be dealt with by the main committee?

Mr. GILLIS: I think the steering committee should decide whether it should be considered separately or whether it should be considered only as a part of the other bill.

Hon. Mr. MITCHELL: Now you have raised a question which involves a matter of opinion; and as you know, I am always frank about matters of that kind. This bill refers to working conditions; and, of course, that raises the matter of personal convictions. I think my convictions on matters of this kind are pretty well known. I suggest this to you; this particular bill is one in which the Hon. Mr. Chevrier is interested and I think we should wait until he gets back, which will be to-morrow or the next day.

Hon. Mr. MITCHELL: As I understand the matter the suggestion is this: The railways of the country are interested in this bill and they will have representatives coming here. The American railroads operating in Canada also have an interest in it. No doubt the Canadian Railway Association, and I presume the Brotherhoods also, will want to make representations. I think we could let that stand until we reach that point on the other bill. Then, if this committee feels in its judgment that it should be a part of this legislation (national labour code), and if the House of Commons agrees, there you are; that is the end of the story. But I think we should certainly wait until Hon. Mr. Chevrier gets back here.

The CHAIRMAN: Just along that line, Mr. Gillis, I know that Hon. Mr. Chevrier wants to have evidence given by officials of his department who will appear before the committee in connection with Mr. Knowles' bill. I think just as a matter of courtesy, if nothing else, we should wait until Mr. Chevrier is back, which will be within a few days.

Mr. GILLIS: I am not rushing the matter at all. All that I was concerned about was that the House passed the bill to this committee to consider. It went to the steering committee for their consideration. The matter has been raised here again. We did not make any decision but rather left it up in the air. If it is the opinion of the committee that we should wait a week, two weeks, three weeks, that is entirely satisfactory to me. We will have to make some decision on it.

Mr. KNOWLES: Mr. Chairman, I would suggest in view of the opinions which have been expressed on the matter that this main committee take the bill up a mutually convenient time; and by mutually convenient time I have in mind the convenience of Hon. Mr. Chevrier and others; but in making that suggestion I would just like to have one thing clearly understood, that we do not necessarily have to wait until we have finished with bill No. 338. If there is a date convenient to all concerned, the next week or the week after, or at a point where it may be practical to intervene in the consideration of bill No. 338 to revert to bill No. 24—if that is understood I will be quite satisfied.

Mr. CROLL: It seems to me that it is going to take a lot of time for people to present their briefs on bill No. 338 and that we may have another group who want to make representations on bill No. 24. It is quite possible that they will want to submit separate briefs. Then, too, Hon. Mr. Chevrier is away. Possibly on Monday we could start hearing representations with respect to your bill (bill No. 24) and perhaps we will be able to take care of that before going on with the larger bill (bill No. 338).

Mr. KNOWLES: Unfortunately, I will be away on Monday.

Mr. MACINNIS: In regard to bill No. 24, it is not the department which is interested in it, it is the railroad brotherhoods who are interested in it; and they are going to appear before the committee. When they make their representations to the committee they can also make representations on the other bill. The railway associations are to appear, they are interested, so they could make their representations on bill No. 24 as well, and then we can have the picture right through.

Mr. KNOWLES: Well, they are being invited here to make representations on bill No. 338, and we will have bill No. 24 before us.

The CHAIRMAN: I think we should await the return of Hon. Mr. Chevrier before going ahead with bill No. 24.

The committee adjourned at 4.33 p.m. to meet again on Monday, June 30, 1947.

SESSION 1947

HOUSE OF COMMONS

STANDING COMMITTEE

ON

INDUSTRIAL RELATIONS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 2

MONDAY, JUNE 30, 1947

WITNESSES:

Mr. L. A. Kelly, K.C., Canadian Bar Association;

Mr. Pat Conroy, Secretary-Treasurer, Canadian Congress of Labour.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1947

MINUTES OF PROCEEDINGS

MONDAY, 30th June, 1947.

The Standing Committee on Industrial Relations met at 4.00 o'clock p.m.

The Clerk reported that the Chairman, Mr. Lalonde, could not attend, whereupon the Vice-Chairman, Mr. Croll, took the Chair.

Members present: Messrs. Adamson, Archibald, Baker, Beaudoin, Cote (*Verdun*), Croll, Homuth, Johnston, Jutras, Lafontaine, Lapalme, Lockhart, MacInnis, Maloney, Maybank, Merritt, Mitchell, Viau, Timmins.

The Chairman stated that several telegrams had been received in protest of the decision to hear only a limited number of organizations, and that insufficient notice had been given to the organizations invited to appear.

It was agreed that the steering committee would meet following adjournment of this day's meeting to consider these representations.

Mr. Lee A. Kelley, K.C., representing the Canadian Bar Association was called. He made a statement, filed a brief which was taken as read, and was questioned.

The Witness was retired.

Mr. Pat Conroy, Secretary-Treasurer, Canadian Congress of Labour was called. He read a brief and filed a paper intituled "Detailed Comment on the Industrial Relations and Dispute Investigation Bill. (Bill 338)". It was agreed that this paper be printed in the records of the Committee. (*See appendix "A"*).

Mr. Conroy informed the Committee that a second supplementary paper, in course of preparation, would be filed within a few days.

It was agreed that the steering committee would consider and recommend a program of future meetings.

The Committee adjourned at 5.30 o'clock p.m., to meet again at the call of the Chair.

J. G. DUBROY,
Clerk of the Committee.

ORDER OF REFERENCE

THURSDAY, 26th June, 1947

Ordered,—That the name of Mr. Timmins be substituted for that of Mr. Smith (*Calgary West*) on the said Committee.

Attest.

ARTHUR BEAUCHESNE
Clerk of the House

92179—1½

MINUTES OF EVIDENCE

HOUSE OF COMMONS,

JUNE 30, 1947.

The Standing Committee on Industrial Relations met this day at 4.00 p.m. The Vice-Chairman, Mr. D. A. Croll, presided.

The VICE-CHAIRMAN: Gentlemen, will you come to order, please.

Following the resolution which was adopted at the last meeting the organizations suggested were invited to appear before the next meeting of the committee to be held. Replies were received from the organizations, most of whom have protested against the shortness of time. In addition to that, we have had a deluge of applications from people whom we did not invite. My thought in the matter was if it meets with the approval of the committee that these applications be turned over to the steering committee with a direction to consider them and report to the main committee.

In the meantime we have two groups here who are ready to go on, and my suggestion is that we hear them at the present time. The Canadian Bar Association is here and the Canadian Congress of Labour. The Canadian Bar Association will be very, very short; they promised to be no longer than five minutes, if you can believe that. I think we should hear them first.

Mr. JOHNSTON: Are they lawyers?

The VICE-CHAIRMAN: Yes.

Mr. HOMUTH: Are we going to have copies of these briefs?

The VICE-CHAIRMAN: Yes. May I say that the Canadian Bar Association have a letter addressed to Mr. Lalonde, it is only two pages; and Mr. Lee A. Kelley who is here will make a verbal presentation. I think it will be very brief. He has assured me that it will not take long. The Canadian Congress of Labour also have a brief.

I think we ought to lay down the method of procedure that we are to follow, and then stick to it.

Mr. JOHNSTON: Did you say, Mr. Chairman, that the Canadian Bar Association are going to make an oral presentation?

The VICE-CHAIRMAN: Yes.

Mr. JOHNSTON: That will finish their submissions before this committee.

The VICE-CHAIRMAN: Yes. Now, my suggestion is that we let whoever is selected to appear before the committee submit the brief with which he is charged without interruption and without questioning; then the person who presents the brief will be here to answer questions. Is that satisfactory to the committee?

Carried.

I will now call on Mr. Lee A. Kelley.

Mr. Lee A. Kelley, K.C., representing the Law Society of Upper Canada, called:

The WITNESS: Mr. Chairman, and honourable members of the committee, I wish to thank you first of all for the privilege of appearing before you.

Following the short introduction by your chairman, I can assure you, as your chairman said, that I will be very, very brief. I am here representing the Law Society of Upper Canada, which is really the bar association of Ontario, and I am associated with Mr. E. G. Gowling, representing the Canadian Bar Association. We were in conference for a few minutes before this committee met, and we found that any submissions we had were practically the same, and with a view to saving your time it was decided that I should submit them to you.

In the first place the associations are strongly opposed to any restriction of what we consider the traditional right of barristers to appear before any judicial or quasi-judicial body, a right which the bar has always claimed. Perhaps equally important to the public is the right related to that, which is also our claim, that the public should be entitled if they see fit to have representations made through counsel. It has always been the traditional right of the public to have representation by counsel on such occasions if they so desire, but by the provisions contained in section 32, subsection (8), of the draft bill, they are deprived of that right. You have taken away from them a right which has been recognized as a right of the public, one might almost say from time immemorial; a fundamental right, and by this clause it means they are barred from the benefit of counsel through the medium of legislation. Our submission is that this field attracts to it to-day specially trained men, men who are specialists in labour relations; and right to-day they get a higher fee than is paid to counsel in many cases, not only in the legal end of it but on the wage end of it as well. I would like to call your attention to the fact that since 1944 this right has been exercised, but as you will recall, P.C. 1003 was the important instrument by which the services of counsel were barred.

The VICE-CHAIRMAN: But that situation is changing and counsel do now appear before conciliation boards.

The WITNESS: But they are barred from acting in wage disputes and their services would be valuable on questions of various kinds. The developments of recent years, I submit, warrant use of the services of legal men with special trade training, and we have such men in the profession now, in preparing for presentation and in presenting cases, much more than was the case in the past.

My next point has to do with members of a smaller organization, particularly an employers' organization, or a small employees' organization—and right now I am representting one union here in Ottawa having trouble with its employers; to-morrow I may be working for an employer in another case. We all know how strong the unions are to-day and that they are in a position to retain the services of the best counsel. If you bar lawyers from employment by smaller organizations—whether employer or employee organizations—some of these organizations will not be able to prepare and put forward their case as it should be. In these wage disputes we had the larger organizations appearing with the assistance and advice of experts who are, to put it frankly, expensive, some of them are even more expensive than lawyers are to-day; so that by this action you are debarring the smaller organizations, the smaller men, from the opportunity of having the evidence which should be heard properly prepared and submitted before a conciliation board. Moreover, such individuals or groups or bodies are in the law according to our point of view entitled to such legal service. In that conection the Canadian Bar Association have put it in another way. They call attention to the professional abuse which would arise through the possibility of a disbarred lawyer who to-day could associate himself with either group before a conciliation board, he could appear and give his client the benefit of his legal training; and yet, a barrister who is in good standing would be disbarred from going before that very same conciliation board and representing his client. Not only could the disbarred

lawyer act for a client, or as one of their group, but real estate experts can come in and give their opinions. As a matter of fact, it is only the lawyer in good standing who is barred by this section.

My next submission is this: I am rather bothered about the interpretation of one clause in particular, that is section 32, subsection (2). If you would just for a moment look at 32(2) you will notice:—

> Except as otherwise provided in this Act, a conciliation board may determine its own procedure, but shall give full opportunity to all parties to present evidence and make representations.

Now, the point there is that the word used is "may". That is permissive. The board may do this or that; but if it were made to read "shall", that is imperative. My submission is this, that in subsection (2) of section 32 you say that they must hear such representations and such evidence—"shall give full opportunity to all parties to present evidence and make representations", and in my submission that means, as they see fit; yet by subsection (8) of the same section you take away from the very parties who are interested in submitting that evidence and in making those representations the very best medium through which that evidence can be given and those representations made; that is through counsel. In other words, I say that you take away by subsection (8) what you make compulsory in subsection (2) of the same section. I submit by the wording of subsection (8), you take away to a great extent the capacity or ability of the individual or the parties to perform and do what is required of them. That, Mr. Chairman, is the only clause with which the bar association is concerned.

I do not think, gentlemen, that there is anything more that I need to say in elaboration of these various points which we submit for your consideration. I thank you very much for the privilege of appearing here.

The VICE-CHAIRMAN: Gentlemen, I understand that Mr. Kelley will not be back here again. He is now available for questioning if there are any questions which any of the members care to put to him.

By Hon. Mr. Mitchell:

Q. You are talking about parties not being able to be represented by counsel; don't you think the public are capable of talking, capable of speaking for themselves? Have you any evidence to show that the public are objecting to this provision?—A. No not the public, sir. I must say that having read it I do not quite get the import of this particular subsection (8) to section 32 which says:—

> In any proceedings before the conciliation board, no person except with the consent of the parties shall be entitled to be represented by a barrister, solicitor or advocate and, notwithstanding such consent, a conciliation board may refuse to allow a barrister, solicitor or advocate to represent a party in any such proceedings.

It is a well-recognized principle of law that any witness is entitled to the benefit of counsel. And I would submit this, sir: supposing some small organization was in dispute with a person maybe who was quite incapable of making his own presentation, is he not to have what he should have, the assistance, advice and good offices of a counsel to whom to tell his story and who could arrange the factual material in such a way that it could be properly submitted in support of his case?

Q. I think the thought in mind there is that trade unions were fearful that we might get into a condition in Canada similar to what they have in the United States where it is not so much a question of bargaining, it has reached the point where it has devolved into an open forum of legal argument between

counsel. That is what the trade unions are fearful of in Canada. They think they can sit down, let us say in front of one of these conciliation boards, and make out a case for themselves; and I have never yet met an employer who was not able to do likewise. I think their idea is that they can make the best progress where they sit down around the table and talk over their problems together. I leave that thought with you. They have come a long way on the discussion end of it. You, of course, appreciate that under the workmen's compensation law in the various provinces counsel are not permitted to appear before the workmen's compensation boards. Then, of course, this section was in the Act of 1907.—A. Yes.

Q. Since 1907 that section has been in the Act. And the trade unions—I am voicing this as personal observation—are just fearful that these boards might develop into, shall I say, debating societies.—A. Might I point out one thing to you from my own experience in connection with the workmen's compensation board; up to a few years ago they would not even acknowledge a letter from a legal office. Today we are having considerable correspondence with them. I think they have found out that the lack of aid in operating without the co-operation of the legal branch has been rather disappointing to them. Now they are corresponding to some extent with us.

By Mr. Johnston:

Q. Can you tell me this, are the unions agreeable to having your point of view put in there; are they objecting to clause 32, subclause (8)?—A. I have not been in consultation with them. I haven't the slightest idea.

Q. I take it from what you have been saying that the unions themselves would not object to having legal counsel?—A. I think they might; but my point is that the legal profession should not be barred in this way.

Q. You are just assuming that; you are not sure?—A. No. The point I am making is this: I understand that years ago when the unions were not as influential and powerful as they are today, perhaps, and not so well supported financially it might have been difficult for them to get legal counsel, or the best legal counsel. I think today they are in a position to compete with any employer and perhaps overcome the employer in obtaining counsel. I have no idea what their view on that is today. They can think for themselves.

By Mr. Homuth:

Q. If this section has been in effect since the Act of 1907 came into force do you know whether or not the Department of Labour has tried to enforce it in any way?—A. I have never heard of any attempt at enforcement. Perhaps the minister could deal with that.

Hon. Mr. MITCHELL: My hon. friend knows that the Department of Labour does not have to enforce a clause of that kind. It is a matter which rests solely with the members of a board and it is up to them to make a decision when the need arises.

The VICE-CHAIRMAN: Actually I think, for the information of the committee, since 1944 lawyers have appeared with the consent of the board. As a matter of fact, this clause was in the old Act, and I think we are just sort of reviving it for no good purpose.

Mr. HOMUTH: Was there not an appeal to the Privy Council on the matter?

The VICE-CHAIRMAN: There might have been. I could not say because I have not been following it.

Mr. MACINNIS: Is it not a fact that organized labour objected to many of the provisions of P.C. 1003? I think they did. Whether they objected to this particular point or not, I do not know. But, as Mr. Homuth pointed out and as I think the minister admits, this has been in the Act since 1907. I have not

looked up the debates of that time to find the arguments used; but I would assume that they were based on the fact that conciliation and arbitration proceedings between employers and employees are not legal matters; they are based on compromise and co-operation, and each one tries to get as much out of the other as he can. I notice Mr. Kelley said that while perhaps organized labour in the old days was not as strong as it is to-day, they are now able to pay for legal assistance; but having gotten along so far without help of legal counsel I think they have learned through experience that they can still get along. I feel that if you bring the legal fraternity into the work of conciliation boards you will be bedevilled with legal technicalities and quibbles much more than is the case now.

Hon. Mr. MITCHELL: I have read the debates, both what was said by the opposition and government members, and what it sets forth on the positions taken by them at the time the bill was before the House. Mr. Monk was in the opposition and Mr. Lemieux introduced the bill. I think it was Frank Smith who took an active part in that debate. But when you talk about lawyers being barred, lawyers represented companies as far back as 1919.

Mr. MACINNIS: They had counsel representing companies.

Hon. Mr. MITCHELL: And there was no objection.

Mr. MACINNIS: I do not think the labour unions would have any objection to that, it would be none of their business.

The VICE-CHAIRMAN: We have heard your representations, Mr. Kelley. Are there any further questions? Thank you, Mr. Kelley.

Gentlemen, you have a copy of the letter written by the Canadian Bar Association. May it be part of the record?

Carried.

OFFICE OF THE VICE-PRESIDENT FOR ONTARIO

56 Sparks Street,
Ottawa, Ontario,
June 27, 1947.

MAURICE LALONDE, Esq., M.P.,
Chairman of the Select Committee on Industrial Relations,
House of Commons, Ottawa.

DEAR MR. LALONDE,—

Re Bill 338

On behalf of The Canadian Bar Association representing as it does a very substantial number of the practising lawyers of Canada, I am instructed to advise you and the committee over which you preside, that in our view section 32(8) of the above bill, in so far as it restricts the right of the subject to the benefit of counsel in proceedings before the Conciliation Board, is not in the public interest.

One of the traditional rights of the subject is and has been the right to the benefit of counsel in advancing and safeguarding his rights before the courts. Generally speaking, this right to representation has historically been extended to bodies such as the conciliation board referred to in the above bill. It is felt by reason of training and experience there is no group of persons better qualified to deal with issues which inevitably will arise under legislation of this type, than members of the Bar. We consider, therefore, that this section in so far as it limits and frustrates this right, constitutes an unfair interference with the privilege of persons concerned with this legislation to be represented by counsel.

There is a second objection to the section and that is that it involves a direct and serious reflection on the legal profession in Canada. The section as presently drafted would appear to permit other agents with no training whatsoever in Canadian law, to represent persons before the board, at the same time excluding members of the Bar of Canada. Apart altogether from this reflection on the Canadian profession, this discriminates unjustly against Canadian lawyers.

The bill contains no explanatory note which would indicate the reason for the inclusion of the section. It is submitted that there should be an explanation and that those who support the principle expounded in the section should state clearly the objections to the extension of the right of counsel to those persons who will be engaged in proceedings before the conciliation board.

I have been authorized by the Canadian Bar Association to appear at the meetings of your committee on Monday and Tuesday, June 30 and July 1, and will welcome the opportunity to discuss this matter at that time.

Yours very truly,

E. G. GOWLING.

Mr. Pat Conroy, Chairman, Wage Co-ordinating Committee, Canadian Congress of Labour, Ottawa, Ontario, called:

The WITNESS: Mr. Chairman and members of the committee, I should like to take a minute and a half for an initial explanation of our brief. Our Congress shall present three briefs to your committee. One will be observations or criticisms of the proposed legislation; appendix A will be proposed amendments to it and appendix B, which has nothing to do with the bill at all, is an appendix to provide, we hope, a source of information to the committee as a whole. We hope it will demonstrate what is happening in the different provinces throughout the country in the matter of developing labour legislation. We believe it will be of some benefit to the committee because it will demonstrate what is happening in each particular phase of legislation in each province. It can be read quite easily. It will be submitted to you in printed form and we hope it will be of some help to the committee in coming to its conclusions.

Mr. LOCKHART: Could I ask where appendix B is?

The VICE-CHAIRMAN: It is not ready yet.

The WITNESS: It will be ready in a couple of days. It is a very extensive document.

The Canadian Congress of Labour welcomes this opportunity of appearing before the committee to give its views on the Industrial Relations and Disputes Investigation Bill. With your permission, the Congress will submit its comments on certain main features of the bill, and will attach to its submission two appendices. The first will set down detailed amendments which the Congress thinks should be made. The second will show, in parallel columns, the main sections of this bill and of the corresponding legislation in the provinces.

1. Certain features of this bill are a distinct advance over the provisions of P.C. 1003; for example, the statutory provision for equal representation of labour and employers on the Labour Relations Board; the certification of unions instead of individuals; the new definition of employee, which appears to settle the vexatious and contentious question of what constitutes a confidential employee for purposes of collective bargaining; the omission of the word "lawful" from section 3, which would otherwise be almost meaningless.

Unfortunately, however, there are a great many provisions which are open to serious objection.

2. The coverage of the bill is unnecessarily restricted, even by comparison with the old Industrial Disputes Investigation Act.

(*a*) The old Act, section 3 (*a*), began by conferring power to deal with disputes in "employment upon or in connection with any work, undertaking or business which is within the legislative authority of the Parliament of Canada, including, but not so as to restrict the generality of the foregoing", and then gave specific heads. This bill (Section 53), confines itself to specific heads, omitting altogether the general grant of jurisdiction. The Congress strongly urges that the general grant of jurisdiction be restored. There appears to be no good reason for its omission; its insertion cannot possibly do any harm, and may do much good. The minister, in his statement to the House on first reading, rightly emphasized the importance of securing as much uniformity as possible across the country in legislation of this kind. Clearly, one way of doing that is to make the coverage of the Dominion Act as wide as possible, and one way of doing that is to say explicitly that the Dominion Act shall apply to everything within the jurisdiction of the dominion parliament.

This point is of particular importance in view of the recent decision of the Judicial Committee of the Privy Council in the Canada Temperance Act case, that the power to make laws for the peace, order and good government of Canada is no longer restricted to cases of national emergency, and that if the real subject matter of legislation goes beyond local or provincial concern and must from its inherent nature be the concern of the dominion as a whole, then the legislation in within the competence of the dominion parliament, even though it may in another aspect touch upon matters especially reserved to the provinces. If that decision is followed by the courts, the power of the dominion is going to be much wider than it has been for a long time, and if this new bill includes the general grant of jurisdiction given under the old Act, then it will be in a position to benefit from any such judicial interpretation. Otherwise, it will not, and the new legislation may consequently apply only to some of the industries over which the dominion, for these purposes, has authority. This would be a ridiculous situation, and would frustrate the government's policy of securing the maximum degree of uniformity.

It may be contended that the general grant of jurisdiction is, in effect, made by paragraph (*h*) of section 53. But paragraph (*h*) simply repeats section 3 (*b*) of the old Act. The old Act has both the general grant and the equivalent of paragraph (*h*); the new bill should have the same.

(*b*) The bill also omits two of the specific heads of the old Act, paragraphs (v) and (vii) of section 3 (*a*): "works, undertakings or business belonging to, carried on or operated by aliens, including foreign corporations immigrating into Canada to carry on business;" and "works, undertakings or business of any company or corporation incorporated by or under the authority of the Parliament of Canada." The Congress can see no good reason for dropping these heads, and strongly urges that, to further the government's declared policy of securing the maximum degree of uniformity in industrial relations legislation, these specific heads be inserted in the bill.

(*c*) The bill also omits the old Act's section 3 (*c*), which covered "any dispute which the Governor in Council may by reason of any real or apprehended national emergency declare to be subject to the provisions of this Act." The Congress is unable to understand why this has been dropped. In view of the Canada Temperance Act decision, there can be no question that such a provision, or an even stronger one, would be within the power of the dominion parliament. The new Dominion Coal Board Bill, section 11, empowers the Governor in Council to assume control of the production, distribution and use of coal whenever "there is, or is likely to be a shortage of coal in Canada of such dimensions or nature, as to imperil the welfare or national life of Canada as a

whole or as to concern Canada as a whole". Why is there no corresponding provision in this bill? A nation-wide industrial dispute in a basic industry is by no means impossible; several of them occurred last summer. Such disputes may certainly reach "such dimensions" or be "of such a nature" as to "concern Canada as a whole"; judging by Mr. Donald Gordon's evidence before this committee on July 26th, last year (pp. 301-5 of the evidence), they might even "imperil the welfare or national life of Canada as a whole". Mr. Gordon described the disputes then going on or likely to break out as having "a crippling effect on a major portion of our domestic economy". Other people used even stronger terms.

If the new legislation contains nothing corresponding to section 3 (*c*) of the old Act, or section 11 of the Dominion Coal Board Bill, nationwide industrial disputes in basic industries might paralyse the whole industrial life of the country, yet the nation's government would be powerless to intervene. A great national emergency would have to be dealt with by two, three, four, perhaps seven or eight provincial governments, under widely varying legislation (see Appendix 2), with the national government a helpless spectator.

True, this bill, by section 62, provides for co-operative arrangements with the provinces. But, though the text of this bill, or something very like it, must have been before all the provinces in the last month or so, only Nova Scotia has adopted anything like it (and even that with important differences), and only Nova Scotia has included in its Act provision for taking advantage of section 62 of this bill. British Columbia and Alberta have deliberately passed new Acts differing very widely from this bill, with no provision for making use of section 62. The other provinces have deliberately chosen to retain the pre-existing legislation, which also differs very widely from this bill, and also makes no provision for using section 62. The machinery of section 62, therefore, does not provide the means of dealing with nation-wide industrial disputes which concern Canada as a whole or imperil the life or welfare of Canada as a whole. The omission of anything like section 3 (*c*) of the old Act or section 11 of the Coal Board Bill is, the Congress submits, one of the most serious defects of this bill.

3.—Section 4, dealing with unfair labour practices, is inadequate. The Congress submits that subsection (3) should prohibit dismissal as well as threat of dismissal, and also attempt by threats, promises or inducements to induce employees to refrain from becoming or to cease to be a member or officer or representative of a trade union. The Congress also submits that subsections should be added prohibiting employers from maintaining a system of industrial espionage, or threatening to shut down or move a plant in the course of a labour dispute. Subsection (4) should be amended by adding, "subject to the provisions of any collective agreement". Above all, failure or refusal to bargain collectively as required by the Act, should be listed as an unfair labour practice.

4.—Section 8, dealing with certification of craft unions, is unsatisfactory.

(*a*) It should be qualified, as in P.C. 1003, by some such phrase as "in accordance with established trade union practice." The Act should not leave the door wide open for a craft union to appear where there never was one before and where an industrial union is already established and functioning.

(*b*) There should be provision, as in P.C. 1003, to exclude the members of a craft whose craft union has been certified under this section from voting in collective bargaining elections for the plant or industry as a whole.

The section might read like this:—

> If, in accordance with established trade union practice, the majority of a group of employees who belong to a craft by reason of which they are distinguishable from the employees as a whole are separately organized into a trade union pertaining to the craft, such trade union

may apply to the board to certify it as the collective bargaining agency of such employees. If such group claims and is entitled to the rights conferred by this subsection the employees comprising the craft shall not be entitled to vote for any of the purposes of any application or collective bargaining with such employer except when the application or collective bargaining relates solely to such craft; nor shall such employees be taken into account in any manner in the computation of a majority in respect to any proceeding in which they are not entitled to vote.

5. Section 9 (2) is most unsatisfactory. If the board is satisfied that a union really does represent the majority of the employees, certification should be mandatory, not permissive. "May certify" should be "shall certify."

6. Section 9 (3) (*a*) is thoroughly objectionable. It gives a single employer an absolute veto on any collective bargaining extending beyond the limits of his own plant. The board is obliged to refuse certification unless every employer consents. The Congress submits that this paragraph should be struck out, leaving the board discretion to decide whether or not to certify in all the circumstances.

7. Section 9 (5), which purports to outlaw company unions, is inadequate. The Congress submits that it should at least be brought into line with the phrasing of section 4 (1). The subsection should read:—

> Notwithstanding, anything contained in this Act, no trade union, the formation, administration management or policy of which is or has been, in the opinion of the board, dominated, influenced, participated in or interfered with or financially assisted by an employer... contrary to the provisions of this Act, etc.

The board should also have the power to disestablish company unions.

8. Section 11, revocation of certification, is most objectionable. It will operate as an invitation to unscrupulous employers to meet a certified union's notice to negotiate with a claim that since the certification proceedings commenced the union has lost its majority; or else, to dilly-dally along with negotiations for some weeks or months and then claim that the union has lost its majority, and that therefore its certification should be revoked. This kind of game was tried, unsuccessfully, of course, even under P.C. 1003, which had no provision like section 11. The most notorious example was the Sitka Spruce case.

It may be contended that, if the union really has a majority, it has nothing to fear, and that if it has lost its majority it has no moral right to bargain. This misses the point. Even if the employer fails to prove that the union has lost its majority, the investigation of the case will take some time. Presumably, the board will insist on a plausible prima facie case before it will look into the matter at all; then it will ask the union for its reply to the employer's case, and the employer for his rebuttal; then it may hold a hearing. It may also send in its own investigators. It would be very surprising if all this did not take several weeks.

Meanwhile, negotiations are at a standstill; union members are being called on to pay their dues with nothing to show for it but weariness of the flesh. By the time the board hands down its decision, a good many members may well have lost patience, got discouraged, and dropped their membership. Even if the board decides that the union still had a majority at the date of the employer's application for revocation, by the time the decision is made, the majority may be gone, and the union, for all practical purposes, dead. Even if it is not, there is nothing to prevent the employer from filing a new application for revocation, either at once or after going through the motions of negotiating until he thinks the moment is propitious.

Then the whole merry-go-round starts all over again. A strong well established union could no doubt stand this sort of thing, if any employer so far took leave of his senses as to try it. But a new union, in a previously unorganized plant or industry, would almost certainly succumb. It is the newly organized, who most need protection, who would be the victims. In short, this section is about as solid a barrier against organizing the unorganized as could well be imagined, short of a direct prohibition.

9. The length of time involved in the conciliation procedures which must precede even the taking of a strike vote is too long.

(*a*) After a union has served notice to negotiate, there may be twenty days' delay before bargaining even begins. Then, presumably, bargaining would have to go on for at least a week or two before the union could request intervention with any hope of getting it. Then the minister might decide to instruct a conciliation officer, who has at least fourteen days to report. Then the minister has fifteen days to decide whether or not to appoint a conciliation board. If he decides not to, then, after a delay of about seven or eight weeks, the union may take a strike vote. By that time, of course, the chance of a successful strike may have been lost. If, on the other hand, the minister decides to appoint a board of conciliation, that process may take another twelve days. The board will have at least fourteen days to make its report. Then the union must wait another fourteen days before it can even take a strike vote. In this case, the total delay might easily be three months, and the chance of a successful strike will in most cases be microscopic. Moreover, the minister may "from time to time allow" an extension of the time within which a conciliation officer or a conciliation board must report, so that the delays might be even longer than the seven or eight weeks or three months. This is "cooling off" with a vengeance; it might perhaps more appropriately be called "choking off."

(*b*) If the employer refuses to bargain at all, under section 16 (*a*), the minister may instruct a conciliation officer. If he does, and the conciliation officer fails, or even without a conciliation officer, the minister may appoint a conciliation board. Under section 23, it is only when fourteen days have elapsed after the minister's receipt of the board's report that the employees may strike. Under section 21 (*a*) the union may not even take a strike vote until the employer has bargained, and either a conciliation board has been appointed and fourteen days have elapsed after receipt of its report, or fifteen days have elapsed without the appointment of a board. So if the employer refuses to bargain, the union cannot legally even take a strike vote, much less declare or authorize a strike, no matter how long it waits; and the employees can engage only in an undeclared and unauthorized strike, without any union strike vote, and only if the minister chooses to appoint a conciliation board, and even then only after a delay of two or three months. The minister, by refusing to appoint a board, can prevent them from striking, legally, at all, no matter how long they wait.

If the union takes a strike vote, it renders itself liable, under section 42, to a fine of not more than $500; if it declares or authorizes a strike, it renders itself liable, under section 41 (3), to a fine of not more than $150 a day for each day that the strike lasts, and every officer or representative renders himself liable, under section 41 (4) to a fine of not more than $300. If the employees strike, then they render themselves liable, under section 42 (*a*), to fines of not more than $100 each. And all this because the employer has flagrantly disobeyed the act!

This would be bad enought if the employer's refusal or failure to bargain were subjected to a heavy penalty; but, as will appear in a moment or two, the provisions for punishing refusal or failure to bargain are so inadequate as to be farcical.

A reasonable period of conciliation preceding the declaration or authorization of a strike may be admissible; but the period contemplated in this bill is much too long, so long as to be probably unenforceable.

The Congress submits also that there should be no prohibition of a strike vote during the period of conciliation. The employer does not have to take a vote of his shareholders before declaring a lockout; he can therefore make all the necessary preparations for a lockout while conciliation is going on. A well-conducted democratic union, such as most Canadian unions are, cannot undertake a strike at all without a vote of its members; under this bill, it would be prohibited from making any preparations for a strike while conciliation was going on, though the employer could go merrily ahead making all the preparations he liked. The union would be penalized for adhering to democracy, and the inevitable effect would be to encourage unions to declare or authorize strikes without strike votes. This, surely, can hardly be considered sound public policy.

The Congress further submits that proper provision should be made to allow strike votes and strikes where the employer refuses or fails to bargain at all. Such strikes would be really a method of enforcing the Act; and if the provisions of section 43, dealing with refusal or failure to bargain, remain as they are, strikes will be practically the only effective method of enforcement.

10.—Section 43, which purports to provide the method of enforcing the obligation to bargain collectively, and section 40 (3), which provides the penalties for breach of this obligation, are crucial. They are the very heart of the bill. The kindest thing that can be said of them is that they are very weak. When the employer refuses or fails to bargain, the union's first recourse is to complain in writing to the minister (not the board). The minister may, within any period of time which seems good to him, refer the matter to the Board. If the minister does refer the matter to the board, the board must inquire into the complaint, and may then order the offending employer to obey the Act. If the board issues the order, and the employer persists in his refusal or failure to bargain, then the union must apply to the minister (not the board) for consent to prosecute. If the minister gives his consent, the union, must then prove, according to the strict rules of evidence, to a judge or magistrate who probably has had little or no experience in labour matters, what it has already proved to the minister and the board. Then, if the judge or magistrate finds the employer guilty, the heavy hand of the law descends, and the culprit may have to pay as much as $50 for every day the refusal or failure to bargain continues. This penalty is not adequate.

The Congress submits that, if the present police court method of enforcement is to remain, the union should be able to proceed, or have the Crown proceed, against the offender, without having to go through a long preliminary process of complaining to the minister, having an investigation by the board, and then getting the minister's consent to prosecute. The proposed method of enforcement is cumbrous, repetitive, slow and ineffective, and allows a double discretion to the minister, who should not come into the process at all. Either the case should go straight to the courts, or, better, the board should deal with the whole matter and punishment should be swift and as nearly automatic as possible. Just how this can be done the Congress will suggest below.

11. The bill goes a long way towards making unions legal entities. The Congress submits that this is a matter where it is advisable to make haste slowly, a subject that should be dealt with only by substantive legislation and after careful investigation. Anyone who is enamoured of the idea that unions should be forced to incorporate would do well to read the careful discussion in Joel Seidman's "Union Rights and Union Duties" (Harcourt, Brace and

Company, 1943). He will find that this, and other methods of regulation, are full of unsuspected pitfalls. Unions might, for example, make use of the holding company technique to escape from the consequences of incorporation.

The relevant sections of this bill are sections 18 and 45.

Section 18 makes collective bargaining agreements binding on unions "subject to and for the purposes of this Act." This last phrase may be intended to cover the same ground as the sections in the British Columbia Industrial Conciliation and Arbitration Act (section 47), the Saskatchewan Trade Union Act (section 22), and the Ontario Rights of Labour Act (section 3). The Congress submits, however, that it would have been better to make assurance doubly sure by adding some such sections as those of the provincial acts just noted, preferably the Saskatchewan section 22 and the Ontario section 3, which are practically identical: "A collective bargaining agreement shall not be the subject of any action in any court unless such collective bargaining agreement may be the subject of such action irrespective of the provisions of this act."

11. Section 45 provides that, for purposes of a prosecution under this act, a union shall be deemed a person, and any act or thing done or omitted by an officer or agent of a union within the scope of his authority to act on behalf of the union shall be deemed to be an act or thing done or omitted by the union. One serious objection to this is that many unions engage in many activities besides collective bargaining, and accumulate funds earmarked for these various activities; and that under this section all these funds could be levied upon to pay finies for breaches of the Act, including such breaches as those noted under point 9 (*b*), above.

Another objection is that the term "agent of a trade union" is not defined, and would presumably be subject to judicial interpretation; and the union might find itself called on to pay fines for acts of someone whose actions it had not authorized or even approved, actions of which it might entirely disapprove, actions of someone who, in the union's own opinion, was acting altogether beyond the scope of his authority. The law of agency was not developed for dealing with trade unions; its application to unions, the Congress understands, is by no means simple. It is possible that this section should be qualified by some such words as those of section 1 of the British Columbia Trade-Unions Act, which provides that no union shall be liable in damages for any wrongful act in connection with a trade dispute unless the members or the council, committee or other governing body, acting within the authority given it by the union constitution and by-laws, or in accordance with resolutions or directions of the members resident in the locality, have authorized or been a concurring party in such wrongful act.

The Congress is advised that the indirect effect of this section and section 41 (3) and (4) may be to make unions suable in damages in a civil court, as in the famous Taff Vale case in England.

A further question which arises is what does "union" mean in this section? Will it be the local union, the national or international union, or, in the case of federal locals of the Trades and Labour Congress or chartered locals of the Canadian Congress of Labour, the central labour organization, which will be prosecuted and whose funds will be taken to pay the fines? Is a national or international union or a central labour body to be held responsible for every act of any local "agent" which a judge or magistrate considers to have been done within the scope of his authority? If so, we may get some very queer and unexpected results; and great national and international organizations of the most unimpeachable respectability may find themselves crippled.

The Congress notes that employers' organizations also are created persons for the purposes of prosecution under this legislation. But if an employers' organization is fined, and proves to have no money or almost none, who pays? Are the individual employer members of the organization liable?

In view of these difficulties and obscurities (and many more could doubtless be suggested) the Congress submits that section 45 should be very carefully reconsidered.

12. The Congress also submits that Parliament should take this opportunity to write into the law of Canada certain safeguards of trade unionism which have long existed in England and are now part of the law of Saskatchewan and Ontario. Briefly these are: (*a*) A union and its acts shall not be deemed to be unlawful simply because one or more of its objects is in restraint of trade. (*b*) Any act done by two or more members of a trade union, if done in contemplation or furtherance of a trade dispute, shall not be actionable unless it would have been actionable if done without any agreement or combination. (*c*) A union shall not be made a party to any action in any court unless it could have been so made a party irrespective of the provisions of this Act.

13. Section 24 appears to prohibit strikes by uncertified unions. The Congress submits that this undesirable. Certain large, well-established responsible unions have not hitherto considered it necessary to get certified. Under this legislation, they will rush to do so, and the board's docket will be cluttered up with cases which need never have come there at all. So far as the Congress is aware, no such provision ever appeared in any Canadian Act, until it was adopted in the new Nova Scotia Act a month or so ago, and Nova Scotia clearly copied its section from the bill now before this committee.

The intention of the section is probably to prohibit strikes by minority unions. But the Congress submits that such strikes are, in the nature of things, bound to be few and limited in scope. The section is therefore not necessary, and will just be vexatious to unions and a nuisance to the board.

14. P.C. 1003, section 21 (4), and the present Manitoba, Ontario and New Brunswick legislation, all protect unorganized workers from changes in terms of employment, except with the consent of the employees, until two months after the employer had given notice of such changes. This bill protects organized workers, by sections 14 (*b*) and 15 (*b*); but it does not protect unorganized workers. The Congress submits that it should.

15. Under the old Industrial Disputes Investigation Act, under P.C. 1003, and under the Manitoba, Ontario and New Brunswick Acts, no person who has a pecuniary interest in the matter referred to a conciliation board, is eligible as a member of a conciliation board. This bill makes no such provision. The Congress submits that the usefulness of conciliation boards will be very seriously impaired, if not altogether destroyed, if the parties can appoint, for example, officers of the corporation and union concerned. Such persons would be in an impossible position. Either they would have to stick to every jot and tittle of company and union policy respectively, in which case only a miracle could save them from violation of their oath under section 30; or they would have to perform their duties under the oaths, in which case they would probably be called on the carpet for having sold out, betrayed the interests of their shareholders or members, and generally having failed to perform the duties of their respective offices. The Congress submits that some such provision as existed in the old Act should be inserted here.

16. The sole method of enforcement under this Bill is by summary conviction. This means that offences will be dealt with in police courts by magistrates and justices of the peace. Magistrates and justices of the peace and judges generally are, as a rule, unfamiliar with industrial relations. This method of enforcement also involves considerable delay and infinite possibilities of raising technical points. The Department of Labour is familiar with the case of Ben's Limited, Halifax, in which there was no question of the facts. The offences were flagrant, and not denied, but it proved impossible to secure a conviction, and the case was dismissed on purely technical grounds.

The Congress feels that enforcement of the Act should be the responsibility of the Labour Relations Board. The method should be the filing of a mandatory order of the board with the appropriate court, and violations should be punishable as contempt of court. The enforcement should be swift and as nearly automatic as possible, and the penalties should be severe.

17. If, however, the police court method is to be retained, the penalties should be revised. The penalties in sections 39, 40 (1), 40 (3), 41 (1) and (2), would not be effective as against the average employer and would be trifling as against large corporations. Section 40 (1) and (3), and section 42 place unions and corporations on the same footing as to fines, which is an absurdity. A fine of $150 per day might mean a great deal to many unions in Canada, but there are many companies for which this would be a trifling penalty.

18. Under section 46, the minister's consent is necessary to any prosecution. Under P.C. 1003, it was the board's consent. The Congress submits that at least the provisions of P.C. 1003 on this point should be retained, though it also submits that prosecution should be undertaken by the board itself, or the Crown, and that unions should not be obliged to shoulder the financial burden of enforcing the law. Certainly, however, the granting or refusal of consent to prosecute is an administrative function, and as such should be in the hands of the board. It ought not to be in the hands of the minister, who might be subjected to political pressure. The Congress ventures to predict that if this power is left with the minister, he will find it troublesome and embarrassing.

19. Section 40 provides for back pay for employees suspended, transferred, laid off or discharged contrary to section 4, but does not provide for reinstatement. The Congress submits that this is a serious omission which should be repaired.

20. Section 54 applies the Act to Crown companies, but gives the Governor in Council the power to exclude any Crown company and its employees from the operation of the Act. This power is altogether indefensible, and the words, "except any such corporation and the employees thereof," down to the end of the section, should be struck out.

21. Section 55 exempts from operation of the Act His Majesty in right of Canada and employees of His Majesty in right of Canada, except as provided by section 54. This means that employees of the National Harbours Board, who were included under P.C. 1003, are excluded from this legislation. The Congress submits that they ought not to be excluded. It also submits that employees of naval dockyards, and any other industrial operations directly conducted under a government department ought to be covered by this legislation.

22. Section 67 (1)(*b*) gives the Governor in Council power to exclude an employer or employee or any class of employer or employees from the provisions of Part I. This also appears to the Congress to be utterly indefensible. It really confers on the Governor in Council the power to nullify the whole Act. It should be struck out.

23. Section 61 confers on the Canada Labour Relations Board much the same powers as those now enjoyed by the Wartime Labour Relations Board (National). But there is one significant exception. Section 25 (2) of P.C. 1003 provided that if any of the points in subsection (1) arose in any legal proceedings, "the justice or justices of peace, magistrate, judge or court before whom it arises shall, if the question has not been decided by the board, refer the question to the board and defer further proceedings until the board's decision is received;" and subsection (1) provided, like subsection (1) of section 61 of this bill, that the decision of the board on the questions therein

set out should be "final and conclusive for all the purposes of these regulations." Taken together, these two subsections might have been held to mean that if, for example, the board found that an employer had not been bargaining in good faith, and the board then prosecuted, or granted leave to prosecute, the board's decision on the point was final, and not subject to review by the magistrate or court, whose sole function was to assess the penalty on the basis of the board's finding as to the facts. The drafting was not perhaps as clear as it might have been, and the courts might have held that only express words in the legislation could deprive them of their power to hear the whole case over again and decide the guilt or innocence of the accused according to their own procedure and rules of evidence.

Under this bill, the obscurity is even greater. The courts might conceivably hold that the last words of subsection (1) meant that the board's decision as to the facts is final and conclusive and not subject to review by any magistrate, judge or court, and that the sole function of the magistrate, judge or court is to assess the penalty. But the courts might equally well hold the opposite; indeed, it is more probable that they would hold the opposite. If the intention of the bill is to confine the magistrate, judge or court to assessing the penalty, then that should, the Congress submits, be clearly stated. On so important a point, it is in the highest degree desirable that there should be no obscurity or doubt, and that litigation and varying judicial interpretation should be reduced to a minimum.

24. The report of the Industrial Relations Committee of the House of Commons last year recommended that "a measure of union security should follow certification." This bill does not provide for anything of the kind. The Congress submits that two new subsections should be added to section 6, as follows:—

(3) Upon application by a trade union, the board may order or establish that a collective agreement made or being negotiated or proposed to be entered into, renewed or amended, shall include or be deemed to include such provisions of union security, whether for a closed shop or for a union shop or for maintenance of membership, or any of them, as the board shall decide to be appropriate; provided that no provision shall be ordered or established by the board which, in the opinion of the applicant, is less satisfactory than any provision on the same or related subject contained in any collective agreement relating to any of the employees in the bargaining unit, or purported collective agreement, in force or which expired within six months prior to such collective bargaining.

(4) Upon the request of a trade union which represents a majority of the employees who constitute a bargaining unit of his employees, and upon receiving from any employee in such unit a request in writing to do so, an employer shall deduct and pay in regular periodic payments out of the wages due each such employee, to the person designated by the trade union to receive the same, the union dues of each such employee until any collective agreement then in force is terminated, or the employee has withdrawn such request in writing, whichever shall last occur, and the employer shall furnish to such trade union before the 10th day of each month the names of any employees who have furnished or withdrawn such authority.

25. The bill does not provide that collective bargaining shall include negotiations from time to time for the settlement of disputes and grievances during the term of the agreement. On the contrary, section 26 expressly permits, and therefore in effect encourages individual presentation of grievances. This

is a device by which the authority of the certified union to represent all employees can be undermined. A hostile employer can make it clear that individually presented grievances will receive greater consideration and more favourable treatment than grievances presented through the certified union. This section should be struck out.

26. The Congress' final comment has to do with the desirability, rightly emphasized by the Minister of Labour in his statement to the House of Commons on the first reading of this bill, of attaining the greatest possible measure of uniformity in legislation of this kind. The Congress does not think it necessary to set out here in detail the arguments on this point. They are very clearly summarized in one of the appendices to the Report of the Sirois Commission, "Labour Legislation", by Dr. A. E. Grauer, now president of the British Columbia Power Corporation, at pages 180-1:—

> The lack of uniformity of labour legislation as between provinces has serious implications for internal policy. In the first place, it has to some extent encouraged competitive bidding between provinces for industries at the expense of labour standards. Where industries with poor standards have been encouraged, sore spots in labour relations and social conditions have been created. Once established, these sore spots are very difficult to get rid of. In addition, as long as competitive bidding for industry is allowed by labour legislation, there will be bad feeling among workers and bad feeling between provinces. In the second place, lack of uniformity in labour legislation is in itself a condition that prevents adequate and more uniform standards being set. Among the industrially important provinces, the tempo of labour legislation is conditioned by the most backward province because of the fear of others that their industry will be penalized in interprovincial competition if they get much ahead of that province. Again, lack of uniformity enables businesses to threaten removal to another province to prevent the enactment of new legislation or the raising or the enforcement of existing standards.
>
> Present conditions in labour legislation thefore, including difficulties of enforcement, leave the way open for undesirable economic and financial results because they encourage or allow industries with poor standards. The hidden costs of such industries expressed in terms of bad health, relief costs, early unemployability, etc., must be borne by the taxpayer.

Assuming that the highest possible measure of uniformity is desirable, how can it be achieved?

One method is for the dominion to pass a model act, covering everything within its jurisdiction and providing for co-operative arrangements with provinces which adopt substantially the same legislation. This is substantially the method embodied in this bill, though, as already noted, this bill does not appear to cover everything within the dominion's jurisdiction. If it worked, it would be the easiest and most effective method because it would raise no questions about provincial rights, the British North America Act and its amendment, and related matters. But unfortunately, it seems now quite plain that it will not work.

The Congress has already pointed out that, though all the provinces must have had the text of this bill before them, only one has chosen to adopt anything like it. If this bill is adopted substantially as it stands, we shall have seven different systems of labour relations legislation, even without allowing for the important differences between this bill and the Nova Scotia Act; the British Columbia Act; the Alberta Act; the Saskatchewan Act; the Manitoba, Ontario and New Brunswick Acts (embodying or applying P.C. 1003 almost verbatim); the Quebec Act, the Dominion and Nova Scotia Acts; the Prince Edward Island

Act. A glance at appendix 2 to this submission is enough to show that the variations are enormous. The method of securing uniformity embodied in this bill would not, therefore, appear to offer much hope; indeed, it would hardly be putting it too strongly to say that it has already broken down. A new approach is needed. Since the government is impressed with the importance of uniformity, as the Minister has said, then it should seriously consider five alternative methods.

The first is to pass an act applying to all industry in the country, relying on the Canada Temperance Act decision. The real subject matter of such legislation, it might be contended, goes beyond local or provincial concern, and must from its inherent nature concern the dominion as a whole. There can be no question that the Fathers of Confederation intended that legislation dealing with labour relations and labour standards should belong to the dominion parliament. Sir John A. Macdonald himself, in 1872, passed through parliament two acts dealing with trade unions, both of which, in one form or another, are still on the statute books; and in 1882, 1883, and 1884, his government, which included five Fathers of Confederation, introduced three successive factory bills into the dominion parliament.

A single dominion labour relations Act covering the whole of industry from coast to coast would therefore be fully in accord with the intentions of the Fathers, and the constitution they meant to give us and thought they had given us. It would be the simplest and most direct method of securing uniformity. Unfortunately, it is impossible, as yet, to be certain that the courts would uphold such legislation. We do not yet know how far the courts will follow the Canada Temperance Act decision, or how far they will apply it. Sir John Macdonald himself said that elections were like horse races; you know more about them after they are run; and to the layman, judicial decisions fall in the same category. None the less, the attempt to solve the problem by this means is worth making. If it succeeded, it would dispose of the matter once and for all; if it failed, we should be no worse off, for the alternative methods would still be open to us.

A second method is to get an amendment to the British North America Act adding "labour relations" to the enumerated heads of section 91. This was the method followed in dealing with unemployment insurance. The chief objection to it is that it would place the whole subject under the exclusive jurisdiction of the dominion, and thus prevent the provinces from legislating at all. The Congress thinks there are advantages in allowing individual provinces to experiment with more advanced legislation than the nation as a whole is ready to embody in nation-wide legislation *providing a dominion Act sets minimum standards* below which no province will be allowed to fall.

A third method of proceeding would allow for this. It would consist in getting an amendment to the British North America Act bringing "labour relations" under section 95, along with agriculture and immigration. The amending act might read:—

> Whereas the Senate and Commons of Canada in Parliament assembled have submitted an address to His Majesty praying that His Majesty may graciously be pleased to cause a bill to be laid before the Parliament of the United Kingdom for the enactment of the provisions hereinafter set forth.
>
> Be it enacted by, etc.
>
> 1. Section 95 of the British North America Act is amended by inserting after the word "agriculture" in the second line thereof, the words "labour relations" and by inserting after the word "agriculture" in the fifth line thereof, the words "labour relations" and by inserting after the word "agriculture" in the seventh line thereof, the words "labour relations", so that it shall now read: "In each province the

legislature may make laws in relation to agriculture, labour relations in the province, and to immigration into the province; and it is hereby declared that the parliament of Canada may from time to time make laws in relation to agriculture, labour relations in all or any of the provinces, and to immigration into all or any of the provinces; and any law of the legislature of a province relative to agriculture, labour relations or to immigration shall have effect in and for the province as long and as far only as it is not repugnant to any act of the Parliament of Canada.

2. This Act shall be entitled British North America Act 194....

This would allow both a nation-wide minimum and provincial experimentation above that minimum.

A fourth method is that suggested by the late law clerk of the Senate, Mr. W. F. O'Connor, K.C., in his masterly report to the Senate in 1939 on the British North America Act, and any lack of consonance between its terms and judicial construction thereof. This method of securing uniformity, it may be added, was supported by Mr. Meighen, in a very powerful speech in the Senate in 1940, on the unemployment insurance amendment. Mr. O'Connor, who found that the scheme of jurisdiction embodied in the British North America Act had been "repealed by judicial legislation" in 1896 by the decision of the Judicial Committee of the Privy Council in the prohibition case (see his report, p. 13), recommended that parliament should ask the British parliament to pass a British North America Act Interpretation Act, "which should declare, saving the effect of all things already decided and done, that the true intent of the British North America Act, 1867, is and always has been, etc., etc. (as per a formula to be stated in the words of one or more of the decisions of the Judicial Committee rendered before the decision, in 1896, of the prohibition case) and that thenceforth the act should be interpreted and construed accordingly." (P. 13.) In other words, what we need in an interpretation act saying that the British North America Act means what it says; or, as Mr. O'Connor put it, "not amendment of the act, but enforced observance of its terms is the proper remedy." (P. 13.) The dominion parliament could then unquestionably go ahead and pass an act covering all the industry in the country.

A fifth method of securing a substantial degree of uniformity is to make use of section 94 of the British North America Act. This section, in effect, provides that the dominion parliament may make provision for the uniformity of all or any of the laws relative to property and civil rights in the provinces other than Quebec (the original text says "Ontario, Nova Scotia and New Brunswick," but the provisions of the various enactments admitting or creating the other common law provinces make the section apply to them also), and that from and after the passing of any dominion act for this purpose, the power of the dominion to legislate on the matter "shall be unrestricted;" but that no such dominion act shall come into operation until the provincial legislature concerned has adopted it. In other words, this section provides a means by which the provinces other than Quebec can, if they choose, and without any amendment to the British North America Act, finally and irrevocably surrender to the dominion jurisdiction over any or all property and civil rights, including their jurisdiction over labour relations.

This section was intended and expected to be very important. Sir John Macdonald laid great emphasis on it, and said that the task of putting it into effect would be one of the first which the dominion would undertake. Actually, shortly after confederation, the dominion did appoint Col. Gray a commissioner to go into the matter, but his efforts came to very little and the whole thing faded out of practical politics. In fact this section has become the Cheshire cat of the Canadian constitution: nothing remains but the smile. It will be

recalled, however, that the Cheshire cat had the capacity of reappearing as a complete cat when it chose. There is nothing to prevent its constitutional counterpart from doing the same. In other words, the dominion can, if it wants to, pass a labour relations act covering industries unquestionably within its jurisdiction and applicable to all industries in the common law provinces when the legislatures of those provinces so decide; and containing a provision for co-operative arrangements with Quebec, along the lines of the present section 62, if and when that province so desires.

This course was suggested by Mr. Meighen for unemployment insurance in the same speech in the Senate in 1940 referred to a moment ago. It has the disadvantage that it will not establish uniformity at one stroke, and that it would not apply to Quebec unless that province chose to pass concurrent legislation which it could repeal any time it liked. But it has the advantage that it would not require an amendment to the British North America Act; that it could not come into operation in any province without that province's consent; and that it would leave Quebec absolutely free to do exactly as it chose. It would also have the advantage of allowing the common law provinces to establish uniformity for themselves without waiting for Quebec to agree. Constitutionally, unanimous consent of the provinces is not in the least necessary to secure an amendment to the British North America Act. That has been irrefutably demonstrated by the late Hon. Norman Rogers in 1931, and it is clear also from Mr. O'Connor's report. But politically, it might be difficult for the government to seek an amendment of this importance if Quebec objected. There is much to be said for leaving Quebec to do as it pleases; there is not much, if anything, to be said for giving it power to prevent the other provinces from establishing uniformity under the existing provisions of the constitution if they desire it.

On the whole, the Congress thinks that the best, quickest and easiest method of securing uniformity is by an amendment to section 95 of the British North America Act. But if the government and parliament do not see fit to adopt that method, they should at least give serious thought to the other possible methods. The largest possible measure of uniformity is essential; the method of getting it embodied in this bill is a failure. Some other method has got to be found. The Congress has suggested several. But one way or another, the time has come when, in this matter of labour relations, we must realize Sir John Macdonald's vision of confederation: one people, one government, instead of nine peoples and nine governments. Canada must cease to be a loose league of states and become a nation.

Respectfully sumbitted,

A. R. MOSHER,
President.

PAT CONROY,
Secretary-Treasurer.

The VICE-CHAIRMAN: Gentlemen, I think you have had enough for the moment. With your consent, I will have appendix A put in the record. We will forgo reading it at the present time. When appendix B arrives we will then have it put in the record. Is that satisfactory to the committee?

Carried.

The VICE-CHAIRMAN: Is it the desire of the committee to proceed with the questioning of Mr. Conroy or do you wish time to digest what he has said? My suggestion is that we should proceed as quickly as we can and if we are ready we will throw the meeting open for the members of the committee to question Mr. Conroy.

Mr. ARCHIBALD: I should like to ask one question. As this Act stands, does it cover such places as the Yukon and Northwest Territories? Has it any application there.

The VICE-CHAIRMAN: Every place in Canada.

Mr. ARCHIBALD: It does specify certain industries, but it does not cover mining, for instance.

The VICE-CHAIRMAN: The section is there.

The WITNESS: I would not think it covered all industries in all provinces.

Hon. Mr. MITCHELL: It covers everything in the unorganized territories where there are no provincial governments.

The VICE-CHAIRMAN: I think it is a little unfair to ask you to digest this material immediately and ask questions about it. I realize it has been a long brief. We have not any other people to hear to-day.

There is just a bit more business. In order to hear the nine or ten organizations which we agreed to hear, it would be necessary for us to sit as long as possible. Is it the desire of the committee to sit in the afternoon and evening or in the morning and afternoon? Which do you prefer.

Mr. MAYBANK: It may be necessary to sit three times a day, Mr. Chairman, unless there is a clash of interests which prevents it.

The VICE-CHAIRMAN: I did not hear that, Mr. Maybank.

Mr. MAYBANK: I said I thought it may be desirable to have an understanding that the committee sit three times a day, except where there are clashes of interest which prevent it.

By Mr. Johnston:

With reference to your remarks concerning the amendment to the B.N.A. Act, why did you exclude Quebec in all cases?—A. We did not exclude it in all cases.

Q. On page 21 of the brief you say that it would not apply to Quebec?—A. We just set it up as an alternative matter.

Q. Why would you do that?—A. Quebec takes the position that, regardless of what the other provinces say Quebec is not going to agree to it.

Q. If you were making an amendment to the B.N.A. Act in the other eight provinces whether they agreed to it or not, wouldn't it be better to have the nine provinces in it?—A. If Quebec agrees to it. I am only quoting the traditional stand of that province.

Q. If we are going to amend the B.N.A. Act, isn't that something that would be compulsory on all nine provinces? I am not an expert on it, but I do not see how a change in the B.N.A. Act could be made applicable to eight provinces and leave one out?

Mr. MACINNIS: The British North America Ast makes provision, in one or two cases, that it shall not apply to the province of Quebec.

Mr. JOHNSTON: But you are going to amend the B.N.A. Act now.

Mr. MACINNIS: I think we are getting away from the point we were to decide upon as to when we should sit and how often. Rushing this matter at this time is creating a bit of difficulty. We agreed to sit sometimes when the House was in session, but the members of this committee have obligations in the House which they cannot forego. We hope to be able to work in the sittings of this committee so we can, at least in some satisfactory way, fulfill our obligations in connection with matters which are coming up in the House. There is very important legislation in the House now in which some of us are interested. I think it would be better for the committee to sit in the morning and in the afternoon so we would be free to be in the House at some time to look after the legislation which is before the House.

Mr. JOHNSTON: I would agree with that.

The VICE-CHAIRMAN: There are two matters before us then. There is the matter of when we sit and the matter of further organizations to be heard. I will ask for no opinion on those matters at the moment. I am going to have the steering committee meet immediately after we adjourn to make a decision on these matters. Then, we will bring that decision back to this committee.

Mr. HOMUTH: I think this bill is such an important bill that, personally, I want to see it passed and become legislation. There certainly are enough members of all groups in the House to look after whatever legislation there is there, so this committee should sit every hour it possibly can in order to deal with this bill. I would suggest we sit at night. We could reconvene at eight o'clock or eight fifteen at night and sit through until the House closes. I would suggest we do that.

The VICE-CHAIRMAN: If there is nothing further, I thought of adjourning and having the steering committee consider these matters.

Mr. HOMUTH: Might we sit to-night?

The VICE-CHAIRMAN: We have not any business which we can consider to-night. I think the Pension Bill is up in the House to-night so we could very well sit to-night, unless there are any members of the committee who have not expressed an opinion on that bill.

Mr. MACINNIS: It is not merely a question of expressing an opinion and, perhaps, leaving it there. The Pension Bill is like this bill, there are a lot of amendments we must try to make in it. I cannot help make any amendments in the Pension Bill by being here.

Mr. HOMUTH: There is about as much chance of amending that Pension Bill in the House as the proverbial snowball. I think any chance of amending that bill is out and we might just as well make up our minds on that and concentrate on this bill.

Mr. MACINNIS: There is another point in regard to this legislation. If it is as important as Mr. Homuth says, it should not be put through in a series of forced marches such as he suggests. While I would be the last one to say I have not a fairly good mind to consider these things, there is a limit to what any man can do.

The VICE-CHAIRMAN: I would ask the steering committee to remain after this meeting is closed. Is there a motion that we adjourn?

Mr. LOCKHART: Before we adjourn, there are other representations coming in with regard to being heard?

The VICE-CHAIRMAN: Yes, we are going to deal with them.

Mr. LOCKHART: Are they going to be considered?

The VICE-CHAIRMAN: Yes, by the steering committee.

Mr. LOCKHART: There have been some very strong representations made about it.

Mr. MACINNIS: May I ask one more question? When can the representative of the Congress speak to the proposed amendments in appendix A?

The VICE-CHAIRMAN: Speak to this?

Mr. MACINNIS: Yes.

The VICE-CHAIRMAN: I do not know when, but he will speak to it when the time arrives. As a result of questioning, he may cover the ground very thoroughly.

Mr. JOHNSTON: Is it understood, Mr. Chairman, that once a brief is given the member who submitted that brief will be recalled for further questioning?

The VICE-CHAIRMAN: Those persons will be available for questioning by the committee immediately after the brief is presented. Because this is the first brief, and in order to give the committee an opportunity of considering these objections of a section of labour, we are having this adjournment and you can ask your questions to-morrow.

Mr. JOHNSTON: I thought it was understood that once a brief was given and questions were asked on that brief, there would be no further submission.

The VICE-CHAIRMAN: That is right.

Mr. JOHNSTON: Is Mr. Conroy coming back to continue with his brief?

The VICE-CHAIRMAN: He will come to to-morrow's sitting to answer questions.

Mr. HOMUTH: We are not going to sit to-night then?

The VICE-CHAIRMAN: If the steering committee decides to sit to-night, then we will have a meeting here to-night.

This committee is adjourned and the steering committe will remain, please.

The committee adjourned at 5.30 p.m. to meet on Tuesday, July 1, 1947, at 10.30 a.m.

APPENDIX A

THE CANADIAN CONGRESS OF LABOUR

DETAILED COMMENT ON THE INDUSTRIAL RELATIONS AND DISPUTE INVESTIGATION BILL. (BILL 338)

Section 2 (1).

(d) In view of the tendency of the courts to place a narrow interpretation on the words of many statutes, the definition of collective agreement should be broadened to include such matters as the check-off and union security.

(e) This paragraph should include provision for negotiations from time to time for settlement of disputes and grievances, the execution of an agreement, and also the amendment of or addition to an agreement. P.C. 1003 included the phrase "in good faith" in the definition of collective bargaining. It seems desirable that this should be retained.

(h) We recommend the addition of the following at the end of this paragraph:

and without limiting the generality of the foregoing, includes any dispute or difference relating to

(i) wages, allowances or other remuneration of employees or the price paid or to be paid in respect of services, hours of work, vacations with pay, statuory holidays or sickness benefits;

(ii) sex, age, qualification or status of employees;

(iii) employment of children or any person or persons or class of persons, or the dismissal of or refusal to employ any particular person or persons or class of persons;

(iv) claims on the part of an employer or any employee as to whether and, if so, under what circumstances preference of employment should or should not be given to one class of persons over another;

(v) any established custom or usage;

(vi) the subject of check-off;

(vii) union security; and

(viii) the interpretation of an agreement or a clause thereof.

(r) Even taken in conjunction with section 9 (5), which purports to exclude company unions from the benefit of the Act this paragraph is unsatisfactory. We therefore suggest the addition of the following words:

but shall not include any association, committee or group of employees or any other entity purporting to bargain collectively on behalf of any employees, the formation or organization of which association, committee, group or other, or an agent of an employer, or the administration, management or policy of which has been or is being influenced, coerced, or controlled by an employer or an agent of an employer."

Section 3 (1).

We suggest that this sub-section be replaced by the following:—

(a) Every employee shall have the right to be a member of a trade union, to form, join, or assist trade unions, to bargain collectively through representatives of his own choice, and to engage in concerted activities, for the purpose of collective bargaining or mutual aid or protection.

(b) A trade union and the acts thereof shall not be deemed to be unlawful by reason only that one or more of its objects are deemed by common law to be in restraint of trade.

(c) Any act done by two or more members of a trade union, if done in contemplation or furtherance of a trade dispute, shall not be actionable unless it would be actionable if done without any agreement or combination.

(d) No trade union or employers' organization or other person shall be made a party to any action unless it may be made a party irrespective of the provisions of this Act.

Section 4 (2).

The Congress recommends that the following be inserted as 4 (2):—

No employer, and no person acting on behalf of an employer, shall refuse to permit any duly authorized representative of a trade union with which he has entered into a collective agreement to negotiate with him during working hours for the settlement of disputes and grievances of employees covered by the agreement, or to make any deductions from the wages of any such authorized representative of a trade union in respect of the time so occupied.

Section 4 (3).

The Congress recommends that the following be inserted as section 4 (3):—

No employer or employers' organization, and no person acting on behalf of an employer or an employers' organization shall refuse or fail to bargain collectively, in good faith, as required by this Act, or cause representatives authorized in that behalf to bargain collectively in good faith on his behalf, or required by this Act.

It further recommends that the present section 4 (2) be renumbered as Section 4 (4) and that the following be added as (*c*) and (*d*):—

(*c*) maintain a system of industrial espionage or employ or direct any person to spy a member of proceedings of trade union or the offices thereof or interfere with the exercise by any employee of any right provided by this Act.

(*d*) threaten to shut down or more a plant or any part of a plant in the course of a labour dispute.

The Congress further recommends that section 4 (3) be renumbered 4 (5), and amended by inserting in line 16, after "intimidation", the words "by dismissal"; and by inserting after "to compel", in line 17, the words "or by any such means or by a promise or inducement, to induce".

At line 26, after the word "cause", the words, "subject to the provisions of any collective agreement," should be added.

Section 5.

The words "acting on behalf of" should be replaced by "authorized by" in line 28. The suggested amendment is in accordance with the wording of P.C. 1003. It is obvious that any individual might be regarded as acting on behalf of a trade union although he has no authority whatsoever to do so.

Section 6 (3) and (4).

See main brief.

Sections 7 to 9 inclusive.

The Congress recommends that Sections 7 to 9 inclusive be deleted and the following paragraphs be substituted:—

7 (1) A trade union may make applications to the board stating that a majority of the employees of an employer, or a majority of a unit, classification or classifications of such employees, desire the trade union to bargain collectively on their behalf with their employer, and requesting the Board to certify the applicant as the bargaining agent of such employees.

(2) Pending any application made hereunder, no employer shall make any change relating to the wages or hours of work of any employee affected by such application.

(3) Upon such application, the board shall make such investigation or enquiries as it may deem necessary, including such hearings as it may decide upon, for the purpose of determining, and the board shall determine.

(*a*) whether the applicant is a trade union; and

(*b*) the appropriate unit, classification, or classifications, for the purpose of bargaining collectively, of any of the employees of the employer with respect to whom an application for certification has been made, and the unit, classification or classifications of such employees so determined by the board shall be the bargaining unit hereinunder later referred to; and

(*c*) whether a majority of the employees who constitute the bargaining unit desire the applicant to bargain collectively on their behalf with their employer; and

(*d*) such other question of fact as may relate to such application.

8 (1) With respect to any application made pursuant to section 7 the board may order or conduct a secret vote of the employees who constitute the bargaining unit to ascertain whether or not a majority of such employees desire the applicant to bargain collectively on their behalf with their employer.

(2) In any event, except as later provided, when with respect to any application the applicant establishes that over twenty-five per cent of the employees who constitute the bargaining unit are either members of the applicant trade union or, within six months prior to the filing of the application, have requested or authorized the applicant to bargain collectively on their behalf with their employer, the board shall conduct a secret vote of the employees who constitute the bargaining unit; provided, however, that, if a collective agreement is then in force between the employer and a trade union, other than the applicant, relating to the bargaining unit or any portion or section thereof, a vote shall be ordered or conducted by the board if the applicant establishes that over fifty per cent of the employees who constitute the bargaining unit are either

members of the applicant, or, within six months prior to the filing of such application, have requested or authorized the applicant to bargain collectively on their behalf with their employer.

(3) If, in accordance with established trade union practice, the majority of a group of employees who belong to a craft by reason of which they are distinguishable from the employees as a whole are separately organized into a trade union pertaining to the craft, such trade union may apply to the Board to certify it as the bargaining agent of such employees. If such group claims and is entitled to the rights conferred by this subsection the employees comprising the craft shall not be entitled to vote for any of the purposes of any application or collective bargaining with such employer except when the application or collective bargaining relates solely to such craft; nor shall such employees be taken into account in any manner in the computation of a majority in respect to any proceeding in which they are not entitled to vote.

(4) Two or more trade unions may join in an application made pursuant to section 7 and may be jointly certified as to the bargaining unit or respectively certified as to such portion of the bargaining unit as the board may determine.

(5) If, on any vote ordered or conducted by the board pursuant to this Act, a majority of the employees who constitute the bargaining unit with respect to which such vote has been ordered or conducted participate in the vote the decision or vote of a majority of the employees so participating shall constitute the decision for all purposes of this Act, of a majority of the employees who constitute the bargaining unit.

(6) If the board is satisfied, whether by a vote or otherwise by investigation or enquiry, that a majority, as provided by this Act, of the employees who constitute the bargaining unit desire the applicant to bargain collectively on their behalf with their employer, the board shall certify the applicant as the bargaining agent of the employees who constitute the bargaining unit, specifying the bargaining unit and the employer.

"9 (1) No application shall be made pursuant to section 7 before ten months have expired of the period of a collective agreement, if any, whether entered into before or after the effective date of this Act.

(2) At any time after the expiration of the ten months referred to in subsection 1 hereof, an application may be made pursuant to section 7, which shall then be dealt with in accordance with sections 7 and 8, and if the board certifies the applicant as the bargaining agent of any of the employees covered by such collective agreement, the trade union so certified shall be substituted as a party to the agreement and may give notice of termination, renewal or proposed amendment of the collective agreement as later provided.

(3) A trade union certified pursuant to subsection (2) of this section may give the employer of the employees for which the trade union has been certified thirty days' notice of its desire to terminate, renew or amend any existing collective agreement covering any such employees, or to negotiate a new collective agreement covering any of such employees, and Section 8 (1) shall apply and be operative thirty days after such notice." The Congress considers section 7 (3) particularly objectionable.

Presumably the intention is to prevent unions from getting certification and then doing absolutely nothing about it, using certification simply as a means of freezing out other organizations, but the sub-

section, as drafted, is a direct encouragement to employers to go through the motions of negotiating, allow the negotiations and conciliation proceedings to fail, and then enter into a back-door agreement with some other organization, more or less bona fide. The point is illustrated by what happened in the Sitka Spruce case. In any event, the bill should include some such provision as appears at the end of section 5 (2) of order in council P.C. 1003.

Section 9 (3) (a).

The Congress also objects strongly to section 9 (3) (*a*). Where it is a question of one employer only, he is obliged to bargain; there is no proviso that he must consent. Why must all the employers consent if it is a question of more than one? The effect of this would be to make the obtaining of master agreements extremely difficult, if not impossible.

Section 9 (5).

If section 9 (5) is to be retained in anything like its present form, it should be amended in several respects. The wording should be noted as it only disqualifies an employer-dominated union if, in the opinion of the Board, it is (not has been) dominated, or influenced so that its fitness, etc., is impaired. The mere fact that it received the employer's financial support is not enough to disqualify it, and as a matter of practice it may be extremely difficult to satisfy any board that the organization's present policy or administration is dominated by the employer, or influenced by the employer so as to impair its fitness to bargain collectively. Experience under the 1943 Collective Bargaining Act of Ontario indicates that, without satisfactory means of investigation and satisfactory definition, many company-dominated unions were in fact encouraged and assisted by the Act. The subsection should read:—

Notwithstanding anything contained in this Act, no trade union, the formation, administration, management or policy of which is or has been, in the opinion of that board, dominated, influenced, participated in or interfered with or financially assisted by an employer... contrary to the provisions of this Act, etc.

In other words, if it is proven that an employer has dominated or influenced the formation of a trade union, it should not be certified as a bargaining agent. Section 8 (2) of the Wagner Act in the U.S.A., has a similar provision. As it now reads, it would be necessary to prove one of two things in order to show that a union was employer-dominated.

First, that the administration, etc., is dominated by an employer, or second that it is so influenced by an employer as to impair its fitness to represent the employees for the purpose of collective bargaining. It is difficult enough in some cases to prove the first point; proving the second point may present insurmountable difficulties.

The Congress calls attention also to the fact that this subsection uses the word "dominate" instead of "participate" as in section 4 (1).

Section 10 (a).

The Congress recommends that in lines 7-9 the phrase "until the certification of the trade union in respect of employees in the unit is revoked," be deleted.

Section 11.

For reasons given in the Congress' main brief, this section should be struck out.

Section 14 (a).

Line 24. The words "in good faith" should be inserted after the word "collectively."

Section 15 (a).

Line 3. The Congress recommends that the words "in good faith" be inserted after the word "collectively."

Section 18 (b).

The Congress recommends that in line 7 after the word "employer" the words "and agents of the employer" be added.

Section 18.

With regard to section 18, the Congress would direct attention to the fact that, until the passing of P.C. 1003, the law seemed to be that collective bargaining agreements were not enforceable by action like ordinary contracts but were in effect gentlemen's agreements, the breach of which would lead to losing the benefit of the agreement on either side. P.C. 1003 introduced the novel idea of making an agreement enforceable by penalties. In this way it differs from any other contract whatsoever. This section goes further than the ordinary law of contract, because it penalizes every breach of a collective agreement.

Section 19 (1).

With reference to section 19 (1) section 22 (*b*) provides that all employees who are covered by a collective agreement are prohibited from going on strike whatever the issue during the term of the collective agreement. In view of this absolute prohibition against striking on any ground during the term of a collective agreement, it would be expected that the Act would include provisions for the disposition of all disputes which might arise during the period in question. When we examine section 19, however, we find the anomalous situation that, while employees are forbidden to strike, whatever the issue, during the full term of the agreement, this grievance procedure is based upon the narrow formula of "meaning or violation" of the agreement. The result of section 19 is that, if an employee has a grievance in respect of a matter which has not been specifically dealt with by the agreement, he cannot force the employer to supply a remedy by means of the grievance procedure for the consideration and disposition of the grievance, notwithstanding that he, the employee, is forbidden to strike in respect of same. It may be feasible in some industries, particularly where collective bargaining has been in effect over an extended period, to include provisions in the collective agreement which will cover every conceivable dispute or grievance. On the other hand, in other industries, and particularly where collective bargaining has functioned only in recent years, no such exhaustive agreement is possible. The result is that an employee is without any remedy, though he is bound by the Act against striking, in respect of a grievance which has not been anticipated by some specific provision of the agreement.

The Congress therefore recommends that at the end of section 19(1), after the word "thereof" the following words be added:—

> or any other grievance affecting the terms of employment or working conditions of any employee or group of employees.

This might involve consequential amendments to Section 19 (2).

Section 19 (2).

The Congress recommends that in line 19, after the words "by order" the following be inserted:—

> after giving notice to the parties concerned and giving them an opportunity to submit representations.

Section 19 (3).

The Congress recommends that the following be inserted as section 19(3):—

> When a bargaining agent has been certified under this Act, and pending the conclusion of a collective agreement, the following grievance procedure shall be regarded as being in effect between the parties concerned, unless modified by mutual consent within a period of thirty days after the date of certification:—
>
> (*a*) The union shall appoint, and the employer shall recognize, a grievance committee of not fewer than three members of the union and not more than a number of plant divisions or departments in the employer's establishment.
>
> (*b*) Should any grievance arise between the employer and the union, or any of its members, or any other employees included in the bargaining unit, an earnest effort shall be made to adjust such grievance forthwith in the following manner:—
>
> (i) Between the aggrieved employee and the foreman of the department involved, a decision to be rendered by the foreman within two full working days. Failing a satisfactory decision:
>
> (ii) Between a member or members of the grievance committee and the chief supervisory officer of the employer in charge of personnel, if any, or any other officer whom the employer shall designate for this purpose, a decision to be rendered by such officer within three full working days. Failing a satisfactory decision:
>
> (iii) Between the grievance committee and a representative or representatives appointed by the employer for this purpose, a decision to be rendered within five full working days. Failing a satisfactory decision:
>
> (iv) By a Board of Conciliation.

The reason for this proposal is as follows:—Cases have arisen in which, after certification had been granted, an employer has gone through the motions of negotiating, but has dragged out the proceedings until a large number of the union's members became discouraged by the delay and the total absence of concrete benefits from certification and union membership, and left the union, and the employer then used such evidence of this as he could get as a reason for refusing to continue negotiations. The Congress feels that some provision should be made for the immediate handling of grievances subsequent to certification, both from the standpoint of protection of the employess concerned, and the promotion of harmony within the plant, which would facilitate the conclusion of the agreement under negotiation.

Section 21.

The Congress recommends that in lines 5-7, the words "shall not take a strike vote . . . employees in the unit" be struck out, for reasons given in the Congress' main brief.

Sections 23 and 24.

See main brief.

Section 25.

In this section there is no recognition of the difficulty there might be in drawing the line between an obvious lockout and a lay-off motivated chiefly or in part by the desire to intimidate or discourage employees from organizing or negotiating. Cases of the latter kind have been before the boards recently.

Section 26.

The Congress recommends that section 26 be deleted on the ground that it does not establish any right which is not generally admitted, and it constitutes an invitation to an employer to by-pass any certified bargaining agent. It is noteworthy that there was no such provision in P.C. 1003. If, however, it is felt that something should be inserted in the legislation along these lines, we recommend the following:—

> Notwithstanding anything contained in this Act, any employee may present a grievance to his employer at any time through the certified bargaining agent in accordance with the provisions of any collective agreement in force between the employer and the said agent, and where no bargaining agent has been certified any employee may himself present a grievance to his employer at any time.

Sections 27 - 37.

See main brief.

Sections 39- 46.

See main brief.

Sections 53 - 55.

See main brief.

Section 61. (1)

Under P.C. 1003, Section 25, the introductory phrase was: "If in any proceeding under these regulations." The corresponding phrase here would be: "If a question arises under this Act". The present wording appears to be much more restrictive, especially in view of the elimination of subsection (2) of section 25 of P.C. 1003, relating specifically to court proceedings. The courts might hold that, under the present wording, the board's decision is final and binding only for proceedings before the board itself, and that a magistrate, judge or court is not obliged to pay any attention to it at all. For further comment on this question, see the Congress' main brief. The Congress recommends the addition of subsections giving the board power to decide whether an employer or a union has been guilty of an unfair labour practice, to issue "cease and desist" orders (with adequate machinery for enforcement as proposed in the Congress' main brief), and to disestablish company unions. The Congress also recommends the addition of a further subsection as follows:—

> There shall be no appeal from an order or decision of the board under this Act, and the board shall have full power to determine any question of fact necessary to its jurisdiction, and its proceedings, orders and decisions shall not be reviewable by any court of law or by any certiorari, mandamus, prohibition, injunction or other proceeding whatsoever.

Section (61) (1) (c).

Paragraph "*d*" of section 25 (1) of P.C. 1003 has been omitted. It is not clear whether the new paragraph (*c*) covers the point.

Section 62.

"Substantially uniform" is not defined.

Section 67 (1) (b).

See main brief.

The Congress recommends that parliament consider embodying in this legislation a provision similar to the Alberta Labour Act's section 80 (2), so that if the parties to a dispute accept the report of a conciliation board, the terms of the report shall be retroactive to the date of the application for intervention, also a provision similar to the Alberta Act's section 75 (7), empowering the minister to remove, and make arrangements to replace, any conciliation board member who, in the minister's opinion is unduly or unnecessarily deferring or delaying proceedings.

SESSION 1947

HOUSE OF COMMONS

STANDING COMMITTEE

ON

INDUSTRIAL RELATIONS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 3

TUESDAY, JULY 1, 1947

WITNESSES:

Mr. Percy R. Bengough, President, The Trades and Labour Congress of Canada;

Mr. W. T. Burford, Secretary-Treasurer, The Canadian Federation of Labour;

Mr. Ernest Smith, Special Representative, The Canadian Federation of Labour;

Mr. W. J. Sheridan, Manager, Economic Development Branch, Canadian Chamber of Commerce;

Mr. O. H. Barrett, Committees on Legislation and Industrial Relations, Canadian Manufacturers Association;

Mr. A. K. Thompson and Mr. H. Shurtleff, Legal Department, Canadian Manufacturers Association.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1947

MINUTES OF PROCEEDINGS

TUESDAY, 1st July, 1947.

The Standing Committee on Industrial Relations met at 10.30 o'clock a.m. Mr. Croll, the Vice-Chairman, presided.

Members present: Messrs. Adamson, Archibald, Baker, Beaudoin, Charlton, Cote (*Verdun*), Croll, Homuth, Johnston, Knowles, Lafontaine, Lapalme, Lockhart, MacInnis, Maloney, Maybank, Merritt, Mitchell, Ross (*Hamilton East*), Sinclair (*Vancouver North*).

The Chairman read the second report of the steering committee.

On motion of Mr. Lafontaine, the said report was concurred in.

On motion of Mr. Homuth.

Resolved,—Notwithstanding the time limitation for the hearing of presentations in the motion passed by the Committee on Wednesday, 25th June, that all invited organizations or groups be heard.

It was agreed that a brief submitted by the Canadian Construction Association be taken as read.

It was agreed that the following be printed as appendices in the records of the Committee:—

(i) Letter dated 25th June, 1947, from the President, Nova Scotia Barristers' Society; (See appendix "B").

(ii) Resolution dated 25th June, passed by the Vancouver Bar Association; (See appendix "C").

(iii) Telegram dated 27th June, from the Secretary, Victoria, B.C. Bar Association; (See appendix "D").

(vi) Telegram dated 25th June from the Attorney-General, Nova Scotia; (See appendix "E").

(v) Letter dated 21st June signed by the Secretary of the Law Society of Upper Canada, Toronto. (See appendix "F").

On motion of Mr. MacInnis.

Ordered,—That a brief submitted on the 27th June by the Shareholders' Institute, be referred for consideration of the Steering Committee.

Mr. Percy R. Bengough, President, The Trades and Labour Congress of Canada, was called. He read a prepared brief and was questioned.

The witness was retired.

Mr. W. T. Burford, Secretary-Treasurer, and Mr. Ernest Smith, Special Representative, The Canadian Federation of Labour were called. They made a joint statement and were questioned.

The witnesses were retired.

The Committee adjourned at 12.30 o'clock p.m., to meet again this day at 4.00 o'clock p.m.

The Committee resumed at 4.00 o'clock p.m. The Vice-Chairman, Mr. Croll, presided.

Members present: Messrs. Adamson, Archibald, Baker, Beaudoin, Charlton, Cote (*Verdun*), Croll, Homuth, Johnston, Knowles, Lafontaine, Lapalme, Lockhart, MacInnis, Maloney, Maybank, Merritt, Mitchell, Ross (*Hamilton East*), Sinclair (*Vancouver North*), Timmins.

Mr. W. J. Sheridan, Manager, Economic Development Branch, Canadian Chamber of Commerce, was called. He read a prepared brief and was questioned.

The witness was retired.

Mr. O. H. Barrett, Committees on Legislation and Industrial Relations, Canadian Manufacturers Association, was called. He read a prepared brief and was questioned. Mr. A. K. Thompson and Mr. H. Shurtleff, Legal Department of the Canadian Manufacturers Association, assisted during the questioning.

The witnesses were retired.

The Committee adjourned at 5.50 o'clock p.m., to meet again at 4.00 o'clock p.m., Wednesday, 2nd July.

J. G. DUBROY,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS

July 1, 1947.

The Standing Committee on Industrial Relations met this day at 10.30 a.m. The Vice-Chairman, Mr. D. A. Croll, presided.

The VICE-CHAIRMAN: Gentlemen, there is a quorum present.

We have here the report of the steering committee:—

REPORT OF THE STEERING COMMITTEE

MONDAY, 30th June, 1947.

Your steering committee met Monday, 30th June, and considered:—

(*a*) Applications to appear and make representations on bill No. 338.

(*b*) Resolutions, telegrams and letters making representations to the committee.

(*c*) Future sittings of the committee.

The chairman was directed to invite the following organizations:—

(i) Dominion Joint Legislative Committee, Railway Transportation Brotherhood;

I think we overlooked them originally.

(ii) The Canadian Federation of Labour.

In reviewing other applications, it was found that invitations to appear have already been sent to parent bodies of these groups.

Accordingly, it is recommended that only national organizations or groups be heard. It is considered this will provide representation for all.

It was agreed that written representations received to date be referrred to the committee, recommending that they be printed as appendices in the records.

It was agreed to recommend the following program for future sittings:—

(*a*) That meetings be held Mondays through Fridays, excepting Wednesday, at 10.30 a.m. to 12.30 p.m., and from 4.00 p.m. to 6.00 p.m.

(*b*) On Wednesday, the committee to meet at 4.00 p.m. to 6.00 p.m. and from 8.00 p.m. to 10.00 p.m.

(*c*) Other sittings to be called as considered necessary by the chair.

All of which is submitted.

(Sgd.) D. A. CROLL,
Vice-Chairman.

Moved by Mr. Lafontaine, seconded by Mr. Jutras, that the report of the steering committee be concurred in.

Carried.

Hon. Mr. MITCHELL: Mr. Chairman, I just want to say this to you; there was no slip-up on my part when I moved that motion. I mentioned what we called "running trades" as you remember.

Mr. MACINNIS: I think there was just a little confusion as to what you were referring to.

Hon. Mr. MITCHELL: Yes, probably that was it. They are one of the oldest railway organizations.

Mr. MacINNIS: The confusion I think was with the Canadian Brotherhood of Railway employees. It was mentioned by you.

Hon. Mr. MITCHELL: That was in my mind, clearly; that they should be invited. They are one of the oldest railroad organizations which have ever come under federal jurisdiction; they have been under federal labour laws ever since their inception. I would like to have it pointed out very clearly that they were not overlooked deliberately by this committee.

The VICE-CHAIRMAN: No. I said that there was some misunderstanding. The minister corrects me by saying that there was confusion. That is all right.

We have some briefs here—

Mr. HOMUTH: Mr. Chairman, before we go on to that; the motion that was made the other day was in fact that we should hear briefs on Monday and Tuesday. The fact of the matter is that I do not think that we are going to be able to get through all the briefs on Monday and Tuesday.

The VICE-CHAIRMAN: It is not limited.

Mr. HOMUTH: Oh yes, it was limited. I was reading the Minutes of Proceedings this morning and it is set out clearly that briefs will be heard on Monday and Tuesday.

The VICE-CHAIRMAN: Is that what it says?

Mr. HOMUTH: It sets out clearly "Monday and Tuesday."

The VICE-CHAIRMAN: Well, we are not going to be able to get through.

Mr. HOMUTH: No, I think that there should be either a tacit understanding or the motion should be amended.

The VICE-CHAIRMAN: I think the understanding, Mr. Homuth, was that we would not likely get through the hearing of witnesses on Monday and Tuesday and that the period should be extended.

Mr. HOMUTH: That can be done by way of motion or amendment to the motion.

The VICE-CHAIRMAN: Will you move such amendment?

Mr. HOMUTH: I will move in amendment that the time for receiving of briefs be extended.

The VICE-CHAIRMAN: Mr. Homuth moves that notwithstanding the resolution adopted by the committee the other day that we extend the time for the hearing of briefs from national organizations.

Carried.

I have here this morning some representations and resolutions from the bar associations of Ontario, Nova Scotia, British Columbia, and also the bar association of Vancouver. We will have these added as appendices to the record. That was the understanding. Is that agreeable?

Carried.

I also have here this morning a brief from the Canadian Construction Association. They are one of the national groups invited to make a submission and they say:—

June 30, 1947.

The Chairman and Members,
Industrial Relations Committee
of the House of Commons,
Ottawa, Canada.

GENTLEMEN,—In reply to your telegram of June 25th, I should like, on behalf of the Canadian Construction Association, to express our appreciation of your invitation to make representations in respect to Bill 338, An Act to provide for the Investigation, Conciliation and Settlement of Industrial Disputes.

In previous submissions to the Minister of Labour concerning P.C. 1003 and an earlier draft of the present legislation, this Association emphasized three principles which it considers essential to successful labour relations. These are:—

(1) Mutual agreement is fundamental to real agreement. Therefore, provisions regarding union security, such as the closed shop and the check-off, should be the result of free negotiation and not of legislative compulsion.

(2) The bargaining agent should clearly represent a majority of the employees in the employees' unit for which it is to bargain.

(3) Responsibility to observe the law in labour matters should be equal on both employers and employees.

It is apparent that Bill 338 is intended to incorporate the first two of these principles and that it goes further than previous legislation with respect to the third principle. On these grounds it is to be commended as progressive legislation. At the same time, we feel serious consideration should be given to the desirability of the incorporation of trade unions to assure a greater measure of union responsibility.

In accordance with well-established practice, agreements in the construction industry are signed between employers' associations and trade unions in local areas and are not national in character. Therefore the legislation will not apply to this industry, except in those provinces which see fit to pass implementary legislation.

The record of relations existing between employers and members of skilled trades unions in the construction industry in Canada for over 40 years has been a singularly happy one. Strikes in the industry have been relatively few. It is a tribute to employees, as well as to employers in the construction industry that, during the war and since, there has been little occasion to resort to the provisions of P.C. 1003. Should any of the provinces decide to implement the provisions of Bill 338, our view is that this legislation contains basic principles on which sound labour relations can be established. Experience under the legislation, after it becomes law, may indicate a need for some revision from time to time.

This Association favours national uniformity in labour legislation of this kind. In the event of implementary legislation by any of the provinces for the purpose of providing such uniformity, we feel that organizations of employers and employees would wish to be given the opportunity of making representations to those provinces. Such representations would concern local conditions which would call for amendment or revision in matters of detail without interfering with basic uniformity.

Under the circumstances, we feel that this submission will serve your purpose and that we would not be justified in taking up your valuable time with a verbal presentation.

Respectfully submitted,

CANADIAN CONSTRUCTION ASSOCIATION

R. S. JOHNSON,
General Manager.

I suggest this be part of the record instead of the appendix. Copies will be distributed in due course.

I also have here this morning a one-page memorandum from the Shareholders' Institute of Canada, Toronto. I have no conception of whom or what they represent but the submission is in connection with this bill and I suggest we put it in a part of the appendix.

Mr. MACINNIS: What have they get to do with the bill? I do not think we should just put in any briefs that may come along.

Hon. Mr. MITCHELL: May I make this suggestion? If you are going to make a part of the record the submission of everybody who thinks he is able to cure the labour laws of this nation, you are going to have a very big record. I think we have already decided to deal with the national organizations only.

Mr. MACINNIS: I move that brief be left over until the next meeting of the steering committee.

The VICE-CHAIRMAN: All right.

Our intention was this morning to continue hearing Mr. Conroy. I have had a few members suggest to me that until such time as the second appendix is filed we are not in a position to properly question, and I suggest to the committee that we not proceed with the examination of Mr. Conroy this morning. I have indicated to Mr. Conroy that we are not likely to continue our examination of him but that we will continue to hear some of the other briefs until his second appendix is filed.

Now we have the Trades and Labour Congress of Canada whom we will hear, and next there is the Canadian Federation of Labour. This afternoon we will have the Canadian Chamber of Commerce and the Canadian Manufacturers' Association. On Wednesday we will have the Railway Association of Canada and the Joint Legislative Brotherhood. We have the Canadian Catholic Federation of Labour Society but we have not received a reply from them.

I will now call upon Mr. Bengough.

Percy R. Bengough, President, The Trades and Labour Congress of Canada, called:

The WITNESS: Mr. Chairman and gentlemen, we appreciate the opportunity of appearing before you to-day to present the views of The Trades and Labour Congress of Canada in respect to Bill 338, an Act to provide for the investigation, conciliation and settlement of industrial disputes.

You will find attached a copy of a circular which was mailed under the date line of December 12, 1946, to the fifty-three trades and labour councils and three thousand odd locals of international, national and directly chartered unions affiliated to this Congress.

It will be noted that the objective was the securing of a national labour code which would retain the basic principles of order in council P.C. 1003 with specified changes.

At the time of the issuance of this circular the position of the provincial governments in relation to the adoption of a national labour code had not been definitely finalized. Since that date many provincial governments have clarified their position and have enacted to a lesser or greater degree provincial laws covering the right of employees to organize and bargain collectively through an organization and representatives of their own choosing.

Such being the facts, then we have to judge the contents of Bill 338 in the light of things as they are and not as to how we would like them to be. It is with such views in mind that we do not condemn Bill 338, because of its limited application in that roughly it covers only the field formerly covered by the Industrial Disputes Investigation Act, 1907. We would have much preferred an all embracing national code, but as it is not yet within the jurisdiction of the dominion government to meet our requirements in this regard, we accept Bill 338 as a step n the right direction. It is our considered opinion that Bill 338 retains the basic principles of order in council P.C. 1003 in that it establishes the right of employees to organize in a union of their own choice and prohibits the employer from interfering with that right.

The other changes that we requested in order in council P.C. 1003, as set out in the attached circular, have been fairly met in Bill 338.

We are also attaching for your information a copy of a press release that was issued under the date line of June 19, 1947, and mailed to our affiliated provincial organizations, trades and labour councils and general representatives. This sets out the views of The Trades and Labour Congress of Canada on the various clauses of particular concern to the many thousands of organized workers affiliated to The Trades and Labour Congress of Canada.

We do not feel that it is necessary to enlarge upon this outside of the following:

In respect to section 32, paragraph 8, of Bill 338: This section, previously contained in the Industrial Disputes Investigation Act, 1907, was demonstrated in actual operation over many years to be of value in that the parties appearing before the board had direct knowledge of the industry and were more concered and anxious to reach finality and generally dealt with the questions at issue more from a common sense and humane point of view. In operation the objectives of order in council P.C. 1003 were at times unduly prolonged and sometimes lost sight of in the confusion raised by the submission of legal arguments for and against what was originally intended in the Act and ofttimes muddied the very issues that the board was formed to clarify. The Trades and Labour Congress of Canada has the highest regard for our friends in the legal fraternity. We give them all credit in the strong trade union with real closed shop conditions that they have built and maintained, but we are strongly of the opinion that in the field of labour relations that legal training has proved itself more of a detriment than an asset.

Regarding section 8, this is designed to give recognition to groups of employees who belong to a craft or group exercising technical skills by reason of which they are distinguishable from the employees as a whole, and who are members of a trade union of their craft. There is apparently a wrong impression in some industrial union quarters that this provision is a menace to such organizations. The fact remains that a similar provision has been retained in the British Columbia Act respecting the right of employees to organize and providing for conciliation and arbitration of industrial disputes for the last ten years. In operation it has not hindered labour organizations formed and operated on industrial lines, and has been of benefit to the established craft unions.

In view of the foregoing, we are prepared to accept the provisions of Bill 338 as it now stands. We realize that it is legislation of a contentious nature and that it would be an impossibility to draft a law covering the scope of Bill 338 that would meet unanimous approval even of those directly affected, to say nothing of the many who do not come under the Act yet but who are already strongly condemning it. We feel that Bill 338 is a good step in the right direction. We trust that it will become law this session. A great deal of its success or failure in operation will, of course, depend on its administration. Undoubtedly weaknesses will be discovered, and The Trades and Labour Congress of Canada will not hesitate to seek the necessary amendments. In the meantime, on behalf of The Trades and Labour Congress of Canada we accept Bill 338 as worthy of enactment.

(Sgd.) PERCY R. BENGOUGH,
President.

JOHN W. BUCKLEY,
Secretary-Treasurer,

THE TRADES AND LABOUR CONGRESS OF CANADA.
On behalf of the Executive Council.

Shall I read the enclosures?

The VICE-CHAIRMAN: Yes, go ahead.

The first enclosure I made reference to was addressed to the officers and members of all affiliated organizations of the Trades and Labour Congress of Canada, and was sent out under date line of December 12, 1946.

OTTAWA, ONTARIO,

December 12, 1946.

To the Officers and Members of all
Affiliated Organizations of
The Trades and Labour Congress of Canada.

GREETINGS,—The workers' way to jobs and security is to maintain and improve, when necessary, Labour laws that protect their rights and allow for advancement. Order in Council P.C. 1003, which was introduced under the War Measures Act in 1944, definitely came under this category. P.C. 1003 will cease to operate early in 1947. What, if anything, will take its place is organized labour's $64 question.

An all out war effort demanded a national labour code. A peace effort also requires a national labour code. The Trades and Labour Congress of Canada and its affiliated organizations campaigned for years for dominion legislation that would assure the workers the right to organize and bargain collectively through the medium of a union of their own choice, not one on a provincial bits and pieces basis but on a national unity basis—a labour code for all Canadians.

The time for concerted action has arrived if we are to have a worthwhile national labour code. All Trades and Labour Councils and affiliated unions must now become active. They should hold special meetings to discuss and consider this important question. Committees must be appointed to go thoroughly into the matter. Provincial governments must be approached and impressed with the need of reaching agreement with the dominion government for the establishment of a national labour code. Supporting a basic national code does not mean that provinces with better labour codes will have to give up any of their improved legislation.

As more fully explained in an editorial in the November 1946 issue of The Trades and Labour Congress *Journal*. "Need for a National Labour Code," the basic principles of P.C. 1003 must be retained in the dominion labour code with the following changes:—

Company unions must be definitely prohibited.

The union concerned should be named as the bargaining agency and not individuals.

Where all employees of an employer or organization of employers are required by agreement to be members of a specified union, there should be no provision in the law tending to prevent.

In all cases in which both the employers and employees agree, there should be no interference either in their reaching or changing the provisions of an agreement.

The regulation requiring that 51 per cent of the employees must vote for the union should read "51 per cent of the votes cast," in the same manner as all democratic elections.

A clearer definition is also required of who is to be excluded from the bargaining agency so as to prevent the past procedure of excluding thousands of bona fide employees on the pretext that they are employed in a confidential capacity and outside of the benefits of the Act.

Organized labour believes in national unity. Your dominion and provincial members of parliament must be impressed with the need for the enactment of a national labour code in the interests of labour and industrial peace and harmony.

Your full cooperation is necessary.

Fraternally yours,

(*Sgd.*) PERCY R. BENGOUGH
President.

THE TRADES AND LABOUR CONGRESS OF CANADA.
On behalf of the Executive Council.

The other document referred to was a press release which was also sent out. It reads:—

June 19, 1947.

The Trades and Labour Congress of Canada believes that one of the first steps towards national unity is uniform labour and social laws throughout the dominion. Naturally we would much prefer and will continue to strive for a national labour code.

Bill 338, an Act to provide for investigation, conciliation and settlement of industrial disputes, which received its first reading before parliament June 17, 1947, does not meet this requirement in that its application is limited to industries, undertakings of an interprovincial character and such works as are declared by the parliament of Canada to be to the general advantage of Canada, or for the advantage of two or more provinces, and outside the exclusive legislative authority of any province.

In view of this limited scope, the formulation of regulations governing the vast majority of Canadian workers is left to the mercy of the various provinces. However, it must be fully recognized that the limitation is not chargeable to the dominion but emanates from provincial governments who desire to retain all of their old time autonomy, even in face of modern methods and needs of Canadian economy. Such being the position, then the Congress has to judge bill 338 on its merits and to the extent that it embodies our requests for inclusions and deletions.

First, we asked that the basic principles of P.C. 1003 be retained in the dominion labour code. Bill 338 meets this requirement with improvements.

We requested that company unions be definitely prohibited. Section 4, Paragraphs 1, 2 and 3, while not definitely prohibiting company unions, certainly makes their existence insecure and their operation and recognition difficult.

We maintain that the union concerned should be named as the bargaining agency instead of individuals. Bill 338, Section 7, and other sections, fully meets these requirements.

Section 8, in affording protection to crafts or groups exercising technical skills, is both justifiable and necessary.

This Congress also requests that where all employees of an employer or organization of employers are required by agreement to be members of a specified union, there should be no provision in the law tending to prevent. Section 6, subsection 1, meets our request in this respect. However, subsection 2 of the same section is somewhat of a negation and should be eliminated.

We request that in all cases in which both the employer and employees agree there should be no interference in their reaching or changing the provisions of an agreement. Section 20, subsection 2, meets this requirement.

We protested the old regulation of order in council P.C. 1003 which required that 51 per cent of the employees must vote for the union should read " 51 per cent of the votes cast" in the same manner as all democratic elections. Section 9 is a distinct improvement and meets our wishes.

We also asked for a clearer definition of employee and as to what employees should be excluded. We requested that only employees brought into consultation on matters of the employers' labour policy should be termed confidential employees. Part I clarifies this in a satisfactory manner.

We desire to commend the government for the inclusion of section 32, paragraph 8, in bill 338, embodying a provision formerly contained in the original Industrial Disputes Investigation Act which discourages the wholesale use of lawyers, which provision proved so beneficial in reaching finality in the Industrial Disputes Investigation Act and the absence of which was so disheartening in prolonging the agony in hearings under P.C. 1003. The balance of the bill is a distinct improvement on order in council P.C. 1003.

We are definitely of the opinion that bill 338 is worthy of support. It is quite possible that in operation weaknesses will be found that will require amendment. A great deal depends on its administration. Past experiences of this Congress have shown that poor legislation sympathetically administered has ofttimes been better than good legislation administered in a hostile manner.

The fact that the board of administration will not exceed eight members, comprised eqally of representatives of employees and employers with a government appointed chairman is a good provision. The provisions covering the appointment of boards of conciliation are in accord with proven good procedure, being composed of representatives from each party to the dispute who jointly choose a chairman and, on failure to do so, the third party is appointed by the minister.

The executive council of The Trades and Labour Congress of Canada, after due and careful consideration of all features and for the reasons previously set out, commend the government for the introduction of bill 338 and would recommend that all provinces enact legislation of equal value.

(Sgd.) PERCY R. BENGOUGH,
President,

The Trades and Labour Congress
of Canada
On behalf of the Executive Council.

The VICE-CHAIRMAN: Gentlemen, you have heard the presentation made. Do you wish to ask Mr. Bengough any questions on any portion of the brief? If so, he is now available to you.

By Hon. Mr. Mitchell:

Q. What is the coverage of your organization as embodied in the present bill? To what extent does the bill cover the organizations embodied in the brief affiliated with the Trades and Labour Congress of Canada?

Mr. LOCKHART: I was going to ask how many union members it would represent.

The WITNESS: Offhand I could not give you those figures. There is a considerable number, of course, of our membership who would come under the

bill. We hope that those in the harbour boards and things like that, which are matters of doubt in some respects, will be covered. Then there are the railroad workers and, of course, the workers in the public utilities. It runs into a considerable number. I could give you those figures, but I have not them with me.

Mr. LOCKHART: You have not the approximate number of union members that you represent, anywhere within two or three thousand? That would be near enough.

The VICE-CHAIRMAN: Make a guess at it.

The WITNESS: I will take a shot at it and say it would be between 90,000 and 100,000.

By Mr. Lockhart:

Q. That your organization represents?—A. I might be wrong one way or the other.

By Mr. Timmins:

Q. You mean the number of workers in respect of this bill?—A. I am talking about the bill, those that it would cover.

Mr. MACINNIS: May I ask the minister if he has any information as to how many persons, how many trade unions are covered by this?

Hon. Mr. MITCHELL: That is trade unions as such or possible trade unions?

Mr. MACINNIS: Employees.

Hon. Mr. MITCHELL: About a quarter of a million.

By Mr. MacInnis:

Q. I listened carefully to the brief and to the press release which is almost the same wording as the brief, but as to the document which came in between, the letter sent out on December 12, 1946, to the affiliates of the Trades and Labour Congress, it appears to me that it indicates that the bill falls far short of what you desire?—A. In that it is not a national code?

Q. In that it is not a national code and various other points in it.—A. I think the main feature where it falls down is on the basis that it is not a national code. We have covered that angle pretty well. That is a matter where you have to get the provincial governments to decide. Since that time there have been a number of provincial governments which have enacted legislation, some better and a lot of it worse.

By Mr. Homuth:

Q. As a layman perhaps I might ask this question better than some of the lawyers around the table. You have given considerable attention to subsection 8 of paragraph 32 with respect to the use of lawyers. As you know the clause itself does not bar lawyers provided all parties to the dispute agree.

Mr. MACINNIS: And the board.

By Mr. Homuth:

Q. Yes, the board has the final say. Would you like to go more fully into your statement with regard to lawyers and give some explanation as to how you have found it working out.—A. Under the old Industrial Disputes Investigation Act there was a provision very similar to what is set out here in this bill, that if either side objected legal representation would not be allowed. It is identical pretty much with what is in here. It was found in operation that it was one of the best features of the bill. There is nothing unique in keeping the legal fraternity of labour legislation, shall I say. They are effectively kept out of the workmen's compensation laws. They used to be in that, but after a case was settled and the award made we used to wonder who had really

met with the injury or the accident. They had to bring in legislation keeping them out so that the man who had suffered from the accident had some of the money instead of giving it all to the doctor and the lawyer. That is the way it worked out. Really it proved to be an advantage.

We have found, and I think it was demonstrated under P.C. 1003—and I do not say that it emanated entirely from a desire to stall the job along and get a higher fee so much as from the fact that the legal man was hired for the job and he wanted to win the case—that a lawyer cannot come and talk and get down to the place where they can do any trading because his job is to win the case for those who hire him. Therefore they come in, split all kinds of straws and raise arguments with the idea of winning the case. We have found that the principals to the dispute, that is, both employers and employees, were able to be a little more flexible and were not so anxious on the basis that they had a case to win or else lose their reputation. They are anxious to get back to work, to get the job started. In operation it worked out better in most of the hearings under P.C. 1003. All we ask is that the same thing be put back in this bill that has operated satisfactorily for years in the old Industrial Disputes Investigation Act and was never questioned.

By the Vice-Chairman:

Q. You do know that since 1944 under P.C. 1003 the board has not prohibited lawyers from appearing before them, and they have appeared without any objection since that time? You do know that?—A. That is why we raise the objection here.

Q. You do know that?—A. Yes.

Q. In addition to that you do know that in the various law schools in the country they have as a part of their course labour legislation, and in the universities—

Mr. HOMUTH: Would you speak out?

The VICE-CHAIRMAN: You had better speak up.

Mr. MACINNIS: It is you he means.

By the Vice-Chairman:

Q. You know that in the various law schools of the country and in the universities they are teaching labour legislation to the lawyers and to students?—A. Yes.

Q. Then you spoke of some of your workers under the harbour board. You appreciate that under this Act they may well be excluded?—A. There is a possibility but I think, actually, the general opinion is that they would be excluded.

The VICE-CHAIRMAN: I just said that they may well be included under section 54.

By Mr. MacInnis:

Q. What you say in regard to the Harbour Board would apply to all Crown companies where your workers are employed; you think they should be included?—A. Yes, without question it would be better if it were stated definitely that they would be in.

By Mr. Timmins:

Q. I presume you would agree, if you were appearing yourself for a union in respect of a matter which was under consideration, you would consider yourself, as a labour man, an expert on labour affairs?—A. I would not say that, no.

Q. May we suppose that you would not consider it unfair that a small firm or small group of employers, in the same way, be represented by somebody who might be an expert on their behalf? Would you not consider that fair?—A. So far as the small firms are concerned, there are not many of them who would come under this bill the way it is now.

Q. I am suggesting to you, if it is fair for one group to be represented by labour organizers, men who are experts— —A. I never admitted they were. You asked me if I was and I said no.

Q. Without being personal about it, we all agree you are. I am suggesting, on the other side, that as labour matters are growing in public interest that it is in the public interest both sides should be represented by those who are experts. As the chairman has just mentioned, law schools throughout the dominion are concentrating their efforts, expanding their efforts, in respect of labour legislation so lawyers are becoming, comparatively speaking, as expert as labour organizers in respect of labour matters. Do you see any reason why those potential labour representatives who, at the same time, are lawyers, should not appear in the same capacity as yourself or those associated with you?—A. I think the legal fraternity have the wrong idea. This legislation is to provide legislation for the settlement of industrial disputes. The idea the lawyers seem to have now is that it is legislation to provide employment. It does not come under that category.

Q. Speaking for myself, I can remember that many firms for whom I worked over a period of years had no labour trouble and had no experience in labour matters. Do you think that they, dealing under a comprehensive Act such as this ought not to have the benefit of some experienced counsel to assist them in respect of the matters in dispute?—A. Well, if the other side did not object, they would be able to have them there the way the Act is now. Lawyers were not always debarred under the old Industrial Disputes Investigation Act. Sometimes they were there. If the other party objected, then they were not. What more do the lawyers want than that?

By Mr. MacInnis:

Q. Mr. Timmins asked you, I think, if you would appear as a labour representative before a board and he suggested that you would know something about the question at issue. You would have no objection to the secretary of the Canadian Chamber of Commerce or the secretary of the Canadian Manufacturers' Association appearing for an employer in labour disputes? —A. No, we would not have any objection.

Q. They would be put on the same basis then as your organization?—A. It seems to me we used to have them when I was doing some work for you.

By Mr. Ross:

Q. Would you object to the Chamber of Commerce being represented by a lawyer?

The VICE-CHAIRMAN: He might; he could if he wanted to do so. You do know that the chairman of the National War Labour Board is a very estimable lawyer. You are satisfied with him there?

The WITNESS: I suppose so, yes.

By Mr. Merritt:

Q. I should like to ask a question of Mr. Bengough. He said, when he was answering Mr. Homuth I think, that it was advantageous to have the principals to the dispute at the actual bargaining and the conciliation. I can see some force to that argument. One thing to which I should like to call your attention is that section 32, subsection (8), does not require the principals to the dispute to conduct the conciliation. It only requires that anyone can do it except lawyers. Are you not going to create a new type of lawyer called an industrial relations counsel or something like that? There may be someone who was not called to the Bar or who may have been disbarred; he may be thoroughly trained in the law; he may go to Osgoode Hall and take the course to which the chairman

has referred with the intention of practicing under the title of industrial relations counsel. He may have all the wickedness and weaknesses of a lawyer and all the skill of a lawyer, but simply because he is not recognized by the law society, you have no objection to him. Then, you may have others even without that training whose business it is to represent firms or unions in conciliation procedure. They will have the same interest in winning the case, to use your own term, as any lawyer would have.

I am suggesting to you that in this section you are not accomplishing what you, yourself, said to be the ideal situation that the bargaining should take place between the principals. Would you comment on that?—A. I can only say, as I stated before, that in operation under the old Industrial Disputes Investigation Act, it worked out very satisfactorily over many years. A clause with identical phrasing was in that act. This clause has been lifted out of the Industrial Disputes Investigation Act of 1907. It worked very well. I can hardly agree with you when you say that if we had a lawyer we would not object to one who was not in the union. We would object on general principles there.

Q. You might object, but the section would not prevent him from appearing. If one party insisted that he appear, you could not stop him?—A. We would not want to go ahead with the case. We certainly would not favour non-union lawyers.

By the Vice-Chairman:

Q. In view of the fact that you recognize us as a union and a closed shop you would not want to start a jurisdictional strike, would you?—A. They have started it on us many times. How many years has the Industrial Disputes Investigation Act been in force?

Q. 1907.—A. During the whole of that time this was not a feature which caused any trouble. I cannot see how it is going to do any harm here.

The VICE-CHAIRMAN: I do not quite agree with you. It was not a feature because labour legislation was not a feature in those days. In modern times, labour legislation is a definite feature. There are some people who are expert at it; some who are very capable; some who make a study of it. It seems that the people who are experts are to be given an opportunity of making themselves available if they are desired, that is all.

By Mr. Timmins:

Q. May I ask one more question? Is not an expert on one side and an expert on the other side likely to arrive at the result hoped for by their respective groups a great deal faster than if there were an expert on one side and a non-expert on the other side?

Hon. Mr. MITCHELL: The trouble is that you have too many experts and not enough common sense.

The WITNESS: I just want to make a correction—I still think it is a guess —but Secretary Buckley states that I was wrong in my figures and that 150,000 of our membership would come under this particular piece of legislation.

Mr. HOMUTH: 150,000 would come under it?

The VICE-CHAIRMAN: Instead of 100,000.

By Mr. Johnston:

Q. I think, in general, you agree that this legislation should become law?—A. Yes.

Q. Would it be your view then that this legislation as it stands, although it may have some things which should be modified, should be passed by the committee and become law during this next session of parliament? Then any provinces which have not got provincial labour legislation which is in agreement with the union opinion generally, the union should take up their problem with

the governments of the provinces and have those provinces so change their labour legislation that it would conform with this legislation?—A. They have been trying to do that, but they have not had great success.

Q. My point is this; that rather than have different labour organizations endeavouring to change this legislation, they should make their concerted effort on the provincial governments with a view to having those governments modify their legislation. After all, this is more or less enabling legislation under which the provinces could come?—A. Some provinces have better legislation than this, in my judgment. We would not object to the lower ones being brought up to this.

Q. I am not suggesting that the unions endeavour to lower the labour standard of the provinces but more that they should make their bargaining more effective with the provinces where the provinces have ineffective legislation; that is where the fight should be rather than with this legislation. Is that your view?—A. We fight any place we want to get some amendment.

Q. I think I have not made myself clear. I thought your general conception of this bill was favourable?—A. It is favourable. We say it is a good start.

Q. There are some provinces which are very backward?—A. Yes. We would bring those provinces up equal to this.

Q. Those provinces which are not up to the same level, you would bring them up to at least the minimum standards as outlined in this bill?—A. That is right.

Q. What is your view in regard to amending the B.N.A. Act to make this legislation more effective? Do you think it is necessary?—A. We should like to have it, definitely. It is the policy of the Trades and Labour Congress of Canada that there is a need for uniform labour and social legislation. It is the only way we are ever going to get any place if we are going to become a unified country.

Q. Then, your purpose in having an amendment to the B.N.A. Act would be for the purpose of making this Act a national code?—A. That is right.

Q. Would you be in favour of excluding any province, say Quebec?—A. Excluding any province?

Q. Yes. Would you be desirous if you were going to make an amendment to the B.N.A. Act to make this a national code, of having Quebec along with the other provinces brought under the bill?—A. Definitely, if we had a national code. In fact, we go farther than that. I do not know that we are entirely enamoured with the idea that we should have a British North America Act. We regard it as horse and buggy legislation which does not fit in with the modern day needs and requirements.

By Mr. MacInnis:

Q. Mr. Bengough, there is a point which Mr. Johnston made which I think should be clarified. He referred to this as enabling legislation under which the provinces could come as they do under the Old Age Pension Act. This is not, in your opinion, enabling legislation?—A. No.

Mr. JOHNSTON: I said, in effect it is.

Mr. MACINNIS: It is not, in effect. It is a special bill covering a category of work which comes under the dominion jurisdiction. In my opinion, it is nothing else.

Hon. Mr. MITCHELL: It is a good lead which the provinces that have no legislation could follow.

Mr. MACINNIS: The provinces could follow the principles in it if they desired. Have you any comment to make on the time it takes, under this legislation, before an organization could even take a strike vote? I figured it out as approximately three months, I think. Have you any comment to make on that?

The WITNESS: I do not think we have any general objection to that. So far as the question of strike votes is concerned, under the old and the new Act, they are often very embarrassing anyway. They had to be taken before you could start.

By Mr. MacInnis:

Q. Before you could start proceedings at all?—A. It might in some places be an undue length of time. On the other hand, if the organization was not strong enough to stand 70 days or so of conciliation, then it would not be very strong in case of a prolonged strike. It could be argued both ways. The time really is a little on the long side and we should like it a little shorter. In the event of having to take the least of the two evils, we would take it as it stands.

Q. You would say that despatch in dealing with labour disputes is a good principle?—A. Definitely, if the time is shortened.

Q. Let me ask you one more question. You mentioned that some of the provinces had legislation better than this and some had poorer legislation. Would you care to specify as to which provinces have better legislation?—A. Well, the province of Saskatchewan has better legislation.

By Mr. Johnston:

Q. With reference to what I referred to a while ago, on page 25 of the bill in the margin it reads, "where uniform provincial legislation". Subsection (1) of section 62 reads,

> Where legislation enacted by the legislature of a province and part 1 of this Act are substantially uniform, the Minister of Labour may, on behalf of the government of Canada with the approval of the Governor in Council, enter into an agreement with the government of the province to provide for the administration by officers and employees of Canada of the provincial legislation.

There, it states that if the provinces have labour legislation which is similar, they can come under that. If the legislation were not somewhat similar it would have to be modified to come under this Bill. It was that I meant when I said it is somewhat like enabling legislation.

Repeating what I said, if the provinces have not got provincial labour laws which are similar in character to this bill, pressure should be applied upon those backward provinces to bring about provincial legislation which would be similar to this and thereby qualify under this bill. That is what I had in mind.—A. I might state that the old Industrial Disputes Investigation Act was, at one time, thrown out as being ultra vires. The dominion could not operate it in the provinces. This decision was rendered because of a case in this province. At that time, the Trades and Labour Congress of Canada approached all the provincial governments to get them to pass enabling legislation so the dominion government could operate in the respective provinces the provisions of the Industrial Disputes Investigation Act. We thought it had some merit at that time and it was generally adopted.

The VICE-CHAIRMAN: Gentlemen, are there any further questions? If there are not, we can excuse the witness.

By Mr. Adamson:

Q. I have a question which I should like to ask Mr. Bengough. Under P.C. 1003. I understand that the members of crafts working in a large plant were excluded from the bargaining agency. I noticed that the T.C.L. has made quite a point of this under section (*b*) of section 4 of their brief. They said:—

> There should be provision, as in P.C. 1003, to exclude the members of a craft whose craft union has been certified under this section from voting in collective bargaining elections for the craft or industry as a whole.

While this does not apply particularly to this bill, nevertheless it is a question that I think is of some interest to the committee. I understand that there are a number of very large industries involved. For instance, the Steel Company employs carpenters, bricklayers, mechanics, who I understand are members of crafts. Under this bill they would be allowed to participate in the formation of a collective bargaining agency despite the fact they were members of a craft, not members of the union that was the shop union which would have jurisdiction and which had been selected as the bargaining agency for the industry as a whole and that plant as a whole. While I realize this does not bring in the question of jurisdictional strikes and discussions would you care to comment on that?—A. I can only say that the Trades and Labour Congress of Canada has in affiliation many industrial organizations, as they are known. We are particularly interested in that angle if it was going to do any harm, but the fact remains that there is no place where we see that it will. One can visualize, of course, the odd incident where a question would arise to the detriment of the industrial organization. There is no question that there is a need for the recognition of craft organizations. You have mentioned carpenters. Those people are not tied down to any one particular job. Oftimes they moved around and are far better protected by an organization covering their craft. On the railroad end of it we have a number of organizations. We have not one organization but a number of them. It has worked very effectively. We have not had to get to the place where we have to take the greatest number and have a vote and say, "Now we are going to take over and have one organization." That has not been done. It is quite possible for the craft organizations and the organizations built on industrial lines to get along quite well together. All that provision does is to give protection where it is needed to craft organizations that are already established.

Q. You have no objection to that clause in this bill?—A. We want it. We want it in there.

By Mr. Johnston:

Q. Mr. Bengough, would you be desirous of having all labour legislation and all labour relations centralized in Ottawa?—A. Definitely.

Q. On all labour matters?—A. On all labour and social legislation.

The VICE-CHAIRMAN: Are there any further questions?

By Mr. Homuth:

Q. From the wording it would seem to me that a craft union, for instance, a craft union within the Steel Company of Canada, could go on strike and close up the whole plant or on the other hand the general shop union could go on strike and put the craft union men out of work. In the brief of the Canadian Congress of Labour they suggest that a craft union should not have a vote on the general principle of strike or matters pertaining to the general union in the factory. What is your opinion about that?

Hon. Mr. MITCHELL: The craft would be an entity.

The VICE-CHAIRMAN: I think in fairness I should say that what they said was that they should not have two votes, one for the craft and one in the industrial union. That is what they said in effect.

Hon. Mr. MITCHELL: The craft union would be an entity.

The VICE-CHAIRMAN: Is this not the question, that section 8, which is the section that is being dealt with, is likely to lead to jurisdictional strikes? Is that not the question?

Mr. HOMUTH: Yes.

The VICE-CHAIRMAN: What is your opinion on that?

Mr. HOMUTH: That is the danger that I can see.

The WITNESS: I do not think it would tend that way. The only place where you have had it in effect, as I stated, for the last ten years is in British Columbia where they have had identical legislation. It has not worked out that way there. I mean after all that has been a testing ground for that particular piece of legislation. It has worked out well.

By Mr. Sinclair:

Q. There have been jurisdictional strikes among the labour unions in British Columbia under their legislation. In the shipyards there were jurisdictional strikes?—A. Yes, but you would have them without this legislation or anything else. You do not need that to get them.

Q. The point Mr. Homuth is making is would not such a variety of bargaining agents be likely to lead to more jurisdictional strikes where a single bargaining agent would not?—A. I do not think that particular legislation had any bearing on the strikes they had in the shipyards. There you had a number of organizations, it is true, but I do not think it arose out of that. In any case, as far as the position of the craft organizations, and I will go further and say the position of the Trades and Labour Congress of Canada, if any bill did not contain that we certainly would not be for it.

The VICE-CHAIRMAN: Any further questions? If not we will excuse Mr. Bengough. Our next witnesses are Mr. Burford and Mr. Smith who will speak for the Canadian Federation of Labour. They have not any brief. It will be an oral presentation. They tell me it will not be very long.

W. T. Burford, Secretary-Treasurer, Canadian Federation of Labour, called:

The WITNESS: Mr. Chairman and gentlemen:—

By Mr. Homuth:

Q. Where is Mr. Burford from?—A. From Ottawa at the present time.

Mr. TIMMINS: May we ask him to explain the position of the Canadian Federation of Labour in the labour field?

The VICE-CHAIRMAN: That is what I would like him to explain, their general position in the labour field.

The WITNESS: We appreciate the invitation of the committee to attend this morning. It is not that we are so deeply concerned as some other organizations appear to be in the details of this legislation, but we wish to put forward our point of view which is that, we believe, of the free workers of Canada.

There are approximately 300,000 workers in Canada in organizations which are not affiliated with either of the two labour trusts, the better known organizations. These independent unions are to a very large extent organized and banded together in the Canadian Federation of Labour which has existed since 1902. At the present time we have not a majority of that 300,000 but we are rapidly reaching that point. In the meantime we feel that in what we have to say to this committee we speak for all of them. We speak for all those combined together in labour organizations who do not wish to be dominated and dictated to by outsiders in any shape or form, whether it be a foreign labour organization or political groups or employers.

We hope to make our submission very brief. We have no memorandum to submit for the reason that we did not receive a copy of the bill until Saturday, and you know that the temperature since then has been around 95.

On the general question of this legislation while we recognize that the governement and parliament are doing the best they can to implement the

desires of what they conceive to be the bulk of the organized workers, and while I think this present legislation represents a commendable effort in that direction, without stressing too much what we conceive to be its inequalities and anomalies we are not enamored of this type of legislation at all which we regard as an effort to impose police direction upon labour organizations.

Many years ago the desire of the workers for legislation was expressed in the slogan of the right to recognition, the right to organize, protection for workers in banding together in the manner of their own choice. By a change in the Criminal Code by way of amendment passed in 1939 the workers were accorded that full protection which they had sought for many years. With that adequate change, that adequate measure of protection in the Criminal Code, our organization could never see the need for the adoption of what is after all a carbon copy of the Wagner Act of the United States. In the United States circumstances imposed this legislation upon labour organizations, circumstances which probably justified this type of legislation. However, in the United States, if I may disgress for a moment, it was not the original intention to adopt anything resembling the Wagner Act when the New Deal started in 1933, 1934 and 1935. It was only because the National Industrial Recovery Act was declared invalid by the Supreme Court of the United States that as a second choice the authorities there introduced the Wagner Act, the National Labour Relations Act. It was not their first desire.

It was not their first desire because no doubt they had looked around the world and they had seen the practice in other countries. Nowhere else was there any thing resembling the Wagner Act. In practice in the civilized countries of the world the method of facilitating the organization of the workers and protecting their conditions voluntarily agreed upon by a preponderant proportion of the workers in any industry or region was the general practice, that is to say, a system of codes. The practice of the system of codes, which was after all the essence of the National Industrial Recovery Act of the United States, the blue eagle, was that where in any industry or in any occupational group conditions had been reached by voluntary agreement between a large proportion of the workers and the important employers those conditions should be made general in that industry or occupational group.

The extent to which that practice prevails, and has prevailed for many years, was mentioned by Miss Margaret MacIntosh of the Department of Labour in 1943 at a meeting of the Canadian Political Science Association. If I may I will read this short excerpt from Miss Margaret MacIntosh's remarks. Referring to the Quebec Collective Agreements Act she said:—

> Although it stands alone in Canada the Quebec Act is similar to laws in New Zealand, in several Australian states, in South Africa, France, Bulgaria, Czechoslovakia, Denmark, Finland, Greece, Ireland, Luxembourg, the Netherlands, Norway, Poland, Portugal, Roumania, Spain, Sweden, and Russia, the Argentine, Bolivia, Brazil, Chile, Ecuador and Venezuela, as well as in Mexico and Cuba. Before 1933 such legislation was in effect also in Germany and Austria. Since the war the same principle has been adopted in Britain in the Conditions of Employment and National Arbitration Order, 1940, and in the Commonwealth of Australia under the National Security Act. So Quebec is in good company in respect to this statute.

That excerpt shows the general trend of legislation to help a labour organization to help itself, and to protect it when it has helped itself. It was only because of the peculiarity of the constitutional situation of the United States that we ever got the Wagner Act and it was ever copied in his country

We feel that there is a tendency to regard the machinery whereby labour can help itself, whereby standards may be preserved, as more important than

the standards themselves when they are achieved. For that reason, although we do not disparage the government's attempt to introduce this legislation, we feel it would have done better to have taken the line of Quebec province or of the other countries which have such collective labour extension acts rather than to have adopted this system of policing labour regulations by means of a board.

One of the main objections we have to this type of legislation, in differentiating it from the codes of fair practice system, is that compulsory collective bargaining inevitably results in compulsory organization, not only compulsory organization but compulsory organization of a certain type. It would not be so bad if compulsory organization affected all organizations equally, those which have some regard for the rights of minorities and those which come in and introduce practices which are foreign to the traditional free labour movement, but wherever you have compulsory collective bargaining which, of course, is cheered on by the average worker as being something to keep the boss in line, you find that it results in the workers being kept in line. The average worker is compelled to join an organization to which he may have no desire to belong. We have known instance after instance in our experience, and in a moment I shall ask you to allow Mr. Smith to tell you about some of the cases where a minority of the workers have been organized in a plant, and under the machinery provided by P.C. 1003 the workers have been asked to take a vote, and an organization which could not command a majority of the membership nevertheless has secured a majority vote on the spur of the moment, and by dint of intensive propaganda the result has been that those workers have been tied for a period to an organization to which they still refuse to belong and which even the original membership may have repudiated. Yet the bargaining agency remains, and it has always been very hard to remove a bargaining agency once established in that way.

The plant of the Steel Company of Canada in Hamilton is one instance of compelling workers to make a choice whether they wish to join or not to join, with a government official at their elbow. That is objectionable to those of us who believe that democracy should prevail in industry, and that you do not have to belong to anything; you do not have to belong to a political party or a union if you want to make a living.

Then again the insistence that every person in a bargaining unit shall have a vote is somewhat contrary to the principle of political elections. I heard a previous speaker this morning refer to the similarity between these plant elections and political elections. The similarity is largely discounted when one recalls that one-third of the population is disenfranchised in a political election, the juvenile third of the population, but in a plant election the man who was taken on yesterday, the man who may be fired tomorrow when the job slackens off, has the same right to vote as the man who has been there for half his lieftime. It might be a good thing, if this type of legislation is to be followed, as I presume it will be, if some regard were paid to seniority in plant elections, if, for example, those workers who had not been there in service for the average length of service of the employees of the plant, were not accorded a vote. Then there would be no question of the veteran employee being outvoted by the raw beginner, by the apprentice, or if instead of that you followed the Quebec practice in respect of having 60 per cent to constitute a voting plurality.

I want to refer to one of two points in the bill which I will say again is as good possibly as can be devised to give effect to this particular type of protection for industry and labour. There are one or two points which I think need rectification. There is a definition on page 2 of strike. A strike is defined as including a cessation of work or refusal to work or to continue to work, by employees in combination or in concert or in accordance with a common understanding, for the purpose of compelling their employer to agree to terms or

conditions of employment or to aid other employees in compelling their employer to agree to terms or conditions of employment. There you have the secondary boycott which has just now been outlawed in the United States. I think it is bad enough that we should be adopting their castoff clothes in this country at this juncture without adopting their worst feature, the secondary boycott. That means that workers for employer A who are at peace with their employer can go out on strike and assist workers for employer B who are having a dispute. It means that the employees of an employer can engage in a sympathetic strike without being victimized and without their own employer being liable—

Hon. Mr. MITCHELL: If I may interrupt, you know that is not true.

The VICE-CHAIRMAN: I did not like to stop you but I do not quite follow you on it.

The WITNESS: I read that in the Act.

Hon. Mr. MITCHELL: You are reading something that is not there.

Mr. HOMUTH: Let us have a little less mumbling up there. Let us all hear what is going on.

Hon. Mr. MITCHELL: I said it is not true.

Mr. HOMUTH: Now, just a moment; the minister sits there and says it is not true. The minister is only a common member of this committee and we might have said that something which Pat Conroy said was not true or we might have said something else. We are the ones who are going to judge the truth or untruth of these things. If people come here and present a brief, the understanding was there would be no interruptions when they were giving the brief. The minister ought to abide by that, too.

The WITNESS: There is only one other point which I should like to mention and that deals with the composition of the board. A board of this nature which will be composed entirely of representatives of labour organizations and employers, ought to be dedicated to serving the public interest. There has been some suspicion, at times, they have been tempted to serve sectional interests. In order to avoid any such suspicion and in order that there shall not be a chance of it, we do suggest, Mr. Chairman, that any board administering labour relations should be free from any sectional interest. It should have judicial qualities. It should be reduced in numbers. Appeals from that board should go to the courts. We do not see that there is any need to keep our lawyers from advocating a case before the board. We believe lawyers should have the same rights as other citizens and other corporations.

As Mr. Homuth mentioned it is possible for a person to become trained or even for a disbarred lawyer to appear before the board if you put in that artificial restriction. We feel, further, that the board should have some judicial quality. The board should not represent a number of sectional interests. It is acting in the public interest and in the public interest alone.

Now sir, as I have said, we have Mr. Ernest Smith here from Toronto. He is a member of our board and has had practical experience with the application of this legislation in its various forms. He would like to cite certain instances from his experience which bear out our contention that this law needs to be amended so that the present anomalies and inequities can be erased.

The VICE-CHAIRMAN: Just one minute; are there any questions the members of the committee desire to ask Mr. Burford before he sits down?

Mr. HOMUTH: Due to the fact both these persons are presenting one brief, might it not be easier to wait until we hear the second man deal with specific instances before we ask questions?

The VICE-CHAIRMAN: If there are any questions, let us have them now. I think we will get farther that way.

Mr. Ross: I think Mr. Burford is in Ottawa and we should have a copy of that before we ask Mr. Burford any questions. We will have it typewritten.

Mr. MacInnis: We can recall him, but I should like to ask some questions now.

Mr. Lockhart: Are you ruling that we cannot call Mr. Burford back in the event something develops?

The Vice-Chairman: I did not rule any such thing.

Mr. Lockhart: We can call him back, even though we cannot question him now?

The Vice-Chairman: Exactly.

By Mr. MacInnis:

Q. Mr. Burford, can you tell the committee with any accuracy how many employees you represent, how many organized workers you represent?—A. Approximately 52,000 at the present time.

Q. What organizations briefly, are there? What local organizations are in the Canadian Federation of Labour?—A. I have not a complete list, but I have here a list of those which were recently organized and I can read the names of the unions or the names of the plants. I think the names of the plants are more intelligible because there is no confusion that way. This is the list:—

> Atlas Steels Limited, Welland; Penmans Limited, Paris; Ruddy Freeborn Company Limited, Brantford; Acme Farmers Dairy Limited, Toronto; The Joseph Stokes Rubber Company Limited, Welland: Keep-rite Refrigeration Limited, Brantford; Galt Metal Industries Limited, Galt; Anaconda American Brass Limited, New Toronto; Brantford Refrigerator Limited, Brantford; Hamilton Bridge Company Limited, Hamilton; Roselawn Farms Dairy, Toronto; Sarnia Bridge Company Limited, Sarnia; Amalgamated Electric Corporation Limited, Toronto; Wilson Motor Bodies Limited, Long Branch; National Cash Register Company of Canada Limited, Toronto; Capital Carbon & Ribbon Company Limited, Ottawa; Little Long Lac Gold Mines Limited, Geraldton; Bidgood Mines Limited, Kirkland Lake; Eastern Steel Products Limited, Preston; British American Oil Company Limited, Long Branch; National Steel Car Corporation Limited, Hamilton, partial organization; Toburn Mines Limited, Kirkland Lake; Canadian Industrial Alcohol Company Limited, Corbyville; and Melchers Distilleries Limited, Berthierville.

These are the recent additions as put out in our bulletin. A complete roster is not available here. We do not, as a rule, publish a complete roster for reasons which I do not think it is necessary to give.

Q. I just asked in order that we might know what organizations are included. In referring to this legislation, you said that it was commendable legislation. Then you attacked it as being police control of labour. How do you harmonize police control of labour with commendable legislation?—A. If you are going into that type of legislation, Mr. MacInnis, we say this is about as good as you can get, subject to certain minor amendments in detail.

Q. It would not be commendable if you are opposed to the principle?—A. I should like to repeat what a previous witness said here; it is something like the curate's egg, it is good in part.

The Vice-Chairman: Are there any further questions? From your general remarks I gathered the opinion, perhaps mistakenly, that of all the labour codes in the Dominion of Canada, the provincial labour codes, you preferred the Quebec labour code as having the best standard for the labouring people of the country generally. Is that a fair statement of what you said?

The WITNESS: Not exactly, sir.

By the Vice-Chairman:

Q. Just correct it then, will you please?—A. As Miss Margaret McIntosh stated in the articles to which I referred, the Quebec Collective Agreements Act has materially improved conditions in that province. It has enabled the unions to get local codes established. It has had a marked effect upon conditions.

I should not like to say that the general trend of labour relations in Quebec, that the general standard is as good as it ought to be. I would not want to endorse Quebec and except the other provinces, but I say they have adopted the right model. We would like to see that type of legislation become general as it has in most of the rest of the world.

The VICE-CHAIRMAN: There being no more questions, we will hear from Mr. Smith.

Ernest Smith, Toronto, Special Representative, the Canadian Federation of Labour, called:

The WITNESS: Mr. Chairman and members of the committee: I am very happy to have this invitation to be with you this morning. Apparently the Canadian Federation of Labour has left it to me to fight the various board cases which have come before the national board, the provincial board and the Regina board for the past three years. Since the inception of the Act, that has been my function; merely winning cases for our organization.

Now, we have some 69 plants in the province of Ontario and in the last fifteen votes we have not lost one vote. This Act is very commendable. I have nothing much to say about it outside of a few clauses here which may not really amount to very much.

I would cite, for the benefit of those who drew the Act, Mr. Chairman, the fact that we are stating here in clause 2, subsection (*b*),

> Bargaining agent means a trade union that acts on behalf of employees.

Now, I think that is the interpretation of the meaning of this Act. I should like to suggest, Mr. Chairman, that that be changed to read, "A labour organization." A trade union, to my mind, has always been individuals engaged in a skillful occupation. In the United States, the Act says, "A labour union," and not "a trade union".

I have a reason for saying that. If we go further over, we still see a trade union mentioned in clause 3.

> Every employee has the right to be a member of a trade union and to participate in the activities thereof.

I should like to suggest, Mr. Chairman, that the committee study the advisability of making that read, "A labour organization".

If you go over to clause 9, I am mostly concerned with this clause, you will see it relates to the certification of bargaining agents. This has been a source of worry for three years now, the certification of bargaining agents. It is my contention that the Act, itself, is not to blame; it is the regulations which are made by the boards thmeselves that cause the trouble. The boards are allowed a certain latitude. There are no limitations, as long as the board does not forget it has to make certain rules and regulations for the certification of bargaining agents. It is very irritating to me at times. I do not think any board should certify a

bargaining agent, whether it be a trade union or anything else, without taking a vote in that plant. On every occasion there should be a vote in the plant to determine the wishes of the employees.

I am opposed to coercion and intimidation, myself, as a director of this organization. Cards are easy to obtain by various methods. It is quite easy to show a board 51 per cent of the membership without coercion or intimidation showing. For instance, in the case of the Roselawn Dairy. The men were signing those application cards because they were told, "If you do not pay $2 now, you will pay $10 when we are certified."

Now, in the case of each and every vote I won those who were before the board had a majority of the application cards. I took those votes because when a worker is behind a curtain casting his vote there is no intimidation behind that curtain. When you say you can certify a bargaining agent because he can put down 60 or 75 per cent of the cards it is unfair because later you have to face demands for a check-off and a closed shop which forces individuals to join who do not then belong to the organization. We would do away with a lot of trouble entirely if there was a vote taken in every plant where there was a petition for certification.

If you turn to clause 11, you find the following:—

> Where in the opinion of the board a bargaining agent no longer represents a majority of employees in the unit for which it was certified, the board may revoke such certification—

I am opposed to any such latitude given to this board. When an organization has been certified it is certified until displaced, in my opinion. It is not fair to any organization which has obtained certification to leave such latitude in the hands of a board because some individual may come along and declare they are only a minority. I am in favour of including in that clause a provision where by the organization may come along after one year and show 40 per cent of the application cards in that very plant, then the board should determine whether it will take a vote to see if the new agency or the old agency shall be the bargaining agent.

I remember in the Lake Shore case on October 11, 1945, I had a man stand up in front of me and tell me he did not have a member in that plant. He was a bargaining agent so I must show 51 per cent to displace him before the Ontario board. This is supposed to provide for the certification of majorities, not minorities. When I produced 42 per cent of the application cards on appeal to the national board, I was turned down yet this man distinctly stated he had not one member in the plant. This perpetuates minorities. There must be some method devised whereby, when you come to the end of the year, you can prevent the compelling of workers to belong to some union. Some interested organization may appear before the board with less than 50 per cent and ask for an opportunity to have a vote in that plant. There is no provision for that here but there is in the regulations.

In clause 24 it states,

> A trade union that is not entitled to bargain collectively under this Act on behalf of a unit of employees shall not declare or authorize a strike of employees in that unit.

Now, we are entering very dangerous ground here, very dangerous ground. The various provincial boards have always given the following interpretation, that where an organization has held the collective bargaining document for a period of one year it shall be recognized as the certified bargaining agent so far as the board is concerned. This has been stated by Mr. Finkleman, Mr. Draper

and Judge Macdonnell of the Ontario board. This Act, if you turn to the last page, clause 72, subsection (3) does not have to bear out that contention.

> Where a person was certified, before the commencement of this Act, under the order of His Excellency the Governor General in Council mentioned in subsection (1) of this section as a bargaining agent pursuant to an application by a trade union (including therein an employees organization as defined in the said order) the said trade union shall be deemed to have been certified as a bargaining agent for the purposes of part 1 of this Act—

What of those organizations which have had collective bargaining agreements? I recall back in 1919, when I was with Sydney Hillman, the chairman of the board of directors, we were not certified to hold a collective document in a number of plants in the city of Toronto and Montreal. They are not certified either. I think that Act is not specific enough. Any organization which has held the collective document for one year should be recognized as the sole bargaining agent until displaced by another organization; that is my contention on that point. I want to say a word about this contentious problem of lawyers that we heard so much about this morning. I have had a lot to do with those gentlemen before boards and I am not averse to any legal counsel coming before any conciliation board. I have appeared before several. In fact, I rather enjoy the experience. They have taught me an awful lot. As has been said already a man may be disbarred from practising law. We have had one quite recently in this country. He may become connected with some trade union as a director or anything else, and he therefore has the privilege to appear before conciliation boards to represent his union, and he is fully versed in the law. There are too many amateurs in trade unions who do not understand the functions of conciliation boards and who have cases before them. I am certainly not in favour of the exclusion of lawyers from appearing before conciliation boards. I have nothing to fear. They have fought me and I have fought them. As I say, I enjoy the experience.

I want to digress for a moment and take you to the Trades and Labour Congress brief and the Congress of Labour brief relative to the inclusion in this Act of some compulsory feature of union security and maintenance of membership as they have in the Saskatchewan Act. I am not in accord with it. I am rather in accord with what Clarence Gillis said in 1945 that any organization that cannot hold its people by reason of its service to them has no right in effect to compel membership in the union. If you have the voluntary checkoff that is all that is necessary.

In Atlas Steel when I took over two years ago we had 458 members. To-day with the voluntary checkoff I have got 1,275 members. I have delivered a service. In the National Cash Register Company we have 785 employees. I have 695 on the voluntary checkoff. I have delivered a service. I do not need to compel. In these organizations I think I have delivered that service by agreement, negotiation, and have got them substantial increases in wages, and they still stay with me and will never leave me. I say there is no substitute for freedom. I am strongly against union security by means of compulsion on the workers.

I recall some nine months ago writing the Minister of Labour, God bless him. I have known him since he was 16 when he played the bugle and I beat a drum.

I wrote him relative to subversive elements in the Stokes Rubber Industry which is a large industry. On the 23rd of May this year I had a bit of a fight with the United Electrical Workers. I am not proud of those organizations. I believe any organization that is led by Communists should not be given the sole collective bargaining rights in any industry. It is a danger to our way of

life. One good Communist can handle 1,000 inexperienced workers. I say that this committee should think well in the drafting of this bill about this business of certifying key industries and other essential plants in our country to individuals who do not love our way of life, and are subversive. We do not know where their political funds come from. I am fighting that daily as a Canadian and I intend to fight it.

That is about all I have to say. I want to say again I am very thankful and happy to have had the opportunity to be here. I want to thank you, Mr. Chairman, for having that privilege. As I said before the Federation of Labour is a collection of autonomous independent organizations in Canada. The aggregate figure is 315,000. We have 52,780, and we are growing fast every day. They keep their dues in Canada. Most of them are registered under the Trade Union Act. They have a legal entity and are legally suable. They have accepted responsibility with privilege. I for one am in accord with that. Any organization should be willing to accept its responsibilities with the privileges of this country. We have done it and have nothing to hide. Every one of our unions but two have done that, and all our unions but four have collective agreements and are certified under various boards in this country. From our coal miners to our gold miners, they have nothing to hide. This country will be much cleaner when we all of us accept responsibility with privilege. Mark it well any individual who does not is not responsible and should not be connected with any trade union movement. Thank you very much.

The VICE-CHAIRMAN: Gentlemen, we have a few minutes left. Are there any questions anyone would like to ask Mr. Smith?

By Mr. MacInnis:

Q. When was the Canadian Federation of Labour organized? A.—The Canadian Federation of Labour was first formed in 1902 in Berlin, now Kitchener, Ontario. It was disbanded later on around 1926 and was merged with the All-Canada Congress of Labour of which Mr. Mosher was the president. In 1936, around there, there was a cleavage and the name of the Canadian Federation was revived. The Canadian Federation of Labour has not to this day placed figures in the *Labour Gazette*. It leaves its unions free to do so if they desire, but I will say here, as I have said before, that they have no value because the figures in there are not correct. Some people go on representation and not membership. When they decide as to one or the other we will do the same.

Q. I have the 35th annual report of labour organizations in Canada for the calendar year 1945. It refers to the Canadian Federation of Labour here and gives the number of branches as four and the membership as 193.

The VICE-CHAIRMAN: Four branches and 193 members?

Mr. MACINNIS: Four branches and 193 members. Those are the figures in this government publication issued by the Minister of Labour and by the Deputy Minister, Arthur Macnamara.

The WITNESS: Dr. Allan Peebles wrote for those figures. I sent out telegrams to all organizations not to send in their membership records.

By Mr. MacInnis:

Q. You will not co-operate with the Department of Labour?—A. Under the existing conditions I say that these figures have no value. When they have value we will be glad to co-operate and put them in, but we do co-operate with the Department of Labour. I think I do.

Hon. Mr. MITCHELL: I think you should make it clear that the Department of Labour has no ulterior interest in the figures supplied by these respective organizations. I can speak for my own organization, the Trades and Labour Congress of Canada. I am a member of one of its affiliated organizations. I

think the figures they supply are correct figures. I think that might also be said of the railroad brotherhoods and also of the Canadian Congress of Labour. I think that should be said because I think it is true by the very nature of things that unless we get the cooperation of these organizations we cannot improve their situation in this dominion. If I were leading an organization of 300,000 people I would certainly forward figures to the Department of Labour so they could be incoroprated in the *Labour Gazette*.

The WITNESS: Mr. Chairman, I will have our organization instructed to send their membership records to the Department of Labour.

The VICE-CHAIRMAN: Are there any further questions?

By The Vice-Chairman:

Q. I have one question. You refer to section 2 (*b*) where it says that bargaining agent means a trade union. You object to the words "trade union" and you suggested that the words "labour organization" should be used. Under labour organization would that not include company unions?—A. No, it definitely would not. In my opinion I think we brought the industrial trade union into Canada, the Amalgamated Clothing Workers of America.

Q. Let us get down to my question.—A. A Company union is one where we assume that it is financially or morally dominated by the boss, but I would include a third reason, any organization where the employer will not permit an outside party to come in and negotiate. That puts some people in this room in a very uncomfortable position. Take some of the railroad unions. I would add that third reason and I would say that any organization where the employer in any way can dictate or dominate that union financially, morally or otherwise is a company union and should be disestablished. I am talking about a labour union. An industrial union organization is a labour union. A craft union, in my opinion, is a trade union, men with a trade. That is a craft union.

The VICE-CHAIRMAN: Are there any other questions?

Hon. Mr. MITCHELL: Would you call the United Mine Workers of America a trade union or a labour organization? I think the term trade union is traditional. It is a British term. It sprang up in Europe. We always used to speak of the German trade union movement, the British trade union movement, the French trade union movement, the American trade union movement. I think it is generally understood how it applies.

Mr. MACINNIS: As far as the definition here is concerned I imagine it is, but in an industrial organization you have not really got a trade union; you have got a labour union. However, I do not think it is important.

The VICE-CHAIRMAN: Gentlemen, we will adjourn until 4 o'clock this afternoon.

Mr. ADAMSON: Whom will we have here?

The VICE-CHAIRMAN: The Canadian Chamber of Commerce and the Canadian Manufacturers Association.

The committee adjourned at 12.30 p.m. to resume at 4 o'clock p.m.

AFTERNOON SESSION

The committee resumed at 4 o'clock.

The CHAIRMAN: Gentlemen, I will call the meeting to order. The first presentation is from the Canadian Chamber of Commerce. Mr. Sheridan will make the presentation. Copies of the brief are being passed out now.

Mr. W. J. Sheridan, representative from the Canadian Chamber of Commerce, called:

The WITNESS: Mr. Chairman and gentlemen, on January 15, 1947, the executive committee of The Canadian Chamber of Commerce submitted to the Minister of Labour a brief on the "Draft bill re The Industrial Relations and Disputes Investigation Act, 1947". The executive committee now welcomes the opportunity to bring this brief up-to-date, in the light of bill 338 which has now been developed from the original "draft bill".

This present brief deletes certain representations and suggestions which were made in our earlier brief, in cases where revisions found in bill 338 now satisfactorily cover such points.

The recommendations we now make refer chiefly to matters of a broad fundamental character and revolve mainly around the chamber's general policy decisions concerning labour legislation.

The executive committee of The Canadian Chamber of Commerce recognizes the many real and involved problems presenting themselves with the return to the provinces of such jurisdiction over labour relations as was assumed by the dominion during war-time and immediate post-war emergency. It recognizes also the desirability of as great a measure of uniformity as possible in dominion and provincial legislation and approves the efforts that are being made in this direction. At the same time, it emphasizes that the provisions of an order in Council adopted as an emergency measure during a world war are not necessarily suitable for permanent adoption in a peacetime statute. We still detect obvious signs of wartime thinking in bill 338 and to this extent consider that it includes certain undesirable features.

We have divided our further comments into two main heads: firstly, the continuing lack of balance in bill 338 as between the rights and responsibilities of labour, on the one hand, and of management, on the other; secondly, the absence of safeguards in the exercise of the very broad powers conferred by the bill on the minister charged with its administration and on the proposed Canada labour relations board.

RIGHTS AND RESPONSIBILITIES OF LABOUR AND MANAGEMENT

Like the Wartime Labour Relations Regulations, the bill appears to proceed on the assumption that trade unions require special privileges in their dealings with employers. Whatever may have been the position in the past, their status and the important part they play in a modern economy have been recognized by employers and by law. The question now is whether the balance has not swung in the other direction and whether the law should not recognize that trade unions and employees have responsibilities commensurate with their power and privileges. The executive committee believes that the bill still shows in several respects a lack of that balance between the rights and responsibilities of employees and employers which is essential to the orderly conduct of labour relations.

As examples of the sort of thing we have in mind, we refer you to specific comment below on various sections of the bill.

Section 3, Freedom of Association

Section 3 recognizes formally the right of employees to belong to a trade union and of employers to belong to an employers' organization. If it is necessary to include such a provision, and we have no objection whatever to it so far as it goes, we believe that the section should also recognize expressly the right of employees and employers to abstain from joining a trade union or employers' organization, respectively. The section would then express accurately what we understand by the principle of freedom of association.

Sections 4 to 6, Unfair Labour Practices

Sections 4 to 6, dealing with unfair labour practices, require amendment in a number of respects. For example, section 4 (3), among other things, prohibits "intimidation or coercion to compel an employee to become or refrain from becoming or to cease to be a member of a trade union" (Lines 19, 20, 21, 22). This is all well and good but the Act should also prohibit intimidation or coercion to prevent any employee or member of the public from entering an employer's premises where he has a lawful right to go, or from leaving such premises.

Also, we again strongly urge that sections on unfair labour practices, or some other relevant sections, should be amended to prohibit the secondary boycott, in which employees in a plant where there is no dispute refuse to handle materials from a plant in which there is a labour dispute.

Sections 14 (b), 15 (b), and 39, Right of Employer to Change Conditions of Employment

There is no justification for the inclusion of section 14 (*b*), which deals with terms and conditions of employment, where a collective agreement is not in force. There is likewise no justification for the inclusion of section 15 (*b*) with its prohibitions against employers after the expiry or termination of an agreement. So far as it affects employers where a collective agreement is not presently in force, there is also no justification for the sanction section 39. These prohibitions constitute an unwarranted interference with the necessary rights of an employer to manage his own business. Just as we condemn any unwarranted interference by an employer with the formation or administration of a trade union among his employees, so also do we condemn any unwarranted interference by employees with the proper functions of management.

Section 21 to 26, Strikes and lock-outs.

If provisions in the bill are necessary to facilitate the formation of trade unions and collective bargaining, then the right of the employees to strike, and hence to disrupt the orderly and peaceful settlement of differences in accordance with law, must be limited. If we interpret correctly sections 21 to 26, dealing with strikes and lock-outs:—

(1) the strikes prohibited are the strikes defined in section 2(p), in other words "for the purpose of compelling their employer to agree to terms or conditions of employment or to aid other employees in compelling their employer to agree to terms or conditions of employment," whereas strikes may be called for other purposes;

(2) in view of the words of section 2(p), "or of compelling another employer to agree to terms or conditions of employment of his employees," the so-called "sympathetic strike," in which employees in a plant, where there is no dispute, strike in support of employees in other plants, would be permissable in certain circumstances under sections 21 to 26.

So far as it can be done within the terms of the Act, we urge that the bill should be expanded to prohibit specifically:—

(1) strikes for purposes other than to compel an employer to agree to terms or conditions of employment; for example, strikes for political motives, for the purpose of securing recognition of one trade union over another.

(2) sympathetic strikes;

(3) any strike unless a majority of the employees concerned have expressed a desire to strike by a properly supervised secret ballot taken after the expiry of the "cooling off" period.

Responsibility of trade unions

The time has come for the law to recognize that trade unions should bear responsibilities commensurate with their rights. We suggest that the word "may" in section 52(2), line 1, be deleted and the word "shall" substituted, and that lines 9 and 10 under section 52(2)(b) be deleted, so that the section will now read:

> (2) The board shall direct any trade union or employers' organization which is a party to any application for certification, or is a party to an existing collective agreement, to file with the board,
>
> (*a*) a statutory declaration signed by its president or secretary stating the names and addresses of its officers, and
>
> (*b*) a copy of its constitution and by-laws; and the trade union or employers' organization shall comply with the direction within the time prescribed by the board.

Similarly, trade unions should be required to furnish annual financial statements to their members, as companies must do to their shareholders, and to maintain adequate records.

Powers of minister and proposed Canada Labour Relations Board

The broad and unrestrictive powers conferred by so many statutes upon individual ministers and upon administrative and quasi-judicial boards is rightly a matter of growing concern in Canada. If the tendency continues, it will inevitably undermine democratic processes of government and respect for law and order.

Sections 46 (1) and 56 (1), Powers of Minister

We draw particular attention to section 46(1), which provides that no prosecution for an offence shall be instituted except with the consent in writing of the minister, and to section 56(1), which provides in part that the minister of his own initiative, where he deems it expedient, "may do such things as seem calculated to maintain or secure industrial peace and to promote conditions favourable to settlement of disputes." Both these provisions are entirely too broad and we recommend that they be amended or omitted.

We are convinced that one of the essentials of industrial peace to-day is a whole-hearted observance of the orderly processes of law and we are satisfied that the principles of this bill will not be observed unless violations are punished and it is generally known that they will be punished. No honest employer, employee or trade union need fear the omission of section 46(1). The presence of this section weakens the effectiveness of the bill since prosecutions may be disallowed.

Taken at their face value, the concluding words of section 56(1) are broad enough to permit serious interference with the rights of an employer, employee or trade union, including the appointment of a controller and the taking over

of a plant. If they are inserted with some particular object in mind, that object should be defined clearly; if not, they should be omitted. We suggest that, without them, the minister would still have all the powers necessary for the proper administration of the Act.

Sections 58 to 61, Canada Labour Relations Board

The executive committee of the Chamber also wishes to draw attention to certain inadequacies of sections 58 to 61, in so far as they relate to the constitution and functioning of the Canada labour relations board.

Chief objections to these sections revolve around the fact that the proposed board will be fulfilling the functions of a court of law without some of the safeguards to which a court of law is subject. We do not mean to imply by this that the proposed board should be bound by all the technical rules that govern an ordinary court; we do mean that restrictions on the exercise of the board's very broad powers are quite inadequate, as the bill is presently set out.

In connection with improvements which should be made to spell out the powers of the proposed board, we would suggest:—

(1) an adequate provision to prevent any member sitting in judgment on a dispute in which he has already been involved on one side or the other or in which he may have a personal interest.

(2) amendment of section 58(6) at least to the extent of limiting the evidence that may be required to relevant evidence.

(3) a provision requiring the proposed board to give interested parties an opportunity to be present while others are giving evidence or making representations and to hear them in rebuttal.

(4) a requirement that the sittings of the proposed board should be open to the public, except in special circumstances.

(5) the situations in which the proposed board may delegate authority under section 59 should be defined restrictively or the section should be deleted.

(6) all rules made by the board under authority of section 60 of the bill should be published and should not come into effect until so published.

(7) written reasons should be given by the proposed board for its decisions and it should be compulsory to publish such decisions and reasons for the information of the public. The same recommendation as to compulsory publication is made with respect to reports of the proposed conciliation officers and the conciliation boards.

(8) a provision for an appeal from the decisions of the proposed board to the Exchequer Court of Canada.

This bill would seem to permit decisions being taken in violation of the fundamental principles of justice. It is not sufficient to argue that the conditions governing the powers and operations of the proposed board are similar to those under which the Wartime Labour Relations Board operated. The Canadian citizen gave up many of his rights in the emergency of war, but has no desire to continue government by administrative and quasi-judicial boards. Experience with emergency wartime regulations surely demonstrated the need for additional safeguards when the days of peace returned. We do not wish to see Canada carrying over into a peace time statute any inadequate, emergency provisions of a wartime order in council.

Summary

In summation, we re-state the chief general principles for which we stand and which seem to be inadequately provided for in the present wordings of bill 338:—

(1) The right of persons to abstain from joining employee or employer organizations should be guaranteed;

(2) Mass picketing to prevent entry or leaving of a plant and the secondary boycott, should be prohibited;

(3) An employer's legal rights to change conditions of employment where a collective agreement is not in force should not be curtailed;

(4) The right to strike should be further regulated, for example, by prohibiting the sympathetic strike and by requiring a properly supervised and secret ballot after the expiry of a "cooling off" period;

(5) Trade unions, on application for certification, should be required to provide statutory information. In addition, trade unions should be required to furnish members with annual financial statements.

(6) Prior approval of the minister should not be required to institute prosecutions.

(7) Safeguards are needed to restrict the powers and operations of the proposed Canada Labour Relations Board, including an appeal to the courts.

In the interests of labour, management and the public, we urge, most strongly, the standing committee's earnest consideration of the above brief and the adoption of amendments to the bill to implement these major recommendations—recommendations which we feel will do much to make the bill a workable piece of legislation.

Yours very truly,

H. GREVILLE SMITH,
Chairman of the Executive.

The VICE-CHAIRMAN: Gentlemen, Mr. Sheridan is available for questioning now, if there are any questions to be asked.

Mr. MERRITT: I have two or three questions I would like to ask, Mr. Chairman.

By Mr. Merritt:

Q. First of all at the bottom of page 4, or well down in page 4, you suggest through the wording of section 2, subsection (p) defining a strike, the only strikes prohibited before the conciliation procedure are strikes "for the purpose of compelling their employer to agree to terms or conditions of employment or to aid other employees in compelling their employer to agree to terms or conditions of employment", but you say "whereas strikes may be called for other purposes;"

Can you give us some examples of the other purposes you have in mind?—A. Yes, Mr. Merritt. What we have in mind are jurisdictional strikes, for example strikes for political motives as mentioned elsewhere.

The VICE-CHAIRMAN: What do you mean by political motives? I think both Mr. Merritt and I would like to know that.

The WITNESS: I think perhaps one of the examples may be in the United States at the present time, when certain groups of employees are striking against political action by the government.

Hon. Mr. MITCHELL: Do you not think we should stay in the Dominion of Canada? The problems we are confronted with at the moment are those that

exist in this dominion. Now I know of no political strikes in Canada. If there are any I would like to know about them. In connection with sympathetic strikes I would like to say this to you. That type of strike comes within the jurisdiction of this legislation in that they cannot go on strike until they have gone through the normal procedures of this legislation. I do not think we should get our minds cluttered up with what is happening in another country. What we have in this legislation is the imprint of labour relations as we understand them in Canada, rather than being concerned over what is happening elsewhere.

By Mr. Merritt:

Q. When I asked the witness to give some examples of the strikes he had in mind I did not ask him necessarily for an opinion about them.

The next thing I wish to ask is this. You recommend provision for an appeal from the decision of the Canadian Labour Relations Board to the Exchequer Court. Are you recommending an appeal on law or on fact or on both law and fact?—A. I would say on both law and fact.

Q. Now on page 3 you recommend that it should be laid down as an unfair labour practice to permit intimidation or coercion or to prevent an employee or a member of the public to enter an employer's premises where he has a lawful right to go, or from leaving such premises. Again on page 9 of your summary you want a prohibition respecting mass picketing to prevent entry or leaving of a plant.

That, in fact, exists in the Criminal Code does it not?—A. Yes, that is true but it is thought it might be well to re-state or re-emphasize it in this Act because there is a good deal of public uncertainty about the provision.

Q. Well do you really seriously suggest the putting of the same law in two acts makes it any stronger than having it in one act?—A. I think it might help to clarify it. You have the statement on one side of the case concerning intimidation and coercion and compelling employees, but you do not state it on the other side of the case. It is just a clarification that our committee has in mind.

Q. Do you recommend any change in the wording of the present provision in the Criminal Code?—A. No, that is not contemplated.

Q. I suggest to you that you are probably closer to the point on page 6 when you say "we are convinced that one of the essentials of industrial peace to-day is a whole-hearted observance of the orderly processes of law—" and I must thoroughly agree with you. I suggest to you that once is enough. If you are going to enforce that law, would you not agree with that?—A. Well as I say the thought of the committee in drawing up the brief was to re-emphasize and re-state it.

The VICE-CHAIRMAN: Are there any other questions?

By Mr. MacInnis:

Q. On page 5, and it is again mentioned in the summary, Mr. Smith suggests or proposes that trade unions should be required to furnish annual financial statements to their members. What has that to do with an Industrial Relations Act?—A. Well, in answer to that, it is merely a question of the shouldering of responsibilites as mentioned in the first line or the first two lines of that chapter, commensurate with their other rights. In other words, it is to have labour unions in line with what companies must do for their shareholders.

Q. Surely there is a difference between a labour union and the shareholders of a company. Would not a labour union be more like the Canadian Chamber of Commerce? Then, if you say there should be a section in here compelling labour unions to make financial statements to their members, there should be a section compelling the Chamber of Commerce to make a similar statement

because they are on the same basis.—A. Actually the Canadian Chamber of Commerce does that.

Q. That brings me to the question I was going to ask next. Do you know of any trade union that does not?—A. That does not, sir?

Q. That does not furnish a financial statement?—A. No I could not say. I do not think it is applicable because it is just a question of putting it into the bill.

Q. Definitely, if it is already done, I do not see why it should be compulsory by law or to put it in the bill. The bill proposes to do things that we think are socially desirable and that are not being done now or may not be done. I do not see the point. I have been a member of a trade union now for thirty-seven years and I do not know of any trade union that does not furnish a financial statement to its union and which has not that statement audited, either by auditors appointed by the union, or auditors hired by the union.

The VICE-CHAIRMAN: Are you through Mr. MacInnis?

Mr. MACINNIS: For the moment.

By Mr. Timmins:

Q. The Canadian Chamber of Commerce is incorporated is it?—A. That is right.

Q. And you are compelled by law to furnish a statement?—A. That is right sir.

Q. And to post it where it can be seen by the public generally?—A. Oh yes.

Q. On page 2 you suggest the broad powers conferred by the bill on the minister are probably too extensive. Would you expound on that for us? In what particulars?—A. I think it is mentioned further on on page 6. Section 46 (1) and section 56 (1) on page 6 of the brief, outline in detail the points that were to be understood by the committee.

Q. In respect of section 46 where it provided that no prosecution for an offence shall be instituted except with the consent of the minister, I take it then you mean if there is an offence, it just does not lie in the jurisdiction of the minister to prosecute or not prosecute as he determines, but is a matter of criminal law, and anybody may lay an information and it should be left at that?—A. Yes, and another point is that under this clause, as it is here, prosecutions may be disallowed by the minister. It confers broad powers on the minister.

The VICE-CHAIRMAN: As a matter of fact if the committee recalls the C.I.L. brief brought out the very same point. They are in agreement here, and the C.I.L. gave particulars and instances. I think it is the one and only point where the two briefs are in agreement.

Mr. JOHNSTON: I would like to ask a question on page 5 under responsibility of trade unions.

Mr. HOMUTH: A little louder please?

By Mr. Johnston:

Q. On page 5 under responsibility of trade unions Mr. Sheridan read out "we suggest that the word 'may' in section 52 subsection (2), line 1, be deleted and the word 'shall' be substituted".

What is the difference in the legal interpretation? As far as carrying out the administrative part of the Act, what is the difference between the word "shall" and the word "will"?—A. The difference between "shall" and "may"? "Shall" and "may" are altogether different.

Q. In what way?—A. Well you shall do something, or you may do something. One is directive and the other is open to choice.

Q. Are you sure that is the distinction between them when it comes to applying operation?—A. That is the interpretation we put on them.

Q. I am afraid that is not the interpretation the legal department takes because we have had a ruling on that in the House on different occasions. They are interchangeable when it comes to applying liability.

The VICE-CHAIRMAN: That is a ruling from the government side of the House when we like it that way.

Mr. JOHNSTON: That is the definition given by the Minister of Agriculture, you can look it up and see.

Mr. HOMUTH: That explains the whole thing.

Mr. JOHNSTON: I contend there is a difference but the government does not.

The WITNESS: If there is not a difference, then someone made a mistake in drawing up this particular section because "shall" and "may" are used as having different meanings.

Mr. JOHNSTON: Perhaps the minister can explain the difference.

By Hon. Mr. Mitchell:

Q. Getting back to this question of the permission of the minister before a prosecution can be undertaken, I think it is generally agreed and I think you will agree that the purpose of this legislation is for the adjudication of labour disputes. Now, do you not think that someone, even if it is not the minister, should have some power to see to it that trivial questions are not raised to make it impossible to adjudicate these disputes. What I have in the back of my mind is—I am not afraid of any minister, irrespective of the government, but it is possible sometimes that either side could raise technical questions for the purpose of appealing to the courts and slowing up the peaceable settlement of industrial disputes?—A. I think we recognize that.

By Mr. Timmins:

Q. May I ask one more question? On page 5 of your brief, paraphrasing your statement, in so far as it can be done within the terms of the Act we urge that the bill shall be expanded to prohibit specifically. Then, dropping down to number 3,

> Any strike unless a majority of the employees concerned have expressed a desire to strike by a properly supervised secret ballot taken after the expiry of the cooling off period.

What length of time would it take, and would you explain to us the form in which you suggest a secret ballot should be taken?—A. Mr. Chairman, in answer to that question I do not think the committee had in mind any definite way by which a secret ballot would be taken. It is just the principle of a secret ballot.

By Hon. Mr. Mitchell:

Q. Have you any idea how it could be taken?—A. Without specifically suggesting how it could be taken. With regard to the cooling off period, again there was no specific time in the mind of the committee when they wrote that in. There should be a cooling off period.

The VICE-CHAIRMAN: Are there any further questions, gentlemen?

By Mr. MacInnis:

Who would you suggest would supervise the taking of the secret ballot?—A. Again, Mr. MacInnis, the committee did not express themselves in that connection. I have no suggestion to make at the moment.

Q. Do you not think that the mere suggestion of the supervision of the ballot is an expression of opinion that the organization is not responsible and that because it is not responsible some authority must supervise its functions?—

A. No, I do not think so, Mr. MacInnis. I think the secret ballot is not a reflection on any one. It is merely a method of handling the ballot.

Q. Supposing the Department of Labour or the Department of Finance should order a secret ballot in the Canadian Chamber of Commerce to settle some point. Would you suggest it was not an interference with your organization?—A. It would be a question then as to whether or not it would be a problem which affected other groups as well as the Canadian Chamber.

Q. Everything that an organization such as the Chamber of Commerce does, must of necessity, affect the community; that is true of business organizations as well.—A. Well, if the question arose, it may be.

Q. The point I have in mind is what is sauce for the goose should be sauce for the gander. If you suggest a secret ballot then that must inevitably sometime lead to a similar restriction on some other organizations?—A. I agree.

Q. And would become, as you mentioned somewhere in your brief, a serious interference with democratic rights?—A. If it affects all parties equally, I do not think it would be.

Hon. Mr. MITCHELL: Does it not boil down to this, that you can lead a horse to the water but cannot make it drink.

The VICE-CHAIRMAN: I had not any idea we had gotten that far in the problem.

Mr. HOMUTH: The committee on industrial relations last year recommended that a secret ballot under the supervision of the Department of Labour be taken before any strike could take place. Of course, that was not carried out but the committee last year made such a recommendation, practically unanimously.

The VICE-CHAIRMAN: I am glad you said "practically". The minister saw the wisdom of the minority report and did not carry out the report.

Are there any further questions, gentlemen?

By Mr. Lockhart:

Q. I want to ask for a very brief explanation of page 7, clause 1. Could we have a bit more elaboration on that?—A. You are speaking of, "inadequate provisions to prevent any member—"?

Q. Yes.—A. It is a question of principle involved there, sir. If a man has been involved in a dispute, he should not sit in judgment on that dispute.

Q. Have you any instance in mind?—A. No.

Q. It is just a matter of principle?—A. Yes.

By Hon. Mr. Mitchell:

Q. When you speak of the fact they should not sit in judgment, if I can put words in your mouth, do you mean the members of this national board, whether employer or employee representatives, should not sit in judgment on a case involving his own organization or his own company?—A. Yes, that is the point.

The VICE-CHAIRMAN: It is not the practice, is it?

Are there any other questions, gentlemen? There being no further questions we will excuse Mr. Sheridan.

The next brief we have is from the Canadian Manufacturers' Association and will be presented by Mr. Barrett.

O. H. Barrett, Member of the C.M.A. Committees on Legislation and Industrial Relations, called:

The WITNESS: Mr. Chairman and gentlemen: The Canadian Manufacturers' Association welcomes the opportunity that has been given it of

making representations on Bill 338, being the Act cited as "The Industrial Relations and Disputes Investigation Act". As the labour relations of the national transportation and communication services will be regulated under this Act, the association is vitally interested because any serious interruption of such services will affect manufacturers and could jeopardize the whole economy of the nation. Also this measure is important by reason of the fact that the provincial legislatures, in order to secure uniformity in labour relations, may adopt many of its provisions.

The association adopted at its 1946 annual meeting a statement of labour policy entitled "An Approach to Employer Employee Relations", a copy of which is attached hereto. It will be seen from this that the association regards the chief objective of Canadian industry to be a high standard of living for all Canadians, which, in turn, depends upon the maintenance of a high level of production. To achieve such a high level, there must be full and harmonious co-operation between employees and employers. To promote such full and harmonious co-operation, the association believes that:

> Both employees and employers should—Observe faithfully the provisions of every agreement or undertaking made by them or on their behalf.
>
> Settle differences by negotiation in good faith without interruption of operations.

and that

> Employers should—Respect the rights of employees to associate freely for all lawful purposes.
>
> Bargain collectively, in cases where representatives have been freely chosen by a majority of the employees affected, on wages, hours of work, and working conditions.

and that

> Employees should—Recognize the employer's right to plan, direct and manage the business. . .
>
> Recognize the right of an individual employee to join or not to join any lawful organization of employees or other citizens without impairing his right to work at the occupation of his choice.

The association therefore in making the following representations has applied the above-mentioned principles. Experience of the operation of the Wartime Labour Relations Regulations P.C. 1003, has shown, it is submitted, that collective bargaining can be satisfactorily carried on only if the rights and responsibilities of the parties thereto are put on an equal footing. Bargaining between one party who is legally responsible and another party who is not can never be satisfactory. Collective bargaining should be made a two-way street; in other words, the rights conceded by the employer to the union should be balanced by equally effective rights conceded by the union to the employer.

Under this bill, important rights are given to employees and trade unions as citizens in a free democracy, these rights should be balanced by correlative duties which are enforceable. For these reasons, the following representations contain a proposal that trade unions be registered in Canada and a proposal that union funds be available for any penalties which may be levied against the unions by the courts for offences committed under the Act. It should be made clear that, in the association's view, the principle of equality before the law really requires that trade unions should be made legally responsible through incorporation. It recognizes, however, that such a provision does not come within the scope of a bill which deals with collective bargaining and conciliation, and submits that consideration should be given to the introduction of separate legislation designed to achieve this object.

Considerable attention has also been given in this submission to the "settling of differences by negotiation in good faith without interruption of operations". The maintenance of a high level of production which includes a high level of transportation services, is vitally necessary for the Canadian economy especially at this time, among other reasons, in order to supply Canadian consumers and export markets with needed goods and to check inflation, and above all, to obtain "a high standard of living for all Canadians".

The association notes that there is no provision in the bill to empower any authority to order the inclusion of a union security clause in a collective agreement, and we would be strongly opposed to any such provision being added.

The following are our specific representations with respect to various sections of the bill:—

1. Section 2 (1) (i).

It is submitted that the definition of "employee" in section 2 (1) (i) should be changed by substituting for clause (i) the following wording:—

(i) any person who exercises management or supervisory functions or is employed in a confidential capacity;

The present wording might result in a considerable number of minor supervisory officers being included in the bargaining unit. It is not desirable that such persons as foremen or any other real supervisor, should be treated as "employees" for collective bargaining purposes. These persons are representative of management in collective bargaining either in negotiating or in carrying out the agreement. It is felt that the word "management" alone might refer only to persons like managers or superintendents who are mentioned in the present wording, but this, we submit, is too restrictive.

A person employed in a confidential capacity, even though not concerned directly in matters relating to labour relations should not be included in the bargaining unit, because such a person should not be put in a position that might induce him to disclose confidential information such as the financial affairs of the company, which should not be disclosed to the union.

2. Section 2 (2).

It is submitted that after the word "strike" in line 17 be inserted the words "which is not contrary to this Act."

There should be no basis for an employee to claim employee status where he has gone on strike contrary to the Act and the employer dismisses him or refuses to reinstate him.

3. Section 3 (1).

It is submitted that there should be added to section 3 (1) the words "and also the right to refrain from being or cease to be a member of a trade union".

This change, it is submitted, is necessary in order properly to apply the principle of freedom of association, which in our view, requires that an employee should have the same right to refrain from joining a trade union, as he has to join one. He should also have the right to resign from the union.

On the same reasoning, we would approve of a corresponding addition being made to section 3, subsection 2.

REGISTRATION OF TRADE UNIONS

4. It is suggested that a new section 3A should be added to read as follows:

Section 3A

(1) With the coming into force of this Act, every trade union or union subject to this Act shall forthwith register with the Department of Labour on terms prescribed by the minister and shall register annually

thereafter. No registration of a trade union shall be permitted unless the union maintains an office or resident agent in Canada.

(2) No unregistered union shall be entitled to bargaining rights or other rights or privileges under this Act.

(3) The provisions of this Act shall apply to unregistered unions except as otherwise provided by this section.

This suggestion implements a proposal contained in the opening remarks of this submission. At present, it is often extremely difficult to obtain any reliable information regarding trade unions and their officials. It is intended by recommending registration to secure some measure of definiteness and responsibility with respect to trade unions. This would give the Department of Labour, employers and the public, some information about trade unions. It is particularly desirable that the employer be enabled to ascertain with whom he is dealing.

The applicant should be required to maintain an office or resident agent in Canada. In our view, it is anomalous and unsound to grant the extensive rights which are granted under this Act to parties who do not reside in Canada and are not fully subject to Canadian law. As stated before, bargaining with a union is not real bargaining, unless there is some way of reaching the union without going outside of Canada.

Unfair Labour Practices

5. It is submitted that a new subsection (5) should be added at the end of section 4 which will read as follows:—

> Nothing in this Act shall be deemed to prevent the expression of any views, arguments or opinion by an employer or anyone on his behalf, if such expression contains no threat of intimidation, reprisal or force.

The purpose of this subsection is to remove any doubt that the employer's freedom of speech, within reasonable limits, is not unduly interfered with. The employer like any other citizen, should enjoy freedom of speech subject to reasonable limits.

6. Section 5.

It is submitted that the following subsections should be added to the section as it now reads:—

Subsection 2.

> No trade union, and no person acting on behalf of a trade union, and no employee, shall support, encourage, condone or engage in any activity intended to restrict or limit production, but which does not constitute a strike, but no act or thing required by the provisions of a collective agreement for the safety or health of employees shall be deemed to be an activity intended to restrict or limit production.

It is submitted that any restriction of production by a "slowdown" or other means should be an "unfair labour practice". The proviso at the end of this subsection ensures that the employees will not be required to work so hard as to impair their safety or health. As pointed out in our opening remarks, the goal of Canadian industry is a high level of production.

Subsection 3.

> No person, persons or trade unions shall issue or cause to be issued, publish or distribute any pamphlet, bulletin, notice or other similar or comparable material relating to any of the terms and conditions of employment with an employer, without the date of issue and the name

and address of the person, persons or trade union official or officials resident in Canada responsible for the issuing, publication, or distribution of such material.

It is submitted that this is essential in order to prevent the issuing and distribution of anonymous bulletins which may contain misstatements of fact, and even libels.

Subsection 4.

No person, persons or trade unions shall engage in or in any way support or condone mass picketing or any form of picketing which in any way prevents or intimidates an employee or other person from entering or leaving the premises or property of an employer or which in any way prevents the carrying or transporting of goods, material, equipment, machinery or other movable property to or from the premises or property of an employer.

While we recognize that the Criminal Code makes it an indictable offence for anyone to prevent employees or others from entering the premises of their employer, against whom a strike is in progress, there is considerable public uncertainty as to the law and it would in our view, be well that the principle should be clearly stated in this Act and in more detail than in the Criminal Code.

Subsecton 5.

No trade union shall authorize, declare, participate in, condone, support or in any way encourage its members to participate in, condone or support a sympathy strike or a secondary boycott.

In our view, the definitions of "strike" and "to strike" contained in section 2, subsection 1(p) and 1(q), do not meet the situation which the proposed subsection 5 attempts to meet. We refer to the case where the employees of an employer in whose plant there is no dispute, refuse to work with materials supplied by a particular supplier against whom a strike is in progress. The employer whose employees thus refuse to work with materials from and for the "struck" plant, has no way of securing relief because the dispute which has caused the stoppage in his plant is not his direct dispute.

7. Section 6(1).

It is submitted that this subsection should be deleted for the reason that it is in conflict with the principle that an individual has as much right to refrain from joining a union as to join a union.

CERTIFICATION PROCEDURE.

8. Section 7(1)

It is suggested that the following words should be added at the end of subsection (1):—

Provided the applicant union does not already possess bargaining rights for another unit in the same establishment of the employer.

The purpose of segregating bargaining units is to group employees on the basis of community interest. It would, it is submitted, be anomalous if two separate units have been segregated in a particular plant, to permit the same union to represent such separate units. The segregation has been made precisely because there was no community of interest between the employees in the one unit, with the employees in the other unit, and if the same union were permitted to represent the two units, it is submitted that the interests of the two separate units would not be properly safeguarded.

Communiy of interest is referred to in our next submission.

9. *Section 9(1).*

It is submitted that at the end of this subsection, the following sentence should be added:—

> The board in determining the appropriate unit shall have regard to the community of interest among the employees in the proposed unit in such matters as work location, hours of work, working conditions and methods of remuneration.

It is believed that such guidance should be given the board in its determination of the appropriate unit; otherwise the unit might quite conceivably embrace any combination of employees, with divergent and very often conflicting interests.

A similar provision is contained in the Nova Scotia Trade Union Act.

10. *Section 9 (5).*

It is submitted that this subsection should be deleted and the following substituted therefore:—

> *(5)* Notwithstanding anything contained in this Act, no trade union the administration, management or policy of which is, in the opinion of the board, dominated or interfered with by an employer so that its fitness to represent employees for the purpose of collective bargaining is impaired, shall be certified as a bargaining agent of employees, nor shall an agreement entered into between such trade union and such employer be deemed to be a collective agreement for the purposes of this Act.

This change is virtually only replacing the word "influenced" by "interfered with" and rearranging the wording so that "dominated" and "interfered with" are in conjunction. It is considered that "influenced" is too broad and general a term. The use of this word here might result in the refusal of certification to unions which were influenced by an employer who made some legitimate expression of opinion. It is only improper interference which should disqualify. Also it should be noted that in section 4(1), line 33 of this bill the words "interfere with" are used.

11. *Section 9(6).*

It is submitted that a new subsection 6 should be added to section 9, to read as follows:—

> When an application for certification has been made by a trade union in respect to a bargaining unit and the application has been refused by the board for reasons other than a defect in form or technical irregularity, the trade union shall not be entitled to apply again for certification in respect of that bargaining unit until a period of at least six months has elapsed from the date of its previous application.

While it appears to be the general practice of labour relations boards not to permit trade unions to re-apply for certification within six months of the time in which a previous application was made, it is submitted that this rule should be contained in the Act itself for the guidance and protection of the Board and to reduce unnecessary applications. The right to re-apply in less time in the event of some minor defect has, it will be noted, been preserved.

Revocation of Certification

12. *Section 11.*

It is submitted that section 11 should be amended to read as follows:—

> 11. Upon application the board may revoke such certification where in its opinion a bargaining agent no longer represents a majority of employees in the unit for which it was certified, and thereupon notwith-

standing sections fourteen and fifteen of this Act, the employer shall not be required to bargain collectively with the bargaining agent, but nothing in this section shall prevent the bargaining agent from making an application under section seven of this Act after a period of six months has elapsed.

As the section stands, there is no provision for bringing to the attention of the board the fact that a union no longer represents the majority of the employees in the unit for which it was certified. It is desirable that procedure for doing this should be prescribed in the Act. The phrase to be added at the end of the section is designed to prevent immediate re-application by a trade union after it has been decertified under this section.

Notice to Negotiate

13. It is suggested that an entirely new section 13A be added after section 13, to read as follows:—

Section 13A.

The notice required under sections 12 and 13 shall specify the names of the bargaining committee who shall qualify for such committee as provided in section 14A otherwise the party receiving the notice may treat it as a nullity.

This suggestion, it is submitted, would facilitate the negotiations and the information is important enough to warrant giving it in advance of the first negotiations. Moreover, it will help ensure that section 14A as next proposed will be complied with.

14. It is suggested that an entirely new section (14A) be added after section 14, to read as follows:—

Section 14A.

The bargaining committee or the persons or representatives authorized to bargain collectively for or on behalf of a bargaining agent shall all be employees in the unit provided that one person who is not an employee may be added to such committee, and the persons who bargain for or on behalf of the employer shall all be persons regularly employed by the employer and may include the employer, if a person, provided that one person who is not employed by the employer may be included among the persons who bargain for or on behalf of the employer.

It is submitted that since trade unions are to be certified rather than bargaining representatives, then the bargaining committee should with the exception of one outside person be employees in the unit. This makes for a better atmosphere in negotiations, because the negotiating parties know each other better, and also have a better knowledge of local conditions in the plant.

15. *Section 14(b).*

It is submitted that this subsection should be deleted.

In our view, it is unnecessary since no employer who has received notice to commence collective bargaining is likely to reduce wages, and thus antagonize the employees in question, unless he is forced to do so by circumstances beyond his control. If such circumstances should occur, and the employees refuse to consent to a reduction of wages, the effect might be to jeopardize the employer's business. In all the circumstances, it does not appear that the prohibition against a decrease in wages would facilitate collective bargaining, and it is therefore submitted it should be deleted. Furthermore, the subsection is, in effect, a retention of wage control. It constitutes an interference with employers' rights

and could not be complied with in emergency situations which constantly arise for various reasons requiring an employer to shorten the hours of work or to re-arrange an employee's scheduled vacation.

16. *Section 15(b).*

The reasons submitted for the deletion of section 14 (*b*) also apply to section 15 (*b*).

Conciliation

17. *Section 16.*

It is suggested that this section should be changed by deleting clause (*b*) line 26 and substituting the following:—

> (*b*) Collective bargaining has taken place over a period of at least 30 days;

It is desirable that conciliation officers be not called in until the parties have bargained for some little time and are convinced that an agreement cannot be reached without outside assistance. Thirty days appears to be a reasonable time in which the parties may either reach an agreement or ascertain the points on which they are at variance. Such a provision is found in Sec. 11 of the Wartime Labour Relations Regulations P.C. 1003 and has therefore become accustomed practice.

Strikes and Lockouts

18. *Section 24A.*

It is suggested that a new subsection 24A should be added to read as follows:—

> Notwithstanding anything contained in sections 21, 22, and 23 or otherwise in this Act, no trade union shall authorize or declare a strike and no employee shall strike unless the majority of the employees in the bargaining unit have expressed a desire to strike in a secret ballot conducted under the direction of the board.

It is submitted that a vote of the employees affected should always be held immediately before a strike is declared. Otherwise strikes may be declared contrary to the wishes of the majority of the employees. Strike votes, if taken at the proper time, it is submitted, would result in fewer work stoppages. It is desirable that the strike votes be supervised by an outside authority in order that the door may not be open to intimidation or coercion and that the results of the voting may be regarded as recording the real wishes of the majority. You will note that Nova Scotia and B.C. have similar provisions.

19. *Section 24B.*

It is submitted that a new section 24B should be added immediately following section 24A, above proposed, to read as follows:—

> *Section 24B.*
>
> (1) Where the employees in the bargaining unit have gone on strike, the board, on the application of the employer, and on being satisfied that there is good reason to do so, and that it would in its opinion aid the settlement of the dispute and the cessation of the strike, may direct a vote to be held by secret ballot to determine the views of such employees and any matter involved in or arising out of the dispute.
>
> (2) Such vote shall be taken upon such notice and subject to such provisions, conditions, stipulations and restrictions, and the ballot shall be in such form, as the board may direct.

(3) The employer and the trade union or unions concerned and the employees in the unit shall, on the request of the board, furnish to the board such assistance, facilities and information as may be reasonably requested by the board for the taking of such vote.

(4) The board shall publish the result of such vote.

This provision would complement our proposal of a strike vote, under the preceding item, and taken with such provision, would carry out recommendation 6 of your committee in its report presented to the House of Commons on August 17, 1946. It should aid, it is submitted, in keeping any work stoppages which do occur, to a minimum; a result which, as stated in our opening remarks, is necessary in order to maintain a high level of production.

20. *Section 32(8).*

It is recommended that subsection 8 of section 32 be deleted. Under the Wartime Labour Relations Regulations, a person may be represented by a barrister, solicitor or advocate and it would appear that the proceedings were facilitated by reason of the presence before the conciliation boards of persons trained to appear before courts and administrative boards. There seems no valid reason why any person should be deprived of legal advice or assistance when appearing before a conciliation board.

21. *Section 33(1).*

It is suggested that the following words should be added in section 33(1) after the word "it" on page 16, line 1:—

and things of a confidential nature.

It is intended by this submission to prevent information reaching the other party, the public or competitors of the employer about the finances of the party, trade secrets or other matters of a confidential nature which might injure the party in its credit, reputation, competitive position or public relations.

Also it is submitted that unless such a proviso is added, the fact-finding procedure contemplated would open the door to the making of demands which were tantamount to "a fishing expedition." It is submitted that an employer and trade union have a right to protection against such abuse of this section.

22. *Section 34.*

It is submitted that this section be amended by inserting after the word "therein" in line 24, the following words: "which concern the matters referred to the board"; also after the word "mentioned" in line 26 insert the words "concerning the matters referred to the board;".

Under this section, the power to enter a building, ship, vessel, etc. is granted only where it concerns matters referred to the conciliation board.

It is just as important that the inspection and view of any work, material, machinery, etc. be confined so as to concern only the matters in reference. Likewise the interrogation of any persons found therein should be so limited. Otherwise confidential information might be disclosed having no relevance to the matter in reference. Again, this power should not be used as a "fishing expedition" which might injure the employer in the ways referred to in the preceding item respecting section 33 (1).

Enforcement

23. *Section 39.*

It is submitted that section 39 should be deleted.

If sections 14 (*b*) and 15 (*b*), are deleted as proposed above, this section becomes unnecessary because it is the enforcement clause for the provisions of these subsections.

24. *Section 41 (5).*

It is submitted that the following new subsection 5 should be added to section 41:—

> (5) Where employees strike, if they are members of a trade union or of a unit of employees in respect of which a trade union has been certified under this Act or if they are bound by a collective agreement entered into by a trade union or if a collective agreement has been entered into on their behalf by a trade union, the occurrence of the strike shall be evidence that the trade union authorized or declared the strike.

This new section would provide a measure of responsibility on the part of trade unions for the acts of their members which contravenes this Act. This is a duty to be imposed on trade unions correlative with their right to act for, and on behalf of the employees in the unit. Several reasons are given in our opening remarks for such a correlative duty. It may be noted that the employer is responsible for the acts of his managers or agents.

Collection of Fines

25. *Section 45.*

It is submitted that the following new subsections (2) and (3) be added to section 45:—

> (2) Where a fine is imposed upon an employers' organization or trade union pursuant to a conviction for an offence under this Act, any person who is a trustee of, or otherwise holds property or moneys on behalf of the employer's organization or trade union, or the members thereof as such members, may, notwithstanding the terms of the trust or other terms under which he holds the property or moneys, dispose of the property and out of the proceeds of the disposal thereof or out of the moneys, pay the fine and, if the fine is not otherwise paid in full, the said person shall pay the fine or any part thereof not so paid.
>
> (3) Every person who is a trustee for, or holds property or moneys on behalf of an employer's organization or trade union, or the members thereof as such members, and who fails to pay any fine imposed on the employer's organization or trade union under this Act within fifteen days after the said fine becomes payable is, if the said fine has not then been paid in full, guilty of an offence and liable on summary conviction to a fine equal to the value of the property or the amount of the moneys so held by him on the day the fine was imposed on the employer's organization or trade union but not exceeding the amount of the said fine that is unpaid on the day upon which the said person is convicted of an offence under this section.

These provisions have been referred to in our opening remarks where we pointed out the need for effective sanctions to enforce the provisions of the Act. It is obvious that if an Act is not enforced, it is not of much use. No Act can be properly enforced if the sanctions are not effective against some of the parties concerned. This would be the effect under this Act unless some method such as proposed, is provided for the collection of fines.

Inquiries

26. *Section 56(1).*

It is submitted that this subsection should be amended to read as follows:—

> 56(1). The minister may either upon application or of his own initiative, where he deems it expedient, make or cause to be made any inquiries he thinks fit regarding industrial matters with a view to promoting industrial peace or settlement of disputes.

It is not expected that the minister would abuse the power given by the clause proposed to be deleted but none the less it is almost always preferable to allow the parties to settle matters for themselves or along the regular lines of procedure elsewhere laid down in this Act. It has been rather upsetting and only justifiable in war time to have the government cut across the regular procedure. It does not, it is submitted, make for stable labour relations. The law should be certain and therefore the minister's power under this Act should be definite and specific, and not vague and general.

Hon. Mr. MITCHELL: If I might interrupt; that section has been in the I.D.I. Act for forty years.

LABOUR RELATIONS BOARD

27. *Section 58(1).*

All the preceding submissions have been predicted on the composition of the labour relations board being such as fairly and competently to handle the matters which come before it and to represent adequately the viewpoint of employees and employers. The following suggestions are respectfully made with a view to aiding in the achievement of this result, though it is recognized that in the last analysis everything will depend on the particular qualifications of the individuals appointed by the government.

It is submitted that the chairman of the proposed Canada labour relations board should be or should have been a member of the judiciary. It is apparent that the experience and impartiality of the judiciary make it the most appropriate panel from which to select a competent chairman for such an important board.

Consideration should be given to providing for a panel of employer representatives and a panel of employee representatives from which the board could be kept up to full strength at all times.

28. *Section 60(2).*

It is submitted that a new subsection 2 should be added at the end of section 60:—

(2) The hearings of the board shall be open to the public.

It is an important principle of British and Canadian justice and in the public interest that laws should be administered in the open.

29. *Section 60(3).*

It is submitted that there should be added a new subsection 3 to section 60 to read as follows:—

(3) The board shall publish its decision in every case.

The decisions of the board will be important and it is obviously in the public interest that its decisions be made public. Also parties in other cases are entitled to know for their guidance what the decision has been in preceding cases. Moreover, it is probable that greater care will be taken in reaching a decision in any case if the reasons for the decision must be put in writing.

APPEAL

30. *Section 61(2).*

It is submitted that this subsection should be amended by adding at the end thereof the following words:—

> saving always the right of any party to the proceedings to appeal on a question of law arising out of any decision or order of the board to a judge of a superior court, whose decision shall be final.

It is most important there should be the right of appeal on matters of law from decisions of the board. Unless this is permitted, there is danger that a decision of the board may not be in accordance with the provisions of the statute and that a person may be deprived of some of his rights under the law. An appeal on matters of law will ensure that the board is properly interpreting this legislation.

All of which is respectfully submitted,

CANADIAN MANUFACTURERS' ASSOCIATION (INC.)

C. B. C. SCOTT,
Chairman,
Industrial Relations Committee.

OTTAWA, July 1, 1947.

The CHAIRMAN: I appreciate that this has been a long brief. There may be some things upon which you would like to question the spokesman. He is now at your disposal.

By Mr. Homuth:

Q. On page 11, section 18, there is the question of the taking of a vote. There is a point there on which I am not just clear, and on which I would like to have your view; does the vote depend upon the majority of those employed or on a majority of those voting?—A. It says "the majority of the employees in the bargaining unit", Mr. Homuth. That would be the majority of employees in that unit and not those voting.

Mr. MAYBANK: That would mean anybody not voting would be counted in the negative.

The VICE-CHAIRMAN: Mr. Barrett, at the bottom of page 2, in connection with —"equality before the law really requires that trade unions should be made legally responsible through incorporation,"—would you give us an example in any country where trade unions have been incorporated as you suggest there?

The WITNESS: I cannot give you any example, Mr. Chairman, of that, no. Also, for the purpose of any questioning, I do not want to appear rather uninformed on this, but, unfortunately we were not able to bring any members with us who have been working daily with this type of thing due to the holiday and the short notice. If there are any questions which I cannot answer I will try to get the answers for you.

The VICE-CHAIRMAN: Well you have some people over there, perhaps you could ask them?

Mr. MERRITT: Surely, Mr. Chairman, in Great Britain they have a very similar provision. It might not amount to incorporation but it does amount to registration.

The VICE-CHAIRMAN: We have a similar sort of registration in this country, as a matter of fact, except that no one pays much attention to it.

Mr. MERRITT: It is in the Dominion Act and could be enforced. I presume that is all that is meant.

The VICE-CHAIRMAN: That is not what he was thinking of in this. You will see that if you read the whole paragraph.

Hon. Mr. MITCHELL: Compulsory incorporation.

Mr. MERRITT: That was the only reason I spoke up. I have one question I would like to ask. On page 6, your submission No. 5. You want a new

subsection added to section 4 which would reserve to employers the right of free speech within reasonable limits.

What part of the bill, in your opinion, endangers the employer's right of free speech?

The WITNESS: It is not that it should be necessary to state it but to preserve it, that it should be made clear. There are a number of sections in this bill which might be taken to be a statement of ordinary law, but this is merely a matter of accenting or underlining the other sections in the bill.

Mr. MERRITT: My question is what section now interferes with this right of free speech?

Mr. THOMPSON: May I speak to that. Subsection 3 says "No employer shall by intimidation—"

The CHAIRMAN: Page 4.

Mr. THOMPSON: "or any other kind of threat—". Under the present regulations we know that we can speak, but we think there is a great deal of doubt and this would make it clear.

Mr. MERRITT: You are referring to section 4, subsection 3.

Mr. THOMPSON: That is the worst one.

Hon. Mr. MITCHELL: May I ask you sir, if you can legislate on a hypothetical case? When you are legislating do you not draw on your experience?

Mr. THOMPSON: Well we have had experience and employers have been afraid to speak for fear they would infringe upon such a provision.

Hon. Mr. MITCHELL: Do you know of any case where an employer has not spoken; where there has been any prosecution?

The WITNESS: Well, there have been cases on the border of that, the National Paper Goods case of Hamilton, and I think due to American decisions there has been some feeling by employers that there is a danger which these regulations should prevent.

The VICE-CHAIRMAN: The difficulty is, gentlemen, that we must not get ourselves involved with American decisions. In some respects their law went further than ours, and, in some other respects, not far enough, but any instances you have should relate Canadian cases if possible.

Hon. Mr. MITCHELL: If I may say this about the American bill, I think there is too much law and not enough common sense in it.

Mr. ADAMSON: There is nothing in this Act to prevent an employer from putting his case in front of his employees?

The VICE-CHAIRMAN: Nothing at all.

By Mr. Knowles:

Q. Could I ask Mr. Barrett what the purpose of incorporation is, in the case of a corporation?—A. That is rather a lengthy point I would think. The simplest explanation is that the application of a corporation, which is usually the way an employer carries on business, (there are partnerships of course,) fixes the responsibility under the Companies Act or similar types of legislation, whereas with an organization which is composed of individual members, it is a matter of the responsibility of the whole group and there is no legal entity to the group as such, except the members that compose it.

Q. Does not incorporation in this case also have the effect of limiting liability?—A. It might.

The VICE-CHAIRMAN: That is what it will do. That is the quick answer to your question. It limits liability.

Mr. KNOWLES: The purpose of incorporating unions seems to me to extend the liability.

The WITNESS: I think it crystallizes it, if I may suggest a word.

Mr. MAYBANK: It would also have this result if they were incorporated. The liability of individuals would be limited as the liability of shareholders is limited, but it is also recognized that in certain cases charters of companies may be revoked. If you require unions to be incorporated, obviously the right to revoke incorporation would be there, and suddenly a trade union could be found without its birth certificate whereby it had the right to be in existence in the land. That would be one possible effect of incorporation. An incorporated trade union without a birth certificate or a charter of incorporation, could cease to live very quickly if some person decided upon an arbitrary act. Now we would hope, of course, at all times the government would not act in such an arbitrary fashion, but still it does put the trade union at the mercy of some person in cases of difficulty.

The WITNESS: I do not want the committee to think that is what we conceived to be the only method. What we were striving for was a crystallized responsibility of the union and this was a suggested method.

By the Vice-Chairman:

Q. Tell me, do you handle labour relations for the board, for the organization?—A. Do I personally?

Q. Yes.—A. No, but I am a member of the committee.

Q. Who handles your labour relations?—A. Mr. Thompson.

Q. I wanted to put a question to you but I did not want it to be an unfair question. I will ask Mr. Thompson because you know this Act fairly well.

Mr. THOMPSON: Yes.

The VICE-CHAIRMAN: I have in mind the enforcement sections, from 39 on? You know it?

Mr. THOMPSON: Yes.

The VICE-CHAIRMAN: Let me put the case of an employer who does not like the business agent, does not like the president, and does not like unions. There may be some such person.

Mr. THOMPSON: Yes.

The VICE-CHAIRMAN: And the employer decides to fire the union representative? Am I right that under this Act he could be hailed into court and fined for that?

Mr. THOMPSON: Yes.

The VICE-CHAIRMAN: And be forced to pay wages? Is that correct?

Mr. THOMPSON: Yes, he may under section 42.

The VICE-CHAIRMAN: Never mind the section, but he may.

Mr. THOMPSON: Yes.

The VICE-CHAIRMAN: That is correct is it not?

Mr. THOMPSON: Yes.

The VICE-CHAIRMAN: Now that may happen once, it may happen twice, and it may happen a dozen times with the same employer. Is that correct?

Mr. THOMPSON: Yes.

The VICE-CHAIRMAN: Then, so long as the employer wishes to be fined, he can continue firing anyone whom he pleases, is that correct?

Mr. THOMPSON: Yes, but he would get an awful lot of adverse publicity.

The VICE-CHAIRMAN: Wait a minute, we are not talking about adverse publicity, just follow me. Is there anything in the Act that compels him to reinstate any employee whom he has fired after the court fined him and made him pay the back wages?

Mr. THOMPSON: No, but the employee would have recourse to the civil courts.

The VICE-CHAIRMAN: The employee is completely out.

Mr. THOMPSON: No, he may apply to the court and he may be entitled to reinstatement under his contract.

The VICE-CHAIRMAN: Wait a minute, he may be entitled to reinstatement, but under what contract?

Mr. LOCKHART: Mr. Chairman, on a point of order, you are both talking very quietly and we cannot hear. I object to a dialogue of this kind between the chairman and a witness.

The VICE-CHAIRMAN: I have been trying to speak loud.

Tell me,—you say he may be able to obtain his rights under his civil contract. Do you know of any employee in any shop or in any factory who has a civil contract with the employer?

Mr. THOMPSON: Yes, every employee has an implied contract. It is not in writing but he has an implied contract under the Ontario law, and he is entitled to reasonable notice and he can apply under the provisions of the Master and Servants Act.

The VICE-CHAIRMAN: What is reasonable notice?

Mr. THOMPSON: It all depends on the status of the employee.

The VICE-CHAIRMAN: Very well then. Assume we have given him reasonable notice, and we pay him for the reasonable notice, is there anything in the Act that requires an employer to reinstate an employee?

Mr. THOMPSON: No.

The VICE-CHAIRMAN: Do you know P.C. 1003?

Mr. THOMPSON: Yes I do.

The VICE-CHAIRMAN: Do you remember P.C. 4020?

Mr. THOMPSON: Yes.

The VICE-CHAIRMAN: Do you mind telling the committee what P.C. 4020 contained?

Mr. THOMPSON: It was an order in council which provided machinery for investigation of cases of persons being fired for union activity or discrimination. After an investigator looked into it he reported to the minister and the minister could make an order or otherwise deal with it as he wished. I think in some cases the minister did make an order but the minister would know that.

Hon. Mr. MITCHELL: I can answer that point. P.C. 4020 was prepared under my jurisdiction and it was an order to prevent discharge for union activity. If a man claimed that he had been discharged, or his organization claimed that he had been discharged for union activity, a commissioner was appointed and made an investigation. I approved of whatever the commissioner recommended. If the commissioner recommended it, the man was paid his back wages and reinstated.

The VICE-CHAIRMAN: Mr. Thompson, could I put it to you this way? Under this Act as it stands at the present time, is it fair to say that a determined employer, who does not regard cost as important, could keep any union out of his shop?

Mr. THOMPSON: You mean by such a practice?

The VICE-CHAIRMAN: Yes.

Mr. THOMPSON: Well I had not considered that but, as an off hand opinion, I would say perhaps he could.

Mr. HOMUTH: It is pretty far-fetched is it not?

The VICE-CHAIRMAN: I have opened up the subject and there are some lawyers about here and I wish they would follow it up. I do not want to stress anything in particular but I felt that this witness knew the Act and had dealt with P.C. 1003. I asked the witness before him if he was a lawyer and he said no. This witness seemed to know, and he does know, the Act very well.

Mr. THOMSON: They are both lawyers.

Mr. BARRETT: I did not say I was not a lawyer.

The VICE-CHAIRMAN: I was referring to the witness before you.

Mr. JOHNSTON: The procedure you have outlined, Mr. Chairman, would have to be done with every single employee before the employer could abolish the union.

The VICE-CHAIRMAN: What was that you said Mr. Johnston?

Mr. JOHNSTON: The course you pointed out would have to be taken with respect to every single employee. You had summed up by saying the determined company could get rid of the union that way. Would the process not have to be applied to every single employee?

The VICE-CHAIRMAN: That is right, but you know what I had in mind. The employer could constantly fire officers of the union and in that way make the union ineffective or without force.

Mr. KNOWLES: It has a bearing on this whole question of equality between employer and employee.

Mr. THOMPSON: It would be a case of making the employer pay a price continually.

The VICE-CHAIRMAN: I prefaced my remarks by saying "if he disregarded cost".

Mr. MERRITT: I think you have a hypothetical case there, because, in all probability, there would be a strike first.

The VICE-CHAIRMAN: Not without them waiting the three months, and, the minister points out, it would be an illegal strike so there you are.

The WITNESS: I do not know of any manufacturer, Mr. Chairman, who would even consider running his business on that basis. He would not last very long.

The VICE-CHAIRMAN: I put the possibility to you, under this Act, as to what would happen with a determined employer. I will leave it at that.

Hon. Mr. MITCHELL: I think, Mr. Chairman, I might say this; you cannot legislate for the exception to the rule. I believe most employers are decent people and so are most trade union leaders. They are the people you have to consider.

The VICE-CHAIRMAN: Are there any further questions, gentlemen?

By Mr. Timmins:

Q. May I ask a question? On page 3 of the brief, the second paragraph sals,

> Considerable attention has also been given in this submission to the settling of differences by negotiation in good faith without interruption of operations.

Now, I presume what is meant would be negotiation by collective bargaining, conciliation and probably this secret strike vote which has been suggested. Is there anything else which is included there in the term, "without interruption of operations"?

Mr. THOMPSON: If I might explain that, Mr. Chairman. We had in mind there that you would keep negotiating. You would not have to have conciliation.

This is taken from our submission on labour policy attached to the back of the brief. The settling of differences by negotiation in good faith means negotiation; it does not mean conciliation or anything else.

Mr. TIMMINS: You are not taking into account then the particular section having to do with conciliation at all. You are suggesting that the parties must be made to continue negotiating?

Mr. THOMPSON: That should be the aim of good labour relations, that negotiations should be carried on. You should not have to call in outside parties.

Hon. Mr. MITCHELL: Would not this be a fair thing to say? I have had some experience in these matters and invariably the first person who comes to me when he is in trouble is the employer. He waits until he is in trouble. The trade unions do, also, of course and invariably they ask for a conciliator; that is both sides. Now, many of the employers and many of the newer trade unions do not know what we call in trade union language, "the game". These conciliators are skilled in wage negotiation. You must have some machinery, it would seem to me and I think you will agree, to assist the parties in a dispute.

Mr. THOMPSON: We think the first thing to do is to keep the negotiations going. It happens in the majority of cases by far, in 90 per cent of the cases. Occasionally, you have to have conciliation and even then you may have to have a strike vote.

The WITNESS: It is all contained in the approach to employer-employee relations at the back.

By Mr. Timmins:

Q. I should like to ask Mr. Barrett one question if I may. This is a personal question and he may not care to answer it. In the plant with which you are concerned, do you have union men and non-union men employed?—A. Yes.

Q. You have both?—A. Yes.

Q. So, this suggestion you make on page 2 recommending the right of the individual employee to join any general lawful organization of employees is in effect now in a good many plants?—A. Yes, I suppose it is.

By the Vice-Chairman:

Q. May I ask one more question?—A. But the statement in this Act or the specific suggestion is that having stated that they have the right to join, then perhaps it would be fair to say that the statement should also be made, if the first one is necessary, that he should have the right to refrain from joining; that is all that is suggested.

Q. May I ask you one question? In the course of your brief I think you said you were opposed to union security clauses; that was part of your brief?

Mr. THOMPSON: At the end of page 3.

The VICE-CHAIRMAN:

> The association notes that there is no provision in the bill to empower any authority to order the inclusion of the union security clause in a collective agreement.

Later on, you made reference to some action which was taken by the committee last year with respect to secret ballots. You do remember that last year's committee, composed of the same people, recommended a measure of union security be given with all contracts; you recall that?

The WITNESS: I remember there was some reference to it, but what the reference was I do not recall.

Mr. ADAMSON: A measure of union security were the words.

The VICE-CHAIRMAN: What we had in mind was the check-off system. I think that is a correct statement on behalf of the committee. I believe that is what the committee had in the back of its mind.

Mr. ADAMSON: Up to a point.

The VICE-CHAIRMAN: Let us not say what we had in the back of our minds, but a measure of union security following certification; have you given thought to that?

The WITNESS: Yes, as a matter of fact, stated briefly our view is that if a union negotiates with its employer and secures some form of union security, that is a matter for agreement between the parties. We do not think legislation should enforce it upon employers as a matter of legislation.

By the Vice-Chairman:

Q. Does it?—A. I do not think this Act does but it has been asked for.

Mr. MERRITT: Perhaps, to use your words, Mr. Chairman, the minister must have listened to the wise minority.

By Hon. Mr. Mitchell:

Q. Coming back to the question of voting, can you tell me any way—you make the suggestion I should conduct votes or the minister should conduct votes under the direction of a board—do you know of any way you can make a person vote who does not want to vote under our system of government?—A. I would say that the record of the percentage of votes in most elections would be the answer to that, Mr. Minister.

Q. I am talking about industrial disputes now?—A. I do not think you could.

The VICE-CHAIRMAN: That is not the point they have in mind when they ask you to take a vote. It is not that they want the minister to force people to vote. The suggestion, if I know it, is that the vote is an intimidated vote and they want one which is held free from intimidation.

The WITNESS: I do not think we go so far in our suggestions. We say, in effect, the vote which is held which is not a secret vote may be subject to intimidation. I think for that very reason our British method of balloting for members of parliament and elective officers is held in great secrecy.

By the Vice-Chairman:

Q. You have actually practised it, I hope?—A. I have indeed. I do not think any improper connotation should be taken from that suggestion. It simply means if it is good enough for the election in this counrty, it is good enough for this purpose.

Mr. HOMUTH: That is the very question I had intended to raise. Should it be the majority of those voting or the majority of those in the bargaining unit? The minister has said you cannot force men to vote.

The VICE-CHAIRMAN: If a man does not vote it is counted against the thing. It is the majority of the voting unit.

Mr. JOHNSTON: According to this brief.

Mr. ADAMSON: I think labour is very strenuously objecting to that clause. They have pointed out that a great many of us who are here are minority candidates and not elected by a majority of the people. What we are trying to arrive at is a method of taking the vote so that the largest percentage of opinion possible will be registered. I think that is it.

The WITNESS: It could be pointed out that in the certification section it is the majority of those in the bargaining unit which is required to certify the particular union. You might put it on the same basis.

The VICE-CHAIRMAN: Are there any further questions, gentlemen? If there are no further questions, I should indicate that we sit at four o'clock to-morrow afternoon. We will have presentations from the Railway Association of Canada; the Joint Legislative Committee; the Railway Transportation Brotherhood. We will have a brief from the Catholic Federation of Labour. They have indicated that they are sending a brief. Then, there are a few minor things which the steering committee will decide immediately after this meeting. We may, with some luck, complete this business to-morrow.

Now, a question arises about which some members spoke to me concerning the question of Mr. Conroy. He had not presented appendix B to his brief. I am told that appendix B is a summation of the labour laws of the provinces to show the actual confusion of labour laws. This will not be ready until Friday. It is not possible to get it ready before then. I think we might as well go ahead and question Mr. Conroy to-morrow because he has to leave. We could complete our questioning so that we could then devote ourselves to dealing with this bill section by section.

We have another bill on which Mr. Knowles is keeping his eye, upon which we must also make a decision. It may take us a little while. Will the steering committee please remain? Thank you very much, Mr. Barrett. The meeting is now adjourned.

The committee adjourned at 5.50 p.m. to meet again on Wednesday, July 2, 1947, at 4.00 p.m.

APPENDIX "B"

NOVA SCOTIA BARRISTERS' SOCIETY

COURT HOUSE

HALIFAX, N.S.,

June 25, 1947.

Right Hon. J. L. ILSLEY,
Minister of Justice,
Ottawa.

DEAR SIR,—On behalf of the Nova Scotia Barristers' Society, I wish to protest against the clause in the labour bill recently introduced in parliament limiting the rights of lawyers to practice before the "Conciliation Board".

This society submits that the right of the subject to have legal representation at any judicial or quasi-judicial hearing is a British tradition which should not be refused under any circumstances.

I believe it has been urged in the past that corporations were able to provide eminent counsel while labour organizations lacked the financial means to be properly represented. This is definitely not the situation to-day. Labour organizations to-day are possessed of ample means to provide the best presentation possible of their claims. There is therefore no longer any justification for restricting employers in the presentation of their case.

We therefore strongly urge that the clause objected to by this Society be eliminated from the labour bill.

Yours very truly,

(sgd) W. deW. BARSS,
President.

APPENDIX "C"

VANCOUVER BAR ASSOCIATION

Whereas Section 32(8) of Bill No. 338, being "An Act to provide for the investigation, conciliation and settlement of industrial disputes" makes provision as follows:—

PROCEDURE

32(8) In any proceedings before the conciliation board, no person except with the consent of the parties shall be entitled to be represented by a barrister, solicitor or advocate and, notwithstanding such consent, a conciliation board may refuse to allow a barrister, solicitor or advocate to represent a party in any such proceedings.

And whereas such provision is the negation of the democratic rights of parties before conciliation boards and is an unwarranted restriction imposed on and discrimination against a section of the public in the conduct of a profession which has contributed much to the public life and welfare of Canada;

Therefore be it resolved that this association urge upon the Prime Minister of Canada, the Minister of Justice and the Minister of Labour that it is in the public interest that the said Section 32(8) be deleted from the said bill.

VANCOUVER, B.C., June 25, 1947.

APPENDIX "D"

Victoria BC June 27—1947.

The Honourable Minister of Justice
Parliament Bldgs Ottawa

The members of the Victoria Bar Association strongly oppose limitation on rights of lawyers to practice before conciliation board in labour bill now pending in Parliament and urge you to oppose such limitations with all vigour stop the right to representation by counsel is a heritage paid for in blood by our forefathers and is one assurance of justice from bodies acting in semi-judicial capacities.

G. F. GREGORY
Secretary

APPENDIX "E"

Halifax N.S. 25 43 S.P.

Right Hon. J. L. ILSLEY KC PC
Minister of Justice
Ottawa.

The vice president for Nova Scotia of the Canadian Bar Association has supplied me with copy of telegram received by him from the president stating that labour bill introduced in Parliament contains clause limiting rights of lawyers to practice before conciliation boards and that such a statutory prohibition on the right of members of the legal profession to practise their profession should be strongly opposed. I entirely agree with the views of the president of the Canadian Bar Association as I am sure you do also, and would urge that this clause be deleted from the bill. The Nova Scotia Labour Code, enacted at the last session of the Legislature, follows closely the revised draft bill prepared in the Department of Labour at Ottawa but omits the clause referred to by the president.

J. H. MACQUARRIE, *Attorney General.*

APPENDIX "F"

THE LAW SOCIETY OF UPPER CANADA
OSGOODE HALL
TORONTO, 2

June 21, 1947.

The Rt. Hon. J. L. ILSLEY, P.C., K.C.,
Minister of Justice,
Ottawa.

DEAR SIR,—Ref.-Bill 338, June 17, 1947, House of Commons.

This will confirm my telegram of this date to you as follows:

> The attention of the Law Society of Upper Canada has just been directed to bill 338, June 17, 1947. The Industrial Relations and Disputes Investigation Act. Section 32(8) is a restrictive clause with

reference to appearance of lawyers before conciliation boards. This society is strongly opposed to any restriction of traditional rights of the legal profession or to the rights of the public to be adequately represented by competent legal advisers. Letter follows.

On Tuesday, the 17th instant, bill No. 338, an Act to provide for the investigation, conciliation and settlement of industrial disputes, received its first reading in the House of Commons. It has just been brought to the attention of the Law Society of Upper Canada that section 32(8) is a restrictive clause with reference to the appearance of lawyers before conciliation boards.

I am instructed to inform you that the Law Society of Upper Canada is strongly opposed to any restriction of the traditional right of the legal profession to practise before any judicial or quasi-judicial tribunal, and in particular is opposed to the diminution of the rights of the public to be adequately represented at such hearings by competent legal advisers.

The Society is not unmindful that Cap. 112, R.S.C. 1927 contained a somewhat similar restrictive clause, but it informed that P.C. 1003 suspended the provisions of the Act referred to, and since 1944 lawyers have been accustomed to represent their clients whenever their services were required before labour tribunals. The legal profession as represented by this Society is of the opinion that the restrictive clause should certainly not be included in the new Act.

The Society desires the opportunity of making oral representations before the Industrial Relations Committee, if such are necessary. It will be greatly appreciated if I might be notified forthwith of the appropriate date for appearance before the committee.

The Society is fully conscious of your continued interest in the profession and in the protection of the rights of the public and the profession, and respectfully requests your attention to and interest in this matter.

Yours sincerely,

W. EARL SMITH,
Secretary.

SESSION 1947

HOUSE OF COMMONS

STANDING COMMITTEE

ON

INDUSTRIAL RELATIONS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 4

WEDNESDAY, JULY 2, 1947

WITNESSES:

Mr. Pat. Conroy, Secretary Treasurer, Canadian Congress of Labour, Ottawa;

Mr. A. H. Brown, Departmental Solicitor, Department of Labour, Ottawa;

Mr. A. B. Rosevear, K.C., Railway Association of Canada, Montreal;

Mr. A. R. Mosher, National President, Canadian Brotherhood of Railway Employees, Ottawa;

Mr. W. A. Green, General Manager, Hudson Bay Mining and Smelting Company, Flin Flon, Manitoba.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1947

MINUTES OF PROCEEDINGS

WEDNESDAY, July 2, 1947.

The Standing Committee on Industrial Relations met at 4.00 o'clock p.m. The Vice-Chairman, Mr. Croll, presided.

Members present: Messrs. Adamson, Archibald, Baker, Beaudoin, Charlton, Cote (*Verdun*), Croll, Gauthier (*Nipissing*), Homuth, Johnston, Lafontaine, Lapalme, Lockhart, MacInnis, McIvor, Maloney, Maybank, Merritt, Mitchell, Ross (*Hamilton East*), Timmins, Viau.

The Chairman read the second report of the steering committee. Debate followed.

On motion of Mr. Maybank, the said report was concurred in.

Mr. Pat Conroy, Secretary-Treasurer, Canadian Congress of Labour was called. He was questioned on his presentation to the Committee on Monday, June 30.

Mr. A. H. Brown, Departmental Solicitor, Department of Labour, Ottawa, assisted during the questioning.

At 4.40 o'clock p.m., the Committee suspended its proceedings to enable members to attend a division in the House.

The Committee resumed at 5.05 o'clock p.m.

The witness was retired.

A brief filed by the Dominion Joint Legislative Committee, Railway Transportation Brotherhoods was considered. As there was no representative in attendance when called, the Chairman read the brief.

Mr. A. B. Rosevear, K.C., Assistant-General Solicitor, Canadian National Railways, Montreal, was called. He read a prepared brief submitted by the Railway Association of Canada, Montreal, and was questioned.

The witness was retired.

The Committee adjourned at 6.00 o'clock p.m., to meet again this day at 8.00 o'clock p.m.

The Committee resumed at 8.00 o'clock p.m. Mr. Croll, the Vice-Chairman, presided.

Members present: Messrs. Adamson, Baker, Beaudoin, Blackmore, Charlton, Cote (*Verdun*), Croll, Gauthier (*Nipissing*), Homuth, Johnston, Jutras, Knowles, Lafontaine, Lapalme, Lockhart, MacInnis, McIvor, Maloney, Maybank, Merritt, Mitchell, Timmins, Viau.

Mr. A. R. Mosher, National President, Canadian Brotherhood of Railway Employees, was called. He read a prepared brief and was questioned. Mr. M. W. Wright, Legal Counsel for the union, assisted during the questioning.

The witnesses were retired.

Mr. W. A. Green, General Manager, Hudson Bay Mining and Smelting Company, Limited, Flin Flon, Manitoba, was called. He read a prepared brief and was questioned.

Mr. Mitchell, the Minister of Labour, tabled a copy of correspondence between his department and the Minister of Labour, Manitoba, and the Premier of Saskatchewan relative to the Hudson Bay Mining and Smelting Company.

It was ordered that this correspondence be printed as part of the record.

The witness was retired.

The Committee adjourned at 9.25 o'clock p.m. to meet again at 10.30 o'clock a.m., Thursday, July 3.

J. G. DUBROY,
Clerk of the Committee.

MINUTES OF EVIDENCE

House of Commons,

July 2, 1947.

The Standing Committee on Industrial Relations met this day at 4.00 p.m. The Vice-Chairman, Mr. D. A. Croll, presided.

The VICE-CHAIRMAN: Gentlemen, I present to you the third report of the steering committee. At a meeting held on the 1st of July, your steering committee considered additional applications to appear and make representations to the committee in respect of Bill No. 338. You have a list of the people who have applied before you.

In addition to the national parent or central organizations invited the following applications have been received:

1. United Steel Workers of America (District Six), Toronto, Ont.
2. United Steel Workers of America (Local 3505), Hamilton, Ont.
3. National Organization of Civic Utility and Electrical Workers, Room 300, 74 King Street, East, Toronto, Ont.
4. Lumber and Sawmill Workers Union, Timmins, Ont.
5. International Union of Mine, Mill, Smelter Workers (District Number 8), Sudbury, Ont.
6. United Automobile Workers, C.I.O., Windsor, Ont.
7. Ontario Federation of Labour, Toronto, Ont.
8. International Woodworkers of America, Vancouver, B.C.
9. St. Catharines Trades and Labour Council, Thorold, Ont.
10. (Local Number 3), Canadian Seamen's Union, Thorold, Ont.
11. Niagara United Labour Committee, Niagara Falls, Ont.
12. Director of Canadian Congress of Labour (Montreal Region), Montreal, P.Q.
13. Local, United Electrical Radio and Machine Workers of America, Toronto.
14. Local No. 528, United Electrical Radio and Machine Workers of America, Montreal.
15. Local No. 504, United Electrical Radio and Machine Workers of America, Hamilton.
16. Local No. 507, United Electrical Radio and Machine Workers of America, Toronto.
17. Local No. 514, United Electrical Radio and Machine Workers of America, Toronto.
18. Local No. 518, United Electrical Radio and Machine Workers of America, Lachine.
19. Local No. 520, United Electrical Radio and Machine Workers of America, Hamilton.
20. Local No. 521, United Electrical Radio and Machine Workers of America, Leaside.
21. Local No. 523, United Electrical Radio and Machine Workers of America, Welland.

22. Local No. 524, United Electrical Radio and Machine Workers of America, Peterborough.

23. Local No. 527, United Electrical Radio and Machine Workers of America, Peterborough.

24. Local No. 529, United Electrical Radio and Machine Workers of America, St. Catharines.

25. Local No. 531, United Electrical Radio and Machine Workers of America, Montreal.

26. Secretary, Canadian Congress of Labour, Montreal Region, Montreal, P.Q.

In following the decision of the committee, it was agreed that these organizations were associates and affiliates and that representation had been provided by hearing the parent or central organization of each.

In line with the decision to hear only central or national organizations, it is recommended that the same procedure be followed in regard to the printing of briefs or other submissions received.

An application received from the Revolutionary Workers Party, Toronto, was also reviewed. It was considered that it is not a representative national body.

In addition to the acknowledgment sent to the above organizations, it was agreed that the chairman would send a telegram to each setting forth the decision of the committee.

Also considered was an application from the Canadian Brotherhood, Railway Employees and other Transport workers. It is noted that units of this union have affiliation with organizations already heard by the committee but, in view of its distinctive character, it was thought special consideration should be extended. It is recommended that this union be invited to appear and make representations.

We also heard representations from the Hudson Bay Mining and Smelting Company Limited with respect to a particular claim on which there was complete agreement between the provinces and the dominion and employers and employees. It was recommended Mr. Green be heard.

It is recommended that Thursday, 3rd July, be set as a target date for the completion of the hearing of all presentations.

That is the report. Will someone move concurrence?

Mr. LOCKHART: Mr. Chairman, I am very interested in hearing your report. In this connection, some days ago I received a telegram from a large group of organizations in my own community, the Niagara district, which takes in a section of the country in which our chairman is also interested; a highly industrialized area called the Niagara Peninsula. This telegram urged that all interested organizations appear before the committee regarding Bill 338.

It is not my desire to go contrary of the wishes of the steering committee. In fact, I think the steering committee has exercised extremely good judgment. On the other hand, I see in the list which has been presented to us that a number of the organizations represented in this telegram are from the Niagara Peninsula and are represented here. I will not take the time of the committee to read the telegram except to say that it is signed by the corresponding secretary and is in regular form. It says they are associated with the Trades and Labour Congress, affiliated with the A.F. of L. and the Dominion Trades Congress.

Now, Mr. Chairman, I find myself in a very difficult position. I should like to get a little guidance from this committee as to what I should do or perhaps there might be some expression of opinion that would help one in a difficulty of this kind. I think the minister will find himself in the same difficulty.

Recalling the brief which was presented by the Trades and Labour Congress I find that Mr. Bengough in his very splendid presentation said this;

> It is our considered opinion that Bill 338 retains the basic principles of order in council P.C. 1003 in that it establishes the right of employees to organize a union and it prohibits the employer from interfering with that right.

Then, later on he says,

> In view of the foregoing we are prepared to accept the provisions of Bill 338 as it now stands. In the meantime, on behalf of the Trades and Labour Council we accept Bill 338 as worthy of enactment.

Then, attached to this brief as submitted by Mr. Bengough there is a document which says this,

> An all out war effort demanded a national labour code. A peace effort also requires a national labour code. The time for concerted action is ripe if we are to have a worth while national labour code. All trades and labour councils, . . .

This is underlined, Mr. Chairman.

> All trades and labour councils and affiliated unions must now become active.

That is underlined.

The VICE-CHAIRMAN: You remember what Mr. Bengough said he meant by that?

Mr. LOCKHART: Yes.

The VICE-CHAIRMAN: He said they were to see their provincial member; that is what he told us.

Mr. LOCKHART: Apparently this letter sent out on December 12 brought some concerted action. It is that action that I say has me completely bewildered and befuddled to-day.

To-day, I received from the Niagara district area the following communication from the same gentleman who urged that all these groups be heard. This is headed "St. Catharines District Trades and Labour Council, Affiliated with A.F. of L. and Dominion Trades Congress." Under the date of June 30, I received this communication pointing out several things but I will not take the time of the committee to read them. They are all in opposition to Bill 338. There are three resolutions, Mr. Chairman. Reading these resolutions in the light of Mr. Bengough's statement, I am completely confused.

The second resolution says,

> Be it resolved we reject the proposed Bill 338.

Resolution No. 4 is,

> Instruct Council executive to proceed to organize mass meetings in the city to protest Bill 338.

No. 5 is,

> Request whole Niagara Peninsula to take similar action in the interest of organized labour.

Now, Mr. Chairman, I find it very hard in the light of these conflicting views, the parent body having presented a brief, and this request by a circular letter requesting the members to go out and consider these matters. I find myself

very confused and a bit befuddled. I just wondered to whom to listen; whether I am to listen to the Niagara district views, expressed, or whether I am to listen to Mr. Bengough.

The VICE CHAIRMAN: That is why you are a member of parliament. You can find the truth.

Hon. Mr. MITCHELL: It is easy to explain. The trade union organizations in this country have what they call legislative bodies, mouthpieces. Nationally, there is the Canadian Congress of Labour which speaks for its affiliated organizations on national legislative questions arising out of resolutions discussed at the annual convention. The Trades and Labour Congress of Canada does the same thing for its affiliated unions. The running trades have their legislative bodies; that is, a railroad organization to speak for their respective organizations on the railways. Then, of course, you have the National Catholic Syndicate to speak for their organizations and so on.

Let me say this quite clearly; I have had dozens of telegrams. I suppose I would get more than most people. If we listened to all the people who wanted to come here, we would never finish up our hearings. There are some people who are rather anxious to come here for other reasons than purely trade union matters. We all know that or we should know it at least, or we should not be members of parliament. It is for this reason they establish national organizations.

Representations, I assume, in connection with provincial matters would be taken by the Ontario Federation of Labour, I think they call it, or the executive board of the Trades and Labour Congress of Canada and a like organization in the Canadian Congress of Labour. It is a physical impossibility, Mr. Chairman, to listen to the representations from local organizations of which there are probably 6,000 or 7,000 in the dominion who want to come here. It was for this reason they established these national trade union organizations. There, all the policies affecting the national government are crystalized and expressed by that organization. These officials are elected annually at the respective conventions. I think that is perfectly clear.

Any representations having to do with provincial legislation are, by the very nature of things, going to be made by provincial organizations set up for that purpose and be presented to the provincial governments. There is nothing new in any disagreement in a large organization. There is a disagreement amongst the CCF, the Liberals, the Progressive-Conservatives and even amongst our friends the Social Crediters. Mr. Bengough, Mr. Conroy, Mr. Best and Mr. Kelly, who will speak for the railroad organizations, quite properly reflect the crystalization of the views of their organizations on a national basis.

Mr. MAYBANK: I think it is necessary for some person to move the adoption of the report. It seems proper that one who is a member of the steering committee should do it since it is partly his act. For that reason, I do so. I should like to say, for the benefit of Mr. Lockhart particularly, that in thus getting up so soon to move adoption, I did not mean to be sharply controversial of the remarks he made. I can quite understand the difficulty there which I fancy the minister has disposed of as well as it can be done.

I am sure we must all agree we have to have representations on a national basis, otherwise we are just never going to get through. I know everybody wants to see this legislation passed subject to whatever amendments may be considered wise as we go along. It is with that idea in mind that I move the adoption of the report.

Mr. MACINNIS: I am not going to oppose the adoption of this report. I appreciate there is a point at which a line would have to be drawn. That point would have to be that we could not hear representations from just local organizations. I believe that because of the very short time this bill is before us it has

put us in a very awkward position. We are now faced with the prospect of jamming it through this committee and we will be faced with the prospect of jamming it through the House.

Proposals have been made that we should sit ten hours a day to deal with labour legislation, whereas most of the workers are demanding a 40-hour week. We will be sitting at least a 50 hour week. I think it is regrettable that, knowing legislation of this kind was coming before parliament, so little time was allowed from the time of the introduction of the bill until the hearings on it had to be completed.

Now, the national organizations in making representations to this committee have, of necessity I believe, to get in touch with their people across the country to find out what they think of it. No matter what we may think or what the national officials may think, all the wisdom does not rest in them any more than it rests in us. We should have an expression of opinion from as wide a constituency as possible. I think we will find a great deal of resentment among the workers of the country at the speed in which this legislation has been forced through parliament. They will inevitably come to the conclusion that, because there were flaws in the legislation, it was held back so there would not be time to consider them and make the necessary representations in regard to them.

I may say, for myself, I was rather surprised at the blanket approval that the officials of the Trades and Labour Congress gave to this bill. Personally, I cannot understand it. However, that is their business. They have just as much right to their point of view in this matter as I have to mine. If they wish to approve of the bill, they have done so I imagine after a full study and they know what they are doing. I can quite understand Mr. Lockhart's difficulty.

The VICE-CHAIRMAN: Shall the motion for the adoption of the steering committee report carry?

Carried.

Now, gentlemen, this is briefly what is before us. The Catholic Syndicate has sent in a brief which your chairman cannot read because it is in French. I have had to have it translated and I will probably have it to-morrow. This organization is not going to appear. They preferred to send in the brief and that will be available to-morrow. We have the railway people here, Mr. Best, appearing for the legislative group. He will find he will be very popular with the committee because his brief is less than two pages. He does not particularly care whether he appears or not. The other gentlemen have a very fine brief, only four pages. We have two additional briefs, both of which will be ready to-night.

I propose, while we are still fresh, that we dispose of Mr. Conroy. He desires to get away, so we might dispose of him and then we could go on with the other two briefs. Perhaps we can complete those this evening. We will call Mr. Conroy first.

Pat Conroy, Secretary Treasurer, The Canadian Congress of Labour, recalled:

Mr. Conroy is prepared to answer questions, gentlemen.

Mr. LOCKHART: Appendix B is not ready as yet?

The VICE-CHAIRMAN: No, it will not be ready until Friday. It will not affect the views of this organization on the bill as it is only for our information.

Mr. MACINNIS: I think, perhaps, the best way to deal with Mr. Conroy would be to question him, if anyone desires to, on the amendments which are proposed to certain sections of the bill.

The VICE-CHAIRMAN: Yes, the field is wide open.

Mr. HOMUTH: In view of the fact this organization has prepared its brief on the bill according to the clauses, we could deal with it pretty much in that manner instead of jumping from one clause to another.

The VICE-CHAIRMAN: A member may be interested only in one or two things, but he may make reference to them. The field is wide open to you.

By Mr. MacInnis:

Q. I think Mr. Conroy was proposing an amendment to section 2, subsection (*h*). There was a phrase, I believe, in the old Industrial Disputes Act which is not in this Act. I believe the phrase on the old Act was,

> "Without limiting the generality of the foregoing, includes any dispute or difference relating to . . ."

I think that phrase, "without limiting the generality of the foregoing . . ." is not in the present Act.

Mr. HOMUTH: What page are you reading from?

The VICE-CHAIRMAN: Appendix A, the first page.

The WITNESS: My opinion of that, Mr. MacInnis, is that we would believe in the interest of security those things should be specified in the legislation.

By the Vice-Chairman:

Q. As being things which may possibly be contained in the agreement, not that they must?—A. Quite.

By Mr. Timmins:

Q. May I ask the witness a preliminary question? On page 2 of your brief you refer to the Canada Temperance Act case. Then there is a considerable amount of argument in respect to the proposed bill 338. I should like to ask this question; does your group suggest that the constitutional question should be raised now and that the enactment of this bill should await the disposition of it or do you want to have the dominion legislate fully upon the labour field across Canada now, basing its authority for so doing on the Canadian Temperance Act case, or do you suggest that this parliament pass a model Act now which will not invade the previously recognized jurisdiction of the province and which legislation the provinces can, one by one, coordinate with? What are you suggesting to this committee; which of these three branches are you suggesting this committee should pursue now?—A. I believe we have suggested five alternative proposals. Basically, we would prefer an amendment that would be applicable throughout the whole of the country. Now, following upon the preliminary statement yesterday on behalf of the C.M.A. calling upon assistance in legal questions, I am going to ask for permission for Doctor Forsey to answer that.

The VICE-CHAIRMAN: Yes, but I do not think you understood the question. As I understood the question, it is whether you want a bill now or whether you want to wait for some constitutional change?

By Mr. Timmins:

Q. Yes, it has been suggested that, having regard to the Canada Temperance Act case, the dominion government has the power now to legislate in this whole field across the country. There is the power to legislate fully on labour matters because it is a matter which is in the paramount interests of the dominion. Are you suggesting that this government should base its legislation upon that Act; that we should legislate now for a national labour code with full power across

the country?—A. I think that involves a statement of policy on behalf of the Congress upon which Dr. Forsey would not, perhaps, be able to take a position. Therefore, I will answer your question.

We believe, rightly or wrongly, and in making this statement we are not deprecating the position of the government or yet of anyone involved in drafting proposed bill 338, but we do believe, because of what we call a lack of positive leadership on the part of the dominion government in falling back on the expected opposition from the provinces, knowing that opposition would come up anyway, they have not as yet explored the possibility of the appropriate amendment to the Act. We are faced with this consideration, and I say to you quite frankly we do not like it. Because of the time factor and the exploring of the controversy that would relvolve around the passing of an amendment to the B.N.A. Act we, of course, have no choice left other than to push for the best possible bill we can secure at the present time.

By Mr. Archibald:

Q. There is one question which I should like to ask. Did you take into consideration opposition that will come from the various provinces for interfering with their rights? Do you believe that the social conditions wthin labour tself are at such a stage of development that the dominion should take the lead in spite of that opposition from the provinces at this time?—A. Well, I made the same observations as part of my reply to the honourable gentleman here. Now, I know it is all very well to castigate a government or governments. They are always popular targets, no matter what their political colouration may be. In spite of that I do believe the position of the government in the matter of the labour code has been, through inactivity, the government has not provided the positive leadership necessary to draw the provinces out of the morass of confusion into which they have got themselves in the matter of economic and social relationship. I quite understand there would have been more disagreement on the part of the provinces involved but, nevertheless, the goals which I hope we are trying to reach would have been much nearer being reached than we are now.

The VICE-CHAIRMAN: Are there any further questions, gentlemen?

By Mr. MacInnis:

Q. I do not think Mr. Conroy dealt with the question which I asked. Mr. Timmins came in with the broader question of constitutionality.

The VICE-CHAIRMAN: It was the $64 question for the moment.

By Mr. MacInnis:

Q. You have included in appendix A a suggested amendment to subsection (8) of section 2. Would you want to include all the points in your amendment in the definition?—A. What page is that on?

Q. It is on page 1 of appendix A. You say,

> We recommend the addition of the following at the end of this paragraph: "And without limiting the generality of the foregoing, includes any dispute or difference relating to, (i) wages, allowances—and so on."

You continue with that to the end of the page?—A. We believe when you talk about industrial disputes you do not talk about the isolated settlement of a dispute, you are talking about the whole range of things which may be involved in employment. It is because of that we do suggest all those things which are relative to any dispute which may or may not take place should be included.

Q. You do not think that is covered in the present definition of a dispute?—A. We do not think so.

By the Vice-Chairman:

Q. While you are at it, I read from section i that this is an improvement on P.C. 1003 in that it includes, I think—tell me if you agree with me—domestic servants, agriculture, hunting and trapping?—A. I think it is an improvement, sir.

Q. Does it include domestic servants?—A. We think so.

Q. Do you or do you not?—A. We think so.

Q. I said I thought it did, but I was not sure.

Mr. JOHNSTON: You just mentioned domestic servants; do you mean agriculture, hunting, trapping and so on?

The VICE-CHAIRMAN: In addition to domestic servants, agriculture, trapping, hunting and so on are included. I just wondered if he agreed with me. I wonder if the department agrees with that.

Mr. BROWN: We did not consider it necessary to exclude them because it was not under our jurisdiction anyway and therefor it was an unnecessary exclusion. They did not come into the picture.

Mr. MACINNIS: Would not the definition of employee here be restricted when you apply it to an industry which would be covered by this Act? "Employee" here must, of necessity, mean an employee in an industry which would come under this act. It cannot take care of an employee in an industry that is not under this act and domestic servants do not come in that category?

The VICE-CHAIRMAN: My purpose in asking the question was, as I understand it, this bill should give leadership to the provinces and I particularly mentioned domestic servants to indicate to the provinces it is not our intention to exclude them.

Mr. JOHNSTON: It does not include them because they do not come within an industry covered.

The VICE-CHAIRMAN: They are included by implication because they are not excluded.

Mr. JOHNSTON: You mean it includes them, but they cannot come under the Act.

The VICE-CHAIRMAN: It is a provincial matter except in the Yukon and the Northwest Territories.

By Mr. MacInnis:

Q. In connection with the works which come under the jurisdiction of this Act you say in page 2 of your brief in the last paragraph,

> The bill also omits two of the specific heads of the old Act and paragraphs 5 and 7 of section 3 (*a*), Works, undertakings or business belonging to, carried on or operated by aliens, including foreign corporations emigrating into Canada to carry on business;

and,

> Works, undertakings or business of any company or corporation incorporated by or under the authority of the parliament of Canada.

Do you feel that those are two important omissions from the Act?—A. The only chance is, Mr. MacInnis, in line with the old Act we believe a provision of a dominion nature should be as wide as possible.

Q. I certainly think, "Works, undertakings or business of any company or corporation incorporated under the Dominion of Canada" should come under the Act. The question of union incorporation came up in some way—

The VICE-CHAIRMAN: It was in the brief of the Manufacturers' Association.

By Mr. MacInnis:

Q. Do you wish to say anything about that?—A. The only thing is I was surprised at the C.M.A. not bringing forward as well as its brief, a rope with a noose around it because they seemed to have in mind that they are going to hang the trade unions. As to incorporation, according all the respect and sobriety to which a brief coming before this committee is entitled, it seems to me that the people who are perennially demanding industrial peace are the ones who are eternally confronting this country with things which create industrial unrest. I do not think they are conscious of what their demand for incorporation of trade unions means. Let us reduce this to proper language.

What the Manufacturers' Association wants is to sue the trade union movement—

The VICE-CHAIRMAN: There is the division bell. We will adjourn until after the vote.

At this point, the committee adjourned during a division in the House.

The committee resumed following the division.

The VICE-CHAIRMAN: Order, gentlemen. Now that our victory in the House is complete let us start all over again. I think Mr. MacInnis was asking a question. Probably he had better ask it again.

By Mr. MacInnis:

Q. I said some mention had been made to the incorporation of unions during the presentation of a brief and I asked Mr. Conroy if he had anything to say on that point. The question may arise again.—A. Mr. Chairman, when the House of Commons called its servants to vote I left off speaking with regard to the purpose of incorporation. The basic purpose, regardless of all the verbiage which is around it—responsibility and all the rest of it—is to put trade unions in the position where employers can sue the trade unions. It rarely occurs to employers that when they have so put trade unions in that position so as to be enabled to sue them they also put trade unions in the position where the trade unions are also in a position to sue the employer; without consideration of the mutual aspect of that problem which would arise from incorporation. It is my suggestion now that incorporation of trade unions would lead to more disputes and a great disharmony in industrial relations than any other thing that I know of. Basically, a trade union can only violate a contract in one way; that is by going on strike during the life of the contract. On all other provisions of the contract, almost without exception, the employer is obligated to do something in that contract; and he would be a very perfect employer indeed if at some time or other he did not violate that contract and the terms thereof. So that by putting labour in the position to be sued labour would probably return the compliment five-fold by suing the employer five times more than the employer could sue the trade union. The net result of that would be complete industrial chaos, and with all due respect to our legal friends—and I am not speaking with my tongue in my cheek—

The VICE-CHAIRMAN: You will need those lawyers yet.

The WITNESS: —or with a twinkle in my eye which they credited Mr. Bengough with. The result would be a legal vendetta with the principal employers on one side and the trade unions on the other being left outside looking into the arena which they themselves are supposed to operate and control.

So much for the implications of incorporation, a contributor to chaos in the industrial field.

Now, why should unions be forced to incorporate when employers are not compelled to incorporate; it is still optional with employers? That is one question employers have not chosen to answer. There are many other points invloved in incorporation. We have noted down the points and the result of the strong emphasis placed on them yesterday which raised a multitude of questions.

At what point should a union be forced to incorporate? Before it starts organizing? Before it signs its first contract?

Would a charter be granted on mere application, or would the government or a government department have discretion to grant or refuse, and thus to prevent a union from functioning, even under incorporation?

Could a charter be revoked, and if so, on what grounds?

Does incorporation imply supervision, and if so by whom?

What power would judges have to declare an incorporated union in receivership and appoint receivers, under court control to manage the union's affairs?

Would unions be required to incorporate under dominion or provincial laws, or could they choose, as businesses do?

Should the national or international union be required to incorporate, or all the locals too?

These are only a few of the troublesome questions that arise when incorporation is proposed as a medium to solve the problem of industrial relations.

I suggest, Mr. Chairman, that while great responsibility is required in the trade union field as in all other fields—and I suggest even in the House of Commons as well—basic to more responsibility is more wisdom on the part of employers and trade unions, and the responsibility will follow. Incorporation will not generate great wisdom; it will only dislocate what may be developing good relationships and make the effect worse than the cause.

The VICE-CHAIRMAN: Are there any further questions? Let us try to get off the briefs. There is nothing in this bill, of course, dealing with incorporation; it was a suggestion made by the Canadian Manufacturers Association, and I think it was merely a suggestion.

Mr. Conroy, may I ask you a question? I asked one of another gentleman yesterday with respect to reinstatement under section 39, I think it is. In any event, I think this bill in effect provides that under the enforcement section in the case of an employer who is guilty of practices which are considered reprehensible under the Act, he can then be charged before a magistrate, he can be found guilty and fined, he may have to pay arrears of wages, or he may have to pay money in lieu of notice. Now, is there anything in this Act that would provide for reinstatement in the case where a man was discharged for union activities?

The WITNESS: Mr. Chairman, I examined this Act quite carefully for a number of very important points, because like all other legislation there are major and minor phases of it. One of the things I have been looking for in this Act, and I do not find it, is a provision for reinstatement. I do believe it must be there if there is a legitimate interest in the interest of the trade union movement, because an employer for good reasons or bad, unless subsequently subject to the law, may dismiss an employee or employees as has happened in a good many cases. He may dismiss an officer or officers of a local union, so long as he is not compelled to reinstate those officers or employees who are in many cases men who have a strong interest in maintaining the union and in many cases are the guiding individuals in the union. It is one of the direct methods of slashing a local union; and we would ask particularly before any bill is passed by the House of Commons that this bill has to add up to order and good

government in industrial relationship, and there should be and must be a provision in there that all discharged employees, discharged unjustly, should also be reinstated, along with any compensation paid. It is necessary to the maintenance of the function and development of the Canadian labour movement.

By Mr. MacInnis:

Q. That provision for reinstatement is now made in most up-to-date agreements where a person is discharged for some misdemeanor, is it not?—A. That is true, sir; but I think it has to be considered that the law of averages presupposes that some employers will take the position that the law supersedes a collective agreement which in the final analysis is only a gentleman's agreement.

Q. I did not make the point as a reason why it should not be put in here; I made it as a reason why it should be here, because it is now a part of most of our up-to-date agreements: an employee is discharged and the discharge is made a matter for consideration between the company and the organization, and if the employee is found innocent of the reason for his discharge he is reinstated and the wages are paid?—A. That is quite true, and it is all the more reason for the reason stated before that it should be in the law; because some employers—I do not say all employers—might take the position that the collective agreement under which they were operating was signed under some degree of duress circumstances, and that sort of thing, and they might fall back on the law or the statutes to complement or supplement any existing agreement with that provision in it. It should be necessary to have it in the law as well.

Mr. MITCHELL: Do you think it is wise to write into the law all the customary provisions in a collective agreement? I have always been fearful of that and I have always argued that what the government gives they can take away. I offer no criticism of the present agreement legislation, but it is obvious in that legislation we have incorporated into law that which normally had its place in a voluntary collective agreement. That is the risk you run in all this legislation when you incorporate in the law what normally comes about in the process of a collective agreement: some government will come along and take away from you things you have enjoyed for generations in a trade or calling or an organization. There is always that danger.

The WITNESS: I will go part of the way with the honurable minister, but I do suggest that in this particular matter what is basically involved is the right to work, and whether we like it or not—whether our governments are the best form or the worst form is a matter of dispute—providing that is one of the features of our law—the basic right to work—when they are merely supplementing that the parties to a collective agreement have been in advance of the law itself. The law, I think, should supplement and follow directly.

The VICE-CHAIRMAN: Mr. Conroy, can you find in the Act any grievance procedure?

The WITNESS: No, not that I know of, sir, other than general provisions of recognizing unions and doing business through boards and all that sort of thing.

The VICE-CHAIRMAN: Section 26. What is your view on that, Mr. Conroy? Or have you any views on it?

The WITNESS: Oh, it is not of major importance, that I can see.

The VICE-CHAIRMAN: It is not? All right.

By Mr. MacInnis:

Q. Is not this the situation, that the employer who is interested in good relations between the employing company and the union prefers that all grievances be taken up through the union; that it relieves him of taking up grievances by individuals that, perhaps, would not be taken up at all if they had to go to the

union?—A. I would say a wise employer who has dealt with the union for any length of time will want, not only for the sake of better relationship but of convenience as well—he will wish to channel all his grievances through the recognized bargaining agency. It is admitted, of course, that we have a number of employers who prefer the back door method of individual employees doing business over the head of the union. That is our objection to this particular clause. I believe that a strong union, which we had hoped would develop out of the National Labour Code—the majority of them—can take care of it. Nevertheless, we think the objection is sound, and that the bill can be improved along the lines we have suggested.

Hon. Mr. MITCHELL: Is it not a fundamental right of the individual to be able to go to his employer? If I get the force of your argument, sometimes a trade union can be a little difficult on its membership. Is it not fundamental that an individual is a free person to go to his employer? It seems to me that is elementary; and I am given to understand that that is embodied in some of the trade union agreements in this country.

The WITNESS: He would have that right, Mr. Minister, if there were a provision in the law. It all depends on whether this practice is being used or abused. No union that I am aware of has ever attempted to stop the individual employee from going to the employer; but I grant it has developed to a considerable extent that employers who wish to by-pass the union, to deprecate, to lower the prestige of the organization, choose the method of the individual employee doing business with the employer direct so that the union be completely by-passed in the practice and as a result we have a multiplicity of bargaining agents.

The VICE-CHAIRMAN: Let me get this across. Take a single employee who will go to an employer with a grievance though there is a bargaining agency in the shop. He may present his case badly, inadequately, and he may get a decision that may be binding on all of the employees in the shop. Is not that the case, or can that be the case?

The WITNESS: It is a possibility. It would not be from the standpoint of the unions recognizing such behind-the-door deal; but the employer could seize upon such a precedent to say that this is the record of discussions and decisions on a particular grievance; it has been done before and it should be done again. Yes, that is possible.

Mr. MACINNIS: Is not this the case? Trade unionism itself is based on the fact of bargaining for a group and that taking up a grievance is a part of the collective bargaining?

The WITNESS: I have also interpreted it that way and I suggest that most employers with good relationships interpret it the same way. I know that collective bargaining is a continuous process. It starts from the first day you sit down with the employer, complete the contract, and then carries on to the expiry of the contract through day-to-day negotiations and interpretations of that contract.

The VICE-CHAIRMAN: Are you satisfied that company unions are completely closed out under this Act?

The WITNESS: I do not think so, so long as you do not disestablish some unions that are not closed out.

The VICE-CHAIRMAN: You mean have authority to disestablish?

The WITNESS: Right.

The VICE-CHAIRMAN: Are there any further questions? I think Mr. Conroy's brief is pretty thorough and clear. I think that our present plans are to finish to-night and that would give the members an opportunity to digest the material

and perhaps we will have the record ready. The minister is attempting to get that for us. It makes interesting reading. There being no further questions, Mr. Conroy, you are excused.

Mr. MACINNIS: Before we go on, Mr. Chairman, there is a question I should like to ask the committee. I think it was Mr. Homuth who made the proposal the other day that persons who had presented briefs, either employers or employees, should wait here and that we consult with them in dealing with the sections of the bill. I do not think it would be either desirable or feasible to instruct them to sit here, but would there be any objection to any person or organization presenting a brief, sitting in and being asked for their opinion when we are dealing with the section?

The VICE-CHAIRMAN: Mr. MacInnis, that is not the wish of the committee as I understand it. I think there is no objection to them being here and listening to the argument which is quite open, but if we start digging out the various sections and asking what the Canadian Federation of Labour thinks of 2(*h*) or what somebody else thinks of 2 (*h*), we can forget about this bill for this year, and I do not think we want to do that. There is no objection to looking for guidance. Is Mr. Best here?

Mr. MACINNIS: I am not pressing for it.

The VICE-CHAIRMAN: Mr. Best is not here so I shall have to read this brief into the record. It is a very short brief and I shall read it into the record.

DOMINION JOINT LEGISLATIVE COMMITTEE

RAILWAY TRANSPORTATION BROTHERHOODS

OTTAWA, Ontario, July 2, 1947.

The Chairman,
Standing Committee on Industrial Relations,
House of Commons,
Ottawa, Ontario.

Re: Bill No. 338 Entitled "An Act to Provide for the Investigation, Conciliation and Settlement of Industrial Disputes".

Dear Sir:—Concerning the hearing being held before your committee on the above subject, the Dominion Joint Legislative Committee of the Railway Transportation Brotherhoods was favoured with a copy of the draft bill on which this measure was based. We were also accorded the privilege of reviewing same in conference with officers of the Department of Labour. As a result, some anomalies and objectionable features were found therein, but appear to have been corrected in bill 338 now before you.

Appreciating the desirability of avoiding unnecessary delay and repetition, we shall not attempt a detailed analysis of the bill. We desire, however, to mention three phases of it which have been subjects of representations by others at this hearing, namely:

Prohibition of Barristers. We believe that an intimate knowledge of the work or service out of which a dispute arises is the best qualification for members of a board of conciliation, in order to ensure an equitable and speedy settlement of such disputes.

Enforcement. We believe that the board charged with the administration, investigation and the reaching of decisions should also be clothed with authority and responsibility for enforcement of the provisions of the Act.

Scope of Coverage. We fully appreciate the desirability of uniformity of legislation to deal with this subject on a national basis, but also recognize the constitutional limitations of parliament's legislative competence on the subject. We strongly urge, however, that the principles of this bill be extended to include within its scope workers of all classes to the limit of that competence where numbers and employment conditions made it practical to do so. The procedure necessary to effect such extended coverage can safely be left to your committee and parliament, but we respectfully urge that such action be not delayed.

Our committee desires to record approval of the general principles of bill 338. We believe, if enacted, it will provide a procedure in dealing with industrial relations that can be accepted with confidence. We are willing to appear before your committee, if desired, but could only re-affirm the suggestions expressed herein.

Respectfully submitted,

WM. L. BEST,
Secretary

A. J. KELLY,
Chairman.

Dominion Joint Legislative Committee.

710 Hope Chambers,
63 Sparks Street,
Ottawa, Ontario.

18 Rideau Street,
Ottawa, Ontario.

For which we thank them.

Now, we have a brief here from the Railway Association of Canada, and Mr. A. B. Rosevear, K.C., assistant general solicitor, C.N.R., is here representing the Railway Association of Canada.

Mr. HOMUTH: Are you going to take the two together?

The VICE-CHAIRMAN: They have considerable in common.

Mr. HOMUTH: I was going to say that there is no one here representing—

The VICE-CHAIRMAN: The Legislative Committee? They are not anxious to come up unless we want them to come up.

A. B. Rosevear, K.C., called:

The WITNESS: Mr. Chairman and gentlemen, I am here representing the Railway Association of Canada. As you know the Railway Association has as its members practically all the railways of Canada including the Ontario Northern, the Algoma Central, the Pacific Great Eastern, and the two major railways, the Canadian Pacific and the Canadian National.

May I be permitted, Mr. Chairman, before reading the brief to make a few very short remarks. I wish to say, first, that it is the desire of the railways of Canada to make what we believe to be constructive suggestions respecting bill 338. Collective bargaining, as you are aware, has been in force on the railways for approximately two generations. Therefore, with all becoming modesty, we think we know a little about it. We hope, therefore, that the committee will realize that any suggestions we have to make are composed of the experience which we have gathered over the years.

Secondly, we wish to point out to the committee something for which the railways have reason to be proud; namely, that for many years we have had very good employer-employee relations. We have learned that the most efficient and least expensive method of dealing with labour relations is to sit around a table and discuss them. During these years we have, by experience, developed men both in the labour organizations and in the railways who have had long years of experience on the railroad. Therefore, they know a great deal about the problems which are under discussion. Also, this has brought about mutual respect, the one for the other.

The only other think I wish to say is that, in dealing with labour relations we feel sure a committee of parliament will bear the fundamental point in mind that what is desired, is stability in labour relations, and this should be the principal aim of any such legislation; but we would expect that any legislation which is now adopted by parliament would be constructive and of assistance in furthering the harmony which already exists in railway labour relations.

Now, with respect to reading the brief, Mr. Chairman, I think the best thing I can do is just go ahead and read it.

The VICE-CHAIRMAN: All right.

The WITNESS: Mr. Chairman and gentlemen: pursuant to the request of the chairman of the Industrial Relations Committee, this brief is being submitted on behalf of The Railway Association of Canada. We wish to submit the following with respect to certain sections of bill 338.

Section 2 (1) (i)—Definition of "employee"

> "employee" means a person employed to do skilled or unskilled manual, clerical or technical work, but does not include
>
> (i) a manager or superintendent, or any other person who, in the opinion of the board, exercises management functions or is employed in a confidential capacity in matters relating to labour relations;
>
> (ii) a member of the medical, dental, architectural or legal profession qualified to practise under the laws of a province and employed in that capacity;

This definition is entirely new. The railways are strongly of the opinion that the regulations in this respect should be made clear and definite and should not be couched in language capable of being construed as intended to include persons who exercise supervisory functions involving duties and responsibilities resting on many such employees classified as chief clerks and foremen employed in various branches of railway service, the inclusion of whom in a bargaining unit would not be conducive to efficiency. Moreover, the inclusion of such individuals in a collective bargaining unit whether or not they so desire to be included would take away from such individuals the democratic rights which we understand the regulations are, in principle, designed to protect. There are also employees employed in a confidential capacity in matters other than those relating to labour relations whose inclusion in a bargaining unit would be most undesirable.

The definition of "employee" in bill 338 by reason of its vagueness is capable of various interpretations.

The following amendment is suggested to section 2 (1) (i) so that the subsection as amended would read:

> (i) a manager or superintendent, or supervisor, or any other person who, in the opinion of the of the board, exercises management functions or is employed in a confidential capacity.

Section 3, subsections (1) and (2)

It is noted that the word "lawful" has been omitted from both of these subsections. This word is included in a similar provision of P.C. 1003 (section 4, subsections (1) and (2). There appears to be no reason for the omission of this word in bill 338 and there is much to commend its inclusion.

Section 6 (1)

Section 4 (3) clearly sets out the intent that no coercion or intimidation of any kind shall be used to counsel or influence an employee to become or refrain from becoming or cease to be a member of a trade union. However, this intent is in effect nullified and the freedom from coercion and intimidation assured to an employee is destroyed by the provision of section 6 (1). It is apparent that if an employer and an employee organization agree upon a "closed" or a "union" shop the democratic right of a workman, who does not wish, for reasons of principle, to be a member of a trade union, to choose his work would be taken away.

Section 6 (2)

Incidentally, it would appear that section 6 (1) renders the provisions of section 6 (2) meaningless.

Section 8

This section provides no means whereby a group of technical employees, not desiring to be included in the scope of a bargaining unit, may withdraw themselves other than by forming a trade union and obtaining certification. In effect, they are coerced into an organization whether they desire this or not. There should be a provision for such technical employees forming a unit appropriate for collective bargaining withdrawing from any larger unit if a majority of them so desire without compelling them to seek certification of bargaining agents whether they so desire or not.

Section 11

This section provides that in the event of any question arising as to whether a bargaining agent any "longer represents a majority of employees in the unit for which it is certified," the board will determine same, but no procedure is set forth for the purpose of getting such questions before the board. This difficulty could be rectified by the insertion after the word "board" in the first line of the section the words "upon the application of any party to a collective agreement".

Section 20 (2)

It is always good business practice to make provisions in all contracts definite so that the subject matter may be considered closed for a definite period of time. The acceptance of that principle is fully recognized and, indeed, emphasized in subsection 1 of section 1. This has been the practice on the railways for many years and has been of mutual benefit.

It would seem fitting that some consideration should be given in this bill to employees who are not included in a bargaining unit. This could be done very readily by including in the bill a provision to the effect that their rates of pay and hours of service could not be adversely affected without them being given reasonable notice. A provision to this effect could be appropriately inserted immediately following section 20.

THE RAILWAY ASSOCIATION
OF CANADA

J. A. BRASS,
General Secretary

June 30, 1947.

The VICE-CHAIRMAN: Now, gentlemen, if there are any questions.

By Hon. Mr. Mitchell:

Q. I would like to ask a couple of questions. You say, employees classified as chief clerks and foremen employed in various branches of railway service. What I am thinking of at the moment is this, you take section foremen, they all belong to the Brotherhood of Maintenance of Way; surely you would not ignore them?—A. It was not our intention, Mr. Mitchell, to exclude anybody who is already the member of a union.

Q. Take the conductor on a train, he is to all intents and purposes in a supervisory position and he is in fact in charge of the train; how about him, the conductors have been organized for the last fifty years?—A. Well, I realize that, but I think our definition was at least one definition. What I had in mind was the supervisory employees, the employees who have the right and responsibility of supervising or giving direction. Now, with respect to that kind of employment, the conductor of a train is not that.

Q. Some people think he is; he would probably think he is, too.—A. I mean, I do not believe that our definition is perfect, but I would like to see a better definition in the Act than the one that is there now. I think it is rather dangerous the way it is now. It is wide open and it lends itself to the possibility of abuse.

Q. I get your contradiction there, I understand that; what appears to you to be a contradiction in section 6; and you say definitely that you are opposed to any principle of a closed or union shop.

The VICE-CHAIRMAN: He does not say he is opposed to a closed or union shop.

The WITNESS: No, I don't say that.

The VICE-CHAIRMAN: I was reading the same thing and I was going to question him on it, but you go ahead.

Hon. Mr. MITCHELL: My point is this, it is the same point that I made to Mr. Conroy. What you are saying is that you think this legislation should take the place of a collective agreement but you would not set it up as a normal basis of employment and understanding between trade unions under the basic law of the country. Now, my point is this; take the building trade, I do not know what would happen to the building trade of this country if you tried to break up the years and years of experience with the union shop in some cases and with the closed shop in others; if you are going to try to govern that by law.

Mr. MAYBANK: We are having difficulty in hearing you here.

Hon. Mr. MITCHELL: I say, I go back to the point I made with Mr. Conroy, that I question the wisdom of putting in the basic law of the country, in legislating on things which are normally part of the free collective bargaining rights of the employer and employees. Take the case of the building trades where they have a union or closed shop, if the employers want it, the employees want it. That has worked out very satisfactorily. I question whether the government should step in and say that you cannot carry on things that way any longer.

The WITNESS: Perhaps the brief does not make this point clear. My point is this—I may be wrong and I am subject to correction—I cannot find anything in the Act itself prohibiting a closed or union shop. I can find nothing in the Act which prohibits that, therefore the object of section 6(1) is neutralized because it can make a union agreement without breaking the Act as it stands, an agreement for a closed shop or a union shop. We could make one without breaking any of the provisions of this Act at all, so why should we put this in to prohibit something that is not prohibited?

Hon. Mr. MITCHELL: Is it not a fact that there is a body of opinion which thinks a union shop or even a check-off is a measure of coercion?

The WITNESS: I suggest that that would be a legal question. I feel that in subsection (2) of section 6 it is intended that there cannot be any coercion. I think that would violate all principles of law.

The VICE-CHAIRMAN: That is where I cannot follow your argument at all. I cannot follow your brief in the light of your comment.

Mr. MACINNIS: Are you referring to page 3, section 6?

The VICE-CHAIRMAN: Yes, to section 6(1). Apparently Mr. Mitchell is of the same view that I am. In this section you say:

> However, this intent is in effect nullified and the freedom from coercion and intimidation assured to an employee is destroyed by the provision of section 6(1). It is apparent that if an employer and an employee organization agree upon a 'closed' or a 'union' shop the democratic right of a workman, who does not wish, for reasons of principle, to be a member of a trade union, to choose his work would be taken away.

Mr. MACINNIS: Is there not some contradiction in what appears in the brief and what he is stating now? In the last half of that paragraph on page 3 which deals with section 6, you refer to the democratic right of a workman being taken away?

The WITNESS: What I am saying here is, let me put it this way; the best thing is to put nothing in the Act which adds nothing to the Act at all. Why put in the Act a clause which says that something is permitted which is already permitted?

Mr. MACINNIS: You mean it will interfere with the democratic right of the individual?

The WITNESS: You see what I mean.

By Mr. Maybank:

Q. You do not want legislation which merely draws attention to a fact?—A. Yes, that is right.

Q. It might not be good legislation but there is just an objection to it from the point of a person who is going to be prejudiced?—A. No. It is a poor principle to put into an Act something which neither adds to it nor takes anything away.

Q. Then it is a mere question of draftsmanship. As to whether it is poor or not has nothing to do with the parties and persons who are going to be affected by it; is that right?—A. Well, it is simply—I would not like to use harsh words about the section itself, but I think perhaps what I said a moment ago would do; that it is a sort of left-handed attempt to insert something into the Act which is supposed to mean something and might not mean that thing at all.

Q. If it does not mean anything at all then it does not hurt any employee?—A. That is right.

Q. And it does not help him either; and it still may not be objectionable from the point of view of the employer. You are arguing against it from the standpoint of legislative draftsmanship.—A. I would agree to that; but I would not say that that is the correct interpretation of it, that is merely our interpretation.

Hon. Mr. MITCHELL: That section has been there for some time, the freedom of a union shop or a closed shop where there is agreement between the employer and the employee.

The WITNESS: I am merely asking whether that could not be done another way.

Hon. Mr. MITCHELL: Let us go back to section 4(3) providing that there should be no coercion nor intimidation of any kind, etc.

The VICE-CHAIRMAN: Actually, this I think bears out Mr. Conroy's suggestion to Mr. MacInnis which he brought to the attention of the committee.

He said that there were more things included in a collective agreement than just wages and hours of work. There are other things that are not included in that section whereas here we first make a statement and then we say, this is not intended to cover this and this condition.

By Mr. MacInnis:

Q. Might I ask a question of Mr. Rosevear? That statement in his brief on page 3 relating to the closed shop and the union shop—taking away the democratic right of a workman of choosing whether he wishes to be a member of a union or not—would you agree, Mr. Rosevear, that the workers because of their organization got better wages and better working conditions?—A. Well, I think that the history of trade unionism has been to that effect. I am not arguing against it, but I do simply argue that a citizen should be permitted to work where he wishes to work. I think that is however, a matter of prinicple on which we could never agree.

Q. I think I am a logical person and I want to try and get the logic of this. Is not every individual in every community compelled to do things because the doing of those things are good for the community? For instance, I have no children, but yet in my municipal taxes I must contribute to the school tax, because the community considers schools are a good thing. I must do my share to support them whether I am opposed to them or whether I have any children to take advantage of the schools. Is not this a similar condition? An organization provides better wages, and working conditions, and the individual who accepts those better wages and working conditions, but does not belong to the organization, is taking something for which he will not pay.—A. Supposing he belongs to another organization—that is the catch in the thing.

Q. Well, it does not apply then. If you insist that he must belong to some organization and pay his share it is all right with me.—A. May I be permitted to say that I do not think I should get into a discussion of this sort.

The VICE-CHAIRMAN: No, I think it would be very well to avoid it. In any event, you would probably finish second best with Mr. MacInnis, and you had better stay out of it. Besides, his position is one which is a little difficult at the moment.

Now is there any further questioning on the brief?

Mr. ARCHIBALD: One thing I would like to get straight is in connection with the B. and B. gangs.

The VICE-CHAIRMAN: What was that?

Mr. ARCHIBALD: Bridge gangs.

By Mr. Archibald:

Q. It is in connection with the B. and B. gangs working in British Columbia. They are under the railroad but yet they are not subject to the British Columbia hours of work, the forty-four hour week. What is there in this bill that would give these workers the protection of the high standards enjoyed generally by the people of British Columbia? I have not found anything in the Act to cover that and I would like to see a minimum or maximum established in some way, shape, or form, so these people could get the benefits they are entitled to as citizens of British Columbia. I have had these complaints come in from the railroad workers.—A. Well, Mr. Chairman, I do not know whether I should answer that except to say this. It is very desirable to the railway, in fact it is essential, that we should have uniform conditions of labour, employment, and wages throughout Canada. We feel in that connection that the labour relations of the railway should be a matter of federal concern. We feel that most strongly, and it seems to me I should make the point quite clear to the committee that the railways in Canada have had harmonious labour relations with employees for

many, many years. We have bargained collectively with our organizations, including maintenance of way, and it is our wish to establish the same wages in one part of the country as in the others, and that the parliament of Canada should deal with labour relations on the railway, rather than provincial legislatures. By doing that we will continue to have efficient and harmonious labour relations on the railways in Canada; otherwise we would have nothing but chaos.

Mr. MACINNIS: In other words you would say a railway worker in British Columbia is not a citizen of the province of British Columbia to the extent that he could take advantage of—

The VICE-CHAIRMAN: Old age pensions?

Mr. MACINNIS: No, the hours of work; the labour legislation that the province may possess.

Hon. Mr. MITCHELL: May I say that this session has approved of that principle.

The VICE-CHAIRMAN: Of course, and we all approve of it in the main.

Mr. HOMUTH: That has nothing to do with the bill.

The VICE-CHAIRMAN: No.

Mr. HOMUTH: Out of curiosity I would like to ask when the last railway strike in Canada occurred?

The WITNESS: The last official strike was, I think, in 1910 or 1911.

Hon. Mr. MITCHELL: Yes, 1910 or 1911.

The WITNESS: It was the Grand Trunk strike.

Mr. MAYBANK: The Grand Trunk strike was in 1908.

Mr. HOMUTH: Yes, I thought 1908 was the last.

Mr. MAYBANK: There have been other strikes.

Mr. HOMUTH: I meant a general strike.

Mr. MAYBANK: There were craft strikes in 1916, quite legal strikes, but they were just craft strikes.

The WITNESS: Might I say that one of our senior vice-presidents was asked a question the other day respecting strikes. He has had many years service on the railway but he has never experienced a strike. He has been in all positions, from superintendent up, and he said he had never experienced a strike.

Mr. MACINNIS: Do you think if all other workers enjoyed the same conditions as those enjoyed by workers on the railroad that we would have very few strikes?

The WITNESS: Well—

Mr. HOMUTH: How do you feel about the exclusion of lawyers?

The WITNESS: Is that a personal question?

The VICE-CHAIRMAN: We will attend to that in committee at the proper time.

Now, gentlemen, it is 6 o'clock, and we have two briefs and bill 24 to deal with to-night. If we are here promptly at 8 o'clock I think we can finish to the point where we can lay out our work for dealing with the bill.

The meeting adjourned at 6.00 p.m. to meet again this evening at 8.00 p.m.

EVENING SESSION

The committee resumed at 8.00 p.m.

The VICE-CHAIRMAN: Gentlemen, the first brief is that of the Canadian Brotherhood of Railway Employees. Mr. Mosher will be presenting the brief. Will you come forward please, Mr. Mosher?

A. R. Mosher, National President, Canadian Brotherhood of Railway Employees, called:

The WITNESS: Mr. Chairman and members of the committee:

The Canadian Brotherhood of Railway Employees and Other Transport Workers is pleased to have this opportunity of appearing before the parliamentary committee on industrial relations to make its submission with respect to Bill No. 338 which is presently under consideration. The Brotherhood makes its submission with the earnest and sincere desire that its suggestions may assist the committee in framing legislation which will bring to the Canadian industral scene a high degree of industrial peace. The suggestions herein contained are made objectively and in the light of past experience.

As the largest Railway and Transport Workers' union in Canada, we have a vital interest in the type of labour relations legislation which parliament will pass. Our principal contention has always been that the parliament of Canada should assume exclusive jurisdiction in the field of labour legislation. We feel that Bill No. 338 is a "National" Labour Code in name only. The arguments in favour of truly national legislation in labour matters have already been urged upon this committee. If we are ever to have any uniformity of labour legislation in Canada, we believe that the dominion government will have to assume jurisdiction.

Our Brotherhood deals mainly with employers who are engaged in national industries which are basic to the country's economy. However, the different types of labour legislation which the provinces have introduced have only served to confuse the situation from the standpoint of both employers and employees. By way of illustration, the Brotherhood has collective agreements with a number of C.P.R. and C.N.R. hotels. The provinces of British Columbia and Saskatchewan have recently introduced legislation which provides for a standard work-week of forty-four hours. Both provinces seek to make their legislation applicable to railway hotels. The employees of the Empress hotel in Victoria, the Hotel Vancouver in Vancouver, and the Hotel Saskatchewan in Regina are in different position from their fellow employees in other hotels operated by the same employers; as between the Saskatchewan and British Columbia employees, the Regina employees are in a more favourable position than their fellow workers in British Columbia due to the fact that the Saskatchewan legislation provides for maintenance of take-home pay coincident with the reduced work-week. Both pieces of legislation, which are similar in import, have been referred to the courts of the respective provinces on the question of constitutionality, and the results have not helped the situation. The Saskatchewan courts have held it to be ultra vires; the British Columbia courts, intra vires. All this needless confusion could be avoided by placing the jurisdiction in these matters under the dominion government. It is to be hoped that parliament will recognize its national responsibility and act accordingly by making the necessary constitutional amendments.

With respect to the bill, the following comments are made:

Section 2 (1) (b): The certification of trade unions instead of individuals is a salutary feature and will work out satisfactorily.

Section 2 (d): The definition of "Collective Agreement" is too narrow. The definition should be broadened so as to include such matters as check-off and union security. The definition should be realistic as there will undoubtedly be some disputes where these matters will be issues.

Section 2 (1) (h): The definitions of "Dispute" or "Industrial Dispute" should be similarly broadened to include the subjects of check-off and union security.

Section 2 (1) (i): The definition of "employee", while it is an improvement over the definition in P.C. 1003, appears to be designed to exclude foremen as "managers" or "superintendents". There is no logical reason for such an exclusion. There is an interesting and important background to this issue. The only jurisprudence on the subject is based on American cases. The point was first brought into question in the United States in 1941 in the Maryland Drydock Case. In that case, the chairman of the U.S. National Labour Relations Board was of the opinion that foremen should be entitled to bargain collectively. However, he was out-voted by the other two members of the board and foremen were denied the rights of collective bargaining. Two years later, the same question came before the New York State Labour Relations Board. That board refused to follow the decision of the national board in the Maryland Drydock Case.

Re Metropolitan Life Insurance Company and Apartment House Superintendents and Resident Managers Local Union No. 219, Building Service Employees' International Union AFL (1943) 6 N.Y.S.L.R.B. page 751. In the course of its decision, the board said:

> Granting superintendents the opportunity to bring their cases before the board offers them and their employers peaceful machinery to determine controversies between them . . . Denying superintendents the facilities of the board's certification process would merely invite the use of the economic weapons which the Act is supposed to discourage. Assuming the matter to be within our discretion, it would hardly appear wise to exercise it in that direction.

By depriving foremen of the conciliation machinery in the new bill they would be forced, in the event of a dispute, to resort to the strike. This would be fallacious reasoning indeed.

In 1945, the U.S. National Labour Relations Board finally reversed its decision in the Maryland Drydock Case and held that foremen are entitled to certification and to the privilege of collective bargaining. *Re* Packard Motor Car Company and Foremen's Association of America, 1945, 61 N.L.R.B. page 4. In a challenging judgment, the majority declared:

> . . . Since the decision in the Maryland Drydock Case, we have observed with concern the important developments in the field of foreman organization. . . . which, we believe, require a consideration of the entire problem.
>
> At the outset it is necessary to describe the nature of the employee-group involved here, for no proper understanding of the problems of these foremen can be had unless their role in modern mass production industry is understood. As to this, there is widespread misconception. We do not have to-day in mass production industry, such as Packard, the kind of

supervisors with which we were familiar, in the 1900's. In those days the foremen were often independent contractors, operating under the loosest kind of production schedule and having plenary authority with respect to such matters as hire, rates of pay, promotion, demotion, transfer, discipline and discharge of employees under their supervision. This was true even in those plants where the foremen were not independent contractors. In their dealing with individual subordinate employees, foremen had the power to make decisions and take action without the necessity of securing the approval of their supervisors. In sum, within his own sphere, a foreman was master of his department. To-day the picture is fundamentally different. Vast aggregations of capital, the presence of thousands of employees under one roof, the introduction of special purpose machinery and tools, extreme specialization and integration of departments, and the development of "scientific management" in general—all have combined to reduce the skilled to the semi-skilled and the semi-skilled to the unskilled; and all this in turn has made the supervisor more the "traffic cop" of industry than the independent foreman of the 1900's . . . The very nature of modern mass production industry requires that the supervisors be constantly subjected to rigid controls and checks from above, for it is essential that there be extremely close co-ordination of production among hundreds of departments . . . in order to meet increasingly exacting standards. This means that the supervisor not only must follow policy which higher management has established, but that in the very carrying out of that policy, he is required to adhere to fixed patterns and procedures also set by higher management. Thus, he is given ready made policies to execute and he is also given standard practice to observe in executing them. Nor have these been the only changes in the foreman's status. The expansion of mass production industry has created a variety of service departments, all of which have worked fundamental changes in the authority and duties of foremen. Thus at Packard—a typical mass-production plant—the employment department does the hiring; the lay-out department lay out the machinery, tools and equipment; the scheduling department schedules the work; the routing department routes the work; the stock or traffic department moves it; the time-study department sets the rates; the inspection department checks the quality; if anything goes wrong, the master mechanic comes in and corrects it; the personnel department handles the grievances of subordinate employees beyond the first stage and retains ultimate control in any event, and other departments handle numerous other employee services.

. . . As the Foremen's Panel of the National War Labour Board has aptly described the situation, "Whereas he was formerly an executive with considerable freedom of action, he is now an executor carrying out orders, plans, and policies determined above;" he is "more managed than managing, more and more an executor of other men's decisions and less and less a maker of decisions himself".

With this picture of the foreman in modern mass industry in mind, his asserted need for collective bargaining becomes more meaningful and the incredibly rapid growth of his organization wholly understandable.

The result has been that supervisory employees have resorted to the only remaining weapon at their disposal to secure recognition—a test of economic strength through strikes and threats of strike. Thus, after the decision in the Maryland Drydock case and from July 1, 1943 through November, 1944, there were twenty strikes of supervisory employees; 131,000 employees were involved, and 669,156 man-days of work were lost as a result . . . . We cannot shut our eyes to these developments since the decision in the Maryland Drydock case . . . .

In a second case, involving the same parties, the U.S.N.L.R.B. reaffirmed its decision in the first Packard case although the board was differently constituted. Re Packard Motor Car Company and Foremen's Association of America, 1945, 64, N.L.R.B., page 1212: The chairman, in a concurring judgment, said in part:

> The company asserts that its supervisory employees are not "employees" at all, but "employers". To the extent that foremen sometimes speak for or bind a respondent in dealing with their subordinates, because then "acting in the interest of an employer", they are "employers" within the meaning of the Act. Here, however, we are not concerned with foremen's relations with their subordinates, but with their own status vis-a-vis the company that hires, discharges and compensates them and that directs their work. In that relation the company is the employer and the foreman the employee; when they sit on opposite sides of the bargaining table, their interests are momentarily adverse. This is true whether they bargain individually or collectively. The foreman is not "acting in the interest of an employer" when he seeks to improve his own working conditions; he is acting for himself. The company suggests that the same man cannot, in logic, be both employer and employee. But "the life of the law has not been logic; it has been experience". High judicial authority has held that a foreman can be both employer and employee . . . the facts of industrial life have made him both . . . .

It is interesting to note that recently the Ontario Labour Relations Board held that foremen and supervisory employees are entitled to be regarded as employees for the purposes of P.C. 1003.

Since the Ontario board's decision, the second Packard Motor Car Company case was heard and decided by the United States Supreme Court. The U.S. Supreme Court upheld the decision of the N.L.R.B. and extracts of the decision are quoted herewith:

> Even those who act for the employer in some matters, including the service of standing between management and manual labour, still have interests of their own as employees. Though the foreman is the faithful representative of the employer in maintaining a production schedule, his interest properly may be adverse to that of the employer when it comes to fixing his own wages, hours, seniority rights or working conditions. He does not lose his right to serve himself in these respects because he serves his master in others. And we see no basis in this Act whatever for holding that foremen are forbidden the protection of the Act when they take collective action to protect their collective interests.
>
> The company's argument is really addressed to the undesirability of permitting foremen to organize. It wants selfless representatives of its interest. It fears that if foremen combine to bargain advantages for themselves, they will sometimes be governed by interests of their own or of their fellow foremen, rather than by the company's interest. There is nothing new in this argument. It is rooted in the misconception that because the employer has the right to wholehearted loyalty in the performance of the contract of employment, the employee does not have the right to protect his independent and adverse interest in the terms of the contract itself and the conditions of work.
>
> There is clearly substantial evidence in support of the determination that foremen are an appropriate unit by themselves and there is equal evidence that, while the foremen included in this unit have different degrees of responsibility and work at different levels of authority, they

have such a common relationship to the enterprise and to other levels of workmen that inclusion of all such grades of foremen in a single unit is appropriate.

There are sufficient cogent arguments in the above to justify the inclusion of foremen and supervisory employees in Bill No. 338, unless they are employed in positions where they are entrusted with confidential information concerning an employer's labour relations policy.

It is suggested, therefore, that "employee" should be defined as follows:

(i) "employee" means a person employed to do skilled or unskilled manual, clerical or technical work, but does not include.

(1) a person who, in the opinion of the board, is entrusted with confidential information concerning his employer's policies or practices respecting the relations between the employer and his employees;

(2) a member of the medical, dental, architectural or legal profession qualified to practice under the laws of a province and employed in that capacity.

Section 2 (1) (r): There should be added the following to the definition of "trade union";

. . . but shall not include any association, committee or group of employees or any other entity purporting to bargain collectively on behalf of any employees whose formation, organization, administration or policy is being aided, influenced, coerced or controlled by an employer or by an agent of an employer.

Company unions should be unequivocally outlawed, in clear and unmistakable terms.

Section 3: Rights of Employees and Employers:

The following section should be added as Section 3 (A):

3 (A): The parties to a collective agreement may insert in the collective agreement a provision requiring, as a condition of employment, membership in a specified trade union, or granting a preference of employment to members of a specified trade union.

The right to a union shop or closed shop should appear as a matter of principle under the heading of "Rights of Employees and Employers", and not as a concession under sufferance as in Section 6 (1).

Section 4 (2): In line 4, insert after "no employer" the following:

. . . or employer's organization and no person acting on behalf of an employer or employer's organization. . . .

Section 6 (1): If one agrees with the suggestion concerning the addition of Section 3 (A), then section 6 (1) should be deleted.

Section 8 provides that upon proof of the existence of a craft unit and majority membership therein, the unit "shall be entitled" to certification. In this respect, this section continues the objectionable provision of section 5(4) of P.C. 1003; in fact, it is more specific than before in that it ensures automatic certification if majority membership in a craft unit can be proven. This can only lead to instability in labour relations. Many establishments are represented, for collective bargaining purposes, by industrial unions. This section can be the cause of much inter-union rivalry in the future. The Labour Relations Board is divested of any discretionary power. In my opinion, the National

Board laid down proper jurisprudence in the case of David Spencer Limited, Victoria and B. C. Retail Meat Employees' Federal Union, Local 222. In that case the board considered whether it would be in the interests of the employees or the employer or in the public interest to establish a multiplicity of bargaining units within one establishment of an employer for the purpose of compulsory collective bargaining. Having regard for the three interests involved (employee, employer and the public), the board denied certification.

However, the board has found it impossible to give proper effect to these three important interests. By reason of the language of P.C. 1003, the board has felt constrained to give automatic certification to craft units if they show majority following, I, myself, have subscribed to this course of action as the Board is only a tribunal which administers a written law.

Pursuant to P.C. 1003, certifications have been granted to craft units which, I am afraid, will have disrupting influences. In one case, the language of P.C. 1003 obliged me to agree to carving out 22 employees from a previously certified unit of 2,800 employees. This was done in spite of the plea of the employer that separate certifications would lead ultimately to as many as 40 bargaining units within the same plant. Quite obviously neither the interests of the employees, the employer nor the public were considered there. My argument is certainly not with the Board as I agreed with the decision. My argument is, however, that the law should be so framed as to allow for these considerations by the Board. In my opinion, the legislation should be so framed as to leave a discretionary power with the board which should have due regard for the interests of employee, employer and the public and should deal with each case according to its merits. The present trend, as evidenced by section 8 can only lead to multiplicity of bargaining agents and to inter-jurisdictional disputes which would militate against the interests of employees, employers and the public.

Section 9(5): This is the section which, presumably, would outlaw company unions. The wording of the section should be tightened up considerably. Firstly, in line 40, the word "formation" should be inserted before the word "administration" so that if it is proven that an employer has dominated or influenced the formation of a trade union, it should not be certified as a bargaining agent. Secondly, if it can be proven that an employer's organization has in any way influenced or dominated the union, then the union should be regarded as a company union. Thirdly, the following words should be deleted from the subsection: "So that its fitness to represent employees for the purpose of collective bargaining is impaired." Under section 9(5) (*a*), it would be necessary to show not only that the union is influenced by the employer but also that such influence has impaired the union's fitness to represent the employees for the purpose of collective bargaining. It is difficult enough, in most cases, to prove the first point. Proving the second point may present insurmountable difficulties. Once influenced by an employer in the formation, administration, management or policy of a union has been proven, the board should hold that trade union to be a company union and disentitled to certification. I would suggest therefore that section 9(5) read as follows:

> 5: Notwithstanding anything in this Act, no trade union, the formation, administration, management or policy of which is, in the opinion of the board, influenced or dominated by an employer or employer's organization, shall be certified as a bargaining agent of employees—

Section 11: In its present form, it is permissible for an employer to apply for decertification. In the hands of certain employers this weapon could be used to harass certified bargaining agents continually by endless litigation before the board. This section is fraught with dangerous possibilities. The brotherhood objects strenuously to this section but says that, at the very least, the

section should enable only a group of employees to apply for de-certification. If, therefore, this section is retained, it is suggested that the following proviso be added to section 11:—

> Provided that an application for revocation hereunder shall be made only by or or behalf of employees in the unit.

Section 14 (*a*): In line 24, I would suggest that there be inserted after the word 'collectively', "in good faith."

Section 24: We believe that, in drafting this section, the department has overlooked the fact that a number of important labour organizations have not obtained formal certification although they have completed collective agreements and same are recognized by all concerned. To compel them to apply for certification would impose a needless burden upon the organizations and the board. At the same time, they should not be placed in less advantageous positions because they have not obtained formal certification. Consequently, it is suggested that this section read as follows:

> A trade union that is not entitled to bargain collectively under this Act or which has not entered into a collective agreement on behalf of a unit of employees shall not declare or authorize a strike of employees in that unit.

Sections 28 to 37—Conciliation Boards: While providing for the machinery of conciliation in the event of a dispute, every attempt should be made to make the conciliation process more meaningful. Actually, the appointees to a conciliation board have a tremendous responsibility. They must "endeavour to bring about agreement between the parties in relation to the matters referred to it" (section 32). Unfortunately, however, it has not worked out very well in practice. Too often, the members who have been recommended by the opposing parties are committed too strongly to the points of view of those who have appointed them. Although there are instances where conciliation boards have succeeded in making exemplary settlements of industrial disputes, there are too many cases where a reading of the reports indicates only too clearly that the members of the board entered the conciliation proceedings with preconceived ideas concerning the merits of the case and where it was a foregone conclusion that they would not agree. In my view this has two very harmful effects. In the first place, it jeopardizes the possibilities of ultimate settlement of the particular dispute and, in the second place, it undermines the general confidence of both management and labour in the usefulness of the institution of the conciliation board. It is not too drastic to say that the institution, as practised to-day, does not have the full confidence of management or labour.

Specifically, the brotherhood suggests the appointment of three standing panels representing management, labour and government. The members of the management and labour panels would be men and women chosen by representative organizations of the respective points of view. The government or chairman's panel would be chosen by the Department of Labour. The members of the panels should be chosen for their integrity, capacity, intellectual and otherwise, and for their experience in the field of industrial relations. In order to attract a high calibre of men, the government should pay a more generous allowance than is the case to-day. The bill provides for an allowance to members of boards of $25 per day. This is clearly inadequate. The additional capital investment would, I believe, yield a good return. Where parties to a dispute are to refer their case to a conciliation board, each party would choose its representative from among the members of the panels and the chairman would be selected from the government panel.

The advantages of such a procedure would be three-fold. First, the members of a conciliation board, not being appointed to deal with a specific dispute, would adopt a more impersonal and, therefore, a more objective approach to the issues involved, thereby enhancing the possibilities of settlement. The parties appearing before such a board would be inclined to regard it as a quasi-judicial body and a greater degree of respect for their decisions would ensue. Second, a body of expert conciliators will thus be established in Canada, which is sadly lacking at the present time. Finally, and not the least important of these considerations, a body of case law—labour jurisprudence—will be developed, not on a hit and miss basis, but in an orderly and long-range manner; the jurisprudence will be fashioned by a group of responsible conciliators. Their actions would be tempered by the realization that they were establishing jurisprudence. The development of this jurisprudence will indicate changing trends and would be of invaluable assistance to all interested parties in formulating their policies.

Sections 39 to 46: These are the "enforcement" provisions of the Act. Provision is made for punishment of offences by "summary conviction", thereby giving jurisdiction in these matters to police magistrates and to justices of the peace. It is submitted that the police court is not the proper forum for the disposition of matters involving industrial relations. A much more intelligent and broader approach to the issues will be available if these matters are heard by the labour relations board. The board should be given the responsibility for determination of offences under the Act. The informal atmosphere before the board, which contains equal representation of management and labour, would be much more conducive to a fuller understanding of the nature of the offences than that of a police court. It is suggested that, whether viewed from the standpoint of management or labour, it would be much more sensible to have the board deal with offences rather than have vindictiveness set in between groups of employers and employees as a result of convictions by police courts. The police court is simply not the proper place to dispose of such far-reaching issues.

Section 40: This section provides for repayment of back wages in the event that an employee is improperly suspended, transferred, laid off or discharged. There is no provision, however, for reinstatement of the employee. The section should make provision for reinstatement without prejudice to the employee, otherwise an employer could discharge the union officials in his plant and expiate his crime by paying a fine and back wages.

Sections 41 and 45: The Brotherhood takes strong objection to these sections which have the effect of making a trade union "a person" for the purpose of its being prosecuted. Once this principle is established by legislation, the next steps will be to make trade unions sueable in civil actions. The principle herein contained strikes at the fundamental concept of trade unionism, namely that it is a voluntary association of workers to which there should not be attached the same degree of liability as in the case of a corporation. For all practical purposes, section 45 has substantially the same effect as if compulsory incorporation had been provided for.

Section 46: This provides for the consent in writing of the Minister of Labour before prosecution proceedings can be instituted. This is quite unsatisfactory. The consent to prosecute should not be issued by the Minister of Labour but by the labour relations board. This is the practice under P.C. 1003 (section 45). Ministers of Labour and governments change from time to time. The possibility of political pressure should not be allowed to attach itself to the matter of law enforcement. The issuance of the consent to prosecute is an administrative function and should be disposed of by the labour relations board which is an administrative body and should not be dependent upon ministerial discretion.

Injunction

The indiscriminate and irresponsible use of the injunction process, particularly the ex parte interim injunction, is coming to be used with increasing frequency. Unfortunately, due to the constitutional division of responsibilities, parliament is helpless to do anything about it even if it wanted to. It occurs to us, however, that the dominion government might use its influence to suggest to the provinces legislation along the following lines:—

> Notwithstanding anything contained in any other Act, no application for mandamus or injunction may be made to a court in connection with any dispute or difference between an employer or employers and his or their employees except by or with the consent of the board, evidenced by a certificate, signed by or on behalf of the chairman of the board.

The injunction procedure comes into operation usually at a critical period of employer-employee relations. Generally speaking, the injunctive procedure is exercised by an employer in the event of picketing activities by his employees in the course of a strike. The labour relations board and the Department of Labour in each province administers the relationships between employers and their employees up to the moment where a strike is called. Very often, in fact almost invariably, the Department of Labour carries on its attempts to settle a strike after a strike is called. The courts do not figure in the picture at any stage of the proceedings. To bring the courts into the picture at the most critical stage of the proceedings is clearly unreasonable and unrealistic.

Courts of law are not familiar with industrial relations. The injunctive process is highly obnoxious to organized labour and its indiscriminate use is certainly not conducive to industrial tranquillity.

It is conceivable that the injunctive process could be used by an unscrupulous employer to frustrate or to negative existing laws respecting labour relations. For instance, the labour relations board may certify a union as bargaining agent contrary to the wishes of an employer; after obtaining certification, a union may enter into negotiations for a collective agreement; the employer may refuse to negotiate or may not find it propitious to agree to a collective agreement; a conciliation board may be appointed which may recommend in favour of the union; the employer may disregard the conciliation board's recommendation leaving the union no choice but to strike. The union may then strike only to find itself frustrated by an injunction.

It is suggested, therefore, that the injunctive process should not be permitted to be used unless there is real justification for exercising it in order to restrain violence, real or apprehended, etc. By requiring an employer to obtain approval of the labour relations board, the courts are not being deprived of any jurisdiction. It is merely a means of ensuring an investigation by a board whose approach to the problem would not be narrow and confined to the specific issue involved but, rather, would approach the problem from a broad standpoint and with a full knowledge of all the implications involved. Such a procedure would particularly avoid the unfair use of the interim injunction. At the present time, an employer, even though he may not have a good case, may gain his immediate ends by breaking a strike (legally called) by obtaining an ex parte interim injunction even though the courts may subsequently refuse to make the injunction permanent. It will be realized that this is not an unreasonable procedure when it is recalled that employees must apply under P.C. 1003, to the board for permission to prosecute an employer.

The Brotherhood endorses the submissions which have been made to this committee by The Canadian Congress of Labour and particularly associates itself with paragraphs 10, 11, 13, 20, 21, 24 and 26 thereof.

Respectfully submitted,

A. R. MOSHER,
National President.

Ottawa, July 1, 1947.

Mr. McIvor: Well read, Mr. Mosher.

Mr. Lockhart: Mr. Chairman, may I clarify one thing; at the points where the word "I", the singular, is used, I take it that that means that it is the president's own personal opinion. The latter part of the brief, the last paragraph, clears up the part with which the Brotherhood associates itself. Is that correct?

The Witness: No, not necessarily. I think there was only one instance where "I" means my own personal view, and that is relating to a case of which I have personal knowledge in connection with the National Labour Relations Board. In all other cases the pronoun represents the view of the Brotherhood. I think there is a very clear distinction where it applies to myself personally.

The Vice-Chairman: Gentlemen, you have heard the brief. Are there any questions at all? Would anyone have any doubts arising in his mind having heard that brief?

Mr. Knowles: I would move its adoption.

Mr. Timmins: Mr. Chairman, I think it is a very comprehensive brief. The arguments are given as it goes along. But there is nothing that I call to mind in bill 338 with respect to injunctions; is that right?

The Vice-Chairman: Go ahead.

Mr. Timmins: I think I must disagree with Mr. Mosher with respect to this matter of injunctions. You are not suggesting, Mr. Mosher, are you, that the parties, either the employer or the employee, can go to court and get an interim injunction just as a matter of course, without having a prima facie case that there has been a breach of the law?

The Witness: He does not have to give any notice to the employees.

Mr. Timmins: Oh, no; that is perfectly all right; but he has to satisfy the court that there has been a breach of the law, a prima facie case, before he gets an interim injunction. You do not agree with that, do you?

The Vice-Chairman: I think Mr. Mosher pointed out that they were ex parte.

Mr. Merritt: Let the witness answer the question. I understand that anyone who applies for an interim injunction shows evidence on the affidavit.

The Witness: Mr. Wright will answer that.

Mr. Wright: I think the answer is simply this, that when an application is made ex parte to the superior court judge for an injunction proceeding the only evidence which as a rule is submitted to the judge in chambers is an affidavit on behalf of the plaintiff in the action. The judge, if he is satisfied that the affidavit indicates a prima facie case, will grant an interim injunction and the writ can be returnable within seven days. As suggested in the brotherhood's brief, by the time the seven days may have elapsed, the strike, called for possibly a very good reason, might have been ended, principally because the interim injunction was obtained without notice to the other side—in this case the union—was obtained before the crucial stage of the strike. On the applica-

tion to make the injunction permanent the application may be thrown out, but the harm has been done and the strike has been broken; and that is the argument.

Mr. MERRITT: But the affidavit would have to show the facts which constitute a prima facie breach of the law.

The WITNESS: In the opinion of the emloyer only.

Mr. WRIGHT: I am saying this, that in actual practice—I speak from my own experience and that of other solicitors—it is not difficult to obtain an interim injunction from a judge in chambers. The presumption is made by the judge, and properly so, that there is a good prima facie case in favour of making an interim injunction. The court only goes into the issues broadly on the application to have the interim injunction made permanent.

Mr. TIMMINS: Supposing there was illegal picketing and the affidavit discloses that there was illegal picketing, there is nothing wrong about a judge granting an interim injunction on the basis of the material brought before the judge. After all, there are more than two sides to this matter—there is the public.

Mr. WRIGHT: I agree, sir, and I am not suggesting for a moment that there are not cases in which the injunction procedure would be capable of being used and properly so; but I do say—and if you refer to the brief that refers to cases where an unscrupulous employer—and unfortunately there are such—can use the device of the interim injunction to defeat a trade union's activities at the crucial stage of the proceedings.

Mr. TIMMINS: Just explain first of all whether you are talking about injunctions in Canada or injunctions that have been granted in the United States? What do you mean by the crucial point in a strike?

Mr. WRIGHT: I am referring only to Canadian experience. What I mean when I refer to the crucial stage of a strike is simply this, and we did give an illustration: a trade union may apply to the Labour Relations Board for certification; it may satisfy the Labour Relations Board that they enjoy the majority membership of the employees in a unit and they obtain certification. They enter into negotiations with the employer. The employer may disagree with the trade union and refuse to sign the collective agreement that is submitted. The parties then apply for a conciliation officer. The conciliation officer may recommend to the minister that he is unable to effect a settlement and may recommend the appointment of a conciliation board. The conciliation board may be appointed—this may be hypothetical, but it is quite possible—this is legislation that the committee is considering at the present time—the conciliation board may meet and either by way of a majority decision or a unanimous decision may recommend in favour of the employees. The employer may still be adamant in his stand and may still refuse to meet the terms of the union, and then in complete frustration the trade union, having no alternative, may see fit to call a strike, a legal strike within the meaning of P.C. 1003 and Bill 338. At precisely the moment when the trade union seeks to call a strike the employer may walk down to a judge in chambers and on the affidavit only of a general manager of the plant may obtain an interim injunction for a period of, say, seven days. Trade union funds are not limitless as some people will believe, and it is precisely within the period of seven days that the entire conciliation machinery may be defeated and the employees may not be able to hold out.

Mr. MERRITT: This seems to suggest that there is a weakness in the law generally. That is what happened in a case that did not involve industrial relations. Now, just carrying your hypothetical case one step further than you did, tell me what kind of affidavit you would visualize a general manager swearing to to support the injunction? What fact would it allege which would be a breach of the law in the case you have suggested?

Mr. WRIGHT: He would allege, generally speaking, that the employees are watching and besetting his premises and guilty of unlawful picketing and as the result of illegal or unlawful activities property damage has occurred or something like that. Those are the allegations.

Mr. MERRITT: Those allegations are allegations of fact, and if those facts had no foundation then the person who swore the affidavit would be liable to prosecution for perjury; is not that the case?

Mr. WRIGHT: Technically, yes he would.

Mr. MERRITT: More than technically; in fact.

Mr. WRIGHT: Yes, in law he would be.

The VICE-CHAIRMAN: As a matter of fact, Mr. Merritt, what he does is: he says that in his opinion there is illegal picketing.

Mr. MERRITT: Mr. Chairman, you are interrupting; because I am rather interested in this question which seems to me to strike generally at the whole administration of our law—not only on the question of industrial relations. The witness did not say he suggests generally there is illegal picketing; what he said constituted facts.

The VICE-CHAIRMAN: I am giving the committee the benefit of some experience in connection, perhaps, with the injunction that was obtained here by the Ottawa Car Company just recently. I know what the affidavit contained. I think the committee would be interested, although the matter is one purely in the provincial jurisdiction and is under the Judicature Act. There is nothing we can do about it. The allegation there was one of alleging—I do not say there was not actual illegal picketing, but it was not proved—but in alleging that he was able to obtain an interim injunction.

Mr. MERRITT: The man who swore that affidavit took the risk that if his allegation was found to be baseless he would be liable to be prosecuted for perjury.

The VICE-CHAIRMAN: No, I do not think so.

Mr. MAYBANK: The affidavit can be made in such a way that even if there is proven grounds there is no danger of perjury. It may be completely disproven but there is not much chance of pejury being charged.

Mr. TIMMINS: Just to keep the record straight, we ought to put on record the fact that with respect of any injunction there has to be a bond put up by the person who obtains the injunction to be responsible for loss and damage. You cannot get an interim injunction without putting up a bond.

The VICE-CHAIRMAN: Yes, under certain conditions when damage is likely to ensue; but in these matters the judges are in the habit of giving injunctions without bond.

Mr. TIMMINS: Now, my second point is: if an interim injunction is given there is no question about it that the person against whom the injunction is given has got the right to arrange for an early appointment and have the matter disposed of forthwith. Thirdly, I do not believe that in Canada we have had an injunction granted which went to the root of defeating a strike or anything like that—nothing as bad as that I have ever heard of.

The VICE-CHAIRMAN: That is a matter of opinion. For the first time in this committee I must disagree with you on two cases that I think I know something of where that at least was the intention of the injunction; and in one case I think it rather worked out as they intended it should work out. But that is not a common practice and it has not become common practice, but it has been more in use in the last three months or six months than I have seen it in the last six years. It is a matter under the Judicature Act, you know, and it probably applies in the other provinces as well. The decisions have been varied on it.

I suppose we might very well, for the moment, let it drop because I do not think it concerns us to-day.

Mr. MERRITT: Several times in these briefs we have been hearing in the last two days, I have seen passages which suggest to me that a very large and influential number of organizations in this country and, perhaps a large number of individuals, have a distrust of our Canadian law. I think it might be very useful if these discussions were brought to the attention of the Minister of Justice and the Attorneys General of the provinces so that this kind of distrust of our law which is the whole foundation of our society can be removed by perhaps some changes in that law if those changes are justified. I cannot see anything that could be more dangerous to the whole foundation of Canadian society than that there should be a group or an individual in Canada who does not have trust in our law.

The WITNESS: May I ask whether any reference is being made to the brief I have presented? If so, I should like to know to what passage you are referring?

Mr. JOHNSTON: I think this discussion could well be carried on after we have heard the witness.

The VICE-CHAIRMAN: We have heard the witness and we are now questioning him. Are there any other questions relative to the brief?

Mr. HOMUTH: There is a question concerning injunctions in the brief and we should like to have Mr. Mosher and Mr. Wright express opinions in regard to it to find out if there have been cases in this respect and how they have been worked out. I agree with Mr. Merritt.

The VICE-CHAIRMAN: We have exhausted that subject for the moment. Are there any further questions?

By Mr. Merritt:

Q. Could Mr. Mosher give us the citation of the Ontario Labour Relations Board case under P.C. 1003 which held that foremen and supervisors could not be regarded as employees which is mentioned on page 4?—A. Just a minute, I think we can.

Mr. WRIGHT: It is the Spruce Falls Power and Paper Company Limited and the International Brotherhood of Paper Makers, Kapuskasing, Foremen's Local 523. It is a decision of the Ontario board and is dated January 29, 1947.

By Mr. McIvor:

Q. I would refer to page 10, line 2 of your brief:

> The principle herein contained strikes at the fundamental concept of trade unions, namely, it is a voluntary association of workers.

Are all your unions voluntary?—A. Yes, sir.

Q. They are not really closed shops?—A. No.

The VICE-CHAIRMAN: Thank you very much, Mr. Mosher and Mr. Wright.

Gentlemen, you have before you a brief from the Hudson Bay Mining and Smelting Company Limited, Mr. Maybank, who is to present this brief?

Mr. MAYBANK: Mr. Green.

W. A. Green, General Manager, Hudson Bay Mining and Smelting Company Limited called:

The WITNESS: Mr. Chairman and members of the committee: I come before you representing the Hudson Bay Mining and Smelting Company Limited of whom I am general manager, not with the idea of passing comment on your new bill, but for the purpose of explaining to you a particular problem which we have and which we would request be rectified by amendment to this bill.

The mine and metallurgical plants of Hudson Bay Mining and Smelting Co., Limited are situated astride the Manitoba-Saskatchewan interprovincial boundary adjacent to the town of Flin Flon, Manitoba. The company is the second largest producer of copper and zinc and one of the largest producers of gold and silver in the Dominion of Canada, and, in addition, produces cadmium, tellurium, and selenium; all of which metals are of such vital necessity in time of war and are also of great importance to the welfare of the nation in time of peace, both from the standpoint of furnishing the raw materials upon which to build up the manufacturing industry without purchasing abroad, and also through its export business to build up foreign credits. Prior to the outbreak of World War II, 85 per cent of the company's zinc production and 100 per cent of its copper production were exported. As an indication of how well the company met the demand for its products when the life of the nation was at stake during the recent war, the following comparison of production of the principal metals during the six pre-war years and the six war years will illustrate:

	1934-39 (incl.)	1940-45 (incl.)	% increase During War Years
Gold	711,878 ozs	997,198 ozs.	40
Silver	9,491,741 ozs	15,145,131 ozs.	60
Copper	300,080,376 lbs	463,264,503 lbs.	54
Zinc	397,349,944 lbs	583,715,558 lbs.	47

In every sense of the word, the company's operation is for the benefit of Canada as a whole, and due to its geographic position is, in addition, for the benefit of two or more provinces as defined in the B.N.A. Act, Section 92-10-c. This being the case, it is submitted that it should be so declared by the parliament of Canada.

The following brief summary of the employment and operating conditions at the mine and plant will emphasize the necessity for one jurisdiction in labour matters.

(1) The company's head office is in Manitoba.
(2) Employees are all hired in Manitoba.
(3) Employees are paid in Manitoba.
(4) Ninety-five per cent of the employees reside in Manitoba.
(5) Five per cent of the employees reside in Saskatchewan.
(6) The number of employees working in each province is about equally divided.
(7) The work is of such nature that certain employees are back and forth between the two provinces throughout their shift work every day, while others may work in one province one day and in the other the next.

I would ask the members to turn to the attached drawing*. This drawing shows Saskatchewan in blue and Manitoba in yellow. The ore body is outlined in red. You will note that the boundary line runs through the smelter building, through the zinc building, through the mill and cuts the ore body and the mine in two places.

By Mr. Knowles:

Q. Mr. Green, would you also indicate on that large map behind you this location, if you can reach that high?—A. It will be difficult to show you. It is at that jog which comes in there. It is a correction line.

Q. It is just opposite the "N" in Saskatchewan?

Mr. MAYBANK: Just about on a level with the printing of "Saskatchewan and Manitoba."

The attached drawing (Appendix "A") shows the position of the mine and ore body, as well as the main metallurgical plants of the Company, in respect to the interprovincial boundary.

*Drawing not printed.

Under the present situation, it is an utter impossibility to say who should come under Saskatchewan regulations and who should come under Manitoba regulations. By way of illustration, the following cases may be cited:—

(1) Train crews are operating ore trains on standard-gauge tracks throughout the day and night, hauling ore from the south main shaft in Saskatchewan to the crushing plant adjacent to the north main shaft in Manitoba.
(2) Train crews are operating continuously along haulage ways driven underground between the two provinces.
(3) Miners may be working in one province one day and in the other province the next day.
(4) Operators in the mill, zinc plant, and smelter buildings are passing back and forth across the boundary line continuously in order to carry on their work.
(5) Mechanics, electricians, boilermakers, carpenters, truck drivers, and all service department employees are almost certain, at some time or other, to be obliged to cross the boundary, although the various auxiliary shops are in Manitoba.

The foregoing are general examples, and it might be added that of the some 2,200 employees of the company, there would be scarcely anyone but who sooner or later might be called upon to cross the border.

Throughout the war years the company's operations came under dominion jurisdiction and there were no problems of dual authority such as the operation is confronted with now. The company and its employees as represented by their Unions have enjoyed the finest relations, and on April 19 of this year completed a renewal of their collective bargaining agreement, mutually satisfactory to all concerned. Under the agreement the employees enjoy the following advantages:

(1) High wages.
(2) The best shift differential in the industry.
(3) Annual vacations with pay for hourly-paid employees on a graduated scale, from one week (six days) after one year's service to fourteen days after nine years' service, with an extra seven days added (total: twenty-one days) for those having fifteen years' or more service with the company.
(4) Group life insurance.
(5) Old age pensions.
(6) Non-occupational accident and sick benefits.
(7) An all-embracing health and medical plan believed to be second to none.
(8) A voluntary check-off.
(9) A no-strike, no-lockout clause, with a method of procedure for arbitration and final settlement of dispute.

The above conditions of employment are stated in order to give a full understanding of the situation. There is no desire on the part of the company, nor, I am sure, on the part of the employees as represented by their unions, to dodge any responsibilities under the laws of any province, but rather, in the cause of industrial harmony and in the best interest of all concerned, it is felt that there should be one authority to which the company and the employees should be responsible in matters of labour legislation. In speaking of labour legislation, it is meant to include conditions of employment as well as procedure for collective bargaining and settlement of disputes. Under P.C. 1003 and, it is understood, under the newly proposed Dominion Industrial Relations and Disputes Investigation Act, those operations which come under dominion jurisdiction must: (1) bargain regarding conditions of employment, including

rates of pay, hours of work, or other terms or conditions of employment; and (2) once an agreement is entered into by collective bargaining, the parties bound by the agreement must do everything they are required to do in accordance with that agreement.

It is felt that if those conditions of employment which have been arrived at in good faith are to be effective, and in order to prevent trouble for all concerned (i.e., the governments, employees, and employers), there should be an additional clause added to the new Labour Bill which would, subject to such acts or regulations as the dominion government may from time to time enact, give force of law to the terms of the collective agreements arrived at under the Act.

Where money is involved, as in the case of taxes, royalties, compensation insurance premiums, etc., suitable arrangements can be made to meet the requirements of each province. It is quite apparent that matters involving human rights, such as labour relations and conditions of employment, cannot be arbitrarily divided. It is agreed by all concerned that it is impractical to work under two sets of regulations and two authorities insofar as labour matters are concerned, and the only solution is to come under the labour jurisdiction of the dominion government.

SUMMARY

As a result of months of study and negotiations, the situation now stands as follows:

(1) The six labour unions representing the employees have, by formal resolution and otherwise, requested that all phases of labour legislation other than workmen's compensation be vested in the dominion government. (See Appendices "B", "C", and "D".)

(2) The Hudson Bay Mining and Smelting Co., Limited has requested both provincial and dominion authorities to take the necessary steps to have the company's operations brought under dominion jurisdiction in all labour matters.

(3) The provinces of Manitoba and Saskatchewan have both requested that the dominion government take over complete labour jurisdiction of the company's operations, other than for workmen's compensation.

(4) The Dominion Department of Labour has submitted certain proposals to the provincial governments to fulfill the desires of all concerned, and these proposals have been approved of by both the provinces of Manitoba and Saskatchewan.

In view of the foregoing, and to improve and maintain harmonious industrial relations by the removal of an impossible situation, it is hoped that the Industrial Affairs Committee will see fit to recommend to the Parliament of Canada for adoption the proposals put forward as a solution to the problem by the Dominion Department of Labour and approved by the provincial governments.

Respectfully submitted,

HUDSON BAY MINING AND SMELTING CO., LIMITED,

W. A. GREEN,
General Manager.

APPENDIX

RESOLUTION *RE* JURISDICTION IN LABOUR LEGISLATION AT THE PROPERTY OF THE HUDSON BAY MINING AND SMELTING CO., LIMITED, FLIN FLON, MANITOBA

Whereas: The trade unions hereunder named, having a collective bargaining agreement with the Hudson Bay Mining and Smelting Co., Limited at Flin Flon, Manitoba, whose operations are in two provinces, are desirous for the purposes of the practical application of labour legislation that we be brought within the jurisdiction of the federal government in the same manner as we were in the application of P.C. 1003, Wartime Labour Relations Regulations;

Therefore be it resolved: That we, the undersigned duly authorized representatives of the trade unions herein referred to, request that the Honourable the Minister of Labour for the province of Manitoba and the Honourable the Minister of Labour for the province of Saskatchewan take the necessary and appropriate action leading to the granting of this request.

FLIN FLON BASE METAL WORKERS' FEDERAL UNION No. 172

G. M. FERG, *President*
HENRY SCHELLENBERG, *Secretary*
D. A. MCEACHERN, *Bargaining Representative*
J. A. LAVIS, *Bargaining Representative*

INTERNATIONAL ASSOCIATION OF MACHINISTS, FLIN FLON LODGE No. 1848

G. W. JAMIESON, *President*
H. J. RUTLEY, *Vice-President*
GUNNAR FOLKESTON, *Bargaining Representative*
MILES ANDERSON, *Bargaining Representative*

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL UNION No. B-1405

DON M. DOW, *President*
W. WARNICK, *Secretary*
HOWARD BAYLEY, *Bargaining Representative*
PETER MCSHEFFREY, *Bargaining Representative*

INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIP BUILDERS AND HELPERS OF AMERICA, LOCAL UNION No. 451

H. FORSYTH, *President*
J. A. HEWITT, *Secretary*
S. E. T. DODD, *Bargaining Representative*
WM. HINDE, *Bargaining Representative*

UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, LOCAL UNION No. 1614

R. A. FREDERICKSON, *President and Bargaining Representative*
E. A. STENBACH, *Vice-President*
A. G. BRICE, *Bargaining Representative*

BROTHERHOOD OF PAINTERS, DECORATORS AND PAPERHANGERS OF AMERICA, LOCAL UNION No. 1497

GEORGE GARNER, *President and Bargaining Representative*
J. BUCKLAND, *Secretary*
ALEX BONWICK, *Bargaining Representative*

APPENDIX

RESOLUTION OF NORTH OF 53' TRADES AND LABOUR COUNCIL *RE* FEDERAL JURISDICTION IN LABOUR LEGISLATION AT FLIN FLON, MAN.

Whereas: The trade unions having a collective agreement with the Hudson Bay Mining and Smelting Co. Ltd., at Flin Flon, Manitoba, have petitioned the Honourable the Minister of Labour for the province of Manitoba and the Honourable the Minister of Labour for the province of Saskatchewan requesting that jurisdiction in labour legislation be brought within that of the federal government, and;

Whereas: This proposal appears to be the most practical solution to the problem as it obtains at Flin Flon where operations of the above referred to mining company are in two provinces.

Therefore be it resoluved: That this trades and labour council hereby desires to be recorded as supporting these affiliated trade unions in this request and that copies of this resolution be forwarded to the Executive Council of the Trades and Labour Congress of Canada, to the Manitoba and Saskatchewan Executive Chairmen of the Trades and Labour Congress of Canada and to the Honourable Ministers of Labour concerned.

Done and passed this 18th day of February, 1947.

NORTH OF 53' TRADES AND LABOUR COUNCIL

PETER MCSHEFFREY, *President*
THOS. B. WARD, *Secretary-Treasurer*

APPENDIX

Flin Flon, Manitoba,
MAY 16, 1947.

W. K. BRYDEN,
Deputy Minister of Labour,
Regina, Sask.

Re you letter of May twelfth with reference to labour legislation at plant of Hudson Bay Mining and Smelting Company stop following conference today we are agreed that all phases of labour regislation should be vested in the federal government with the exception of workmen's compensation accident fund legislation which both the mining company and the unions are agreed should be retained by the province stop will confirm this information by letter.

PETER McSHEFFREY,
(President, North of 53 Trades and Labour Council).

The VICE-CHAIRMAN: I think we ought to hear from the Minister for a a moment, now?

Hon. Mr. MITCHELL: I would just like to say a couple of words on this. I have carried on correspondence with the Provincial Governments of Manitoba and Saskatchewan and I think it would be well if, rather than read them, I were to file them from the actual record. I have on my file as well, letters from the Trade Union organization, but, as Mr. Green has mentioned it in his brief, I do not think it is necessary to file it.

The VICE-CHAIRMAN: It is in the brief.

Hon. Mr. MITCHELL: I would say this to you. The position is that it is not for the general good of Canada but rather it is for the unique condition faced by the industry where it goes underground into both provinces—Manitoba and Saskatchewan. These amendments that have been drafted have not, of course, been approved by the government and that should be clearly understood, although personally, I feel it is a most sensible approach owing to the conditions which exist in the particular industry. With your permission I will file these for the record.

Mr. MAYBANK: That is the correspondence between the governments?

Hon. Mr. MITCHELL: With Manitoba and Saskatchewan.

The VICE-CHAIRMAN: May that be a part of the record?

Carried.

MINISTER OF LABOUR

SASKATCHEWAN

JUNE 17, 1947.

Honourable HUMPHREY MITCHELL,
Minister of Labour,
Ottawa, Ontario.

Dear Mr. Mitchell: The Premier has asked me to deal with your letters of June 5th and June 10th regarding the Hudson Bay Mining and Smelting Company Limited.

I have given some study to the legislative proposal contained in your letter of June 10th, and I have paid particular attention to the explanation of that proposal contained in the second last paragraph of your letter. This paragraph reads as follows:

"As I advised you in my letter, a limited declaration is not considered legally feasible by the law officers of the Crown. On the other hand, as I advised you, the fact that the Dominion has made an unlimited declaration does not vest in the Crown any proprietary interest in the undertaking of the Company, and the opinion of the law officers makes it clear that provincial proprietary rights are not affected by such declaration, neither has the Dominion any legislative interest in the operations of the Company other than to provide at the instance of the provinces concerned a solution for the difficulties in the matter of labour legislation which the Government of your Province and the Government of Manitoba have recognized and wish to meet".

On the basis of the understanding contained in the paragraph just quoted, it appears to me that your legislative proposal will solve satisfactorily the difficult problem existing in relation to the Hudson Bay Mining and Smelting Company, and I would therefore request, on behalf of the province of Saskatchewan, that you submit this legislation to Parliament for approval.

Yours sincerely,

(Sgd.) C. C. WILLIAMS,
Minister of Labour.

PROVINCE OF MANITOBA

MINISTER OF LABOUR

WINNIPEG, June 13, 1947.

Hon. Humphrey Mitchell,
Minister of Labour,
Ottawa, Ontario.

Re: Hudson Bay Mining and Smelting Co. Ltd.

Dear Mr. MITCHELL,—Your letters of June 5 and 10 reached me on my return to the city yesterday.

The proposal contained in your letter of June 10 by way of amending your proposed labour relations legislation as contained in draft sections 73 and 74 to be added to that legislation, has been considered. I see no reason why the proposal should not work out satisfactorily. It will place the above Company's plant under the control of the Dominion for legislative purposes and the proposed section 74 will have the effect of the Dominion occupying the field in respect of rates of pay, hours of work, etc.

The terms of the proposed legislation are in accord with the desires of our Government and we therefore approve the proposals.

Yours very truly,

(Sgd.) C. R. SMITH,
Minister of Labour.

OTTAWA, June 10, 1947.

Honourable C. Rhodes Smith, K.C.,
Minister of Labour for Manitoba,
Winnipeg, Manitoba.

Re: Hudson Bay Mining and Smelting Co. Ltd.

Dear Mr. SMITH,—Since writing you on the 5th instant with reference to the above, the representatives of the Hudson Bay Mining and Smelting Company Limited have submitted to me for consideration a specific legislative proposal designed to take care of the difficulties of the situation of the Company, and which are in accordance, I understand, with the discussions which the Company has had with your Government.

This legislation, it is suggested, would be submitted by way of an amendment to our proposed labour relations legislation.

> 73. The works and undertakings of Hudson Bay Mining and Smelting Co., Limited, in the Flin Flon Mineral area on both sides of the interprovincial boundary line between the Provinces of Manitoba and Saskatchewan, are hereby declared to be a work for the general advantage of two or more of the provinces.
>
> 74. The rates of pay, hours of work, vacations with pay, and other conditions of employment (but excepting Workmen's Compensation), of employees of Hudson Bay Mining and Smelting Company Limited, employed upon or in connection with the works and undertakings of the said Company described in section seventy-three, shall be such as are established from time to time by collective agreement between the said Company and the bargaining agents of said employees.

As I advised you in my letter, a limited declaration is not considered legally feasible by the law officers of the Crown. On the other hand, as I advised you, the fact that the Dominion has made an unlimited declaration does not vest

in the Crown any proprietary interest in the undertaking of the Company, and the opinion of the law officers makes it clear that provincial proprietary rights are not affected by such declaration, neither has the Dominion any legislative interest in the operations of the Company other than to provide at the instance of the provinces concerned a solution for the difficulties in the matter of labour legislation which the Government of your Province and the Government of Saskatchewan have recognized and wish to meet.

I shall appreciate, therefore, if you will give this legislative proposal your early consideration and let me know whether the terms are acceptable to you and if you are satisfied that this legislation should be submitted for approval of Parliament.

Awaiting your further advice,

Your sincerely,

(*Sgd.*) HUMPHREY MITCHELL.

OTTAWA, June 10, 1947.

Honourable THOMAS C. DOUGLAS,
Premier,
Province of Saskatchewan,
Regina, Saskatchewan.

Re: Hudson Bay Mining and Smelting Co. Ltd.

Dear Mr. PREMIER: Since writing you on the 5th instant with reference to the above, the representatives of the Hudson Bay Mining and Smelting Company Limited have submitted to me for consideration a specific legislative proposal designed to take care of the difficulties of the situation of the Company, and which are in accordance, I understand, with the discussions which the Company has had with your government.

This legislation, it is suggested, would be submitted by way of an amendment to our proposed labour relations legislation.

> 73. The works and undertakings of Hudson Bay Mining and Smelting Co., Limited, in the Flin Flon Mineral area on both sides of the interprovincial boundary line between the Provinces of Manitoba and Saskatchewan, are hereby declared to be a work for the general advantage of two or more of the provinces.
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As I advised you in my letter, a limited declaration is not considered legally feasible by the law officers of the Crown. On the other hand, as I advised you, the fact that the Dominion has made an unlimited declaration does not vest in the Crown any proprietary interest in the undertaking of the Company, and the opinion of the law officers makes it clear that provincial proprietary rights are not affected by such declaration, neither has the Dominion any legislative interest in the operations of the Company other than to provide at the instance of the provinces concerned a solution for the difficulties in the matter of labour legislation which the Government of your Province and the Government of Manitoba have recognized and wish to meet.

I shall appreciate, therefore, if you will give this legislative proposal your early consideration and let me know whether the terms are acceptable to you and if you are satisfied that this legislation should be submitted for approval of Parliament.

Awaiting your further advice,

Yours sincerely,

(Signed) HUMPHREY MITCHELL.

Mr. KNOWLES: Will that also be true of the appendices which Mr. Green did not read? They should be included in the record.

The VICE-CHAIRMAN: Yes.

Mr. ADAMSON: Would this require only a recommendation of the committee or would an amendment to the Act have to be drafted?

Hon. Mr. MITCHELL: It will have to be an amendment to the Act.

The VICE-CHAIRMAN: The committee will draft an amendment and pass it, subject to the department agreeing that it is a proper one. We will agree on it.

Mr. MAYBANK: In order to make that somewhat more clear, by reason of the fact Mr. Mitchell did not read the letters which he has laid on the table, I have copies of them here, and I understand they have been mimeographed and the proposals which were made actually went the length of suggesting the precise changes in the law which precise changes were submitted, both Mr. Green and Mr. Mitchell have said, to the respective governments and they have agreed. That answers your point, Mr. Adamson. It is that unique case where everybody seems to agree.

Mr. MCIVOR: I must say I am agreeably surprised by page 5. I think this is one of the finest things we have seen. If they have co-operation like this between the two provinces and the dominion there will be no trouble. I think this is just what we have been working for. Where the men and women workers and the management have agreed, and with a no strike, no lockout clause, with the method of procedure for arbitration and final settlement provided for, you do not even need the dominion government to help these people. They can look after themselves.

Mr. HOMUTH: We certainly do not need them.

The VICE-CHAIRMAN: This concludes all we have scheduled for to-night. To-morrow morning we have two things at 10.30 a.m. We have the brief of the Catholic unions which will be read in the morning, and we have bill 24, if you recall, known as the Knowles bill. There are some representations to be made both by the Department of Transport and also the legal departments of the railways on that. They will be available to-morrow morning. We hope to-morrow morning to conclude our hearings.

By Mr. Johnston:

Q. Before Mr. Green leaves I should like to ask this question. I was looking at the map. I noticed a smelter, a zinc plant and a mill, according to the map, which are built right on the boundary line. Why was that?—A. In building plants of that sort you try to depend on gravity for the flow of your material through the plant. It just so happens that along there is a hillside and, of course, at the time that plant was built there was no thought of troubles of this sort.

Q. Would you not have thought when you built that right on the boundary line that there might be some difficulty later on? As you say there might have been a slope on the land, but I do not think that slope—it may have but I doubt it—would have quit so suddenly that you could not have put them all in one province or another.

Mr. HOMUTH: They were not sure what type of government would be in either province.

Mr. JOHNSTON: I am asking Mr. Green.

Mr. MAYBANK: If it only depends on the buildings—

Mr. JOHNSTON: I am asking Mr. Green. I know what your answer will be.

Mr. MAYBANK: I thought you were making a statement.

The VICE-CHAIRMAN: Order, order; this is not the House of Commons.

Mr. MAYBANK: Mr. Chairman, on a point of order, I respectfully submit to the other members of the committee that the chairman should stand and be more dignified when he calls order.

The WITNESS: Actually to have found a location where you could have made use of gravity flow in your plants it would have meant removing the plant to some distance away from the mine shaft. It would be a more expensive operation.

The VICE-CHAIRMAN: It looks as though it just happened.

Mr. JOHNSTON: I do not think so.

The VICE-CHAIRMAN: Oh, I do not know. Saskatchewan agrees, anyway. Thank you.

The committee adjourned at 9.25 p.m. to resume on Thursday, July 3, 1947, at 10.30 a.m.

SESSION 1947

HOUSE OF COMMONS

STANDING COMMITTEE

ON

INDUSTRIAL RELATIONS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 5

THURSDAY, JULY 3, 1947

WITNESSES:

Mr. E. A. Driedger, Senior Advisory Counsel, Department of Justice, Ottawa;

Mr. A. B. Rosevear, K.C., Assistant General Solicitor, Canadian National Railways;

Mr. E. B. Hawken, Assistant-Secretary and Staff Registrar, Canadian National Railways;

Honourable Lionel Chevrier, M.P., Minister of Transport.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1947

MINUTES OF PROCEEDINGS

THURSDAY, 3rd July, 1947.

The Standing Committee on Industrial Relations met at 10.30 o'clock a.m. Mr. Croll, the Vice-Chairman, presided.

Members present: Messrs. Adamson, Archibald, Beaudoin, Baker, Blackmore, Charlton, Cote *(Verdun)*, Croll, Gauthier *(Nipissing)*, Gibson *(Comox-Alberni)*, Homuth, Johnston, Knowles, Lafontaine, Lapalme, MacInnis, McIvor, Maybank, Mitchell, Ross *(Hamilton East)*, Sinclair *(Vancouver North)*, Skey, Timmins, Viau.

The Chairman informed the Committee that a brief in the French language from the Canadian and Catholic Confederation of Labour had been received. He read a translated version.

It was ordered that the French language version be printed in conjunction with the translated copy.

Mr. E. A. Driedger, Senior Advisory Counsel, Department of Justice, Ottawa, was called. He read a prepared paper on the constitutionality of Bill No. 338.

It was ordered that the Department of Justice be requested to have a legal adviser in attendance in the Committee during the clause-by-clause consideration of Bill No. 338.

It was also ordered that the paper described as *Appendix "B"* in the introductory remarks of Mr. Pat. Conroy, Secretary-Treasurer, the Canadian Congress of Labour, in his presentation to the Committee on Monday, 30th June, be printed when received as an appendix to the evidence.

The Committee considered the subject-matter of Bill No. 24, an Act to amend the Railway Act.

Mr. Knowles, sponsor of the bill, made a statement.

Debate followed.

Mr. A. B. Rosevear, K.C., representing the Canadian National Railways, was called. He made a statement and was questioned.

Mr. E. B. Hawken, Assistant-Secretary and Staff Registrar, Canadian National Railways, assisted during the questioning.

Honourable Lionel Chevrier, M.P., Minister of Transport, was in attendance. He made a statement in support of the presentation made by the Canadian National Railways and informed the Committee that he had received representation on behalf of the New York Central Railway Company. He suggested that this Company be permitted to make a presentation to the Committee.

It was ordered that the Canadian Pacific Railway Company and the New York Central Railway Company be informed that the committee is prepared to hear their representations on Monday, 7th July.

The Committee adjourned at 12.30 o'clock p.m., to meet again at 10.30 o'clock a.m., Monday, 7th July.

J. G. DUBROY,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS,

July 3, 1947.

The Standing Committee on Industrial Relations met this day at 10.30 a.m. The Vice-Chairman, Mr. D. A. Croll, presided.

The VICE-CHAIRMAN: Gentlemen, I am sorry we were not ready to proceed at 10.30 but it took some time to get this brief prepared. You now have the brief from the Catholic Federation and I think it had better be read in fairness to all concerned. I will read it:—

SUBMITTED on behalf of The Canadian Catholic Confederation of Labour to the Standing Committee on Industrial Relations in connection with bill 338 (An Act to provide for the Investigation, Conciliation and Settlement of Industrial Disputes).

June 30, 1947.

1. First of all the CTCC wishes to express its appreciation for the procedure followed in the preparation of the federal legislation relating to industrial problems. As early as the month of October, 1946, the hon. Minister of Labour summoned a federal-provincial conference of all the ministers of labour of the country in order to study the problems relating to labour. In December, 1946, a first draft relating to industrial relations and labour disputes was submitted confidentially to the principal Canadian trade unions in order to ascertain their opinion on the subjects discussed. The CTCC was informed that the employers' organizations and the provincial governments were also consulted. On June 17, 1947, a bill (No. 338) was given first reading at Ottawa, and the different associations concerned were invited by the Chairman of the Standing Committee on Industrial Relations of the House of Commons to present their views on the subject. The present brief is a reply to this invitation.

2. Bill No. 338 seems to concern only the industries over which the federal jurisdiction established, and respects the autonomy of the provinces. That is altogether in accordance with the views of the CTCC. As a matter of fact, the brief submitted to the federal authorities by our organization (which include 70,000 salaried workers) on March 13, 1947, says:—

> the public considers the expression "National Labour Code"as a federal code intended to regulate the industrial relations in all fields of economic activity, without taking into consideration the jurisdiction of the provinces established by the Canadian constitution.
>
> The CTCC objects to such a labour code. It favours the upholding of the jurisdiction of the provinces in pursuant to the provisions of the British North America Act, and admits the justification of a national labour code, provided it will govern only the industries over which the Canadian constitution recognizes a federal jurisdiction.

The CTCC does not believe that bill 338 is a national labour code, but industrial legislation subjecting to its provisions the industries under federal jurisdiction. Of course, our organization has no intention to pretend to be an

authority on constitutional matters, but since it has not heard of any opposition on that point, it supposes that the Canadian constitution has been respected.

3. Bill 338 establishes the principle of the legal existence and responsibility of all the workers' associations. Since its foundation the CTCC has always favoured this principle. Our organization thinks that the workers' associations as well as the employers' associations must begin by having a legal existence, a juridical personality, for the protection of their individual members as well as to assert their intention of respecting the laws of the country. We believe that this is a fundamental reform designed to ensure the maintenance of the social order.

4. Bill 338 rules that every collective agreement must provide an appropriate procedure intended to settle with finality the disputes which are liable to arise during the life of the said agreement. The CTCC endorses that provision of the bill and believes that the practice of holding joint conventions cannot really enter and stay in our democratic way of life unless the normal duration of the joint conventions (generally 12 months) constitutes an uninterrupted period of production, and it is the responsibility of the parties to establish an efficient procedure (without interruption of work or lockout), in order to settle, during that period, all the disputes which might arise between them. The right to strike persists when the negotiations fail and that the other procedures have been followed. This right to strike, however, as well as the right to picket, are not, in the opinion of the CTCC sufficiently protected by the Criminal Code, and the Department of Justice should undertake immediately the serious study of these questions by consulting the people concerned.

5. With this bill 338, the associations' security, supported by established customs and negotiated in many agreement, is embodied in the statutes. It is an advance worth noting. The CTCC believes that in these matters, protection of the minority associations had to be insisted upon, and the bill takes it into account. The text of the bill may, on this question, be subject to different interpretations, but the associtations will keep a watchful eye on the situation.

6. As for discharging, suspending, etc., on account of union activities, bill No. 338 leaves questions to the courts of justice and lays down the principle of reimbursement of the wages of the employee, unjustly dismissed or suspended. The CTCC is of the opinion that bill 338 should specify that the sanction applies as long as the union activities are the "determining motive" of the dismissal, the suspension, the transfer or the laying-off period. Moreover, the CTCC believes that these cases should be settled without appeal by the Canada Labour Relations Board. The ordinary procedure of the courts of justice is generally too slow, too formal and too expensive.

7. As for the other points dealt with in bill 338, experience will reveal the improvements which should be suggested from year to year, and if the industrial jurisprudence established by the Canadian Council on Labour Relations was not considered adequate, the people concerned could always submit before each session of the Canadian parliament the recommendations deemed appropriate.

8. The CTCC does not claim that bill 338 is perfect and that it expresses the views of all the labour unions of Canada. However, it is without doubt the most progressive piece of industrial legislation yet presented.

Yours respectfully,

The Canadian Catholic Confederation of Labour

by: GERARD PICARD,
General Chairman,
1231 Demontigny East,
Montreal, Que.

Mr. HOMUTH: While there is no one here to question with regard to this brief, I think it would be well if the committee would note that on page 2, the first paragraph and paragraph 3 on page 2 as well, the submission is absolutely contradictory to the submissions of all other labour organizations which have been before this committee with respect to the national labour code and also with respect to the question of the legal existence of all unions.

The VICE-CHAIRMAN: Gentlemen, this brief will not be an appendix, it will form part of the record.

Hon. Mr. MITCHELL: I should like to point out to this committee that on page 2, section 4, the brief states,

> The CTCC endorses that provision of the bill and believes that the practice of holding joint conventions—

That really means collective agreements or joint agreements. The duration of the joint convention means the duration of the joint agreement. I would suggest that the French version be made a part of the record, too.

The VICE-CHAIRMAN: We will have it printed as an appendix.

Hon. Mr. MITCHELL: I think it should be printed in the report. After all is said and done, we hope that the proceedings of this committee will form a historical document.

Mr. MACINNIS: There will be a French version of these proceedings printed as well as an English version. The brief which has been presented will go in the French copy of the proceedings.

The VICE-CHAIRMAN: Both English and French copies of the brief will go into the record.

MÉMOIRE soumis au nom de La Confédération des Travailleurs Catholiques du Canada (CTCC) au Comité des Relations industrielles de la Chambre des communes en marge du bill n° 338 (Loi concernant les relations industrielles et les enquêtes sur les différends du travail).

30 juin 1947.

1. La CTCC désire tout d'abord marquer son appréciation pour la procédure suivie dans l'élaboration de la législation fédérale en matière de législation industrielle. Dès le mois d'octobre 1946, l'honorable ministre du Travail du Canada a convoqué une conférence fédérale-provinciale de tous les ministres du Travail du pays pour étudier les problèmes relatifs aux relations du travail. Au mois de décembre 1946, un premier projet concernant les relations industrielles et les différends du travail a été transmis, confidentiellement, aux principales organisations syndicales de travailleurs canadiens, solicitant leur opinion sur les sujets traités. La CTCC est informée que la même consultation a été faite avec les organisations patronales et avec les gouvernements provinciaux. Le 17 juin 1947, un projet de loi (n° 338) a subi sa première lecture, à Ottawa, et les diverses associations intéressées ont été invitées par le Président du Comité des relations industrielles de la Chambre des communes, à soumettre leur point de vue. Le présent mémoire répond à cette invitation.

2. Le bill n° 338 semble bien n'affecter que les industries au sujet desquelles la juridiction fédérale est établie, et respecte l'autonomie des Provinces. Cela est tout à fait conforme à la manière de voir de la CTCC. En effet, dans le mémoire soumis aux autorités fédérales par notre organisation, (qui compte environ 70,000 salariés), le 13 mars 1947, on peut lire:—

> Le public considère l'expression "Code national du travail" comme un code fédéral destiné à réglementer les relations industrielles dans tous les domaines de l'activité économique, sans égard à la juridiction des provinces établie par la constitution canadienne. La CTCC s'oppose à

un tel code du travail. Elle favorise le maintien de la juridiction des provinces, conformément aux dispositions de l'Acte de l'Amérique du Nord britannique et n'admet le bien-fondé d'un Code national du travail qu'à condition qu'il régisse uniquement les industries où la constitution canadienne reconnait la juridiction fédérale.

Dans l'opinion de la CTCC, le bill n° 338 n'est pas un Code national du Travail, mais une législation industrielle assujettissant à ses dispositions les industries de juridiction fédérale. Certes, notre organisation ne désire nullement poser en autorité en matière constitutionnelle, mais n'ayant entendu parler d'aucune opposition sur ce point, elle présume que la constitution canadienne a été respectée.

3, Le bill n° 338 pose le principe de l'existence légale et de la responsabilité légale de tous les syndicats de travailleurs. Depuis sa fondation, le CTCC a toujours favorisé ce principe. Notre organisation est d'avis que le sydicalisme des travailleurs, de même que les associations patronales, doivent d'abord exister légalement, avoir une personnalité juridique, tant pour la protection individuelle de leurs membres que pour affirmer leur intention de respecter les lois du pays. C'est à notre point de vue, une réforme fondamentale pour assurer le maintien de l'ordre social.

4. Le bill n° 338 pose la règle que toute convention collective doit prévoir une procédure appropriée pour régler d'une manière finale les différends susceptibles de surgir pendant la durée de ladite convention. La CTCC endosse cette disposition du bill et croit que la pratique des négociations collectives ne peut vraiment entrer et rester dans notre régime démocratique que si la durée normale des conventions collectives (généralement, douze mois) constitue une période ininterrompue de production, et il appartient aux parties d'établir une procédure efficace (sans arrêt de travail comme sans lockout) pour régler, au cours de cette période, tous les différends qui pourraient survenir entre elles. Le droit de grève demeure lorsque les négociations échouent et que les autres procédures prévues ont été suivies. Ce droit de grève, toutefois, tout comme le droit de piquetage, ne sont pas, dans l'opinion de la CTCC, suffisamment protégés par le Code criminel, et l'on devrait, au ministère de la Justice, entreprendre immédiatement une étude approfondie de ces questions en consultant les intéressés.

5. Avec le bill n° 338, la sécurité syndicale, supportée par des coutumes établies et négociée dans nombre de conventions, pénètre dans les Statuts. C'est une amélioration qui doit être soulignée. Dans l'opinion de la CTCC, la protection des syndicats minoritaires s'imposait, en cette matière, et le bill en tient compte. La rédaction du projet de loi, sur ce point, peut peut-être prêter à des interprétations différentes, mais on peut s'attendre à une vigilance syndicale soutenue.

6. En matière de congédiement, suspension, etc. pour activités syndicales, le bill n° 338 confie ces questions aux cours de justice et pose le principe du remboursement du salaire de l'ouvrier congédié ou suspendu injustement. La CTCC est d'avis que le bill n° 338 devrait préciser que la sanction s'applique du moment que les activités syndicales sont la "raison déterminante" du congédiement, de la suspension, du transfert ou de la mise en chômage. De plus, la CTCC est d'opinion que ces cas devraient être réglés, sans appel, par le Conseil canadien des relations ouvrières. La procédure ordinaire des cours de justice est généralement trop lente, trop formaliste et trop dispendieuse.

7. Sur les autres points traités dans le bill n° 338, l'expérience indiquera les améliorations à suggérer d'année en année, et si la jurisprudence industrielle établie par le Conseil canadien des relations ouvrières n'était pas considérée adéquate, les intéressés pourront toujours faire, avant chaque session du Parlement canadien, les recommendations jugées appropriées.

8. La CTCC ne prétend pas que le bill n° 338 est parfait et qu'il rencontre toutes les vues du travail syndiqué canadien. C'est, cependant, et sans aucun doute, la pièce de législation industrielle la plus progressive à date.

Respectueusement soumis,

LA CONFEDERATION DES TRAVAILLEURS CATHOLIQUES DU CANADA (CTCC),

par

GÉRARD PICARD,
Président général,
1231, Demontigny Est,
Montréal, P.Q.

Mr. BEAUDOIN: On page 1 and page 2 of the brief, paragraph No. 2, it says,

> Bill No. 338 seems to concern only the industries over which the federal jurisdiction is established—

Then, on page 2 the brief says,

> Bill 338 is a national labour code—

The bottom line of the same paragraph reads as follows:

> It supposes that the Canadian Constitution has been respected.

Would the minister care to repeat the statement he has often made in this connection.

The VICE-CHAIRMAN: May I just say this; we are having a man from the Department of Justice who will be here shortly to give us an opinion on the general constitutional question involved. The minister could give his opinion, but would you rather wait until you hear the man from the Department of Justice?

Mr. BEAUDOIN: It is not so much a legal opinion, as it is the possibility of establishing a national labour code which would govern the provinces as well. It is as to the meaning of this "national labour code".

Hon. Mr. MITCHELL: I can answer that. There has been a lot of loose language used in speaking of a national labour code or whatever you like to call it. My intention was this, to lay down guiding principles for both jurisdictions. The provinces could follow them if they so desired. The British Columbia legislation is substantially the same as this with slight variations.

Mr. MACINNIS: There is a lot of difference.

Hon. Mr. MITCHELL: Basically, in Alberta, it is substantially the same. Manitoba is still operating under P.C. 1003. The province of Ontario is doing the same. When you talk about the basic right or the right to organize men into trade unions that has been followed in the legislation in Quebec. New Brunswick is still operating under P.C. 1003 in their own jurisdiction. Nova Scotia has passed an Act substantially the same as this Act.

The report of the Industrial Relations Committee of last year said we should have what would be called a national code with due regard to the constitution. As I have often said in the House of Commons you cannot break a law by agreement. The respective provinces, and this should be said very clearly, at the meeting last fall wanted their jurisdiction with respect to labour matters returned. I think my memory is fairly clear on that subject. It is not the intention of this legislation to interfere with the normal jurisdiction under the British North America Act, but the intention was to establish nationally by law, for the first time, the right of men to belong to trade union organizations.

Mr. BEAUDOIN: Therefore, when the CTCC seems to express the view, it is the fact that bill No. 338 concerns industries over which the federal jurisdiction is established.

The VICE-CHAIRMAN: Mr. Driedger, Senior Advisory Counsel of the Department of Justice is here now and will give us his views on this particular bill No. 338.

Mr. Driedger, Senior Advisory Counsel, Department of Justice, called:

The WITNESS: I have a short statement here which I will read.

Normally, legislation respecting labour relations falls within the class of property and civil rights in the province and is within the exclusive competence of provincial legislatures. This point was expressly decided in the case of Toronto Electric Commissioners v. Snider (1925) A.C. 363; see also the Labour Conventions case (1937) A.C. 326 and the Employment and social Insurance case (1937) A.C. 355. In the Snider case the Privy Council considered the Industrial Disputes Act of 1907, which was in general terms, and held that this legislation was ultra vires; that it did not fall within any of the enumerated heads of s. 91 of the B.N.A. Act and could not be justified under the initial words of s. 91 which authorize parliament to make laws for the peace, order and good government of Canada.

2. *Jurisdiction of Parliament*

(*a*) Parliament has jurisdiction to deal with labour matters as incidental to proper legislation within its assigned fields. For example, under s. 91 of the B.N.A. Act, parliament has exclusive legislative jurisdiction with respect to navigation and shipping and also with respect to ferries between a province and any British or foreign country or between two provinces, and as incidental to valid legislation under these heads parliament could legislate with respect to labour relations affecting them.

(*b*) Secondly, parliament may enact legislation with regard to labour relations with respect to industries and undertakings falling outside s. 92 of the B.N.A. Act. For example, under s. 92(10) certain works and undertakings are excepted from provincial jurisdiction. Aeronautics and radio broadcasting appear also to be outside the provincial sphere. See the Aeronautics case (1932) A.C. 54 and the Radio case (1932) A.C. 304.

(*c*) Finally, parliament may, in special circumstances, legislate with respect to labour relations under the initial words of s. 91, namely, for the peace, order and good government of Canada. This was done during the war. The Canada Temperance case (1946) A.C. 193 is the most recent decision of the Privy Council on the authority of parliament to legislate on this ground. Viscount Simon said that the true test must be found in the real subject matter of the legislation; if it is such that it goes beyond local or provincial concern or interests and must from its inherent nature be the concern of the dominion as a whole then it will fall within the competence of the dominion parliament as a matter affecting the peace, order and good government of Canada though it may in another aspect touch on matters especially reserved to the provincial legislature.

These are general principles and there may be difficulty in applying them to particular cases. No exact test has been laid down as to when or in what circumstances a matter goes beyond local or provincial concern but it is clear that some special circumstances must exist. The authorities are against the view that parliament can in normal times cover the whole field of labour relations in Canada. In the Snider case the point was

expressly decided and although the doctrine as expounded by Viscount Simon in the Canada Temperance case is somewhat broader than indicated in the Snider case, it is to be noted that nowhere did Viscount Simon suggest that the Snider case was wrongly decided. Further, authority to legislate on this ground in respect of labour matters was also rejected in the Labour Conventions case and in the Employment and Social Insurance case. In the Labour Conventions case Lord Atkin called attention to such phrases as "abormal circumstances", "exceptional conditions", "standard of necessity", "some extraordinary peril to the national life of Canada", "highly exceptional" and "epidemic of pestilence" and said that that case was far from the conditions which may override the normal distribution of powers in ss. 91 and 92.

The VICE-CHAIRMAN: In giving his statement, the witness left out the references to the cases. These references will be included in the report so that you who may wish to read the cases may do so. I believe the legal men are all acquainted with them.

Are there any questions, gentlemen, or do you wish a little time to digest the material.

Mr. HOMUTH: When we are considering the clauses of the bill, Mr. Chairman, the CCL made quite a point about amending the British North America Act. Likely we will get into a lot of discussion when that clause is up for consideration in the committee. It might be well if we had a chance to read this material very carefully in the record.

I might just ask this; when are the records of the various meetings going to be printed? We have only received one printed copy so far.

The VICE-CHAIRMAN: The minister has kindly asked for priority for all our printing. The intention is to complete the hearings to-day and to try to give you to-morrow and Saturday, the week-end, to digest the material. Then, we can start back to work on Monday, either Monday morning or Monday afternoon. We probably will not be able to sit on Tuesday as we will not have this room and many of us will want to go to the External Affairs Committee session. At least, that is the general idea.

Mr. HOMUTH: We will sit on Monday and not Tuesday, and come back again on Wednesday?

The VICE-CHAIRMAN: That is the general idea. We will give you the week-end to digest this material.

Mr. JOHNSTON: There is this about it; if there is any chance of proroguing on this Saturday, you are going to have to report this bill before next Saturday. Therefore, this bill should be reported on the 9th or 10th at the latest if we are going to conclude on the 12th.

The VICE-CHAIRMAN: I do not know the decision to which the leaders came, but this matter of closing the House is a very indefinite matter. I have no idea about it. If the Prime Minister tells us we must close on the 12th—

Mr. MACINNIS: He did not tell the Liberal members that they must close on the 12th. At least, one would judge that from the way they carried on. I guess that is all off.

Mr. JOHNSTON: Were you at their caucus?

Mr. MACINNIS: No, I was listening to them. I saw the Prime Minister yesterday and he certainly did not tell the caucas what he told us.

Hon. Mr. MITCHELL: Let us put the record straight regarding this talk about Liberal members. I have been kicking around here for many years and it has not changed a great deal in that time. The same speeches I heard 17 years ago are being made to-day except that they are being made by different people.

Some people make more speeches than others. This happens every year, let us be frank about it. No one party is to blame for the delay in the proceedings in the Chamber. It is unfortunate, very unfortunate. Frankly, from my own point of view, I think we could do a better job in three months than we are trying to do in six. If people would not talk on everything under the sun, when many of the things about which they talk could be settled in five minutes by a letter to the minister.

Mr. MACINNIS: That is not my experience.

Hon. Mr. MITCHELL: That is right, and I am convinced of that. May I say this, in a personal way, I have not had a holiday in the sunshine in Canada for the last six years. I guess the same thing could be said for most of the members around this table. I do not think the good Lord meant us, as the seasons are in Canada, to stick around here all summer. It is not human to begin with.

The VICE-CHAIRMAN: Well, gentlemen, we have disgressed just a little. We have before us at the present time bill 24.

Mr. COTÉ: Before we release the witness, I should like to clear up a point in my mind. We discussed the advisability of having an official of the Department of Justice to assist us in our deliberations on bills 338 and 24, but more particularly on bill 338. Now, I am sure that the examination of this witness would be more proper as we go through the bills clause by clause. I wanted to make sure that you had made some arrangement for an official of the Department of Justice to be with us when we examine this bill.

The VICE-CHAIRMAN: The minister tells me this gentleman will be available to us for drafting or for whatever else we require.

Appendix B from the CCL has not arrived as yet. It will probably arrive to-morrow. It was to go on the record. It is merely informative material and it will help us a bit, I am told.

We have before us now bill 24. This is another matter which was referred to this committee. We have notified the Department of Transport that we were proceeding with it. We notified them last night and again this morning. Mr. Knowles, the original sponsor of this bill is here and I think perhaps just to bring the committee up to date, we should have a short statement from Mr. Knowles in respect to the bill. Most of you recall it was adopted by the House of Commons. Then, we will hear the representatives of the railways.

Mr. KNOWLES: Mr. Chairman, I shall endeavour to be as brief as I can with respect to this matter because the subject has been before the House of Commons a good many times during the last several years. The purpose of the bill is to prevent the recurrence of something that has happened several times and in particular at least twice in Canadian history. The first main occasion I refer to was in 1910 when there was a strike on the Grand Trunk Railway, the settlement of which did not include the restoration of the pension rights to those employees.

Mr. HOMUTH: Did you say 1910?

Mr. KNOWLES: Yes.

Mr. HOMUTH: I think it was 1908.

Mr. KNOWLES: No, 1908 was the Canadian Pacific strike. There were other occasions, but I am dealing in the main with two. The problem that arose out of the 1910 strike was taken in hand by a number of people, principally by the present Prime Minister when he came back into the House after his election to the leadership of the Liberal party in 1919. He took the matter up as the leader of the opposition and made what appears to me, from reading the report, a convincing case that these men should have their pension rights restored. In a few years Mr. King was Prime Minister and he saw to it that the complaint

he had made, as leader of the opposition, was rectified, and the pension rights of those 1910 men were restored in about 1922. The restoration was complete, including payments to the estates of men who had passed on.

Now, the other outstanding case is that of the Winnipeg general strike in 1919 in which a large number of Canadian Pacific employees became involved. There were some other strikes in 1918 and there were also a few other strikes in 1919 with the result that a number of Canadian Pacific men were involved, and they are now stretched across the western part of the Canadian Pacific system from Fort William to the Pacific coast. A good many of them have died in the meantime, but the fact is that all of the men who were over forty when they went back to work after the 1919 strike have not been permitted to re-enter any pension plan—either the one then in existence or the new one that was later brought in. In addition to the fact that the men who were then over forty were not permitted to enter any pension plan, the men who were under forty had to start all over again, and any rights which they had earned prior to 1919 were cancelled. The men under forty were permitted to re-enter, but only on the basis of starting anew.

Now, Mr. Chairman, it seems to me from what I can learn from my legal friends that the issue arising out of 1919 can hardly be dealt with by legislation; it is a matter for a negotiation between the men and the company or it is a matter for consideration by a royal commission; and I have been asking for that. There is also a report from an official of the Department of Labour, Mr. H. Johnston, recommending to the government in clear-cut language that such a royal commission should be established. The issue of the past is by itself, and in my view is not covered by legislation which I have proposed in bill 24. I have only dealt with the past for two reasons: one, to give you an example of the kind of thing that I feel should be prevented happening again and also so as to draw a line of demarcation so that you will know that in asking that bill 24 be considered it is not my thought that that is retroacive, that it covers the men of 1919. It is a separate matter.

Mr. JOHNSTON: Did you not suggest that bill 24 be included in bill 338?

Mr. KNOWLES: I shall come to that in a moment. I have tried to clear the ground as between the past and the future. The incidents I have given are in the past and they ought to be dealt with in other ways.

Now, it is to prevent that happening again that I proposed the principle laid down in bill 24, and I shall come to what Mr. Johnston has mentioned in a moment.

My original proposal as contained in bill 24 was to the effect that the appropriate section of the Railway Act be amended. Section 122 of the Railway Act is the section that gives the directors of railway companies the right to set up pension plans. The right is pretty broad; and my proposal, as incorporated in bill 24, was to the effect that a proviso be added to that right to establish a pension plan. The proviso would read:—

> Provided that in the administration of any railway retirement or pension plan, leave of absence, suspension, dismissal followed by reinstatement, a temporary lay-off on account of reduction of staff, or absence due to an industrial dispute, strike or lockout, shall not disqualify any railway employee from any retirement or pension rights or benefits to which he would otherwise be entitled.

Now, if that clause could be added to that section in the Railway Act, I think the effect is quite clear; it would simply mean that any of the pension plans being administered by the railway companies would have to take cognizance of that proviso. I have the Canadian Pacific one in my hand, and rule 8(*a*) provides that men are eligible for pension rights only if their last entry into the

service occurred before the age of forty. The same rule makes it possible for the company to declare absences for various reasons a break in service. In other words, the same thing can happen again that happened before with regard to absences for various reasons. Admittedly, the company could declare them not to be a break in service; but the company could do as was done before, and in such cases the men who were over forty would not be in the plan. The men under forty, while they would go back into the plan, would lose their earlier pension rights.

There is one distinct difference between the situation in 1910 and 1919 and the situation to-day. In those days the railway pension plans were what were known as non-contributory; that is, the men did not have deductions made from their pay to be placed in the pension fund. The men argued that they were contributing through their work, but I think we all understand that. At the present time pension plans are contributory. The men make payments out of their pay cheques and the company adds an amount thereto, and the pension is worked out on an actuarial basis in the light of the contributions. I believe it is compulsory in both of the main systems.

However, the clause to which I have referred requiring that the last entry into the service be not later than the age of forty is still there, and there is also still the clause in the Canadian Civic Pension Plan which provides that if the service of an employee to a number of the pension plans is terminated for any reason an amount equal to the contributions made by the employee will be refunded to him. That is all. There is no interest and no further pension rights. That means that the combination of these clauses makes it possible for a company to rule that absence due to a strike or other things is a break in service. That break in service is, in other words, a termination of employment for the time being even if there is reinstatement, and that termination ends that employee's connection with the pension plan. All he can get back is the contribution that he himself has made. If he is over 40 he cannot re-enter the plan.

Now, the ideas of people generally have changed a great deal with respect to this matter since 1919. We are all conscious of the right of employees in industry to protection for their old age. The whole concept of social insurance has moved a long way since 1919; and I think that around this table to-day there surely is not anyone who will deny that every possible protection—legal, of course—should be given to employees in industry.

Now, I wish to deal with the question raised by Mr. Johnston and then I will sit down. He asked whether I had thought of having this principle written into bill 338 rather than keeping it as an amendment to the Railway Act. I want to say that would be wholly acceptable to me. In fact, I think it would be even better, because it would go a little bit further. As I suggested in bill 24 it protects the pension rights only of railway workers; if we put it in bill 338 it would go a little bit further in that bill 338 covers a few more employees than railway employees. I think it is better because it establishes this matter as a principle with regard to labour relations rather than as a matter with respect to the administration of railways.

Mr. JOHNSTON: Exactly so.

Mr. KNOWLES: If the committee could not see fit to recommend that this principle be incorporated by some amendment into bill 338 it would meet the situation and I would be most happy to accept it.

Mr. JOHNSTON: I agree to that too.

The VICE-CHAIRMAN: Gentlemen, you have had a very clear outline of what this bill is about and now we will hear from Mr. Rosevear, who was here yesterday, and who is chief counsel for the Railway Association of Canada.

A. B. Rosevear, K.C., recalled:

The WITNESS: Mr. Chairman, I do not want it to appear that I am riding two horses, but at the present time I am representing the Canadian National Railways because in a matter of this kind I cannot speak for the Canadian Pacific Railway or any other railway which has a pension plan. You will readily understand that when I say that pension plans are not uniform and, therefore, we have to explain our position separately.

Now, I wish to point out a few pitfalls with respect to bill 24. It may be that the committee will decide to adopt the suggestion which is made, that some of the principles involved in this bill be inserted into bill 338 and, therefore, perhaps it is not necessary to discuss bill 24 in detail. However, in case your thoughts are again turning to bill 24 I think I had better state some of the pitfalls which I see in this bill.

I do not think, from a legal standpoint, that it is a good idea to include a matter of this kind in the Railway Act. It seems to me that is not the place for it, and I would explain that in this way, that the Canadian National Railways at the present time are administering three pension plans. We are not doing that because we want to, but because we have fallen heir to some pension schemes which existed prior to the organization of the National Railway system. For instance, we have the old Canadian government railways' pension scheme which we are administering under a special Act of the parliament of Canada. We also have the old Grand Trunk superannuation fund which we are administering also under a special Act of the parliament of Canada; and I might mention that our main scheme—the Canadian National Railways pension scheme—has for its legal basis also a special Act of parliament. Now, from a legal standpoint I think that the lawyers present will agree with me that the general Act does not override the special Act unless it specifically said so; and secondly, I do not think bill 24 would be effective, because none of our pension schemes are set up under the Railway Act but rather under special acts of the parliament of Canada. Now, when we come to that, I do not think that in any event any attempt should be made to interfere with our pension schemes unless an examination is made of the special acts under which they are operated, and those special acts give us certain powers and duties.

That is the legal side of the matter. I throw out those thoughts for your consideration.

Turning now from the legal side to the principles in the bill 24, I might mention that in as far as the Canadian National Railways are concerned we, of course, do not consider that when a man is absent with leave that his service is broken. If he is absent with leave he is absent with leave and if he returns to duty his pension rights are not affected. The only thing that might happen—I might say in parenthesis that I have here Mr. Hawken, our assistant secretary and staff registrar and he will be able to answer any questions you wish to ask about the details of our pension scheme—I think I am correct, Mr. Hawken, there might be a case of leave of absence where a man might not be paid—an hourly man.

Mr. HAWKEN: Many of them.

The WITNESS: Yes. The effect of that would be that if he were contributing to the pension scheme, while he was on leave of absence he would not be contributing anything because he would not be receiving wages. We only allow a man to contribute when he is receiving wages.

Mr. HAWKEN: Pardon me. He may contribute but we will not match it.

Mr. HOMUTH: Let us clear that up. Supposing he contributed, and contributed, also the amount you would ordinarily match him—

Mr. HAWKEN: No, sir, because he is limited to contributing not more than 10 per cent of his wages, and he allocates once a year the rate at which he will contribute, and he sticks to that; he will not be allowed to contribute more.

The WITNESS: The matter of contributions to the pension scheme is figured out, of course, on an actuarial basis. The man contributes so much and the company matches his contribution up to a total of 5 per cent of his wages, and it seems to me that no attempt should be made by parliament to do anything which would impair in any way the actuarial basis of the pension scheme. I hope I make my point clear. If you do something which costs money and there is no provision for it, you impair the actuarial basis of the pension scheme.

Mr. TIMMINS: For all the men.

The WITNESS: Yes, for all the employees. Let me make it clear that we do not mind the provision about leave of absence in the pension scheme because we do not consider leave of absence when a man takes it as a break in service.

Mr. HAWKEN: It is provided for.

Mr. JOHNSTON: What would happen in the case of a lockout or strike? Would you declare that as a leave of absence?

The WITNESS: I am coming to that. I am dealing with leave of absence which is the thing mentioned in bill 24.

Mr. KNOWLES: Should I interject a question here or should I wait?

The VICE-CHAIRMAN: Please let us follow the same procedure which we followed before and get a coherent case.

The WITNESS: The next thing in bill 24 is, "suspension, dismissal followed by reinstatement..." Mr. Chairman, I think that is a dangerous provision in the bill from the standpoint of the employee. I will say this to the committee that in the C.N.R. service if a man is reinstated he is reinstated. That means that in some cases, practically all cases, his prior service is granted to him. However, I think that some consideration should be given to this, that there should be a distinction in a pension board with respect to reinstatement because in some cases a man has been suspended and has been dismissed for a serious cause, and it might be necessary to take him back only under the understanding that his prior service will not be granted.

Let us take an example. Suppose that he has been out of the service for more than a year after having been dismissed and on compassionate grounds we take him back, we should not have to, unless we wished to, restore to him his prior service with the company. There is no discipline then in that matter. As far as the C.N.R. is concerned, when we reinstate a man, in 999 cases out of 1,000 we would grant him his prior service.

Mr. HAWKEN: Yes.

The WITNESS: Let me then turn to what I stated a moment ago about the provision being dangerous for the employee. If the railway companies were bound, in every case, no matter how serious the offence had been, to restore to a man who had been dismissed his full service they just would not reinstate these men. Now, we have had many cases in the C.N.R. of a man having been dismissed for a serious case but having a large family and on compassionate grounds we have taken him back; but if parliament said, "If you take him back certain penalties will follow," we would not take him back. I think that is a dangerous provision in a bill, and I would suggest seriously to the committee that reinstatement should be left to the discretion of the pension boards and should not be a mandatory provision in the bill because it will work a hardship in the end.

Now, the matter of temporary lay-off on account of reduction of staff would not worry us at all. We do not deprive a man of his prior service because of a temporary lay-off. If he is laid off temporarily and he is called back to

work when there is work to be done it is looked upon as continuous service; so that would not seriously concern our company.

The next point has to do with a matter which is controversial—the question of strikes. I think you will agree that when strikes are settled the settlement agreement now anyway usually contains a provision whereby the prior rights of all the men who had been out on strike are to be restored: in other words, reinstatement with full rights. The settlement agreement usually contains a clause like that, and there always is in the settlement of an industrial dispute, namely, that the men must come back to work within a reasonable time. There is no provision like that here. There are instances where strikes have taken place and some of the men have gone out and got other jobs, and they think they will stay on those jobs for a while, and a considerable time goes by and they lose the jobs and come back to the railway and want to be reinstated. There should be some saving clause in that connection; we should not be required to restore a man to full service if he does not return within a certain time. If you read the bill you will see that there is no saving clause with respect to that. As a matter of fact, with regard to strikes it seems to me that if any provision is going to be written into the law about restoring men to full rights after a strike it should have that saving clause, and it also should be provided that the strike will be, say, a strike which is legal, comes within the provision, say, of bill 338. I do not think we should be necessarily required to restore a man to full service when he has gone out on some wildcat strike which is not authorized by the leaders.

I do not think there is anything more I can say about that. I think, perhaps, if there is a certain amount of saving clause covering the matter it would not work a serious hardship except this, that again you are taking away the discretion of the pension board.

Now, just on that point, I wish to mention so that the committee will have it clearly in mind that so far as the C.N.R. is concerned, first of all, the contributory part of the pension is not compulsory. The company in any event grants a gratuitous pension to every employee from the highest to the lowest of $300 a year. That is a basic pension, a gratuitous pension. It does not matter how high a man's pension is or how low, the basic pension is $300 a year. If a man wishes to get more than that he must contribute; but he is not compelled to, and the company will match his contributions up to 5 per cent of his wages.

Now, I mention that because, unlike the C.P.R., our scheme is not compulsory, and of course that $300 a year, when you have as many employees as the C.N.R. has, amounts to a large sum of money per annum. It sounds little, but there is no contribution toward paying it and it is a large sum per annum.

The other matter I wish to mention is that our pension board consists of seven members, three from labour and four from management; and consequently I would say that board is an impartial board, a board which is capable of dealing with all questions brought before it, and a board in which the various points of view are expressed; and I would regret very much if parliament saw fit to take away entirely the discretion of that board.

I noticed in the press that there were some remarks made about our pension scheme in the house yesterday, and I would like to say in that regard that when you have thousands of men on pension there are bound to be some who think they have some injustice done to them; but generally speaking that board with its representation of three from labour and four from management deals as fairly and impartially with every case that comes before it as it is humanly possible to do.

Now, there is one other thing I would like to mention in this bill and that is from the legal standpoint. I do not think the expression, "to which he would otherwise be entitled" is a good one. It has not got the retroactive effect Mr. Knowles suggested he did not wish; namely, it has not got the effect of protecting

the men who, in 1919, went out on strike. However, it has the effect of saying, "to which he would otherwise be entitled". Does that mean, for instance, that a man can come along and say, "If I had not been on strike or if I had not been dismissed I would have been entitled to contribute out of my wages so much money during that period I have been away. Therefore, now I have the right to make that contribution," and the company would then have to match it.

You see, a situation like that would be very unsound. We would not know where we were from one day to the next. It seems to me some other expression should be used than the one, "To which he would otherwise be entitled". It is not to what a man would otherwise be entitled, it would simply be that his prior service would be restored. We are not talking about the financial side of it except as his prior service gives financial benefits. Mr. Hawken can perhaps explain that a little better to you than I can. I am correct, am I not, Mr. Hawken in saying the first thing to be considered is the man's service?

Mr. HAWKEN: Yes.

The WITNESS: Therefore, his prior service is guaranteed. He is entitled to continuous service from the day he started working for the Canadian National.

Mr. HAWKEN: We put a bridge over the gap.

The WITNESS: There is a bridge put over the gap. However, that does not imply that any employee has the right to make retroactive payments to the fund.

I am sure we will be available to answer any questions and to explain more fully, if the committee so desires, the operation of our pension scheme. At this time, I do not think I have anything further to add, Mr. Chairman.

The VICE-CHAIRMAN: Gentlemen, there may be some questions you wish to ask. Mr. Hawken will also give evidence. Do you want both stories now? Do you want anything he can add to it now and then have the whole picture before you ask questions?

Some Hon. MEMBERS: Yes.

Mr. HAWKEN: Perhaps I can round out a few of the points Mr. Rosevear made. I think Mr. Knowles must have had a copy of our pension rules and regulations in front of him when he drafted this bill. It looks as if it had been taken from these rules and regulations.

Mr. KNOWLES: That clause is exactly similar to the Canadian Pacific rule.

The VICE-CHAIRMAN: Mr. Knowles has a reputation for reading the rules and regulations in the House of Commons.

Mr. HAWKEN: Our rules do provide for the restoration of continuity of service in the case of an individual discharged or suspended if that individual comes back and is approved by the head of the department, taking into account the offence for which he was dismissed and the time he was out of the service. As Mr. Rosevear said, of course, the company has discretion in such matters.

It is our belief that the company should have discretion because there are times when we say—we have done it on quite a number of occasions—we have taken a man back solely on compassionate grounds. A man's family is alleged to be starving so we take him back. Now, the discipline which was intended was that the man would be through, cut off from his rights and lose his job. However, we gave him a job and to some extent reinstated him.

Of course, Mr. Chairman, those members of the committee who have had to do with labour matters will realize that in organization work, reinstatement generally means putting a man back in his slot on the seniority list. It does not necessarily mean reinstating a man to the previous good standing he had in the company's service, with all the benefits he previously enjoyed. In reinstating a

man in organized labour, in the railway or anywhere, you are really putting the man back in his slot on the seniority list.

For instance, if we dismissed a conductor for knocking down fares, which is the term we used on the railroad for confiscating fares—

Mr. McIvor: Or for the G rules?

Mr. Hawken: Not so much for G rules now. Liquor commissions throughout Canada are doing too big a business these days. The G rule is not as bad today as it was 40 years ago. Suppose we dismissed a man for knocking down fares, and we had lots of men in this category in days gone by. This is a rather serious offence. We know railway companies who have taken the man into court and convicted him for knocking down fares. I cannot remember that we convicted one, but we have fired them.

Here is a man with a large family who is a conductor. He will be 50 or 60 years of age because a man does not become a conductor when he is young. He has to serve his apprenticeship on the rear end and he certainly does not become a conductor when he is a young man. He is caught knocking down fares and is dismissed. Then, representations are made to us that his family is starving; his wife is sick and two children are in the hospital, one suffering from tuberculosis. Now, we take that man back on compassionate grounds. If we gave him a job in train service, he would have to go back to the bottom and become a brakeman. Nine times out of ten, he could not get in as a brakeman because he would be too old to become a brakeman anyway. Therefore, with the consent of his fellow employees he is reinstated. He has the right to go back as a conductor but that does not say we recognize his right to claim previous service rights, pension and so on. To that extent, the discipline stands.

In so far as strikes are concerned, we have practically forgiven all strikes. We had a couple of wildcat strikes, but we said that the great majority of the people, there were not very many people involved, were rather badly advised. They did not know what they were doing. The directors have wiped that out. We have not any strikes to-day. As Mr. Rosevear has said, some of the people did not come back after the strike was settled. They had jobs elsewhere. Perhaps their actions during the strike were not very good so they were a little frightened as to what might happen to them if they came back in the vicinity. Later on, they showed up and asked for a job. We needed that man and we gave him a job, but we did not reinstate him to good standing in the company's service. We have not got one in a thousand cases like that, sir.

In so far as the other conditions are concerned, leave of absence speaks for itself. If you are in the army, you are given leave of absence. You are not disciplined when you come back. You were on authorized leave. When you come back the time you were away may or may not count as if you were in railway service. It depends on why you were absent. If you were ill, on leave of absence because of personal illness, up to twelve months we give you credit for the service as if you were actually running a train or doing something else. You may be absent in that case for twelve months and you would still be in good standing when you came back.

An injury may be your fault or it may not. It may be due to carelessness. However, we are prepared to give you credit for all the time you are away up to five or ten years. We take the view that usually it is not your fault. We grant leave of absence for personal reasons. We have men on leave of absence sitting in the House of Commons. We give them leave of absence and they come right back to the spot from whence they came. We do not credit the time they are away attending to personal affairs or private business, so to speak. To make myself clear, this does not interfere with a man's over all continuity of service. Each time, we put a bridge over the gap and his service goes back to the beginning.

As Mr. Rosevear said subject to the qualifications about this proposed amendment to the bill, we do not find very much harm in the bill. We do think there should be some discretion left in the hands of management. We do think it is a dangerous principle to say that a man shall have all his rights if he is reinstated. If you are going to take away the discretionary rights of management I can quite easily visualize a situation in which some people will get fired where, ordinarily, they would be able to return and have their rights restored, but the railroads and other employers will say, "if this principle is applied we will not take them back."

Hon. Mr. MITCHELL: In those casese of which you spoke, the problem is dealt with by this committee on which there are representatives of the employees and employers?

Mr. MACINNIS: The pension board?

Mr. HAWKEN: Yes, sir, our pension board consists of three members, two of which are representatives of organized labour. These representatives are chosen every year by the various unions operating within the Canadian National Railway system.

Hon. Mr. MITCHELL: I suppose the fourth one is the chairman of the board?

Mr. HAWKEN: Yes, he is the vice-president in charge of finance in the company.

Hon. Mr. MITCHELL: You ran your sentences together during your statement when you spoke of the man who went to war. This man received full seniority rights, they were unimpaired?

Mr. HAWKEN: Yes, sir, not only did these men receive full seniority rights unimpaired, but war service counts as if it were railway service I think that is in your bill, the reinstatement of Civil Employment Act. There again the reinstatement of Civil Employment Act seems to have been written around our circular which was put out in 1939 and which provided for all that. We did the same thing in the war of 1914-1918.

Hon. Mr. MITCHELL: We had the advantage of it during the deliberations of the National Labour Supply Council. Arthur Hills and George Hodge of the Canadian Pacific were members of the board. It was the situation arising out of the experience of the railroad upon which that Act was framed.

Mr. HAWKEN: I might add in connection with war service for the last war, if any man was eligible to contribute to the pension fund and because of having served in His Majesty's forces was unable to do so, we grant him a free pension of 1/12th of 1 per cent for every month he was in His Majesty's service without any contribution from him whatever.

Mr. MCIVOR: Mr. Chairman, the Conservative member for Winnipeg North Centre—

Mr. KNOWLES: C.C.F.

Mr. MCIVOR: Well, you have been very conservative in regard to this bill and it was for that reason I gave you that name. I supported this amendment in the House and I appreciated the gesture of the minister when he referred it to this committee. I am not a lawyer, but perhaps I have a little bit of sense. I have a lot of sympathy for a man who loses his pension. I have not been satisfied with the pension scheme of the Canadian Pacific or the Canadian National for this reason: I have seen men serve up to within two months of receiving their pension who have simply been cut off. They did not receive a five cent piece. These men had to go to labouring jobs. I think this situation should be corrected.

There are other workers besides railway workers. If the good things are taken from this bill and incorporated in a labour code, I will be very well pleased. I worked in a railway divisional centre when there was a strike. I did not take very much part, but I tried to throw oil on the troubled waters. In 1908 or 1909 there was a strike on the Canadian Pacific. I was terribly disappointed when some government official came and bought off the labour leaders. The men lost the strike. There is no argument about that because I was right there in the town of Laramie at the time. In 1919, when some of these men who had served 15 or 20 years lost their pension, I think they were unduly punished. If there is anything that will prevent that, Mr. Chairman, I think the minister of labour will do his best to see that something is done. I will support it.

Hon. Mr. MITCHELL: I mentioned Mr. Hodge and Mr. Hills and I should have mentioned Mr. William Best and also Mr. James Somerville, who were members of the National Labour Supply Council.

Mr. HOMUTH: I was going to suggest in view of the representations made by the representative of the railways we can see that, while the House and this committee has more or less given its blessing to the principles of this bill, there are a lot of involvement which have arisen this morning. Even before the meeting opened I was talking to the Chairman and I realized that in the bill as it is now written, for instance, there should be some authority which would state whether or not a strike or a lock-out was legal or illegal. There may be some amendment needed. It may be that this might become part of the general bill. I would suggest very strongly that it might be well, if we are going to meet at four o'clock anyway—

The VICE-CHAIRMAN: Not to-day, we hope to conclude this morning.

Mr. HOMUTH: Conclude discussion of this bill this morning?

The VICE-CHAIRMAN: Yes, we hope to do that.

Mr. KNOWLES: May I say, first of all, that I appreciate the attitude taken by Mr. Rosevear and Mr. Hawken. It has been their job to take the other side and try to show the difficulties or pitfalls, to use their words, in connection with this bill. Even so, they have revealed a desire to do what they feel is the best thing for the pension rights of all the workers concerned; in this case, all the railways workers. I want to say, too, that I appreciate the attitude which seems to prevail in the committee as well, namely, that a few minor faults in the bill are not to be taken as a reason for throwing it out but rather we should consider the best way of incorporating these principles into legislation. It seems to be generally accepted that the best way to do that is by including it in some manner in bill 338.

While I am on my feet, I should like to make a few remarks by way of comment on the remarks made by the gentlemen representing the Canadian National. With regard to the first point, namely, that there are legal questions to be considered before one amends the Railway Act in this way, I think the point is perhaps well taken. The point was that this kind of legislation would be better somewhere else than in a general Act such as the Railway Act, particularly in view of the Acts of parliament which govern the Canadian National pension schemes. I believe that supports the general feeling of this committee that we should, perhaps, consider writing this principle into bill 338 rather than amending the Railway Act.

With respect to the position that both Mr. Rosevear and Mr. Hawken took about the practice of the Canadian National, I must point out that one has to consider not just the practice of the converted but the things the sinners can do under the law as it reads. The gentlemen are perfectly right in saying that I drafted my bill with the Canadian National and Canadian Pacific pension plans

before me. Some of the wording I took right out of those plans and put into this bill.

These gentlemen have gone to great length to point out that the company does not practise the denial of continuity of service to people who are out on leave of absence or in certain cases of dismissal followed by reinstatement. This is a matter which is left to discretion. I have the Canadian Pacific rule in front of me and, in this case, the Canadian National rule has identical wording.

> Provided, however, that leave of absence, suspension, dismissal, followed by reinstatement within one year or temporary lay-off on account of reduction of staff need not necessarily be treated by the committee as constituting a break in the continuity of service

Now, two differences are noted between that and the proviso I propose to add to the Railway Act. The first one is that there is no reference to strikes or lock-outs. The second point is that the rule in both pension plans merely says that absence due to these various causes may not necessarily be treated as a break in service, but this means that they can be treated as a break in service. There is not even that protection against absence due to a strike.

I would admit that some discretion should be allowed to the pension board. I submit that you should not make a provision that is likely to have an adverse effect on the whole mass of employees simply to take care of the few exceptions. Both of these gentlemen referred to compassionate reinstatement. I confess that in those circumstances where the reinstatement is on compassionate grounds, the place to take care of that is in the provision governing reinstatement. I do not think you should make a general rule that persons reinstated have to have some discipline continued, must still suffer some discipline. There will be cases where that reinstatement has been effected because the employee has been able to establish the fact his dismissal was unjustified. Certainly, in those cases he should get back his original rights.

The VICE-CHAIRMAN: I do not like to interfere with you Mr. Knowles, but the general idea was that we would question the witness now and leave our arguments and observations for a later time when we have all the evidence before us. Some of the other members may have some questions they desire to ask while we have the witness here. Could we leave the argument out for the moment and merely ask questions for the purpose of clarifying the position.

Mr. KNOWLES: That is perfectly satisfactory to me, but I thought you said we were going to clear the thing up now. May I just ask the two representatives of the railways if I am not correct in what I have said about dismissal and these things, that the rule reads as I have indicated. It may not necessarily be considered as continuous service?

The WITNESS: Yes, that is correct.

Mr. JOHNSTON: In regard to strikes, would the Canadian National cancel the reinstatement of pension rights following a legal strike?

Mr. HAWKEN: We have not done so.

Mr. JOHNSTON: Would they or could they?

Mr. HAWKEN: That is a matter for the board of directors at the present time.

Mr. JOHNSTON: If a strike were declared a legal strike, then the board itself could decide. Suppose a strike had been declared a legal strike. Then, it would be up to the board to decide, from their point of view, whether a man would be reinstated or not.

Mr. HAWKEN: Yes, sir, they would probably decide to grant that. If we had a strike in which everyone participated, they would probably bridge it for everybody.

Mr. JOHNSTON: Do you not think there should be something in the Act whereby when a strike is said to be a legal strike automatic reinstatement should follow without any decision from the pension board at all?

The WITNESS: My difficulty with that, as a lawyer, is that I find it very difficult to discover a proper definition for what is a lawful strike and what is not.

Mr. JOHNSTON: Would not the conciliation board decide that?

The WITNESS: I do not know whether the department will agree with me or not. The situation with regard to strikes is not as serious as it used to be, Mr. Chairman, because I do not think you would find a union agreeing to settle a matter without writing into the contract of settlement that all the men would be reinstated.

Mr. MACINNIS: Without discrimination.

The WITNESS: So, I do not think it is quite as serious now as it was some years ago.

Mr. MACINNIS: At a time when the unions were not quite as strong as they are now.

The WITNESS: What I am getting at is this; I do not like an omnibus clause in a bill which says you have to reinstate some people out on strike without some protection in the case of wildcat strikes. My difficulty, as a lawyer, is to try to define a legal strike.

Mr. JOHNSTON: Would not the government, the conciliation board or the national war labour board decide whether it was a legal strike? It would not be up to you or the company or the union to decide, but the National War Labour Board would decide whether it was a legal strike or not. Once it was declared to be a legal strike why should not the pensioner be allowed his full rights?

The WITNESS: May I say this; would it not be the duty of a committee drafting a bill to decide whether or not that could be defined? I find difficulty in defining it. I think I can say this, as a matter of policy now, I would be very much surprised if our directors did not reinstate men after a legal strike or after a strike had been settled. What we understand by a legal strike is a strike that has been authorized by the leaders of the organization.

By Mr. Johnston:

Q. You say it is the general practice of your company to reinstate these people in any event?—A. It has been.

Q. There would be no objection from your organization to putting it in the Act?—A. Provided it is not made mandatory so that all strikes are covered.

Q. You spoke a while ago of the fact that sometimes during strikes or lock-outs men secure other jobs and stay away for a long period of time. Under the proposed amendment, I would take it that as soon as a strike was over the men would return. Now, that would debar your claim there, I think, that they get other jobs and sometimes stay away for a long period?—A. There is no saving clause in this bill as drafted. I think perhaps Mr. Knowles would agree with me in this; if you are going to write it into the bill, there should be a saving clause that a man should be so treated.

Mr. KNOWLES: That should be done for the majority who do return, I agree.

Hon. Mr. MITCHELL: What proportion of appeals to this board have been rejected and what proportion have been granted?

Mr. HAWKEN: In the matter of strikes, sir?

Hon. Mr. MITCHELL: Yes.

Mr. HAWKEN: Less than one in a thousand.

Mr. JOHNSTON: That one in a thousand might be an outstanding case. There might be some considerations from the person's point of view.

Mr. KNOWLES: This is the Canadian National.

Mr. HAWKEN: Yes, sir. It so happened it did not mean a hill of beans to the individual because he was a short-service man.

Mr. JOHNSTON: I can quite see from what you have said that you have not had as much difficulty in the Canadian National in that regard as some other companies have. If this clause were put into bill 338, it would have a broader application than if it were limited to the railways. It would endeavour to give protection to all workers rather than just railway workers. I think, generally speaking, the railways have been more lenient in that regard than some other companies have.

Hon. Mr. MITCHELL: If we were going to make it as broad as you suggest, you are going to have legal strikes which will destroy the company and there would be no pension anyway. This is the difficulty you encounter when you try to legislate on matters which should be considered in the normal process of day-to-day collective bargaining.

Mr. ARCHIBALD: Is it not a fact that the companies which have pension schemes are usually so large they have not been known to go broke?

The VICE-CHAIRMAN: Let us get away from this point. Mr. MacInnis, have you some questions?

Mr. MACINNIS: I was going to mention that point which was raised of whether an employee ceases to be an employee because of a strike. It is covered by section 2, subsection (2) in bill 338.

> No person shall cease to be an employee within the meaning of this Act by reason only of ceasing to work as the result of a lock-out or strike or by reason only of dismissal contrary to this Act.

Mr. KNOWLES: I do not know whether that covers pension rights.

The VICE-CHAIRMAN: I think he gave you the answer. In his recollection, and in the recollection of members of this committee, they seldom return if ever unless all people are put back in their slot, as Mr. Hawken puts it. However, that will be a matter for consideration later. Are there any more questions to be asked, gentlemen?

Mr. HOMUTH: I should like to say this to Mr. Archibald who made some reference to company pension schemes and companies not going broke. The fact of the matter is that, if the Canadian National had operated as a private company and lost $50,000,000 a year for all these years, they might have been broke.

The VICE-CHAIRMAN: Gentlemen, are there any further questions. The Hon. Mr. Chevrier has a few observations to make on this bill. Some representations have been made to him and I will ask him to convey his thoughts to you.

Hon. Mr. CHEVRIER: There are just one or two things I should like to say in connection with the bill and the reasons why I thought it should go to this committee. When the bill came up for discussion I gave certain reasons why I thought it should not be approved, in so far as an amendment to the Railway Act was concerned. I understand that both Mr. Rosevear and perhaps Mr. Hawken as well, have enlarged upon those reasons. I do not want to go into them here. I say it would be a mistake to incorporate this bill as an amendment to the Railway Act for the reasons given at the time in the House, but particularly because it would upset the three pension plans of the Canadian National Railways. I do not think it is the intention of Mr. Knowles or any of those who favour this legislation to do that.

I did say, however, that I thought the principle of this legislation was good. Whether or not it should be incorporated in this code is not for me to say. It is a matter for the committee to decide. I think I should place before the committee the attitude of some of those who have corresponded with me. I am

interested in the Canadian National Railways and they have made their position clear. With that position I have no fault to find. I have no brief for the Canadian Pacific Railway. They know the committee is sitting and can make representations if they desire.

However, I have received a letter from the solicitors of the New York Central Railway which is of such importance I think I should lay it before the committee. The letter is written from the firm of Kingsmill, Mills, Price, etc., of the city of Toronto, acting on behalf of the New York Central. I quote this letter to the committee. It is dated the 30th of March.

> Dear Mr. MINISTER,—We have been instructed by the New York Central Railroad to write you in connection with the above bill and to advise that the New York Central views with great concern the proposed legislation.
>
> The company is the lessee and operates the following lines of railway:—
>
> 1. The Canada Southern Railway between Detroit and the Niagara River;
> 2. The Ottawa New York Railway Company between Cornwall and Ottawa;
> 3. The St. Lawrence and Adirondacks Railway Company into Montreal.
>
> The New York Central is, of course, a foreign corporation and derives its corporate powers from its charter and the laws of the state under which it was incorporated. It has a pension plan which is presently applicable to agreement classes of its employees. The same the non-funded voluntary pension plan is strictly gratuitous and no contributions are made thereto by any of its employees—the plan may, at the discretion of the New York Central be discontinued, amended or changed at any time. If any proposed amendment of the Railway Act would have the effect of interfering with the company's control of this pension fund, then the company would give immediate and serious consideration to abolishing the plan entirely so far as its Canadian employees are concerned.

The letter continues, and I simply replied saying that the matter had been discussed in the House. The principle had been approved and the bill had been referred to this committee. I suggested that they submit evidence before the committee. The chairman tells me that last night it was decided to consider this bill. I do not think these people have had an opportunity of coming here. I presume this firm will want to appear if they possibly can and they should be given an opportunity of explaining their position. If what is stated in this letter is so, then there is a large number of Canadian railway workers who might be affected.

Mr. McIvor raised a point which should, I think, be given some consideration. If this bill or its principle is incorporated in the Act, then does it follow from that that the principle becomes applicable to industry, not only to railroading, but to other industries? That is a question which gave me some concern so far as accepting this as an amendment to the railway Act is concerned. It is a matter for the committee to decide. Those are the only two points I had to submit.

The VICE-CHAIRMAN: Gentlemen, I think from what the minister has said it is only fair that we give Kingsmill and Company or the New York Central an opportunity to appear before we reach any conclusion. I will endeavour to communicate with them today and get them here as soon as I can. As soon as I do that I will call a committee meeting, but it probably will not be until Monday. We have kept the solicitor from the department here. He has listened to the discussion and will be in a position at our next meeting, when we discuss these matters, to give us his legal opinion. I think the committee will want that.

Mr. SINCLAIR: One of the strongest points which was made, in my mind, was that if this became law then the companies would be reluctant to reinstate men whom they had dismissed for disciplinary purposes for such matters as keeping cash fares, for example. To what extent does the Canadian National Railways reinstate men whom they have dismissed. Does that happen often or is it one of those cases that happens once in a great while?

Mr. HAWKEN: Do you mean generally dismissed, or dismissed for knocking down fares?

Mr. SINCLAIR: Dismissed for cause.

Mr. HAWKEN: Very frequently.

The VICE-CHAIRMAN: I can relate a few instances in the Toronto district, unfortunately.

The WITNESS: I should like to make a general remark to the committee. This last evening when the chairman told me the bill would be considered today, I got in touch with the assistant general counsel for the Canadian Pacific Railway and he told me that he would try to be here today. Now, I do not see him here, but I just wanted to tell you that. I telephoned him last night and it is very likely the Canadian Pacific Railway would like to say something. I do not think I should remain silent when I know those facts.

The VICE-CHAIRMAN: We will be in touch with the Canadian Pacific as well as the New York Central.

Mr. ADAMSON: I wanted to ask the solicitor this question concerning the knocking down of fares. I happened to have quite a long discussion with one of the conductors the other night on this very subject. I understand that if a man takes a fare and pockets it, he is discharged if he is caught. If somebody on the train tells him a hard luck story, what then happens? Must he throw the passenger off the train? If he permits the passenger to ride to his destination, what happens? That question was brought up during the discussion and I mention it here because I should like to know what the general practice of the railway is.

For instance, if a conductor is told a hard luck story by a woman travelling with a child and he permits her to travel to her destination; secures her name and turns it in, is he considered to be knocking down fares?

Mr. HAWKEN: No, sir, all railway employees are just as human as any others. A man would not be dismissed for knocking down one fare. We check the revenues and we know something is wrong. A man is not dismissed for knocking down one fare. He would be dismissed most likely after three or four offences which were well proven.

Mr. HOMUTH: He is probably warned as well?

Mr. HAWKEN: Yes, invariably.

Mr. TIMMINS: Having regard to the merit which seems to be in the observations made by Mr. Rosevear that you cannot very well override a private act by a general act except in expressed terms so that this legislation, if we put it into effect, might not be effective, and having regard to the fact that it might not be useful to put it into this code we are dealing with as it may raise a contentious matter which may delay the bill, and having regard to the fact that you have regulations governing these matters and that you have a sense of the feeling of this committee in respect of the usefulness of some of these matters, have you any suggestion as to how this matter could be handled otherwise?

The WITNESS: Mr. Chairman, I feel that perhaps that is a matter for the Department of Justice to deal with. The point I tried to convey to the committee was this; most of the things mentioned here are carried out now by the Canadian National. In fact, all of them are. However, I would regret a bill being passed, either this bill, the special bill, or an amendment to bill 338 unless

it is very carefully drafted so as to leave some discretion in the hands of the pension board and also to see to it that no injury is done to the employees. There might be an injury done to the employees and I mentioned reinstatement as one, you see.

The VICE-CHAIRMAN: Gentlemen, I think we are very nearly at the end of our session for today. I said that we would now give ample time for the study of the evidence. There are just a few comments I wish to make. They are not all-inclusive, but I do think I express the committee's view when I say that the briefs we have had before us were thoroughly good briefs; well studied out and represented a point of view.

Now, we are charged with the duty of passing this bill. One thing we cannot afford to do is to rush this bill because I think it is far too important a bill. There are 72 sections in the bill. They are not all contentious. I was going to direct your minds towards sections that you might give extraordinary study because they are likely to prove contentious. As I say, you might think others are contentious and I may not, but I do think you will find the interpretation section contentious. The question of foremen will arise. Then, there will be the question of collective bargaining and whether collective bargaining should include more than wages and hours of work. You will find considerable contention there.

I think you will find section 8 contentious, dealing with craft unions and whether the employer should have a multiplicity of unions or whether he should be dealing with one over all union. Section 9 may not be contentious, but it will be discussed thoroughly. It is a matter dealing with effective industry-wide bargaining.

Section 11 will be a very contentious section. I think you should study it very carefully because it deals with certification and decertification. Now, section 14 will also be contentious because it deals with the extension of time for negotiation. You have already heard from the various representatives as to what they think of the specified time now which they set at about three months.

Sections 39 and 40 are the enforcement sections and will also be contentious. A question will arise there as to whether enforcement should be by police magistrates which may be ununiform or whether it should be under the Criminal Code as it is at the present time or whether it should be by a labour relations board.

Then I think you will have the matter of ministerial discretion which will trouble some of us in the committee. I think the matter of reinstatement is a serious matter and the committee should give it considerable thought.

Mr. KNOWLES: That has a bearing on this matter, too.

The VICE-CHAIRMAN: Then, a question was raised as to the disestablishment of company unions. This is a matter to which you ought to give a lot of thought. It is a matter upon which labour feels very keenly. Of course, there will be the consttiutional question which is bound to arise and will lead to some discussion. Whether it will bring us anywhere or not is another matter.

There was a question raised in one of the briefs as to the power of the government to deal with anything that is in the legislative authority of the parliament of Canada, the sort of floating jurisdiction. Now, those were all questions which I thought were most important in this bill. There are others but I think they are rather minor although they may be important to some.

If you direct your energies towards those questions I think you will have the crux of the whole bill when we come back on Monday and we will be able to discuss it more easily than if we spread ourselves too thinly.

Mr. HOMUTH: When are you going to deal with bill 24 again?

The VICE-CHAIRMAN: As soon as I can make some arrangements to hear these people. I may even call another meeting before Monday.

The committee adjourned at 12.30 p.m. to meet again on Monday, July 7, 1947.

SESSION 1947

HOUSE OF COMMONS

STANDING COMMITTEE

ON

INDUSTRIAL RELATIONS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 6

MONDAY, JULY 7, 1947

INCLUDING SECOND AND THIRD REPORTS

WITNESSES:

Mr. D. I. McNeill, Assistant General Counsel, Canadian Pacific Railway Company;

Mr. F. J. Curtis, Superintendent of Pensions, Canadian Pacific Railway Company;

Mr. S. S. Mills, K.C., Barrister, New York Central Railroad System;

Mr. A. J. Kelly, Chairman, Dominion Joint Legislative Committee, Railway Transportation Brotherhoods;

Mr. J. J. Hendrick, Canadian Vice-President, Brotherhood of Railroad Trainmen.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY
1947

ORDER OF REFERENCE

THURSDAY, 3rd July, 1947.

Ordered,—That the name of Mr. Winters be substituted for that of Mr. Baker on the Select Standing Committee on Industrial Relations.

Attest.

ARTHUR BEAUCHESNE,
Clerk of the House.

REPORT TO THE HOUSE

TUESDAY, 8th July, 1947.

The Standing Committee on Industrial Relations begs leave to present the following as a

SECOND REPORT

Pursuant to its Order of Reference dated May 20, namely:—

That the subject-matter of Bill No. 24 An Act to amend the Railway Act, be referred to the said Committee,

your Committee heard representations from the following:

(1) The Canadian National Railways Company;
(2) The New York Central Railway Company;
(3) The Canadian Pacific Railway Company;
(4) Dominion Joint Legislative Committee, Railway Transportation Brotherhoods.

The purpose of Bill No. 24 commends itself to your Committee, but it is recommended that a further study be made of its implications.

A copy of the relevant printed minutes of proceedings and evidence of the Committee—Nos. 5 and 6—is appended.

All of which is respectfully submitted.

DAVID CROLL,
Vice-Chairman.

The Standing Committee on Industrial Relations begs leave to present the following as a

THIRD REPORT

On June 24 last, Bill No. 338, An Act to provide for the Investigation, Conciliation and Settlement of Industrial Disputes, was referred to your Committee.

Proceedings were commenced on the following day and, since that time, twelve witnesses, representing the following organizations, have been heard:

(1) The Canadian Bar Association;
(2) The Canadian Brotherhood of Railway Employees;
(3) The Canadian Chamber of Commerce;
(4) The Canadian Congress of Labour;
(5) The Canadian Construction Association;
(6) The Canadian Federation of Labour;
(7) The Canadian Manufacturers' Association;
(8) The Trades and Labour Congress of Canada.

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Written representation from the following organizations were also read into the records:

(1) The Canadian and Catholic Confederation of Labour;

(2) The Dominion Joint Legislative Committee, Railway Transportation Brotherhoods.

Your Committee also has on record a statement prepared by the Department of Justice, Ottawa, relating to the constitutionality of the type of legislation contemplated in Bill No. 338.

The Hudson Bay Mining and Smelting Company also made representations to your Committee in which they outlined the difficulty encountered in administering two sets of provincial labour regulations in their plant which is situated astride the Manitoba-Saskatchewan interprovincial boundary adjacent to Flin Flon, Manitoba.

With prorogation imminent, your Committee realizes that it will be impossible to give the said Bill No. 338 the consideration that it requires.

It is recommended that a similar Bill be introduced early next session.

A copy of the printed minutes of proceedings and evidence is appended.

All of which is respectfully submitted.

DAVID CROLL,
Vice-Chairman.

MINUTES OF PROCEEDINGS

MONDAY, 7th July, 1947.

The Standing Committee on Industrial Relations met at 10.30 o'clock a.m. Mr. Croll, the Vice-Chairman, presided.

Members present: Messrs. Adamson, Beaudoin, Blackmore, Charlton, Cote (*Verdun*), Croll, Knowles, Lafontaine, Lockhart, MacInnis, McIvor, Maloney, Merritt, Mitchell, Sinclair (*Vancouver North*), Timmins, Viau, Winters.

The Chairman stated the following had been received:

(i) Telegram, dated 3rd July, from the President, Canadian Seamen's Union;
(ii) Telegram, dated 4th July, from the Secretary, Lumber and Sawmill Workers Union, Port Arthur, Ontario;
(iii) Letter dated 3rd July, from the President, Findlays Limited, Carleton Place, Ontario;
(iv) Letter, dated 3rd July, from the President, The Board of Trade of the City of Toronto.

The Committee considered the subject matter of Bill No. 24, An Act to amend the Railway Act.

Honourable Lionel Chevrier, M.P., Minister of Transport, was in attendance and participated in the proceedings.

Mr. G. I. McNeill, Assistant General Counsel, Canadian Pacific Railway Company, was called. He made a statement and was questioned.

Mr. F. J. Curtis, Superintendent of Pensions, Canadian Pacific Railway Company, assisted the witness during the questioning.

It was agreed to print as part of the record the following papers filed by the witness:

(i) Synopsis of Canadian Pacific Railway Company Pension Plan;
(ii) Highlights of Pension Plan, Canadian National Railways Pension Fund.

The witnesses were retired.

Mr. S. S. Mills, K.C., Toronto, Ontario, was called. He made a statement on behalf of the New York Central Railroad System, and was questioned. He filed the following:

(i) Funded Contributory Retirement Plan for Salaried Employees and Officers, New York Central Railroad System, Issue of November 1, 1946. (*See Appendix "G"*).
(ii) Rules for Administration of Supplementary Pension System for employees other than members of the Funded Contributory Retirement Plan for Salaried Employees and Officers, dated November 1, 1946. (*See Appendix "H"*).

The witness was retired.

Mr. A. J. Kelly, Chairman, Dominion Joint Legislative Committee, Railway Transportation Brotherhoods, was called. He read a prepared brief and was questioned.

The witness was retired.

Mr. J. J. Hendrick, Canadian Vice-President, Brotherhood of Railroad Trainmen, was called and questioned.

The witness was retired.

The Chairman directed that the room be cleared.

The Committee considered draft reports to the House on,—

(*a*) The subject-matter of Bill No. 24, An Act to amend the Railway Act.

(*b*) Bill No. 338, An Act to provide for the Investigation, Conciliation and Settlement of Industrial Disputes.

On motion of Mr. Knowles,

Resolved,—That the draft report as amended on Bill No. 24 be adopted.

On motion of Mr. McIvor,

Resolved,—That the Report as drafted on Bill No. 338 be adopted.

On motion of Mr. Cote (*Verdun*),

Ordered,—That the Chairman present the said Reports to the House.

The Committee adjourned to meet at the call of the Chair.

J. G. DUBROY,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS,

July 7, 1947.

The Standing Committee on Industrial Relations met this day at 10.30 a.m. The Vice-Chairman, Mr. D. A. Croll, presided.

The VICE-CHAIRMAN: Order, gentlemen.

Gentlemen, I have a number of communications here. One is from the secretary of the Lumber and Sawmill Workers Union, Port Arthur, Ontario, asking that they be heard. We have already dealt with representation from the parent union so I presume we will just file that.

Then I have a communication here from the president of the Findlay foundries, Carleton Place, giving the committee his views. I presume we will file that also.

There is also a brief here from the Board of Trade of the City of Toronto, quite a lengthy brief, about seven pages, giving their comments on the bill. I have acknowledged it and I presume that also will be filed.

Then I have a lengthy telegram from the president of the Canadian Seamen's Union asking that they be allowed to present the facts in the case in connection with the refusal to issue passes to some of their men in accordance with the findings of the arbitration board. I presume that is another matter to be filed. We have already made our decision as to whom will be heard.

This morning we have on the agenda the representatives from the Canadian Pacific Railway and the New York Central Railway, and the Legislative Brotherhood have a small two-page brief here which they would like to have read. That is in connection with bill No. 24.

Mr. McNeill, assistant general counsel of the Canadian Pacific Railway is here, and I will now ask him to come forward. He is to deal with bill No. 24.

Mr. D. I. McNeill, assistant general counsel, Canadian Pacific Railway, called:

The WITNESS: Thanks very much. Mr. Chairman and gentlemen:—I appreciate the opportunity this morning of speaking to the subject matter of bill No. 24. Mr. Rosevear spoke to the committee on Thursday week and I have very little to add.

Our company feels that when legislation is contemplated with regard to pension plans a great deal of care should be exercised in keeping in mind the basic principles which underlie all pension plans. The pension plan of the Canadian Pacific Railway was formulated as the result of joint efforts of four representatives of organized labour and four officials of the company, and in formulating that plan it must be assumed that they considered and kept in mind all the points which should be kept in mind when formulating a pension plan and that the resulting plan represents the views both of labour and representatives of the company; always keeping in mind that the plan is flexible, and by the same plan of discussion and negotiation changes if they are considered necessary can be made. The pension plan is based on one

main essential and that is that benefits are necessarily from the standpoint of service which has been of some length and duration and which has been of advantage both to the employer and the employee.

In connection with the plan I think the best thing I can do is to file with you a short summary of the Canadian Pacific plan; and I am doing that because I think it might be useful information for the committee to have. I have also secured and will file a brief summary of the Canadian National plan, so that the committee will have before it a brief summary of the plans in existence on the two railways.

The CHAIRMAN: Is it all right to put these on record, gentlemen?

Carried.

SYNOPSIS OF CANADIAN PACIFIC RAILWAY COMPANY PENSION PLAN

Voluntary pension plan became effective January 1, 1903, under which the company paid pensions in full.

Contributory plan became effective January 1, 1937 and is administered by a committee of seven—four officers of the company and three general chairmen of the organized employees.

Rule 8.—Employees are eligible who last enter the service before 40 years of age and remain continuously therein until retirement under the rules; provided, however, that leave of absence, suspension, dismissal followed by reinstatement within one year, or a temporary lay-off on account of reduction of staff, need not be treated by the committee as constituting a break in the continuity of service.

Rule 11.—Employees' contributions 3 per cent; Employers' contributions, balance to meet total pension costs, including prior service at 1 per cent for each year's service based on average salary for last 10 years prior to retirement.

One-third of pension arising from service subsequent to January 1, 1937, is paid from the Pension Trust Fund, the remaining two-thirds arising from such service in addition to full pension for prior service is paid by the company.

Rule 12.—The trust fund is established to be invested and administered by the company as trustee, from which withdrawals are made in accordance with the rules.

Rules 14 and 15.—Normal retiring age for all employees is 65, but eligible employees may be retired between 60 and 65, at the discretion of the committee, either upon application of such employee or upon the recommendation of the head of the department to which he belongs. Retirement may take place also under age 60, in special circumstances, subject to the approval of the board of directors of the company.

Rules 17 and 18.—Calculation of pension; Length of service of a contributor is calculated on the basis of the number of months in which he has actually rendered service, twelve of such months to count as one year's service and the pension is the percentage, represented by the number of years so calculated, of the average monthly pay for the last 120 months of service, subject to a minimum of $30.00 per month.

Rule 19.—Survivor benefits—50 per cent of reduced pension allowance based on life expectancy of two persons. Election must be made six months prior to age 65 or, in the event of earlier retirement, pensioner must live six months following date of application in order to receive the benefit.

No minimum service requirement is necessary to qualify for pension.

AMENDMENTS TO PENSION RULES EFFECTIVE SINCE COMMENCEMENT OF CONTRIBUTORY PENSION PLAN (JANUARY 1, 1937)

Effective through company action

Rule 8 (*a*).—Transfers between companies as contemplated by paragraph 5 of schedule to the Canadian National-Canadian Pacific Act 1939.

Rule 8 (*d*).—To provide pensions for employees of railway associations, etc.

Rule 10 (*a*).—Protection of prior service for employees laid off prior to 1937 and returning not later than December 31, 1940.

Rule 10 (*a*).—Further proviso for those returning after Dec. 31, 1940.

Rules 11 (*c*) and (*g*).—Disposition of unclaimed contributions.

Rule 12 (*a*).—Proviso to increase proportion of pensions paid from trust fund (company's contributions).

Rule 15.—Medical examinations for men retired under age 65.

Rule 19.—Revision requiring 6 months' notice prior to age 65 in case of election for joint survivor pensions or, in event of earlier retirement, requirement that pensioner must live 6 months following date of application in order for benefit to become applicable.

Rule 30.—Added to provide for transfer between companies.

Rule 34.—To cover pilots and other air line employees.

Requests for amendments made by employee representatives

Rule 11 (*g*).—Authority to refund contributions up to $1,000 to deceased employees' estates where no legal representatives appointed.

Rule 14.—Proviso respecting pensions for dismissed employees retained in service after age 65.

Rule 18.—Increase in minimum pension from $25 to $30 monthly.

Rule 20.—Authority to refund unused proportions of contributions up to $1,000 to deceased employees' estates if, where there is no Will, surety bond completed.

Rule 22.—Employee representatives while on leave enabled to contribute on basis of highest paid position in territory where they hold seniority rights.

Ten rules amended at instance of company and 5 rules amended at instance of employees' representatives.

CANADIAN NATIONAL RAILWAYS PENSION FUND

Highlights of Pension Plan

The Canadian National Railways Pension Fund is administered by a board of seven members, four of whom are officers of the company and three officers of recognized labour organizations.

The rules respecting the fund are the result of co-operative discussions between representatives of the company and organized labour.

The normal retirement age for all employees is 65 years.

Employees joining the service of the company since January 1, 1935, and who are under 45 years of age are entitled at the age of 65, provided they remain continuously in the company's service, to a basic pension of $300 a year at the sole expense of the company.

Every employee who entered the service prior to January 1, 1935, before attaining the age of 50 years and who at that date had more than 10 years service, if continuously in the employ of the company, is entitled at the age

of 65 years to a service pension based upon 1 per cent of his highest average salary for ten consecutive years, multiplied by the number of years of his continuous service. No employee is entitled to both a basic pension and a service pension.

In addition to the above each employee is entitled to contribute from his salary towards a retiring annuity in even percentages of his annual salary not exceeding 10 per cent. At the end of the first 10 years of an employee's continuous service the company will match the employee's contributions on a dollar for dollar basis to a maximum amount of 5 per cent of the employee's annual salary.

The contributory feature of the pension plan is not compulsory and employees are entitled to change their rates of contribution on or before January 1st of each year.

Employees may, under special circumstances, withdraw their contributions in whole or in part with accrued interest. By withdrawals the employee loses the benefit of the company's matching contributions.

If an employee dies before reaching retirement age his contributions with accrued interest are paid to his heirs. If an employee's service is terminated before retirement age his contributions are refunded to him with accrued interest, excepting that no interest is paid on contributions made during the first ten years of service.

Upon reaching retirement age an employee is entitled to the basic or service pension and to such supplemental annuity as may be purchased from the company by the amount of his contributions added to the contributions credited by the company, together with accrued interest compounded thereon.

The form of the annuity may be selected by the employee as follows:

(1) Straight life.

(2) A life annuity guaranteed for a stated number of years.

(3) A joint and survivor annuity.

The pension plan also contains provisions for retirement at age 60 of physically or mentally unfit employees with 20 years service as well as for the voluntary retirement at age 60 of employees with at least 30 years continuous service upon certain conditions. There is also a provision whereby an employee 60 years of age or over with 35 or more years continuous service may elect to receive a guaranteed or joint survivor annuity, payable upon his retirement. If such election is made and the employee dies in the service the annuity would become payable to his widow or to his heirs, the date of death in such cases being regarded as the date of retirement.

The pension rule respecting the subject matter of Bill 24 reads as follows:—

16. The following need not necessarily be considered by the pension committee as a break of continuous employment or continuity of service:

(1) Absence on leave.

(2) Temoprary lay off on account of reduction of forces.

(3) Suspension or discharge if followed by re-instatement or re-employment within one year with the approval of the head of the department.

In reaching a conclusion as to whether there has been a break in continuity of service the fact of the employee entering other employment during such absence, whether on leave or from suspension, discharge, or lay off, may be considered by the pension committee.

The regulations for computation of service which are supplementary to and complementary of the pension rules indicate quite clearly that absence on leave and temporary lay off on account of reduction of forces do not constitute a

break in continuity of service. The words "need not necessarily be considered as a break in service" have no significance with respect to sub-paragraphs (1) and (2).

The WITNESS: Now, a pension plan in any industrial undertaking will not be successful unless it is actuarily sound, and whether a plan is actuarialy sound or not depends upon the benefits that are to be paid out in connection with the plan in conjunction with the contributions that are made to it. The Canadian Pacific fund benefits are based on a pension which is calculated on the remuneration of the last ten years. The effect of bill No. 24 which is intended to give credit for the entire service is in conflict with that principle because you are going to give an employee credit for his entire service, whether it is broken or not. It is only actuarily sound to do so if when the time comes to pay his benefits you base those benefits on his earnings over his entire period. The Canadian Pacific plan in practice has envisaged the payment of benefits based on average earnings of the last ten years, so the employee gets the full benefit of his progressive promotions, or the manner in which his career with the company has been carried out. We should also keep in mind the results of treating the man whose service is not broken for reasons which are contrary to or in conflict with the very basis of his employment as against the man who leaves the service apparently to improve himself and who may subsequently come back to the service.

There is only one other point which I think might very well be kept in mind, and that is that the contributions of the employee under the Canadian Pacific plan are paid into a trust fund. That trust fund is administered by a committee composed of three representatives of organized labour groups and four representatives of the company. That money is paid into the trust fund subject to the trust created by the rules and regulations of the pension plan. If legislation is going to affect the rights of every individual employee in that trust fund, and that will be the result of such legislation, I think it might well be kept in mind that the question of constitutionality arises because definitely that legislation will be dealing with private property and civil rights of the individual employee because the man who has paid his contribution into the fund has put it in on the basis that it will be paid out in accordance with the rules and regulations. If these are changed to give benefits other than those which have been agreed to it is bound to affect the position of each individual employee with respect to the contributions he has paid into that trust fund.

I have with me to-day Mr. Curtis who is the superintendent of our pension fund. He is here to answer should any members have any particular questions to ask about the administration of our pension scheme. He will be glad to answer questions of that nature.

Thank you, Mr. Chairman.

The CHAIRMAN: Gentlemen, you have heard Mr. McNeill's presentation. Are there any questions?

By Mr. Timmins:

Q. It is suggested that if you change the plan of the scheme the fund is going to be affected. I suppose you mean by that that it is going to be affected by this new legislation, and that it is going to be affected to the disadvantage of the pension holders; is that the case?—A. Well, it seems to me that if you have 60,000 or 70,000 employees who are paying contributions into that fund which is a trust fund and from which they know they are entitled to certain benefits on retirement and know that their ability to secure these benefits is based upon a scheme which has been formulated and which we will presume is actuarily sound, and if a group of the 60,000 or 70,000 break their service for any reason at all such as is stated and that does not give them

the right to retain their benefits in the fund and if by legislation you are going to give that group these benefits you are certainly placing a burden on that fund in which the other employees who have not broken their service have an interest because, it would have to be paid from money which was in that fund.

Q. Do you think it would be affected by reason of this new legislation; that it would create a situation whereby the payments which have been more or less fixed up to this time would have to be revamped as between the employer and the employee and with respect to the employer's share that he would have to pay in?—A. I do not think that there is necessarily any question that ultimately a pension plan which can now pay certain benefits based on certain conditions of service, from which you are going to have to pay these somewhat more variable or greater benefits based on different conditions of service, is going to have higher contributions to bear that added burden. One particular burden may not make any difference over a period of a few years but if you accumulate the burden with respect to suspension and the burden with respect to something else and another burden with respect to something else, pretty soon that fund is not going to be able to carry these added burdens.

By Mr. Knowles:

Q. Mr. Chairman, might I ask Mr. McNeill one or two questions? First of all, is it clear that both of us are talking about the future and not about the past as far as this legislation is concerned?—A. I do. We are talking about the future.

Q. I mean, I wondered from what you had said whether you might not have the past in mind, particularly when you referred to the actuarial soundness of the plan. May I ask you to explain how a break in service affects its actuarial soundness? If I may explain further what I have in mind: what you have said almost leads me to conclude that the present pension plan has been worked out in anticipation that there would be certain breaks of service with certain resultant loss of pension rights. After all, I do not think we are asking for anything in this bill which a man has not already earned, if you get what I mean.—A. I think I understand.

Q. After all, when we ask for a continuation of pension rights we do not ask for any pension payments to individual employees that they have not earned by service and under the provisions of the plan. How does it upset the actuarial soundness of the plan?—A. I think I understand what you have in mind, Mr. Knowles. The first point as the bill is presently prepared, I do not think it is at all clear where you have a break in service as to just what the actual mechanics are to deal with it. But when I speak of the actuarial aspects of the plan I am speaking with reference to one particular thing; how it affects the actuarial basis. What I am thinking of is the principle. If you take a plan that has been worked out to build up, as any pension plan does, certain benefits on the payment of certain fees, the very basis of it is bound to be affected, and they are based on certain conditions of service; and in connection with any such plan there is the question of eligibility for pension; and it takes all of these facts and figures together to give you your pension plan. It is those factors put together which give you the actuarial basis of your pension plan, and which determine whether or not it is actuarily sound. Assume that you take a plan that is in being and decide by legislation to apply to it some other conditions as to service or as to eligibility or as to benefits, you are bound to disturb the basis upon which that plan has been worked out. One instance may not be sufficient to upset it, two instances may not be sufficient to upset it; but when you come to three or four or five instances—and I have no idea where you are going to stop eventually—you are bound to affect the basis of the plan. I do not see how you can avoid it.

Q. Well then, let me ask you one thing further. Suppose you start from this point and over the next forty years you have no strikes of any kind; if that is the case, do you still think the plan will be actuarily sound?—A. I would say it must be actuarily sound as it stands without any break in service over the next forty years, because that is what is contemplated.

Q. Then, what payment would the fund have to pay caused by breaks in service that would be affected by a provision of this kind?—A. I think we have to consider carefully every individual change that is going to affect the actuarial principle involved in a pension plan. I have no hesitation at all in expressing my views as to the principle involved.

Q. And that is what makes it look to me as though when this plan was designed there would be certain breaks in service and certain losses of pension rights, if the fund is not going to be able to cover this. Otherwise, how would it affect the actuarial soundness of the plan?—A. No, I think you will recall that you used the words "actuarial basis" rather than "actuarial soundness". And, when I referred to the actuarial basis of the plan what I had in mind was this, that if any pension plan is going to work out in the way it is planned to work out it must be based on certain actuarial facts. I would like to be able to explain these factors better than I can; of course, they are complicated; but as soon as you change the underlying factors of the plan you necessarily change the basis upon which the actuary has said the plan would work.

Q. I quite appreciate that if you change the factors which establish the soundness of the plan that you will change its basis; but the answer you have given to my question makes it appear to me that a part of the actuarial basis of the present plan includes certain factors and some of these factors are the assumption that there will be a break in service that will violate certain rules and result in losses.—A. Yes, or to put it another way I think if your actuary looked at a plan and said "your pension fund has to support pensions under certain circumstances which are not now within that," that he cannot tell you in the long run that plan can be self-sufficient to do so without increased contributions or something of that nature. When you start to compare pension plans one between another you will find in one plan certain provisions that seem very beneficial. You will look at another plan and they do not appear there, and you may say that the second plan suffers by comparison, but generally speaking, and I think almost always, you will find in that plan some other condition or some other factor which is an offsetting advantage to the advantages of the other plan. You have got to look at the plan as a whole, and as soon as you start to disturb it I think you are running into trouble. I really feel that industries which to-day have no pension plans, and which may be contemplating them, will be much slower to put pension plans into effect if they are faced with legislation of this kind. As to plans that are already in existence I think you are going to find they cannot, to an unlimited extent, support alterations by legislation.

Q. I will not pursue that matter further except to say it does seem to me the basis of a plan that provides that those who will benefit by it will benefit in part because of the losses of others who do not keep the conditions laid down in the plan on its present actuarial basis. . .

Mr. LOCKHART: I wonder if Mr. Knowles would turn a bit and speak so that we can hear him.

Mr. KNOWLES: I am sorry.

By Mr. Knowles:

Q. One other point that Mr. McNeill made was to the effect that the plan as worked out calls for the payment of a pension based on the average earnings during the last ten years of employment. May I ask the witness what difference

it would make to that factor to have a break in service protected as this legislation would do? Would it not still be as your plan indicates, on the last ten years?—A. I think any plan I know of which pays benefits based on total service, whether that service has been broken or whether it has been continuous, pays a pension based on the earnings over the entire period of the service. Our pension plan pays benefits based upon the earnings of the last ten years of service. I do not think you can find, except in exceptional instances, where the average earnings over an entire period of service approach anything like the average earnings over the last ten years of service.

Q. That point is not in question. I recognize in some respects that is better. My other question is this. Accepting your basis of making a pension payable on the basis of the last ten years what change does it make if a break in service is protected? Is it not still the case that the pension would be based on the last ten years as laid down in your rules?—A. Yes, and what I am suggesting is that the benefits paid on the last ten years of service, which is a favourable basis for calculating your pension, is an offset to those plans which pay on your entire service, whether it is broken or not, but which are based on your earnings over the entire period. These are comparable as they stand in that way, but you take any system and you want to add to that payment for entire service, whether it is broken or not, and you immediately upset that comparison to the disadvantage of the plan which does not now take into account broken service of the nature you have contemplated in your bill. I offer these as various examples of how you cannot take a plan which has been worked out in its entirety and legislate with regard to one aspect of it. I do not care what the aspect is. I am not speaking about the particular content of bill 24, but I am saying if you take any pension plan which has been worked out in its entirety and affect it in any single or any one or two respects you are bound to disturb the basis upon which that plan has been worked out.

Q. May I put it this way. Take the case of two employees, one with a service of 25 years and another with a service of 35 years. I take those figures so that both of them will have got started at age 40 and be able to retire at 65. Their pensions will be different because one has been in the service longer and has attained a higher rate. Is that correct?—A. Provided their remuneration is the same in the last ten years that would be so. On is paid for 35 years service and one for 25 years service.

Q. Let us suppose one of them has a break in that service. It does not matter which one. We will take the 35 year one and say he has a break in that service but comes back. Would you explain how you think this provision makes any difference? Would it not still be the case that the 35 year person would get his pension based on the full 35 years.—A. I do not know just how your bill can be—

Q. Based on the 10 years—I am sorry. He would get his pension based on the last 10 years?—A. I do not quite understand.

Q. You seem to be taking the position that my bill calls for something different than you now have in that it calls for the pension to be based on the total length of service rather than on the last 10 years. My contention is that all this provides is for that 35 year employee to get his pension rights, and his pension rights are to have the pension based on his last ten years of service.—A. Even if he had a break in his service?

Q. Yes.—A. I am afraid I cannot agree with that principle.

Q. I have two other questions. Would you explain the difference between an employee who has a break in service due to suspension or a strike on the one hand and the break in service of the man whom you have described who leaves the service voluntarily to better himself and then comes back later on? I take it your viewpoint is that the second man, the man who leaves the

service voluntarily and comes back later on, if he is still under 40, should have the right to enter the plan. What is the difference on the plan actuarily in those two cases?—A. That is one of my suggestions of the result of such a bill. At the present time the man who leaves the service voluntarily and then comes back does not get credit for the service prior to the time he left. I do not know why he should. He has left voluntarily presumably to better himself for reasons of his own. He may eventually come back to the service and he gets no credit in his pension for the period prior to his break in service. Yet you propose by the bill to give to the man whose break in service results from a strike the right to come back and have credit for his entire service both prior to and after that break in service.

Q. I think the way you put it before was you were going to give that benefit to the man who left voluntarily.—A. He does not get it now and there is no reason why he should. I do not see why he should be discriminated against in a sense by such a bill as is being proposed now.

Q. We could go into that. The reason for his leaving would be a little different than the reason for the break in service in the other case. You spoke of the investment that the men would have in the trust fund as being a matter of property and civil rights. That sounds like a discussion—

The VICE-CHAIRMAN: Had we not better get a legal opinion on that?

Mr. KNOWLES: It sounds like a discussion we have had ad nauseam around here.

By Mr. Knowles:

Q. You are aware, are you not, of the recent amendment to the Canadian National-Canadian Pacific Act which brought railway workers wage rates and hours of work and other things under federal jurisdiction?—A. I am familiar with it.

By Mr. McIvor:

Q. I do not know whether my question is in order or whether it will be answered, but I think this is a good place to ask it. Do you not think it would be a good thing to obliterate both these pension schemes of the C.P.R. and C.N.R. and put them on a contributory basis so that it would wipe out the gross injustice to men who have served, as I have found one who served, for 32 years and he has no pension. These men would be better off to have no pension at all than to have that.—A. I do not know what you mean by putting them on a contributory basis. They are on a contributory basis now.

Q. Why is it that a man who has served for 32 years, or within two months of having his pension, gets nothing? You would not say that is fair.—A. I do not know the particular case, but I can suggest this to you. In 1937 when the Canadian Pacific plan was put on a contributory basis all employees in the service were given the option of coming into the plan on that basis or not. It was their option, and I know it was not exercised by all of them.

Q. I can give you one case at Fort William where a man only had two months more to serve and he gets nothing. Of course, he was sore, and I was not very happy.—A. I do not know the particulars of that case. I could not even attempt to answer it.

Q. I will be glad to give the particulars. On the C.N.R. I know of a conductor who served for over 32 years, and he got a pension on compassionate grounds through the president of the C.N.R. I do not think that man should have to have a compassionate pension. I think he should have an up and coming pension at least equal to the old age pension of $40 a month.—A. It would be difficult to answer the question without knowing the facts of any of these cases.

By Mr. Lockhart:

Q. I want to ask one or two questions. I have been getting a little clearer insight into this thing since I have been able to hear all the comments that have been made by Mr. Knowles and the witness. To sum it up very briefly I gather the original plan of your pension scheme included a continuous contribution by the employee.—A. I would not say the original plan because prior to 1937, while pension benefits were paid to employees very much upon the same conditions as maintain now, it was paid entirely by the company and no contribution was made by the employee. In 1937 the cost of that had become so great that a contributory pension plan was evolved in conjunction with the officials of the labour organization. That is our present plan to-day which calls for a 3 per cent contribution by the employee. I might say in that respect so you will have the whole picture—

Q. That part I quite appreciate.

The VICE-CHAIRMAN: Let him finish. What were you going to say?

The WITNESS: If I have given Mr. Lockhart all the information he needs on that point—

Mr. LOCKHART: I think you have.

By Mr. Lockhart:

Q. If there was a break in service prior to 1937 would that mean that your own company did not make contributions for a particular employee if he was out for any cause?—A. It depends what the break in service was for.

Q. In most cases could it be said you did not make contributions for him?—A. No, no, I would not say in most of the cases.

Q. Where a man left of his own accord?—A. If a man left of his own accord his service with the company stopped.

Q. Suppose there were labour difficulties and the man was off work; would those contributions still go in the fund?—A. By the company?

Q. Yes.—A. There never was a fund and there never were contributions. It was paid from current earnings.

Mr. KNOWLES: It is like the consolidated revenue fund of the federal government.

By Mr. Lockhart:

Q. In the original setup the fund was organized on the basis of employees working continuously?—A. Quite.

Q. Then the lack of payments being made from any cause whatever is the main reason why you are saying now that it would affect the fund to the extent that you probably would reach the point, if there was too much of it, where you could not pay the original basis of benefits set up? Is that right?—A. I do not want to leave the impression that one instance of what is covered by this bill would work, if you like, to make that fund insolvent. I doubt if one situation would. I suggest that just as soon as you start affecting the existing plan, you will ultimately reach the stage where you will make the fund unable to carry itself.

Q. If there are a series of interruptions, they keep piling up. It was for that reason that, in 1937, you made this adjustment?—A. Oh, no.

The VICE-CHAIRMAN: He said it was due to the cost.

The WITNESS: Up to 1937 the entire cost of paying such pensions to employees who reached retiring age was being borne by the company out of earnings. The cost of this was beginning to be very serious. In 1937, it was decided that if the employees were still to receive a pension at the age of 65 comparable to the one they were getting, they would have to contribute towards

it themselves. They would have to make some contribution, bear some part of the cost of this pension. Therefore, in 1937, our present contributory pension plan based on the creation of a trust fund was set up. This plan is administered by this committee made up of the men and the company.

By Mr. Lockhart:

Q. Prior to 1937, there was no contribution set aside?—A. None at all.

Q. It was just taken out of current revenue?—A. That is quite right, sir.

By Mr. MacInnis:

Q. In connection with the pension plan which was instituted in the first instance, was there any question of it being considered part of the wages of the employees?—A. You mean before it became the present contributory plan?

Q. Yes.—A. You asked me a question, but I cannot tell you what was the thought at that time. I honestly believe when the company started paying a pension to retired employees it was paid on a basis or it was a reward, if you wish to call it that, for long and loyal service to the company. It was probably to the advantage of the company to do so. It would maintain and retain that type of service.

Q. If an employee leaves the service now, is he repaid the contributions he made into the plan?—A. He is.

By the Chairman:

Q. With interest?—A. Without interest.

By Mr. MacInnis:

Q. If an employee is discharged for cause is he paid?—A. If he is reinstated within one year the committee may in its discretion decide that will not affect his pension rights.

Q. But if he is discharged for cause does he receive any payment made into the fund?

Mr. CURTIS: He gets his contributions back, but if he is returned to service he can repay his money into the trust fund and get credit for that service.

By Mr. Knowles:

Q. There is no question but that a discharged employee would get back his contributions?—A. If his service is terminated for any reason, he gets his contributions.

By Mr. MacInnis:

Q. What I had in mind was whether the actuarial soundness of the fund was based on the fact certain employees will pay in money and will not get it out?—A. No, it is not, although I will say this: that basically on termination of service they receive their contributions back without interest because it was calculated by the actuaries that the only way you can maintain a fund to pay the benefits which were contemplated was, on termination of service the employees would get their contributions back but they would not get it with interest.

By Hon. Mr. Mitchell:

Q. When this new plan was established in 1937, did the company make any lump sum contribution?

Mr. CURTIS: No, sir, they did not.

The WITNESS: So you will understand that, may I say that the change was made in 1937. We have still a great many employees whose service goes back before 1937 and so goes back to a period before they started to make contributions to that fund. On retirement, these employees receive their regular pension but only a proportion of the cost of that pension which is attributable to their years of service since 1937 comes out of that trust fund. The rest is paid by the company.

By Mr. Knowles:

Q. That would imply that the man had an equity prior to 1937?—A. I would not say so, no.

The CHAIRMAN: Are there any further questions, gentlemen?

By Mr. Timmins:

Q. You said a few minutes ago that there were three employees of the company who sat on this pension fund board?—A. On the pension committee. There are four officials of the company and three employees.

Q. Have any requests or recommendations such as we find here in the bill come to the company for legislation or for adjustment from these three employees?—A. With respect to what?

Q. This type of adjustment?—A. I do not know. I am sure that constantly there is exchange of discussion between the employees' representatives and the company's. What they constitute I do not know.

Q. In respect of the labour unions who are the bargaining agents for the employees can you tell me whether or not any requests for adjustments such as we have here have come from those bargaining agents?

The CHAIRMAN: They are here this morning and will be witnesses within a few moments.

By Mr. Merritt:

Q. As I understand it, you said if an employee is out of employment for a period when he goes back he does not get the benefit of his prior service?—A. Under certain circumstances, that is right. If he is laid off, he does. If he leaves of his own accord, he does not.

Q. So, if he is laid off for sickness for instance, he retains all his benefits?—A. Oh, yes.

Mr. KNOWLES: That is, he may be given those benefits under rule 8-A. We had the same point up the other day when the Canadian National was here. It is not automatic.

The WITNESS: It is discretionary with the committee.

By Mr. Merritt:

Q. So, if he is laid off for sickness he might forfeit his rights based on prior service?—A. I suppose that theoretically, he might. I do not know of any case where he has.

Q. What about this item in the bill, temporary lay-off on account of reduction of staff; how does that affect the present employees?—A. As a practical matter he does not lose his service. It also comes within the discretionary clause.

Q. In practice?—A. In practice, he does not lose his service.

Q. So, really this temporary lay-off on account of reduction of staff is unexceptional in the bill, or do you feel you should maintain the right to exercise discretion?—A. We feel, when you have a pension plan which is administered by the representatives of the employees and of the company it is better to leave

that in their discretion. You do not know what specific case you may run into. I do not know of a case where it has been exercised against the employees. Pension plans, if they can be worked out between employees and management, are far better than pension plans disturbed or imposed by legislation.

Q. I certainly agree with you there, but since this bill is now before us we have to treat it on its merits?—A. I quite appreciate that. After all, you are dealing with it on its merits.

Q. Are there any other items in the bill which are in effect or practically in effect now, although they have not got legislative sanction?—A. I do not like to look in the bill and suggest that, in the terms that they are in the bills, those same terms are in effect under the plan because I find it difficult to know where the bill ends.

Q. What is the present practice in regard to employees who are on leave of absence, a term which suggests to me that both the employer and the employee have agreed that he may go out of service for a certain period?—A. If he is on leave of absence, the management assumes when they require him and call him he will come back to the service. When he does, he is given his prior service for pension service. If, on being called back, he does not return to the service, he is not any longer on leave of absence.

Mr. KNOWLES: I hate to be interrupting all the time, but I think it should be stated that when he returns at the company's request he may be given his prior service.

The WITNESS: He may be given it but, as a matter of practice, he is.

By Mr. Merritt:

Q. What is the present practice with regard to suspension?—A. It comes under this discretionary clause. Provided that reinstatement is within one year and his prior service is all right, it is within the same discretionary clause as we spoke about.

Q. The period of one year is set for actuarial reasons or arbitrary reasons or what?—A. I could not tell you. I think it has some very practical advantages. It means the man's case is going to be dealt with before the expiration of a year.

Q. Dismissal followed by reinstatement, what is the practice now?—A. The practice followed, provided it is reinstatement within one year, the practice is he receives the benefit of his prior service.

Q. It is the same as suspension and the same as lay-offs. Another item which is in the bill but which does not come under the plan is lock-outs and strikes. However, you are free of those things?—A. You are getting into a very dangerous field when you come to that. There are a lot of questions, if you really want to dig them out. Does it call for legal strikes, illegal strikes? What is a legal strike?

Q. Have you had any practical experience with what happens to the pension plan resulting from a strike?—A. Yes, Mr. Knowles, has probably told you that many times.

Q. I am afraid I was not here the other day.—A. We have had men who have been out on strike who did return to the service and have been taken on as new employees.

Q. So they have never had the benefit of prior service?

By Mr. MacInnis:

Q. Mr. Merritt raised the question of suspension. Suspension is not considered a break in service, it is a disciplinary action?—A. He is still in the service but subject to suspension; that is the meaning of the word.

By Mr. Adamson:

Q. I should like to ask the witness a question concerning employees who are killed in the service. I have a case which I want to bring to his attention a little later. Employees who are killed by accident not caused by themselves, but accidentally killed, what is the pension scheme in that connection?—A. It is return of the contribution, Mr. Adamson.

Q. But if they are killed on service, does the company make a widow an allowance?—A. If you are confining yourself to the effect with regard to the pension and the employee has not reached the retirement age, it is a matter of the termination of service and the contributions are refunded. If you are speaking of the other results of an employee being killed, they come under the compensation law.

Q. In the case of a brakeman who has had 23 years of service, his widow is made an allowance according to a statement I have of $45 a month?—A. That must be from the Workmen's Compensation Board.

Q. That is not from the railway at all?—A. That is not from the pension, that is the workmen's compensation.

Hon. Mr. CHEVRIER: Is that an Ontario case?

Mr. ADAMSON: It is an Ontario case. The widow suggests she receives the money from the company.

The WITNESS: The company pays it into the workmen's compensation fund, but it is a workmen's compensation award.

Hon. Mr. MITCHELL: The railways come under schedule 2. Schedule 1 is for general industry and schedule 2 is for the railways.

The WITNESS: We are what they call self-insurers.

Hon. Mr. MITCHELL: The compensation board sets the rate and the company pays it.

The VICE-CHAIRMAN: Are you through, Mr. Adamson?

Mr. ADAMSON: Yes.

By Mr. Knowles:

Q. First of all may I ask Mr. McNeill, following some other questions asked, whether the summaries of the pension plans that were tabled and filed in the record include any financial statements as to the total amount of the contribution paid by the employees and by the company?—A. No, they do not.

Q. Are those available as a matter of public record?—A. No, they are not, but I imagine if there is any particular information you want to have and if it is something we can get, we would get it. As you know, when you start asking questions on figures in connection with a pension scheme it is limitless, in view of the different forms those figures take. If there is anything specific we would get it for you.

Q. Just one other point in the form of a question to help clear up a matter between Mr. Merritt and Mr. McNeill. Is it not the case that the proviso in bill 24 follows almost word for word rule 8(*a*) of your pension bylaws with only three changes. First of all, in connection with absence due to certain causes that are already in rule 8(*a*), such as leave of absence, suspension, dismissal, or temporary lay-off on account of reduction of staff, it makes those absences arbitrarily not a break of service. At the present time it is a matter of discretion but this bill would settle the matter. The second thing it does is to change "dismissal followed by re-instatement under one year" to "dismissal followed by re-instatement", and it adds absence through strike, lock-out or industrial dispute. Those are the three changes that would have to be made in rule 8(*a*) if this came into effect?—A. Those are certainly the changes in language but the changes in effect could not be expressed quite so simply.

The VICE-CHAIRMAN: Well let us get on, are there any further questions? May I put this to you, Mr. McNeill? If the clauses read "provided that in the administration of any railway retirement or pension plan, leave of absence due to any industrial dispute, illegal strike or illegal lock-out shall not disqualify any railway employee from any retirement or pension rights or benefits to which he would otherwise be entitled",—assuming we leave the discretion with you, if we merely added "illegal strike or illegal lock-out" what effects could that possibly have upon your pension plan?

The WITNESS: Well that is a rather difficult question to put to me, Mr. Chairman, because while I certainly agree it constitutes a vast improvement, as to what the position of the company with regard to it would be I could not possibly speak.

The VICE-CHAIRMAN: All right, that is all thank you.

Now we will have Mr. Mills of Messrs. Kingsmill, Mills, Price and Fleming, Barristers, Toronto, Ont.

S. S. Mills, Esq., K.C., representing New York Central Railway Co., called:

The WITNESS: Mr. Chairman and gentlemen, I thank you for the privilege of appearing before you. The notice from the secretary of the committee arrived a little bit late and on account of the national holiday in the United States I am here in support of the two letters which have been written to the minister and which, I think, have been read into the record.

Hon. Mr. CHEVRIER: I just read one letter.

The WITNESS: The New York Central is the lessee of the Canada Southern Railway Company which runs from Detroit to the Niagara River. The Canada Southern Railway gave a 999 year lease to the Michigan Central, which in turn sublet to the New York Central for 99 years. The Canadian operations are therefore part of the New York Central system. It has over 50,000 employees of which some 3,000 are in Canada who are below the rank of foreman, and there are probably 400 or 500 above that rank. Some years ago there was a voluntary pension scheme put in by the Michigan Central which was carried on by the New York Central after it took the lease. Then some twenty years ago the government of the United States passed the Railroad Retirement Act that extended to all American railroad employees no matter where they were working. Consequently the 3,500 employees in Canada have been enjoying the benefits of the United States Railroad Retirement Act. That takes care of a man getting a wage up to $300 a month and he goes out at 65 years of age. He draws his American cheque monthly after that. There was no pension plan in force for those receiving more than $300 a month and the New York Central carried on its supplementary pension scheme voluntarily and gratuitously, to which they add the federal retirement allowance extended to those employees who have at least 20 years continuous service. In November, 1946, a funded contributory retirement plan for salary employees and officers was adopted in the United States and that extends to all the 50,000 or 60,000 employees. It is optional with the employee whether he joins or otherwise. This is going to be qualified in Canada under the provisions of the Income Tax Act and its benefits will be extended to many hundreds of Canadian employees. Now those are the three systems of pension scheme, one of which is a federal statute. The railway company views with some grave concern the proposed bill of Mr. Knowles and it is a foregone conclusion that they could not have a pension scheme for part of their employees living in the state of Ohio or New York, and another scheme

for those living in Ontario. It has got to be one system of pension scheme which would be adopted and applied to all employees. Now Mr. Kelly will bear me out in this, when the question of unemployment insurance came up, the New York Central and other railroads operating in Canada assured the Canadian government their employees were getting the benefit of the provisions which existed in the United States. Consequently there was an amendment made to the Act which excluded its application to American railroads. Now I am going to ask you to consider whether it is intended that this legislation should apply to the American railroads operating in Canada under lease or running rights. I am in doubt myself as to the application of section 121 to these railroads. Considering section 72 right down to 149 you will find numerous provisions. You have the board of directors which should be appointed, the shareholders rights, the calling powers, and how dividends should be declared. Then we get down to section 122 and there we find the enabling power of directors to make bylaws, from time to time, not inconsistent with the law. Then (c) covers retirement of employees.

The VICE-CHAIRMAN: Just a moment there, Mr. Knowles, is it your thought that we can, by legislation affect this railway? Did you give that some thought?

Mr. KNOWLES: As a matter of fact I am still following the witness' argument and I would rather hold my opinion.

The VICE-CHAIRMAN: All right.

The WITNESS: This amendment is tacked onto (c) of 122. My submission is the New York Central does not have to look to this railway act to enable its directors to institute its pension plans. It does so under its own charter rights and under the state laws in which it is incorporated. These sections manifestly were never intended to apply to other than those corporations incorporated in the dominion. True, the Canada Southern is incorporated in the dominion but it has leased its running rights, its line, to the New York Central. The corporate entity of the Canada Southern is continued, it makes returns, files income tax returns but it is not running a railway. If there is any question in your mind, my submission is that a legal opinion might be asked for by the committee as to whether section 122 has application to us. Now I propose to file for the benefit of the committee, pamphlet copies of the pension schemes other than the federal statute. I am not prepared to answer any questions. I did hope that I would have Mr. Horning from New York to answer if there were any questions, but for the reasons before stated he was not able to be here. Manifestly, if it is proposed or intended this should apply to the New York Central, then it should apply to the Pere Marquette or the Great Northern and then we will have to consider whether our pension schemes will be permitted to extend into Canada. I would file first of all the voluntary pension scheme with which the railroad provides its own funds.

The VICE-CHAIRMAN: That will be filed as an appendix.

The WITNESS: I will also file a pamphlet copy or the proposed funded contributory retirement plan which I have stated it is intended to have qualified under the Income Tax Act.

The VICE-CHAIRMAN: Is that all Mr. Mills?

The WITNESS: That is all.

The VICE-CHAIRMAN: Are there any questions from Mr. Mills?

Mr. TIMMINS: What you are saying, Mr. Mills, is that you have a private act and it cannot be changed by any general act.

The WITNESS: No, I say we are incorporated in the United States of America. The New York Central has its charter there. Its directors are in New York; its shareholders are in the United States; and it does not have to

look to the Railway Act at all for its management. It is only in so far as the running of the lines is concerned that we have got to conform to the provisions of the Railway Act. When it comes to shareholders and directors, auditors and so on, I say this Act should not extend to us and I suggest that an opinion be obtained.

Mr. KNOWLES: I think it is quite clear from what Mr. Mills has pointed out that it does not apply.

The VICE-CHAIRMAN: Mr. Kelly has a short statement from the Dominion Joint Committee of Railway and Transportation Brotherhoods.

A. J. Kelly, Chairman of Dominion Joint Legislative Committee, Railway Transportation Brotherhoods, called:

The WITNESS: Mr. Chairman, and members of the committee, perhaps my first words should be in support of what the previous witness has said. We think that, as stated by him, the entire situation in respect to pensions, employment, insurance, and what have you, of American railroad employees, of employees of American railroads operating very short sections of line in Canada, are now all covered by the United States Railroad Retirement Act, and legislation of a comparable nature. That is applicable to the entire personnel and we suggest to you it seems reasonable and proper that any proposed changes, such as are now before you, should not interfere with the practice of some years standing with respect to employees on American railroads operating in Canada.

Hon. Mr. CHEVRIER: We followed the same practice with wages you will remember, we passed an order which exempted those lines from wage control.

The WITNESS: That is true. And I believe you will recall in connection with the Unemployment Insurance Act when it came in, there being already an Act covering these men, in which they had some equity, we suggested they be excluded from the Canadian laws. I understand that is the view of the previous speaker in respect to this measure and in it we heartily agree.

As I understand this bill, gentlemen, it does not provide an Act, it merely suggests certain amendments to Acts that may now be in effect. We heard from the Canadian Pacific quite a lengthy explanation of the bill and we appreciate that there are different forms of pension plans in effect on different railways. My understanding—and I think it would appear from the reading of the Canadian Pacific pension plan—is that it may be amended or even withdrawn at any time at the discretion of the board of directors of that railway; and, Mr. McNeill stated to you that this plan was the result of consideration between the management and the representatives of the different organizations. That is true, but my understanding of it is that it never came to the point of definitely signing an agreement, or an agreement that could not be broken without the consent of all parties thereto. The specific question under consideration was, I think, whether or not a recommendation or presentation had been made seeking a change in this plan comparable to that now before you. My information is that from time to time discussions have been held but they did not get the desired result.

Now, might I read to you the short brief that we desire to record as the position of the Railway Transportation Brotherhoods:

DOMINION JOINT LEGISLATIVE COMMITTEE RAILWAY TRANSPORTATION BROTHERHOODS

OTTAWA, ONTARIO, July 5, 1947.

The Chairman,
Standing Committee on Industrial Relations,
House of Commons,
Ottawa, Ontario.

Dear Sir:—Concerning bill No. 24, entitled An Act to Amend the Railway Act, we believe the principle of the bill is designed to protect men of many years service with one employer in the pension upon which they depend for security when retired for old age. As stated in the explanatory notes. "the purpose of this amendment is to make it perfectly clear that the pension rights of railway employees, provided such other conditions as are laid down in railway pension plans are met, cannot be lost or abrogated because of a break in service for any of the reasons indicated in the proviso which is added to paragraph (*c*)".

In some plans now in effect the man entering the service must contribute as a condition of employment. Others who were in service prior to the effective date of the present plan are forced to contribute or else sacrifice approximately one fifth of former service as used in computation of pension and they accumulate no further pension regardless of how long they may continue in service. Such obligations and dependency on pension deter men from obtaining protection of insurance, annuity, etc.

At advanced years such opportunity is lost or is beyond his financial capacity because of age and relevant rates. Under such circumstances where pension is cancelled because of a break in his service, the return of contributions made by him leaves the man at a distinct disadvantage and causes a loss he can ill-afford and has no means of recovery. To correct such injustice and hardship we regard this bill as humanitarian in purpose.

We are not unmindful of the fact that pension plans in effect on the respective railways are the result of understanding reached between representatives of organized employee groups and the individual management; the administration of each plan being the function of a committee on which employees and management are represented. The rules governing such pension plans might require amendments to confirm with the principles and purpose of this bill. It should be made clear that the term 'strike' as used in the proviso of the bill is one authorized by the organization holding the contract of service out of which the dispute arose.

We respectfully urge that your committee support the principle of bill No. 24, and to recommend such action as will ensure that necessary changes be undertaken to effect their application by the parties above referred to.

Respectfully submitted,

A. J. KELLY, *Chairman.*

WM. L. BEST, *Secreary.*

Dominion Joint Legislative Committee, Railway Transportation Brotherhoods.

Mr. Chairman, I do not know that I can add anything more, unless there are some questions that might clarify our brief submission.

The VICE-CHAIRMAN: Are there any questions?

Mr. KNOWLES: May I ask Mr. Kelly if the representations to the company for certain changes in the pension rules have included specific requests on rule 8 (*a*)?

The VICE-CHAIRMAN: Of course, rule 8 (*a*) does not mean very much on the record; what is this rule 8 (*a*)?

Mr. KNOWLES: Rule 8 (*a*) is the one which deals with breaks in service; that no break in service will cause a man to lose his pension right if that break in service takes place—perhaps I had better read it:

> 8 (*a*) . . . . provided, however, that leave of absence, suspension, dismissal followed by reinstatement within one year, or a temporary lay-off on account of reduction of staff, need not necessarily be treated by the committee as constituting a break in the continuity of such service.

That rule is the one that caused the trouble in 1919, and in another similar situation. Now, have you made any specific request that that rule be changed?

The WITNESS: My understanding is that representations have been made seeking to change it in respect to anything arising out of what might be termed strikes or labour troubles, but it qualified that to the extent that it must be an authorized strike, not a wildcast outfit with a few men involved in it.

By Mr. Knowles:

Q. Has the government made any reply to your representations?—A. No, the representations, as I understand it, have not been successful in making any modification of that view.

The VICE-CHAIRMAN: You mean, have not been successful up to date?

The WITNESS: That is right.

By Mr. Knowles:

Q. Have there been any loss of pension rights due to strikes since 1937?—A. I cannot check on the 17 or 18 organizations so I am not prepared to say yes or no, because some of the 17 or 18 organizations might have been in trouble about which I do not know.

Mr. KNOWLES: I think that is correct, I know of none within the last few years. It is because of the unfortunate experiences of 1919 that these representations were made.

The VICE-CHAIRMAN: Mr. Knowles, I think we have covered the subject about these representations. He did that because you asked him to, and I think that is now clear on the record. Have you any other questions you would like to ask?

By Mr. McIvor:

Q. This is another question and it may not be fair. If a man receives a pension, and he has earned it and he is getting it and he passes on, would there be any pension for his wife or would she have to go out and earn her living after that?—A. I understand, Mr. McIvor, that there is a provision in the pension plan whereby a man of his own choice can establish a joint-survivor plan in much the same way as it is handled in other matters. If he desires that protection I believe he has the option of providing for it through a joint-survivor plan.

The VICE-CHAIRMAN: Are there any other questions?

Now, gentlemen, I think we have Mr. Hendricks of the Brotherhood of Railway Trainmen here and while we are on the subject I think we should ask him if he has anything he would like to say on the subject now before the committee.

Mr. HENDRICKS: I have nothing to add to what has been submitted by the organizations who have appeared before you.

The CHAIRMAN: Well, then, gentlemen, that completes the evidence on bill No. 24. We have completed the evidence on bill No. 338. I have the draft report ready for you and before we proceed to consider continuation of them it will be necessary for me to ask all those who are not members of the committee to leave the room, please.

(Committee proceeded in camera.)

The committee adjourned to meet at the call of the chair.

APPENDIX "G"

NEW YORY CENTRAL SYSTEM

FUNDED CONTRIBUTORY RETIREMENT PLAN FOR SALARIED EMPLOYEES AND OFFICERS.

Issue of November 1, 1946.

J. P. MORGAN & CO. INCORPORATED
Trustee of the Retirement Fund.

NEW YORK CENTRAL SYSTEM

Funded Contributory Retirement Plan for Salaried Employees and Officers.

BOARD OF PENSIONS: L. W. HORNING, *Chairman*, JACOB ARONSON, A. D. DUGAN, E. W. JORDAN, W. F. PLACE.

(Address communications to: F. P. Fleuchaus, Secretary, Board of Pensions, 466 Lexington Avenue, New York 17, N.Y.).

NEW YORK CENTRAL SYSTEM FUNDED CONTRIBUTORY RETIREMENT PLAN FOR SALARIED EMPLOYEES AND OFFICERS EFFECTIVE JANUARY 1, 1946.

MEMBERSHIP

1. Eligibility. Every full time salaried employee and officer (hereinafter collectively referred to as "employee') of The New York Central Railroad Company and of such of its affiliated or subsidiary companies as may be authorized to participate in the Plan, who now or hereafter receives regular salary in excess of $300 per month, is eligible for membership in the Plan. The term "salaried employee' shall not include employees whose wages are computed on an hourly, daily, piecework or mileage basis. The term "salary" means regular fixed salary, exclusive of overtime pay, severance pay, special pay, vacation allowances in lieu of vacation, commissions, retainers or fees under contract.

2. Employees eligible in 1946 automatically become members. Every employee, eligible on the effective date of the Plan, automatically becomes a member as of that date and every employee who becomes eligible during the year 1946 automatically becomes a member as of the date of his* eligibility. Any employee who thus becomes a member shall file with the Board of Pensions, within such time as it may by uniform rule prescribe, his written election either to remain as a member or to be excluded from membership.

3. Employees becoming eligible after 1946. Any employee who becomes eligible after 1946 shall become a member upon filing an election to become a member as of the first day of the calender month after he becomes eligible. Such application shall be filed with the Board of Pensions within such time as it shall by uniform rule prescribe.

4. Employees on leave of absence. Any eligible employee on military or other approved leave of absence during the year 1946 shall automatically become a member, but his election to remain or not to remain a member need not be filed until 60 days after he returns to active company service.

*The masculine pronoun shall be deemed to include the feminine.

5. Employee electing against membership may later become member. Any employee who elects not to become a member or, having become a member, elects to discontinue his membership may later become a member if he files his application for membership before he reaches his compulsory retirement age but he shall not be given credit for service rendered prior to his last becoming a member, except as the Board of Pensions may by uniform rule otherwise prescribe, provided however, that in no event may credit be allowed for years of non-membership service in excess of the rate hereinafter prescribed for prior service.

6. Termination of employee relationship. An employee's membership terminates upon his ceasing to be an employee for any reason whatsoever, including his retirement on a retirement allowance. If later he again becomes a member he shall receive no benefits on account of service rendered by him prior to the date he last became a member. The Board of Pensions may, however, by uniform rule applicable to all employees similarly situated, and upon such terms as it deems appropriate, continue in effect an employee's membership, during a period of absence from service, without loss of creditable service accrued to the date when he left the service; but no credit shall be allowed for the period of absence from Company service, and during his absence no benefit under the Plan shall be available to him except the right to the return of his contributions.

7. Extension of time for elections and applications. The Board of Pensions may, by uniform rule applicable to all employees similarly situated, extend the time for filing any election or application hereinbefore provided for and may permit the filing of any such election or application within such reasonable time after the expiration of the time herein or by its rules provided, as to the Board of Pensions shall seem proper, upon such showing of good faith in the premises as it shall deem necessary, provided the employee shall promptly pay the contributions which otherwise would have been deducted from his salary under the provisions of the Plan, together with regular interest thereon, to the trustee or trustees hereinafter provided for.

COMPULSORY RETIREMENT AGE

8. Schedule of retirements. In the case of all salaried employees and officers eligible for membership in the plan, retirement will be compulsory during the year 1946 at age 70, and beginning with the year 1947 such compulsory retirement age will be reduced one-half year each year until age 65 is attained. Application of this provision is shown in the following schedule:

Employees born in	Will retire on January 1, in year	Or thereafter upon attainment of age
1876	1946	70
1877	1947	69½
1878 (1st six months)	1947	69½
1878 (2nd six months)	1948	69
1879	1948	69
1880	1949	68½
1881 (1st six months)	1949	68½
1881 (2nd six months)	1950	68
1882	1950	68
1883	1951	67½
1884 (1st six months)	1951	67½
1884 (2nd six months)	1952	67
1885	1952	67

Employees born in	Will retire on January 1, in year	Or thereafter upon attainment of age
1886	1953	66½
1887 (1st six months)	1953	66½
1887 (2nd six months)	1954	66
1888	1954	66
1889	1955	65½
1890 (1st six months)	1955	65½
1890 (2nd six months)	1956	65
Each year thereafter	—	65

Retirement shall take effect as of the last day of the calendar month in which the compulsory retirement age is attained.

The foregoing provision with reference to compulsory retirement shall not be applicable to cases where existing working agreements permit employment beyond such ages provided that the individual involved is fully qualified to perform his duties, but such individual not retiring upon attainment of compulsory retirement age, above specified, shall forfeit all benefits under the Plan except the right to have returned to him, with interest, all contributions made by him to the Plan.

A member born prior to June 30, 1890, may, at his election, be retired at any time between attainment of age 65 and his compulsory retirement age.

9. Extensions. In instances where the Company's interests would be served thereby, the Board of Directors of the employing company, or such committee or officers to whom it may delegate the power, may authorize any employee to continue in service beyond his compulsory retirement age, but service thereafter is not creditable under the Plan.

CONTRIBUTIONS

10. Contributions by employees. Beginning at such time, after approval of the Plan, as may be fixed by the Board of Directors, each member shall contribute to the Plan and he shall continue such contributions throughout the period of his membership service. For the period of membership service during the years 1946, 1947 and 1948, a member's contribution shall be at the rate of 3½ per cent of his salary in excess of $300 per month and thereafter it shall be at the rate of 3¾ per cent of such excess. The Company shall deduct members' contributions from their salaries on each and every payroll, and shall pay the sums so deducted to said trustee or trustees.

11. Contributions by the Company. The Company will provide that part of the cost of the Plan not provided by the contributions of members. Company contributions shall consist of "normal" contributions to cover the current accruals, "prior service" contributions to cover the amount of prior service credits, and funds required for administrative expenses. Company contributions shall be payable annually or at such more frequent intervals as may be fixed by the Board of Pensions.

In compliance with regulations of the Internal Revenue Bureau, no employing company shall make contributions to provide benefits for employees, any one of whom owns directly or indirectly more than 10 per cent of the voting stock of such employing company, in an amount exceeding, in any year, in the aggregate, 30 per cent of the contributions for all members of the Plan; and any assets in the Pension Trust which may hereafter result from forfeitures of Company contributions arising from severance of employment, death, or other reason, shall not be used to provide increased benefits for members of the Plan but shall be applied to reduce Company contributions.

12. Computation of Company's normal contribution. The normal contribution of the Company shall be computed as a percentage of the salaries of all members. The normal contribution rate shall be determined, at the time of each actuarial valuation hereinafter provided for, by subtracting from the present value of the total liabilities of the Plan the assets in hand held for such liabilities, the present value of contributions to be made by members, and the present value of any unpaid prior service contributions, and dividing the result by the present value of the future salaries of all members. Following each actuarial valuation, the actuary selected by the Board of Pensions shall certify his recommendation as to the percentage normal contribution rate, and the Board of Pensions after considering such recommendation shall determine the normal contribution payable by the Company.

13. Prior service cost, determination and rate of payment. As soon as practicable after the effective date of the Plan, the actuary shall determine the present value of all benefits for prior service, which value shall be known as "prior service cost". Until the prior service cost is fully liquidated, the Company shall from time to time pay to the trustee or trustees such sums on account thereof as may be determined by the Board of Directors, but the prior service contribution in any year shall not be less than 4 per cent of the initial prior service cost, and the total of the normal and prior service contribution in any year shall not be less than the amounts required, when taken with the present assets of the Plan, to meet all benefit payments to be made during the year.

14. Company contributions irrevocable until all liabilities of Plan satisfied. All contributions made to the Plan by the Company shall be irrevocable and shall be transferred by it to the trustee or trustees, by whom the assets of the Plan are to be held as herein provided, to be used in accordance with the provisions of the Plan in providing the benefits and paying the expenses of the Plan, and neither such contributions nor any income therefrom shall be used for, or diverted to, purposes other than the exclusive benefit of active and retired members or their beneficiaries under the Plan prior to the satisfaction of all liabilities for benefits under the Plan.

BENEFITS

15. Normal retirement allowances. A normal retirement allowance will be paid in monthly installments to a retired member commencing on the last day of the first calendar month of his retirement and continuing until his death. Such monthly allowance shall equal the sum of the following:

(*a*) 1 per cent of the member's average monthly compensation in excess of $300 per month during the ten years of creditable service next preceding retirement multiplied by the number of years of creditable prior-to-membership and membership service.

(b) ·35 per cent of the member's monthly compensation in excess of $300 for each year of creditable membership service in the years 1946, 1947 and 1948, and

(*c*) ·375 per cent of the member's monthly compensation in excess of $300 for each year of creditable membership service thereafter.

In computing retirement allowances: (1) appropriate adjustments shall be made for fractional years; (2) all service rendered as an employee of the Company, or of any of its predecessors (including the United States Railroad Administration), or of any company which is, or at the time such service was rendered was, an affiliate or subsidiary of the Company, shall be included in the member's prior service; (3) only the months for which an employee makes contributions to the Plan shall be included in his membership service; and

(4) only the years of continuous service next preceding date of retirement shall be included. The Board of Pensions may, however, by uniform rule otherwise prescribe in respect of breaks in continuity of service but in no event shall credit be allowed for absences from service.

That part of the retirement allowance which equals 1 per cent for each year of membership service and of prior service shall be deemed to be attributable to Company contributions and shall not exceed a maximum of $1,963.33 per month.

If a retirement allowance amounts to less than $10 per month, payment may be made annually or in a lump sum of equivalent actuarial value as the Board of Pensions may direct. As used in this section and elsewhere in this Plan, the term "equivalent actuarial value" means a benefit of equivalent value when computed at regular interest rates on the basis of the mortality tables last previously adopted by the Board of Pensions.

16. Joint and survivor optional benefits. Not less than one year prior to date of retirement, or upon furnishing proof of good health satisfactory to the Board of Pensions at any time thereafter but prior to date of retirement, any member may elect by written designation filed with the Board of Pensions to convert the normal retirement allowance otherwise payable to him upon retirement into either of the following joint-survivor retirement allowances of equivalent actuarial value:

Option (a). A reduced retirement allowance payable during such retired member's life, with provision that after his death such reduced allowance shall be paid to the person named in such designation during such person's life, if that person survives; or

Option (*b*). A reduced retirement allowance payable during such retired member's life, with provision that after his death an allowance equal to one-half of such reduced allowance shall be paid to the person named in such designation during such person's life, if that person survives.

Such election shall be wholly inoperative if the member dies before the initial retirement allowance becomes due and payable. Such election shall also become wholly inoperative if the person so designated by the member under option (*a*) or (*b*) dies before the member's initial retirement allowance becomes due and payable, and in such event the retirement allowance shall become payable as if the member had made no election whatsoever.

17. Disability retirement allowance. Any member, below age 65, who has rendered not less than 30 years of continuous service, shall be retired on a disability retirement allowance if the Board of Pensions finds that such member is totally incapacitated, mentally or physically, for the performance of duty and that such incapacity is likely to be permanent. The Board of Pensions may avail itself of, or require, such medical examinations as it may deem appropriate to enable it to determine the question of disability. The disability retirement allowance shall be computed for creditable years of service in the same manner as is provided for the computation of normal retirement allowances, except that such disability allowance shall be reduced by the amount of any payments which the Company may have made or may be obliged to make to or for the employee by way of settlement or by reason of any award, order or judgment in the employee's favour for injuries or impairment of health alleged my him or found by the Board of Pensions to have caused or substantially contributed to the disability. Until attainment of age 65, the Board of Pensions may require an individual on disability retirement allowance to undergo successive medical examinations and if, on the basis thereof, it finds that such individual has regained his earning capacity, the Board of Pensions may discontinue his retirement allowance; if it finds that such disability has been

partially removed and earning capacity regained in part, the Board of Pensions may proportionately reduce the retirement allowance.

In no event, however, shall any such reduction or discontinuance of retirement allowance deprive the member of his rights under the Plan to the return of his contributions with regular interest.

18. Return of member's contributions. Any member, upon ceasing to be an employee due to any cause other than death or retirement under the Plan, shall within sixty days thereafter be paid the amount of his contributions to the Plan together with such part, not less than two-thirds, of regular interest thereon as the same shall have been last previously fixed by the Board of Pensions. If such member had previously been paid any disability allowances, the amount thereof shall be deducted in the computation of the returnable contributions.

Upon receipt of proof, satisfactory to the Board of Pensions, of the death of a member prior to or after retirement the amount of such member's contributions with regular interest thereon, less the aggregate of retirement allowances theretofore paid to him, shall be paid to the beneficiary previously desigated by written instrument on file with the Board of Pensions or, if such beneficiary shall not survive the deceased member or if no such beneficiary shall have been designated, such payment shall be made to the estate of the deceased member.

19. Regular interest defined. "Regular interest" as used in the Plan means interest at such rate, compounded annually, as shall from time to time be determined by the Board of Pensions for use in actuarial calculations required in connection with the Plan. Until the Board of Pensions shall hereafter otherwise determine, such rate shall be 2½ per cent.

20. Non-alienation of benefits. Except as the law may otherwise require, and except as specifically provided in the Plan, no benefit under the Plan shall be subject to anticipation, alienation, sale, assignment, pledge, encumbrance or charge, and any attempt so to do shall be void; and no benefit under the Plan shall in any manner be liable for or subject to the debts, liabilities, or torts of the person entitled to such benefit nor be subject to attachment, execution, garnishment, or other transfer in bankruptcy or otherwise. If any member, retired member or any other beneficiary under the Plan becomes bankrupt or attempts to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge any benefit under the Plan, except as specifically provided herein, then, unless the law shall otherwise require, such benefit shall, in the discretion of the Board of Pensions, cease and determine, and in that event the Board of Pensions may hold or apply the same to or for the benefit of such member or retired member or other beneficiary, his spouse, children, or other dependents, or any of them, in such manner and in such proportions as the Board of Pensions may deem proper.

21. Suspension and cancellation of allowance. Anything in the Plan to the contrary notwithstanding, if the Board of Pensions finds that any retired member is engaged in conduct prejudicial to the Company's interests, and if such retired member continues to be so engaged after notice to desist, the Board of Pensions may suspend his retirement allowance. Such suspension shall continue until removed by notice from the Board of Pensions, but after such suspension has continued for one year the Board of Pensions shall cancel such member's retirement allowance. Neither such suspension nor such cancellation shall deprive such member of his rights under the Plan to the return of his contributions, with regular interest.

MANAGEMENT OF THE FUNDS

22. Assets to be held in special Trust. All assets of the Plan shall be held as a special trust, by corporate or individual trustee or trustees as the Board of Directors may determine, in trust for use, in accordance with the Plan, in providing the benefits and paying the expenses of the Plan, and no part of the corpus or income shall be used for, or diverted to, purposes other than for the exclusive benefit of members, retired members and their beneficiaries under the Plan, prior to the satisfaction of all liabilities with respect to such members and retired members and their beneficiaries under the Plan.

23. Trustees, their appointment, powers and removal. The trustee or trustees shall be appointed from time to time by the Board of Directors by appropriate instrument, in writing, with such powers in the trustee or trustees as to investment, reinvestment, control and disbursement of the funds as the Board of Directors shall approve and as shall be in accordance with the Plan. Said Board may remove any trustee at any time, and in the event of vacancy by resignation or otherwise said Board shall designate a successor trustee or trustees.

BOARD OF PENSIONS

24. Membership. The Board of Directors shall appoint the Board of Pensions which shall consist of not less than five members. No person shall be ineligible for membership on the Board of Pensions by reason of the fact that he is also an officer or employee of the Company, provided, however, that he shall not participate in action on his own retirement allowance. No member of the Board of Pensions who is at the same time an officer or employee of the Company shall receive compensation for his services as such member.

25. Officers and agents of Board of Pensions. The Board of Pensions shall elect a Chairman, a Secretary and an Assistant Secretary. The Secretary and Assistant Secretary may, but need not, be members of the Board of Pensions. That Board may appoint from its members such committees with such powers as it shall determine, and may authorize its Chairman, its Secretary, its Assistant Secretary or any of its other officers or agents to execute orders for the payment of benefit allowances and refunds as well as other orders, certificates and instruments within the jurisdiction of the Board. It may employ such actuarial, accounting and clerical service as may be required in the administration of the Plan.

26. Functions of Board of Pensions. The Board of Pensions shall be charged with the general administration of the Plan and with the responsibility of carrying out its provisions. A majority of its members shall constitute a quorum for the transaction of business. All resolutions or other action taken by the Board of Pensions at any meeting shall be by vote of a majority of such Board. It shall from time to time make rules and regulations, not inconsistent with the Plan, for the conduct of its proceedings and for the administration of the Plan. Any such rules and regulations of the Board of Pensions shall be uniform in their nature and applicable to all persons similarly situated. The findings and decision of the Board of Pensions on any question or matter within its jurisdiction shall be conclusive and binding upon all persons in interest. No member of the Board of Pensions shall be personally liable for errors of judgment nor for mistakes or losses unless resulting from his own wilful misconduct.

27. Board of Pensions to adopt service and mortality tables. The Board of Pensions shall adopt, from time to time, service and mortality tables for use in all actuarial calculations required in connection with the Plan and shall establish the rates of Company contributions to the Plan. As an aid to the

Board of Pensions in adopting such tables and in fixing such rates of contribution, the actuary designated by it shall make annual actuarial valuations of the contingent assets and liabilities of the Plan and shall certify to the Board of Pensions the tables and rates of contribution which he recommends for use by it.

ACCOUNTS

28. Classification. All assets of the Plan shall be divided among three accounts which shall be known as (1) the Members' Account, (2) the Accumulation Account, and (3) the Retirement Reserve Account. Contributions to and payments from these accounts shall be made in the manner stated in the next three sections.

29. Members' Account. The Members' Account shall be the account in which shall be held the members' individual accumulated contributions. The contributions of all members shall be credited to this account as made and interest allowable thereon credited when transferred to this account. All refunds of the members' individual contributions (and interest thereon) prior to retirement shall be charged to this account. Upon the retirement of a member the amount, at that time, of his contributions and regular interest thereon shall be transferred from the Members' Account to the Retirement Reserve Account.

30. Accumulation Account. The Accumulation Account shall be the account in which shall be accumulated all reserves for the payment of retirement allowances payable from the contributions of the Company. All Company contributions and all interest and other earnings of the invested assets of the Plan shall be credited to this account. All interest to be credited to members' accounts and the required interest on the reserve in the Retirement Reserve Account shall be transferred annually to the respective accounts from the Accumulation Account. Upon the retirement of a member an amount equal to the present value of the future benefit payable to such retired member less the amount of his contributions (and interest thereon) transferable from the Members' Account, if any, shall be transferred from the Accumulation Account to the Retirement Reserve Account. The expenses of the administration of the Plan not paid directly by the Company shall be charged to the Accumulation Account.

31. Retirement Reserve Account. The Retirement Reserve Account shall be the account in which shall be held the reserves on all retirement allowances, or benefits in lieu thereof, payable on account of members who have retired or on account of beneficiaries of such retired members. All retirement allowances or other benefits payable to or on account of such persons shall be charged to this account.

32. Annual Reports of Board of Pensions. The Board of Pensions shall prepare annually a report showing in reasonable detail the assets and liabilities of the Plan and giving a brief account of the operation of the Plan for the past year. Such report shall be submitted to the Board of Directors of the Company and a copy thereof filed in the office of the Board of Pensions, where it shall be open to inspection by any member.

CERTAIN RIGHTS AND OBLIGATIONS OF COMPANY

33. Right to discontinue, suspend or reduce Company contributions. The Board of Directors may for any reason and at any time discontinue, suspend or reduce its contributions below those required by the provisions of this Plan, in which event all benefits under the Plan shall be reduced to such amounts as

actuarial valuation shall indicate the contributions theretofore made together with the future reduced contributions, if any, will provided, and in the event of such reduction of benefits, a proportionate reduction will be made in the contributions which are required from members.

34. Right to terminate plan. The Plan may be terminated at any time by the Board of Directors, in which event all of the assets of the Plan shall be used for the benefit of members, retired members and their beneficiaires under the Plan, and for no other purpose, except that such excess assets as may exist because of erroneous actuarial computations may be repaid to the Company. Each member or other person entitled to a retirement allowance shall be entitled to his proportionate share of the full amount of the assets of the Plan as a result of all previous contributions made by him and by the Company in respect of the benefits payable to him or on his account, in the proportion that the liabilities of the Plan on his account bear to the total liabilities of the Plan as determined by the Board of Pensions on the basis of actuarial valuation. The Board of Pensions may require such members or other persons to withdraw such amounts in cash or in the form of immediate or deferred annuities either under the Plan or from an outside source as it may determine.

35. Restrictions on rights of highest paid employees. Notwithstanding any other provisions in this Plan to the contrary, the retirement allowances or other benefits provided from funds of the trust for those members (including retired members) who are among the twenty-five most highly compensated employees as of January 1, 1946, shall be subject to the conditions set forth in this section. If, on any date prior to January 1, 1956, this Plan is discontinued, (1) no monthly retirement allowance commencing at or after age 65 which is payable after such date to any such member shall exceed one-twelfth of the greatest of (*a*) $1,500, or (*b*) a retirement allowance, which on the basis of the mortality tables and interest rate used in the reserve calculations, as they were on January 1, 1946, shall have a present value equal to 20 per cent of such member's compensation, not in excess of $50,000, received during each year from January 1, 1946, up to the date that the Plan is discontinued, or (c) a retirement allowance, which on the basis of the mortality tables and interest rate used in the reserve calculations, as they were on January 1, 1946, shall have a present value equal to $20,000 on the date that the Plan is discontinued, exclusive, in each case, of such annuity as can be provided on the basis of such mortality tables and interest rate from the contributions made by such member, and (2) no monthly retirement allowance under Section 17 which is payable after such date to or with respect to any such member living on such date shall exceed the amount which would have been payable under the same section and commencing at the same time if the retirement allowance otherwise payable commencing at age 65 were the greatest of the amounts under (*a*), (*b*) or (*c*) in this sentence. If any other benefits are provided in lieu of retirement allowances, the value of all benefits and any retirement allowances provided for any such member upon or after such discontinuance shall not exceed the actuarial value as of the date of such discontinuance of the retirement allowances which may thereafter be provided in accordance with the previous sentence. If, in any year prior to January 1, 1956, the contributions to the trust have been insufficient to meet the costs of the Plan, no retirement allowance or other benefits provided for any such member shall exceed those which would be provided if the Plan were discontinued at the end of such year unless and until any later date when contributions have been sufficient, to meet the costs of the Plan. For the purpose of this section, in determining whether the costs of the Plan have been met, there shall be used the method of actuarial valuation, the plan of funding and the assumptions as to future experience used in 1946. If, at any time prior to

January 1, 1946, the Plan is changed so as to reduce the scale of retirement allowances to be provided thereafter for any other members, such change, shall, for the purpose of this section only, be considered a discontinuance unless the Company has then received a written ruling from the Commissioner of Internal Revenue that, in his opinion, such change will not result in failure of the Plan to meet the requirements of Section 165(*a*) of the Internal Revenue Code. In the event that it should subsequently be determined by statute, court decision, ruling by the Commissioner of Internal Revenue, or otherwise, that the provisions of this section are no longer necessary to qualify the Plan under the Internal Revenue Code, this section shall be ineffective without the necessity of further amendment of the Plan.

36. Plan confers no rights to continued employment. The establishment of the Plan shall not be construed as conferring any legal rights upon any employee or any person for a continuation of employment, nor shall it interfere with or abridge the rights of the Company to discharge any employee and to treat him without regard to the effect which such treatment might have upon him as a member of the Plan.

37. Deduction for new social security taxes. If by any future law, the Company is required to pay, in the form of taxes, pensions, or other allowances, to or on account of any active or retired member or his beneficiary any pension, allowance or similar benefit, over and above those now provided by the Railroad Retirement Act, the Board of Directors may require that the actuarial equivalent therof be deducted from that part of retirement allowances provided by Company contributions.

38. Amendment of Plan. Subject to the provisions hereinafter set forth, the Board of Directors reserves the right at any time and from time to time to modify or amend in whole or in part any or all of the provisions of the Plan; provided that no modification or amendment may be made which by reason thereof will deprive any member or retired member or other person receiving a retirement allowance, without his consent, of any benefits under the Plan to which he would otherwise be entitled by reason of the accumulated assets held under the Plan on his account at that time, and provided that no such modification or amendment shall make it possible for any part of the assets of the Plan to be used for, or diverted to, purposes other than for the exclusive benefit of members and retired members and their beneficiaries under the Plan prior to the satisfaction of all liabilities with respect to such members and retired members and their beneficiaries under the Plan. Notwithstanding the foregoing provision, any modification or amendment of the Plan may be made which the Board of Directors deems necessary or appropriate to bring the Plan into conformity with governmental requirements or regulations in order to qualify the Plan for tax benefits.

MISCELLANEOUS

39. System application. Unless the context indicates otherwise "Company" shall mean The New York Central Railroad Company or any of its affiliated or subsidiary companies authorized by the Board of Directors of The New York Central Railroad Company and of such affiliated or subsidiary company to participate in the Plan and which agrees to make appropriate contributions based on creditable service of members of the Plan. Unless the context indicates otherwise "Board of Directors" means the Board of Directors of The New York Central Railroad Company.

40. Governing law. Except to the extent that Federal law shall be controlling, this Plan shall be construed and administered under the laws of the State of New York.

ELECTION TO REMAIN AS A MEMBER OF NEW YORK CENTRAL RETIREMENT PLAN

To the Board of Pensions:

The undersigned employee in the service of The New York Central Railroad Company hereby elects to remain a member in the New York Central System Funded Contributory Retirement Plan for Salaried Employees and Officers; and in so doing accepts the terms and conditions of the Plan, a printed copy of which (dated November 1, 1946) was furnished to the undersigned and is by reference made a part of this application; and for his contributions under the Plan, the undersigned hereby authorizes The New York Central Railroad Company to make appropriate deductions from any compensation earned by him, in amounts as set forth in the Plan, and make payment of such deductions to the Trustee as provided in the Plan; and agrees that this shall constitute an assignment of such moneys in advance to the Trustee for the purposes of the Plan.

Dated....., 1946.

.....
(*Signature*)

Occupation: .....

Office or

Department: .....

Location: .....

ELECTION TO BE EXCLUDED FROM MEMBERSHIP IN NEW YORK CENTRAL RETIREMENT PLAN

To the Board of Pensions:

The undersigned employee in the service of The New York Central Railroad Company, having been furnished a printed copy of the New York Central System Funded Contributory Retirement Plan for Salaried Employees and Officers (dated November 1, 1946) and having been advised of his eligibility for membership in said Plan, hereby elects to be excluded from membership in said Plan.

Dated....., 1946.

.....
(*Signature*)

(Do not use this form if you have elected to become a member.)

Occupation: .....

Office or

Department: .....

Location: .....

APPENDIX "H"

NEW YORK CENTRAL RAILROAD

Rules for Administration of Supplementary Pension System for employees other than members of the Funded Contributory Retirement Plan for Salaried Employees and Officers.

ELIGIBILITY

1. *General Eligibility.* All employees other than those who become members of the Contributory Retirement Plan for Salaried Employees and Officers, who shall have had not less than twenty years of net continuous service, if they otherwise qualify under the provisions hereof, shall be eligible for pensions as provided in these rules.

2. *Schedule of Retirements.* Only those employees shall be eligible for pension hereunder who shall retire from the service at the end of the calendar month in which they shall have attained the retirement age shown in the following schedule, to wit:

Employees born in	Will retire on January 1, in year	Or thereafter upon attainment of age
1876	1946	70
1877	1947	69½
1878 (1st six months)	1947	69½
1878 (2nd six months)	1948	69
1879	1948	69
1880	1949	68½
1881 (1st six months)	1949	68½
1881 (2nd six months)	1950	68
1882	1950	68
1883	1951	67½
1884 (1st six months)	1951	67½
1884 (2nd six months)	1952	67
1885	1952	67
1886	1953	66½
1887 (1st six months)	1953	66½
1887 (2nd six months)	1954	66
1888	1954	66
1889	1955	65½
1890 (1st six months)	1955	65½
1890 (2nd six months)	1956	65
Each year thereafter	——	65

An employee, otherwise eligible hereunder, born prior to June 30, 1890, may at his election retire and receive a pension hereunder at any time between attainment of age 65 and the then current retirement age specified in the foregoing schedule.

COMPUTATION AND PAYMENT OF PENSIONS

3. *Computation.* If an eligible employee's average monthly basic compensation during his last ten years of service exceeds $300 his pension hereunder shall consist of a monthly allowance equal to 1 per cent of such average monthly basic compensation in excess of $300 multiplied by the number of years of net continuous service.

In order to conform such pensions to retirement allowances of members of the Company's Contributory Retirement Plan for Salaried Employees and Officers (with appropriate adjustment for employee contributions in the case of the latter group) and in order, during the transitional period, to conform pensions computed in accordance with the provisions of the preceding paragraph to pensions calculated under the rule heretofore in effect, the monthly pensions of those qualifying under these rules with more than 40 years of continuous service shall be supplemented to the extent that an amount equal to $3 for each year of continuous service in excess of 40 exceeds the sum of the following:

(*a*) ·35 of 1 per cent of average basic monthly compensation in excess of $300 for each year of service beginning November 1, 1946, to and including the year 1948; and

(*b*) ·375 of 1 per cent of average basic monthly compensation in excess of $300 for each year of service thereafter.

Appropriate adjustments shall be made for fractional years.

4. *Items Excluded in Computation.* The term "basic compensation" shall not include overtime pay, whether prorata or punitive, severance pay, special pay, vacation allowances in lieu of vacation, commissions, tips, bonuses, or retainers or fees under contract. To the extent that available Company records do not disclose the amount of such excluded portions of earnings, the Board of Pensions may estimate the amount thereof.

5. *Service and Employment Defined.* The terms "service" and "employment" as used herein refer to exclusive active employment with any of the railroads comprising the New York Central System and shall include service with predecessor companies or with other railroads prior to ownership, lease or operation thereof by any of the railroads comprising said System. It shall also include joint service and employment where joint facilities are operated through a separate entity in the interests of this and other companies, and the Board of Pensions shall determine the service and proportion of compensation to be used in computing the pension. Service shall be considered as continuous from the last date of entry into service to the date of retirement. Authorized absences of one month or less shall not be considered as time out of service. Other absences must be covered by leave or furlough and in any case shall not exceed one year for any single period or the absence will be considered a break in the continuity of service: however, where absences are involuntary, resulting from injury or illness, the Board of Pensions may, in its discretion, give credit for such absences as for actual service even though such involuntary absences exceed a period of one year.

6. *Disability Retirement and Pension.*—Any employee below age 65 who has rendered not less than thirty years of net continuous service, and who is found by the Board of Pensions to be totally and permanently disabled for regular employment for hire, shall be retired and, if otherwise qualified, shall

be eligible for a pension hereunder. The pension of a disabled employee shall be limited to the excess, if any, over the payments which the Company may have made or may be obliged to make to or for the employee by way of settlement, or by reason of any award, order or judgment in the employee's favour, for injuries or impairment of health alleged by him, or found by the Board of Pensions, to have caused or substantially contributed to his disability.

7. *Time of Payment.*—Pensions will be paid in monthly instalments, commencing on the last day of the first calendar month of retirement.

8. *Discontinuance for Improper Conduct.*—Pensions shall be discontinued in event of engagement by a pensioner in the service of any competitor of the Company, and the Board of Pensions may withhold or discontinue a pension for misconduct on the part of an employee or pensioner prejudicial to the Company's interests.

9. *Assignment Not Recognized.*—No assignment of pensions will be permitted or recognized.

BOARD OF PENSIONS

10. *Appointment, Duties, Powers.*—This pension system shall be administered by a Board of Pensions consisting of not less than five (5) members to be appointed by the President of the Company. The Board of Pensions shall elect a Chairman from among its members and shall appoint a Secretary, but such Secretary need not be a member of the Board. The Board may appoint such committees with such powers as it shall determine and may authorize its Chairman or Secretary, or any of its other officers or agents, to execute orders for the payment of pensions as well as other orders, certificates or instruments within the jurisdiction of the Board. The Board of Pensions shall be charged with the general administration of this pension system and with the responsibility for carrying out its provisions. A majority of its members shall constitute a quorum for the transaction of business. It shall from time to time make rules and regulations not inconsistent with this pension system for the conduct of its proceedings and for the administration of the system. The findings and decisions of the Board of Pensions on questions or matters within its jurisdiction shall be conclusive and binding on all persons in interest.

MISCELLANEOUS

11. *No Rights to Continued Employment or to Pension Conferred.*—No action of the Company, or in its behalf, in establishing or administering this pension system, shall be construed as giving to any employee a right to be retained in the service or any present or prospective right or claim to a pension.

12. *System Voluntary. Company May Modify or Terminate at Any Time.*—This pension system is voluntarily and gratuitously established by the Company at its own sole expense and the Company reserves the right from time to time and at any time to modify or terminate any or all pensions hereunder or heretofore granted, to establish a lower or different basis of pension allowance, or otherwise to modify or terminate this pension system in whole or in part.

New York, N.Y.

November 1, 1946.

is in the form of regulations.

APPENDIX "J"

(See Minutes of Proceedings of 30th June and 3rd July)

DOMINION AND PROVINCIAL LEGISLATION

RELATING TO COLLECTIVE BARGAINING

A comparison of Federal and Provincial Acts submitted by the Canadian Congress of Labour to the Industrial Relations Committee of the House of Commons, June 30, 1947, as an appendix to a brief on The Industrial Relations and Disputes Investigation Bill (Bill 338 of 1947)

PREPARED BY THE RESEARCH DEPARTMENT
CANADIAN CONGRESS OF LABOUR
OTTAWA, CANADA.

NOTES

1. This compilation has not attempted to reproduce the whole of the legislation in each case, but only those parts of it which seem to the compilers to be of substantial importance to trade unions. For example, the sections of the various Acts and Regulations on the filing of information by unions have been left out. It may well be that sections have been left out which are really of some importance, and it is also likely that various errors have crept in.

2. In the sections of the Manitoba and Ontario legislation, the words "this Act" have been used for the sake of simplicity and uniformity. The words in the original are "these regulations," since most of the legislation in these provinces

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
2 (1) (b) "Bargaining agent" means a trade union that acts on behalf of employees (i) in collective bargaining: or (ii) as a party to a collective agreement with their employer;	2 (1) "Bargaining agent" means a trade union that acts on behalf of employees in collective bargaining with their employer or as a party to a collective agreement, with their employer;	57 (1) (b) "Bargaining agent" or "collective bargaining agency" means a trade union or *organization or association of employees* which (as in Dominion Bill), *and includes elected or appointed representatives of the employees;*		
	2 (1) "Bargaining authority" means either a certified bargaining agent *or certified bargaining representatives;*			
2 (1) (c) "certified bargaining agent" means a bargaining agent that has been certified under this Act and the certification of which has not been revoked;	2 (1) "Certified bargaining agent" means a bargaining agent certified under this Act whose certification has not been revoked;			
	2 (1) *"Certified bargaining representatives" means bargaining representatives certified under this Act whose certification has not been revoked;*			2 (1) (c) "Certified bargaining representative" means a bargaining representative certified by the Board under this Act;
2 (1) (d) "Collective agreement" means an agreement in writing between an employer or an employers' organization acting on behalf of an employer, on the one hand, and a bargaining agent of his employees, on behalf of the employees, on the other hand, containing terms or conditions of employment of employees that include provisions with reference to rates of pay and hours of work;	2 (1) "Collective agreement" means an agreement in writing between an employer or an employers' organization, on the one hand, and a bargaining authority, on the other hand, containing provisions with reference to rates of pay, hours of work, or other conditions of employment;	57 (1) (c) "Collective agreement" means an agreement in writing between an employer or an employers' organization acting on behalf of an employer, on the one hand, and a bargaining agent of his employees, on behalf of the employees, on the other hand, containing provisions with reference to rates of pay, hours of work, or other terms or conditions of employment of the employees, and signed by the parties thereto;	2 (3) "Collective bargaining agreement" means an agreement in writing between an employer and a trade union setting forth the terms and conditions of employment or containing provisions in regard to rates of pay, hours of work, or other working conditions.	2 (1) (d) "Collective agreement" means an agreement in writing between an employer or an employers' organization on the one hand and a trade union *or an employees' organization* on the other hand containing provisions with reference to rates of pay, hours or work or other working conditions;
2 (1) (e) "Collective bargaining" means negotiating with a view to the conclusion of a collective agreement or the renewal or revision thereof, as the case may be; and "bargaining collectively" and "bargain collectively" have corresponding meanings;	2 (1) "Collective bargaining" means negotiating with a view to the conclusion of a collective agreement or the renewal or revision thereof, *or to the regulation of relations between an employer and employees;*	57 (1) (a) "Bargain Collectively" means to negotiate *in good faith* with a view to the conclusion of a collective labour agreement or an amendment or amendments to an existing agreement, and "collective bargaining" shall have a similar meaning;	2 (1) "Bargaining collectively" means negotiating *in good faith* with a view to the conclusion of a collective bargaining agreement, the embodiment in writing of the terms of agreement arrived at in negotiations *or required to be inserted in a collective bargaining agreement by this Act, the execution by or on behalf of the parties of such written agreement and the negotiating from time to time for the settlement of disputes and grievances of employees covered by the agreement;*	

TIONS

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
	See below.		Same as Dominion Bill.	
			Same as Dominion Bill.	
Same as Manitoba.		Same as Manitoba.		
Same as Manitoba.	2 (e) "Collective agreement" or "agreement" means any arrangement respecting conditions of employment entered into between persons acting for one or more associations of employees, and an employer or several employers or persons acting for one or more associations of employers;	Same as Manitoba.	Same as Dominion Bill.	
			Same as Dominion Bill.	

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
2 (1) (f) "Conciliation Board" means a Board of Conciliation and Investigation appointed by the Minister in accordance with section thirty-five of this Act;	2 (1) (g) "Conciliation Officer" means a person whose duties include the conciliation of disputes and who is under the control and direction of the Minister;		No definition. See below.	2 (1) (e) "Conciliation Board" means a Board appointed by the Minister under section . . .
2 (1) "Conciliation Board" means a Board of Conciliation appointed by the Minister in accordance with section 48 of this Act;	2 (1) "Conciliation Officer" means a person *appointed as such under the provisions of this Act;*	57 (1) (d) "Conciliation Commissioner" means a Conciliation Commissioner *appointed under the provisions of this Part;*		
2 (1) (h) "Dispute" or "industrial dispute" means any dispute or difference or apprehended dispute or difference between an employer and one or more of his employees or a bargaining agent acting on behalf of his employees, as to matters or things affecting or relating to terms or conditions of employment or work done or to be done by him or by the employee or employees as to privileges, rights and duties of the employer or the employee or employees;	2 (1) "Dispute" means a dispute or difference, or apprehended dispute or difference, between an employer and one or more of his employees or a bargaining authority as to matters or things affecting or relating to *conditions* of employment or work done or to be done by an employer or by the employee or employees, or as to privileges, rights and duties of the employer or the employee or employees; and without limiting the generality of the foregoing, includes a dispute or difference relating to:	57 (1) (e) "Dispute" means any dispute or difference between an employer and *a majority of his employees, or a majority of a unit or classification of his employees,* as to matters or things affecting or relating to work done or to be done by him or them, or as to the privileges, rights, and duties of employers or employees, and in particular and without limiting the generality of the foregoing, includes all matters relating to,—		
	2 (1) (a) Wages, allowances, or other remuneration of employees; or the price paid or to be paid for services; hours of work; vacations with pay; holidays; or sickness benefits; (b) Sex, age, qualification or status of employees; (c) Employment of children or any person or class of persons, or the dismissal of or refusal to employ a particular person or persons or class of persons; (d) Claims by an employer or an employee as to whether and, if so, under what circumstances preference of employment should or should not be given to one class of persons over another; and (e) Any custom or usage.	57 (1) (e) (i) the wages, allowance, or other remuneration of employees or the price paid or to be paid in respect of employment; (note omissions) (ii) the hours of employment, sex, age, qualifications, or status of employees, *and the mode, terms and conditions of employment;* (iii) employment of children or any person or persons or class of persons, or the dismissal or refusal to employ any particular person or persons or class of persons; (iv) claims on the part of an employer or any employee as to whether and, if so, under what circumstances preference of employment should or should not be given to one class over another class of persons being or not being members of labour or other organizations, British subjects or aliens; (v) *materials supplied and alleged to be bad, unfit, or unsuitable, or damage alleged to have been done to work;* (vi) Any established custom or usage, either general or in the particular district affected.		

ONS—*Conc.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
Same as Manitoba.	No definition. See below.	Same as Manitoba.	Same as Dominion Bill.	
			Same as Dominion Bill.	
			Same as Dominion Bill.	

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
2 (1) (i) "Employee" means a person employed to do skilled or unskilled manual, clerical or technical work, but does not include (i) a manager or superintendent, or any other person who, in the opinion of the Board, exercises management functions or is employed in a confidential capacity in matters relating to labour relations; (ii) a member of the medical, dental, architectural or legal profession qualified to practice under the laws of a province and employed in that capacity;	2 (1) Same as Dominion Bill, but says employed "by an employer." (a) A person employed in a confidential capacity or a person who has authority to employ or discharge employees; (b) *a person who participates in collective bargaining on behalf of an employer, or who participates on the consideration of an employer's labour policy;* (c) *a person serving an indenture of apprenticeship under the "Apprenticeship Act."* (d) *a person employed in domestic service, agriculture, horticulture, hunting or trapping;*	2 (g) *"Employee" means and includes every person engaged in any industry who is in receipt of or entitled to compensation for labour or services performed whether the labour or services is performed on the premises of the employer or of the employee or elsewhere, and whether the compensation is on the basis of time or of the amount of work performed or of piece work, or is otherwise computed; (But note the introductor ywords: "unless the context otherwise requires.")* 3. This Act shall apply to all . . . employees in the Province except persons who are farm labourers or domestic servants in private houses.	2 (5) Employee" means any person in the employment of an employer, except any person having authority to employ or discharge employees or *regularly acting on behalf of management in a confidential capacity, and includes any person on strike or locked out in a current labour dispute who has not secured permanent employment elsewhere;*	Same as Dominion Bill. (i) a person employed in a confidential capacity or having authority to employ or discharge employees; or (ii) a person employed in domestic service, agriculture, horticulture, hunting or trapping;
2 (2) No person shall cease to be an employee within the meaning of this Act by reason only of his ceasing to work as the result of a lockout or strike or by reason only of dismissal contrary to this Act.	Same as Dominion Bill.	57 (2) Any person who was immediately before the occurrence of any strike or lockout or before his dismissal, as the case may be, an employee within the meaning and for the purposes of this Part, shall be deemed to be an employee, . . . (a) in the case of a strike or lockout until the same is terminated; or (b) in the case of a dismissal where an application for the appointment of a Conciliation Commissioner is made under this Part in respect thereof, until the application has been disposed of; or (c) in the case of a dismissal where an application for the certification of a bargaining agent has been applied for (sic) until the application has been disposed of.	See immediately above.	2 (2) Same as Dominion Bill except that it begins "No employee shall cease to be such," and ends "or his wrongful dismissal."
2 (1) (j) "Employer" means any person who employs one or more employees; 54. Part I of this Act shall apply in respect of any corporation established to perform any function or duty on behalf of the Government of Canada and in respect of employees of such corporation, except any such corporation, and the employees thereof, that the Governor in Council, excludes from the provisions of Part I. 55. Except as provided by section fifty-four, Part I of this Act shall not apply to His Majesty in right of Canada or employees of His Majesty in right of Canada.	2 (1) "Employer" means any person who employs more than one employee:	2 (h) "Employer" means and includes every person, corporation, partnership, firm, manager, representative, contractor and subcontractor having control and direction of or responsible directly or indirectly for the employment of and the payment of wages to any employee; (Note again: "unless the context otherwise requires.")	2(6) "Employer" means: (a) Any employer who employs *three or more* employees; (b) Any employer who employs *less than three employees if at least one of the said employees is a member of a trade union which includes among its membership employees of more than one employer; and includes His Majesty in the right of Saskatchewan* but does not include any employer whose relations with his employers are. . . within the exclusive legislative jurisdiction of the Parliament of Canada . . . or are otherwise withdrawn so far as the matters dealt with by this Act are concerned from the legislative jurisdiction of the Legislature of Saskatchewan by any valid law or regulation passed by authority of the Parliament of Canada.	2 (1) (g) "Employer" means a person employing more than one employee . . . *but does not include His Majesty or any person or corporation acting on behalf or as an agent of His Majesty;*

ONS—*Con.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
Same as Manitoba.	2 (a) "Employee" means any *apprentice*, unskilled labourer or workman skilled workman or journeyman, artisan, clerk or employee, *working individually or in a crew or in partnership;* but it does not include: (1) persons employed as manager, superintendent, foreman *or representatives of an employer in his relations with his employees;* (2) the directors and managers of a corporation; (3) *any person belonging to one of the professions contemplated in chapters 262 to 275 or admitted to the study of one of such professions;* (4) domestic servants or persons employed in an agricultural exploitation; (b) "Agricultural exploitation" means a farm developed by the farmer himself or through employees; *Note omission.*	Same as Manitoba.	Same as Dominion Bill. 2 (1) (i) (i) a manager or superintendent, or any other person who in the opinion of the Board is employed in a confidential capacity in matters relating to labour relations or who exercises management functions; (ii) same as Dominion Bill, but adds "engineering."	3. "Employee" as used herein shall not include officers, officials or persons employed in any confidential capacity.
Same as Manitoba.		Same as Manitoba.	Same as Dominion Bill.	
Same as Manitoba.	2 (c) "Employer" means anyone who has work done by an employee, but it *does not include the railways under the jurisdiction of the Parliament of Canada;*	Same as Manitoba but adds: "or any board, commission or other body established, organized or functioning as an administrative unit of the Province";	Same as Dominion Bill. 68. *This Act shall apply to all matters within the legislative jurisdiction of this Province except that it shall not apply to His Majesty in the right of his Province of Nova Scotia or to employees of His Majesty in the right of his Province of Nova Scotia.*	14. This act shall not apply to any employer who does not regularly employ more than fifteen employees.

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
2 (1) (k) "Employers' organization" means an organization of employers formed for purposes including the regulation of relations between employers and employees;	2 (1) "Employers' organization" means an organization of employers that *has for its objects, or one of its objects*, the regulating of relations between employers and employees;	57 (1) (f) "Employers organization" means an organization of employers formed for the purpose of regulating relations between employers and employees;	2 (7) *"Employer's agent"* means:— (a) *Any person or* association acting on behalf of an employer. (b) *Any officer, official, foreman, or other representative or employee of an employer acting in any way on behalf of an employer in respect to hiring or discharging or any of the terms or conditions of the employees of such employer.*	2 (1) (h) "Employers' organization" means an organization of employers formed to regulate relations between employers and employees.
2 (1) (p) "Strike" includes a cessation of work, or refusal to work or to continue to work, by employees, in combination or in concert or in accordance with a common understanding, for the purpose of compelling their employer to agree to terms or conditions of employment or to aid other employees in compelling their employer to agree to terms or conditions of employment;	2 (1) "Strike" includes a cessation of work, or refusal to work, or *refusal to continue to work*, by employees in combination or in concert or in accordance with a common understanding for the purpose of compelling their employer to agree to conditions of employment of his employees:	57 (1) (h) "Strike" or "to go on strike" includes the cessation of work by a body of employees acting in combination or the concerted refusal or the refusal under a common understanding of a number of employees to work for an employer for the purpose of compelling their employer, or to aid other employees in compelling their employer, to accept terms or conditions of employment.		2 (1) (m) Same as Alberta, except: "a refusal under a common understanding"; "to *continue to* work for an employer"; *"done to compel"* instead of "for the purpose of compelling"; and "terms of employment" instead of "terms and conditions
2 (1) (q) "To strike" includes to cease work, or to refuse to work or to continue to work, in combination or in concert or in accordance with a common understanding, for the purpose of compelling the employer of the employees who so cease, or refuse, to agree to terms or conditions of employment to aid other employees in compelling their employer to agree to terms or conditions of employment.	2 (1) Same as Dominion Bill, except "to *refuse* to continue to work; "conditions of employment" instead of "terms or conditions"; and omits the last three words.	See above, 57 (1) (h).		See above.
2 (1) (r) "Trade union" or "union" means any organization of employees formed for the purpose of regulating relations between employers and employees;	2 (1) "Trade-union" means an international, national, or provincial, organization of employees, or a local branch chartered by and in good standing with such an organization;	57 (1) (i) Same as Dominion Bill, but omits "or union".	2 (10) *"Trade union" means a labour organization which is not a company dominated organization.*	2 (1) (n) "Trade union" means a *provincial, national or international employees' organization, or a local branch chartered by, and in good standing with, such an organization;*
	2 (1) *"Employees' organization" means an organization of employees, other than a trade-union, that has as its object, or one of its objects, the regulating of relations between an employer or employers and his or their employees;*		2 (8) "Labour organization means any organization of employees, *not necessarily employees of one employer, which has bargaining collectively among its purposes.*	2 (1) (i) *"Employee's organization" means an organization of employees formed to regulate relations between employers and employees;*

ONS—*Con.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
Same as Manitoba.	2 (d) "Association" includes a professional syndicate, a union of such syndicates, a group of employees or of employers, bona fide, having as object the regulation of relations between employers and employees *and the study, defence and development of the economic, social and moral interests of its members, with respect for law and authority;*	Same as Manitoba.	Same as Dominion Bill.	
Same as Manitoba.	2 (j) "Strike" means concerted cessation of work by a group of employees.	Same as Manitoba.	Same as Dominion Bill.	
See above.		See above.	Same as Dominion Bill.	
Same as Manitoba.	See above, "association."	Same as Manitoba.	Same as Dominion Bill.	2. "Trade union" shall *mean any lawful association, union or organization of employees, whether employed by one employer or by more than one employer which is formed for the purpose of advancing in a lawful manner the interest of such employees in respect of their employment.*
Same as Manitoba.		Same as Manitoba.		

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
9 (5) Notwithstanding anything in this Act, no trade union, the administration, management or policy of which is, in the opinion of the Board, (a) influenced by an employer so that its fitness to represent employees for the purpose of collective bargaining is impaired; or (b) dominated by an employer; shall be certified as a bargaining agent of employees, nor shall an agreement entered into between such trade union and such employer be deemed to be a collective agreement for the purposes of this Act.	11 (5) Notwithstanding anything contained in this Act, no trade-union, the administration, management or policy of which is, in the opinion of the Board, dominated or influenced by an employer, and no bargaining representatives who are, in the opinion of the Board, dominated or influenced by an employer, so that their fitness to represent employees for the purpose of collective bargaining is impaired, shall be certified as the bargaining authority of the employees, nor shall an agreement entered into between such trade-union or representatives and such employer be deemed to be a collective agreement.		2 (4) *"Company-dominted organization" means any labour organization, the formation or administration of which any employer or employer's agent has dominated or interfered with or to which any employer or employer's agent has contributed financial or other support, except as permitted by this Act.* 5 (f) *The Board shall have power to make orders:—* *. . . requiring an employer to disestablish a company dominated organization.*	
2 (3) For the purposes of this Act, a "unit" means a group of employees and "appropriate for collective bargaining" with reference to a unit, means a unit that is appropriate for such purposes whether it be an employer unit, craft unit, technical unit, plant unit, or any other unit and whether or not the employees therein are employed by one or more employer. (sic)	2 (3) For the purposes of this Act, a "unit" means a group of employees and "appropriate for collective bargaining" with reference to a unit, means appropriate for such purposes, whether the unit be an employer unit, craft unit, professional unit, plant unit, or a subdivision of a plant unit, or any other unit, and whether or not the employees therein are employed by one or more employers.		5 (a) The Board shall have power to make orders: (a) *Determining whether the appropriate unit of employees for the purpose of bargaining collectively shall be an employer unit, craft unit, plant unit or a subdivision thereof or some other unit.*	
8. Where a group of employees of an employer belong to a craft or group exercising technical skills, by reason of which they are distinguishable from the employees as a whole and the majority of the group are members of one trade union pertaining to such craft or other skills, the trade union may apply to the Board subject to the provisions of section seven of this Act, and shall ve entitled to be certified as the bargaining agent of the employees in the group if the group is otherwise appropriate as a unit for collective bargaining.	10 (1) Where the majority of a group of employees of an employer who belong to a craft, by reason of which they are distinguishable from the employees as a whole, are separately organized into one trade-union, or are members of one trade-union, pertaining to the craft or profession, if the group is otherwise appropriate as a unit for collective bargaining, the trade-union may apply to the Board and shall be entitled to be certified as the bargaining agent of the employees in the group.			5 (4) *If in accordance with established trade union practice* the majority of a group of employees who belong to a *craft* by reason of which they are distinguishable from the employees as a whole, are separately organized into a trade union pertaining to the *craft such trade union may elect or appoint its officers or other persons as bargaining representatives on behalf of the employees belonging to that craft.*
	10 (2) The employees in a unit in respect of whom a trade union is entitled to be certified as bargaining agent under this section, shall, if the trade union so claims, be excluded from any other unit for collective bargaining and shall not be taken into account as members of any such other unit for any purpose of this Act.			5 (4) *Where any group claims and is entitled to the rights conferred by this subsection, the employees comprising (sic) the craft shall not be entitled to vote for any of the purposes of collective bargaining with that employer, except when the collective bargaining is in respect only of the craft to which they belong; nor shall they in any manner be taken into account in the computation of a majority in respect of any matter regarding which they are not entitled to vote.*

ONS—*Con.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
			9 (6) Notwithstanding anything contained in this Act, no trade union, the administration, management or policy of which is, in the opinion of the Board, dominated or influenced by an employer so that its fitness to represent employees for the purpose of collective bargaining is impaired, shall be certified as a bargaining agent of employees, nor shall an agreement entered into between such trade union and such employer be deemed to be a collective agreement.	
	6. *Every association desiring to be recognized for the purposes of this Act, as representing a group of employees . . . , shall apply by petition in writing to the Board and the latter, after inquiry, shall determine . . . what group of employees it shall represent.* 9. *The Board shall issue, to every recognized association, a certificate specifying the group which it is entitled to represent.*		Same as Dominion Bill.	
Same as Manitoba.		Same as Manitoba.	Same as Dominion Bill	
Same as Manitoba.		Same as Manitoba.		

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
3 (1) Every employee shall have the right to be a member of a trade union and to participate in the activities thereof.	3 (1) Every employee shall have the right to be a member of a trade union *or employees' organization in which he is eligible for membership* and to participate in the lawful activities thereof.	59. *It shall be lawful for employees to bargain collectively with their employer and to conduct such bargaining through a bargaining agent.*	3. *Employees shall have the right to organize in and to form, join or assist trade unions and to bargain collectively through representatives of their own choosing, and the representatives designated or selected for the purpose of bargaining collectively by the majority of employees in a unit appropriate for such purpose shall be the exclusive representatives of all employees in such unit for the purpose of bargaining collectively.*	4 (1) Same as Dominion Bill, except that it adds "*or employees' organization,*" and says "*lawful.*"
			19. *A trade union and the acts thereof shall not be deemed to be unlawful by reason only that one or more of its objects are in restraint of traed.*	
			20. *Any act done by two or more members of a trade union, if done in contemplation or furtherance of a trade dispute, shall not be actionable unless the act would be actionable if done without any agreement or combination.*	
			21. *A trade union shall not be made a party to any action in any court unless such trade union may be made a party irrespective of any of the provisions of this Act.*	
	47. Unless otherwise provided therein, no action may be brought under or by reason of any collective agreement, unless it may be brought irrespective of the provisions of this Act. *No trade-union nor any association of workmen or employees in the province, nor the trustees of any such trade-union or association in their representative capacity, shall be liable in damages for any wrongful act of commission or omission in connection with any strike, lockout, or trade or labour dispute, unless the members of such trade-union or association, or its council, committee, or other governing body, acting within the authority or jurisdiction given such council, committee, or other governing body by the rules, regulations, or directions of such trade-union or association, or the resolutions or directions of its members resident in the locality or a majority thereof.*		22. *A collective bargaining agreement shall not be the subject of any action in any court unless such collective bargaining agreement might be the subject of such action irrespective of any of the provisions of this Act.*	

ASSOCIATION

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
Same as Manitoba.	3. Every employee shall have the right to be a member of *an association* and to participate in its lawful activities.	Same as Manitoba.	Same as Dominion Bill.	4. *It shall be lawful for employees to form themselves into a trade union and to join the same when formed.* 5. *It shall be lawful for employees to bargain collectively with their employer or employers and for members of a trade union to conduct such bargaining through the trade union and through the duly chosen officers of such trade union.*
Same as Saskatchewan (Rights of Labour Act, 1944, Section 2.)				
Same as Saskatchewan (Rights of Labour Act, section 3 (1).)				
Same as Saskatchewan, except "may be *so* made" and "of *any of* the provisions", and adds, "or of the Labour Relations Board Act", (Rights of Labour Act, section 3 (2).)				
Same as Saskatchewan except as just noted. (Rights of Labour Act, Section 3 (3).)				

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
	have authorized or have been a concurring party in such wrongful act. (Trade-unions Act, section 2.) *No such trade-union or association shall be enjoined, nor shall any officer, member, agent, or servant of such trade-union or association or any other person be enjoined, nor shall it or its funds or any such officer, member, agent, servant, or other person be made liable in damages for communicating to any workman, artisan, labourer, employee or person facts respecting employment or hiring by or with any employer, producer, or consumer or distributor of the products of labour or the purchase of such products, or for persuading or endeavouring to persuade by fair or reasonable argument, without unlawful threats, intimidation, or other unlawful acts, such last-named workman, artisan, labourer, employee, or person, at the expiration of any existing contract not to renew the same with or to refuse to become the employee or customer of any such employer, producer, consumer, or distributor of the products of labour.* (Trade-unions Act, section 3.) *No such trade-union or association, or its officer, member, agent, or servant, or other person, shall be enjoined or liable in damages, nor shall its funds be liable in damages, for publishing information with regard to a strike or lockout, or proposed or expected strike or lockout, or other labour grievance or trouble, or for warning workmen, artisans, labourers, or employees or other persons against seeking, or urging workmen, artisans, labourers, employees, or other persons not to seek employment in the locality affected by such strike, lockout, labour grievance or trouble, or from purchasing, buying, or consuming products produced or distributed by the employer of labour party to such strike, lockout, labour grievance or trouble, during its continuance.* (Trade-unions Act, section 4.)			
26. Notwithstanding anything contained in this Act, any employee may present his personal grievance to his employer at any time.				

ASSOCIATION—*Conc.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
			Same as Dominion Bill	

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
4 (1) No employer or employers' organization, and no person acting on behalf of an employer or employers' organization, shall participate in or interfere with the formation or administration of a trade union, or contribute financial or other support to it: provided that an employer may, notwithstanding anything contained in this section, permit an employee or representative of a trade union to confer with him during working hours or to attend to the business of the organization during working hours without deduction of time so occupied in the computation of the time worked for the employer and without deduction in wages in respect of the time so occupied, or provide free transportation to representatives of a trade union for purposes of collective bargaining or permit a trade union the use of the employers' premises for the purposes of the trade union.	4 (1) Same as Dominion Bill, except that it adds: "*or employees' organization*"; says "*union or* organization"; and "*for* the time so occupied" and *leaves out* the rest.	63. Same as Dominion Bill, except that it says "business of the *trade union*," and *leaves out* the free transportation, etc.	8 (1) It shall be an unfair labour practice for any employer or employer's agent:— (b) To discriminate or interfere with the formation or administration of any labour organization or contribute financial or other support to it; provided that an employer shall not be prohibited from permitting the *bargaining committee or officers of a trade union representing his employees in any unit* to confer with him *for the purpose of bargaining collectively* or attending to the business of a *trade union* without deductions from wages or loss of time so occupied *or from agreeing with any trade union for the use of notice boards and of the employer's premises for the purposes of such trade union.* (d) *To refuse to permit any duly authorized representative of a trade union with which he has entered into a collective bargaining agreement to negotiate with him during working hours for the settlement of disputes and grievances of employees covered by the agreement, or to make any deductions from the wages of any such duly authorized representative of a trade union in respect of the time actually spent in negotiating for the settlement of such disputes and grievances.* (g) *To interfere in the selection of a trade union as a representative of employees for the purpose of bargaining collectively.*	19. No employer shall *dominate* or interfere with the formation or administration of a trade union or *employees' organization* or contribute financial or other support to it; but an employer may, notwithstanding the foregoing, permit an employee or representative of a trade union or *employees' organization* to confer with him during working hours or to attend to the business of the organization *or union* during working hours without deduction of time so occupied in the computation of the time worked for the employer and without deduction of wages in respect thereof.
4 (2) No employer and no person acting on behalf of an employer, shall (a) refuse to employ or to continue to employ any person, or otherwise discriminate against any person in regard to employment or any term or condition of employment because the person is a member of a trade union.	4 (2) (9) Same as Dominion Bill, except that it says "member *or officer*", and "*or employees' organization,*" and leaves out "otherwise."		(e) *To discriminate in regard to hiring or tenure of employment or any term or condition of employment . . . with a view to encouraging or discouraging membership in or activity in or for a labour organization or participation of any kind in a proceeding under this Act,* (with proviso for union security; below).	19 (2) No employer *or employer's organization,* and no person acting on behalf of same shall (a) refuse to *employ* any person because the person is a member of a trade union *or an employees' organization;*

PRACTICES

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
Same as Manitoba.	20. No employer, nor person acting for an employer or an association of employers, shall in any manner seek to dominate or hinder the formation or activities of any association of employees.	Same as Manitoba.	Same as Dominion Bill.	
Same as Manitoba.	21. No employer, nor person acting for an employer or an association of employers shall refuse to *employ* any person because such person is a *member or an officer of an association.*	Same as Manitoba.	Same as Dominion Bill.	

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
		65. No employer shall interfere with, restrain or coerce any employee in the exercise of any right conferred by this Part.	(f) *To require as a condition of employment that any person shall abstain from joining or assisting or being active in any trade union or from exercising any right provided by this Act, except as premitted by this Act.*	
(b) impose any condition in a contract of employment seeking to restrain an employee from exercising his rights under this Act; or	4 (2) (b) Same as Dominion Bill.	64. No employer hereafter shall insert any *clause in any written contract* of employment or impose any condition in any *verbal* contract of employment *or continue an such clause or condition heretofore in effect where such clause or condition seeks to restrain any employee from exercising his rights under this Part, and any such clause or condition shall be of no effect.*	(a) *To interfere with, restrain or coerce any employee in the exercise of any right conferred by this Act.* (See also, (f), above).	19(2) (b) Same as Dominion Bill, except *"the* contract."
4 (3) No employer and no person acting on behalf of an employer shall seek *by intimidation, by threat of dismissal, or by any other kind of threat, or by the* imposition of a pecuniary or other penalty, or by any other means to compel an employee to refrain from becoming *or to cease to be* a member of a trade union.	4 (2) (c) Seek by intimidation, by dismissal, by threat of dismissal, or by any other kind of threat, or by the imposition of a penalty, or by a promise, or by any other means to compel or to induce an employee to refrain from becoming or continuing to be a member or officer or representative of a trade-union or employees organization,—	66 (1) Any person who by intimidation, *threat of loss of position or employment or by an actual loss of position or employment or by any other threat seeks to compel any person:—* (a) *to refrain from attending any meeting of employees held for the purpose oi discussing grievances or selecting a bargaining agent to carry on collective bargaining; or* (b) *to refrain from acting as representative to carry on collective bargaining; or* (c) *to refrain from engaging in any activities in support of a trade union or a bargaining agent or from making a complaint to a trade union or a bargaining agent or from giving evidence at any inquiry: shall, in any such case, be guilty of an offence and liable on summary conviction to a fine of not more than five hundred dollars and costs.*	8 (1) (e) To . . . use *coercion* or intimidation *of any kind with a view to encouraging or discouraging membership in or activity in or for a labour organization* (with proviso for union security; below). (h) *To maintain a system of industrial espionage or to employ or direct any person to spy upon a member or proceedings of a labour organization, or the offices thereof or the exercise by any employee of any right provided by this Act.* (i) *To threaten to shut down or move a plant or any part of a plant in the course of a labour dispute.* 1946 amendment puts burden of proof on *employer* in cases of alleged dismissal for union activity.	19 (2) (c) Same as Dominion Bill, except that omits the first "or"; says *"or by any other means whatsoever to compel an employee to abstain"*; and adds: *"or employees' organization, or 'rom exercising his lawful rights."*
4 (4) Except as expressly provided, nothing in this Act shall be interpreted to affect the right of an employer to suspend, transfer, lay off or discharge an employee for proper and sufficient cause.	4 (2) Same as Dominion Bill, except that it omits "and sufficient."	67. Nothing in this Part shall *detract from or interfere with* the right of an employer to suspend, transfer, lay off or discharge employees for proper and sufficient cause.		19. but nothing in this Act shall be interpreted to affect, *otherwise than as expressly stated,* the right of an employer to suspend, transfer, lay off or discharge employees for *appropriate* and sufficient cause.
5. Except with the consent of the employer, no trade union, and no person acting on behalf of a trade union, shall attempt at the employer's place of employment during the working hours of an employee to persuade the employee to become or refrain from becoming or continuing to be a member of a trade union.	5 (1) Except with the consent of the employer, no trade-union *or employees' organization* and no person acting on behalf of a trade-union or *employees' organization* shall attempt at the employer's place of employment during working-hours to persuade an employee of the employer to join *or not to join* a trade-union or *employees'* organization.			20 (2) Except with the consent of the employer, no trade union *or employees' organization, and no person authorized by* the union *or employees' organization* to act on its behalf, shall attempt at the *employee's place* of employment during *his* working hours to persuade an employee to join the trade union *or employees' organization.*

PRACTICES—*Con.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P. E I Act
Same as Manitoba.		Same as Manitoba.	Same as Manitoba	6. Same as Alberta, except that it begins: "It shall be unlawful."
Same as Manitoba.	21. No employer, nor person acting for an employer or an association of employers, shall . . . seek *by intimidation, threat of dismissal or other threat, or by the imposition of a penalty or by any other means, to compel an employee to abstain from becoming or to cease being a member or an officer of an association.*	Same as Manitoba.	Same as Dominion Bill	7. Any employer, whether an individual person, a firm or a corporation which shall be intimidation, *threat of loss of position or employment, or by actual loss of position or employment, or by threatening or imposing any pecuniary penalty prevent or attempt to prevent, an employee from joining or belonging to a trade union shall be liable upon summary conviction to a fine not exceeding One Hundred Dollars for each such offence, and in default to thirty days' imprisonment, and in case of a corporation, to a fine not exceeding Five Hundred Dollars.*
Same as Manitoba.	21. This section shall not have the effect of preventing an employer from suspending, dismissing, discharging or transferring an employee for *good* and sufficient cause, proof *whereof shall devolve upon the said employer.*	Same as Manitoba.	4 (4) Same as Dominion Bill, but inserts "*change the status of,*" after "*lay-off.*"	Same as Alberta.
Same as Manitoba.	23. Except with the consent of the employer, no *person shall, in the name or on behalf of an association,* (a) *solicit an employee, during working hours, to join an association, or* (b) *convene employees for such purpose at their place of employment.*	Same as Manitoba.	5 (1) Except with the consent of an employer, no trade union and no person acting on behalf of a trade union shall attempt at the employer's place of employment to persuade an employee of the employer to join a trade union.	

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
	5 (2) No trade-union or employees' organization and no person acting on behalf of a trade union or employees' organization and no employee shall support, encourage, condone, or engage in any activity that is intended to restrict or limit production. 5 (3) No act or thing required by the provisions of a collective agreement for the safety or health of employees shall be deemed to be an activity intended to restrict production.			20 (3) No trade union or *employees' organization* and no person acting on its behalf shall support, encourage, condone or engage in *a "slowdown"* or other activity designed to restrict or limit production; *but this provision shall not be interpreted to limit a trade union's legal right to strike and a thing required by a provision in* a collective *agreement for the safety or health of the* employees shall be deemed not to be a *"slowdown"* or designed to restrict or limit production.
	6. No person shall use coercion or intimidation of any kind *that would have the effect of* compelling *or inducing* any person to become or refrain from becoming, or *to continue* or cease to be, a member of a trade-union or *employees' organization.*	66 (3) No *employee* or any *person* acting on behalf of a *trade union* shall use coercion or intimidation of any kind with a view to *encouraging or discouraging membership in or activity in or for a trade union.*		20 (1) No person shall, with a view to compelling or influencing a person to *join* a trade union or *employees' organization* use coercion or intimidation of any kind,
6 (1) Nothing in this Act prohibits the parties from inserting in the collective agreement a provision requiring, as a condition of employment, membership in a specified trade union, or granting a preference of employment to members of a specified trade union.	7. Nothing in this Act shall be construed to preclude the parties to a collective agreement from inserting in the collective agreement a provision requiring, as a condition of employment, membership in a specified trade-union or employees' organization, or granting a preference of employment to members of a specified trade-union or employees' organization, or to preclude the carrying-out of such provisions.	66 (2) Nothing contained in *sub-section* (1) *(Note that this is the set of provisions above beginning: "any person who by intimidation, threat," etc.) shall prevent a trade union from maintaining an existing agreement or entering into a new agreement with an employer or organization of employers, whereby all the employees, or any unit or classification of employees of the employer or organization of employers are required to be members of a specified trade union.*	8 (2) *It shall be an unfair labour practice for any employee or any person acting on behalf of a labour organization.—* (a) *to use coercion or intimidation of any kind with a view to encouragin or discouraging membership in or activity in or for a labour organization; provided that nothing in this Act shall preclude a person acting on behalf of a trade union from attempting to persuade an employer to make an agreement with that trade union to require as a condition of employment membership or maintenance of membership in such trade union or the selection of employees by or with the advice of a trade union or any other condition in regard to employment, if such trade union has been designated or selected by a majority of employees in any such unit as their representative for the purpose of bargaining collectively.*	*but this subsection shall not be construed to prohibit the inclusion of any provision in a collective agreement.*

PRACTICES—*Con.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
Same as Manitoba.	25. *No association or person acting on behalf of an association shall order, encourage or support a slackening of work designed to limit production.*	Same as Manitoba.	5 (2) No trade union and no person acting on behalf of a trade union and no employee shall support, encourage, condone or engage in any activity that is intended to restrict or limit production.	
		Same as Manitoba.	4 (5) Nothing in this Act shall be interpreted as forbidding an employer to explain his side of a labour dispute or labour organizing activity to his employees directly, through a meeting, by mail, or bulletin boards. If negotiations break down or collective bargaining ceases to be bargaining, he may so explain his side of the dispute.	
Same as Manitoba.		Same as Manitoba.	4 (3) . . . . No *other person* shall seek by intimidation or coercion to compel an employee to become or refrain from becoming or to cease to be a member of a trade union. ("Other person" means other than an employer or person acting on his behalf.)	
Same as Manitoba.				

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
			8 (1) (e) *provided that nothing in this Act shall preclude an employer from making an agreement with a trade union, etc., as above.*	
6 (2) No provision in a collective agreement requiring an employer to discharge an employee because such employee is or continues to be a member of, or engages in activities on behalf of a union other than a specified trade union, shall be valid.				

UNION

			25 (1) Upon the request of a trade union representing a majority of employees in any appropriate bargaining unit, the following clause shall be included in any collective bargaining agreement entered into between such trade union and the employer concerned, and, whether or not any collective bargaining agreement is for the time being in force, the said clause shall be effective and its terms shall be carried out by such employer with respect to such employees on and after the date of such trade union's request until such time as the employer is no longer required by or pursuant to this Act to bargain collectively with such trade union: "Every employee who is now or hereafter becomes a member of the union shall maintain his membership in the union as a condition of his employment, and every new employee whose employment commences hereafter shall, within thirty days after the commencement of his employment, apply for and maintain membership in the union as a condition of his employment:" and the expression "the union" in the said clause shall mean the trade union making such request.	

PRACTICES—*Conc.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
			Sane as Dominion Bill.	

SECURITY

CHECK-

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
8 (1) *Every employer shall honour a written assignment of wages to a trade-union or to an employees' organization.* (2) *An assignment pursuant to subsection* (1) *shall be substantially in the following forms—* *To (name of employer):* *Until this authority is revoked by me in writing, I hereby authorize you to deduct from my wages and pay to (name of employees' organization or number and name of local union) fees in the amounts following—*(1) *Initiation fees in the amount of* $..... (2) *Dues of* $.....*per*..... (3) *Unless the assignment is revoked in writing delivered to the employer, the employer shall remit the dues deducted to the union or organization named in the assignment at least once each month, together with a written statement of the names of the employees for whom the deductions were made and the amount of each deduction.* (4) *If an assignment is revoked, the employer shall give a copy of the revocation to the assignee.* (5) *Notwithstanding any provisions contained in subsections* (1), (2), (3), *there shall be no financial responsibility on the part of an employer for fees or dues of an employee unless there are sufficient unpaid wages of that employee in the employer's hands.*	83. *Any employee may by order in writing signed by him, request his employer to apply any part of the moneys due to the employee to the payment of any amount payable by him to any other person for union dues, and the employer shall from the moneys so due, make the payments as requested by the writer, and such order shall be effective only for the amount specified therein, and shall continue in force until revoked by the employee.*	23. *Upon the request in writing of any employee, and upon the request of a trade union representing the majority of employees, in any bargaining unit of his employees, the employer shall deduct and pay in periodic payments out of the wages due to such employee, to the person designated by the trade union to receive the same, the union dues of such employee until such employee has withdrawn in writing such request, and the employer shall furnish to such trade union the names of the employees who have given or withdrawn such authority. Failure to make payments and furnish information required by this section shall be an unfair labour practice.*		

CERTIFI

		59 (2) *The employees of an employer or specified unit or classification of employees appropriate for collective bargaining may elect a bargaining agent by a majority vote of the employees entitled to vote.*		5 (1) *The employees of an employer may elect bargaining representatives by a majority vote of the employees affected.*

OFF

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
			67. (1) *Every employer shall honour a written assignment of wages to a trade union, provided,* (a) *the officers of a trade union thereunto duly authorized by its members make application to the Minister for the taking of a vote to ascertain the wishes of the employees of the employer in respect to such assignment; and* (b) *upon a vote taken by ballot at ties and under conditions fixed by the Minister, a majority of the employees of the employer vote in favour of the making of such assignment.* (2) . . . *An assignment pursuant to subsection* (1) *shall be substantially in the following form:—* *To* (*name of employer*) *(the rest is the same as the British Columbia Act, even mentioning the employees' organization;* otherwise not mentioned in the Nova Scotia Act; except for: the *omission* of the final subsection "Notwithstanding," etc.)	12. *In any industry in which by statute of the Province of Prince Edward Island or by arrangement between employer and employees deductions are made from the wages of employees for benefit societies, hospital charges, or the like, deductions shall be made by the employer from the wages of employees but only for periodical payments to a trade union of employees.* (a) *If the officers of such trade union thereunto duly authorized by its members make application to the Provincial Secretary for the taking of a vote to ascertain the wishes of the employees of such industry in respect of such deductions; and* (b) *If, upon a vote being taken by ballot at times and under conditions fixed by the Provincial Secretary, a majority of the employees of such industry vote in favour of the making of such deductions; and* (c) *If the individual employee being a member of such trade union makes to the employer a signed written request that such deductions be made from the wages due to him therein indicating the name of the person to whom such deductions shall be paid.* 13. *In every industry in which deductions are made by the employer from the wages of the employee, whether by statutory provision as aforesaid or by arrangement between employer and employee, the employer shall furnish to the Provincial Secretary when requested by him so to do before the first day of February in each year a statement showing the amounts deducted. Such statement shall be in such form and contain such particulars and such further information as the Provincial Secretary may from time to time require. Every employer who fails to comply with the provisions of this section shall be liable on summary conviction to penalty not exceeding One Hundred Dollars. (This penalty is for failing to make returns to the Provincial Secretary.)*

CATION

Same as Manitoba.		Same as Manitoba.		

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
		3. *The employees entitled to vote at a vote taken under the provisions of this section or of subsection (7) of section 80 shall be any employee who has been duly admitted to membership in a trade union who has continued such membership for a period of not less than three months and who retains such membership and is in good standing according to the constitution and by-laws of the trade union, and also any employee who has been in the service of the employer for a period of at least three months prior to the taking of the vote.*		(2) *If the majority of the employees affected are members of one trade union, that trade union may elect or appoint its officers or other persons as bargaining representatives on behalf of all the employees affected; for the purpose of this section an employee shall be deemed to be a member of the trade union if he has in writing requested the trade union to elect or appoint bargaining representatives on his behalf.*
7 (1) A trade union claiming to have as members in good standing a majority of employees of one or more employers in a unit that is appropriate for collective bargaining may, subject to the rules of the Board and in accordance with this section, make application to the Board to be certified as bargaining agent of the employees in the unit.	9 (1) A trade-union claiming to have as members in good standing a majority of employees *in a unit that is appropriate for collective bargain-claiming, or bargaining representatives claiming to have been elected by a majority of the employees of an employer* in a unit that is appropriate for collective bargaining, may apply to the Board to be certified as the *bargaining authority* for the unit in any of the following cases:—	(4) *The bargaining agent claiming to have been selected under the provisions of this section may,*—		6. *When bargaining representatives have been elected or appointed, application may be made to the Board by or on behalf of such representatives for their certification as the bargaining representatives of the employees affected.*
7 (2) Where no collective agreement is in force and no bargaining agent has been certified under this Act for the unit, the application may be made at any time.	(a) where no collective agreement *is in force* and no *bargaining authority* has been certified for the unit:	(a) where no collective agreement binding on or entered into on behalf of *the* employees *or of a specified unit or classification of employees, as the case may,* is in force, and no bargaining agent has been certified *under this section* at any time;		
(3) Where no collective agreement is in force but a bargaining agent has been certified under this Act for the unit, the application may be made after the expiry of twelve months from the date of certification of the bargaining agent, but not before, except with the consent of the Board.	(b) where no collective agreement *is in force* and where either:— (i) *six* months have elapsed since the date of certification of a *bargaining authority* for the unit; or (ii) *the Board has consented to an application before the expiry of said period of six months; and*	(b) where no collective agreement binding on or entered into on behalf of *the* employees *or of a specified unit or classification of employees, as the case may be,* is in force, but a bargaining agent has been certified under this section, after the expiry of *ten* months from the date of certification of the bargaining agent;		
(4) Where a collective agreement is in force, the application may be made at any time after the expiry of ten months of the term of the collective agreement, but not before, except with the consent of the Board.	(c) where a collective agreement *is in* force, and where ten months of the term of *a* collective agreement have expired.	(c) where a collective agreement binding on or entered into on behalf of *the* employees *or of a specified unit or classification of employees, as the case may be,* is in force, at any time after, but not before, the expiry of ten months of the term of the collective agreement; make application to the Board to be certified as *the* bargaining agent of the employees *of* the employer *or a unit of employees, as the case may be.*	24. (3) Any trade union claiming to represent a majority of employees in the appropriate unit of employees or any part thereof to which any collective bargaining agreement applies may, not less than thirty days nor more than sixty days before the expiry date of such agreement, apply to the board for an order determining it to be the trade union representing a majority of employees in the appropriate unit of	9. *At any time after the expiry of ten months of the term of a collective agreement, whether entered into before or after the effective date of this Act, the employees may elect new bargaining representatives in the manner provided in section five and application may be made to the Board by or on behalf of such bargaining representatives for their certification. Upon receipt of such application the Board shall deal with the same as in the case of*

CATION—*Con.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
Same as Manitoba.		Same as Manitoba.		
Same as Manitoba.	6. *Every association desiring to be recognized for the purposes of this Act, as representing a group of employees . . . , shall apply by petition in writing to the Board, and the latter, after inquiry, shall determine whether such association is entitled to be so recognized and what group of employees it shall represent.*		Same as Dominion Bill.	
			Same as Dominion Bill. Same as Dominion Bill.	
Same as Manitoba.	16. *From the sixtieth to the thirtieth day prior to the expiration of a collective agreement or the date of its renewal, any association may, if there is occasion for so doing, present a petition to the Board in the form prescribed in section 6, to be recognized, in the place and stead of a signatory association, as representative . . . of the employees or of a more appropriate group, in the circumstances, for the purpose of negotiating a collective agreement.*	Same as Manitoba.	Same as Dominion Bill.	

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
			employees to which the agreement applies, or in any part thereof, and if the board makes such order the employer shall forthwith bargain collectively with such trade union, and the former agreement shall be of no force or effect in so far as it applies to any unit of employees in which such trade union has been determined as representing a majority of employees.	*an initial application for certification under the Act.*
	9. (2) A trade-union claiming to have as members in good standing a majority of employees in a unit that is appropriate for collective bargaining, and the employees in which are employed by two or more employers, may make application under this section to be certified as bargaining agent for the unit.			5 (3) *Where more than one employer and their employees desire to negotiate a collective agreement, the employees of such employers may elect bargaining representatives by a majority vote of the employees affected by each employer, or, if the majority of the employees affected of each employer are members of one trade union that trade union may elect or appoint its officers or other persons as bargaining representatives on behalf of all the employees affected.*
7. (5) Two or more trade unions claiming to have as members in good standing of the said unions a majority of employees in a unit that is appropriate for collective bargaining, may join in an application under this section and the provisions of this Act relating to an application by one union, and all matters or things arising therefrom, shall apply in respect of the said application and the said unions as if it were an application by one union.	(3) Two or more trade-unions claiming to have as members in good standing in the said unions a majority of employees *in a unit that is appropriate for collective bargaining* (the rest same as Dominion Bill).			5 (5) *Two or more trade unions may, by agreement join in electing bargaining representatives on terms consistent with this Act.*
9 (1) Where a trade union makes application for certification under this Act as bargaining agent of employees in a unit, the Board shall determine whether the unit in respect of which the application is made is appropriate for collective bargaining and the Board may, before certification, if it deems it appropriate, include additional employees in, or exclude employees from, the unit.	11 (1) Where a trade-union or bargaining representatives apply for certification as the bargaining authority for a unit, the Board shall determine whether the unit is appropriate for collective bargaining, and the Board may, before certification, include additional employees in, or exclude employees from, the unit.	59 (5) Upon receipt of an application for certification of a bargaining agent *the Minister shall refer it to the Board for inquiry and report upon the following matters,—* (b) *whether, in the case of a unit or classification of employees, the unit or classification is in all the circumstances appropriate for collective bargaining;*	See above.	7. *Upon such application the Board shall by an examination of the records, by a vote or otherwise, satisfy itself that an election or appointment of bargaining representatives was regularly and properly made, and in the case of a trade union, that the trade union acted with the authority of the majority of the employees affected as prescribed by subsection two of section five, and that the unit of employees concerned is one which is appropriate for collective bargaining; and if the Board is not so satisfied, it shall reject the application.*
9 (2) When, pursuant to an application for certification under this Act by a trade union, the Board has determined that a	11 (2) Same as Dominion Bill, except *"or by bargaining representatives"*.	59 (9) *If the Board reports to the Minister that it is satisfied,—* (a) *that the employees or the specified unit or classi-*	*5 The Board shall have power to make orders:—* (b) *Determining what trade union, if any, represents a*	

CATION—*Con.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
	If any such association has been so recognized by the Board, the collective agree- shall be void, for the group represented by it, at the renewal date following the date of the petition presented to the Board, notwithstanding failure by either party to give notice of non-renewal.			
Same as Manitoba.		Same as Dominion Bill.	See above: "*one or more employers*".	
Same as Manitoba.	4. Several associations of employees may join to make up such majority and appoint representatives for purposes of collective negotiation, upon such conditions, not inconsistent with this Act, as they may deem expedient.	Same as Manitoba.	Same as Dominion Bill.	
Same as Manitoba.		Same as Manitoba.	Same as Dominion Bill.	
			Same as Dominion Bill.	

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
unit of employees is appropriate for collective bargaining (a) if the Board is satisfied that the majority of the employees in the unit are members in good standing of the trade union; or (b) if, as a result of a vote of the employees in the unit, the Board is satisfied that a majority of them have selected the trade union to be a bargaining agent on their behalf,		*fication of employees is appropriate for collective bargaining;* (b) *that the applicant is a proper bargaining agent; and* (c) *that a majority of the employees or of a specified unit or classification of employees, as the case may be, has selected the applicant to be a bargaining agent on its behalf;*	*majority of employees in an appropriate unit of employees.*	
	or (c) if, as a result of a vote of the employees in the unit, the Board is satisfied that a majority of them have voted for *bargaining representatives to be the bargaining authority on their behalf,*—			
The Board may certify the trade union as the bargaining agent of the employees in the unit.	the Board shall certify the *applicants* as the *bargaining authority* of the employees in the unit; but if the Board is not so satisfied, it shall refuse the application.	the *Minister* shall certify the *Applicant* to be a bargaining agent on their behalf but if the *Board* reports that it is is not satisfied the application shall be refused.		
9 (3) Where an application for certification under this Act is made by a trade union claiming to have as members in good standing a majority in a unit that is appropriate for collective bargaining, the employees in which are employed by two or more employers, the Board shall not certify the trade union as the bargaining agent of the employees in the unit unless	(3) Where an application for certification is made by a *bargaining authority* for a unit in which the employees are employed by two or more employers, the Board shall not certify the *bargaining authority* unless:—			
(a) all employers of the said employees consent thereto; and (b) the Board is satisfied that the trade union might be certified by it under this section as the bargaining agent of the employees in the unit of each such employer if separate applications for such purpose were made by the trade union.	(a) all the employers consent thereto; and (b) the *bargaining authority* would be entitled to be certified for the employees of each employer if separate applications were made in respect of each employer.			
(4) The Board shall, for the purposes of determining whether the majority of the employees in a unit are members in good standing of a trade union or whether a majority of them have selected a trade union to be their bargaining agent, make or cause to be made such examination of records or other inquiries as it deems necessary, including the holding of such	(4) The Board shall make, or cause to be made, such examination of records and other inquiries as it deems necessary, including the holding of hearings or the taking of votes, to determine the merits of any application for certification, and the Board may prescribe the nature of the evidence that the applicant shall furnish with or in support of the application, and	59 (7) The Board shall, for the purposes of this section, make or cause to be made such examinations of records or other inquiries as it deems necessary including the holding of such hearings or the taking of such votes as it deems expedient to determine the merits of any application for certification,		See above.

CATION—*Con.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
			Same as Dominion Bill.	
			Same as Dominion Bill.	
Same as Manitoba.	7. *The Board shall assure itself of the representative character of the association and of its right to be recognized and, for such purpose, shall examine its books and records.*	Same as Manitoba.	Same as Dominion Bill.	

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
hearings or the taking of such votes as it deems expedient, and the Board may prescribe the nature of the evidence to be furnished to the Board.	the manner in which the application shall be made.			
		59 (7) . . . *Any vote taken pursuant to this section shall be by secret ballot and the Board may give directions as to the manner of taking the vote and the procedure to be followed during, before and after the taking of such vote, and if it considers it expedient to do so, conduct or supervise such vote on the premises of the employer, and the employer shall place a suitable portion of the premises at the disposal of the Board for that purpose.* (6) The Board may prescribe the nature of the evidence that the applicant shall furnish the Board with, or in support of, the application and the manner in which th application shall be made *and the Board shall complete its inquiries and report to the Minister within twenty-one days after the matter has been referred to it.* (8) *Where a vote for the election of a bargaining agent is taken pursuant to subsection (7) in any plant or industry where the employees work in two or three continuous shifts, arrangements shall be made for the taking of a vote during each of the said shifts if that is necessary in order to give all the employees an opportunity of voting.*	6. (1) In determining what trade union, if any, represents a majority of employees in an appropriate unit of employees, in addition to the exercise of any powers conferred upon it by section 14, the board may, in its discretion subject to subsection (2), direct a vote to be taken by secret ballot of all employees eligible to vote to determine the question. (2) The board shall direct a vote to be taken by secret ballot of all employees eligible to vote, upon the application of any trade union which twenty-five per cent or more of the employees in any appropriate unit have, within six months preceding the application, indicated as their choice of representative for the purpose of bargaining collectively, either by membership in such trade union or by written authority, but the board may, in its discretion, refuse to direct such vote if satisfied that another trade union represents a clear majority of the employees in such appropriate unit or if, within six months preceding the application, the board has, upon application of the same trade union, directed a vote of employees in the same appropriate unit.	
	11 (6) *If the Board is not satisfied that a bargaining authority is entitled to be certified under this section, it shall reject the application, and may designate the length of time, not exceeding ninety days, that must elapse before a new application by the same applicant will be considered.*			

CATION—*Con.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
	8. *The Board may order a vote by secret ballot of any specified group of employees if it is of the opinion that constraint has been used to prevent a number of the said employees from joining an association or to force them to join the same, or if it appears that the said employees are members of more than one association in sufficient numbers to affect the decision. Every employer shall be obliged to facilitate the holding of the vote and every employee in the group specified by the Board must vote, unless he has a legitimate excuse.*			
			9 (5) The Board in determining the appropriate unit shall have regard to the community of interest among the employees in the proposed unit in such matters as work location, hours of work, working conditions and methods of remuneration.	
			9 (7) Same as British Columbia, except that it says "trade union", and *leaves out* "not exceeding ninety days".	

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
10. Where a trade union is certified under this Act as the bargaining agent of the employees in a unit,	12. Where a *bargaining authority* is certified *for a unit:*—	(10) Where a bargaining agent is *certified under this section:*—	See above.	
(a) The trade union shall immediately replace any other bargaining agent of employees in the unit and shall have exclusive authority to bargain collectively on behalf of employees in the unit and to bind them by a collective agreement until the certification of the trade union in respect of employees in the unit is revoked,	(a) that *bargaining authority* shall immediately replace any other *bargaining authority for the unit*, and shall have exclusive authority to bargain collectively on behalf of the unit and to bind *it* by a collective agreement *until the certification is revoked.*	(a) the *bargaining agent* shall immediately replace any other bargaining agent *of employees* and shall have exclusive authority to bargain collectively on behalf *of the employees* and to bind them *by a collective agreement.*		
(b) If another trade union had previously been certified as bargaining agent in respect of employees in the unit, the certification of the last mentioned trade union shall be dee trade union shall be deemed to be revoked in respect of such employees, and	(b) if another *bargaining authority* had previously been certified *for the unit*, the certification of the last-mentioned *bargaining authority* shall be deemed to be revoked in respect of such employees; and	(b) if another *bargaining agent* had previously been certified as *bargaining agent* in respect *of the employees*, the certification of the last mentioned *bargaining agent* shall be deemed to be revoked in respect of such employees; and		
(c) if, at the time of certification, a collective agreement binding on or entered into on behalf of employees in the unit is in force, the trade union shall be substituted as a party to the agreement in place of the bargaining agent that is a party to the agreement on behalf of employees in the unit, and may, notwithstanding anything contained in the agreement, upon two months' notice to the employer, terminate the agreement in so far as it applies to those employees.	(c) if, at the time of certification, a collective agreement *binding on the unit* is in force, *that agreement shall remain in force, but any rights and obligations that were thereby conferred or imposed upon the bargaining authority whose certification has been revoked shall cease so far as that bargaining authority is concerned, but shall be conferred or imposed on the new bargaining authority.*	(c) Same as Dominion Bill, except that it says "*bargaining agent*", and "on behalf of *the employees*", instead of "employees in the unit".		9. *If on such application* (i.e., at the expiry of ten months of an existing collective agreement) *the Board certifies new bargaining representatives they shall be substituted for the previous bargaining representatives of the employees affected as a party to the agreement in question, and as such may give notice of the termination thereof as provided for in the agreement or under this Act.*

Dominion Bill	British Columbia Act	Alberta Act	Manitoba Act Ontario Act New Brunswick Act	Saskatchewan Act
			4 (3) *Where bargaining representatives have been certified under section eight, the bargaining representatives or the employees' employer may, in accordance with the procedure hereinafter set out, enter into negotiations with a view to the completion of a collective agreement between the employer concerned on the one hand and the trade union or employees' organization on the other hand.*	

CATION—*Con.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
			Same as Dominion Bill.	
			Same as Dominion Bill.	
			Same as Dominion Bill.	
Same as Manitoba.		Same as Manitoba.	Same as Dominion Bill.	

Quebec Act	Nova Scotia Act	P E I Act		
4. *Every employer shall be bound to recognize as the collective representative of his employees the representatives of any association comprising the absolute majority of his said employees and to negotiate with them, in good faith, a collective labour agreement.* 5. The employer shall incur the obligation contemplated in the preceding section, as the board may decide, either				

CERTIFI

Dominion Bill	British Columbia Act	Alberta Act	Manitoba Act Ontario Act New Brunswick Act	Saskatchewan Act
			8. (2) *When bargaining representatives have been certified by the Board, the Board shall notify the applicants and the employer concerned of the certification.*	

COLLECTIVE

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
12. Where the Board has under this Act certified a trade union as a bargaining agent of employees in a unit and no collective agreement with their employer binding on or entered into on behalf of employees in the unit, is in force, (a) the bargaining agent may, on behalf of the employees in the unit, by notice, require their employer to commence collective bargaining, or	13. Where the Board has certified a *bargaining authority* for employees in a unit and no collective agreement *is in force:*— (a) the *bargaining authority* may by notice require *the* employer to commence collective bargaining; or	60. (1) *The bargaining agent representing the employees or the unit or classification of employees duly certified in accordance with the provisions of section* 59 *may serve upon the employer or employers a notice of a meeting to be held for the purpose of collective bargaining.* (2) *The notice shall be served upon the employer or employers at least three clear days before the time of the meeting and the employer or employers or his or their duly accredited representatives shall attend such meeting for the purpose of bargaining with the representatives of the employees.* (3) *Such service may be effected by personal service or by mailing the notice by registered post and the date of mailing the notice shall be deemed to be the date of service.*		10. (1) *When bargaining representatives have been certified under this Act they may give the employer concerned, or the employer concerned may give the bargaining representatives, ten clear days' notice requiring that he or they, as the case may be, enter into negotiations with a view to the completion of a collective agreement.* (2) *The parties shall negotiate in good faith with one another and make every reasonable effort to conclude a collective agreement.* (3) *At the request of the bargaining representatives they may be accompanied during the negotiations by officers or agents of the trade union or employees' organization concerned.*
(b) the employer or an employers' organization representing the employer may, by notice, require the bargaining agent to commence collective bargaining, with a view to the conclusion of a collective agreement.	(b) the employer or an employers' organization representing the employer may by notice require the *bargaining authority* to commence collective bargaining.			

CATION—*Conc.*

Quebec Act	Nova Scotia Act	P E I Act		
towards the aggregate of his employees or towards each group of the said employees which the Board declares is to form a separate group for the purposes of this Act. If the employer is a member of an association recognized for such purpose by the Board, such obligation shall devolve exclusively upon the said association in favour of all the employees of its members or in favour of each group of such employees which the Board may declare is to form a separate group for the purposes of this Act.				
9. The Board shall issue to every recognized association, a certificate specifying the group which it is entitled to represent.				

BARGAINING

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
Same as Manitoba.	11. *If an association recognized by the Board wishes to avail itself of the recognition, it shall give to the employer or to the association of employers or of employees, as the case may be, at least eight days' written notice of the day and hour when and of the place where its representatives will be ready to meet the other party or his representatives for the purpose of making a collective labour agreement.*	Same as Manitoba.	Same as Dominion Bill.	
			Same as Dominion Bill.	

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
13. Either party to a collective agreement, whether entered into before or after the commencement of this Act, may, within the period of two months next preceding the date of expiry of the term of, or preceding termination of the agreement, by notice, require the other party to the agreement to commence collective bargaining with a view to the renewal or revision of the agreement or conclusion of a new collective agreement.	14. Either party to a collective agreement, whether entered into before or after the commencement of this Act, may, within the period of two months *immediately* preceding the date of expiry *of the agreement*, by notice to require the other party to the agreement to commence collective bargaining.		24 (2) Either party to a collective bargaining agreement may, not less than thirty days nor more than sixty days before the expiry date of such agreement, give notice in writing to the other party to terminate such agreement or to negotiate a revision thereof, and thereupon, subject to subsection (3), the parties shall forthwith bargain collectively with a view to the renewal or revision of such agreement or the conclusion of a new agreement.	16. (1) *Either party to a collective agreement may, on ten clear days' notice, require the other party to enter into negotiations for the renewal of the agreement within the period of two months prior to the expiry date, and both parties shall thereupon enter into such negotiations in good faith and make every reasonable effort to secure such a renewal.* (2) Where either party to a collective agreement has required the other renewal of the agreement as in the pursuant to subsection one, to enter into negotiations for the renewal of the agreement, sections eleven, twelve, thirteen and fourteen shall apply to such negotiations for the case of negotiations for a collective
14. Where notice to commence collective bargaining has been given under section twelve of this Act. (a) the certified bargaining agent and the employer, or an employers' organization representing the employer shall, without delay, but in any case within twenty clear days after the notice was given or such further time as the parties may agree, meet and commence or cause authorized representatives on their behalf to meet and commence to bargain collectively with one another and shall make every reasonable effort to conclude a collective agreement; and	15. Where notice to commence collective bargaining has been given under section thirteen of this Act:— (a) the certified *bargaining authority* and the employer, or an employers' organization representing the employer, shall, within ten days after the notice was given *commence to* bargain collectively, and shall make every reasonable effort to conclude a collective agreement; and			
(b) the employer shall not, without consent by or on behalf of the employees affected, decrease rates of wages or alter any other term or condition of employment of employees in the unit for which the bargaining agent is certified until a collective agreement has been concluded or until a Conciliation Board appointed to endeavour to bring about agreement has reported to the Minister and fourteen days have elapsed after the report has been received by the Minister, whichever is earlier, or until the Minister has advised the employer that he has decided not to appoint a Conciliation Board.	(b) The employer shall not, *except in the ordinary course of operation, without consent by the certified bargaining authority, increase or* decrease rates or wages or alter *any term or condition of employment* until a collective agreement has been concluded, or until a Conciliation Board *has reported* to the Minister, and *until the question of the acceptance or rejection of the report of the Board has been submitted to a separate vote of the employers and the employees concerned respectively, and fourteen days have elapsed after the result of the vote has been notified to the Minister; and if the vote of both the employers and of the employees is in favour of acceptance of the report, no employer shall cause a lockout and no employees shall go on strike.* See also below.	81 (5) *Where any dispute arises,* no empolyer shall make effective a proposed change in wages *or hours or conditions* of employment without the consent *of the employees nor shall the employer declare or cause a lock-out, nor shall employees go on strike prior to an application for the appointment of a Conciliation Commissioner under section* 68 *or prior to an application to the Minister for intervention pursuant to subsection* (6) *of section* 60, *as the case may be.*		21 (4) Where a dispute has arisen by reason of a change in the existing terms of employment proposed by the employer, the employer shall not, without the consent of the employees affected, make such change effective until a period of two months has elapsed from the date when the employer notified the employees of such proposed change.

BARGAINING—*Con.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
Same as Manitoba.		Same as Manitoba.	Same as Dominion Bill.	
	No association that has entered into a collective agreement, and no group of . . . employees who are members of an association that has entered into any such agreement, shall take steps to affiliate with another association of to become a member thereof, except during the sixty days preceding the date o' the expiration or renewal of the agreement.		Same as Dominion Bill.	
Same as Manitoba.		Same as Manitoba.	Same as Dominion Bill.	

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
15. Where a party to a collective agreement has given notice under section thirteen of this Act to the other party to the agreement	16. Same as Dominion Bill, except "section fourteen".			
(a) The parties shall, without delay, but in any case within twenty clear days after the notice was given or such further time as the parties may agree upon, meet and commence or cause authorized representatives on their behalf to meet and commence to bargain collectively and make every reasonable effort to conclude a renewal or revision of the agreement or a new collective agreement; and	(a) The parties shall, within ten days after the notice was given, commence to bargain collectively and make every reasonable effort to conclude a renewal or revision of the agreement or a new collective agreement; and			See above.
(b) If a renewal or revision of the agreement or a new collective agreement has not been concluded before expiry of the term of, or termination of the agreement, the employer shall not, without consent by or on behalf of the employees affected, decrease rates of wages, or alter any other term or condition of employment in effect immediately prior to such expiry or termination provided for in the agreement, until a renewal or revision of the agreement or a new collective agreement has been concluded or a Conciliation Board, appointed to endeavour to bring about agreement, has reported to the Minister and fourteen days have elapsed after the report has been recieved by the Minister, whichever is earlier, or until the Minister has advised the employer that he has decided not to appoint a Conciliation Board.	(b) If a renewal or revision of the agreement or a new collective agreement has not been concluded before expiry of the *agreement*, the employer shall not, *except in the ordinary course of operation*, without consent by *the certified bargaining authority, increase or* decrease rates of wages or alter *any* term or condition of employment until a renewal or revision of the agreement or a new collective agreement has been concluded or *until* a Conciliation Board *has reported to the Minister, until (sic) the question of the acceptance or rejection of the report* (etc., as in previous section).	See above.		
11. Where in the opinion of the Board a bargaining agent no longer represents a majority of employees in the unit for which it was certified, the Board may revoke such certification and thereupon, notwithstanding sections fourteen and fifteen of this Act, the employer shall not be required to bargain collectively with the bargaining agent, but nothing in this section shall prevent the bargaining agent from making an application under section seven of this Act.	11 (7) If, at any time after a trade-union has been certified as bargaining agent for a unit of employees, the Board is satisfied after such investigation as it deems proper that the trade-union has ceased to be a trade-union, or that the employer has ceased to be the employer of the employees in the unit, it may cancel the certification. (8) Notwithstanding the provisions of subsection (7), where a business is sold the purchaser shall be bound by all proceedings under this Act before the date of purchase, and the proceedings shall continue as if no change in ownership had occurred.			

BARGAINING—*Conc.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
			Same as Dominion Bill.	
Same as Manitoba.		Same as Manitoba.	Same as Dominion Bill.	
			Same as Dominion Bill.	

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
16. Where a notice to commence collective bargaining has been given under this Act and (a) collective bargaining has not commenced within the time prescribed by this Act; or (b) collective bargaining has commenced; and either party thereto requests the Minister in writing to instruct a Conciliation Officer to confer with the parties thereto to assist them to conclude a collective agreement or a renewal or revision thereof and such request is accompanied by a statement of the difficulties, if any, that have been encountered before the commencement or in the course of the collective bargaining, or in any other case in which in the opinion of the Minister it is advisable so to do, the Minister may instruct a Conciliation Officer to confer with the parties engaged in collective bargaining.	17. *Where collective bargaining has continued for at least fifteen days and* either party requests the Minister in writing to instruct a Conciliation Officer to confer with the parties to assist them to conclude a collective agreement or a renewal or revision thereof, and *where the request* is accompanied by a statement of the *difficulties* that have been encountered in the course of the collective bargaining, *the Minister* may instruct a Conciliation Officer to confer with *the* parties. 18. The Minister may also at any time, when he considers it advisable, instruct a Conciliation Officer to confer with the parties.	60 (6) *If negotiations for an agreement have continued for thirty days and either party to the negotiations believes that an agreement will not be completed in a reasonable time, it may so advise the Minister indicating the difficulties encountered, and may ask the Minister to intervene with a view to the completion of an agreement.* (7) *Upon application made pursuant to subsection (6), the Minister may, if he is satisfied that the matter is a proper one for intervention, request the Board to intervene with a view to the completion of an agreement.*		11. Same as Alberta, except that it says "*the Board*" instead of "the Minister". 12 (1) Upon receipt of advice under section eleven, the Board shall refer the matter to the Minister, who shall, within three days instruct a conciliation officer to confer with the parties and attempt to effect an agreement.
27. Where a Conciliation Officer has, under this Act, been instructed to confer with parties engaged in collective bargaining or to any dispute, he shall, within fourteen days after being so instructed or within such longer period as the Minister may from time to time allow, make a report to the Minister setting out	19. Where a Conciliation Officer has been *instructed to confer with parties*, he shall (etc., as in Dominion Bill).	(8) *Whenever a dispute exists or is apprehended, the Minister may, on his own initiative, if he thinks it expedient so to do, request the Board to intervene with a view to arriving at a settlement or prevention of the dispute.* (9) *Upon receipt of a request pursuant to subsection (7) or subsection (8), the Board shall forthwith in such manner as it thinks proper, endeavour to effect an agreement or settlement, and shall within fourteen days of receiving the request, report to the Minister setting forth the result of the reference.*		12 (2) A conciliation officer who has been instructed to confer with the parties under subsection one of this section shall, within fourteen days of receiving his instructions, orwithin such louger period as the Minister may allow, report to the Minister, setting out in full:—
(a) the matters, if any, upon which the parties have agreed; (b) the matters, if any, upon which the parties cannot agree; and (c) as to the advisability of appointing a Conciliation Board with a view to effecting an agreement.	(a) the matters *upon which* the parties have agreed; (b) the matters *upon which* the parties cannot agree, and his recommendations with respect thereto; and (c) where the parties cannot agree, his recommendations as to the advisability of appointing a Conciliation Board.			(a) the terms, if any, upon which the parties have agreed; (b) the matters, if any, upon which the parties cannot agree and his recommendations with regard thereto; and (c) *whether, in his view, an agreement might be facilitated by appointment of a Conciliation Board.*

IATION

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
Same as Manitoba.	12. *If the negotiations have been carried on unsuccessfully for thirty days or if either party believes that they will not be completed within a reasonable time, each party may so notify the Board, indicating the difficulties encountered.* 13. *Upon receipt of such a notification, the Board shall inform the Minister thereof and the latter shall forthwith instruct a conciliation officer to confer with the parties and endeavour to effect an agreement.*	Same as Manitoba. Same as Manitoba.	Same as Dominion Bill.	
Same as Manitoba.	14. The conciliation officer *shall report* to the Minister within fourteen days of *receiving his instructions.*	Same as Manitoba.	Same as Dominion Bill.	
Same as Manitoba. Same as Manitoba. Same as Manitoba.		Same as Manitoba. Same as Manitoba. Same as Manitoba.	Same as Dominion Bill. Same as Dominion Bill. Same as Dominion Bill.	

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
17. Where a Conciliation Officer fails to bring about an agreement between parties engaged in collective bargaining or in any other case where in the opinion of the Minister a Conciliation Board should be appointed to endeavour to bring about agreement between parties to a dispute, the Minister may appoint a Conciliation Board for such purpose.		(10) *In case the report of the Board is to the effect that it has failed to effect an agreement and recommends that the matter be referred to arbitration, the Minister shall forthwith refer the matter to arbitration and shall notify the representative* (sic) *of all parties to the dispute that he has so referred it; the arbitration shall be before a board of three arbitrators, and the provisions of sections 74 to 80, both inclusive, shall mutatis mutandis apply to the arbitration.*	16 (1) *The Minister may establish a board of conciliation to investigate, conciliate and report upon any dispute between an employer and a trade union, or, if no trade union has been determined under this Act as representing a majority of the employees concerned, between an employer and any of his employees affecting any terms or conditions of employment of any employees of such employer or affecting or relating to the relations between such employer and all or any of his employees or releasing to the interpretation of any agreement or clause thereof between an employer and a trade union.*	
	20. Where a Conciliation Officer is unable to bring about an agreement between parties to a dispute, or in any other case where in the opinion of the Minister a board should be appointed to endeavour to bring about agreement between parties to a dispute, the Minister may appoint a Conciliation Board.			13 (1) *If a conciliation officer who has been instructed to confer with the parties recommends the appointment of a Conciliation Board, the Minister shall forthwith appoint a Conciliation Board consisting of three members appointed by the Minister after consultation with the parties as required by section thirty.*

THE COLLECTIVE

18. A collective agreement entered into by a certified bargaining agent is, subject to and for the purposes of this Act, binding upon (a) the bargaining agent and every employee in the unit of employees for which the bargaining agent has been certified; and (b) the employer who has entered into the agreement or on whose behalf the agreement has been entered into.	43. A collective *agreement* is binding upon: (a) the *bargaining authority* and every employee in the *unit* for which the *bargaining authority has been* certified; and (b) the employer who has entered into the agreement or on whose behalf an employers' organization has entered into the agreement.			
	44. Every person who is bound by a collective agreement, whether entered into before or after the coming into force of this Act, shall do everything he is required to do, and shall refrain from doing anything that he is required to refrain from doing, by the provisions of the collective agreement.			10 (5) *Every party to a collective agreement and every employee upon whom a collective agreement is made binding by this Act shall do everything he is, by the collective agreement, required to do and shall abstain from doing anything he is, by the collective agreement, required not to do.*

IATION—*Conc.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
			Same as Dominion Bill.	
Same as Manitoba.	14. *If the report shows that agreement has been impossible, the Minister shall appoint a council of arbitration pursuant to the Quebec Trades Dispute Act, the report of the conciliation officer taking the place of the application contemplated in the said Act.*	Same as Manitoba.	Same as Dominion Bill.	

AGREEMENT

			Same as Dominion Bill.	
Same as Manitoba.		Same as Manitoba.	18 (2) Every employer and every trade union and every person who is bound by a collective agreement on whose behalf a collective agreement been entered into, whether such agreement was entered into before or after the coming into force of this Act, shall do everything he is required to do and shall refrain from doing anything that he is required to refrain from doing by the provisions of the collective agreement.	

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
19 (1) Every collective agreement entered into after the commencement of this Act shall contain a provision for final settlement without stoppage of work, by arbitration or otherwise, of all differences between the parties to or persons bound by the agreement or on whose behalf it was entered into, concerning its meaning or violation.	45 (1) Every collective agreement entered into after the commencement of this Act shall contain a provision for final and conclusive settlement without stoppage of work, by arbitration or otherwise, of all differences between the persons bound by the agreement concerning its interpretation application, operation, or any alleged violation thereof.	61 (2) Every collective agreement entered into after the coming into force of this Act shall contain a provision for final settlement without stoppage of work of all differences between the parties to or persons bound by the agreement or on whose behalf it wa entered into, concerning its interpretation, application, operation or any alleged violation thereof.		18 (1) *Every collective agreement made after this Act comes into force shall contain a provision establishing a procedure for final settlement, without stoppage of work, on the application of either party, of differences concerning its interpretation or violation.*
19 (2) Where a collective agreement, whether entered into before or after the commencement of this Act, does not contain a provision as required by this section, the Board shall, upon application of either party to the agreement, by order, prescribe a provision for such purpose and a provision so prescribed shall be deemed to be a term of the collective agreement and binding on the parties to and all persons bound by the agreement and all persons on whose behalf the agreement was entered into.	45 (2) Same as Dominion Bill, except that it says "application of *any* party to the agreement," and ends up "and binding on all *persons* bound by the agreement."	3. Where a collective agreement entered into *after the coming into force* of this Act, does not contain, etc., as in Dominion Bill.		(2) *Where a collective agreement does not provide an appropriate procedure for consideration and settlement of disputes concerning its interpretation or violation thereof, the Board shall, upon application, by order, establish such a procedure.* 17. *Where an employee alleges that there has been a misinterpretation or a violation of a collective agreement, the employee shall submit the same for consideration and final settlement in accordance with the procedure established by the collective agreement, if any, or the procedure established by the Board for such case; and the employee and his employer shall do such things as are required of them by the terms of the settlement.*
20 (1) Notwithstanding anything therein contained, every collective agreement,whether entered into before or after the commencement of this Act, shall, if for a term of less than a year, be deemed to be for a term of one year from the date upon which it came or comes into operation, or if for an indeterminate term shall be deemed to be for a term of at least one year from that date and shall not, except as provided by section ten of this Act or with the consent of the Board, be terminated by the parties thereto within a period of one year from that date.	Same as Dominion Bill, except that it *omits* "as provided by section ten of this Act or",	61 (1) *No collective agreement shall be made for a term of less than one year but where the term of an agreement is more than one year, the agreement shall contain or be deemed to contain a provision for the termination thereof at any time after ten months on two months' notice by either party thereto.*	24 (1) Except as hereinafter provided, every collective bargaining agreement, whether heretofore or hereafter entered into, shall, notwithstanding anything contained therein, remain in force for a period of one year from its effective date and thereafter from year to year.	Same as Alberta, except "after *one year* on two months' notice."
20 (2) Nothing in this section shall prevent the revision of any provision of a collective agreement, other than a provision relating to the term of the collective agreement, that under the agreement is subject to revision during the term thereof.				

AGREEMENT—*Conc.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
Same as Manitoba.		Same as Manitoba.	Same as Dominion Bill.	
Same as Manitoba.		Same as Manitoba.	Same as Dominion Bill.	
Same as Manitoba.		15. *Every collective agreement, whether made before or after the effective date of this Act shall be deemed to run for a period of not less than one year from its operative date and shall not be capable of cancellation by the parties within that period without the consent of the Board; and when any such collective agreement is expressed to run for more than one year, it shall be deemed to contain a provision for the termination thereof at any time after one year from its operative date on two months' notice by either party thereto.*	Same as Dominion Bill.	
			Same as Dominion Bill.	

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
		See above, and below.	8. (1) It shall be an unfair labour practice for any employer or employer's agent:— (j) To declare or cause a lock-out or to make or threaten any change in wages, hours, conditions of employment, benefits or provileges while any application is pending before the Board or any matter is pending before a board of conciliation appointed under the provisions of this Act.	See above.
21. Where a trade union on behalf of a unit of employees is entitled by notice under this Act to require their employer to commence collective bargaining with a view to the conclusion or renewal or revision of a collective agreement, the trade union shall not take a strike vote or authorize or participate in the taking of a strike vote of employees in the unit or declare or authorize a strike of the employees in the unit, and no employee in the unit shall strike, and the employer shall not declare or cause a lock-out of the employees in the unit, until (a) the bargaining agent and the employer, or representatives authorized by them in that behalf, have bargained collectively and have failed to conclude a collective agreement; and either (b) a Conciliation Board has been appointed to endeavour to bring about agreement between them and fourteen days have elapsed from the date on which the report of the Conciliation Board was received by the Minister; or	27. Where a *bargaining authority* has been certified under this Act, *the bargaining authority* shall not declare or authorize a strike of *the employees*, and no employee in the unit shall strike, and the employer shall not declare or cause a lockout of the employees, until:— (a) the bargaining agent and the employer, or representatives authorized by them in that behalf, have bargained collectively and have failed to conclude a collective agreement; and (b) a Conciliation Board has been appointed to endeavour to bring about agreement between them, and *until the report of the Conciliation Board has been sent to the parties and the provisions of sections* 31A *and* 31B shall thereupon be applicable.	81 (1) *During the period of time intervening between an application for the appointment of a Conciliation Commissioner under section 68, or for the intervention of the Minister pursuant to subsection* (6) *or subsection* (8) *of section* 60, *as the case may be, and fourteen days after the date fixed for the taking of a vote under subsection* (7) *of section 80, no employer who is a party to the dispute shall declare or cause a lockout, nor shall any employees who are parties to the dispute go on strike, nor shall any of the parties alter any of the conditions of employment including wages or hours, but the relationship of employer and employee shall continue uninterrupted by the dispute or anything arising out of the dispute.* *Subsection* (1) *shall not apply in any case where an application under section* 68 *is refused.* *Notwithstanding anything contained in subsection* (1) *no employees shall go on strike unless and until a vote has taken place under the supervision of the Board of Industrial Relations and a majority of the employees affected have voted in favour of a strike.*	8 (2) It shall be an unfair labour practice for any employee or any person acting on behalf of a labour organization:— (b) To take part in or persuade or attempt to persuade any employee to take part in a strike while an application is pending before the Board or any matter is pending before a board of conciliation appointed under the provisions of this Act.	21 (1) No employer shall go on strike until (a) bargaining representatives have been elected or appointed for the employees affected; and (b) an attempt has been made to effect an agreement under sections eleven and twelve, and fourteen days have elapsed since the Conciliation Board reported to the Minister.

LOCKOUTS

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
See above.	24 (1) Any strike or lock-out is prohibited so long as an association of employees has not been recognized as representing the group of employees concerned, and so long as such association has not taken the required proceedings for the making of a collective agreement and fourteen days days have not elapsed since the receipt by the Minister of Labour of a report of the council of arbitration upon the dispute. Until the above conditions have been fulfilled, an employer shall not change the conditions of employment of his employees without their consent.	See above.		
Same as Manitoba.		Same as Manitoba	Same as Dominion Bill.	

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
		82. *Where there is between an employer and a trade union an agreement for the arbitration of disputes approved in writing by the Minister, the employer and the trade union shall, so long as the agreement remains in force, be exempt from the provisions of sections* 68 *to* 81 *of this Part.*		
22 (1) Except in respect of a dispute that is subject to the provisions of subsection two of this section. (a) no employer bound by or who, is party to a collective agreement, whether entered into before or after the commencement of this Act, shall declare or cause a lockout with respect to any employee bound by the collective agreement or on whose behalf the collective agreement was entered into; and	28 (1) No employer bound by *collective agreement*, whether entered into before or after the commencement of this Act, shall, during the term of the collective agreement, *cause a lockout* with respect to any *employees* bound by the collective agreement.			21 (2) Where an application has been made under this Act for the certification of bargaining representatives, the employer of the employees affected shall not declare or cause a lockout of the employees until an attempt has been made to effect an agreement under sections eleven and twelve and fourteen days have elapsed since the Conciliation Board reported to the Minister.
(b) during the term of the collective agreement, no employee bound by a collective agreement or on whose behalf a collective agreement has been entered into, whether entered into before or after the commencement of this Act, shall go on strike and no bargaining agent that is a party to the agreement shall declare or authorize a strike of any such employee.	(2) No employees bound by a collective agreement, whether entered into before or after the commencement of this Act, shall strike during the term of the collective agreement, and no person shall declare or authorize a strike of such employees.			21 (3) *No employer who is a party to a collective agreement shall declare or cause a lockout, and no employee bound thereby shall go on strike during the term of a collective agreement.*
22 (2) Where a collective agreement is in force and any dispute arises between the parties thereto with reference to the revision of a provision of the agreement that by the provisions of the agreement is subject to revision during the term of the agreement, the employer bound thereby or who is a party thereto shall not declare or cause a lockout with respect to any employee bound thereby or on whose behalf the collective agreement has been entered into, and no such employee shall strike and no bargaining agent that is a party to the agreement shall declare or authorize a strike of any such employee until	29. Where the term of a collective agreement expires or a collective agreement is terminated, no *bargaining authority* that was a party to the agreement shall declare or authorize a strike of employees who were bound by the collective agreement, *and no such employees shall strike*, and their employer shall not declare or cause a lockout of any such employees, after the said expiry or termination, unless:—			

LOCKOUTS—*Con.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
Same as Manitoba.	24 (2) Any strike or lock-out is prohibited for the duration of a collective agreement, until the complaint has been submitted to arbitration in the manner provided in the said agreement or, failing any provision for such purpose, in the manner contemplated by the Quebec Disputes Act (Chap. 167), and until fourteen days have elapsed since the award has been rendered without its having been put into effect.	Same as Manitoba.	Same as Dominion Bill.	
			Same as Dominion Bill.	
			Same as Dominion Bill.	

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
(a) the bargaining agent of such employees and the employer or representatives authorized by them on their behalf have bargained collectively and have failed to conclude an agreement on the matters in dispute; and either (b) A conciliation Board has been appointed to endeavour to bring about agreement between them and fourteen days have elapsed from the date on which the report of the Conciliation Board was received by the Minister; or (c) either party has requested the Minister in writing to appoint a Conciliation Board to endeavour to bring about agreement between them and fifteen days have elapsed since the Minister received the said request, and (i) no notice under subsection two of section twenty-eight of this Act has been given by the Minister, or (ii) the Minister has notified the party so requesting that he has decided not to appoint a Conciliation Board.	(a) the parties to the agreement or representatives authorized by them in that behalf, have bargained collectively and have failed to conclude a renewal or revision of the agreement or a new collective agreement, and (b) a Conciliation Board has been appointed to endeavour to bring about agreement, and until the report of the Conciliation Board has been sent to the parties and the provisions of sections 31A and 31B shall thereupon be applicable.			
23. Where a Conciliation Board has been appointed to conciliate a dispute between an employer and any of his employees otherwise than during the term of a collective agreement or in the cousre of collective baragining, no such employee shall strike and the employer shall not declare or cause a lockout with respect to any such employee until fourteen days have elapsed from the date on which the report of the Conciliation Board was received by the Minister.	30. If a dispute arises between the employer and any of his employees, otherwise than during the term of a collective agreement or in the course of collective bargaining with a bargaining authority or between parties to a collective agreement that has expired or been terminated, no employee shall strike, and the employer shall not declare or cause a lockout until a Conciliation Board has been appointed under this Act to conciliate the dispute, and until the report of the Conciliation Board has been sent to the parties and the provisions of sections 31A and 31B shall thereupon be applicable.			
	31. *In any case where a vote of both employers and employees is in favour of the acceptance of the report of a Conciliation Board, no employer shall cause a lockout and no person shall declare or authorize a strike or a lockout.*	See below.		

LOCKOUTS—*Con.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
			Same as Dominion Bill.	
			Same as Dominion Bill.	
			Same as British Columbia Act.	

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
	31A. *Notwithstanding anything contained in this Act, no person shall declare or authorize a strike and no employee shall strike until after a vote of the employees in the unit affected as to whether to strike or not to strike has been taken and the majority of such employees who vote have voted in favour of a strike.*	See above.		
	31B. *Notwithstanding anything contained in this Act, where more than one employer is engaged in the same dispute with their employees, no person shall declare or authorize a lock-out and no employer shall cause a lockout until after a vote of all employers as to whether to lock out or not to lock out has been taken and a majority of such employers who vote have voted in favour of a lockout.*			
	72. *In the case of a vote under section* 31A *or* 31B, *the vote shall be by secret ballot, and the Minister or a person appointed by him shall supervise the taking and counting of the vote; and in the case of any other vote under the provisions of this Act, the Minister may direct that the vote shall be by secret ballot, and the Minister or a person appointed by him may thereupon supervise the taking and counting of the vote.*	62. *The Board on the request of the employer or on receipt of a petition signed by not less than fifty per centum of the employees entitled to vote, or on the direction of the Minister, may direct a vote to be taken under its supervision on any question involving the relations between the employer and his employees on any unit or classification of the employees as to which there is a dispute or as to which it is desirable to have an expression of opinion by the employees.*		
25. Nothing in this Act shall be interpreted to prohibit the suspension or discontinuance of operations in an employer's establishment, in whole or in part, not constituting a lockout or strike.	32. Nothing in this Act shall be interpreted to prohibit the suspension or discontinuance of operations in an employer's establishment, in whole or in part, for a cause not constituting a lockout.	81 (2) Nothing *in this Part* shall *prohibit* the suspension or discontinuance of *any industry or of the working of any persons therein* for *any* cause not constituting a lock-out *or strike.*		21 (5) Same as Dominion Bill, except that it says "*an industry or/of the working of any persons therein for a cause.*"

LOCKOUTS—*Conc.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
			Same as British Columbia Act, *except* that it says "*a secret* vote *by ballot*" (this covered in British Columbia by a later section,) and *omits* "*who vote.*" *Note also that there is no provision that the vote shall be under the Minister or the Board.*	
Same as Manitoba.	24 (3) *Nothing in this section shall prevent an interruption of work which does not constitute a strike or a lockout.*	Same as Manitoba.	Same as Dominion Bill.	

Conciliation Boards

The British Columbia Act's provisions are practically the same as those of the Dominion Bill. The only differences are: (1) There is a saving clause allowing M.L.A.'s to be members of Conciliation Boards without forfeiting their seats. (2) Boards must "afford opposing parties adequate opportunity to cross-examine witnesses called by the other party". (3) There is no minimum figure for expense allowances for witnesses. (4) Persons with a pecuniary interest, etc., are barred from membership of Boards.

The Nova Scotia Act's provisions are the same as those of the Dominion Bill.

The Alberta Act provides for what it calls "arbitration" *if a Conciliation Commissioner fails to bring about agreement.* The provisions of this part of the Alberta Act are much the same as those of the Dominion Bill. The main differences are: (1) Each of the members of the Board must be a British subject resident in Alberta for the three years preceding the case. (2) If the Minister thinks the Board or any member of it is unduly delaying the proceedings, he may remove the offender or offenders, and call upon the party or parties to nominate a new member or members. (3) The clause covering production of documents is rather more elaborate than in the Dominion Bill, and failure to appear as a witness or to produce documents is contempt of court. (4) Provision is made for each of the parties to be represented by not more than three representatives. (5) In its "award", the Board "shall so far as practicable deal with each item of the dispute, and shall state in plain terms, and avoiding as far as possible all technicalities, what in the Board's opinion ought or ought not to be done by the respective parties concerned". (6) The "award" "shall in all cases be retroactive to the date of the application for the appointment of a Conciliation Commissioner or for the intervention of the Minister". (7) "The question of acceptance or rejection of the award shall be submitted to a separate vote by the employees directly affected by the award, and employers (if more than one employer is involved) respectively, and the vote shall be held on such date as may be appointed by the Minister and shall be by secret ballot, and both in the case of the employees so directly affected, and of the employers, the Board of Industrial Relations *may* supervise the taking of the vote, and may give directions as to the taking of the vote similar to those provided for in subsection (7) of section 59." (8) *No court has power to enforce an award.*

The Saskatchewan Act provides for Boards of Conciliation and leaves it to the Minister to make regulations as to their constitution, procedure, etc.

The Manitoba, Ontario and New Brunswick Acts are, of course, in the main, identical copies of P.C. 1003 (the New Brunswick Act does not allow a Board member to affirm). Their provisions are, in the main, the same as those of the Dominion Bill. The main differences are: (1) The Minister does not have to appoint the persons nominated by the parties, or the chairman nominated by the other two members. (2) Persons with a pecuniary interest, etc., are barred from membership of Boards.

The Quebec Act provides for "councils of arbitration" under the Quebec Trade Disputes Act. These are, in general, similar to Boards of Conciliation. The chief differences are: (1) The members must be British subjects. (2) Each party may be represented by not more than three representatives. (3) The provisions for appointment and procedure are much less elaborately stated. (4) The proceedings are public, unless the council otherwise decides on any particular occasion. (4) The "award" must be made within one month after the hearings end.

The Prince Edward Island Act does not provide for Boards of Conciliation at all.

Arbitration

The Dominion Bill and the Nova Scotia Act provide for making the report of a Conciliation Board binding in law, if both parties accept it. The British Columbia Act's section is similar but more elaborate. The Alberta Act specifically provides that *no* "award" of a Board of Arbitration shall be enforceable by any court.

The Saskatchewan Act provides that an employer and a union may agree to refer any dispute or class of disputes to the *Labour Relations Board*, whose decision shall be enforceable in the same manner as any other decision of the Board. The Manitoba, Ontario, New Brunswick and Prince Edward Island Acts do not provide for arbitration. The Quebec Trade Disputes Act provides that the parties, *before* the "award" of the council of arbitration, may agree to be bound by the award, which then becomes legally binding.

Mediation

The British Columbia Act provides that the parties to a dispute may establish a Mediation Committee, which, if the Minister approves, shall be deemed to be a Conciliation Board, except for payment of the chairman.

Referees

The British Columbia Act has three very brief sections dealing with Referees. The Minister may appoint as Referee anyone he sees fit; the Referee has the same powers as a Board of Conciliation; and he deals with complaints of discrimination, etc., for union activity, but also of employer interference or domination in the formation, etc., of a trade union *or employees' organization*. The Referee reports to the Minister, who must consider the report before giving consent to prosecute. None of the other Acts has anything of the sort.

Industrial Inquiry Commission

The British Columbia Act has a section identical with the Dominion Bill's.

The Alberta Act has a series of sections dealing with the Conciliation Commissioner. This functionary is appointed by the Minister when a dispute exists and one of the parties asks for it. The appointment must be made within three days, if at all. The Commissioner must do all he can to get agreement, and must, unless the parties agree to an extension of time, report within fourteen days. On receipt of the report, the Minister must at once send copies to the parties and may publish it. If the Commissioner reports that he has failed to settle the dispute, the Minister *must* forthwith appoint a Board of Arbitration. The Saskatchewan, Quebec, New Brunswick and Prince Edward Island Acts have nothing of the sort. The Manitoba and Ontario Acts have a section providing that when anyone claims to have been discriminated against for union activity *or improperly coerced or intimidated into joining a union*, the Minister may appoint an Industrial Disputes Inquiries Commissioner, who, failing settlement, shall report to the Minister, who shall issue whatever order he deems necessary, which shall be final and binding; penalty, $500 (maximum) for each day of refusal or failure to comply with the order. The Nova Scotia Act is the same as the Dominion Bill.

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
39. Every employer and every person acting on behalf of an employer who decreases a wage rate or alters any term or condition of employment contrary to section fourteen or section fifteen of this Act is guilty of an offence and liable on summary conviction to a fine not exceeding (a) five dollars in respect of each employee whose wage rate was so decreased or whose term or condition of employment was so altered, or (b) two hundred and fifty dollars, whichever is the lesser, for each day during which such decrease or alteration continues contrary to this Act.	33. Every employer and every person acting on behalf of an employer who changes any term or condition of employment of any employee of the employer contrary to sections 15 and 16 is guilty of an offence and liable, on summary conviction, to a fine not exceeding ten dollars in respect of each employee in respect of whom a condition of employment has been so changed for each day or part of a day during which the change continues contrary to this Act.	Penalty for breach of corresponding provision under general penalty section: Not more than $250 and costs, or, in default, not more than 90 days.	Penalty for breach of corresponding section under general penalty section for unfair labour practices: $25 to $200 for an individual, $200 to $5,000 a corporation, for first offence: for later offences, such fine *and* imprisonment for not more than one year.	Penalty for breach of corresponding provision under general penalty section: not more than $100 for an individual, not more than if $500for a corporation, employers' organization, employees' organization or trade union.
40. (1) Every person, trade union and employers' organization who violates section four or section five of this Act is guilty of an offence and liable upon summary conviction, (a) if an individual, to a fine not exceeding two hundred dollars; or (b) if a corporation, trade union or employers' organization, to a fine not exceeding five hundred dollars. (2) Where an employer is convicted for violation of paragraph (a) of subsection two of section four of this Act by reason of his having suspended, transferred, laid off or discharged an employee contrary to this Act, the convicting court, judge or magistrate, in addition to any other penalty authorized by this Act may order the employer to pay to the employee such sum as in the opinion of the court, judge or magistrate, as the case may be, is equivalent to the wages, salary or other remuneration that would have accrued to the employee up to the date of conviction but for such suspension, transfer, lay-off or discharge.	34. (1) Every trade union and every person acting or *representing himself to be* acting on behalf of a trade-union or *employees' organization* who contrary to this Act:— (a) Attempts at an employer's place of employment during working hours to persuade an employee to join *or not to join* the trade-union *or employees' organization:* (b) Supports, encourages, condones, or engages in activity intended to restrict or limit production that does not constitute a strike:— and every person, trade-union, employees' organization, and employers' organization who contrary to this Act:— (c) refuses or neglects to furnish any information, copy, or return required by the provisions of this Act; or	See below.		See immediately above.

PENALTIES

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
Same as Manitoba.		Same as Manitoba.	Same as Dominion Bill.	
Same as Manitoba.		Same as Manitoba.	Same as Dominion Bill.	

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
(3) Every person, trade union and employers' organization who contrary to this Act refuses or neglects to comply with any lawful order of the Board is guilty of an offence and liable on summary conviction to a fine not exceeding fifty dollars for each day during which such refusal or failure continues.	34 (1) (d) Refuses or neglects to comply with any lawful order of the Board, is guilty of an offence and liable on summary conviction; (e) If an individual, to a fine not exceeding fifty dollars; or (f) If a corporation, trade union, employees' organization, or employers' organization, to a fine not exceeding one hundred and twenty-five dollars.	General penalty section.	9. *A certified copy of any order or decision of the Board shall within one week be filed in the office of a registrar of the Court of King's Bench and shall thereupon be enforceable as a judgment or order of the Court but the Board may nevertheless rescind or vary any such order.* 10 (1) *In any application to the Court arising out of the failure of any person to comply with the terms of any order filed in pursuance of section 9, the Court may refer to the Board any question as to the compliance of such person or persons with the order of the Board.* (2) *The application to enforce any order of the Board may be made to the Court by and in the name of any trade union affected.*	General penalty section.
	34 (2) Refusal or failure to comply with an order of the Board contrary to the provisions of this Act constitutes a separate offence as to each day or part of a day on which such refusal or failure continues.			
41 (1) Every employer who declares or causes a lockout contrary to this Act is guilty of an offence and liable upon summary conviction to a fine not exceeding two hundred and fifty dollars for each day that the lockout exists.	35 (1) Every employer who causes a lockout contrary to this Act is guilty of an offence and liable on summary conviction, to a fine not exceeding one hundred and twenty-five dollars for each day or part of a day that the lockout exists.	General penalty section.	Penalty for breach of corresponding section under general penalty section.	Same as Dominion Bill, except that the fine is $500.
41 (2) Every person acting on behalf of an employer who declares or causes a lockout contrary to this Act is guilty of an offence and liable on summary conviction to a fine not exceeding three hundred dollars.	35 (2) Every person acting on behalf of an employer who causes a lockout contrary to this Act, is guilty of an offence and liable, on summary conviction, to a fine not exceeding fifty dollars for each day or part of a day that the lockout exists.	General penalty section.	Penalty for breach of corresponding section under general penalty section.	

PENALTIES—*Con.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
Same as Manitoba.	44. *Any person who fails to comply with any obligation or prohibition imposed by this Act or by a regulation or decision of the Board shall be liable, unless another penalty is applicable, to a fine not exceeding one hundred dollars for the first offence, and to a fine not exceeding one thousand dollars for any subsequent offence.*	Same as Manitoba.	Same as Dominion Bill.	
Same as Manitoba.	43. *Any person declaring or instigating a strike or lock-out contrary to the provisions of this Act, or participating therein, shall be liable, in the case of an employer, association or officer or representative of an association, to a fine of not less than one hundred dollars and not more than one thousand dollars for each day or part of a day during which such strike or lockout exists, in all other cases to a fine of ten to fifty dollars for each such day or part of a day.*	Same as Manitoba.	Same as Dominion Bill, except that it *leaves out* "is guilty of an offence and"; sets the "penalty" at $150.	
			Same as Dominion Bill, except that it *leaves out* "is guilty of an offence," and says "*penalty.*"	

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
41 (3) Every trade union that declares or authorizes a strike contrary to this Act is guilty of an offence and liable upon summary conviction to a fine not exceeding one hundred and fifty dollars for each day that the strike exists.	35 (3) Every trade union or employees' organization that authorizes or calls a strike contrary to this Act is guilty of an offence and liable, on summary conviction, to a fine not exceeding one hundred and twenty-five dollars for each day or part of a day that the strike exists.	General penalty section.	General penalty section.	41 (2) Every trade union *and every other employeess organization* that *authorize'* a strike contrary to this Act, etc., as in Dominion Bill, except that the fine is $200 and adds "on part of a day".
41 (4) Every officer or representative of a trade union who declares or authorizes a strike contrary to this Act is guilty of an offence and liable upon summary conviction to a fine not exceeding three hundred dollars for each day that the strike exists.	(4) Every officer or representative of a trade union or employees' organization who authorizes or calls a strike contrary to this Act is guilty of an offence and liable, on summary conviction, to a fine not exceeding fifty dollars for each day or part of a day that the strike exists.	General penalty section.	General penalty section.	General penalty section.
General penalty section, 42.	Same as Manitoba.	General penalty section.	General penalty section.	41 (1) Every employee who *goes on strike* contrary to this Act is guilty of an offence and liable on summary conviction to a fine of not more than *twenty* dollars for each day or part of a day that he is on strike.

PENALTIES—*Con.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
Same as Manitoba.	See above.	Same as Manitoba.	41 (3) Every trade union that *declares* or authorizes a strike *shall be liable* upon summary conviction to a *penalty* not exceeding *one hundred and fifty* dollars for each day that the strike exists.	
Same as Manitoba.	See above.	Same as Manitoba.	Same as Dominion Bill, except that it says "*penalty.*"	
Same as Manitoba.	General penalty section.	Same as Manitoba.	General penalty section.	
			41 (5) *Any number of such offences arising out of the same declaring or causing or authorizing may be charged against one person in one information or in separate informations, and if charged in one information, the magistrate may in one conviction impose as a single penalty the cumulative fines, or terms of imprisonment in default of payment, and no conviction or dismissal in respect of any such offence shall afford a plea of autrefois convict or autrefois acquit in respect of an information charging an offence on a day subsequent to the day or days in respect of which any such conviction or acquittal was made.*	

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
43 (1) Where the Minister receives a complaint in writing from a party to collective bargaining that any other party to such collective bargaining has failed to comply with paragraph (*a*) of section fourteen of this Act or with paragraph (*a*) of section fifteen of this Act, he may refer the same to the Board. (2) Where a complaint from a party to collective bargaining is referred to the Board pursuant to subsection one of this section, the Board shall inquire into the complaint and may dismiss the complaint or may make an order requiring any party to such collective bargaining to do such things as in the opinion of the Board are necessary to secure compliance with paragraph (*a*) of section fourteen or paragraph (*a*) of section fifteen of this Act. (3) Every employer, employers' organization, trade union or other person in respect of whom an order is made under this section, shall comply with such order.	36 (1) Every employer, employers' organization, person, trade union, or certified bargaining representative or employees' organization who refuses or fails to bargain collectively as required by this Act or fails to cause representatives authorized in that behalf to bargain collectively on his behalf as required by this Act is guilty of an offence and liable, on summary conviction: (a) If an individual, to a fine not exceeding twenty-five dollars; and (b) If a corporation, trade union, employees' organization, or employers' organization, to a fine not exceeding one hundred and twenty-five dollars. (2) A refusal or failure to bargain collectively as required by this Act or failure to cause representatives authorized in that behalf to bargain collectively as required by this Act constitutes a separate offence for each day or part of a day that the refusal or failure continues.	60 (4) *An employer refusing or failing to attend or to send a duly accredited representative to a meeting of which he has received notice in accordance with this section and any employer refusing to bargain or refusing, after the terms of an agreement have been settled, to execute a collective agreement, shall be guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars and costs for each offence.*	8 (1) *It shall be an unfair labour practice for any employer or employer's agent:* (c) *to fail or refuse to bargain collectively with representatives elected or appointed (not necessarily being the employees of the employer) by a trade union representing the majority of the employees in an appropriate unit.* General penalty section.	General penalty section.
Penalty under section 40 (3) not over fifty dollars for each day during which refusal or failure to obey an order under section 43 (3) continues.				
42. Every person, trade union or employers' organization who does anything prohibited by this Act or who refuses or neglects to do anything required by this Act to be done by him is guilty of an offence and, except where some other penalty is by this Act provided for, the act, refusal or neglect is liable on summary conviction. (a) if an individual, to a fine not exceeding one hundred dollars, or (b) if a corporation, trade union or employers' organization, to a fine not exceeding five hundred dollars. (This is the general penalty section.)	37. Same as Dominion Bill except that it includes "employees' organization", and that the fines are $50 and $250.	95. *Any person who violates any provisions of this Act or the Regulations . . . or any order of the Board or any written direction of the chairman . . . for which no penalty is otherwise provided by this Act shall be liable on summary conviction to a fine of not more than two hundred and fifty dollars and costs and in default of payment to imprisonment for a term not exceeding ninety days.*	11 (1) *Any person who takes part in, aids, abets, counsels or procures any unfair labour practice shall, in addition to any other penalty which he has incurred or had imposed upon him under the provisions of this Act, be guilty of an offence and liable on summary conviction for a first offence to a fine of not less than $25 and not more than $200, if an individual, or not less than $200 and not more than $5,000, if a corporation, and upon a second and subsequent offence, to such fine and to imprisonment not exceeding one year.* (2) *No prosecution shall be instituted under this section without the consent of the Board.*	42. Every person, trade union, *employees' organization* or employers' organization who *contravenes any of the provisions of* this Act *is guilty* of an offence, and *unless some penalty is expressly provided by this Act for such contravention,* is liable on summary conviction, if an individual, to a *penalty* of not more than *one hundred* dollars, and if a corporation, employers' organization, *employees' organization* or trade union, to a *penalty* of not more than *five hundred* dollars.

PENALTIES—*Con.*

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
Same as Manitoba.	42. *An employer or association of employers who or which, having received the prescribed notice, fails to acknowledge as representing employees in his or its employ the representatives of an association recognized for such purpose by the Board, or to negotiate in good faith a collective labour agreement with them, shall be liable, for the first offence, to a fine of one hundred to five hundred dollars, and for any subsequent offence to a fine of two hundred to one thousand dollars with, in addition, in the case of an individual, imprisonment for not more than three months.*	Same as Manitoba.	Same as Dominion Bill.	5. . . . *Every employer shall recognize and bargain collectively with the members of a trade union representing the majority choice of the employees eligible for membership in said trade union, when requested so to bargain by the duly chosen officers of said trade union and any employer refusing so to bargain shall be liable to a fine upon summary conviction not exceeding One Hundred Dollars for each such offence and in default of payment to thirty days' imprisonment.*
			Same as Dominion Bill.	
Same as Manitoba.	See above.	Same as Manitoba.	Same as Dominion Bill.	

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
			12. *In addition to any other penalties imposed or remedies provided by this Act, the Lieutenant-Governor in Council, upon the application of the Board and upon being satisfied that any employer has wilfully disregarded or disobeyed any order filed by the Board, may appoint a controller to take possession of any business, plant or premises of such employer within Saskatchewan as a going concern and operate the same on behalf of His Majesty until such time as the Lieutenant-Governor in Council is satisfied that upon the return of such business, plant or premises to the employer the order of the Board will be obeyed.*	
45. A prosecution for an offence under this Act may be brought against an employers' organization or a trade union and in the name of the organization or union and for the purpose of such a prosecution a trade union or an employers' organization shall be deemed to be a person, and any act or thing done or omitted by an officer or agent of an employers' organization or trade union within the scope of his authority to act on behalf of the organization or union shall be deemed to be an act or thing done or omitted by the employers' organization or trade union organization or trade union.	38. If an employers' organization, employees' organization, corporation, or trade-union is guilty of an offence under this Act, any officer, agent, or authorized representative of the employers' organization, corporation, employees' organization, or trade-union who assented to the commission of the offence is a party to and guilty of the offence.			44 (2) If an employers' organization, *employees' organization, corporation or trade union* is guilty of an offence under this Act, any officer of the employers' organization, *employees' organization,* corporation, or trade union who assented to the commission of the offence is a party to and guilty of the offence.

PENALTIES—*Con.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
Same as Manitoba.	46. *The following shall be a party to an offence and liable to the penalty provided in the same manner as the person committing the offence: any person who aids or abets the commission* thereof, and, when the offence is committed by a corporation or an association, every director, administrator, manager or officer shall be guilty of the offence who in any manner approves of the Act which constitutes the offence or acquiesces therein.	Same as Manitoba.	Same as Dominion Bill.	
	47. If several persons conspire to commit an offence, each of them shall be guilty of each offence committed by any of them in the carrying out of their common intention. 48. The penalties contemplated by this Act shall be imposed upon summary conviction proceeding pursuant to the *Quebec Summary Convictions Act* (Chapter 29, Revised Statutes of Quebec, 1941). Part II of the said Act shall apply to such proceedings.			
	50. If it be proved to the Board that an association has participated in an offence against section 20, the Board may, without prejudice to any other penalty, decree the dissolution of such association after giving it an opportunity to be heard and to produce any evidence tending to exculpate it.			

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
46 (1) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Minister.	Same as Dominion Bill.	60 (5) No prosecution for *any infraction of the provisions of this section shall be commenced or carried on by any person other than a person authorized in writing by the Minister so to do.*	See above, 11 (2).	45. No prosecution for an offence under this Act shall be instituted except *by or* with the consent of the *Board, evidenced by a certificate signed by or on behalf of the chairman of the Board,*
44 (1) A person claiming to be aggrieved because of an alleged violation of any of the provisions of this Act may make a complaint in writing to the Minister and the Minister, upon receipt of such complaint, may require an Industrial Inquiry Commission appointed by him pursuant to section fifty-six of this Act or a Conciliation Officer to investigate and make a report to him in respect of the alleged violation.	42 (2) The Minister may require *the Board or* a Conciliation Officer to investigate and make a report to him in respect of any alleged violation of this Act before he gives any consent under this section to a prosecution in respect thereof.			
(2) Upon receipt of a report pursuant to subsection one of this section, the Minister shall furnish a copy to each of the parties affected and if the Minister considers it desirable to do so, shall publish same in such manner as he sees fit.				
(3) The Minister shall take into account any report made pursuant to this section in granting or refusing to grant consent to prosecute under section forty-six of this Act.				*and in exercising its discretion as to whether any such consent should be granted, the Board may take into consideration disciplinary measures that have been taken by an employers' organization or a trade union or employees' organization against the accused.*
50. Failure of a Conciliation Officer or Conciliation Board to report to the Minister within the time provided in this Act shall not invalidate the proceedings of the Conciliation Officer or Conciliation Board or terminate the authority of the Conciliation Board under this Act.	62. Same as Dominion Bill, except that it says "proceedings of the Officer or Board".			
51. No proceeding under this Act shall be deemed invalid by reason of any defect in form or any technical irregularity.	Same as Dominion Bill.	Same as Dominion Bill, except that it says "Part" instead of "Act".		Same as Dominion Bill, except that it says *"of* form".

PENALTIES—*Con.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
Same as Manitoba.	49. *No penal prosecution may be taken under this Act without the written authorization of the Attorney-General.*	Same as Manitoba.	Same as Dominion Bill.	
			Same as Dominion Bill.	
			Same as Dominion Bill.	
Same as Manitoba.		Same as Manitoba.	Same as Dominion Bill.	
			Same as Dominion Bill.	
Same as Manitoba.		Same as Manitoba.	Same as Dominion Bill.	

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
58 (1) There shall be a labour relations board to administer Part I of this Act which shall be known as the Canadian Labour Relations Board and shall consist of a chairman, and such number of other members as the Governor in Council may determine, not exceeding eight consisting of an equal number of members representative of employees and employers.	55 (1) *At such time as it is considered advisable, the Lieutenant-Governor in Council may establish a Board which shall be known as the "Labour Relations Board (British Columbia)", and shall consist of a Chairman and such number of other members as the Lieutenant-Governor in Council may determine.*	5. (1) *There shall be a Board known as the "Board of Industrial Relations" which shall consist of such persons, not more than five in number, as may be appointed by the Lieutenant-Governor in Council and one of such persons shall be designated as the Chairman of the Board.*	4. *There shall be a Board to be known as the Labou Relations Board, composed of seven members appointed by the Lieutenant-Governor in Council at such salaries or remuneration as he deems fit. The Lieutenant-Governor in Council shall name a chairman and vice-chairman of the Board. The members of the Board shall be selected so that the Board shall be equally representative of organized employees and employers, and if the Lieutenant-Governor in Council deems it desirable, of the general public.*	3 (1) The Provincial Board shall consist of a Chairman and an even number of other members, not exceeding a total of six, equally representative of employers and employees; and a Vice-Chairman may be appointed to preside over the Provincial Board in the absence of the Chairman. (From text of agreement between the Dominion and the Province of Manitoba *re* administration of Wartime Labour Relations Regulations.)
60. The Board may, with the approval of the Governor in Council, make rules governing its procedure and, where an application for certification in respect of a unit has been refused, the time when a further application may be made in respect of the same unit by the same applicant.	56. The Board may, with the approval of the *Minister*, make *such regulations* governing its procedure *under this Act as may be necessary to enable it to discharge the duties imposed upon it by this Act.* (See also above, section 11 (6).)	See above, sections 59 (5)-(10), 60 (9), and 62.	13 (1) The Board may, subject to the approval of the Lieutenant-Governor in Council, make such rules and regulations not inconsistent with this Act, as are necessary to carry out the provisions of this Act according to their true intent.	27 (1) The Board may, with the approval of the *Minister*, make such regulations as may be necessary to enable it to discharge the duties imposed upon it by this Act. (2) The Board may prescribe anything, which, under these regulations, is to be prescribed.
61 (1) If in any proceeding before the Board a question arises under this Act as to whether (a) a person is an employer or employee; (b) an organization or association is an employers' organization or a trade union; (c) in any case a collective agreement has been entered into and the terms thereof and the persons who are parties to or are bound by the collective agreement or on whose behalf the collective agreement was entered into (d) a collective agreement is by its terms in full force and effect; (e) any party to collective bargaining has failed to comply with paragraph (a) of section fourteen or with paragraph (a) of section fifteen of this Act; (f) a group of employees is a unit appropriate for collective bargaining; (g) an employee belong to a craft or group exercising technical skills; or (h) a person is a member in good standing of a trade union; the Board shall decide the question and its decision shall be final and conclusive for all the purposes of this Act.	58 (1) If *a question arises* under this Act as to whether (a) same as Dominion Bill. (b) Same as Dominion Bill. (3) Same as Dominion Bill down to "thereof". (d) *the persons who are bound by a collective agreement, or on whose behalf a collective agreement was entered into, are parties to an agreement;* (e) Same as Dominion (d), (f) *a person is bargaining collectively or has bargained collectively;* (g) Same as Dominion (f): (h) an employee belong to a craft *or profession;* or (i) Same as Dominion Bill (h). Same as Dominion Bill.		5. *The Board shall have power to make orders:—* (c) *requiring an employer to bargain collectively;* (d) *requiring any person to refrain from violations of this Act or from engaging in any unfair labour practice;* (e) *requiring an employer to reinstate any employee discharged contrary to the provisions of this Act and to pay such employee the monetary loss suffered by reason of such discharge;* See also sections 5 (a), (b) and (f), and section 6, above.	25 (1) If *a question arises* under this Act as to whether: (a) Same as Dominion Bill. (b) *the unit of employees appropriate for collective bargaining is the employer unit, craft unit, plant unit or a subdivision thereof;* (c) *an organization of employees is a trade union, employees' organization or employers' organization;* (d) *an agreement is a collective agreement;* (e) *an employer or certified bargaining representative of employees, is negotiating in good faith;* Same as Dominion Bill.
(2) A decision or order of the Board is final and conclusive and not open to question, or review, but the Board may, if it considers it advisable so to do, reconsider any decision or order made by it under this Act, and may vary or revoke any decision or order made by it under this Act.	(2) The Board may, etc., as in Dominion Bill, except that it ends up "any such decision or order".	90. The Board may at any time and from time to time with the approval of the Lieutenant Governor in Council vary, suspend of cancel any order made by it under this Act.	15. *There shall be no appeal from an order or decision of the Board under this Act, and the Board shall have full power to determine any question of fact necessary to its jurisdiction, and its proceedings, orders and decisions shall not be reviewable by any court of law or by any certiorari, mandamus, prohibition, injunction or other proceeding whatsoever.*	

BOARD

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
4 (1) *There shall be a Board which shall be known as the Ontario Labour Relations Board and shall consist of a chairman and not more than six other members.*	29. *There shall be a body called . . . the "Labour Relations Board of the Province of Ouebec"* 30. *Such Board shall consist of a chairman and two other members appointed by the Lieutenant-Governor in Council who shall fix their remuneration.*	23. *There shall be a Board which shall be known as the Labour Relations Board and shall consist of a chairman and two or more other members.*	55 (1) *The Governor in Council may establish and appoint the members of a Board which shall be known as the "Labour Relations Board (Nova Scotia)", and shall consist of such number of persons as the Governor in Council may from time to time determine.*	
5 (7) Subject to the approval of the Lieutenant-Governor in Council, the Board may make rules or regulations governing its own procedure which are not inconsistent with this Act.	38. The Board may make regulations to govern the exercise of its powers . . . and generally, the carrying out of this Act. Such regulations shall come into force upon the approval of the Lieutenant-Governor in Council.	Same as Manitoba.	57. Same as British Columbia, except that it says *"Governor in Council"* instead of "Minister". See also above, section 9 (7).	
Same as Dominion Bill.		Same as Manitoba. Same as Dominion Bill.	the Board shall decide the question and the decision or order of the Board shall be *final and conclusive* and not open to question or review. but the Board may, etc., as in Dominion Bill.	
	41. The Board may, for cause, revise or cancel any decision or order rendered by it or any certificate issued by it.			

THE

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
	(3) *Where a question set out in this section arises in any legal proceedings under this Act, if the question has not been decided by the Board, the Justice or Justices of the Peace, Magistrate, Judge or Court before whom it arises shall refer the question to the Board and stay further proceedings until the Board's decision is received.*			(2) *If* a question set out in *subsection one* arises *in any legal* proceedings, the Justice, etc., as in British Columbia (3), *shall*, if the question has not, etc., as in British Columbia (3).
58. (6) The Board may receive and accept such evidence and information on oath, affidavit or otherwise as in its direction it may deem fit and proper whether admissible as evidence in a court of law or not.	Same as Dominion Bill except that it says "in its *or his* discretion it *or he* may deem," etc.		14. The Board *and each member thereof and its duly appointed agents* . . . may receive and accept such evidence, etc., as in Dominion Bill.	The Board and each member thereof may receive, etc., as in Dominion Bill.

MISCELL

62 (1) Where legislation enacted by the legislature of a province and Part I of this Act are substantially uniform, the Minister of Labour may, on behalf of the Government of Canada, with the approval of the Governor in Council, enter into an agreement with the government of the province to provide for the administration by officers and employees of Canada. of the provincial legislation. (2) (c) provides for appeals from the provincial Board to the Dominion Board if the provincial legislation so provides.		88. *The Lieutenant Governor in Council may by order declare that on and after a day to be fixed by the order, the provisions of this Part and their operation shall be suspended and inoperative with respect to every industrial dispute arising in relation to employment in the industry of coal mining so long as the order remains in force, and that in lieu thereof, the provisions of the Industrial Disputes Investigation Act, . . . or any other statute of Canada, that may be hereafter passed in substitution for the said Act, shall be in full force and effect with respect to every industrial dispute arising in relation to employment in the industry of coal mining . . .*		
67 (1) The Governor in Council may make regulations . . . (2) excluding an employer or employee or any class of employers or employees from the provisions of Part I of this Act or any of the provisions thereof; (3) generally for carrying any of the purposes or provisions of this Act into effect.	68. *The Lieutenant-Governor in Council may make regulations as to the time within which anything hereby authorized shall be done, and also as to any other matter or thing which appears to him necessary or advisable to the effectual working of the provisions of this Act.*	94. *The Lieutenant-Governor in Council may make such regulations not inconsistent with this Act as he may deem necessary for carrying out the provisions of this Act and for the efficient administration hereof.*		
		92. *In any prosecution for any offence against any of the provisions of this Act alleged to have been committed by an employer, the onus of proof that he is not an employer shall be upon the person charged with the offence.*		

BOARD—*Con.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
Same as Manitoba.		Same as Dominion Bill.		
Same as Manitoba.		Same as Manitoba.	Same as Manitoba.	

ANEOUS

			70. Substantially the same as Dominion Bill's 62 (1), mutatis mutandis.	

Dominion Bill	British Columbia Act	Alberta Act	Saskatchewan Act	Manitoba Act
				38. Every person, trade union or employers' or employees' organization to whom an order is issued or who is *required* to do or *abstain* from doing *anything* by or pursuant to this Act shall obey such order or do or abstain from doing such thing as required.

ANEOUS—*Conc.*

Ontario Act	Quebec Act	New Brunswick Act	Nova Scotia Act	P E I Act
Same as Manitoba.		Same as Manitoba.		
	18. *Nothing in this Act shall prevent an unrecognized association from entering into a collective agreement, but an agreement so entered into shall become void the day another association is recognized by the Board for the group represented by the latter association.*			
	17. Any association comprising at least twenty employees, corresponding to at least ten per cent of the group subject to a collective agreement entered into by another association, may submit in writing, on behalf of its members, to the employer who is a party to such agreement, any complaint resulting from a violation of this Act or of the said agreement, the employer must immediately convene the representative of the association which is a party to such agreement and the representative of the association which submitted the complaint, to be heard upon the investigation of such complaint.			