FOURTH SESSION—TWENTY-EIGHTH PARLIAMENT

1971-1972

THE SENATE OF CANADA

PROCEEDINGS OF THE

STANDING SENATE COMMITTEE ON

HEALTH, WELFARE AND SCIENCE

The Honourable MAURICE LAMONTAGNE, P.C., *Chairman*

No. 1

THURSDAY, MAY 18, 1972

Complete Proceedings on Bill C-207:

"An Act to amend the Old Age Security Act".

REPORT OF THE COMMITTEE

(Witnesses and Appendices:—See Minutes of Proceedings)

25197—1

THE SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

Chairman: The Honourable Maurice Lamontagne

The Honourable Senators:

Bélisle	Hastings
Blois	Hays
Bonnell	Inman
Bourget	Kinnear
Cameron	Lamontagne
Carter	Macdonald
Connolly (*Halifax North*)	McGrand
Croll	Michaud
Denis	Phillips
Fergusson	Quart
Fournier (*de Lanaudière*)	Smith
Fournier (*Madawaska-Restigouche*)	Sullivan
	Thompson
	Yuzyk—(26)

Ex officio Members: Flynn and Martin

(Quorum 7)

Order of Reference

Extract from the Minutes of the Proceedings of the Senate, Thursday, May 18, 1972:

The Senate resumed the debate on the motion of the Honourable Senator Martin, P.C., seconded by the Honourable Senator McDonald, for the second reading of the Bill C-207, intituled: "An Act to amend the Old Age Security Act".

After further debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The bill was then read the second time.

The Honourable Senator Martin, P.C., moved, seconded by the Honourable Senator McDonald, that the Bill be referred to the Standing Senate Committee on Health, Welfare and Science.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

Robert Fortier,
Clerk of the Senate.

25197—1½

Report of the Committee

Thursday, May 18, 1972.

The Standing Senate Committee on Health, Welfare and Science to which was referred Bill C-208, intituled: "An Act to amend the Pension Act, the War Veterans Allowance Act, the Civilian War Pensions and Allowances Act, the Children of War Dead (Education Assistance) Act and the Department of Veterans Affairs Act to provide for the annual adjustment of pensions and allowances payable thereunder", has in obedience to the order of reference of May 18, 1972, examined the said Bill and now reports the same without amendment.

Respectfully submitted.

Maurice Lamontagne,
Chairman.

Minutes of Proceedings

Thursday, May 18, 1972.
(1)

Pursuant to notice, the Standing Senate Committee on Health, Welfare and Science met this day at 9.13 p.m.

Present: The Honourable Senators Cameron, Carter, Fergusson, Flynn, Hastings, Inman, Lamontagne, Macdonald, Martin, McGrand, Phillips, Quart and Thompson. (13)

Present, but not of the Committee: The Honourable Senators Benidickson, Forsey, Grosart, Isnor, Kickham, Lafond, Langlois and McNamara. (8)

In attendance: E. Russell Hopkins, Law Clerk and Parliamentary Counsel.

On Motion of the Honourable Senator Cameron, it was Resolved to print 800 copies in English and 300 copies in French of the Proceedings of this Committee.

The Committee proceeded to the consideration of Bill C-207 "An Act to amend the Old Age Security Act".

The following witnesses were heard in explanation of the Bill:

Department of National Health and Welfare:

Dr. J. W. Willard,
Deputy Minister, (Welfare);

Mr. J. B. Bergevin,
Senior Assistant Deputy Minister (Operations);

Mr. J. A. Blais,
Assistant Deputy Minister (Income Security).

Department of Supply and Service:

Mr. D. R. Yeomans,
Assistant Deputy Minister (Operational Services).

During the question period that followed the Honourable Senator Phillips moved:

> That representatives of IBM be summoned before the Committee to testify if the Company had advised the officials of the Department of National Health and Welfare that IBM had to be notified not later than May 19, 1972, of the increase in the Old Age Pension, in order that the pensioners could receive their cheques by the end of June.

After debate, the motion was defeated on division.

On Motion duly put it was Resolved to report the said Bill without amendment.

At 10.58 the Committee adjourned to the call of the Chair.

Attest:

Patrick J. Savoie,
Clerk of the Committee.

25197—2

The Standing Senate Committee on Health, Welfare and Science

Evidence

Ottawa, Thursday, May 18, 1972.

The Standing Senate Committee on Health, Welfare and Science, to which was referred Bill C-207, to amend the Old Age Security Act, met this day to give consideration to the bill.

Senator Maurice Lamontagne (*Chairman*) in the Chair.

The Chairman: Honourable senators, I see a quorum. We will come to order.

Senator Flynn: I am not sure that there is a quorum.

Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel: Senator Flynn, Rule 67(k) reads, in part, as follows:

> (k) The Senate Committee on Health, Welfare and Science, composed of thirty members, seven of whom shall constitute a quorum, to which—

and so on.

Senator Flynn: May I look at that, please?

Mr. Hopkins: Certainly.

Senator Flynn: All right. We can proceed now.

The Chairman: Before we proceed with the clause-by-clause study of this bill I should like those who have general comments to make about it to make them at this stage. After that we can proceed clause by clause. That is my proposal.

Senator Flynn: I have no objection to the idea of those who have general comments making them now, but as to proceeding clause by clause, is that necessary?

The Chairman: Well, we have to do this in committee. I prefer to give more freedom to members of the committee to make general comments before calling each clause.

Senator Flynn: May I make a comment which will be in the form of a question? I made my position quite clear, that I wanted to know why we would have to pass this bill so quickly, because it has been suggested that if the bill does not receive royal assent tomorrow it is obvious it cannot receive royal assent tonight. It would be difficult to find His Excellency the Governor General or a deputy to come over right away for royal assent, although possibly the Leader of the Government could arrange that also; he has infinite resources.

The Chairman: This is beyond his power.

Senator Flynn: I would not say that. He will hold it against you. I am wondering whether royal assent being given Friday evening will really make a difference in sending out the cheques to the pensioners.

Senator Martin: It will for the month of June.

Senator Flynn: No, let us say royal assent is given on Tuesday next. There are only three days in which no work is performed on Parliament Hill. Is anyone in a position to give an explanation on this particular point?

The Chairman: Dr. Willard, the Deputy Minister (National Welfare) of the Department of National Health and Welfare and his colleagues are with us, and I am sure that they can answer this question.

Dr. J. W. Willard, Deputy Minister (Welfare), Department of National Health and Welfare: Mr. Chairman, first of all I would like to introduce the officials who are with me this evening. To my right is Mr. Yeomans, Assistant Deputy Minister of the Department of Supply and Services. That department is involved with the question of getting cheques out to pensioners. To his right is Mr. Bergevin, the Senior Assistant Deputy Minister in charge of operations for the Department of National Health and Welfare (Welfare). On his right is Mr. Blais, the Assistant Deputy Minister of Income Security, who is directly responsible for administering the old age pension program. To his right is Mr. du Plessis, a legal adviser from the Department of Justice.

The Chairman: That list should satisfy you.

Dr. Willard: I will call upon some of these gentlemen to supplement my remarks from time to time.

After the budget was announced the minister asked me when the new rates could be implemented. I indicated that it would be June or July, depending upon when the legislation was passed. He asked me what the latest date would be if the cheques were to go out in June. I consulted with Mr. Bergevin, who is the Senior Assistant Deputy Minister, Program Operations, and he in turn consulted with Mr. Yeomans and Mr. Blais, and we can explain the reasons we indicated to the minister, and he in turn to the government, why May 19 was a very critical date from our standpoint. That is the date we would wish to see legislation passed if we are going to put out June cheques rather than July cheques.

I would like to indicate that the size of the operation we are facing in order to get these cheques out is large indeed. We have 1,800,000 people to deal with across the country, about 800,000 are receiving OAS pensions and around 1 million of them are receiving OAS and GIS payments. Some of these are partial pension payments and some are full pension payments. The legislation provides for retroactivity, and this complicates the process in terms of how we make the adjustment of our records. I would

indicate that we do not have a computer. We have our records on an addressograph. There are a number of reasons why we need some leeway in terms of the mechanical process.

There are other critical problems as well. Number one is the question of the cheques themselves. I will ask Mr. Yeomans to outline the problems we are facing in this regard. We have to be poised, as of tomorrow, to order these cheques for preprinted amounts based on the general rate, and we must be ready to go as soon as the legislation is passed. Perhaps Mr. Yeomans could elaborate on this point.

Mr. D. R. Yeomans, Assistant Deputy Minister, Operational Services, Department of Supply and Services: Mr. Chairman, the thing which is unusual about this exercise is that the cheques for old age security and guaranteed income supplement that are issued for what we regard as a standard amount—that is, the basic old age security, or the basic old age security plus the maximum guaranteed income supplement payments—are prepared and printed with the amount already on the cheque, as well as the serial number punched into the cheque. This is done by the company that produces the cheques. Honourable senators might expect that we have a stack of blank cheques and that when told the amount we would simply start issuing the cheques in the appropriate amounts. This is true in some government programs, but it is not true in regard to the bill which is before this committee. It so happens that 1,300,000 of the 1,800,000 cheques will have the amounts printed on them in advance by the company producing the cheques. This is why we need some leeway. We must place an order with the company to have the cheques produced and the amounts preprinted on them.

The practice has been to deliver the old age security cheques to the recipients on the third banking day from the end of the month, and in June of this year that would be the 28th. In order to do this the Post Office has told us that we must have all 1.8 million cheques in their hands by noon on June 23. The critical office is the Toronto office that produces the old age security cheques for Ontario, some 649,000 old age security and guaranteed income supplement cheques. It requires about 70 hours to run the equipment in our Toronto office. We must therefore begin addressing these cheques on Saturday, June 17.

Senator Flynn: Saturday, June 17?

Mr. Yeomans: Yes, that is correct.

Senator Phillips: Are you working on Saturdays?

Mr. Yeomans: We will have to work on Saturday to meet the delivery date.

Senator Phillips: This is a rather unusual situation, is it not?

Mr. Yeomans: We will have to work on Saturday to meet this date.

Senator Flynn: That is one way or the other?

Mr. Yeomans: Working back from that date, we must have the 1,800,000 cheques delivered to our issuing offices in each provincial capital across the country. The supplier has indicated that in order to do that we would ship them air express, beginning June 12. So, from the 12th to the 16th June the cheques which would have been preprinted and prepunched would be shipped air express to our issuing offices across the country. The supplier has indicated that in order to meet that deadline he has to begin printing the cheques on Tuesday, May 23, and in order to start the presses rolling next Tuesday he has to do his art work and prepare the electrotypes over this weekend.

This is how we arrived at the delivery date of Wednesday, June 28, and subsequently how we arrived at Friday, May 19, when asked the question by officials from the Department of National Health and Welfare when we would have authority to place the order for the cheques.

Senator Flynn: That is the answer you gave to the minister, of course; but did you figure out what you would have to do if the bill received royal assent on May 23—the difference that it would make?

Mr. Yeomans: Mr. Chairman, we discussed the date with our supplier. We discussed it with very senior officials. Their first statement to us was a date which was about a week earlier than May 19, in order to make the schedule; and we leaned on them hard because we are a big customer of theirs, and they agreed to back up to May 19.

Senator Flynn: They were able to save about a week?

Mr. Yeomans: Yes.

Senator Flynn: That is pretty convincing. That is all what I wanted to know.

Senator Phillips: I have a couple of questions. I noticed that the witness portrayed—

The Chairman: Before you go on with your question, Senator Phillips, Senator Flynn is a very good lawyer and I would like to clear up the conclusion he arrived at a moment ago.

Senator Flynn: If you insist, it is all right. If you think nobody else can do it but you, go ahead.

The Chairman: No, no; but you said that you were quite satisfied that they had squeezed in—

Senator Flynn: But apparently you think nobody else should accept that.

The Chairman: I think that as chairman of the committee I am allowed to ask questions.

Senator Flynn: Oh, you are allowed to take sides, certainly, and you usually do.

Senator Phillips: Did I understand you to say that you are allowed to take sides and ask questions? I thought you were supposed to be the chairman; and a chairman does not take sides and ask questions.

The Chairman: Well, I was asking a question. It was a technical question, as a supplementary to what Senator Flynn asked.

Senator Flynn: I warn you that you are following a dangerous course.

Senator Phillips: You are following a dangerous course in that you are attempting to direct this committee meeting. You are attempting that right now, and you are not going to do it.

The Chairman: I have been directing committee meetings now for four years.

Senator Phillips: And we have had our fill of you and your directing committee meetings.

Senator Martin: Mr. Chairman, I think it is certainly open—

Senator Phillips: Are we going to be honoured by you again?

Senator Martin: Surely, we can conduct this in an orderly way? I think it is open to the chairman to comment.

Senator Phillips: It is not for the chairman to decide when I can ask a question.

Senator Martin: But the chairman was in the process—

The Chairman: If you want to vote me out as chairman, I am quite ready to take a vote.

Senator Martin: Mr. Chairman, you were in the process of elucidating a point, and I think you ought to be allowed to do that. You started to do it—

The Chairman: I am quite sure that Senator Flynn, being fair as he is—

Senator Flynn: I have no objection, but I do not see why you would be so fast in cross-examining the witness. Suppose that I have examined the witness. You are cross-examining him. I do not see why it should be you instead of the Leader of the Government, who has been defending this thesis for two weeks—

The Chairman: The Leader of the Government is not my boss here; I am the boss.

Senator Flynn: You can make all the jokes you want, but do not make that kind of joke to me.

The Chairman: No, you won't do that to me.

Senator Flynn: I will do it to you.

The Chairman: Oh, you can do it to me, but it will not be the truth.

Senator Martin: Mr. Chairman, you are allowed to make a comment.

The Chairman: If I am not allowed to ask any question . . .

Senator Flynn: You are allowed; I said it was not proper.

Senator Phillips: I do not think the chairman is allowed to ask a question.

Senator Flynn: Oh, yes, he can . . .

The Chairman: What is the use of being a chairman, then? I will put you in the chair.

Senator Phillips: The chairman is the deciding officer; he is not the questioning officer.

The Chairman: I wanted to ask the question . . .

Senator Phillips: I have the privilege of asking questions . . .

The Chairman: Ask your question.

Senator Phillips: If it is not annoying "Your Exellency" too much, may I ask these questions? I was impressed by the fact that the witness held up a cheque, a computerized cheque. Would you like to raise it again, please? You told me you do not have a computer. Why are those holes in that cheque?

Mr. Yeomans: The holes are in the cheque to be read by a computer that is used to reconcile the cheques after they come back in through the banking system.

Senator Phillips: I understood you to say that you do not have a computer.

Mr. Yeomans: The department has many computers, but we do not use computers to issue these cheques.

Senator Phillips: I am not a computer expert, but as a layman I find it awfully confusing that you will hold up a cheque with certain holes punched in it from a computer, and then say you use them in a different system.

Dr. Willard: Perhaps I can help. I was the one who suggested that we do not have a computer. The point I was trying to make is that in making changes in the amounts of the cheques, if you have a computer it is much simpler to do this. In the process that we will have to go through to carry out this undertaking, which is very large indeed and very complex, we have to work with Addressograph plates, and we have to put the changes in amounts on plates for many different categories. We cannot do that automatically by computer. The computer is used, as Mr. Yeomans has said, for this other purpose after the cheques come back in through the banking system.

Senator Forsey: Is that computer in your department or Mr. Yeomans' department?

Dr. Willard: Mr. Yeomans'.

Senator Phillips: What computer system do you use?

Mr. Yeomans: We have 22 computers in our department.

Senator Phillips: I do not care about the number. I want to know what company. Is it IBM, or what?

Mr. Yeomans: We have IBM computers, Univac computers and Honeywell computers.

Senator Phillips: Would it be fair for me to direct a question to the chairman?

The Chairman: I am not allowed to answer questions or to raise a question.

Senator Phillips: I would ask if he would call the computer people and see if they can handle the situation. Because of the confusion in the computer system and the unem-

ployment cheques, I think we should hear from the computer people that they can get these cheques out on the deadline set by the government.

The Chairman: I think this question is completely out of order because it is not the responsibility of this department . . .

Senator Phillips: The responsibility of what department?

The Chairman: Of the Department of . . .

Dr. Willard: Supply and Services.

Senator Phillips: You have been told the Department of Supply and Services. Are you . . .

Senator Flynn: We should have someone from the Department of Supply and Services . . .

The Chairman: Not in relation to that kind of question.

Senator Flynn: Why not?

The Chairman: Because it was related to the sending out of unemployment insurance cheques.

Senator Phillips: I did not mention unemployment insurance cheques here.

The Chairman: Yes, you did.

Senator Forsey: Yes.

Senator Flynn: Suppose he did?

The Chairman: It is out of order as far as we are concerned.

Senator Phillips: There is still no reason why I cannot be assured that the computer company can handle it.

The Chairman: Questions regarding unemployment insurance cheques are out of order.

Senator Phillips: I simply suggested I should like to have officials of the computor company come in . . .

Senator Flynn: Mr. Chairman, on your fast ruling I would say this: We are here to find out if in practice something can be done, and what can be done. If the experience in this connection of another department is relevant, we should be allowed to hear it. Whether you say it is out of order is your business, but I do not agree with you.

Senator Forsey: Mr. Chairman, surely the perfectly simple point already established.

Senator Flynn: Well, we know the truth.

Senator Thompson: Surely, others can speak?

Senator Flynn: I am listening to him.

Senator Forsey: I merely want to say, Mr. Chairman, that it seems to me that Dr. Willard has already stated that in making out these cheques they have not got in his department a computer to do this. It has been done by an addressograph. The computer which they have in the Department of Supply and Services is a computer which does a completely different job after the cheques come back from the bank. I thought that had been established, and I cannot see why there should be any confusion about it.

The Chairman: Yes.

Senator Forsey: Am I mistaken, or was that point brought out?

Dr. Willard: That is correct, Mr. Chairman.

Senator Martin: May I ask the witness . . .

Senator Phillips: May I ask . . .

The Chairman: Please, Senator Phillips.

Senator Martin: May I ask Mr. Yeomans a question? You have assigned this to an outside company who are prepared to begin work on Saturday . . . is that right?

Mr. Yeomans: That is correct, sir.

Senator Martin: And what company is that . . . IBM?

Mr. Yeomans: IBM is the company that produced these card cheques for us, yes.

Senator Martin: And they have told you that they must have them by the date suggested by the President of the Privy Council?

Mr. Yeomans: Yes. The date suggested by the President of the Privy Council, I believe, came as a result of negotiations between officials in the Department of National Health and Welfare and our own department as to what was the last possible date we could place an order for cheques in order to have them delivered into the hands of the recipients on June 28.

Senator Martin: And the last possible date is Saturday?

Senator Flynn: That, I would say, is a leading question.

Mr. Yeomans: That is correct. In negotiations with officials of IBM some weeks ago we were told that May 16 was the last date.

Senator Flynn: Who told you?

Mr. Yeomans: Officials of IBM.

Senator Flynn: Who told you?

Mr. Yeomans: I cannot name the person because I was not the one who had direct conversation.

Senator Flynn: Then it is only hearsay that you are telling us now.

Some Hon. Senators: Oh'

Senator Flynn: Well, is it hearsay or not?

Allow me to question the witness, and mind your own business.

Senator Martin: Senator Flynn, . . .

Senator Flynn: I will be polite, but I am questioning the witness.

Senator Phillips: I agree.

Senator Flynn: Who told you?

Senator Phillips: The idea that we cannot come in here and question the witness is atrocious.

Senator Flynn: Who told you?

Senator Martin: Mr. Chairman, perhaps I could be allowed to finish my question?

Senator Flynn: I am asking a very simple question. Who told you?

Senator Martin: He told you he did not meet . . .

Senator Flynn: Who told you?

Senator Martin: He answered your question.

Senator Flynn: I want to know the name of the individual who told you.

Senator Martin: He told you he did not know the man's name.

Senator Flynn: Do you have his name?

Mr. Yeomans: The name of the official at IBM? No, I do not.

Senator Flynn: Then what you are telling us is hearsay. Someone else told you.

Mr. Yeomans: I have officials who concern themselves directly with the supply of cheques for this and many other programs.

Senator Flynn: But who told you?

Senator Martin: Allow him to finish, please.

Mr. Yeomans: These are officials of our department who deal regularly with this corporation. They were the ones who were in discussion with the corporation and explained the problem that they were faced with, and it was as a result of those discussions that I was advised by my senior officials that May 19 was the last date that we could place an order in order to have the cheques in our offices across the country in time to meet the deadline.

Senator Flynn: I understand that. Are you able to find out the name of the senior official of your department who spoke with the senior official of IBm so that I could get the name of the official at IBM who could then come here and tell us directly, instead of going through an intermediary who is only repeating what someone else has told him?

Mr. Yeomans: If I can reach him by phone, I am sure I can do that.

Senator Flynn: Well, if you can, we should like him to come here either tonight or tomorrow.

The Chairman: Tonight.

Senator Martin: This witness has stated that May 19 is the last date.

May I ask Dr. Willard if there are any other problems in connection with this matter. For instance, I believe you have a process of advertising, do you not?

Dr. Willard: Yes, Mr. Chairman. On each occasion when we have a change in the rate of old age security or guaranteed income supplement and every time there is an amendment we have a major task to get the word to the old people across the country so that they know exactly what was happened. With regard to the newspaper advertisements, again we are up against a very tight deadline and this also applies to the printing of the small inserts for the cheques.

Senator Martin: Well, let us deal with the advertising process.

Dr. Willard: Perhaps I could ask Mr. Bergevin to report on the advertising situation.

Senator Phillips: Mr. Chairman . . .

The Chairman: Would you please let the witness answer the question first?

Senator Phillips: I am used to diversionary tactics. I will come back to my subject.

The Chairman: We have all night, Senator Phillips, so do not become worried.

Senator Phillips: I am prepared to stay all night.

Senator Flynn: I am not.

Senator Martin: Answer the question, please.

Mr. J. B. Bergevin, Senior Assistant Deputy Minister (Operations), Department of National Health and Welfare: For the newspaper advertising it is absolutely necessary to have the final draft of the material to be printed over the weekend, as it must be translated and given to the printers on Monday.

Senator Martin: Monday next?

Mr. Bergevin: Yes, Monday next. For the special mailout which is to procede the issuance of cheques for the purpose of explaining to pensioners what the different rates are, the arrears and the amounts of their cheques, the text of the special mailouts also has to be prepared and given to the printer.

Senator Martin: I should . . .

Senator Phillips: Mr. Chairman, on a point of order . . .

The Chairman: Just a moment, please; there is a supplementary question. You will have an opportunity for your point of order.

Senator Phillips: A point of order takes precedence, Mr. Chairman. There is reference now to advertisements and mailouts. We have not seen those. If we are going to discuss them, we should see them.

The Chairman: I do not think it is a good point of order.

Senator Phillips: I think it is a valid point of order.

Senator Martin: I should like to follow through on this. May I pursue my question, Mr. Chairman?

Senator Phillips: In accordance with parliamentary procedure, if you are going to refer to certain documents, those documents should be produced, and I am now asking for those mailouts and advertisements which are done at the taxpayers' expense, and I want them now. I am quite in order in asking for them.

The Chairman: My ruling is that your point of order is not well taken. If the committee wants to rule otherwise they are . . .

Senator Flynn: You are very brave.

Senator Phillips: Yes, you are very brave. In the meantime . . .

The Chairman: There is a question, Senator Phillips.

Senator Martin: Mr. Bergevin, you told us . . ,

Senator Phillips: This is not a meeting between Senator Martin and yourself, Mr. Chairman.

The Chairman: Senator Martin has the right to ask questions too.

Senator Phillips: Well, he referred to certain documents, and I think this committee should have those documents.

Senator Hastings: Mr. Chairman, I believe those documents were going to be prepared over the weekend. They are not prepared now.

Senator Phillips: He said they would be published. He did not say they were going to be prepared.

Senator Hastings: I heard they were to be printed on the weekend.

Senator Martin: May I pursue my question, Mr. Chairman?

The Chairman: Yes.

Senator Phillips: I ask . . .

The Chairman: Please, Senator Phillips! I am the Chairman. Please, Senator Flynn, let us have some order.

Senator Flynn: I have not been speaking. What is the matter with you?

Senator Phillips: You are not going to have order if you conduct this hearing the way you are.

The Chairman: Senator Martin has been asking a few questions.

Senator Flynn: What are you asking me now? I did not say a thing. I have been silent for two minutes. Let us keep me that way.

Senator Martin: You have said that Monday is the last day.

Mr. Bergevin: Yes. We are waiting for the terms of the legislation before getting the final draft, of course.

Senator Martin: What is the last day?

Mr. Bergevin: There is another deadline that we have to meet. There is also the insert with the June cheque, which also requires that we have the final draft of it over the weekend.

Senator Martin: What does that insert contain?

Mr. Bergevin: That insert will contain details concerning the various rates for basic OAS and the guaranteed income supplement for single and married couples.

Senator Martin: Does it also include the escalation?

Mr. Bergevin: It does, and the retroactivity.

Senator Martin: For January, February and March. It is a complicated structure then, is it not?

Mr. Bergevin: We have definitely to explain that to the pensioners, because they will not understand why they get a cheque of such-and-such an amount.

Senator Martin: It is an explanatory thing to them of the nature of the cheque they receive.

Senator Phillips: A wonderful explanation ! Keith Davey has been repaid.

Senator Martin: We are thinking of the old age pensioners.

The Chairman: Senator Phillips.

[*Translation*]

Senator Flynn: This is only a text which you have prepared?

Mr. J. B. Bergevin Senior Assistant Deputy Minister (Welfare) Department of National Health and Welfare: A text of the Department . . .

Senator Flynn: An explanatory text of the modifications according to the law?

Mr. Bergevin: Precisely, and that is included in their cheque, in other words, for five months retroactive.

Senator Flynn: Frankly speaking, is that letter not written already?

Mr. Bergevin: Of course, we have a first version, that is a version of the bill as proposed to the government.

Senator Flynn: All right.

Mr. Bergevin: But when we are requested to set up a program and have the text sent to the printer by Monday morning, at the latest, I surely must have the final version.

Senator Flynn: You could follow the same procedure as the Department of Revenue in terms of the Income tax Act, and prepare the text before the law is passed—have it printed since you already know what will go in it?

Mr. Bergevin: That is not my responsibility.

Senator Flynn: I know it is not your resppnsibility.

The Chairman: This question is somewhat out of order.

Senator Flynn: Well, it is not out of order, since I admit is is not his responsibility.

The Chairman: You have answered the question.

Senator Flynn: I may have answered the question, but he has also agreed the answer was there.

[*Text*]

Senator Martin: May I ask another question?

Senator Phillips: I do not get a chance, Mr. Chairman, do I?

The Chairman: I gave you a chance, but unfortunately your leader preceded you.

Senator Martin: May I ask whether you could squeeze another day, Dr. Willard? You said May 19 was the day given to you. Would there be a possibility of squeezing another day or other days?

Dr. Willard: It is quite clear to us, Mr. Chairman, that the 19th is the deadline. We need this weekend to work on it. When we were asked to give a date, we gave it on the basis that if they wanted a June cheque, if they wanted the increased rates to go out in a June cheque, this was the deadline within which we would have to work. We cannot reverse the process. We have already started to get our staff to do the things they can do, to start on changes of rates for the plates, and so on. If we get halfway in the process and the legislation is held up and that part has to be reversed, and we can get ourselves so mixed up that we will be in the situation that unemployment insurance got itself into, and that is what we want to avoid.

Senator Martin: The unemployment insurance got itself in the position where it was not able to deliver cheques when the people had a right to receive them. Is that the point?

Dr. Willard: Yes, senator. With this kind of case load the switchboards get jammed very quickly, and the number of people that write in overburden the administrative capacity. There are different rates to be taken into account. For instance, take the single OAS?GIS rate; it is $45 for the retroactive feature January to March; it is $24.60 for the retroactive period April to May; then it is the $150 for the regular June cheque. That comes to $219.60. Our publicity has to bring this kind of thing out, in both the inserts and the newspapers. This is the kind of administrative problem we face.

Senator Martin: What is the last day in May for the advertising?

Mr. Bergevin: For the advertising we intend to use the last three days of the month, at the very time the pensioners receive their cheques, because they will not understand why they do not get the cheque immediately.
cheque immediately.

Dr. Willard: They will wonder why the May cheque does not reflect what is being discussed here.

Senator Martin: Is that the usual practice?

Dr. Willard: That is the practice we have followed in the past. As you know, I have been deputy since 1960 and have gone through this process many times. The bee is always on the administrator to come through, and we have come through for the Parliament of Canada time and again. We are trying to do it this time, and all we ask is co-operation. Otherwise, let us pay the cheque in July.

Senator Martin: And if you do not have this bill you will not be able to pay the cheques in June?

Mr. Bergevin: That is correct.

Senator Flynn: That is what you have heard.

The Chairman: Senator Cameron.

Senator Phillips: O.K., I am written off, if that is your wish.

The Chairman: No, no, you are first.

Senator Phillips: I have a number of questions, Mr. Chairman. The witness—I am sorry, I have forgotten the name.

Mr. Bergevin: Bergevin.

Senator Phillips: Mr. Bergevin, you said you started negotiations several weeks ago with IBM and they gave you a final date of May 19. At what specific time did you begin negotiations with IBM?

Mr. Yeomans: The answer is the day after the budget was read. I, like a lot of other people, heard it that evening, and thought, "Oh, my gosh!"

Senator Langlois: That is an honest answer.

Senator Phillips: A lot of people have said that. Do you expect me to believe that you began your negotiations with IBM no earlier than the date of the budget?

Mr. Yeomans: I had no idea there was any change being planned, none whatsoever.

Senator Phillips: Mr. Chairman, I have had your assurance in the Senate this evening that we would have people called. I should like to have the IBM president, or a vice-president, summoned to ask if they did not begin earlier than May 19.

Senator Martin: Mr. Chairman, I do not think any such undertaking was given at all by you or anyone.

The Chairman: No.

Senator Martin: These witnesses have made a statement. These are public servants. They are public servants in whom, I am sure, we all have great confidence. They have said that unless these dates were respected it would not be possible to have the June cheques issued in that period. Now, that is the statement made by these public servants, whose word we would accept. Surely it is not fair to them to give the impression that what they are saying does not represent the situation.

That being the case, I think that it is clear that they have established, beyond any peradventure, the situation which they alone are in a position to speak about. They have told us that if the cheques in June are to be issued, the deadline

suggested is the one, the 19th. Surely that is the situation, Mr. Chairman.

Senator Phillips: Mr. Chairman, . . .

Senator Flynn: I rise on a point of order. The comments of the Leader of the Government are totally out of order, interpreting the answers given by the witness. We can do that in the House. He can do that in the house if he wants to.

Senator Martin: I can do it here.

Senator Flynn: We are here to get facts and not to comment upon the answers obtained. At this point, Mr. Chairman, I personally have enough; and the only thing I would like is that I would move that the minutes of this meeting, and what will be done after I have left, be printed or typed in time for the meeting tomorrow at 11 o'clock. I would like to have them before we tackle the report of the committee.

The Chairman: I, of course, have no authority to do this.

Senator Flynn: I do not know if you have authority, but I am asking that. If I do not get it, I will not hold it against you, but I would like to have it. If you do not give them to me, it will not be a disaster. I will hold it against the ways and means of the majority in the Senate. With this, I bid you goodnight.

Senator Phillips: Mr. Chairman—and again I apologize for interrupting the meeting between you and Senator Martin—I am not satisfied with the answer I have received.

The Chairman: Would you put your question again?

Senator Phillips: I ask that the IBM people be called, be heard under oath, as to when those negotiations began. That is my motion.

Senator Thompson: Mr. Chairman, could I ask if Senator Phillips' reason for this motion is because he does not trust the statement of the public servants? You are not satisfied with the statement by the public servants, is that what you are saying?

Senator Phillips: I have had too much interference from Senator Martin to accept anything.

The Chairman: I would like you, Senator Phillips, to address the chair.

Senator Phillips: That is all right.

The Chairman: And if you have a seconder for the motion.

Senator Phillips: I do not need a seconder, in a committee. If you were chairman, you would know that.

The Chairman: You put the motion.

Senator Phillips: I put the motion that we request that the officials of IBM involved in the negotiations referred to by our witnesses appear before us, and appear under oath, and confirm the testimony given to us.

Senator Thompson: I would like to speak on the motion.

Senator Cameron: So would I.

The Chairman: Senator Cameron has asked to speak first. I am sorry, Senator Thompson.

Senator Cameron: Mr. Chairman, I have no objection to the question or the procedure Senator Phillips is suggesting, but I would suggest that this is the first time in sixteen years in the Senate that I have seen a member of a committee attempt to discredit senior public servants. I think there is an imputation here that cannot go unchallenged, that he is seeking to discredit senior officers employed by the Government of Canada. I do not like that sort of situation, and I am prepared to oppose it in every way possible.

Senator Phillips: Mr. Chairman, I am not discrediting any senior civil servants. It is quite normal, quite customary, to ask from an outside witness that they give evidence under oath. If I am wrong, the Law Clerk will tell me I am wrong, and I will be the first to accept that.

The Chairman: I am sure that your proposal is quite in order, Senator Phillips; but some other senators want to speak on the motion, and Senator Thompson is going to speak.

Senator Phillips: Mr. Chairman, on a point of order, is my motion debatable?

The Chairman: I think it is. I put the motion.

Senator Thompson: Mr. Chairman, I asked Senator Phillips why he wanted the IBM officers, is it because he did not think he had the facts from the public servants, ahd he said that was the case. I, like Senator Cameron, feel that this is an insulting remark to senior public servants who have a record of serving Canada so loyally and with such dedication. I resent the implication or the suggestion he makes concerning their integrity, and I will not support his motion.

Senator Phillips: Mr. Chairman, I am sure you will allow me to reply to an unfair accusation from Senator Thompson. As much as I admire the gentleman, he has misinterpreted my remarks. I said I wanted, not the civil servants under oath—I did not ask that—I asked the IBM . . .

The Chairman: Your motion was quite clear. It has been put, and now we have to vote on it.

Senator Langlois: Mr. Chairman, how can we vote on a motion to call a witness and we do not know his name? If we call all the IBM people here, we will have quite a crowd.

Senator Phillips: Well, call them.

The Chairman: I think we can vote on the principle of it.

Senator Langlois: I suggest that the motion is out of order. It is too general in its terms. Is it to call the president of IBM, or the general manager in Canada or in the United States?

The Chairman: He said the man who was dealing with this.

Senator Phillips: I am sure the witnesses know whom they negotiated with.

The Chairman: I think we are ready for the question and I would like to have a vote on it—at least on the principle of it. Then, if the motion carries, I am sure we will be able to find a name.

Those for the motion?

Those against the motion?

Motion defeated.

Senator Martin: Mr. Chairman, may we go to the bill now?

Senator Phillips: I have one further question, Mr. Chairman. I am a bit confused on the fact that Senator Martin knows so much about the mailout. It is rather unusual for someone in his position to know exactly the date of the mailout, the number and what is to be included.

Therefore, Mr. Chairman, I think it is only fair that we should all have the benefit of having seen the mailout. I would not say I would want the wisdom of Senator Martin, but I would like the benefit of seeing the mailout, what is in it, and the cost to the taxpayer, who designed the mailout, and who took the final responsibility; in other words, who is responsible for the mailout. Can I have that, please?

Dr. Willard: Well, Mr. Chairman, the minister is the executive head of the department. He has the responsibility for anything that is issued. As to the statement or material that will appear in the press that we are trying to get out by the 28th of this month, which gives us about ten days from today, we were working on that as late as this afternoon so it would be available for the minister who had to leave for Hamilton this evening. I think he will get an opportunity to look at that material tomorrow. He hope that there will be approval at that time.

With regard to the cheque inserts perhaps Mr. Bergevin could make some comment on that.

Mr. Bergevin: The text of the mailout is definitely not ready. It is in the form of a handwritten paper because we do not have some essential details. We are working on it now.

Of course, the text for the insert in June will follow the special mailout by two or three days. We cannot work on all of them at the same time. But the text, the final draft or final mailout has to be Monday and the other one Wednesday. We cannot work on the two of them together. The insert will complete, if you like, some aspects of the mailout—you know, some details that we give in the mailout.

Senator Martin: The insert will contain what information?

Mr. Bergevin: Again, we do not have the final text of the June insert. Is that what you have asked? The June insert or the mailout?

Senator Martin: No, the insert.

Mr. Bergevin: The June insert will contain the table that Dr. Willard referred to previously on the various rates for the OAS, how the cheques are made up and what their normal cheque will be thereafter. It is going to be part of the insert.

Senator Thompson: Does the mailout go to individual pensioner?

Mr. Bergevin: That is right, around June 15, if this schedule is kept.

Dr. Willard: A question was asked about costs, Mr. Chairman. We have our preliminary estimates. These are not firm, but this is what it looks like. The information notice to all pensioners will cost about $200,000. The kits that will have to go out to non-GIS pensioners and to others will go out in July; that is, the kits for those 100,000 people who are not now getting GIS but who will move up into that category. That will cost about $210,000. The advertising may be of the order of $128,000. All told, it looks as though the administrative costs for the fiscal year 1972-73, will run, all told, about $1,165,000 compared with the present expenditures that are running about $9,311,000. So this year added expenditures will be heavier. Next year they will drop back to about $173,000.

Senator Martin: Mr. Chairman, I have a series of questions I would like to ask that do not arise specifically out of any of the clauses of the bill. May I address myself to that now?

The Chairman: Yes, unless Senator Phillips has more questions on this particular aspect.

Senator Phillips: Yes, I have one particular question. I am not sure if I understand the witness correctly when he says he must have it by May 23. Did I understand you to say that, sir?

Mr. Bergevin: No, sir. I said the 22nd, Monday morning.

Senator Phillips: Why Monday morning?

Mr. Bergevin: Because I do not have the text now. I have to talk to my superior and find out what it is going to be like. I have to have the last figure, the one in the legislation.

Senator Martin: You cannot put it in until the legislation is law, in other words.

Mr. Bergevin: Really.

Senator Phillips: But is it not unusual for you to be put in this situation whereby you must have something completed by a certain date? As a senior civil servant you have, I assume, gone through this type of procedure before. Is it unusual for you to be given a specific date?

Mr. Bergevin: My answer to that, sir, is very simple. I was asked by my minister and deputy minister a question: "How soon can we get these cheques out?" We sat down with our partner, the Department of Supply and Services, and we prepared the schedule which Mr. Yeomans gave you a few moments ago. This is how we can go step by step. We went back and we said that May 19 would be our date in order to be able to come up with the goods. That is

all. That is how we did it, sir. I have been a civil servant for 30 years.

Senator Phillips: I fully respect your position as a civil servant, sir. But there was no specific direction given to you as to why it had to be that date, or why it could not have been two weeks later or a month later?

Mr. Bergevin: No, sir.

Senator Phillips: Because it is retroactive to January 1.

Mr. Bergevin: I was not given any date, sir. I was asked, "When can you get those cheques out?" And that was our answer—May 19.

Senator Phillips: But no explanation was ever given to you as to why you could not have done the same thing in March?

The Chairman: Well, I think that is beyond the responsibility of the witness at this time. Evidently it is a political decision. A political decision, in so far as the House of Commons is concerned, has been taken unanimously by the house, and I do not think that the witness has really to answer that question. What he has been asked was what date was necessary in order to get the cheques out for June 1.

Senator Phillips: You do not have to lecture me on that position.

The Chairman: I am not lecturing you.

Senator Phillips: I know just as well as you how it works.

The Chairman: I have too great respect for you to lecture you.

Senator Langlois: This was asked on May 9, was it?

Mr. Bergevin: Sure, after the budget.

Senator Martin: And that was the first intimation you had?

Mr. Bergevin: Yes.

Senator Martin: Do you know of any other way by which you could accelerate the procedure?

Mr. Bergevin: We were not given any intimation of what date we should come up with. We went through the mechanical means described by Mr. Yeomans. If we do not have the legislation by May 19 we cannot meet the deadline.

Senator Martin: That is your final decision?

Mr. Bergevin: Yes.

Senator Carter: Mr. Chairman, I have some general questions on the legislation which have nothing to do with this particular aspect. May I proceed?

The Chairman: Do you have any other questions on the time element, Senator Phillips?

Senator Phillips: If I may, I will just ask one more, and we can finish the time aspect and be through with it, Mr. Chairman.

After the motion in the other place, which I referred to in my remarks this evening, was there any directive that went to the witnesses to prepare a date? Or were any questionnaires sent round in that seven-week period between that Conservative motion in the House of Commons, to which I referred, and the budget? As public servants did you receive any directives asking you to give a date on which the cheques would be mailed out?
cheques would be mailed out?

The Chairman: First of all, I am quite sure that our witnesses are free to answer that question if they wish. But I must warn you that this is a privileged question dealing with the relationship between a minister and civil servants.

Senator Phillips: May I just ask the witnesses whether they would answer the question which you have ruled as a privileged question?

The Chairman: If they wish to answer the question they are free to do so within that limitation.

Senator Phillips: Yes, I accept that Mr. Chairman.

Dr. Willard: Mr. Chairman, I am not sure what the question is exactly. I would like to have it framed again.

Senator Phillips: On a date previous to the budget perhaps seven weeks previous, there was a motion in the House of Commons by the official Opposition to produce a result somewhat similar to what you have indicated. I will not go into any partisanship here. I think it is better that way. However, did yoy receive any instructions after that to begin preparing a program of this nature?

The Chairman: As a result of the motion produced by the Opposition?

Senator Phillips: I did not say that, Mr. Chairman.

Senator Langlois: Perhaps as a consequence.

Senator Phillips: It may have been a consequence or it may have been a coincidence.

The Chairman: I am just trying to help you phrase your question—perhaps in French, if you wish.

Senator Phillips: And I am endeavouring to co-operate with you by saying it could be a coincidence or a consequence. Is that fair enough?

The Chairman: Yes.

Dr. Willard: Mr. Chairman, ther was no relationship between that particular motion which has been referred to in the house and what came out in the Minister of Finance budget. Over the past year or so we have from time to time prepared various cost estimates for different programs for the minister. It is normal for our research division to do this on a regular basis. The minister has these cost estimates. However, what the Department of Finance did, or what the Minister of Finance did in his budget was a matter between himself and his colleagues.

The Chairman: Do you have any further questions Senator Phillips?

Senator Phillips: Mr. Chairman, I judt wish to make one comment after that last reply. I would suggest that the witness become a member of the cabinet. You can now pass on to Senator Martin.

The Chairman: I do not feel your remark is in order, but it is on the record, in any event.

Senator Martin: Senator Grosart suggested today that the comparison of cash benefits in Canada with other countries would have been useful information. I feel this is a good place to put this information on the record. Do you have the maximum benefit figures available for Australia for a single person and for a couple?

Dr. Willard: Mr. Chairman, it is difficult to make international comparisons at any time because they relate to the standard of living and so forth in any given country. The only comparisons which we have at this time are those made by our research division and they used the exchange rates as they now exist. The maximum for a single person in Australia is $981 compared with the maximum of $1,800 for OAS-GIS in Canada, and for a married couple the maximum is $1,854 in Australia compared with our maximum of $3,420.

Senator Martin: How about Denmark?

Dr. Willard: Again using the exchange rate basis of comparison, for a single individual the figure is $1,245 and for a couple it is $1,868. Denmark also has a supplement of $272.

Senator Martin: And for The Netherlands?

Dr. Willard: For a single person in The Netherlands the amount is $1,405 and for a married couple it is $1,992.

Senator Martin: For New Zealand?

Dr. Willard: In New Zealand they have a superannuation in the amount of $910 for a single person and $1,665 for a couple. In addition to that there is the old age pension which goes up to $910 for a single person and $1,665 for a couple.

Senator Benidickson: Dr. Willard, you use the term "couple", do you mean a married couple both of whom are eligible for pension?

Dr. Willard: Yes, both of whom are pensioners.

Senator Martin: How about Sweden?

Dr. Willard: For a single person in Sweden the amount is $1,200 and for a couple it is $1,867. There is a supplementary old age pension as well for employees and the self-employed. In Canada, since we have not included the Canada or Quebec Pension Plan for retired benefits, we could leave that figure out. In the case of Sweden, it is $1,200 compared to the $1,800 in Canada for a single person and $1,867 compared to $3,420 for a married couple.

Senator Martin: For the United Kingdom?

Dr. Willard: For a single person in the United Kingdom the amount is $673 with a possible supplementary pension of $700. For a married couple it is $1,091 with a supplementary pension of $1,145.

Senator Martin: And for the United States?

Dr. Willard: The United States is a little easier to compare because our exchange rates are a closer reflection of the relative standards of living. Under their old-age and survival insurance program they have a minimum that provides $760 for a single person while for a married couple it is $1,140 and the average payment under that program is $1,649 for a simgle person and $2,428 for a couple.

Senator Martin: These figures are all in Canadian dollars, are they not?

Dr. Willard: Yes.

Senator Martin: You have provided us with the annual cash benefits for the aged in these selected countries. What we are proposing in Canada is $1,800 OAS-GIS for a single person and $3,420 OAS-GIS for a couple.

Dr. Willard: That is correct.

Senator Martin: On the basis of these comparative figures, the rates in Canada are higher than in any of these other countries.

Dr. Willard: Yes, using the current exchange rates as a basis.

Senator Martin: If this legislation is passed, single persons as well as couples will be receiving higher amounts in comparison to these other countries.

Dr. Willard: That is correct.

Senator Thompson: There has been a statement in the Senate by Senator Grosart. I would like to ask Dr. Willard if this is correct. Is it true that if the cost of living had been the escalating factor from the time the basic pension was $75 until now, that that figure of $90.53 would be the basic pension today?

Dr. Willard: Yes, that is correct, sir.

Senator Thompson: And that would cost the treasury 18 million. Am I correct in that?

Mr. Bergevin: The figere would be $200 million if they get about $10 more than they would get in the base. It would cost from $180 million to $200 million.

Senator Thompson: I do not want to misquote Senator Grosart.

The Chairman: Does this represent your view, Senator Grosart?

Senator Grosart: It does not represent my view and it does not represent what I said. That is a very simple way of putting it but if you multiply 18 by 12 you will get close to a total figure. The $18 million is the one-year-cost-of-living increase cost.

Dr. Willard: Mr. Chairman, I have the figures now. The cost of living between January 1967 and January 1972 rose by 20.7 per cent. This would have meant an increase in the Old Age Security pension to $90.53. Such a rate of benefit would have cost $228 million more than at present or $166 million more than is now proposed.

The Chairman: Does this correspond to your estimates?

Senator Grosart: I said it would cost $18 million more for the annual cost-of-living increase.

Senator Carter: The new ceilings have risen now from $135 for a single person to $285 for a couple, both pensioners. It means that there are some people eligible under this legislation who were not eligible at the beginning of the year.

Dr. Willard: That is correct. We estimate it will be about 100,000.

Senator Carter: You have to go back and recalculate all these claims. What is the position where there is a couple and one of them dies during the month? Is the amount payable to the deceased? Is that paid to the widow, or is that recovered? What happens?

Mr. J. A. Blais, Assistant Deputy Minister, (Income Security), Department of National Health and Welfare: On the death of a pensioner, the payment to that pensioner for the month of death is payable to the estate, irrespective of the date on which death took place.

Senator Carter: What is the mechanism for doing that? Does the cheque have to be returned?

Mr. Blais: Not necessarily. If the cheque is endorsed by the executor of the will, if there is a will, or by the person who is looking after the affairs of the pensioner, it ceases after that.

Senator Carter: The legislation mentions adjustments in the consumer price index. I have been trying to figure out what that means. If the consumer price index is adjusted, say, upwards—because if it is adjusted downwards there is no change —if it was adjusted upwards in June, halfway through the year, does that apply retroactively or only at the date when the adjustment is calculated?

Mr. Blais: The adjustment every year takes place on April 1, at the time the program is renewed. All pensioners have to re-apply once a year for the renewal of the guaranteed income supplement. The adjustment takes place, as I said, on April 1, but it is based on the consumer price index up to September 30 of the year previous. That is to allow us time to print booklets at the new rates and have them in the hands of the public for renewal time in January or February, at which time T4 slips are issued as to income; and it takes us about four months to process applications upon receipt.

Senator Carter: I understand that. I do not think I phrased my question quite as I intended. What I was talking about is not the adjustment in the cost of living index that we are using. It speaks here about an adjustment in the base of the cost. In other words, you are going to develop a different method of determining the cost of living index, as i understand it—in the base of the index, not just the necessary adjustment in the one that we are using.

Dr. Willard: Senator Carter is probably referring to clause 6. If that is the clause he is referring to, that is to take care of the situation when Statistics Canada changes from time to time its consumer price index. If they change the basket of goods every so often, they have to revise the index. This clause is to make sure that our legislation will be adapted to the new index that might be adjusted to reflect a new time base or a new content basis.

Senator Carter: But there is nothing in this legislation to say that Statistics Canada will only make this new calculation with a new basket on April 1. They may do it some time other than April 1, so that you may have some cheques issued on the old basis. When the new one comes into effect, what happens then? Do you use the new one retroactively or do you just continue on?

Dr.Willard: I think, Mr. Chairman, the practice has been that when they come in with a new index they try to give some indication as to how it might reach back into the past. It will be that kind of problem that we will have to face at the time. Whether or not they carry along the old basket of goods a little bit into the future, or whether the new one will reach back, there will be this problem of trying to adjust to a new index of consumer prices. The only point of putting this in the legislation is to say that when this occurs we will go along, at it were, with the new base and with the new index.

Senator Carter: One last question: What would be the position of a couple, both pensioners, one of whom dies and leaves a life insurance policy of, say, $5,000 so that the surviving pensioner would have $5,000 in the bank. Would that interfere with the calculation?

Dr. Willard: The only thing that counts is the interest on it. In applying the income test under this type of program we are really talking, as it were, about the flow of income. In other words, we are not talking about the assets but the interest that comes from them.

Senator Carter: So that a person could have any amount of money in the bank and continue to draw some guaranteed income supplement as long as he is not disqualified by the amount of interest.

Dr. Willard: The interest is used as the income in order to determine how much of a guaranteed income supplement will be received. The asset itself is not considered.

Senator Carter: Have you calculated now how much extra income a person can have before becoming disqualified?

Dr. Willard: Yes, I have it here. Under the proposed plan the cut-off income level for a single person will be $1,-632.00; for a couple, $2,880.00 each; and for a married pensioner, $4,258.56, that is exclusive of old age security, of course, which has to be added.

Senator Carter: Yes.

Senator Thompson: Mr. Chairman, assuming that we, the government, had made a contract with the old age pensioner when he got the basic $75 and because of that contract we are going to see that he gets the increase in the cost of living and that is why we have this raise, we would have to admit that we are $8 short on the amount we should be giving the old age pensioner. Am I correct in that?

Senator Phillips: No, you are a dollar a month short.

The Chairman: First of all, there was no contract.

Senator Thompson: No, but I say if we assume we had a contract.

Dr. Willard: Could you repeat that, please?

Senator Thompson: If we assume that we made a contract with the old age pensioner when we first established the $75 and we are now saying that, having had that contract, the cost of living has escalated and, therefore, we are increasing the pension to be equivalent to the cost of living in order to keep the contract, we would have to admit that this raise we are giving is about $8 short of keeping the original contract. Am I correct in that?

Dr. Willard: Well, yes if you make the assumption that it is a contract, but you may look at it that Parliament from time to time improves the legislation over the years and that this is one improvement such as the other improvements in rates. We started in 1952 at $40 a month, and we went up to $46, $55, $65, $75, $76.50 with the escalator, $78, $79.58 and then to $80. We are now going to $82.88. It also depends on whether you consider the basic pension sufficient in the kind of contract you suggest, so I think it is difficult to put it in that context.

The Chairman: The whole purpose was to create a fund. It is not a contractual arrangement, as you, I am sure, realize at the basis of this. There was a fund to which everyone was supposed to contribute and, as with the unemployment insurance fund, you never know when you will draw from it.

Senator Phillips: Mr. Chairman, if you will pardon me for interrupting, I should just like to say your explanations are far better than those of Senator Martin, and considering you are a neutral chairman . . .

Senator Martin: I agree.

Senator Phillips: . . . I appreciate the fact you went into such detail to explain.

Senator Martin: I agree on that one.

The Chairman: I was an expert witness before the joint committee of the House of Commons and the Senate when the old age pension scheme was being discussed.

Senator Phillips: When you convince me you are an expert, that is fine. I did ask for the floor.

The Chairman: Yes.

Senator Phillips: I have been bypassed every time.

The Chairman: You have had your opportunities.

Senator Phillips: I have had my fair share, I will admit, but, after all, I did ask in the chamber this evening if someone on the government side would speak to this, and there was not one of you who wanted to speak, so I presumed the same attitude prevailed here in the committee.

The Chairman: You can ask all the questions you want.

Senator Phillips: I presumed there was no one on the government side who wanted to ask any questions because no one in the chamber seemed to want to.

I was intrigued by the fact that Senator Martin came out with a long list of countries and the different benefits that were paid in each country. Of course, he has the benefit of an executive staff and the cooperation of the minister and the officials of the department in preparing his questions. I was wondering Mr. Chairman, if anyone had taken the time to take into account and make a comparison between the wages, the cost of living, the contributions and the benefits received in all those—well, I think Senator Martin listed every country except Biafra and Bangladesh.

The Chairman: And the tax rates.

Senator Phillips: And the tax rates. As an economist you know that can be most misleading, but probably you do not. I wonder if anyone has made a comparison in that regard.

Dr. Willard: Mr. Chairman, as I mentioned earlier, we have not gone into the international comparisons to study them in this detail. The type of figures that I have indicated have the limitation I have mentioned. Ideally, if you are making a study of the relative, shall we say, merits of different plans, you would have to take into account not only those factors but other programs such as, for instance, in Canada we have hospital insurance care provided to the old people whereas in the United States they do not.

Senator Phillips: I disagree with you there, sir; they do have medical care in the United States.

Dr. Willard: Yes, they do for the aged; that is correct.

Senator Phillips: The record is now corrected in that regard.

Dr. Willard: If we were to compare Canada which does not have coverage for drugs for old age pensioners with a country that does that would have to be taken into account. In other words, you have to take into account the various other schemes provided. I did not take into account in the Canadian scheme the situation with regard to the Canada and the Quebec pension plans, and as time goes on these will be important factors.

Senator Martin: In 1976.

Senator Phillips: In other words, you made your comparison, I presume, at the request of someone, other than myself, who had taken an entirly different interpretation. Someone senior to you in the department wanted to present a favourable picture to the public.

Dr. Willard: Mr. Chairman, I think that is a bit unfair.

The Chairman: Yes, it certainly is.

Dr. Willard: If the senator would care to look at the testimony in the parliamentary committee on Old Age Security in 1950 he will see that I gave testimony on these things and indicated the difficulties involved in international comparisons. At that time we used exchange rates as a ready rule-of-thumb. Because Canada is doing quite well in this area we should not complain. But you can only use this comparison as a general guide. I think some of these factors that the honourable senator has mentioned, if you are doing a thorough study on this, should be taken into account.

The Chairman: I would like to say, Senator Phillips, that Dr. Willard has been a very devoted civil servant.

Senator Phillips: And I have not criticized him in that regard.

The Chairman: I think that you have implied criticisms, and as chairman I think I must say that I have known him for over 25 years working in that department, and being a very great dedicated Canadian.

Some hon. Senators: Hear, hear.

Senator Phillips: I take nothing away from Dr. Willard, but I find it extremely interesting that in reply to Senator Martin he has a great many beneficial figures to give, but when I ask a question he says in 1950 . . .

The Chairman: All your questions were quite different.

Senator Phillips: In making comparisons.

The Chairman: For instance, if you start to compare countries, as you have tried to do . . .

Senator Phillips: I did not try to do it. It was Senator Martin who was trying to do it.

The Chairman: Senator Martin asked very direct questions about the differential and comparisons between social security benefits. However, if you also get into tax differentials you will see that in Switzerland they pay 22 per cent on their corporate income tax. This has to be taken into account if you want to have a complete comparison between two different countries. This was the purpose of your question.

Senator Phillips: The purpose of my question was to counteract the line of questioning by Senator Martin.

The Chairman: It was quite unfair to the witness. You cannot expect the witness to have these kinds of figures to make comparisons tonight.

Senator Fergusson: Mr. Chairman, I think we have had quite enough discussion on this, and enough irrelevant and unnecessary questions from Senator Phillips. I too resent very much the criticism of the public servants we have before us, particularly Dr. Willard, whom I have known and worked with for many years, and for whom I have the greatest respect. I know that he would certainly mislead no one.

Some hon. Senators: Hear, hear.

Senator Fergusson: I think we have had quite enough of this, and I ask if we cannot now take the bill clause by clause.

Senator Phillips: I am quite willing to take the bill clause by clause, Mr. Chairman. I think Senator Fergusson has unfairly interpreted my question. That is her privilege.

Senator Fergusson: It is not "question"; it is "questions". You have been doing it all evening.

Senator Phillips: All right, then, since Senator Fergusson has ruled that it is not my privilege to ask questions, it is also my privilege not to give consent.

Senator Fergusson: I cannot rule on anything. It is the chairman who rules here. I just express myself like anybody else.

The Chairman: You are the second to go, Senator Phillips.

Senator Phillips: And I will be the first one there in the morning.

The Chairman: Honourable senators, shall we take the bill clause by clause now

Hon. Senators: Agreed.

The Chairman: Shall clause 1 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 2 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 3 carry?

Senator Martin: This is the clause that establishes the basic amount.

The Chairman: If any honourable senator has any questions to ask on any clause he or she is, of course, quite free to raise them as we go along.

Senator Carter: I have a question on the recommendation opposite, the last three or four lines.

The Chairman: Is that on clause 3?

Senator Carter: I do not know which clause it is. It is the recommendation, the last three or four lines. I suppose it means that you pay the three months retroactive in one cheque. Is that what that means?

Senator Forsey: Is that the recommendation of the Governor General?

Senator Carter: Yes. I am wondering what it means.

Senator Martin: That is the recommendation to proceed.

Dr. Willard: It is covered in clause 7, and perhaps we could deal with that when we get to clause 7.

The Chairman: Is that all right?

Senator Carter: Yes.

The Chairman: Shall clause 3 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 4 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 5 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 6 carry?

Senator Martin: This is the clause that repeats the protection in the Canada Pension Plan, dealing with the index?

Dr. Willard: Yes. Where the basis of the consumer price index is changed this is to ensure it is provided for in this legislation.

The Chairman: Shall clause 6 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 7 carry?

Dr. Willard: Mr. Chairman, Senator Carter was asking about clause 7. This clause recognizes that some people who were not entitled to a guaranteed income supplement for January to March, 1972, under the old ceilings may now become eligible under the new ceilings. Rather than require them to submit their 1970 income statements to cover that three-month period and their 1971 income statements for the subsequent 12 months, they are authorized to submit the 1971 statement for the determination of the April, 1972, benefit, and to have this amount used as their benefit for the first three monghs in that year as well. In other words, they can use their 1971 income instead of their 1970 income for those three months. This will simplify it for them.

Senator Carter: Thank you.

The Chairman: Shall clause 7 carry?

Hon. Senators: Carried.

The Chairman: Shall the bill carry?

Senator Thompson: Mr. Chairman, could I just ask one question? I do not know what it comes under. I am thinking of the reciprocity agreement. As I understand it, you have a reciprocity agreement with several countries concerning pensions. Do you have one with Germany? If so, how would that affect this pension?

Dr. Willard: Yes, we have entered into an agreement with West Germany, and that agreement is very much in our favour. It has not required us to change any of our Canadian legislation, and this legislation will not in any way affect it. What that agreement has really done, is to take care of the difficulty where, under the German legislation, they cannot pay pensions to West Germans who come to Canada unless they remain as German citizens. The only way in which that rule can be waived, if they become Canadian citizens, is through having a reciprocal agreement with the country concerned—in this case, Canada; and under these circumstances, then, they can pay pensions from the German pension plans to which the Germans who have come to Canada have contributed and built up credits, they can pay pensions to them even when they become Canadian citizens.

Senator Thompson: In other words, it is portable?

Dr. Willard: Yes, they have made their pensions portable. They are satisfied with the portability of pensions which we have under the Canada Pension Plan, which is completely portable; and under the old age security provisions, which have certain residence requirements concerning portability. The change in the residence rule here makes it a little more liberal than it is now and, therefore, Germany will not have any objection to it.

Senator Thompson: Is there any other country with which we have an agreement?

Dr. Willard: Yes, we had an exchange of letters with the United Kingdom government and there again they considered our legislation to be satisfactory; but in order to make changes in their legislation whereby they could provide more favourable treatment under their legislation, they wanted to have this exchange of letters; so, again, it was not necessary to make any changes in our legislation.

Senator Carter: Could I ask a supplementary on that? A West German national who reaches 65 years of age and has become a Canadian citizen can get her West German or German pension as well as this, as well as this one here, as well as the old age pension?

Dr. Willard: That is correct, yes, provided of course they meet the residence requirement under this bill.

Senator Carter: Yes; but that counts as income for the guaranteed supplement?

Mr. Blais: Mr. Chairman and honourable senators, any foreign pension earned or contributed to in a foreign country is considered as income in terms of our legislation here in Canada. There are some exceptions. For example, anybody who has suffered under the Nazi regime during the war and who was given a pension in terms of compensation for the suffering that he underwent, that kind of pension under the income tax law is not considered income for taxable purposes.

Dr. Willard: Mr. Chairman, the rule to follow is that whatever is done with respect to income under income tax applies with regard to the income supplement, because we use it as the basis for the income test.

The Chairman: I have a vested interest in Mexico. Do we have any arrangement with Mexico?

Dr. Willard: Mr. Chairman, we have no arrangement with Mexico.

The Chairman: So my daughter will not qualify. Shall the bill carry?

Hon. Senators: Agreed.

The Chairman: Carried.

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

The Chairman: Shall I report the bill without amendment?

Hon. Senators: Agreed.

The Chairman: Agreed.

Senator Martin: There was one point raised by Senator Flynn about the evidence, that we be able to have typewritten copies of it.

The Chairman: I hope that the staff will be able to make this available for our meeting at 11 o'clock tomorrow morning.

The committee adjourned.

Published under authority of the Senate by the Queen's Printer for Canada

Available from Information Canada, Ottawa, Canada.

FOURTH SESSION—TWENTY-EIGHTH PARLIAMENT

1971-1972

THE SENATE OF CANADA

PROCEEDINGS OF THE STANDING SENATE COMMITTEE ON

HEALTH, WELFARE AND SCIENCE

The Honourable C. W. CARTER, *Acting Chairman*

Issue No. 2

THURSDAY, JUNE 29, 1972

Complete Proceedings on Bill C-195,

"An Act to amend the Adult Occupational Training Act".

REPORT OF THE COMMITTEE

(Witness and Appendix—See Minutes of Proceedings)

25199—1

THE SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

Chairman: The Honourable Maurice Lamontagne

The Honourable Senators:

Bélisle	Hastings
Blois	Hays
Bonnell	Inman
Bourget	Kinnear
Cameron	Lamontagne
Carter	Macdonald
Connolly (*Halifax North*)	McGrand
Croll	Michaud
Denis	Phillips
Fergusson	Quart
Fournier (*de Lanaudière*)	Smith
Fournier (*Madawaska-Restigouche*)	Sullivan
	Thompson
	Yuzyk–(26)

Ex officio Members: Flynn and Martin

(Quorum 7)

Order of Reference

Extract from the Minutes of the Proceedings of the Senate, Wednesday, June 28, 1972:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Norrie, seconded by the Honourable Senator Kinnear, for the second reading of the Bill C-195, intituled: "An Act to amend the Adult Occupational Training Act".

After debate, and–

The question being put on the motion, it was–

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Norrie moved, seconded by the Honourable Senator Kinnear, that the Bill be referred to the Standing Senate Committee on Health, Welfare and Science.

The question being put on the motion, it was–

Resolved in the affirmative."

ROBERT FORTIER,
Clerk of the Senate.

Minutes of Proceedings

Thursday, June 29, 1972.
(2)

Pursuant to adjournment and notice the Standing Senate Committee on Health, Welfare and Science met this day at 9.32 a.m.

Present: The Honourable Senators Bonnell, Bourget, Cameron, Carter, Fergusson, Inman, Kinnear, Macdonald, Quart, Smith and Yuzyk. (11)

Present but not of the Committee: The Honourable Senator Norrie.

On Motion duly put, the Honourable Senator Carter was elected Acting Chairman.

On Motion of the Honourable Senator Fergusson, it was Resolved to print 800 copies in English and 300 copies in French of these proceedings.

The Committee proceeded to the consideration of Bill C-195, "An Act to amend the Adult Occupational Training Act".

The following witness was heard in explanation of the Bill:

Department of Manpower and Immigration:

Mr. John Meyer,
Acting Director,
Manpower Training Branch.

On Motion duly put, it was Resolved to report the said Bill without amendment.

The Committee requested the witness to supply additional information respecting training under the *Adult Occupational Training Act.* (*Note:* Statistical tables containing this information are printed as an Appendix to these proceedings.)

At 10.30 a.m. the Committee adjourned to the call of the Chairman.

ATTEST:

Patrick J. Savoie,
Clerk of the Committee.

Report of the Committee

Thursday, June 29, 1972.

The Standing Senate Committee on Health, Welfare and Science to which was referred Bill C-195, intituled: "An Act to amend the Adult Occupational Training Act", has in obedience to the order of reference of June 28, 1972, examined the said Bill and now reports the same without amendment.

Respectfully submitted.

C.W. Carter,
Acting Chairman.

25199–2

Minutes of Proceedings

The Standing Senate Committee on Health, Welfare and Science

Evidence

Ottawa, Thursday, June 29, 1972

The Standing Senate Committee on Health, Welfare and Science, to which was referred Bill C-195, to amend the Adult Occupational Training Act, met this day at 9.32 a.m. to give consideration to the bill.

Senator Chesley W. Carter (*Acting Chairman*) in the Chair.

The Acting Chairman: Honourable senators, I thank you for according me the honour of presiding over this meeting. I know that time is very scarce and that we want to progress as quickly as we can.

We have with us Mr. John Meyer, the Acting Director of the Manpower Training Branch, Department of Manpower and Immigration. How do you wish to proceed? Do you wish to have a general discussion and then deal with the clauses afterwards?

Hon. Senators: Agreed.

The Acting Chairman: Mr. Meyer, do you wish to make an opening statement?

Mr. H. J. Meyer, Acting Director, Manpower Training Branch, Department of Manpower and Immigration: I was not briefed to do that. Perhaps it would be easier for me to respond to any questions senators may have on the bill.

Senator Smith: Perhaps I might make a suggestion. In the Senate we had what I thought was a very clear exposition on of the contents of the bill, followed by several important speeches of a critical nature–and I use that word in its best sense. Those who made suggestions in the Senate itself are present here this morning, and it might serve our purpose if they put their questions to the witness, in case he has not been briefed on them.

The Acting Chairman: Is that agreed, honourable senators?

Hon. Senators: Agreed.

Senator Macdonald: Can the witness tell us how many are on these courses at the present time?

Mr. Meyer: I would imagine that at this point in time we would have something in the order of 60,000 trainees.

Senator Macdonald: That is under the present system, whereby they had to be in the labour force for three years?

Mr. Meyer: Yes.

Senator Macdonald: Under this bill that no longer applies. Have you any forecast on how many more will be coming in, and whether you will be able to accommodate them in courses?

Mr. Meyer: At the present an average of slightly less than 60 per cent do not receive allowances, so these people will now be eligible for allowances. Apart from that, what it really boils down to is that we have a broader mandate but not more money. If anything, I suppose the selection process will become a little more difficult.

Senator Inman: Are elderly, retired people drawing fairly good pensions allowed to enter a training scheme?

Mr. Meyer: In principle, yes, though I would imagine the circumstances would need to be rather unusual.

Senator Inman: They are not unusual in our province.

Senator Macdonald: I think what the witness means is that the plan is to help employment.

Senator Inman: I am thinking of, say, a bank manager taking training.

Senator Macdonald: You mean, after he has retired from the bank.

Mr. Meyer: The circumstances would need to be rather unusual, in that the training is intended to prepare or better equip people for employment. I presume that retired people are expected to have retired from the labour force.

Senator Inman: Is there some sort of screening carried out?

Mr. Meyer: Yes, in the sense that manpower counsellors in the Canada Manpower Centres must determine whether the intent of the bill is being met by placing into such training the individual who seeks such placement. The intention of the bill–is, as I explained, to prepare people for more rewarding or more remunerative employment.

Senator Yuzyk: How do you follow up after a trainee has completed his course, regarding his employment?

Mr. Meyer: There are two types of follow up. One is the perhaps somewhat informal one, where the Manpower counsellor initially responsible for placement of the individual in training will follow him up, keep his files active, so to speak, keep an eye on the release date, the date the trainee is expected to become available, and, if

25199–2½

possible, have some employment opportunities lined up to which the trainee may be referred.

Senator Yuzyk: How long does he keep such a trainee on his files? About a year?

Mr. Meyer: Yes, it varies from six months to a year, depending on the kind of skills involved. It would be between six and twelve months. The other type of follow up that we conduct is a broader one. It is really a qualitative analysis of the effect of the program in a broad sense. This would be conducted by the program development service of our department, through a direct-mailing type of follow up.

Senator Yuzyk: About what percentage of trainees are able to secure employment upon completion of the course?

Mr. Meyer: Our latest figures on this are about two years old at the moment, because of the process I have just described, that of getting the information; but at that time about two-thirds of the trainees secured employment in line with the training.

Senator Yuzyk: It has been charged that there are many trainees who complete certain courses and who, upon completion of such courses, are really not suited for a job in that particular locality. What happens to such trainees? This was a particular area in New Brunswick, where there was a task force and it studied the situation. The claim was that many of those who received training could not find a job for the training they received.

Mr. Meyer: Of course, I believe this was at a time when many other people could not find a job either. Unfortunately, at a time of relatively high unemployment, when these are being trained, the jobs for which they are being trained should be readily available. In the department we attempt some job projections, extending over a period of four to five years, on the basis of which we place people in training, or refer them for training, in the hope that these projections will prove to be valid and that the jobs will be available, if not immediately upon completion of training then perhaps half a year or a year later, when the economy picks up.

Senator Inman: Could they change to another course while they are waiting?

Senator Yuzyk: Does the act not specify that you can take only one year? Is it one year of training?

Mr. Meyer: No. The course may be of only 52 weeks' duration, but the act is not specific on the number of courses that an individual may take in succession. So it would be possible to refer the trainee to another course if, in the meantime, for instance, a change in the employment situation had taken place which would lead him to believe that perhaps an earlier and better opportunity will arise in that area of training. However, on the other hand, things may not have changed very much and we may find ourselves in the situation that training in another skill is not going to do much more, perhaps, in certain circumstances than denying somebody else a job.

Senator Inman: Would you allow people to take courses, knowing full well that there would not be employment for them in that type of training?

Mr. Meyer: I would not say that this never occurs, but it certainly is not policy.

Senator Bourget: Have you statistics showing the number of people who took that course and eventually got a job?

Mr. Meyer: Yes, we have a whole book of statistics of this nature, and we would be glad to submit it to the committee.

The Acting Chairman: Could you provide it?

Senator Smith: You do not have information like that this morning?

Mr. Meyer: No.

Senator Smith: You expect us to get the bill through before Friday, do you? It is our practice to have that kind of information, so that our members will permit third reading of a biil. This is vital information. It is a question on my mind and, I am sure, on everyone's mind here today.

Senator Bourget: There has been so much criticism on this, that figures will show exactly what success these programs have had, in relation to the amount of money spent; and I think it is very important that members of the committee and members of the Senate should get those figures.

Mr. Meyer: I appreciate that, senator.

The Acting Chairman: How soon can you make them available?

Mr. Meyer: If I could have time to make a phone call, I could get them here in a couple of minutes.

Senator Smith: As a compromise on the situation, it might be to our satisfaction if this information could be submitted to the one who will be opening the debate on third reading, and then it could be presented to the house. It would then be a matter for individual senators to decide whether this is satisfactory or not. There are other meetings going on today, and it might be a little difficult to wait for the information. I do not know in what form it is, but my own guess is that it is in a rather involved state, a state in which it is a little difficult to draw deductions.

Senator Fergusson: Because New Brunswick has been spoken of, I would like to make a comment. I am very well aware of the task force in New Brunswick. The people on it are great friends of mine, and I have great respect for what they say. The Poverty Committee found many of the same things in different parts of the country. I would like to say that this year I spoke at the closing of the technical school course in Moncton, and I was very much surprised to find that all of the graduates had jobs. I could hardly believe this.

This was not the whole school. They have four sections that close one day after another because they have so many attending that school that the closing used to last all day.

Senator Yuzyk: But, Senator Fergusson, do you not think it is important that we have these statistics. Otherwise how can we know?

Senator Fergusson: I am not asking you not to get the statistics, but you are giving the impression that it is very bad and I am saying that I have had this experience. I must have spoken to 20 or 25 of them, just spot checking myself, because from the information I had picked up on the Poverty Committee and from what I had read on the task force, I could scarcely believe that they were all provided for. Is this unusual, or are we now doing a better job in providing jobs?

Senator Yuzyk: First of all, regarding statistics, I believe you stated that you are two years behind on statistics regarding the whole manpower training program, is that right?

Mr. Meyer: That is part of the follow-up.

Senator Yuzyk: Why is it that you are two years behind? I can still understand one year, but why two years? Certainly we have much improved methods now of obtaining information compared to anything we have ever had before.

Mr. Meyer: If I talk about a two years' span, it relates to people who were placed in training for two years. The maximum training span, as I explained, is 52 weeks. In order to cover everyone who was placed in training at a particular point in time, we have to allow the maximum time spell. We follow up three months after the completion of the year, so that is 15 months; and then we start processing the data, and so on, and producing the information, so that means pretty close to two years, senator.

Senator Yuzyk: I can understand that now, but we are still really two years behind on the whole program?

Mr. Meyer: Yes.

Senator Yuzyk: And the statistics you are going to give us will be as of two years ago. You should be able to have some statistics on certain programs, in particular in a region—where I imagine the statistics are more readily available, are they not?

Mr. Meyer: No, senator. The follow-up statistics are only available in Ottawa. The follow-up survey is only conducted from headquarters. The regional offices do not conduct a separate follow-up.

Senator Fergusson: I wanted to make that comment, that I know a good many of them are coming out of these courses now with the opportunity to have jobs. Those that I was speaking to were in the business courses. Perhaps there are more openings for them in that sort of thing. Certainly they were provided with something to do.

Senator Yuzyk: Can I ask a question about the women, their employment after training and their accessibility to courses? The Royal Commission on the Status of Women claimed that there was discrimination against women in this whole manpower training program.

They also produced statistics indicating that women form 33 per cent of the labour force, that only 20 per cent of them receive any training, that which they do receive being usually for jobs which are reserved for women and are not management positions. Since women wish to play a role similar to that of men in this society, is it true that they are at a disadvantage in starting these courses?

Mr. Meyer: They were, or are, up to the point of royal assent for this bill, by virtue of what has become known as the three-year rule. A three-year attachment to the labour force is required before the trainee is eligible for allowances. This rule has mitigated against many women who, for a variety of reasons, do not have the three-year attachment to the labour force. Moreover, the legislation directly excluded housewives from the definition of the labour force. For these reasons, women were at a disadvantage.

Senator Yuzyk: Is there anything now being done to make it easier for them to upgrade themselves?

Mr. Meyer: One of the key amendments to the act is the removal of the three-year rule. From now on there is no requirement of attachment to the labour force. The sole qualification is to have attended school on a regular basis for a period of not less than one year before entry into training under the Canada Manpower Training Program. This applies only to those individuals who are placed in such training by a Manpower counsellor. It does not apply to situations in which the trainee receives training provided by an employer and the department reimburses the employer for the training. Neither will it apply to apprentice training, in which situations the training arrangements are really made under provincial jurisdiction and we assist the province financially in the operation of the program.

Senator Yuzyk: Are many women counsellors engaged in the Manpower training program?

Mr. Meyer: Yes.

Senator Yuzyk: So you are attempting to rectify the situation regarding the proportion of women from that point of view?

The Acting Chairman: Do you have the statistics?

Mr. Meyer: No.

Senator Yuzyk: You are still not trying to do that?

Senator Smith: I did not hear the answer.

Mr. Meyer: No, I do not have statistics.

Senator Yuzyk: That is again where we are working in the dark, because we do not have enough figures.

Senator Smith: It is obvious that quite a number of women are employed in the Manpower training program recommending people for courses. I live in a small town in which there is a Manpower centre with four counsellors, two of whom are women. There is nothing brand new about it.

Mr. Meyer: No; particularly since the major staff re-orientation took place in 1967 many female counsellors have been engaged. In fact, I have been informed by those in charge of personnel that they show a better staying power than the male counsellors recruited at that time.

Senator Smith: That is also my opinion, based on knowledge of what goes on in our Manpower training centre.

Senator Inman: How many courses may one individual take?

Mr. Meyer: There is no hard and fast rule in that regard, senator.

Senator Inman: Is one course per year available?

Mr. Meyer: No, it is one course of 52 weeks duration. In other words, there is a statutory limit on the duration of the course itself of 52 weeks.

Senator Inman: And another course may be taken during the following year?

Mr. Meyer: This happens many times, particularly in cases where the trainee needs to be brought up to an educational level required to enter a skill course. In many instances we first provide educational up-grading, to a maximum of 52 weeks, in order to meet the Grades 10, 11 and 12 level requirements of the skill courses, which in most instances follow immediately.

Senator Inman: How many courses would an adult be allowed to take, other than the skill courses?

Mr. Meyer: Depending on his need it could be two, namely an educational up-grading course and an occupational or skill course, the one following the other.

Senator Cameron: Have you any idea, even in round figures, of the percentage of students who require up-grading from Grade 7 to Grades 9 and 10?

Mr. Meyer: Approximately one-third of our budget is devoted to educational up-grading.

Senator Yuzyk: Are there many who start these courses with a level below Grade 8?

Mr. Meyer: Yes. It may go down as far as functional illiteracy.

Senator Yuzyk: And the Manpower training program educates them in the grade school in addition to skills?

Mr. Meyer: That is correct.

Senator Yuzyk: That is excellent.

Mr. Meyer: I should make it clear that we do not provide grade school training. We provide so-called educational up-grading in the subjects pertaining to the skill, math, science and communicative skills, but there is no history.

Senator Cameron: I come from the west and am informed that there is a shortage of workers having geophysical training to join field parties. What information have you in that respect? Do you offer geophysical training courses? If so, do you have any idea how many would be taking the subject?

Mr. Meyer: We have provided a fair amount of training, Senator Cameron. The names of the courses escape me, but we have been training those involved in the drilling of the blast holes, the blasting, survey parties and frogmen, particularly in the west and partly in support of the mapping program which is taking place there. It is also to quite an extent in support of oil exploration.

I would have to compile this type of detail. If you desire specific figures for your province, I would be more than happy to provide them.

Senator Cameron: It would be only Alberta, because the geophysical program is rather extensive now, particularly in the Northwest Territories.

Mr. Meyer: One of the problems, as I am sure you are aware, is the considerable turnover in such occupations. We hope to train more and more native people, particularly in surveying, which is open-air work in which they perform very well. We have discussed within the department the development necessary in order to give native people full access to the exploration and construction activities which will move forward from northern Alberta into the Mackenzie River Valley.

Senator Cameron: What percentage of native people are taking this training? The complaint we hear is that native people are not being given the chance, that the oil companies are bringing in non-native people from all over the place, and native people are just left sitting there.

Mr. Meyer: We have trained a fair number. I am now speaking from personal experience, having worked in that part of the country. We have trained a fair number of people, but their attractiveness to the employer frequently is not so much skill as their reliability as an employee, as I am sure you know.

Senator Quart: One of the questions that I had has been answered satisfactorily. But to follow up a question asked by Senator Inman, when we were on the Poverty Committee a senator from New Brunswick knew of a man who had four occupational training courses in an area where there was no hope of employment. Yet he was given an opportunity to attend another training course for another occupation. Does that seem logical? The members of the Poverty Committee who are here know that case was brought up. Afterwards he said, "Very likely this man will try next year, because it is so much easier to live this way and go on and take

another course." Most of the time it was in an area where there was no hope of employment for that particular course. Does that not seem an abuse?

Mr. Meyer: Yes, it would seem to be, senator. There may be circumstances that may explain the situation. I was made aware at one point in time of an individual in the west who managed to coast for four years on Manpower training by moving around the prairie region from one area to another.

Senator Quart: But he was evidently eligible to be given preferential treatment by whoever was the supervisor in that particular area.

Senator Macdonald: The Manpower officer is the man who determines whether a man should take a course. I think it fair to comment that in some areas a person can take more than one course. If the Manpower officer gives a course in one subject, and there is no work there, there is nothing to prevent him from giving the man another course.

Mr. Meyer: The situation you describe is a rather unusual one. It is difficult for me to comment without having specific details.

Senator Kinnear: My question is along the lines of that asked by Senator Bourget. Would you say that the 16 to 30 age group are more employable after training than the 30 to 45 age group? I am interested in knowing if the older person is easily placed after training, or is that where some of the difficulty lies?

Mr. Meyer: I cannot provide a ready answer to that, senator.

Senator Kinnear: Do you think that those from 16 years onword can be placed easily?

Mr. Meyer: We hope that they can be readily placed once they have been trained; but we have had no experience with them because they were excluded from the program by virtue of the three-year rule. Our experience starts from those who are about age 20.

Senator Kinnear: There is such difficulty getting the older person from, say, 35 to 45 placed at any time. I wondered if they can be retrained for a different skill, or, if their skill is increased by training, they are readily placed. In southern Ontario it is difficult to place people from 35 to 45 years of age. Do you find that to be the case in general?

Mr. Meyer: The statistics which I have reviewed do not specifically make this point, but I can see that it is a point of interest.

Senator Macdonald: Might I make a comment? I took this from the Toronto *Star* of yesterday. A young lady wrote saying that she had been trying to get a course since 1969 and had been placed on the waiting list since last April. She wanted the paper to do something about it. Here is she point. The paper says:

> Our congratulations to this reader who has now started her course... She had been accepted by Manpower... last April but was 18th on a standby list with some hope of being able to start school in July.
>
> Some time ago we contacted Canada Manpower, our reader was advanced from 18th to top position.

This looks to me like discrimination, if a newspaper can call a Manpower office and they can take somebody from 18th position and put her at the top of the list. What about the other 17?

Senator Smith: Even politicians cannot do that!

Mr. Meyer: I will look into that.

Senator Norrie: I have noticed in Nova Scotia that there is no apparent connection or co-ordination between the different Manpower centres throughout the province. If there are no jobs available in one area, there might be many jobs available in another area. Therefore people are missed and are not located in working positions. Is there any way whereby we could have better co-ordination in these matters? It seems to me that centres should co-operate with each other and let the others know where and when a job is available.

Mr. Meyer: I am sorry that you have that impression, senator, because we have what we call a clearance system, which is exactly the kind of mechanism that you advocate. It works this way: where a Canada Manpower centre cannot fill vacancies, as registered with the CMC by employers from its own files and in its own area, those vacancies are given in what we call in-clearance. There are two clearance ranges, the provincial range and the national range. It means that all CMCs in the area are made aware of vacancies. The basic characteristics of the vacancies are circulated, and the CMCs which may have a surplus of these specific skills are encouraged to refer their candidates, so to speak.

Senator Norrie: In other words, the general public does not know enough to fight for it—and I mean fight for it—insist on it, anyway.

Mr. Meyer: This may be one point.

Senator Norrie: It should be insisted on anyway.

Mr. Meyer: Those who have the skill and could be employed somewhere else are reluctant to go, for a variety of reasons.

Senator Norrie: There is another point that bothers me quite a lot. One has to be particularly persistent, almost a fighter, to obtain a second training course for somebody. The training course I have in mind was related to the first one, and the man could not work without having a second course. Had it not been for my persistence he could not have made his point with the officials at all and could not have been retrained. I did get him into the second course for retraining. As a matter of fact, he will have three courses.

Mr. Meyer: Did you use your influence on him?

Senator Norrie: I just used my temper.

Senator Yuzyk: And charm.

Mr. Meyer: Are you by any chance talking about an electronics course?

Senator Norrie: No. This man was a farmer. He was afraid he would become incapable in his later years, when he was about 50, because he had a bad back. He wanted to be retrained in finishing furniture. He was put into a cabinet making course, which was quite wrong. They would not listen to me. The man did not get a good instructor. The next year I tried to get him into upholstery, but it was nearly a year before they could get him adjusted. When I eventually dealt with the right person, the matter was dealt with immediately. Previously I had been dealing with people who were just not efficient. When I got to the right people I had no problem at all. This is what makes one so annoyed.

I know there is a problem with people taking several courses and just making a point of taking course after course, trying to keep themselves fed in that way, but it seems that they are not very well counselled. A man such as the one I have been referring to should not have to fight his way so much. He is a fine person, and competent too. I was told by different places that a man could not take any more than one course. I was told that myself, so this was no fairy tale. It was only when I got to Ottawa and spoke to one of the ministers that I was told one could insist on a course, and then I started to fight.

Mr. Meyer: I cannot comment on a specific case, because I do not know the details. As to the principle, as I mentioned before, the only legislative limitation is the 52 weeks on the duration of a course. The limitation on the number of courses is a matter of policy, in a sense. Quite frequently a person receives at least two courses, in that he receives educational up-grading to enable him to enter the skill course in the first place. Less frequently a person will have received two skill courses in succession. That is why I asked about the electronics course, because this is one area in which there are two tandem courses required in order to achieve reasonable employability. This is quite acceptable. Unfortunately, there are over 5,000 counsellors out in the field, and from time to time they may be inclined to make a decision or judgment which could be questioned.

Senator Norrie: My point is that this man could not fight his own battle; he had to get somebody else to fight his battle for him. This is what makes me somewhat annoyed. Why cannot they accept a person on his own qualifications and work it out by themselves? Why should I have to intervene and push the point?

Mr. Meyer: He could have insisted on seeing the CMC manager after he did not get satisfaction from the counsellor.

Senator Norrie: They just pushed him aside.

Senator Bonnell: I realize this makes a change in the Adult Occupational Training Act. Certainly it gives training allowances for a large number of adults. I am wondering about the definition of "adult" in the bill, which is:

> a person whose age is at least one year greater than the regular school leaving age in the province in which he resides.

Is that the same age in all provinces of Canada?

Mr. Meyer: No, and it is not the same within certain provinces. Generally it is around age 16, but there is considerable variation in the detailed legislation on the point. We analyzed this two years ago in order to enable our field people to make the right judgments, and we found that even within provinces ministers of education had certain authority to bring it down as far as 14 years. For example, the school leaving age is 16 in Manitoba, but if the nearest school is more than 25 miles away, or something of that nature, they are excused at age 14. This makes it very difficult.

Senator Bonnell: You do not know the statistics of the ages in different provinces? It could be different ages in different parts of one province? Is that what you say?

Mr. Meyer: Yes, this could be the case. You would almost have to determine it person by person, depending on the special circumstances.

Senator Bonnell: We realize that at the present time the unemployment rate in Canada is going down, but there has been a comparatively high unemployment rate in Canada during the last year. Is there any contemplation by the Department of Manpower and Immigration to amalgamate the Unemployment Insurance and Manpower offices into one office, so that somebody who is unemployed can go to the next wicket and say, "Put me on training so I can get a job. I haven't any skills at the moment, but there are jobs available if I have a skill." There does not seem to be enough correlation or co-operation between Unemployment Insurance and Manpower. They seem to be separate and apart, whereas I think that when a man is unemployed he should be able to go to the very next wicket and see the Manpower officer to find out if he can be trained for a skill for which there is a demand, so that he can get a job. On many occasions when there is a high rate of unemployment in the country there are many jobs available, if the people were trained for them.

Mr. Meyer: From where I sit I can see that the relationship between the two services is actively being strengthened. To what extent they may become physically or otherwise integrated is something in the mind of our deputy minister, and perhaps his minister. I would not be able to comment on that.

Senator Macdonald: Was not what Senator Bonnell is suggesting the case some time ago, and then they were separated?

Senator Bonnell: They used to be very close, but then they seemed to be pulled apart. They should be pulled together, to get them very close.

Senator Macdonald: I think that is a matter of policy of the department.

Senator Bonnell: I think it needs amendment. It would be a great asset to a lot of people who were previously disadvantaged and not able to take advantage of a training program.

Senator Inman: How are your instructors chosen? Do they have an examination of any kind?

Mr. Meyer: You mean the people who teach on the courses?

Senator Inman: Yes.

Mr. Meyer: No. We have no control over that, because this is entirely within provincial jurisdiction. If we are unhappy about the performance of a particular teacher, who may be brought to our attention by trainees, we may pass the information on to the responsible provincial officials. In the final analysis it is the provincial responsibility to choose instructors, teachers and trainers, and see that they have the proper skills for the jobs they are to do.

Senator Inman: You have no control over the provincial appointments at all?

Mr. Meyer: None whatsoever.

Senator Yuzyk: I would like to have some information about in-industry training as compared with, say, regular vocational training. What proportion of the trainees are in in-industry training?

I would like just a brief answer to my question. I would like to know which is the more successful–the regular vocational training, or the in-industry training, from the point of view of employment.

Mr. Meyer: I am not sure that we can put it in those terms, senator. Perhaps after the meeting I could discuss this with you in some detail. In principle, the in-industry training, as you call it, is relatively a very small part of our total program, as has probably been pointed out by the Economic Council of Canada. We had a major on-the-job training program during the past winter. That is somewhat different. That certainly has enjoyed a great deal of popularity with industry. At the moment we are engaged in a follow-up survey to determine just what it cost and what its popularity may be. Certainly, the 75 per cent reimbursement of wages would contribute to it. We want to determine whether it is as effective a training program as we hoped it would be. That really should be considered separate from our normal in-industry training program which has been conducted since the beginning of 1967. That has been a good but very small program.

Senator Yuzyk: But it has been a good program?

Mr. Meyer: Yes, a good program.

Senator Yuzyk: And it can be improved now?

Mr. Meyer: Yes.

Senator Yuzyk: And you do say it is becoming more popular.

Mr. Meyer: Yes.

Senator Bourget: Is there an age limit at which a trainee can apply?

Mr. Meyer: Any training, or training in industry?

Senator Bourget: Any training?

Mr. Meyer: There is an age limit in the sense that he must be one year past the school leaving age.

Senator Bourget: That I understand, but what about the upper limit?

Mr. Meyer: There is no upper limit.

Senator Smith: It is a matter of judgment for the official who refers him.

Senator Bourget: Is the entire cost borne by the central government in all cases?

Mr. Meyer: Yes, it is. In the case of institutional training, yes. In the case of training in industry, no. In the case of training in industry the employer makes a certain contribution, mostly in terms of overhead costs.

Senator Bourget: And all the instructors are paid by the federal government?

Mr. Meyer: The instructional staff is paid by the province, but the federal government reimburses the full cost.

Senator Bourget: 100 per cent?

Mr. Meyer: Yes, 100 per cent.

Senator Bourget: What was the cost of that program last year, and what will it cost this year? We may find those figures in the Estimates, but perhaps you have them at hand.

Mr. Meyer: Last year the budgeted cost was approximately $325 million. We received an additional $15 million later on in the fall, in order to provide additional training as part of the government winter works program. We did not use all of the additional money, so the actual fund consumption has been somewhat over $330 million. This year it will be in the order of $350 million.

Senator Norrie: I understand that you have the same amount of money in the new bill to spread over the services?

Mr. Meyer: That is correct.

Senator Norrie: If we have the same amount of money, are we not servicing fewer people, or is it more streamlined, or being more efficiently handled?

Mr. Meyer: We have the same amount of money this year, but we will have a broader group to choose from, because we have

removed the three-year limitation. We know from the past that something in the order of 9 per cent of the trainees do not receive allowances. These are the people who will now be able to receive allowances. They will be at the bottom of the scale, about $43 a week allowance. As you have noticed, the act provides for a special allowance, which will probably be in the order of $30 a week. This allowance is intended for those people who do not need to provide for themselves entirely. We are thinking here of the young adult of 17 or 18 years of age who is living with his or her parents, and the father works. There is no particular problem there. In those situations, this young adult does not need entirely to look after himself; he is part of the family. It is felt that a reduced allowance should be satisfactory there. Similarly for the housewife who wants to return to the labour force and needs to receive some training prior to that, but whose husband works and provides a normal income and support. She does not have all the responsibilities of the single adult. The same kind of situation will apply there. She will receive the basic allowance of $30. Since these allowances are fairly low and the total number of trainees, the 9 per cent, is rather limited, we believe that we can provide necessary funds out of the flexibility that is in the total budget, and we do not expect this to cause any reduction in the number of trainees.

Senator Norrie: There is a section in this pamphlet which says that in Quebec anyone who is taking one of these training courses gets $47 a week, but if he is on unemployment this gives him $90, and the department makes up the difference.

Mr. Meyer: The Unemployment Insurance does?

Senator Norrie: Yes, the Unemployment Insurance, so actually anyone who is getting under $90 a week, if they are under the Unemployment Insurance, they get that?

Mr. Meyer: They must have entitlement to the insure benefit.

Senator Norrie: Yes, but that only covers those who are entitled to the insurance.

Mr. Meyer: That is correct.

Senator Bonnell: I would like to have one thing clear in my mind. You have said that the same amount of money was available and you have said that the three-year limitation or waiting period is off and you said there are not going to be any limitations in the number of people on training, that you will have the same number of people. What I am anxious to know is this: Has the total federal budget for manpower training been used up in each year for the last three years, say, or has there been a certain surplus left over because there was no program available?

Mr. Meyer: Every year it has been consumed to within less than one per cent.

Senator Bonnell: Thank you. I am ready for the vote, Mr. Chairman.

The Acting Chairman: Are there any more questions?

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

The Acting Chairman: Is that agreed?

Hon. Senators: Agreed.

The Acting Chairman: It is carried.

The committee adjourned.

APPENDIX

The Honourable C.W. Carter,
The Senate,
OTTAWA, Ontario.

June 29, 1972
OTTAWA K1A 0J9

Dear Senator Carter:

As promised during this morning's committee meeting on Bill C-195, I attach a set of five tables showing by Region the placement and employment of persons who received skill training under the Adult Occupational Training Act. The tables provide a breakdown by major course (occupational) group and show a cumulative summary for a 12-month survey period ending April-May 1971.

In the columns are given for each major course group actual numbers and, below it, the percentage relationship.

Unfortunately, a national aggregation is not available at this time. However, the content of the tables can be summarized as follows:

	Employed (%)	Not Employed* (%)
Atlantic Region	73.1	26.9
Quebec Region	78.2	21.8
Ontario Region	67.0	33.0
Prairie Region	79.6	21.4
Pacific Region	73.7	26.3
Canada	74.6	25.4

* Of those not employed within three months of completion of training approximately 20% did actively seek work.

The survey results do not yet include information which shows the relative success in obtaining employment upon completion of training between age groups, for instance, the age group 20-30 as compared to the age group 40-50. I regret that this information cannot be provided.

Yours sincerely,

H. John Meyer,
A/Director,
Manpower Training Branch.

ADULT OCCUPATIONAL TRAINING STATISTICS

TRAINING OUTCOMES BY MAJOR COURSE GROUP
1970 TWELVE-MONTH CUMULATIVE SUMMARY: SKILL RETRAINING
(SURVEY PERIOD ENDING: APRIL–MAY, 1971)

ATLANTIC REGION

Course group	Training outcome: Employed			Not employed			Response rate		
	Course occupation	Related occupation	Not related	Seeking work	Not seeking	Further training	Total respondents	Non-response	Total surveyed
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Supervisory, Para-Professional and Technical	74 21.3%	37 10.7%	158 45.5%	48 13.8%	21 6.1%	9 2.6%	347 100.0%	218 38.6%	565
Clerical, Sales, Service and Recreation	245 25.8%	119 12.5%	204 21.4%	292 30.7%	81 8.5%	10 1.1%	951 100.0%	459 32.6%	1,410
Transport and Communication	75 31.6%	9 3.8%	83 35.0%	64 27.0%	4 1.7%	2 0.9%	237 100.0%	114 32.5%	351
Farmers and Farm Workers	40 51.3%	1 1.3%	24 30.8%	7 9.0%	3 3.8%	3 3.8%	78 100.0%	57 42.2%	135
Hunting, Trapping, Fishing, Logging and Mining	96 31.3%	12 3.9%	126 41.0%	56 18.2%	14 4.6%	3 1.0%	307 100.0%	217 41.4%	524
Machining, Welding, Plumbing, Sheet Metal and Related	166 31.1%	12 2.2%	199 37.3%	141 26.4%	7 1.3%	9 1.7%	534 100.0%	262 32.9%	796
Mechanics and Repairmen	164 25.6%	26 4.0%	282 44.0%	128 20.0%	18 2.8%	23 3.6%	641 100.0%	278 30.3%	919
Construction and Other Craftsmen and Production Process	167 21.4%	29 3.7%	314 40.3%	220 28.3%	30 3.9%	19 2.4%	779 100.0%	459 36.0%	1,218
TOTAL	1,027 26.5%	245 6.3%	1,390 35.9%	956 24.7%	178 4.6%	78 2.0%	3,874 100.0%	2,044 34.5%	5,918

NOTE: Number in brackets below Course Number is approximate equivalent D.B.S. Occupational Classification.

TRAINING OUTCOMES BY MAJOR COURSE GROUP
1970 TWELVE-MONTH CUMULATIVE SUMMARY: SKILL RETRAINING
(SURVEY PERIOD ENDING: APRIL–MAY, 1971)

QUEBEC REGION

Course group	Training outcome: Employed: Course occupation	Employed: Related occupation	Employed: Not related	Not employed: Seeking work	Not employed: Not seeking	Not employed: Further training	Response rate: Total respondents	Response rate: Non-response	Response rate: Total surveyed
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Supervisory, Para-Professional and Technical	22 7.7%	23 8.1%	145 51.1%	67 23.6%	16 5.6%	11 3.9%	284 100.0%	137 32.5%	421
Clerical, Sales, Service and Recreation	300 18.2%	162 9.8%	365 22.2%	615 37.4%	157 9.5%	48 2.9%	1,647 100.0%	840 33.8%	2,487
Transport and Communication	110 68.3%	1 0.6%	33 20.5%	13 8.1%	3 1.9%	1 0.6%	161 100.0%	102 38.8%	263
Farmers and Farm Workers	373 82.9%	4 0.9%	51 11.3%	18 4.0%	1 0.2%	3 0.7%	450 100.0%	115 20.4%	565
Hunting, Trapping, Fishing, Logging and Mining	55 23.8%	15 6.5%	123 53.2%	35 15.2%	2 0.9%	1 0.4%	231 100.0%	87 27.4%	318
Machining, Welding, Plumbing, Sheet Metal and Related	46 17.9%	23 8.9%	95 37.0%	70 27.2%	10 3.9%	13 5.1%	257 100.0%	101 28.2%	358
Mechanics and Repairmen	90 12.6%	26 3.6%	302 42.2%	252 35.2%	22 3.1%	24 3.3%	716 100.0%	378 34.6%	1,094
Construction and Other Craftsmen and Production Process	194 19.2%	50 4.9%	318 31.4%	317 31.3%	114 11.3%	19 1.9%	1,012 100.0%	502 33.2%	1,514
TOTAL	1,190 25.0%	304 6.4%	1,432 30.1%	1,387 29.2%	325 6.8%	120 2.5%	4,758 100.0%	2,262 32.2%	7,020

NOTE: Number in brackets below Course Number is approximate equivalent D.B.S. Occupational Classification.

TRAINING OUTCOMES BY MAJOR COURSE GROUP
1970 TWELVE-MONTH CUMULATIVE SUMMARY: SKILL RETRAINING
(SURVEY PERIOD ENDING: APRIL–MAY, 1971)

ONTARIO REGION

Course group	Training outcome: Employed: Course occupation	Employed: Related occupation	Employed: Not related	Not employed: Seeking work	Not employed: Not seeking	Not employed: Further training	Response rate: Total respondents	Response rate: Non-response	Response rate: Total surveyed
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Supervisory, Para-Professional and Technical	47 17.7%	16 6.0%	117 44.2%	60 22.6%	20 7.6%	5 1.9%	265 100.0%	210 44.2%	475
Clerical, Sales, Service and Recreation	465 25.2%	297 16.1%	341 18.5%	559 30.4%	163 8.8%	18 1.0%	1,843 100.0%	1,471 44.4%	3,314
Transport and Communication	35 48.6%	— 0.0%	19 26.4%	17 23.6%	1 1.4%	— 0.0%	72 100.0%	56 43.8%	128
Farmers and Farm Workers	37 67.3%	3 5.5%	8 14.5%	4 7.3%	2 3.6%	1 1.8%	55 100.0%	31 36.0%	86
Hunting, Trapping, Fishing, Logging and Mining	— 0.0%	— 0.0%	1 12.5%	2 25.0%	— 0.0%	5 62.5%	8 100.0%	1 11.1%	9
Machining, Welding, Plumbing, Sheet Metal and Related	112 21.7%	45 8.7%	190 36.7%	158 30.6%	8 1.5%	4 0.8%	517 100.0%	379 42.5%	896
Mechanics and Repairmen	145 31.8%	10 2.2%	176 38.7%	110 24.2%	10 2.2%	4 0.9%	455 100.0%	414 47.6%	869
Construction and Other Craftsmen and Production Process	143 18.7%	31 4.1%	278 36.4%	268 35.1%	40 5.2%	4 0.5%	764 100.0%	617 44.7%	1,381
TOTAL	984 24.7%	402 10.1%	1,130 28.4%	1,178 29.6%	244 6.2%	41 1.0%	3,979 100.0%	3,179 44.4%	7,158

NOTE: Number in brackets below Course Number is approximate equivalent D.B.S. Occupational Classification.

TRAINING OUTCOMES BY MAJOR COURSE GROUP
1970 TWELVE-MONTH CUMULATIVE SUMMARY: SKILL RETRAINING
(SURVEY PERIOD ENDING: APRIL-MAY, 1971)

PRAIRIE REGION

Course group	Training outcome: Employed — Course occupation	Employed — Related occupation	Employed — Not related	Not employed — Seeking work	Not employed — Not seeking	Not employed — Further training	Response rate — Total respondents	Response rate — Non-response	Response rate — Total surveyed
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Supervisory, Para-Professional and Technical	81 33.9%	4 1.7%	98 41.0%	26 10.9%	22 9.2%	8 3.3%	239 100.0%	131 35.4%	370
Clerical, Sales, Service and Recreation	245 39.8%	72 11.7%	112 18.2%	106 17.2%	64 10.4%	17 2.7%	616 100.0%	448 42.1%	1,064
Transport and Communication	— 0.0%	— 0.0%	— 0.0%	— 0.0%	— 0.0%	1 100.0%	1 100.0%	—	1
Farmers and Farm Workers	47 81.0%	6 10.4%	5 8.6%	— 0.0%	— 0.0%	— 0.0%	58 100.0%	12 17.1%	70
Hunting, Trapping, Fishing, Logging and Mining	6 11.8%	— 0.0%	28 47.5%	18 30.5%	6 10.2%	— 0.0%	59 100.0%	68 53.5%	127
Machining, Welding, Plumbing, Sheet Metal and Related	74 34.4%	7 3.3%	90 41.8%	40 18.6%	3 1.4%	1 0.5%	215 100.0%	158 42.4%	373
Mechanics and Repairman	91 35.3%	6 2.3%	99 38.4%	46 17.8%	4 1.6%	12 4.6%	258 100.0%	156 37.7%	414
Construction and Other Craftsmen and Production Process	68 28.7%	3 1.3%	103 43.4%	59 24.9%	3 1.3%	1 0.4%	237 100.0%	155 39.5%	392
TOTAL	613 36.4%	98 5.8%	535 31.8%	295 17.5%	102 6.1%	40 2.4%	1,683 100.0%	1,128 40.1%	2,811

NOTE: Number in brackets below Course Number is approximate equivalent D.B.S. Occupational Classification.

TRAINING OUTCOMES BY MAJOR COURSE GROUP
1970 TWELVE-MONTH CUMULATIVE SUMMARY: SKILL RETRAINING
(SURVEY PERIOD ENDING: APRIL–MAY, 1971)

PACIFIC REGION

Course group	Training outcome: Employed — Course occupation	Employed — Related occupation	Employed — Not related	Not employed — Seeking work	Not employed — Not seeking	Not employed — Further training	Response rate — Total respondents	Response rate — Non-response	Response rate — Total surveyed
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Supervisory, Para-Professional and Technical	90 23.9%	44 11.7%	211 55.9%	27 7.1%	4 1.1%	1 0.3%	377 100.0%	144 27.6%	521
Clerical, Sales, Service and Recreation	256 34.4%	90 12.1%	155 20.9%	170 22.9%	63 8.5%	9 1.2%	743 100.0%	429 36.6%	1,172
Transport and Communication	6 31.6%	— 0.0%	8 42.1%	5 26.5%	— 0.0%	— 0.0%	19 100.0%	8 29.6%	27
Farmers and Farm Workers	21 56.8%	3 8.1%	9 24.3%	2 5.4%	2 5.4%	— 0.0%	37 100.0%	17 31.5%	54
Hunting, Trapping, Fishing, Logging and Mining	13 19.1%	1 1.5%	19 28.0%	31 45.6%	2 2.9%	2 2.9%	68 100.0%	60 46.9%	128
Machining, Welding, Plumbing, Sheet Metal and Related	63 35.8%	12 6.8%	40 22.7%	56 31.8%	2 1.2%	3 1.7%	176 100.0%	112 38.9%	288
Mechanics and Repairmen	68 28.7%	7 3.0%	98 41.3%	56 23.6%	5 2.1%	3 1.3%	237 100.0%	146 38.1%	383
Construction and Other Craftsmen and Production Process	72 28.5%	3 1.2%	89 35.2%	75 29.6%	11 4.3%	3 1.2%	253 100.0%	151 37.4%	404
TOTAL	589 30.8%	160 8.4%	629 32.9%	422 22.1%	89 4.7%	21 1.1%	1,910 100.0%	1,067 35.8%	2,977

NOTE: Number in brackets below Course Number is approximate equivalent D.B.S. Occupational Classification.

Published under authority of the Senate by the Queen's Printer for Canada

Available from Information Canada, Ottawa, Canada.

FOURTH SESSION—TWENTY-EIGHTH PARLIAMENT

1971-1972

THE SENATE OF CANADA

PROCEEDINGS OF THE STANDING SENATE COMMITTEE ON

HEALTH, WELFARE AND SCIENCE

The Honourable MAURICE LAMONTAGNE, P.C., *Chairman*

Issue No. 3

WEDNESDAY, JULY 5, 1972

Complete Proceedings on Bill C-183:

"An Act to amend the Canada Labour Code".

REPORT OF THE COMMITTEE

(Witnesses—See Minutes of Proceedings)

25201-1

THE SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

Chairman: The Honourable Maurice Lamontagne

The Honourable Senators:

Bélisle	Hastings
Blois	Hays
Bonnell	Inman
Bourget	Kinnear
Cameron	Lamontagne
Carter	Macdonald
Connolly (*Halifax North*)	McGrand
Croll	Michaud
Denis	Phillips
Fergusson	Quart
Fournier (*de Lanaudière*)	Smith
Fournier (*Madawaska-Restigouche*)	Sullivan
Goldenberg	Thompson
	Yuzyk—(27)

Ex officio Members: Flynn and Martin

(Quorum 7)

Order of Reference

Extract from the Minutes of the Proceedings of the Senate, Tuesday, July 4, 1972:

"Pursuant to the Order of the Day, the Honourable Senator Goldenberg moved, seconded by the Honourable Senator Bourque, that the Bill C-183, intituled: "An Act to amend the Canada Labour Code", be read the second time.

After debate, and–
The question being put on the motion, it was–
Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Goldenberg moved, seconded by the Honourable Senator Bourque, that the Bill be referred to the Standing Senate Committee on Health, Welfare and Science.

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

Robert Fortier,
Clerk of the Senate.

25201–1½

Minutes of Proceedings

Wednesday, July 5, 1972.
(3)

Pursuant to adjournment and notice the Standing Senate Committee on Health, Welfare and Science met this day at 10.05 a.m.

Present: The Honourable Senators Lamontagne (*Chairman*), Blois, Bourget, Cameron, Carter, Fergusson, Fournier (*de Lanaudière*), Goldenberg, Hastings, Kinnear, Macdonald, Martin and Smith. (13)

Present but not of the Committee: The Honourable Senators Argue, Benidickson, Connolly (*Ottawa West*), Duggan, Grosart, Hicks, Lawson and McDonald. (8)

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel.

On motion of the Honourable Senator Fergusson, it was Resolved to print 800 copies in English and 300 copies in French of the proceedings of this Committee.

The Committee proceeded to the consideration of Bill C-183, "An Act to amend the Canada Labour Code".

The following witnesses were heard in explanation of the Bill:

Department of Labour:

Hon. Martin O'Connell, P.C., Minister.

Mr. Bernard Wilson, Deputy Minister.

Mr. William P. Kelly, Assistant Deputy Minister (Industrial Relations).

Mr. Robert W. Mitchell, Director of Legal Services.

Mr. Robert Armstrong, Special Assistant to the Deputy Minister.

During the question period that followed, the Honourable Senator Macdonald moved:

That the preamble be deleted from the Bill.

The motion was declared out of order by the Chairman, as being a direct negative. However, a motion to adopt the preamble was subsequently carried.

On motion duly put, it was Resolved to report the said Bill without amendment.

At 12.35 p.m. the Committee adjourned to the call of the Chairman.

ATTEST:

Patrick J. Savoie,
Clerk of the Committee.

Report of the Committee

Wednesday, July 5, 1972.

The Standing Senate Committee on Health, Welfare and Science to which was referred Bill C-183, intituled: "An Act to amend the Canada Labour Code", has in obedience to the order of reference of July 4, 1972, examined the said Bill and now reports the same without amendment.

Respectfully submitted.

Maurice Lamontagne,
Chairman.

Minutes of Proceedings

The Standing Senate Committee on Health, Welfare and Science

Evidence

Ottawa, Wednesday, July 5, 1972

The Standing Senate Committee on Health, Welfare and Science, to which was referred Bill C-183, to amend the Canada Labour Code, met this day at 10 a.m. to give consideration to the bill.

Senator Maurice Lamontagne (*Chairman*) in the Chair.

The Chairman: Honourable senators, we have with us this morning Mr. Bernard Wilson, the Deputy Minister of Labour; Mr. Robert Mitchell, Director of Legal Services; Mr. William Kelly, Assistant Deputy Minister (Industrial Relations); and Mr. Robert Armstrong, Special Assistant to the Deputy Minister.

I understand that the minister is at the moment reporting to cabinet on the fight for job security in Montreal, Trois-Rivières and Quebec City, and that he intends to come to this meeting as soon as he can. We might start without him, and I am sure that we will have completely satisfactory answers to all our worries and concerns about this bill from the experts who are here with us this morning.

As far as procedure is concerned, this is an unusual bill, in the sense that it has a preamble and five clauses, the last four clauses appearing right at the end of the bill itself, clause 2 being at the bottom of page 70 and clauses 3, 4 and 5 being on page 72. You will see that clauses 1 is a rather long one, starting on page 2 and continuing to page 70. This clause deals with the changes to Part V of the Canada Labour Code.

First of all, since I detect, unless I am wrong in my interpretation, that there does not seem to be too much objection to the last four clauses, I suggest that we deal with those clauses first. Then we could deal with the preamble. I would then try to put all of clause 1--if you do not mind, and you can object to this, as I said--starting on page 2, with the exception of sections 149, 150, 151, 152 and 153, so as to hasten the procedure. Would this be agreeable to the members of the committee?

Hon. Senators: Agreed.

The Chairman: Clause 2 appears at the bottom of page 70. I am quite sure there is no objection to that clause. Is it carried?

Hon. Senators: Carried.

The Chairman: Clause 3 appears at page 72. Shall clause 3 carry?

Hon. Senators: Carried.

The Chairman: These are all technical clauses. Shall Clause 4 carry?

Hon. Senators: Carried.

The Chairman: Shall clause 5 carry?

Hon. Senators: Carried.

The Chairman: Now we revert to the beginning of the bill. Shall the preamble carry?

Senator Macdonald: What is the purpose of the preamble? I thought we had done away with preambles in this day and age.

The Chairman: Mr. Wilson, would you agree that it is in the nature of a declaration of faith by the government?

Mr. Bernard Wilson, Deputy Minister, Department of Labour: Generally, that is so. The intention of the preamble is to refer to the long tradition that exists in this country with respect to collective bargaining between labour and management. It indicates that there is really a freedom of association on the part of employers and employees, and that the right to bargain collectively is the keystone of our industrial relations system. This legislation, as it is written, is a testimony to that, and the preamble is simply an indication of the faith of the government, as you put it, Mr. Chairman, in collective bargaining, the freedom of association and the right to organize.

Senator Macdonald: There is no preamble in the original act.

Mr. Wilson: That is right.

Senator Macdonald: I move that we delete the preamble, Mr. Chairman.

The Chairman: I am advised that your motion is out of order because it is put purely in the negative. It does not amend a clause of the bill and, apparently, is not in accordance with our rules.

Senator Grosart: The preamble is not a clause of the bill, Mr. Chairman.

The Chairman: It is a separate section of the bill. You can vote against the preamble, but I do not think you can move that it be deleted.

Senator Smith: Let us vote on it.

The Chairman: Does the preamble carry?

Some hon. Senators: Yes.

Senator Macdonald: No.

The Chairman: Those in favour, please signify. I declare the preamble carried.

Senator Martin: I wonder if it is correct, Mr. Chairman, that if we had wanted to we could not delete that preamble.

Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel: Yes, by voting against it, but a direct negative is not acceptable as an amendment and is not permissible.

The Chairman: I recall the Leader of the Government being declared out of order in the other place for trying to do exactly that.

Honourable senators, I will refer to sections rather than clauses when we deal with the content of Part V of the Labour Code so as to try not to be too confusing. Do you have any questions or objections to raise with respect to this part of the bill, dealing with sections 107 to 148 inclusive–that is, not including the sections dealing with technological change?

Senator Goldenberg gave a full explanation of this part of the bill last evening and, so far as I could see, no one in the Senate had any objection to raise with respect to these sections. Are you prepared to deal with them as a package?

Hon. Senators: Agreed.

The Chairman: Shall section 107 to section 148 inclusive, carry?

Hon. Senators: Carried.

The Chairman: We now come to the sections dealing with technological change, section 149, at page 34, to section 153, inclusive, at page 39.

Mr. Wilson, would you like to make an opening statement to explain these sections? If not, I will be in the hands of the members of the committee.

Mr. Wilson: Well, if any of the honourable senators have questions on sections 149 through to 153 I would be happy to answer them.

The Chairman: Are there any questions?

Senator Grosart: Mr. Chairman, I should like to raise the matter of the definition in section 149, subsection (1), paragraph (a) and paragraph (b). It looks like a very broad definition. Under this definition it seems that the introduction by an employer of any equipment or material different from that previously used in the business, and a change in the method by which that material is processed would be something that would fall within the definition of "technological change". I think it is not an exaggeration to say that, from the point of view of anyone who has studied science and technology, the definition is absurd. Many things would fall within that definition which are not technological change by any normal, standard definition.

For example, suppose a manufacturer's supplier runs out of the material the manufacturer is using and, as a result, the manufacturer changes suppliers and, therefore, changes the material he is using. To some extent he may have to change the method by which he processes that material. According to the definition of "technological change" in the bill that would be a technological change. Now, is that not a bit absurd? Of course, it may be said in answer to that, that in other sections or clauses of the bill there are qualifications having to do with the effect of so-called "technological change" on job security, but the point I am making is that there are two operative aspects to this. One is that if there is an allegation of technological change then this whole cumbersome procedure can automatically be initiated. Later on, of course, the board is required to take into consideration its effect on job security. I suggest that there should be added to paragraphs (a) and (b) a further paragraph, (c), which would be a definition relating technological change to its effect on job security. Then you would have a sensible answer to any criticism that this was just a catch-all definition.

The Chairman: Could we delay in dealing with your second point for a moment, senator, and let the witnesses deal with your first point, the initial definition included in section 149. I have some questions about that myself. Then we can come to your second point later, if you do not mind.

Senator Grosart: I mentioned this because I have had the other answer before. I agree with you and I would like to deal with it just as a definition, having in mind what it will or could do. I say that because, taking this very broad definition, you can have a bargaining agent on one side who can apply to the board and start this whole process which could hold up even a minor technological change for a whole year. Would it not be better to have a definition that would bear some resemblance to what is normally known as technological change?

Mr. Wilson: The whole thrust of these clauses is, of course, to put the matter of technological change and adjustments to it into the area that the parties prefer, that is, in collective bargaining where they will settle their own affairs. There is a provision, as you have suggested, whereby they may elect to have arbitration on job security, and that, of course, is as it should be. Actually the definition could be much wider. In fact, in the railway agreements they deal also with operational and organizational changes; whereas, as you can see from this, it deals with technological changes and results flowing from them.

Senator Grosart: The definition does not deal anywhere with the results flowing from technological change.

Mr. Wilson: Well, there is a change in the manner in which an employee carries on his work which is directly related to the technological change.

Senator Grosart: I am suggesting that this definition has nothing to do with technological change.

Mr. Wilson: With the effect of technological change.

The Chairman: Certainly not with the effect of technological change.

Senator Grosart: It has nothing to do with the effect or anything else. It merely says that for the purposes of these sections all these things are technological change. Now it is a pretty good principle that an act of Parliament should not by its wording be stupid, and I say it is stupid to confine technological change to–

Mr. Wilson: This is merely a definition.

The Chairman: But this is the definition which starts the whole procedure and so it is very important.

Mr. Wilson: But Senator Grosart has claimed that it is very wide.

Senator Grosart: Yes.

Mr. Wilson: I have said, on the other hand, that there are actual agreements covering thousands of employees in Canada on the railways and other lines in which the definition is much wider than that.

Senator Grosart: Surely you are missing the point. There may be other acts which take into account–

Mr. Wilson: Not other acts; other agreements.

Senator Grosart: All right, other agreements which take into account things other than technological change. I am not arguing that. But what I am speaking of is the definition of technological change in this act. That is all I am speaking of, and I am saying that it is not a reasonable definition of technological change, and my objection is that it does start this whole process. We can come back to this later, but obviously if this process starts, as I read the act, the whole agreement can be thrown wide open.

Mr. Wilson: Not merely by reason of the definition.

Senator Goldenberg: No.

Senator Grosart: Well, we will see.

The Chairman: It starts the process, but it does not necessarily reopen the contract or the agreement.

Senator Grosart: What I am suggesting is that it will come to that.

The Chairman: For instance, how would you define "material"?

Mr. Wilson: Plastic, wood, glass, fibre.

The Chairman: Would the production of a new schedule for airline pilots, for instance, be material?

Mr. Wilson: No, I do not think so. If they started flying people by tubes and freezing them in containers and ejecting them by jets, I would think that would be a change in material.

The Chairman: But if they should change the type of plane?

Mr. Wilson: Well, there certainly would be a change in the method by which they operate, but it would have to be related to (2) (a) in that they were employing a different method of propelling the aircraft.

The Chairman: So a schedule or the production of a piece of paper is not material?

Mr. Wilson: That might be operational or organizational, but hardly technological.

Senator Goldenberg: One of the reasons, as I understand it, Mr. Chairman, that the trade unions objected to this definition was that it is too narrow, and they wanted to include operational and organizational change which is very important in its impact on employment. As Mr. Wilson says, in the case of the railways we included operational and organizational change by agreement. So this is a much narrower definition.

The Chairman: But I think the constant reference to the railways does not apply here because I understand that this has come as a result of an agreement between the parties, and the procedure for dealing with these changes is quite different from that which is provided in this bill. So I do not think we should constantly refer to this kind of agreement since, in my view, it has nothing to do with this bill.

Senator Goldenberg: If I may differ from you, Mr. Chairman, Senator Grosart is criticizing the difinition, and all I am saying with respect to the railways is that they go further and include as technical change operational and organizational changes, and that is not included in this definition.

Senator Grosart: Mr. Chairman, may I say that I agree entirely. The definition is inadequate on both counts: it is too broad in one; and it is too narrow in another. That is why I say to have a definition of technological change which is related only to a change in equipment plus method is just unrealistic. I agree with Senator Goldenberg that technological change can be operational, it can be management or it can be marketing. These are all regarded today as technological change, so I agree there. The fact that it is too sweeping in one sense does not mean that it cannot be too narrow in another. I just say that it is a bad definition, that it is laughable and is going to cause a lot of trouble.

Let us take the position of a union leader–and I have the greatest sympathy for them–who is pressed by his members. He will be required, if he is a good union leader, under certain circumstances to look at this act to find out how he can reopen an agreement. If he relies on this definition, he can in a minor change, which by no definition that I have ever heard of could be called a technological change, invoke this whole procedure and hold up the change. And this not because he objects to any technological change or its effects, but merely because he wants to reopen the whole contract. That is why we should have a realistic definition of technological change, and I would agree that it should include operational and other matters. But somebody who knows something about technological change should sit down with the draftsmen and come up with a definition that makes sense.

The Chairman: You wanted to raise a second point related to this, and it might be a good time to raise that second point now. It too was related, I think, to the definition.

Senator Grosart: The second point is that if the matter does come before the board then the board is required, under the Act, to relate technological change to the specific matter with which we are concerned. I agree there should be protection for any worker who is displaced from his job permanently, just as there is with respect to temporary displacement. If a man is permanently displaced I believe he should be protected. I am 100 per cent in favour of this.

The Chairman: I think the definition should include what the board must find before ordering commencement of new negotiations. I will paraphrase subsection 152(2), where it says the board has to find that the technological change is likely substantially and adversely to affect the terms and conditions or security of employment of a significant number of employees. It seems to me that if we had this kind of general definition you would avoid the irresponsible requests from parties who wish to come before the board. After all, the objective of the legislation is not to prevent technological change but, as Senator Goldenberg indicated yesterday, to protect the workers against the adverse effects of that change. It seems to me it would be logical to include in the general definition, along with section 149, the findings which the board will have to make as a result of a request for a hearing.

Mr. Wilson: Well, it is a matter of drafting, I suppose.

The Chairman: I do not think it is a matter of drafting. It would reduce a lot of the objections to the definition included in section 149.

Senator Martin: Mr. Chairman, may I point out to you that when a court, a board or anyone else comes to interpret subsection 149(1)(a) and (b), if there is any doubt as to the meaning, the way they interpret it is by looking at other relevant sections. You have just referred to subsection 152(2)(b), and this would be one of the sections to which they would refer in an endeavour to reach a judicial interpretation.

The Chairman: However, this is for the board to decide. If we stick to the definition of technological change as it is in section 149, I think Senator Grosart's point is well taken. Almost any matter could be brought before the board by the union, and the board has to hold a hearing. We are endeavouring to reduce the numbers of requests and hearings. If we have only a very general definition, then the board will receive all kinds of requests and they will be swamped, especially in view of the fact that we are dealing with sectors where there is rapid technological change, such as in communications.

Mr. Wilson: We are in the hands of the draftsmen of the legislation who do things, with our help, in what you might call a lawyer-like manner. One of the first objections they would have, if we put it in at this point, would be that you do not need it there.

The other point which you have raised could be looked after, I am sure.

However, when you speak of the number of idle applications, there is always a number of idle applications. Of course, the board will draw up forms and rules of procedure for parties desiring to commence an action under these sections. If they make no other allegations in their paper presentation or application, at least they will have to allege that there are employees being adversely affected. If, in response to that question, they say there are none, I assume the board will tell them, at least in a preliminary way, that they do not seem to have a case but that if they wish to be heard they will be heard.

The Chairman: This is exactly the point: then you will have your hearing.

Mr. Wilson: But it makes no difference whether it is here or there, because they will still have to be adversely affected.

Mr. Robert Mitchell, Director of Legal Services, Department of Labour: Mr. Chairman, even if you changed the definition in an endeavour to bring forward into section 149(1) the effects of the change mentioned in section 152, a frivolous application could still be brought before the board alleging serious adverse effects, and the board would get into the same kind of inquiry and the same procedure would be followed. The same abuse could occur.

Senator Grosart: I would rather doubt that, Mr. Chairman, because if subparagraph (c) were added, which would be one of several improvements which could be made, this would tie the definition down to the effect on job security. Then the board would be in a position to say, "This is not technological change within the definition of the act." The way the act is written now the board is in a position to say that this is technological change.

Mr. Robert Armstrong, Special Assistant to the Deputy Minister, Department of Labour: No, I do not think you are right, senator. I do not think the definition could be severed from section 152, as Senator Martin has indicated. They have to be read together.

Senator Grosart: This is not so. They are severed.

Mr. Armstrong: I defer to what Senator Martin has said.

Senator Grosart: Let us look at it factually. We have had a statement to the effect that you are in the hands of the draftsmen. I sincerely hope this is not the attitude of this or any other department. God help us if we are in the hands of draftsmen. They are there only to give effect to the intent of Parliament.

Mr. Wilson: I wish you would try to get out of the hands of draftsmen, sir. They have a style of doing things and they insist on carrying it through.

Senator Grosart: If I had anything to do with it, no draftsman would insist on telling me what I should do or what I should say.

Mr. Wilson: They do not tell us what to say, but they do insist on following certain drafting principles regarding how to say it.

Senator Goldenberg: I wonder if Senator Grosart is suggesting that it would be more correct to say that it is only technological change if it has an adverse effect on employment.

Senator Grosart: Yes, within the meaning of the act. After all, an act defines its language in relation to itself. It does not mean that it is a definition which will be included in Webster's. Within the meaning of the act it would make a lot of sense to say that "'Technological change' under this act must be technological change that adversely affects employment."

Senator Martin: Senator Grosart, you are guilty in the illustration you give of the very defect you complain of in the drafting of section 149(1)(a). Your definition of technological change is no more adequate than that contained in section 149(1)(a). It can only be understood by reference to the remainder of the act.

Senator Grosart: In the first place, I doubt if I am "guilty"; I may be wrong. In the second place, this just is not so. I did not say that by adding paragraph (c) the definition would be made perfect. I said this is one of several changes that could be made to provide a viable definition of technological change.

Mr. Wilson: Would you also include in the definition the fact that the technological change must affect a significant number of employees?

Senator Grosart: Yes, certainly. That is the present wording.

Mr. Wilson: You would then have one section containing both the definition and a substantive provision, whereas it must be broken down in order to arrive at an understanding of its meaning.

Senator Grosart: That does not make sense now. I merely say that the definition should define that what we speak of in the act, which is technological change and its effect. That would provide a starting point for the whole act. I agree with Senator Goldenberg that operational and other changes should be included in paragraph (C).

Senator Martin: I must say that as Senator Grosart spoke last night I made a point of referring to section 149(1)(a). Reference to that section indicates that in itself it undoubtedly is an inadequate definition of technological change. As I understand it, it seeks to provide a form or process which can only be understood by referring to other sections of the act and, indeed, section 149 itself suggests this. It does not say that this is the section which defines technological change. It provides: "In this section", not "In this section alone". Section 149(1) reads:

> In this section and sections 150 to 153, "technological change" means–

Therefore the definition of technological change is contained in this section and in sections 150 to 153. The argument now has been that the only definition of technological change under this act is contained in section 149(1)(a). That is not what is provided by the section. Let me repeat:

> In this section and sections 150 to 153, 'technological change' means–

Senator Grosart: It says that in this whole group of sections that is what technological change means. That is exactly right. It applies to this and the other sections.

Senator Martin: Yes, not this section alone.

Senator Grosart: It does not say that technological change means this in addition to provisions of other sections. Its import is that this is what it means.

Senator Martin: No, it says technological change is defined by section 149(1)(a) and sections 150 to 153.

Senator Grosart: With great respect, it does not say that at all. It reads:

> In this section and sections 150 to 153, 'technological change' means–

It does not provide that it shall be determined by the other sections. It says it shall be this.

Senator Martin: That is a rule of judicial interpretation. I do not think you can change the meaning of section 149(1), which reads:

> In this section and sections 150 to 153, 'technological change' means–

Your quarrel has been with paragraph (a).

Senator Grosart: With due respect, it cannot be with paragraph (a), because (a) and (b) are tied together.

Senator Martin: Yes, I agree.

Senator Grosart: Well, my argument does not quarrel with paragraph (a).

Senator Martin: I think, Mr. Chairman, it must be clear that the definition is not cinfined to the interpretation of this one section.

The Chairman: No, but I think that Senator Grosart's point is that this is a very general definition, which starts the whole process.

Senator Martin: That is right.

The Chairman: He points out that including this type of definition without any reference to the effects of the technological change may lead to abuse. A labour leader may be forced, if he is also in favour of his own job security, to submit requests to the board simply to take the chance that he can win his case or at least delay any change that he does not desire. He would at least appear to be a great defender of the rank and file if he does not have to contemplate the type of finding at which the board must arrive. I therefore think that it might be much more desirable if the objective of the legislation were included in the definition itself. In that case it would be obvious that a technological change in order to lead to the reopening of negotiations would have to substantially and adversely affect the terms and conditions or security of employment of a significant number of employees. This would prevent many unnecessary requests by labour leaders being submitted to the board.

Senator Martin: Your statement of the case is a reasonable argument, but the answer is that, no matter what is included in section 149(1)(a), it will not preclude vexatious action on the part

of management or labour. The draftsmen of this bill have decided on the device of providing for a meaning of technological change by reference to section 149(1)(a) and (b) in relation to other sections, particularly section 152. It is just a question of decision, and that decision has been taken.

The Chairman: Well, it has not been taken by us.

Senator Martin: No, that decision has been taken by the department, and so on. It seems to me to be a reasonable one. I can understand Senator Grosart's argument, but I do not agree with it.

Senator Lawson: I have two or three comments in this connection. In my opinion, when we discuss the object of the legislation, it is to resolve matters of technological change which adversely affect large groups of employees.

The Chairman: It is to remedy the effects.

Senator Lawson: Yes.

The Chairman: But the effects are not mentioned in the definition.

Senator Lawson: The object is also to attempt to avoid or to minimize the number of labour-management conflicts which exist today in the absence of such legislation. With respect to the definition of technological change, if all year was spent drafting 50 pages, very valid technological changes which should properly come before a tribunal would still not be included. I do not believe that the definition is too general; it may not be general enough. The legislation should not seek to discourage parties from appearing before the tribunal for a decision, but to encourage them to do so in order that there may be a proper and speedy remedy.

The Chairman: Within the ambit of the legislation though.

Senator Lawson: Even if you have from time to time, I think your term was, "vexatious ones" that come by labour leaders trying to do this–I think that is something of a myth. I have always found that workers have an inborn sense of fairness. They know if something is a technological change that is affecting them and that they are being displaced, and they are going to look for a tribunal to settle it, to get a hearing. In 99 per cent of cases, if the hearing is conducted fairly and they are told, "this is the end of the matter; it is not a technological change; you have no right to interfere," they will accept that. I am more concerned that we put so many stumbling blocks in the way that they cannot get there, and they will do just what they are doing now: they will find their own remedy, which will be to fold their arms, sit down, and stop the whole production until some remedy is found.

It seems to me taht the whole thrust of the legislation should be to encourage people, to encourage the parties to come and sit down and negotiate, at the appropriate time, their own remedy. It seems to me that there should not be any concern about it being too general; the only concern should be that it is not general enough. We should encourage them to come and they should be heard, because in 1972, if large numbers of employees are going to be displaced in any way and they do not get a proper remedy, they will find their own remedy, and they will find it very quickly.

It seems to me that the thrust should be to encourage them to come and that they be given a proper hearing. Of six legitimate cases which come before the tribunal, if there are three or four that have no real need to come before them, there would still be a real need. There could be psychological factors involved, of people thinking they are being displaced and that nobody cares and they need a tribunal where they can come and be heard. I think that is what should be encouraged by the legislation, and that is what we should try to make as easy as possible for them.

Senator Grosart: I would not disagree with a word of that, because it has nothing to do with the question before us as to whether this is a good bill, as drafted. I agree with the intent, and with everything that Senator Lawson has said, but that is not my point. I am arguing that it is our task in the Senate to make a bill as precise as possible.

The Chairman: I am afraid that Mr. Wilson has had to leave us for a few minutes. He had an urgent call from Montreal.

Mr. Mitchell: May I give a hypothetical example to illustrate the drafting problem, which may explain why the draftsmen chose the technique they did? I will give you a hypothetical case that I thought of while the discussion was going on. Let us imagine that Parliament wanted to pass an act giving the court the power to destroy a dog that has bitten a human being. There are two ways of setting up that statute. The first is to define "dog" as a canine animal and then give the court the power to order the destruction of a dog where it is proven to the court that the dog has bitten a human being. The other way of doing it–and I think that is the way that is being talked about here–is to define a dog as a canine animal that has bitten a human being, and then give the court the power to order the destruction of a dog.

Either way would work; but in either case the court would have to be satisfied that the animal in question had bitten a human being. The same number of cases would probably be brought before judges under that hypothetical act, no matter which way you chose to do it. The traditional way is to define a dog as being a canine animal and then say that the court has the power to order the destruction of a dog where certain things are proven to the court. Perhaps that is a silly example, but it illustrates the alternative drafting approaches which can be used.

The Chairman: I suppose Senator Grosart wants to avoid bringing all dogs before the court.

Senator Goldenberg: Surely, if a labour leader is going to bring a matter before the board, it will not be enough for him to say, "There is a technological change within the meaning of section 149(1)(a) and 149(1)(b)."–and leave it at that? He will have to allege that the technological change substantially and adversely affects the terms and conditions or security of employment of a significant number of employees.

The Chairman: When a hearing before the board has started.

Senator Goldenberg: No. In his charge he would have to say that; otherwise he would be a fool, and I do not know of any labour leaders who are really fools.

Mr. Armstrong: There is an additional point which Senator Goldenberg made very well last night, but which has not been mentioned this morning. It is that there are three distinct avenues or exits from the formula right at the beginning. The intent is in accord with what Senator Lawson has said. While people may go to the board to have their rights ascertained, which is a reasonable principle, the legislation is framed in such a way–and it is a change from the earlier Bill C-253–as to encourage the parties to reach their own general agreement. If they do that, clearly there are three different ways–

The Chairman: We are dealing with the compulsory element of the legislation and not with the permissive element.

Mr. Armstrong: –and the balance of the formula will not apply. That point was made last night.

Senator Grosart: That has nothing to do with what we are discussing.

Mr. Armstrong: Yes, it has, in this way: we do not envisage that a large number of cases will get to the board.

Senator Grosart: The point is that our business is to prevent one misapplication of the act.

Mr. Armstrong: I think that is everyone's business. One cannot avoid people suing, taking action in the courts, for a variety of reasons. One cannot avoid that.

Senator Grosart: The fact that there are exemptions under the act has nothing to do with the argument. But the one place where there is no exemption may not be desirable legislation. That is my point. Everybody hopes that at the time of the original bargaining there would be complete disclosure of technological change in intent, and so on.

The Chairman: I am sorry, but I do not share your optimism, because I feel that as a result of this legislation unions, instead of trying to avoid, at the moment of the negotiation of the main contract or agreement, getting satisfactory provisions dealing with the effects of technological change, under the new bill they will be discouraged from doing that. Why should they become prisoners before the fact when they know that later on they will have a wonderful opportunity if they do not have such provisions in the main contract, to reopen the whole thing? If I were a labour leader–I know some of them and I have been involved in labour negotiations, and also labour fights, always on the labour side–I would never, with that kind of bill, agree in advance to any kind of procedure for a technological change that I did not get to know. Instead of providing an incentive for the parties to agree on procedures to deal with the effect of technological change when discussing the question of contract, I think it is a disincentive.

Mr. Armstrong: That assumes, Mr. Chairman, that nothing will take place in the bargaining and that the employers will not, in the light of the legislation of post-legislation, protect themselves by giving notice, for example. One must not assume that this subject will not be the background for subsequent bargaining. I think that it surely will be, and that employers will protect themselves by giving as full notice as they can.

Senator Lawson: To put your mind at ease, Mr. Chairman, in addition to those remarks, almost without exception every employer or trade union leader that I have been associated with would much prefer to rely on their own devices than to rely on any government tribunal of any kind. I think you will find that the overwhelming majority of disputes are resolved by the parties directly, as opposed to the parties relying on any tribunal.

The Chairman: If they want to so limit their powers, that is a surprise to me.

Senator Goldenberg: Mr. Armstrong made an important point which I myself intended to make. The employer gives notice. If the union does not want to agree, then there will not be an agreement.

The Chairman: That is exactly the point. For example, if you have a three-year contract between the Bell Telephone Company and its employees–and you know very well that there are a lot of technical changes taking place in the field of communications–the company itself may not know what technological changes it may want to introduce two years from the signing of that contract. I do not think that this deals with the point I have in mind. Not even the union would know, so why should they bind themselves by a limiting procedure when they have this wide open opportunity to reopen the entire contract to negotiations, including not only the aspect dealing with the effect of the technological change but with respect to wages, hours of work, and so forth?

Senator Goldenberg: No, Mr. Chairman, that is not correct. If you read section 152(1) you will see that they cannot reopen the whole contract. I will read that section into the record. It reads as follows:

> Where a bargaining agent received notice of a technological change given by or in respect of an employer pursuant to section 150, the bargaining agent may, within 30 days from the date on which it receives the notice, apply to the Board for an order granting leave to serve on the employer a notice to commence collective bargaining for the purpose of revising the existing provisions of the collective agreement by which they are bound that relate to terms and conditions or security of employment, or including new provisions in the collective agreement relating to such matters, to assist the employees affected by the technological change to adjust to the effects of the technological change.

That certainly restricts any reopening of the whole contract. That is very clear. I cannot see any other possible interpretation. I have heard it said that they can reopen the whole contract and renegotiate wages, but that is incorrect.

The Chairman: Is this your interpretation, gentlemen?

Mr. William Kelly, Assistant Deputy Minister, Industrial Relations, Department of Labour: Yes, Mr. Chairman.

The Chairman: They will only have the right to reopen negotiations on the effects of the technological changes?

Mr. Kelly: Yes, Mr. Chairman.

The Chairman: And that is for the employees who are directly affected by the technological change?

Mr. Kelly: Yes.

Senator Goldenberg: That is the only interpretation I can see.

Senator Grosart: Mr. Chairman, I can see another interpretation. It is not for me to suggest what the courts might do if this matter went before the courts, but I suggest it is ambiguous. It says:

> . . . for the purpose of revising the existing provisions of the collective agreement by which they are bound that relate to terms and conditions or security of employment,–

That is one part. It continues:

> or including new provision in the collective agreement relating to such matters, to assist the employees

Senator Goldenberg: Just a second. There are two commas there.

The Chairman: Commas are important.

Senator Goldenberg: I noticed last night that Senator Grosart in discussing the definition read section 149(1)(a) without reading section 149(1)(b). He is now reading section 152 to suit his own purpose. I think he should read it with the commas–

Senator Grosart: Mr. Chairman, on a point of order, I must object to being told that I am reading it to suit my own purpose. We are in a committee of the Senate here.

Senator Goldenberg: I will withdraw that remark.

Senator Grosart: In the second place, I had not finished reading. I paused and was about to say there is then the word "or". Whether the last three lines are tied to the new provision or to the earlier part, I do not know. I say it is a matter of interpretation. Senator Goldenberg says there is only one interpretation. I suggest, even if I am the only one who sees the other interpretation, that there are at least two.

The Chairman: Your suggestion, Senator Goldenberg, is that it applies to both?

Senator Goldenberg: Of course it applies to both.

Senator Grosart: Well, who says, "of course"? One thinks it applies to both; I do not think it does.

Senator Goldenberg: I may be arrogant this morning, Senator Grosart, and I apologize, but I was called to the Bar 40 years ago this morning.

Senator Grosart: I was born 65 years ago.

Senator Martin: And you both ought to have more sense.

Senator Lawson: Mr. Chairman, may I ask a question of our experts?

Where it says,

> . . . or including new provisions in the collective agreement relating to such matters, to assist the employees affected by the technological change to adjust to the effects of the technological change,

this might apply to the manufacturer or fruit canning operation where technological change replaces X number of employees. There is nothing in this to prevent the union from negociating a tax per case or per can to establish a fund to retrain these people. So when you are talking about a wage increase, it might be a higher cost to the employer but not necessarily an hourly wage increase for the employee. You could establish a fund of that nature?

Mr. Kelly: Or a retraining program, and that would be a matter of whether it is funded by the operation or not. It is to ameliorate the adverse effects of the technological change on the employees affected.

There is another point I should like to make with respect to the definition and whether frivolous cases could come before the board. It is in reinforcement of the comments made by Senator Lawson. Some of the experiences we have had with wildcat strikes–and that is what they are–show us that they are as a result of the parties having no place for any kind of a hearing. There was a very serious railway strike in this country where 2,800 employees booked off sick at Nakina, Ontario, and Wainwright, Alberta, and were tying up the whole system. The union leaders were crying to get to arbitration, but it was not arbitrable. There was nothing in the collective agreement dealing with run-throughs or technological changes. Possibly it is better to have the odd frivolous application to the Canada Labour Relations Board than to have these types of incidents tying up the economy.

The Chairman: What would be the industries covered by this legislation?

Mr. Mitchell: I do not have a list with me, but I can recite the main ones from memory. It will cover almost all of the railroads, interprovincial transportation by truck or motor coach–buses and that type of thing–radio and television stations, banks–

The Chairman: So far as they are unionized?

Mr. Mitchell: Yes. They are not yet unionized, but they can be. There is nothing to prevent it under the law.

Senator Smith: The uranium industry?

Mr. Mitchell: Yes, uranium and also interprovincial shipping and air lines. Those are the main ones.

Mr. Armstrong: Senator Goldenberg prefaced his remarks last night with a long list.

The Chairman: Senator Goldenberg, what was it you said about government employees?

Senator Goldenberg: I said the Canada Labour Code does not apply to employees of government departments, boards or commissions because they are subject to the Public Service Staff Relations Act, which is an entirely different act, with a different board and different provisions.

The Chairman: Is there any provision there for technological change?

Senator Goldenberg: No, not as far as I know.

The Chairman: So the government sees to it that its own employees are not covered by this bill.

Mr. Kelly: I understand the legislation is under review.

Senator Smith: I never understood that the employees in the Public Service had too many worries about security of employment.

The Chairman: With the advent of computers, and so on, technological change can have an effect there, I presume. Is there any good reason for this?

Mr. Kelly: I think the point has been made that it certainly has not been the policy of the government to have mass layoffs of government employees where there has been the introduction of technological change.

The Chairman: Would postal workers be covered?

Mr. Kelly: No, postal workers would not be covered by this bill, but the demand for this has come from the private sector, where there are mass layoffs, where contracts made on one set of assumptions can be almost declared null and void by the introduction of technological change. I know of no occasion when the government has engaged in any kind of mass layoff of their employees, even where technological change is introduced; they are absorbed in other operations.

The Chairman: Is it not true that there have been a number of difficulties in the postal service over technological change?

Mr. Kelly: Yes. While we are not familiar with the bargaining at the moment–it comes under the Public Service Staff Relations Act–one of the prime demands, I understand, is job security, and it might well be they could negotiate, in their collective agreement, job security provisions far superior to any that could be provided through this bill.

Senator Lawson: If they are unable to do so, there is no way the provisions of this bill could be extended to them?

Mr. Kelly: There is no way.

Senator Lawson: There would have to be a separate amendment to the Public Service Staff Relations Act?

Mr. Kelly: That is right.

The Chairman: So they are not covered merely because they have not asked for it?

Mr. Kelly: No. They do not operate under this act. They operate under the Public Service Staff Relations Act.

Senator Goldenberg: It is not the Department of Labour that is involved; it is the Treasury Board.

Senator Grosart: Senator Goldenberg made some remarks last night about the construction industry. If my memory serves me well, I think he said that perhaps some other legislation, or other arrangements, might be necessary to cover problems in the construction industry. Is that so, Senator Goldenberg?

Senator Goldenberg: Yes. I was not recommending this as a perfect bill. I said I was sure that in due course there would be improvements. As an example, I said that, based on my own experience, I think there will have to be special provisions for the construction industry in due course. It is a different kind of industry, and it applies to construction in the Northwest Territories where they come under federal jurisdiction. This was by way of example of further changes that I expect will be made. I do not think everything can be covered at one fell swoop.

Senator Grosart: What would be the specific problems in the construction industry in the Northwest Territories or elsewhere under federal jurisdiction? What would be the problems in respect of this bill? Where would it be inadequate?

Senator Goldenberg: Mr. Chairman, if I am going to embark on that, might I say that I edited a 700-page book on the subject, published in 1969.

The Chairman: You can send Senator Grosart a copy.

Senator Goldenberg: I would be glad to send Senator Grosart a copy. It is a very long and involved subject.

Senator Grosart: I am behind in my reading.

Senator Goldenberg: I will bring you up to date.

Senator Grosart: I would suggest to Senator Goldenberg that it may be important to know his views on this, because if there is an inadequacy in this bill, now is the time to have an indication of it from an expert such as Senator Goldenberg.

Senator Cameron: In listening to this discussion I am wondering how long we will go on having large segments of the labour force operating under so many different acts. This is a case in point. They are talking about going on strike again because of technological change. You say this bill does not apply to them. I realize that. However, is it not time something was done to try to bring them all under one umbrella? Can this be done? If not, why cannot it be done?

Senator Goldenberg: My understanding is that the Public Service Staff Relations Act is now under consideration. A report was made by a committee of three, chaired by John Bryden, I think, of New Brunswick. I would assume that the recommendations are being considered and will be acted upon in due course. Meanwhile, the postal workers are negotiating and, while I have no inside information, I am sure that one of the problems they are negotiating is the impact of proposed technological changes.

Senator Grosart: Are you going to tell us about the construction industry?

Senator Goldenberg: I do not think I will talk about the construction industry now. I am sure Senator Grosart does not want to sit here for the rest of the summer. However, I will send Senator Grosart a report that I made as a royal commissioner to the government of Leslie Frost, who acted on it.

The Chairman: Could you describe for us the provisions in the American legislation dealing with this problem?

Mr. Mitchell: The Americans do not have any particular legislation dealing with technological change. They have a different legal framework. Their law, for example, does not prohibit strikes or collective bargaining during the course of a collective agreement. What we have had to enact into legislation to achieve they have as a matter of right anyway. It is true that a trade union and an employer may agree that there will be no strike during the course of a collective agreement. In fact, a large majority of American agreements have such a clause in them. That clause is negotiable at the time of making every new agreement, and may have to be agreed upon all over again at each collective bargaining session. They have a technique built into their law to handle that problem, if and when it becomes a problem at the plant level.

The Chairman: It is only permissive; there is no compulsory aspect to the legislation?

Mr. Mitchell: That is right. They have the right to negotiate during the life of an agreement unless they contract out of the right.

The Chairman: On any aspects of the contract?

Mr. Mitchell: On any aspect at all.

Senator Lawson: It might be of interest to point out that our national freight contract in the United States covers some 450,000 people, and flowing from that agreement we have established state grievance panels in every state, and then we have a national grievance panel. If the panel deadlocks on agreements and reports that there is no resolution to it, they have the right to strike in support of agreements, which may be for technological change, or organizational change, where they re-route trucks, or put on sleeper cars in place of freight trucks, or introduce new types of equipment. If they cannot settle it through the panel at the various state levels on a regular basis, they have the right to strike during the life of the contract.

The Chairman: I was told some years ago, when we had the firemen's strike, that it had been inspired by American unions here. If they had no problem in negotiations in the States, why did they try to get this kind of issue settled in Canada first?

Mr. Kelly: Perhaps I could comment on that. If it was inspired, it is significant that the first notice served to remove firemen from diesel engines was in Canada. The commission hearings were participated in heavily by the American Association of Railways. If that notice had been served in the United States, then under section 6 of the United States Railway Labour Act the unions would have served notice, not of a technological change but of a change in working conditions, and they would have had the right to strike. The railways in the United States are covered by a separate act, and if there is any change in conditions that had not been bargained on before the union served the notice under section 6 of that act, they acquire all the rights of bargaining, including the right to strike.

In Canada, as opposed to that, we have the stability of the term contract, and one of the problems that has brought this legislation on is that we have found that we cannot continue to have the stability of that term contract where the set of assumptions under which the contract has been drawn can be changed overnight by a technological change.

The Chairman: What would be the situation in Sweden, Germany and Switzerland, for instance?

Mr. Mitchell: I do not know, but I would like to talk about some I do know. In the United Kingdom today it is open; they can strike over anything; they can walk off the job on the slightest provocation. However, under the latest amendments to their legislation, they too can agree not to strike during the course of a collective agreement. But as a matter of general law, they may strike at any time. So far as Sweden, Germany and Switzerland are concerned, I cannot answer that at the moment, Mr. Chairman, as I have not the material with me.

Mr. Armstrong: In France, the right to strike is virtually part of the constitution, I understand. It is a very broad based right.

Senator Goldenberg: At any time.

Mr. Mitchell: Canada is the only country I can think of offhand that prohibits strikes during the life of a collective agreement and closes the agreement. None of the terms are negotiable, unless the parties mutually agree that the terms are negotiable.

The Chairman: Honourable senators, I am very interested in this type of legislation, but you can always interrupt me when you wish to raise any question at any time, and I am at your disposal. Is there any country which has attempted to protect all workers, including

those who do not belong to a union, against the adverse effects of technological change?

Mr. Mitchell: The answer is yes. Canada, for one, has done so, by its unemployment insurance legislation.

The Chairman: In the way in which we are dealing with the unionized workers now in this bill?

Mr. Armstrong: Perhaps not in specific terms, but I think the clear inference is that in the other systems it is not as compelling, because there is a recourse that does not exist here. So one needs to be rather careful about making these comparisons.

Mr. Mitchell: This argument about reopening a contract, and having the right to strike during the term of a contract, could only occur in Canada; it could not occur anywhere else. They would not understand what we were talking about if we told them we had this problem.

Mr. Armstrong: There is the American system, where one had the authority to act under a contract.

The Chairman: What about in the American system, if there is no union?

Mr. Kelly: It would be hard to cope with that question. If there is no union, the remedy would lie with the individual, who would have the right to withdraw his service certainly in protest; but the remedy lies in collective action.

The Chairman: Surely, it would be possible to provide that an individual who is not a member of the union could have the right to, let us say, compulsory arbitration, if he loses his job or is demoted as a result of a technological change? Let us take banks, for instance, in Canada.

Mr. Kelly: But the scheme of the legislation leaves the making of the bargain to the parties, whether they are unionized or not; and the remedy really, if they were not satisfied with the conditions of the technological change, would be, I suppose, to unionize and exercise the collective right.

Senator Grosart: Mr. Chairman, I do not understand the statement or the implication of the statement just made, that Canada is the only country in the world where a contract is not enforceable at law.

Senator Goldenberg: No, no; it cannot be reopened during its life.

Senator Grosart: Well, that means, if it is enforceable, it cannot be reopened. If it is enforceable at law it is a contract, an agreement. Why do you say Canada is the only country in the world where this does not apply? Why except Canada?

Mr. Mitchell: What I meant, senator, was that Canada is the only country where a collective agreement, once entered into, is binding during its term and cannot be renegotiated during its term, except by mutual consent.

Senator Grosart: Does that not apply to any contract? Is this not a contract between two parties and has it not legal force? I am asking you, has it not legal force?

Mr. Kelly: The difference in the contract in the United States is that a contract is for a set term on the conditions that are outlined in that contract; but if another matter comes up–let us talk about run-throughs, or the diesel firemen issue or anything else that is not covered in that contract–that is something new.

Under Canadian law, to date, that could be changed entirely. You could have a work force of 10,000, and by certain technological changes if could be reduced to 500 and there is no right to bargain over this.

Senator Grosart: There is still the right to negotiate another contract, an auxiliary contract.

Senator Goldenberg: No, no.

Mr. Kelly: Not today, in Canada.

Senator Grosart: There is nothing in our law that prevents two people sitting down any time–

Mr. Kelly: By mutual agreement.

Senator Goldenberg: If they both agree, but that is very different.

Senator Grosart: I am sure we want to get away from this, but I must say that what concerns me more than anything about this bill as written, on the point you raised, is that it will completely discourage the inclusion in a collective agreement of any undertaking on both sides in respect to possible technological change. I refer particularly to section 149(2)(b), where there is an exemption:

> (2)(b) the collective agreement contains provisions that specify procedures by which any matters that relate to terms and conditions or security of employment likely to be affected by a technological change may be negotiated and finally settled during the term of the agreement;

I say this bill surely makes it almost impossible for any bargaining agent, any union leader, to agree for one moment to include any anticipated technological change in that collective agreement. Why should he? It would be much better under the new act and refuse to include technological change in the collective agreement because if it happens later he can re-open the contract in that respect.

Senator Smith: No.

Senator Lawson: Mr. Chairman, I think Senator Grosart is not giving much credit to the unions involved. The examination of many agreements under federal jurisdiction shows they already provide for

technological change, or remedies, or severance pay procedures or other procedures.

Senator Grosart: Not in this act.

Senator Lawson: The legislation is not in advance of what is happening in many of the contracts. The legislation is behind them. Some of the unions, even in anticipation of what may be happening, have clauses covering what happens in the event of a wage freeze being imposed. I do not think that Senator Grosart is as familiar as perhaps he should be with what is taking place. I think exactly the reverse of what Senator Grosart is concerned about is what will happen, that it will encourage the coming together both by management and by trade unions. Trade unions and management are mostly insisting on such provisions, and the fact that management and industry are going to be faced with a tribunal which is going to impose a decision or make rules, means that they will be more encouraged to meet directly with their bargaining agent at the appropriate time and negotiate the appropriate remedies in the collective agreement. It is quite the reverse of discouragement that will take place.

Senator Grosart: Senator Lawson, before you go on, do you really think that it is possible or that it is likely that any bargaining agent will agree to throw away, by prior collective agreement, the power that he is given under this act now to reopen it at any time?

Senator Lawson: Oh, yes.

Senator Grosart: Why would he throw it away?

Senator Goldenberg: Because he will not trust the Canada Labour Relations Board or any other outside body.

Mr. Kelly: Could I answer that? The railways, for example, have very complete job security provisions covering technological change, operational change, organizational change; and they go down not to "a significant number of employees" but to one employee. If one man is affected, they are operational. They would not be inclined to throw that away or to take the chance that the Canada Labour Relations Board might call it a technological change, might consider that it affected a significant number of employees adversely. They would not want to throw away what they have in their contract on the gamble that out of a work force of 100,000 the board might make the determination that 300 men did not comprise "a significant number."

Senator Lawson: I would want to answer Senator Grosart by saying that I think that this would encourage both sides to meet the responsibilities in direct negotiations, and that both sides would have far greater confidence in their own abilities to deal with each other—both being very knowledgeable on the issues—than in any outside agencies doing it for them. I think, yes, Senator Grosart, that it will do precisely that.

Senator Grosart: If that is so, then you do not need the Act.

Senator Lawson: The key phrase you miss, Senator Grosart, is that if there is no escape, then they are encouraged to meet their responsibilities. Well, this legislation makes sure that there is no escape. Either they meet together and resolve their differences by people knowing what it is all about, or they have to face the penalty of a tribunal that will make decisions. If there is no escape, they will, in my experience, meet together and work out their differences.

Senator Grosart: Would it not be much more sensible to insist that the collective agreement contain provisions in respect to technological change?

Senator Lawson: I think it would be a very desirable feature of the legislation to make it a provision that every collective agreement "shall contain a provision for the satisfactory solution of technological change."

Senator Grosart: That is precisely why I think it is a bad Act; it does not do that.

Mr. Armstrong: Most employers do not agree with that.

Senator Lawson: I do not think you would find most employers agreeing.

Mr. Kelly: Certainly, the CMA does not.

Senator Lawson: I would be happy to draft that during the lunch hour.

Senator Grosart: You propose it as an amendment, and I will second it.

The Chairman: Honourable senators, I am happy to see that the minister has arrived. I understand he will not be able to stay with us very long owing to other important obligations he has these days. I certainly welcome him on behalf of the committee.

Hon. Martin O'Connell, Minister of Labour: Thank you, Mr. Chairman. I am delighted to be here. I apologize for not being able to be here at ten o'clock, when you wished to convene. It is only because of the rather exceptional circumstances in which we all find ourselves today with respect to the ports of Montreal, Trois Rivières and Quebec City that the government is meeting this morning to consider its course for this afternoon. Once again I must say that I am sorry I was not able to meet with you at the beginning of your meeting this morning, but I will be happy to try to answer any questions you may wish to put to me.

I am pleased to see the officers of the department here. I am sure you will get both good and substantial answers from them. They have been at this particular matter for well over a year now.

The Chairman: Thank you, Mr. Minister.

Senator Lawson: Mr. Minister, I was going to ask one question of Mr. Kelly. I want to make sure we understand the impact of the example Mr. Kelly gave us a few moments ago. Did I understand correctly that, under federal jurisdiction now, if your 10,000 employees were reduced to 500 employees, so long as they were an unorganized group they would have no remedy whatever?

Mr. Kelly: There is no remedy under this act.

Senator Lawson: You could have 9,500 employees displaced by the introduction of technological change and they would have no remedy whatever?

Mr. Kelly: That is correct.

Senator Lawson: The only salvation would be—and I hate to say it! —for them to become members of a trade union.

Mr. Kelly: Yes.

Senator Smith: You hate to say that?

Senator Lawson: Yes, but I am forced to that conclusion!

Hon. Mr. O'Connell: Perhaps you should not use the word "remedy". They do have some forms of protections. Those are found in another portion of the Canada Labour Code. I refer to labour standards, where there are matters with respect to termination notices, group lay-offs, severance pay, and so on. So there are standards that protect employees, whether in a union or not, but this bill applies only to those who are represented by a union.

Senator Grosart: Mr. Minister, earlier we referred to section 152(1), which provides for the reopening of negotiations by order of the board. Is it your understanding, in such a reopening of the original collective bargaining agreement, that it would apply only to the technological change?

Hon. Mr. O'Connell: Yes.

Senator Grosart: Will that be incorporated in the regulations? Will that be made clear?

Mr. Wilson: It is clear here.

Senator Lawson: It is clear in the law now.

Senator Grosart: It is questionable whether it is or not. I am asking the minister.

Hon. Mr. O'Connell: I do not think it will be in the regulations, if that is the question, sir. Mr. Chairman, I think it is clear enough in the provisions that they deal with technological change, and the reopener would be confined to that matter.

Senator Grosart: If the board were to interpret it differently, Mr. Minister, what would happen? For example, if the board interpreted section 152(1) as permitting an order to reopen the whole collective bargaining process, would it be within the power of the board to do so under the act in accordance with that interpretation?

Mr. Mitchell: If I may, I will try to answer that question, Senator Grosart. We were very careful—at least, we tried to be very careful—during the drafting process to make certain that the right to reopen would be restricted to the effects of the change, and we think we have accomplished that. If the board were to misinterpret the section and give a more general right to bargain, then I think that the minister would want to take steps in Parliament right away to get that situation straightened out. At the present time we have to advise the minister that the right or the power of the board to reopen an agreement is limited to that stated in the last three lines of subsection (1).

Senator Grosart: Who is "we", and how would you advise the board?

Mr. Mitchell: Well, the board will be an independent body, a separate body, independent from the department. When I say "we," I speak of the officials in the Department of Labour. We were responsible for drafting this bill.

Senator Grosart: And you are responsible for advising the board as well?

Mr. Mitchell: No, we are not.

Senator Goldenberg: This is an independent board, and I think we should make that point very clear. I do not think Senator Grosart would expect the Department of Justice to advise the Supreme Court of Canada on how to interpret the law.

Senator Grosart: That is exactly what was said, that "we would advise the board if they misinterpreted." Those were the exact words.

Mr. Mitchell: I do not think so, senator.

Senator Goldenberg: I do not think so. I think what was said was that we would advise the minister to introduce new legislation.

Senator Grosart: I think that is right, because it would be none of your business if the board interpreted it that way.

Mr. Mitchell: If I said that, I am sorry, senator.

The Chairman: I think the witness said that they would advise the minister.

Mr. Mitchell: If I said anything else, I did not mean it.

Senator Connolly: Suppose there was a misinterpretation on a point of law by the board, does an appeal lie to the courts from that decision?

Mr. Mitchell: An appeal would lie to the Federal Court.

Senator Lawson: I have a couple of questions, Mr. Chairman. For the first one, I turn back to page 3, to where it says that "dependent contractor" means:

> (a) the owner, purchaser or lessee of a vehicle used for hauling livestock, . . . who is not employed by an employer but who is a party to a contract, oral or in writing—

Does this act contemplate the right of a trade union to certify that group of people?

Mr. Mitchell: Yes.

Senator Lawson: Even though they are not employees?

Mr. Mitchell: Yes.

Senator Lawson: And in certifying this group of people, the trade union would be able to bargain with the contractor that they hold a contract from but are not employees of?

Mr. Wilson: Yes. Just as they do now for all the drivers that your organization has been certified for.

Senator Lawson: It is like musical chairs in that every month we get a different ruling.

Mr. Wilson: That is because they are different independent contractors.

Senator Lawson: I know, but that depends upon the skill and the imagination of the employers involved, and they display considerable skill and alacrity in the way they handle this.

Mr. Wilson: Of course, if they make them completely independent, then they will not be dependent contractors.

Senator Lawson: So they can escape the provisions of this legislation as well.

Mr. Wilson: Yes, by making them completely independent, but then it would not serve the purpose of their business to do that.

Senator Lawson: I shall direct my second question to the minister. Regarding the composition of the board contemplated here, will this be a public board? I am concerned about the selection of the people named to the board. First of all, it would be a full-time board?

Hon. Mr. O'Connell: Yes.

Senator Lawson: And, secondly, in regard to the formula you use for nominating people to the board, will there be X number of labour and X number of management with some Congress people, et cetera?

Hon. Mr. O'Connell: We are already engaged in some consultations with people knowledgeable in the labour, management and judicial fields and academic circles, seeking suggestions from them as to persons qualified to sit on this kind of board. We certainly intend to consult very extensively with labour and management, and I think there is no doubt at all that people will be drawn from different backgrounds in order that their experience will be available to that board. I do not have any particular formula in mind like three of one and three of another, or two of yet another, or anything like that, but the board must gain credibility, and I am sure it will have that. It must gain the acceptance of both parties to collective bargaining and, therefore, they will want to feel assured that there are people of good judgment in there; and it will be in our interest to make sure that they feel that way. I think we will be drawing people not only from a union background but also from a management background, and also others who are, shall we say more neutral. But it will not be in a formula sense.

Senator Lawson: As you know, under the present structure we have had considerable complaint that the make-up included one or more from the railway brotherhood and one from the Canadian Labour Congress, but that independent organizations like the CNTU and others across the country were not represented. The complaint was repeated many times that they were not receiving and could not receive a fair hearing.

Hon. Mr. O'Connell: Well, we would share that concern, but the situation will be different in this sense, that the present labour board is in fact a representative board and, of course, people are concerned about the representativeness of a representative board. It has part-time persons who are still performing functions in their, let us say, railway union or management role. So that the problem as to how representative is that representative board becomes, from time to time, a question when they are turning in judgments. But we try to surmount that question of representativeness, or at least to modify it, by having a full-time public board where the members must sever their connections with the place from which they may have come, whether they have been in a trade union or in management or a judicial or other kind of role, so that they are no longer representative of the CNTU or the Congress in the sense that the present board is. But the parties would want to feel assured, nevertheless, that the persons there would have the feelings and judgments that would enable them properly to reflect the positions of both parties and the public interest.

Senator Lawson: I take great confort in your answer, Mr. Minister. One final question. Will the board be only in Ottawa or will it be established and domiciled here?

Hon. Mr. O'Connell: That would really be for the board to determine, as I understand it. Mr. Wilson might modify that or add to it.

The Chairman: I think there is a provision that it could travel, but it should be domiciled in the national capital.

Hon. Mr. O'Connell: I think it could meet in a couple of panels if it so desired.

Mr. Wilson: We will see that it gets out to the west coast occasionally!

Senator Lawson: There have been problems for those who have come before the board in that in one month you would have a technical objection and then there would be a delay for another month; and sometimes we have had anniversary parties without having yet had a decision.

Mr. Wilson: Well, with panels the board would be able to cut down on this kind of thing.

The Chairman: This is exactly what I am afraid of, that the workers may have to wait a long time to get their compensation, and that the employers will have to wait a long time to introduce a technological change.

Senator Lawson: But if it was a full-time board it would change the whole aspect of this. And I think the key to any legislation of this kind is speedy decision to avoid serious complications and problems. I think having them meet on a full-time basis is a giant step towards solving this problem.

Mr. Wilson: I do not know whether their decisions will be any speedier. The present board is pretty quick in most cases–except the kind of cases you sometimes give them, senator. But I think the board will hear its cases because it will not be scheduling meetings, for example, every third or fourth week. They will be able to hold a meeting any time that they can arrange a hearing.

The Chairman: But as a result of this legislation they will have much more work to do.

Mr. Wilson: Probably.

Senator Goldenberg: Not necessarily. I do not think so.

Hon. Mr. O'Connell: Mr. Chairman, sections 114 and 115 provide the answers, I think, to Senator Lawson's questions. Section 114 says that:

> The head office of the Board shall be in the National Capital Region . . . but the Board may establish such other offices elsewhere in Canada as it considers necessary for the proper performance of its duties,

And subsection (2) says that they may meet for the conduct of business in various places in Canada. Then section 115 says that three members may constitute a quorum, so it is contemplated that they could sit in various places as panels.

Senator Goldenberg: So it is up to Senator Lawson to make sure now that British Columbia stays in Canada!

Senator Hastings: Mr. Minister, in our discussion of the bill last night an observation was made that the enactment of sections 149 to 153 would have a detrimental effect with respect to technological progress and would thereby have a detrimental effect with respect to job security. It was further suggested that the thrust or the emphasis should be concentrated on the massive training or retraining program. Would you care to comment on the first part? And then, from our experience have we not found that there is an age when retraining becomes totally impractical, with negative results?

Hon. Mr. O'Connell: Yes, Mr. Chairman, I think that as we look back through the decades of history we find that a good deal of labour unrest surrounded the introduction of technological change. If you go back to the beginning of the Industrial Revolution it is quite evident that riots topped off the unrest which came as a result of the introduction of new machinery, and people were displaced whose livelihoods had been built around other processes and equipment. We are obviously in a phase of economic and social development which your chairman has often described as being permanent or continuous change. It is an area of very explosive technological change. We find that a good deal of labour unrest, with resulting strikes and bargaining, takes place around the issue of job security and job security as it relates to concern over the effects on the workers and their dislocation, their displacement as a result of the technological change.

We have felt that it would be the intelligent and practical thing in this age of change to encourage bargaining over those effects; and there are considerable inducements in this bill. In our view, it will facilitate the oncoming of the change. This is probably a debatable point and it will take a little experience to help us determine whether we have made the right judgment. We think we have. If we bring it on to the bargaining table, the employer can introduce the change along with its benefits at the same time, and the employees are more likely to accept it, having bargained to protect themselves to the degree which they felt feasible.

So, in answer to your first question, I feel this is a constructive means of dealing with the issue which, in the minds of many observers of labour-management relations, has become a dominant issue in collective bargaining, and especially around the issue of job security. We have seen major employers introduce provisions and procedures for dealing with this matter and we have seen constructive results. So, we have some background in this field.

Mr. Chairman, the other point which was raised concerns retraining. Some few years ago very significant programs, legislation and policies were introduced by the government with respect to manpower development, retraining, relocation and mobility. I think these matters are surely the other side of this question. Quite apart from the arrangements it encourages among two parties to any given enterprise, the state has an obligation to cushion or facilitate the changes in the economy while ameliorating the effects on the community, on groups of people and on individuals. It does this through mobility programs, manpower training, relocation programs and, most recently, the training-on-the-job program. I think the two things must run parallel. No doubt we will improve in light of our experience in retraining and mobility.

The Chairman: Would you say that this aspect of the government program is recognition of the fact that technological change entails not only private benefits but also social benefits, and the burden of compensating for the adverse effects of technological change should not be exclusively in the hands of the innovative firm? Otherwise, we might not have many innovative firms. We know that in some areas of this country a great number of workers are losing their jobs precisely because firms have not been innovative and have had to close down because they are not competitive.

Hon. Mr. O'Connell: That is right.

Senator Hastings: But have we not found from experience that there is an age at which retraining programs are impractical and have had a negative result, especially between the ages of 38 to 44?

Hon. Mr. O'Connell: I would have thought the problem of retraining would arise at an older age. However, the difficulty may

relate more to the pedagogy and techniques which are being used rather than to the age of the individual. This is an area where we have to improve our performance.

Some industries have introduced new schemes for early retirement—for example, the textile industry and the boot and shoe industry. They have pre-retirement schemes. We are working our way into the issue regarding middle-aged workers who need special cushioning. I agree with your chairman that there is a need for society as a whole.

The Chairman: They may have to do this soon in the pulp and paper industry as well.

Senator Cameron: Mr. Chairman, it seems to me that this bill is one of the first which is on the fringe of what we might call social innovation. However, there seems to be a basic contradiction here. On the one hand, in order for manufacturing companies to be competitive we must introduce every possible technological change, which means we will displace more and more labour. We must do this in order to survive if we say that technological change is a good thing. And this suggests that if we are going to do this, we have to go further and provide for the ameliorating effects of the change, and we are only beginning to do this. It seems to me this whole area has to be tackled on a much more fundamental basis than we have done so far. For example, the Minister of Finance brought in a budget last May in which he made certain concessions with regard to encouraging more manufacturing and providing more jobs, which everyone agrees is a desirable objective.

I feel satisfied that, while the legislation may be good, it will not achieve the purpose the minister had in mind, because the full thrust of technological change is against it. We now have this act related to the budget, and it seems to me there is a need for a much greater fundamental change.

Hon. Mr. O'Connell: There is certainly a great deal of truth in what appears to be a contradiction between seeking to increase employment and facilitating changes which create unemployment. When an enterprise introduces a technological change a number of employees are sometimes displaced because of it. This is not always the case, because larger firms normally find it possible to retrain or relocate employees within the enterprise to carry out other work which tends to be created as the firm expands. It is an innovative firm and finds room for those who are displaced. Considering the enterprise itself, there does appear to be that contradiction. However, the entire innovative economy seems to provide an increasing number of jobs, often in areas which have not yet been fully foreseen. We have witnessed the increase in employment in the area of medical services. I am amazed at the number employed in a hospital. There has been expansion in the educational field.

The Chairman: We have also seen the cost expanding.

Hon. Mr. O'Connell: We have seen the cost expanding but, from the point of view of employment, an innovative and mature economy seems to create new job opportunities as rapidly as it displaces workers from other sectors. The leisure industries may be the next to absorb people. Therefore, the apparent contradiction at the level of the firm may be resolved at that of the overall economy. It becomes a matter then of mobility of the work force. That is a difficult problem to overcome because immobility increases in one who works in the same community for a long time. Retraining is crucial and financial assistance to relocate and cushion shock are important when the economy is altering the balance from standard manufacturing of goods to the production of services.

We are aware that our economy creates new jobs at a very rapid rate, although unemployment rates are very high and some will continue to be displaced. During the last five years we have seen the employed labour force increase from approximately seven million to eight million.

The Chairman: Is there another contradiction, such as this type of production tending to discourage occupational and inter-firm mobility, in the sense that although the services of a worker, or a significant number of workers, have become obsolete or are not further needed, the firm may have to retain them in order to compensate for the adverse effect of the technological change? These factors would discourage mobility and improvement of productivity in the economy.

Hon. Mr. O'Connell: I do not know how to answer that question, Mr. Chairman. It will depend on the bargaining taking place in the firm, perhaps the size of the firm and alternative openings for those who are displaced by any change. Many major firms will be able to handle the problem. One method frequently employed is that of attrition. We know how the railways cushioned the shock. Those workers will be employed for their lifetime, unless they choose to leave. As they retire—and the retirement age can be governed somewhat by an earlier retirement plan—they are not replaced. Therefore, the work force declines in relation to the technological change, but this is done in a humane manner.

Senator Lawson: Mr. Minister, we experienced a simple example of that, where just the reverse was true. We agreed and negotiated a formula to reduce the work force by attrition. Subsequently we found out that, with the introduction of new technological devices in the industry, in two years the situation had reversed itself and 80 new jobs were created. Unfortunately, that is not always the case, but it is a very welcome example of what happens on occasion when these matters are negotiated on a fair and proper basis and provision is made for the change.

The Chairman: What are the main differences between the provisions in the bill and the recommendations of the Woods task force?

Hon. Mr. O'Connell: We would need a few days in which to answer that.

The Chairman: I do not refer to the entire bill, but only to these four provisions.

Mr. Armstrong: Basically, the approach of the task force was with respect to industrial conversion, as they term it, instead of technological change. A reopener would be permitted if the parties could reach agreement. That is the substantial philosophical or conceptual difference. The parties could agree to reopen. The government considered that if the union was not strong enough to

win substantive provisions to cushion the impact of technological change it would be unable to obtain from the employer the right to reopen.

The Chairman: These provisions then go much further than the recommendations of the Woods task force?

Mr. Kelly: As I understand the concept of the Woods task force, a union could opt out of a term of an agreement. They could have openers if they could bargain to get them, which means conducting a strike if the bargaining is hard enough. A strike could be called to opt out of the closed concept under the act, which would lead to many major confrontations, I can assure you.

Mr. Armstrong: With the agreement of the employer.

The Chairman: The minister has referred to other provisions of the Canada Labour Code, for non-unionized workers. Have you considered any improvement in this field to protect not only a significant number of employees, but perhaps all employees, especially those who are not unionized?

Mr. Wilson: We constantly improve our labour standards and expect to introduce further amendments from time to time. Whether they will bear directly on this problem, however, depends on the conditions we find in industry and what is considered to be the appropriate treatment. Undoubtedly if, through this bill, the application of those technological change provisions result statistically in different norms being established, I would think that this would be reflected in our labour standards legislation.

Senator Hicks: Despite Senator Grosart's reservations about the effect of section 152 in restricting the reopening of collective bargaining to items that relate to the introduction of the technological change, and their effect only, there is no question in my mind that that is what the bill does attempt to do. What I do not understand is that when the collective bargaining is reopened, even though with the best intentions of all parties to restrict the bargaining only to the effect of the technological change, and to try to provide some remedy for employees who may be significantly and adversely affected by it—

The Chairman: And substantially.

Senator Hicks: —and substantially, will it not often occur, however, that in order to do this, you strike at the whole basic nature of the original agreement? I am not an expert in these matters, but would the minister or some of his officials suggest how remedies might be sought to achieve this limited purpose without substantially affecting the whole nature of the agreement?

Mr. Wilson: You are quite correct that in seeking to mitigate the effects of technological change, and in the re-opening of the agreement, there might be some effect on the other provisions. But this is where the bargaining would take place. The employer undoubtedly would adhere to the position, except if he decided otherwise, of confining the bargaining to the effects of that narrow issue. If, on the other hand, the union wished to go after other provisions not related to the change—actually, right now, under our existing legislation, the parties can agree. There is nothing in this act that would prevent the parties from agreeing at any time to alter any provision of the agreement, except the one relating to the duration of the agreement. This is in the bargaining area, and you are quite correct there.

Senator Grosart: Following that up, if it is true that the reopening of the collective bargaining agreement is to be limited to the effect of the technological change, will the board normally restrict its order to commence negotiations to those employees who are actually displaced? I say that because we are told it will not reopen the whole contract. Therefore, will the board require the employer to discuss the terms and conditions of employment of people who are not themselves affected?

Mr. Mitchell: I think the answer is no, senator. The board order will, I think, be drafted in the terms of subsection (1).

Senator Grosart: Of what section?

Mr. Mitchell: Of section 152—subsection (1).

Senator Grosart: Under the act, you say that the board is required to limit an order to commence negotation to those employees who are displaced?

Mr. Mitchell: Yes.

Senator Grosart: That is very interesting. We will see if that happens.

Mr. Wilson: If it does not happen, it will simply mean that they go down to the strike stage on the question, and the issue will be decided there.

Senator Grosart: That is my point. You cannot limit it. There is no way that you can limit it, as you say, to the effects of technological change, because once the board requires the two parties to reopen, to renegotiate, if one side insists on going beyond the direct effects of the technological change you will have a lock-out or strike.

Senator Hicks: They do not even have to do that. My feeling is that they can try to restrict themselves to the effects of the technological change, but in order to find a worthwhile remedy relating to those adversely and substantially affected by it, they may have to do other things that will go beyond that; and, of course, this will then give the right for a legal strike or lock-out during the course of a collective agreement, which would not otherwise have been possible.

Senator Grosart: And which might have nothing to do with the direct effects of the technological change. That is why, in my view, it is unrealistic to say that section 152 restricts the renegotiation to the effects of technological change.

Mr. Wilson: It is in the hands of the parties.

Senator Lawson: Yes, and I think that Senator Grosart underestimates the economic muscle of the employers. When we

have a contract open, and we are legally entitled to bargain on everything, we have difficulty it getting them to do that. Even on the basis of limiting it, I think you can rely upon the economic muscle of the parties to achieve a balance.

Senator Grosart: If we could do that, we would not need any labour legislation.

Mr. Wilson: I would think that if it came down to a board of conciliation in those circumstances, the conciliation board might have something to say about the extent to which one party or the other was going beyond the board's order in formulating the conciliation board's recommendations.

Senator Grosart: Under the act as drafted, may I ask if the board would have power to require recourse to conciliation or arbitration in the event of disagreement on new terms?

Mr. Wilson: If there were disagreement, it would follow the normal course.

Senator Grosart: Under the act, does the board have the power to order recourse?

Mr. Kelly: No. If the board gives the parties the right to open, all the conciliation procedures apply. The union does not acquire the right to strike until they have gone through the conciliation process, which could involve a conciliation officer, a conciliation commissioner, or a conciliation board. There is no arbitration in the Act as it stands. There is no arbitration in this bill. Before either party could get to a strike or lock-out position, it must exhaust the procedures which it goes through now.

Senator Grosart: In other words, are we being told that the board's powers are limited to ordering negotiations to commence?

Mr. Kelly: That is right.

Senator Grosart: But it has no power to make any order as to what will happen after negotiations commence?

Mr. Wilson: That is right.

Senator Lawson: Nor would any conciliation officer or conciliation board have the right to make a binding settlement. They can only make recommendations.

Mr. Wilson: That is right, except in one small instance where the parties agree beforehand to be bound.

Senator Lawson: Yes.

The Chairman: And would it be possible, for instance, once negotiations start, that the union might decide to accept the technological change, with the result that 50 employees will lose their jobs, providing the employer gives to the remaining employees higher wages or a shorter work week?

Senator Lawson: The parties could also, if it were merely a technological change issue, agree on that issue to be bound by the officer's or commissioner's or board's decision?

Mr. Kelly: If they so agreed.

Senator Lawson: By consent.

The Chairman: What about the answer to my question? I do not think that deals with my question. The union could decide to forget the displaced workers if the firm provided higher wages for those remaining?

Mr. Wilson: Absolutely.

Mr. Kelly: If the employer agreed that they could do that.

Senator Lawson: But the employer would not be forced to do so under the order.

The Chairman: It would be part of the negotiations. If, for instance, the employer did not accept it, then the right to strike would be given.

Mr. Kelly: No, sir. First would come the conciliation procedure–

The Chairman: Yes, the various steps, but ultimately the right to strike would be available.

Mr. Kelly: If it went before a conciliation board–which, in theory, represents the public of Canada–and the union had a demand for a ten cent an hour wage increase, I am quite sure the conciliation board would not equate that to the issue in dispute and would make it quite clear in their recommendations.

The Chairman: Yes, but this is not binding on the two parties. The union could still strike.

Mr. Kelly: In theory, yes.

The Chairman: In practice, too.

Mr. Kelly: In practice, they could strike, but as has already been said, if the employer was not open to such a suggestion he would have a great deal to say about the outcome.

The Chairman: Well, we are experiencing a strike today where the provisions in the contract have been agreed upon by the union leaders and the employers, but not the rank and file, so they are on strike. It is an illegal strike, but it is a strike.

Senator Grosart: Mr. Chairman, may I ask whether or not the order to commence negotiations in these circumstances would automatically nullify or make void the original agreement, let us say, in respect of section 155?

Mr. Wilson: No.

Senator Grosart: It seems to me that section 155 contains a provision for final settlement without stoppage of work. Is this nullified if the board decision is that negotiations must commence on what we are told is this limited sphere of the effects of technological change?

Mr. Wilson: On this issue, yes, but not on any other issue. If the board says that the agreement cannot be opened because the application is defective or does not meet the conditions in the technological change provision, of course section 155 applies to that collective agreement because it cannot be opened. On the other hand, if the board opens the agreement to bargaining on the effects of technological change, this does not nullify section 155 with respect to those other provisions in the agreement.

Senator Grosart: That is one interpretation.

Mr. Wilson: I think there probably would be some litigation on that.

Senator Grosart: I am sure that there would be, because, if I may suggest, this bill really nullifies, in effect, the original collective agreement.

Mr. Wilson: It would, sir, if the technological changes touched every provision of the agreement, but they do not. The reopener is confined. You go through conciliation on those issues, but if during those proceedings a union or a company alleged agreements with respect to the other provisions, the arbitration procedures which the law provides under a cillective agreement would continue to apply. It would be absurd to have any other result.

The Chairman: Would it not be true that some of the difficulties would have been overcome if you had provided in this legislation that where there is no mutual arrangement to deal with these issues there would be compulsury arbitration to deal with the effects of technological change?

Mr. Wilson: There are a dozen different ways it could be dealt with, but this is the one that was chosen.

The Chairman: But you would not have to go through the board and all the delays and possibly lockouts and strikes.

Mr. Wilson: It is considered better under this type of legislation and the type of industrial relations system we have to let the parties decide their own destiny on these things. Actually, if you were going as far as to allow an artiter to decide these things–and even Friedman did not permit this in his recommendations–the next step would be to have compulsory arbitration with respect to all of the act and do away with the conciliation provisions altogether. The system here, if I may explain just a little further, is designed to be a reflection of the whole system.

The Chairman: Well, you do not have to apply it with vengeance.

Mr. Wilson: If you are going to have compulsory arbitration with respect to technological change, why not have it with respect to all of the provisions?

The Chairman: I would be against that.

Senator Hastings: Mr. Chairman, I wonder if we might excuse the minister. I am sure he has a great deal to do.

Hon. Mr. O'Connell: I would appreciate that.

Senator Smith: Before the minister leaves, I wonder if he is in a position to give us a statement on has problems?

Hon. Mr. O'Connell? Only that they are not resolving themselves by the actions of the two parties.

The Chairman: Thank you for coming, Mr. Minister.

Senator Carter: Mr. Chairman, I arrived at the meeting late, and perhaps this question has alresdy been asked. My question is this: If there is a dispute as to whether a technological change has taken place or not–whether certain action actually constitutes a technological change–who has the last word? Does the board ultimately decide that?

Mr. Mitchel: The board decides.

The Chairman: I have one last question. How do you interpret in section 150(2)(a) the expression "the nature of the technological change"? As you know, in the innovation process technological change is very often quite a secretive operation with regard to competitors. If you force the innovative firm to describe more or less completely the contemplated change, then this information will become available to competitors who may not have a union and will be able immediately to pick up this technological change on a free basis.

Mr. Wilson: There is no doubt that under the bill as drafted there will be various tactical positions. An employer must decide in his own mind, depending on the nature of his business and what he hopes to accomplish, just how he is going to behave. For instance, if he is afraid of his competitors so much, he will be less afraid of having his agreement reopened, so he will not give notice and, in due course, will be challenged before the board for not giving notice. However, that time will probably suit him better than during the regular negotiating period.

The Chairman: Even if he does not go before the board, he has to give votice to the union and inform them of the nature of the technological change.

Mr. Wilson: If he fails to give notice he just leaves himself in jeopardy.

The Chairman: Then he comes before the board. Even if he does not go before the board, even if he gives notice to the union, he has, in a way, to make the nature of his innovation public.

Mr. Wilson: If he does. But he can choose the other course if he wants to, to not give notice. Then, when he desires to make the change, the union will go. Surely when he desires to make the change later he will have revealed his technological change position to his competitors.

Mr. Kelly: Could I suggest that what the board would be interested in is the displacement effect, and if a manufacturing industry were going to introduce new equipment, a new type of milling machine which would require less of a tool-up period so that they could stagger the word force to operate these machines, which would result in a smaller work force, they would say by the introduction of a new type of milling machine they would not have to document the blueprints of go into details of the complex production system, brewing system, or what-have-you.

Mr. Wilson: Let us put it this way. An employer who does not intend to make a change at all may give notice of change for bargaining purposes. There are all sorts of tactical situations that can arise.

Senator Goldenberg: I think they do that now when they give notice of certain lay-offs, not intending to have lay-offs.

Mr. Wilson: Of course. As you know, under this provision there are three avenues: you can make the substantive provisions and sign the waiver; or you can put in a procedure which will settle it by arbitration; or you can elect or not elect to give notice to the employees. Let us say an employer is uncertain about his technological change situation. He is not likely to give notice, because if he is uncertain it may be that by the time he makes the

change his plans will have been changed entirely in relation to the notice given. In those circumstances he may prefer not to give notice at all and wait. If he does not prefer to do that in a certain kind of business, where technological change is very rare, he may wish to have a procedure by which an arbitrator, or someone else, will decide, because it is so rare.

We do not think we will have too many of these kinds of situations in the federal jurisdiction, which is pretty well settled, but in the kinds of business that operate there are a number of options open to the employer, including, as I said, the giving of one notice or multiple notices to the union for bargaining purposes purely, and then trying to get some concessions for dropping them.

Senator Grosart: Are we being told that an employer has the option of not giving notice?

Mr. Wilson: That is right.

The Chairman: Yes.

Senator Grosart: If he does not give notice, is he not breaking the law?

Mr. Wilson: No. It may be that the union, when he does make the change, will see some benefits in it for themselves and not apply to the board for an order requiring him to bargain. If they did apply to the board for an order requiring him to bargain, the order would probably be granted.

Senator Grosart: My question was: If he does not give notice, is he not breaking the law?

Mr. Wilson: No.

The Chairman: I think this is covered in section 151.

Senator Grosart: Section 150(1) says:

> An employer who is bound by a collective agreement and who proposes to effect a technological change that is likely to affect the terms and conditions or security of employment of a significant number of his employees to whom the collective agreement applies shall give notice.

Mr. Wilson: It is put in this way, that he shall give notice, but if he does not–

Senator Grosart: He is breaking the law.

Mr. Wilson: No. He subjects himself to a summary notice.

Senator Grosart: Surely, if you say he "shall" do it, he is breading the law if he does not?

Mr. Wilson: Well,–

Senator Grosart: Is the answer yes or no?

Mr. Wilson: Yes, but you are just looking at one section.

Senator Grosart: No, I am not.

Mr. Wilson: If he fails to give notice, the bill provides a procedure for the union going before the board to seek compliance with it. If the board grants the notice to bargain, it will carry with it the conclusion that he did not give the notice he should have given.

Senator Grosart: Then he breaks the law.

The Chairman: No. Under section 151(1)(b), where a bargaining agent alleges that the employer has failed to comply with section 150 there is a procedure for the union to make a request to the board.

Senator Grosart: That is merely a procedure by which the union can insist that he keeps the law. If the law says he shall do it, surely if he does not he is breaking the law? If that is not so, then I do not understand the word "shall" in an act of Parliament.

Mr. Wilson: There are so many circumstances, involved, and so many varying circumstances, that if he is violating the law, as you say, I think it will be the decision of the board that a notice to bargain shall issue.

Senator Grosart: Certainly I agree with that. If I am charged with breaking the law it will not help me to say there are a lot of circumstances and somebody else can make me obey the law. This does not help. The fact is that I am breaking the law.

Mr. Wilson: It is a procedural violation.

Senator Grosart: There is no such thing as a procedural violation of an act of Parliament. Please!

Senator Lawson: I think it is very clear. I agree with Senator Grosart. As I read it, he would have been guilty of failing to comply, and if he fails to comply with any provisions, under section 190 he is guilty of an offence and liable, on summary conviction, to a fine not exceeding $10,000. I agree with Senator Grosart.

Mr. Wilson: I think you will find that if a charge were laid under that section, or a complaint made to the board, on a notice to bargain, which the board could issue on a proper complaint by a union, the law would in itself discharge the violation; it could not help but do so.

Senator Grosart: The board cannot "discharge" a violation of the law.

Mr. Wilson: Then the board has no power at all.

Senator Grosart: If I commit a non-capital murder, it is true I may get a suspended sentence, but this does not mean I did not break the law. Why make this pretense? He is breaking the law if he does not give notice. Why run away from it?

Mr. Wilson: There is a lot of difference in committing murder, which can be proven and established. If in the case of the murder, on complaint that it was murder, the board could revive the victim and provide the victim with an avenue of relief–

Senator Lawson: Surely, Mr. Wilson, if the company failed to comply and the trade union does not seek the remedy of getting an order from the board, we can go right to section 190 and charge the company with failing to comply–

Mr. Wilson: You can.

Senator Lawson: –get a conviction and have a penalty assessed against the employer?

Mr. Wilson: I do not think you would get a conviction though. I think what you would get is an order that if you are injured in that respect you should follow the procedure provided in the act and serve notice on the board that you want them, the board, to issue a notice to bargain on that person who had broken the law. But I do not think you would be able to go into the courts for some other kind of remedy.

The Chairman: Are there any other questions?

Senator Cameron: I would just say, Mr. Chairman, that it seems to me that this is a good example of permissive society running riot. No wonder we have trouble.

The Chairman: I understand that we are now breaking new ground. This legislation is brought forward on a kind of experimental basis. I certainly hope that, if this bill is adopted, the department will take a very close look at how these provisions work. As far as I am concerned, I certainly am serving notice that we will look at the implementation of these provisions very closely, as a chamber of second thought or as a committee of second thought. Gentlemen, you might be asked next year, or at some stage, to come back and justify the optimism that you have manifested today.

Mr. Wilson: Mr. Chairman, certainly I can say that we considered, in regard to some of the critics, even some of the bitter critics, of the legislation, that if the bill is as bad as they say it is, it cannot possibly last.

The Chairman: As far as we are concerned, there is no member of this committee who is a bitter critic of the legislation. We are worried, and some of us are more worried than others, that this will be another great impediment to technological innovation, and a further discouragement to the expenditures in industry which are going down at the moment.

Shall section 149 carry?

Hon. Senators: Carried.

The Chairman: Shall section 150 carry?

Senator Grosart: On division. Mr. Chairman, I said "on division", but I am not a member of the committee. I do not see any senator here who sits in the same group of seats as I do, so I think my motion–it is a motion to carry the section on division–is out of order.

The Chairman: I was going to point that out, senator.

Senator Grosart: I thought I would do it before you did.

The Chairman: I am sure you will repeat the same words on third reading.

Shall section 150 carry?

Hon. Senators: Carried.

The Chairman: Shall section 151 carry?

Hon. Senators: Carried.

The Chairman: Shall section 152 carry?

Hon. Senators: Carried.

The Chairman: Shall section 153 carry?

Hon. Senators: Carried.

The Chairman: Honourable senators, we deal now with the last part of clause 1. I understand there are no obvious objections to this latter part of clause 1.

Hon. Senators: Agreed.

The Chairman: So I would like to put it as a package: Shall the rest of clause 1 carry?

Hon. Senators: Carried.

The Chairman: Shall the title of the bill carry?

Hon. Senators: Carried.

The Chairman: Shall I report the bill without amendment?

Hon. Senators: Agreed.

The Chairman: Gentlemen, thank you very much for coming here and giving us so much assistance–and good luck!

The committee adjourned.

Published under authority of the Senate by the Queen's Printer for Canada

Available from Information Canada, Ottawa, Canada.

FOURTH SESSION—TWENTY-EIGHTH PARLIAMENT

1971-1972

THE SENATE OF CANADA

PROCEEDINGS OF THE STANDING SENATE COMMITTEE ON

HEALTH, WELFARE AND SCIENCE

The Honourable MAURICE LAMONTAGNE, P.C., *Chairman*

Issue No. 4

FRIDAY, JULY 7, 1972

Complete Proceedings on Bill C-230,

"An Act to provide for the resumption of the operation of the ports of Montreal, Trois-Rivières and Quebec".

REPORT OF THE COMMITTEE

(Witnesses—See Minutes of Proceedings)

25296–1

THE SENATE COMMITTEE ON HEALTH, WELFARE AND SCIENCE

Chairman: The Honourable Maurice Lamontagne

The Honourable Senators:

Bélisle	Hastings
Blois	Hays
Bonnell	Inman
Bourget	Kinnear
Cameron	Lamontagne
Carter	Macdonald
Connolly (*Halifax North*)	McGrand
Croll	Michaud
Denis	Phillips
Fergusson	Quart
Fournier (*de Lanaudière*)	Smith
Fournier (*Madawaska-Restigouche*)	Sullivan
Goldenberg	Thompson
	Yuzyk—(27)

Ex officio Members: Flynn and Martin

(Quorum 7)

Order of Reference

Extract from the Minutes of the Proceedings of the Senate, Friday, July 7, 1972:

Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Martin, P.C., seconded by the Honourable Senator Benidickson, P.C., for the second reading of the Bill C-230, intituled: "An Act to provide for the resumption of the operation of the ports of Montreal, Trois-Rivières and Quebec".

After debate, and–

The question being put on the motion, it was–

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Sentor Martin, moved, seconded by the Honourable Senator Benidickson, P.C., that the Bill be referred to the Standing Senate Committee on Health, Welfare and Science.

The question being put on the motion, it was–

Resolved in the affirmative.

Robert Fortier,
Clerk of the Senate.

25296–1½

Report of the Committee

Friday, July 7, 1972.

The Standing Senate Committee on Health, Welfare and Science to which was referred Bill C-230, intituled: "An Act to provide for the resumption of the operation of the ports of Montreal, Trois-Rivières and Quebec", has in obedience to the order of reference of July 7, 1972, examined the said Bill and now reports the same without amendment.

Respectfully submitted.

Maurice Lamontagne,
Chairman.

The Standing Senate Committee on Health, Welfare and Science

Evidence

Ottawa, Friday, July 7, 1972.

The Standing Senate Committee on Health, Welfare and Science, to which was referred Bill C-230, to provide for the resumption of the operation of the ports of Montreal, Trois-Rivières and Quebec, met this day at 11.45 a.m. to give consideration to the bill.

Senator Maurice Lamontagne (*Chairman*) in the Chair.

The Chairman: Honourable senators, I suppose that it would shorten the proceedings if we were first to deal with the matters raised in the house by the Leader of the Opposition. I believe that the minister heard most of the points, because I saw him in the gallery.

Senator Martin: Mr. Chairman, I do not think the minister had the opportunity of hearing all of Senator Flynn's statement.

The Chairman: In any case, I am sure that Senator Flynn will put his points again, if honourable senators agree to that procedure.

Senator Flynn: I think the minister should be invited to make a statement first.

The Chairman: Of course, that is the general procedure, in the event you wish to do so, Mr. Minister. Otherwise I would give the floor to Senator Flynn.

The Honourable Martin O'Connell, Minister of Labour: Mr. Chairman, I appreciate very much the despatch with which both the House of Commons and the Senate are proceeding to consider this emergency legislation. I would like to say here, as I said in the Commons in introducing the second reading debate, that it is indeed an unhappy duty to bring forward this type of bill. It is a very infrequent act of Parliament that seeks to terminate a work stoppage. This may be the sixth such instance in 30 years and perhaps a longer period of time. We are therefore doing that which we normally do not expect to do.

Before presenting this type of bill, all other available remedies are exhausted. It would have been far better, of course, had the parties been able to stay within the boundaries of the collective agreement and work out their dispute. They came very close to doing so. It became clear that those remedies were exhausted, at least on July 4, a few days ago. You are all aware, I am sure, that on June 29 the arbitrator named in the agreement brought in a ruling which interpreted the basic issue of the dispute. He gave a judgment in this case against the union activity and confirming the right of the employer to do that which it had done, which had brought on the dispute.

That presented the possibility of a mediating procedure, since over a period of time the problem had become greater than a dispute within the confines of the collective agreement. That is to say: How do you get back to work in these circumstances, when there may be no ships for a period of time? How does one get back to work when there has been a guaranteed income plan of 37 weeks' pay, whether one is working or not? How does one get back? Everyone cannot get back.

Senator Benidickson: Under what provision is that?

Hon. Mr. O'Connell: The collective agreement contains clauses providing for what is termed job security. We should be clear, however, that it is not job security in the normal sense, but an income security plan providing for 37 weeks' pay whether one is working or not. Because of the shipping season and the fluctuations in work opportunities, this was a basic feature of the plan.

How does one break through after being out of work for eight weeks? How is a return to the guaranteed system effected in a manner which will not bankrupt the employers, yet still be equitable for the men?

This therefore became an issue, and we undertook, as soon as the arbitrator's ruling had seem brought down–, that is to say, on June 29–to go immediately to Montreal and convene a meeting of the parties. In four days of intensive mediation Mr. Kelly, who is with me, Mr. Bernard Wilson, the Deputy Minister, Mr. Charles Poirier, who is the senior officer in Montreal and who had been with these parties over the past three years, attempted to reconcile the back-to-work differences, coming very near to success.

Most of the minor issues were reconciled, but there remained the major obstacle, which is reflected in clause 7 of Bill C-230. The impasse remained. Therefore we were in the position that all remedies open to the parties within the framework of the collective agreement had been sought and had failed. A mediation process of five days had been engaged in and had come to an impasse. We were then faced with the responsibility of legislating, in our judgment. That is the background for the presentation of this legislation.

Mr. Chairman, with those opening remarks I would be glad to respond to whatever questions the members of the committee wish to pose.

Senator Flynn: I want to assure the minister that I am in sympathy with his thinking of the past weeks, and that my criticism is not directed to him personally but more to a practice, a system and legislation which I think very often appears to be inadequate.

Having said that, my first question to the minister concerns the last problem. He seemed to indicate that the problem of job security

created the impasse which finally provoked the introduction of this legislation. I think the minister would agree with me that this problem was a consequence of the illegal strike and that the longer the union and the longshoremen delayed their return to work, the worse this problem would become. I think that by this legislation you have not provided a solution, but you have provided a procedure by which to find a solution. There is no solution to this problem, except that an arbitrator will look into this matter and will finally decide the fair way of getting out of it.

My question is: If the problem had been created by circumstances beyond the grasp of both the employer and the employees, would not the collective agreement have provided the machinery for solving it?

Hon. Mr. O'Connell: There is a provision in the collective agreement, Mr. Chairman, that I believe is intended to deal with circumstances arising beyond the control of the two parties. "Force majeure" is, I think, the expression—we might say, a major crisis. I do not know what the interpretation of a major crisis would be, but surely it would be the intention of the parties to make provision for some unusual circumstances that would upset that job security plan, and that is in the collective agreement.

Senator Flynn: Do you not agree that the collective agreement, as it exists, could have been used to find a solution to this job security plan, even in the circumstances in which it was created?

Hon. Mr. O'Connell: Yes, Mr. Chairman. There is no question but that the two parties, collectivelyand separately, failed to make use of the collective agreement to resolve their differences. They ought to have gone immediately to the person they had named to settle this kind of dispute. The union ought to have gone at once if it felt aggrieved.

Senator Benidickson: Under our present law?

Hon. Mr. O'Connell: Yes; the collective agreement itself. Where the present law comes in to reinforce that, the Labour Code requires that every collective agreement have within it provisions to go to an arbitrator when a dispute arises over the interpretation of a clause or over a grievance. For example, in the event of a grievance that the other party violated one of the provisions of the accord, the law requires that there be such an arbitration procedure, and if the parties have failed to implant one in their collective agreement, the Canada Labour Relations Board may supply one, deem it to be there, and set out the way it will work. That is where the law of the country comes in to support the procedure. They did, in fact, put one into their collective agreement, but then failed to use it.

I do not know how one is going to explain the failure to make use of the arbitrator, but possibly each party may have either feared the result or felt it was the other party's initiative; and in these circumstances sometimes, in the weaknesses of human nature, they get locked into positions. Whatever the reason, there it was.

The Chairman: I heard an expert on television the other night. I do not know whether he was right.

Senator Smith: An expert in which field?

The Chairman: In the labour field. He was trying to interpret this crisis. His interpretation was that apparently this was a grass-root movement and that the rank and file of the union, at the time when their leaders signed the agreement with the employers, did not understand the implications of the agreement and, as a result, when they realized the situation, they went out.

Senator Flynn: Do you mean that was the cause of the strike?

The Chairman: I do not know if that is the right interpretation. Would you care to comment on that?

Hon. Mr. O'Connell: Mr. Chairman, there probably is a complex of factors, but the explanation you have presented undoubtedly is one of those factors in the total picture.

We frequently heard the point of view of the longshoremen that the redeployment of men, which the employer undertook to do in May—let us say, even in April—could be undertaken by the employer only when the computer despatch system was in operation, which was expected to be by September.

The redeployment of men, simply put, is this, that if a gang is working in the hold of a ship and some become surplus to the requirements of the job at the moment, if, instead of 16 men, you require only eight, can you take the other eight over into the sheds and say, "Now, will you package this up, and get this ready?" In the past, that was not possible, but under the new agreement, the flexibility that the employer had was a requirement that he felt he needed, in order to live up to the guaranteed pay, provision he must have productivity. He felt he had the flexibility to redeploy to the shed those persons not needed in the hold.

That was a new experience for the men, because under the old system they had other kinds of very limited redeployment. As I understand it, if they were not needed, they were virtually on relief and not working. It was a system called "spello". I presume that means that you spell each other off in not working.

The employer began redeploying, as he felt he had the right under the new agreement, even though the computer had not yet gone into operation.

I might pause there to say that the computer was linked to an automatic telephone call-up system, where it would be programmed to know what ships were coming in, the type of cargo on those ships, the sequence in which they would be unloaded, how many men would be required for this period of time, what skills they require, how many would be needed for the next layer of cargo, and so forth. It would be calling only those that it needed. The calling up would be in accordance with seniority arrangements, and so forth. The computer would, therefore, be an objective master of the situation. In that sense, the traditional size gang of 16 men is not called up but only that number that is needed. That had been agreed to. It was the end of the feather-bedding system.

The men took the position that until the computer was operating the old practices prevailed; and the employer, of course, took the other position. The result was that the arbitrator ruled that

the employer was right. In his ruling he made reference not only to the main collective agreement, but also to memorandum No. 1 of April 3, which was initialled by the president of the union and the president of the employers' association. That memorandum provided for transitional arrangements with respect to the redeployment of men. The arbitrator's judgment gave the employer the right to redeploy, as, in fact, he was doing. You could argue that the men did not understand or did not know this, but the fact is that this is the very kind of instance in which they should go to the arbitrator to determine whether or not it is the employer's right to follow that course or whether in doing so he is in violation of the agreement.

That course was open to them, but they declined to follow it. The employer also declined to follow it, taking the position that they had made their move and it was up to someone to respond. We had an impasse until the employer finally went to the arbitrator and was confirmed in his actions.

Senator Flynn: Mr. Minister, I do not know whether or not you heard all of my speech in the chamber, but my thesis was that Bill C-230 does not go beyond the provisions of the Canada Labour Code and is, in fact, merely a repetition thereof, with the exception, of course, of clause 7 which deals with the job security plan. Would you care to comment on that?

Hon. Mr. O'Connell: Clause 7, of course, is the heart of the question. How does one break through the return-to-work arrangements except through an arbitration of the job security provisions –the pay guarantee provisions? And that is, indeed, beyond the scope of the Canada Labour Code. This bill specifically orders the return to work, and it specifically prohibits strikes and lockouts. Both of those, of course, are provided for under the Canada Labour Code, but this bill being a special act of Parliament opens up enforcement procedures not available under the Canada Labour Code; that is, the enforcement procedures of the Criminal Code.

Senator Benidickson: That was my point. I should just like to say that I admired your restraint last week. I wondered why this bill was necessary, but I knew you would explain it, as you have done so well this morning. I think you have explained why clause 7 of this bill has been included.

Hon. Mr. O'Connell: Mr. Chairman, I might go one step further in that explanation. In clause 7 you will see the word "modifications". This bill invests the arbitrator with a power which he does not normally have. His normal power is to interpret the collective agreement, not to modify it. Here his power is to rule on an alleged violation. We give him the power in this bill to go beyond the normal power to modify the pay guarantee plan because automatically it has been disrupted.

Senator Benidickson: This is the fifth or sixth time we have done that.

Hon. Mr. O'Connell: Yes, that is right. The plan is dislocated; it is disrupted and a date has to be fixed for its resumption. The arbitrator under this bill has the power to fix the date and the time interval in which modification of the plan will be in effect, after which the fullness of the plan will be restored in whatever form he decides. That is an additional power which is not provided for under the Canada Labour Code.

Senator Carter: Mr. Minister, you said that this bill, if passed, will give recourse to the Criminal Code as well as to the Canada Labour Code. In the event of any refusal to obey this law, when passed, which code takes precedence? Do you have to exhaust the powers under the Canada Labour Code before resorting to the Criminal Code, or can you apply the Criminal Code right away?

Hon. Mr. O'Connell: Well, the Labour Code does not apply in this case. Therefore, we would not have recourse to the penalties provided therein. A special act of Parliament takes precedence, if we want to call it that, and, therefore, any violations thereof are subject to the provisions of the Criminal Code.

Senator Martin: Senator Flynn's point in the chamber this morning with respect to clause 7, the job security clause, was that the Canada Labour Code itself provides remedies for dealing with this situation. His argument was that it was redundant for Parliament, particularly with respect to clause 7 and its implications, to pass this law when there is already in existence a law that is applicable. I believe that was Senator Flynn's argument. It might be useful if you were to deal with that now.

Hon. Mr. O'Connell: Clause 7 is an extremely important clause. It is the obstacle around which we must find the route back to employment. The Canada labour Code would not have assisted us in finding that route. It is not the usual return to work, such as you might experience if a factory had shut down and then, upon an agreement being reached, the employees had gone back in and started it up again. This return to work is vastly complicated by the pay guarantee plan and the nature of dock work in that there may not be any ships to be loaded or unloaded. In other words, the men report to work and say, "Here we are. Begin paying us!" and if there is no work, then there are difficulties.

Senator Carter: The main purpose of this bill is to preserve as much of the original agreement as can be salvaged? The return to work, and so forth, will be worked out by an arbitrator. The main objective is to preserve as much as possible of the original agreement?

Hon. Mr. O'Connell: That is right. I ought to say that the Criminal Code is not the only operational procedure. Civil proceedings could be initiated by either party, which means going into court to get an injunction; and, of course, a failure to comply with the injunction leads to contempt of court proceedings. That course of action is still open.

Senator Flynn: Mr. Minister, when a labour dispute arises which does not affect the public interest, I take it your department will not, as a matter of policy, resort to section 147 of the Canada Labour Code to provide penalties for those causing a lockout or causing a strike or participating in a strike. However, in a strike such as the one we are now experiencing it seems to me that right at the beginning, envisaging that it could last a rather lengthy period, it was the responsibility of your department to resort–and I am not

saying without precautions–to section 147 of the Canada Labour Code.

Do you not feel it might have had the effect of persuading them to return to work if you had warned the union leaders and membership that they were liable to the fines provided under section 147(3) and (4), and that following a set period of time your department would initiate proceedings under that section?

Hon. Mr. O'Connell: There are two parts to that question. In reply to the first part, I would say that we would not encourage the use of section 147 to transfer into a court proceeding that which is really a collective bargaining dispute; but we will give permission to prosecute when the circumstances seem to warrant it.

Secondly, in the case to which the senator refers we declined to give consent to prosecute. If my memory is correct, consent to prosecute was sought on the grounds that the other party had failed to go to arbitration. However, the collective agreement provides that either party may initiate; it does not have to wait for the other. Therefore, I took the position that the parties, singly or jointly, had not exhausted the private remedies available to them and that it would not be appropriate to have one going to the court if that one seeking to go to the court could itself go to the arbitrator.

Senator Flynn: I agree with that conclusion, but as far as the strike is concerned, the members, the longshoremen, and the union officers had no right to strike. That was quite clear from the beginning. Therefore they were liable to the penalties provided in subsection (3) and (4) of section 147. I suggest that it was the responsibility of your department to proceed after a while. I do not mean right away, but after a while.

Senator Benidickson: How many days?

The Chairman: Could we proceed in an orderly fashion, please? A question has been put by Senator Flynn.

Mr. W. P. Kelly, Assistant Deputy Minister, Industrial Relations, Department of Labour: In our experience–and I believe this is the purpose of the latitude in the act that gives the minister the right to consent or withhold his consent to prosecute–it is questionable whether that would bring remedy. In the first instance, the parties had private remedy that they had not exhausted. Secondly, with the basic issue unsettled–and it has been suggested that there was confusion in the minds of the rank and file, whether the company had the right or not–the court would not have determined that issue. It was the minister's and our considered judgment that that would not bring remedy to the dispute; the employers had instituted private action in the court and there were contempt proceedings.

We felt that the basic issue must be settled. That is: Did the company have the right to break up these gangs prior to September 1? When that issue was resolved we immediately moved on the periperal issue, which then had become greater than the main issue, that of job security, to try to work out an agreement with the parties. That could not be handled through the Labour Code unless they agreed to modify the agreement in this one instance; it meant that immediately the employers would lift the suspensions, and have all the employees suspended at that stage to protect themselves under the job security provision. If they lifted those suspensions and that question went to arbitration, the arbitrator would have no other alternative but to rule that the job security provision become immediately effective, and some 32 longshoremen would be on approximately $200 a week, with no tonnage in this port, possibly for some time to come, to pay this job security. This is again the necessity of clause 7.

Senator Flynn: I agree with that, except that it is provided in the collective agreement that if you have a grievance you have to go to the arbitrator. The employer had no grievance. It was the employees who had a grievance, and it was up to them to go to the arbitrator and not go on strike. From that moment they were not using the means at their disposal. It seems to me obvious that the situation would develop as it has, and that at that time with the use of section 147 you could possibly have convinced them that they had to go to arbitration before, and that was the only remedy they had.

Mr. Kelly: Of course, as the collective agreement is worded, both parties can initiate.

Senator Flynn: Yes, but if I have no grievance I am not going to go to an arbitrator.

Mr. Kelly: The question is: Would that have brought them back to work, when they did not respond to the private action of the employers in the court and the contempt proceedings?

Senator Flynn: It was late then.

Senator Benidickson: I should just like to say that when I interjected to ask, "How many days? " I did not mean that to be a reflection on the minister or his administration in any way. He has not been long in that office. The deputy minister has now adequately explained the whole thing for me.

Senator Carter: I should like, through you, Mr. Chairman, to ask Senator Flynn if he would elaborate on his earlier question a little. I understood him to say he felt that the minister should have issued a warning that he would take action under the Criminal code after a certain date.

Senator Flynn: Under the Labour Code.

Senator Carter: Yes, under the Labour Code. Assume that the minister gave a warning and said, "If in 10 days' time you have not fixed things up, we are going to apply the Labour Code." Assuming that nothing had changed, does Senator Flynn feel that the government should have taken action against the union or against both parties, because both parties had disregarded it?

Senator Flynn: No, no. I think Senator Carter is mistaken.

Senator Carter: I want to clarify that point.

Senator Flynn: The collective agreement provides for final and compulsory arbitration, in the case where you have a grievance. The union had a grievance–not the employers–and instead of calling for

the arbitrator to give a ruling, they went on strike, which was against the Labour Code and against the collective agreement. What I suggested is that the minister–realizing that that kind of strike, if it were to last any length of time, would eventually have hurt the public interest more and more–should have warned the union leaders and the longshoremen that according to section 147 they were liable to fines, as provided therein, for each day they continued on strike.

That was the remedy available under the Labour Code. That is what I am asking. I can understand that the minister would not, on the first day, prosecute all those concerned, and that is why I used the word "warning". This provision was there; this remedy was there. It may be that it was not sufficient, I do not know; but if it was not sufficient, I doubt that the provisions of Bill C-230 will be sufficient, unless, as I said before, it is more persuasive because it is a unanimous declaration of Parliament that we will not tolerate that.

Hon. Mr. O'Connell: Of course, the penalties are significant compared with those in the act which are $500 a day.

Senator Flynn: Except that you have a daily penalty here too, and 50 days at $300 a day is already $15,000.

The Chairman: Senator Flynn, I think you should also take into account the new aspect which the minister brought up a moment ago, that in this bill the arbitrator will have more power than is provided under the agreement.

Senator Flynn: For the security plan, I agree–

The Chairman: Which is the main difficulty.

Senator Flynn: –but the longer the strike was to last the worse this problem was to become. That is why we have to provide for it, because the strike has lasted too long. If it had lasted only a week, there would not be that problem.

Senator Martin: The point there is that Senator Flynn argues–and I just say this so that the minister will realize this was part of the thrust of Senator Flynn's argument this morning–that if intervention had taken place before the last arbitration, the circumstances that reduced the fund would not have been present; and your answer to that, as I understood it, is that you were hoping in this human situation that the parties themselves would act pursuant to their powers, their rights and their collective agreement. Is that not the situation?

Hon. Mr. O'Connell: Yes.

Senator Benidickson: I should like to say–

The Chairman: A question has been put by the Leader of the Government, and I think we should allow the minister to answer that question.

Senator Benidickson: I just want to say, Mr. Chairman, why. I want to make it clear that I realize that a certain time had to go by.

Hon. Mr. O'Connell: I think Senator Martin has stated it well. There are rights under the agreement, but also obligations that had not yet been fulfilled. We ought to consider this, when we are discussing who had a grievance. The employer also had a grievance, it being the withholding by the men of their work. His grievance was that they had walked off illegally. Both had grievances there. Notwithstanding that, the issue then was: Did the employer have the right to do what he was doing? A court would not be deciding that issue; it would be penalizing somebody for doing something or for walking out, it may be. That had to be established; that is the function of the arbitrator. We cannot impose arbitration; the Labour Code does not give the minister power to impose an arbitration procedure. It does oblige the parties to have one that they establish, and it obliges them to use it.

Senator Benidickson: Very good.

Senator Flynn: A grievance is not always a violation of the law, but sometimes it is. The grievance of the employer was that there was a violation of the law, whereas the grievance of the employees was not that there was a violation of the law but that there was a violation of some conditions, material conditions, of the collective agreement. That makes a difference. When there is a violation of the law, the minister responsible for that legislation has some responsibility; whereas if there is a violation only of a collective agreement, it remains a private matter between the parties. That is the point I wanted to make.

Hon. Mr. O'Connell: You make the point, senator, and I accept the point that you are making. I take the responsibility for having decided, at that point in time, that to give consent to prosecute would not contribute to the resolution of the dispute. We have to weigh those factors.

Senator Flynn: Yes.

The Chairman: Apparently, at least some of the workers thought that the employers were violating the agreement–

Senator Flynn: The agreement, but not the law.

The Chairman: . . . violating the agreement and, therefore, violating the law.

Senator Flynn: No, no. You are not violating the Labour Code when you are violating only a provision of a collective agreement that is not compulsory. An arbitration clause is compulsory, but not the question of deployment of employees. You have to make that distinction. That is the only point I wanted to make. I respect the judgment of the minister. I am just critical of the timing. I may be wrong and he may be right, but I just wanted to put that on the record.

The Chairman: Do you have any other questions, Senator Flynn?

Senator Flynn: No. There was only one more question, and I think the minister will not reply on it, because it is a problem that

the cabinet will have to decide. I refer to the question of having permanent machinery to deal with strikes, legal or illegal, which are becoming harmful to the public; and especially if this should occur during the period between parliament.

The Chairman: There is in the new Labour Code a provision now, I understand—it has not been sanctioned yet—to deal with such situations during periods of dissolution.

Senator Flynn: Which one?

Senator Benidickson: I was going to speak to Senator Flynn's remarks. Does this not involve what we had before us in the Senate? I have forgotten the disposition of it. It was Senator Haig's motion, seconded by Senator Buckwold, concerning strikes and the like. It is something we can very properly do in the future.

The Chairman: In any case, Senator Flynn, I understand that you are just making a suggestion to the future government.

Senator Flynn: Oh, are you suggesting that I should not address the suggestion to the present minister?

The Chairman: Are there any further questions? If you wish to proceed more rapidly, I can put the question covering all the clauses.

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

The Chairman: Shall I report the bill without amendment?

Hon. Senators: Agreed.

The committee adjourned.

Published under authority of the Senate by the Queen's Printer for Canada

Available from Information Canada, Ottawa, Canada.

Fourth Session—Twenty-eighth Parliament

1972

THE SENATE OF CANADA

STANDING SENATE COMMITTEE

ON

HEALTH, WELFARE AND SCIENCE

The Honourable MAURICE LAMONTAGNE, P.C., *Chairman*

INDEX

OF PROCEEDINGS

(Issues Nos. 1 to 4 inclusive)

25361—1

Prepared

by the

Reference Branch,

LIBRARY OF PARLIAMENT

INDEX

BIL C-183
AN ACT TO AMEND THE CANADA LABOUR CODE

BILL C-195
AN ACT TO AMEND THE ADULT OCCUPATIONAL TRAINING ACT

BILL C-207
AN ACT TO AMEND THE OLD AGE SECURITY ACT

BILL C-230
AN ACT TO PROVIDE FOR THE RESUMPTION OF THE OPERATION OF THE PORTS OF MONTREAL, TROIS-RIVIÈRES AND QUEBEC

Published under authority of the Speaker of the Senate by the Queen's Printer for Canada

Available from Information Canada, Ottawa, Canada