HOUSE OF COMMONS

First Session—Twenty-seventh Parliament

1966

STANDING COMMITTEE

ON

Labour and Employment

Chairman: Mr. GEORGES LACHANCE

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 1

Respecting

BILL No. C-2

An Act to amend the Fair Wages and Hours of Labour Act.

TUESDAY, FEBRUARY 22, 1966
TUESDAY, MAY 17, 1966

WITNESSES:

From the Department of Labour: The Honourable John R. Nicholson, Minister; Mr. George Haythorne, Deputy Minister.

From the Canadian Construction Association: Mr. P. Stevens, Director of Labour Relations.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

24231—1

STANDING COMMITTEE ON LABOUR AND EMPLOYMENT

Chairman: Mr. Georges-C. Lachance

Vice-Chairman: Mr. Hugh Faulkner

and

Mr. Barnett,
Mr. Duquet,
Mr. Émard,
Mr. Gordon,
Mr. Gray,
Mr. Guay,
Mr. Hymmen,
Mr. Johnston,
[1]Mr. Knowles,
Mr. Lefebvre,
Mr. MacInnis (*Cape Breton South*),
Mr. Mackasey,
Mr. McCleave,
Mr. McKinley,
Mr. Morison,
Mr. Muir (*Cape Breton North and Victoria*),
Mr. Racine,
Mr. Régimbal,
Mr. Reid,
Mr. Ricard,
Mr. Skoreyko,
[2]Mr. Stefanson—(24).

[1]Replaced by Mr. Orlikow on May 16, 1966.

[2]Replaced by Mr. Fulton on February 24, 1966.

Timothy D. Ray,
Clerk of the Committee.

ORDERS OF REFERENCE

MONDAY, February 7, 1966.

Resolved,—That the following Members do compose the Standing Committee on Labour and Employment:

Messrs.

Barnett,	Knowles,	Muir (*Cape Breton North and Victoria*),
Duquet,	Lachance,	Racine,
Émard,	Lefebvre,	Régimbal,
Faulkner,	MacInnis (*Cape Breton South*),	Reid,
Gordon,	Mackasey,	Ricard,
Gray,	McCleave,	Skoreyko,
Guay,	McKinley,	Stefanson—(24).
Hymmen,	Morison,	
Johnston,		

THURSDAY, February 24, 1966.

Ordered,—That the name of Mr. Fulton be substituted for that of Mr. Stefanson on the Standing Committee on Labour and Employment.

MONDAY, May 9, 1966.

Ordered,—That Bill C-2, An Act to amend the Fair Wages and Hours of Labour Act be referred to the Standing Committee on Labour and Employment.

MONDAY, May 16, 1966.

Ordered,—That the name of Mr. Orlikow be substituted for that of Mr. Knowles on the Standing Committee on Labour and Employment.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House.

24231—1½

MINUTES OF PROCEEDINGS

TUESDAY, February 22, 1966.
(1)

The Standing Committee on Labour and Employment met this day at 10.05 a.m., for organization purposes.

Members present: Messrs. Barnett, Doucet, Émard, Faulkner, Gray, Guay, Hymmen, Johnston, Knowles, Lachance, Lefebvre, McCleave, McKinley, Morison, Régimbal—(15).

The Clerk attending, and having called for nominations, Mr. Morison moved, seconded by Mr. Émard, that Mr. Lachance be Chairman of the Committee.

There being no other nominations, Mr. Lachance was declared elected as Chairman.

Mr. Lachance thanked the Committee for the honour conferred on him.

On motion of Mr. Émard, seconded by Mr. Gray, Mr. Faulkner was elected Vice-Chairman.

On motion of Mr. McCleave, seconded by Mr. Faulkner,

Resolved,—That a Sub-Committee on Agenda and Procedure, comprised of the Chairman and four members to be named by him, be appointed.

At 10.15 a.m., the Committee adjourned to the call of the Chair.

M. Slack,
Acting Clerk of the Committee.

TUESDAY, May 17, 1966.
(2)

The Standing Committee on Labour and Employment met this day at 9.45 a.m. The Chairman, Mr. Lachance, presided.

Member present: Messrs. Barnett, Duquet, Émard, Faulkner, Gray, Hummen, Johnston, Lachance, Lefebvre, Mackasey, McCleave, Muir (*Cape Breton North and Victoria*), Orlikow, Régimbal, Ricard (15).

In attendance: *From the Department of Labour*: The Honourable John R. Nicholson, Minister of Labour; Mr. George Haythorne, Deputy Minister; Mr. B. Wilson, Assistant Deputy Minister; Mr. H. Johnston, Director of Labour Standards Branch; Miss Edith Lorentson, Director of Legislation; Mr. W. B. Davies, Departmental Solicitor.

From the Canadian Construction Association: Mr. P. Stevens, Director of Labour Relations.

From the Association of International Representatives of Building Construction Trades: Mr. John D. Caroll, International Representative of the Boilermakers.

The Chairman announced the names of the members of the Subcommittee on Agenda and Procedure to act with the Chairman: Messrs. Barnett, Faulkner, Johnston, Régimbal.

On motion of Mr. Lefebvre, seconded by Mr. Duquet,

Agreed—That the Committee print from day to day 1,000 copies in English and 500 copies in French of its Minutes of Proceedings and Evidence.

The Clerk read the *First Report of the Subcommittee on Agenda and Procedure* which was as follows:

"Your Subcommittee met on Wednesday, May 11, 1966.

Your Subcommittee recommends:

1. That the Minister of Labour, with such officials from his Department as he deems necessary, appear at the first meeting to make an introductory statement.

2. That the Committee entertain requests from witnesses to appear, and that Mr. P. Stevens, Director of Labour Relations, Canadian Construction Association, at his request, be the first witness.

3. That the Committee hold meetings Tuesdays, at 11.00 a.m."

On motion of Mr. Duquet, seconded by Mr. Émard,

Agreed—That the First Report of the Subcommittee on Agenda and Procedure be adopted as read.

The Clerk read the *Orders of Reference.*

The Chairman called Clause 1 of Bill C-2.

The Chairman introduced the Honourable John R. Nicholson who in turn introduced the various officials from the Department.

The Minister then made his statement, followed by questioning by the Committee.

On motion of Mr. Orlikow, seconded by Mr. Régimbal,

Agreed—That the *Fair Wages and Hours of Labour Regulations* (Appendix 1), and the *Canada Labour (Standards) Code* (Appendix 2) be appended to today's proceedings.

The Chairman addressed a question to Mr. Stevens concerning his date of appearance before the Committee.

At 11.05 a.m., the questioning of the departmental officials continuing, on motion of Mr. Faulkner, seconded by Mr. Duquet,

Agreed—That the Committee adjourn until Thursday, May 19, 1966, at 11.00 o'clock a.m.

Timothy D. Ray,
Clerk of the Committee.

EVIDENCE

TUESDAY, May 17, 1966.

• (9:45 a.m.)

The CHAIRMAN: Good morning, gentlemen. I understand we have a quorum now.

May I introduce the Minister of Labour, the Hon. John Nicholson. We have, as Clerk of our Committee, Mr. Ray.

Following our first meeting of the organization committee, I have been asked to form a steering committee. I have, after consultation with the different parties, the pleasure to announce that the steering committee is formed of the Chairman of the Committee, the Vice Chairman, Mr. Faulkner, Mr. Régimbal, Mr. Barnett and Mr. Johnston.

The subcommittee on Agenda and Procedure met last Wednesday and, with your permission, I will ask our clerk to read the suggestions which the subcommittee would like to present to you.

The CLERK OF THE COMMITTEE: The Subcommittee on Agenda and Procedure has the honour to present its first report. Your Subcommittee recommends:

1. That the Minister of Labour, with such officials from his Department as he deems necessary, appear at the first meeting to make an introductory statement.

2. That the Committee entertain requests from witnesses to appear, and that Mr. P. Stevens, Director of Labour Relations, Canadian Construction Association, at his request, be the first witness.

3. That the Committee hold meetings Tuesdays, at 11:00 a.m.

Respectfully, Georges Lachance, Chairman.

The CHAIRMAN: Is this report concurred in by the Committee, or would you have any amendment to this about checking on the degree of overlap between this Committee and others which might meet at eleven o'clock? I know there is an overlap of membership.

At the steering committee we had some discussion about it and it has been suggested that we should try to hold future meetings of the Committee every Tuesday until the bill, which has been referred to the Committee for study, has been completed. I have been able to get the date for next Tuesday at eleven o'clock.

Mr. GRAY: I would just make this suggestion, for the further consideration of the steering committee, that it might be easier to continue to get the good attendance we have today if some attention is given to the degree of overlap of membership with other committees that I know are going to be meeting at that same time.

The CHAIRMAN: As you know, Mr. Gray, we have some difficulty trying to arrange dates and times which would be suitable for all members.

Mr. GRAY: I do not want to start a discussion here, because we all want to start our work on this Bill. I am sure the Minister is ready with a statement. I would just make this point: You may find, on further consideration, that it will assist the work of the Committee and save the time of the officials if it is looked into. It may be that, as a test, what happens when you have your next meeting will demonstrate what I am getting at.

Mr. BARNETT: Mr. Chairman, may I just point out, as a member of the other steering committee that brought in this recommendation, that in passing that particular item in regard to the time of the Committee meeting, it was understood, I believe, in the steering committee, that it was subject to allowing latitude to the Chairman and the Committee to arrange the Committee in such a way that it would be co-ordinated with other meetings as far as possible.

This was an expression of our feeling that we should try and arrange a specific time which would give this Committee some priority, if this could be done.

The CHAIRMAN: As it is now, and as you know, Mr. Gray, next Thursday at nine o'clock we have a date which has been allowed by the Chief of the Committees Branch. Therefore, we can meet next Thursday, if that suits the Committee?

Mr. GRAY: Mr. Chairman, I am not suggesting that we do not have the meeting next Thursday; I just wished to put this point before the Committee, and you may want to take it into account and see what happens on Thursday.

The CHAIRMAN: As I have said, next Tuesday at eleven o'clock, at the suggestion of the steering committee, we have this date which has been allotted to our Committee.

Mr. Lefebvre, have you something to add?

Mr. LEFEBVRE: I would like to see the steering committee take into account the Agricultural Committee, too, because I think there are two or three of us right here now that should be in Agriculture. I see Mr. Ricard is here; and there may be others.

Mr. RICARD: There is a meeting going on right at this moment, across the floor.

Mr. GRAY: I think we should now hear the Minister on the subject matter of the bill which we have made the point of authority of this Committee this morning.

(Translation)

Mr. ÉMARD: Mr. Chairman, I think that it is quite difficult to give one's entire attention to all the committees. At 9.30, I myself have to attend three committee sittings: Defence, this one and Veterans. It is thus very difficult for me to give my entire attention to all the committees which we must attend. The best thing to do is, I think, to carry on even so. I have talked about this to Mr. Deachman, who deals with the committees, and he told me that there was no other possible solution to this.

(*English*)

The CHAIRMAN: We will certainly have a meeting of the steering committee and, following your suggestion, we will try to find the best solution.

Would you move the concurrence to the steering committee report?

Mr. DUQUET: I so move.

Mr. ÉMARD: I second the motion.

The CHAIRMAN: Motion agreed to.

May I ask now for a motion for printing? This is with regard to the number of copies to be printed. It has been suggested that the Committee print 1,000 copies in English and 500 copies in French of the Minutes of Proceedings and Evidence.

Mr. LEFEBVRE: I so move.

Mr. DUQUET: I second the motion.

The CHAIRMAN: Motion agreed to.

I will ask the Clerk of our Committee to read the orders of reference.

The CLERK OF THE COMMITTEE: Ordered that Bill No. C-2, an Act to amend the Fair Wages and Hours of Labour Act be referred to the Standing Committee on Labour and Employment. Léon-J. Raymond, the Clerk of the House.

The CHAIRMAN: Gentlemen, I should like to invite the Hon. John Nicholson, Minister of Labour, to make an opening statement.

Hon. John NICHOLSON (*Minister of Labour*): Thank you, Mr. Chairman. Gentlemen, as the Clerk of the Committee has said, this Bill that has been referred to this Committee, Bill No. C-2, is the bill to amend the Fair Wages and Hours of Labour Act.

That Act has been in the revised statutes in the last two or three printings. In fact, it has been in the Statutes of Canada, without amendment, since 1935.

The purpose of the Bill, as I explained in the House on the motion for second reading, is to deal with the wages and the hours standards of the Fair Wages and Hours of Labour Act which relate to government contracts only. This statute, the Fair Wages and Hours of Labour Act, applies to nothing except to government contracts—the construction of public buildings and work of that nature.

The intent of this amendment is to bring the Fair Wages and Hours of Labour Act, which applies to government contracts, into line with the Labour Standards Act which was approved by parliament last year. It is nothing more than that. It is a very simple amendment.

I have brought along, and I would like to introduce, if I may, the officials who are with me. The Deputy Minister, Mr. George V. Haythorne, the Assistant Deputy Minister, Mr. Wilson, the head of the Legal Department, Mr. Davis, also Miss Lorentsen of the Legislation Branch and Mr. Johnstone who is the Director in charge of administration of the Labour Standards Code. They are here to answer any questions that may be put to them either before or after witnesses are called.

I am assured by them that this Act, which has been on the Statutes Book now for over 30 years, has stood the test of time and has proved a very valuable protection to both workers and employers.

The change being proposed this morning, or in the Bill, is an amendment that is nothing more than a *bona fide* effort by the government to carry out a promise which was made by my predecessor, Mr. MacEachen, when he was Minister of Labour. Those of you who were in the House at that time will, no doubt, recall that when the Labour Standards Code was before the House, one or more members—I know one of them was Mr. Knowles of the New Democratic Party—said, "Well, that is all very well; you are doing this for industries that come within the jurisdiction of the federal government. But what are you doing about government contracts themselves?" Mr. MacEachen then undertook to bring in, at the next session, or, in fact, in the continuation of the same session—he had hoped to do it last fall but there was another event that intervened—but he gave an undertaking in the name of the government to bring in an amendment which would bring the Fair Wages and Hours of Labour Act for work on government contracts directly into line with the Labour Standards Code which was passed by the House.

An examination of the Bill will show that. I think you all have copies of the Bill. If you look at the explanatory notes on the side, you will see that section 2(*a*) of the Fair Wages and Hours of Labour Act defines wages: " 'Fair Wages' means such wages as are generally accepted as current for competent workmen in the district in which the work is being performed for the character or class of work in which such workmen are respectively engaged, but shall, in all cases, be such wages as are fair and reasonable." Now you will notice that if you compare that with the proposed amendment, there is no change in wording up to that point. "Fair wages" means the wages that prevail in the district where the work is being done, and they shall be fair and reasonable. Then, as I said, to bring it in line with the Labour Standards Code, these words are added: "and shall in no case be less than the minimum hourly rate of pay prescribed by and pursuant to the Canada Labour Standards Code." That is the first of the basic amendments.

Representations have been made to Members of the House. It is because of these representations that I felt this Bill might very properly be referred to this Committee. Representations came, principally, from the Canadian construction industry represented here by Mr. Stevens, and those representations were supported by representatives of the unions involved in the construction industry. I might say that a brief was forwarded to Mr. MacEachen in the spring of last year before the Labour Standards Code came into effect. Representations were made in the form of a brief to Mr. MacEachen, and copies were sent to some, if not all, members of the House at that time. Similar representations have been made in the form of a brief presented by the two groups that I have mentioned since the Bill was introduced and, in fact, since the motion was made for second reading.

• (10:00 a.m.)

In order that you and other members of the House would have the benefit of any views they have put forward, I recommended, and the government concurred, that it be referred to this Committee for study; because it is a very simple Bill, and while one may be able to sympathize with the objectives of an

industry or, perhaps, of labour, in trying to be excluded from the provisions of the Bill, in my view, at least—and I feel very strongly on this—it would be directly contrary to what we are attempting to do. We want to bring in a labour standards code that is uniform across Canada and which applies to all industries.

You will recall that we had made provision in the labour standards code, and we have made provision in this draft bill, for special conditions that may exist in certain areas. We know, for instance, that when you get up into the northern part of this country, into the Territories, or even into the northern parts of the provinces where you have the short days and the long nights and, *vice versa,* the long days and the short nights, the great bulk of construction work is done during the summer months; and, to get people to go up and work, incentive arrangements are often made so that they will work long hours for particular months of the year, and they can work in other parts of Canada, or not work, as the case may be. Provision is made for such situations in both this bill and in the Labour Standards Code.

But, as a general principle, we have thought, and a great majority of people in the House of Commons have felt, that we should say to all Canadians and to the rest of the world that we want a minimum of $1.25 an hour regardless of what happens in some areas. I realize that $1.25 an hour does not have too much significance in the part of the world that Mr. Barnett and I come from—British Columbia. Because of the boom that has been going on for the last few years it is uncommon for any person to get less than $1.25 an hour. On the other hand, in the part of the world where Mr. McCleave, Mr. Muir and I were born the same high standard did not prevail, and we have had wages of 60c and 62c an hour in those provinces within the last 24 months.

We want a standards code and we want that standards code to apply to government contracts as well as to those over which the federal government has jurisdiction. We feel that the government has a responsibility to keep wages and hours on government contracts in line with other contracts. We also feel that such contracts are just one step removed from direct employment by the government itself, and every government employee, every employee by the federal government today, gets this minimum of $1.25 an hour. We feel that it would be unwise to depart from the principle that is incorporated in the Labour Standards Code and which, we hope, you will recommend be incorporated in the Fair Wages and Hours of Labour Act.

I might say that, for practical reasons, the government has, for the last 30 years, recognized the prevailing practice that wage rates in the district where the work is being performed are always respected. There has been no departure from that; but in some parts of Canada, primarily eastern Canada, it has not been uncommon, up until within the last 12 or 24 months, to have wages appreciably below the national minimum standards that now apply. We have never had a national minimum in Canada until last year. Now that we have such a standard, we think, in spite of pleas that may be made for specific industries, whether they are supported by a segment of the employees involved—the workers involved—or not, that it would be a very dangerous thing to start off making exceptions.

There is another feature: A great deal of government work is subcontracted, and were we to accede to the suggestion put forward, the responsibility would rest with the federal government to undertake the policing of contracts

and sub-contracts and everything else. We prefer to have, and have done it consistently for many years; that is we prefer to have the conditions of work that apply to the contracts and the sub-contractors defined in the specifications.

Now, some members who are here—members of this Committee today—have asked me, between the two parts of the second reading of the Bill, "How do the provinces feel about this?" That is a perfectly natural question because most of the work on construction comes within the jurisdiction of the provinces rather than the federal government. I might say that federal government contracts involve only about three per cent of construction in Canada; the other 97 per cent comes within the jurisdiction of the provinces. With that in mind, I have, together with my deputy, had meetings with the Governments of the Provinces of Ontario, Quebec, British Columbia and Manitoba, and earlier than that my deputy met with the Ministers of Labour of all the provinces of Canada. I can assure you that they seem to be in agreement with the spirit of this Bill, with the principle of the Bill, and that they certainly do not encourage any departure from the principles that are embodied in the Act itself.

I think you should also keep in mind collective bargaining, which is the proposal that is put forward by Mr. Stevens and his associates. They say that the guide should be not the definition in the Act but the collective bargaining that comes out of negotiation. I would ask you to keep in mind, gentlemen, that collective bargaining in the construction industry is mainly on a craft basis. You have skilled workmen with trades, who are engaged there. Most of the skilled workers throughout the country had already obtained the 40-hour week before the bill—there is a second part to this bill. In the Act that now appears in the Statutes, in the Fair Wages and Hours of Labour Act, subsection (1) of section 2 provides, if you look at the second explanatory note on the Bill that is before you:

> Every contract made with the Government of Canada for construction, remodelling, repair or demolition of any work is subject to the following conditions respecting wages and hours:
>
> (b) the working hours of persons while so employed shall not exceed eight hours per day nor forty-four hours per week except in such special cases as the Governor in Council may otherwise provide, or except in cases of emergency as may be approved by the Minister.

The only change proposed in that section is to substitute "forty hours" for "forty four hours". There is no other change. Therefore, as I am saying, in the construction industry generally, in all parts of Canada, the 40-hour week is nothing new. They have had it, in fact, before the legislation was passed. However, other workmen employed in the industry, are not tradesmen. This applies particularly in the outlying parts of Canada where you have such works as the laying of asphalt and operations of that kind. They are frequently employed under conditions which may include a collective agreement that provides for longer hours than the 40 or 44 hours that have heretofore applied to the craft. The impact of this legislation, admittedly, is to make it obligatory that these people should work not more than 40 hours a week; or if they do work, they should get the overtime that is provided for in the complementary legislation.

In my view, and in the view of the officials who are here, this change from 44 to 40 is not a change in principle, it is just implementing a decision which,

the Parliament of Canada has already said, should apply to workmen across this country. It certainly does not run counter to any standards that have been applied under collective bargaining today. What it does is to require that the same standards be applied to the minority who ordinarily work the longer hours; we are protecting this minority.

I do not know, Mr. Chairman, that there is very much more that I can say. I would be glad to attempt to answer any questions that may be put to me and, as I have said, the officials are here for that purpose.

The CHAIRMAN: Gentlemen, I do not know how many questions you would like to ask the honourable Minister but—and this has something to do with the next sitting of the Committee—as you know, you have accepted the report of the steering committee regarding the witnesses who are to appear and you know that Mr. P. Stevens, Director of Labour Relations, Canadian Construction Association, at his request is to be the first witness. The Minister referred to Mr. Stevens in his statement. Mr. Stevens has been in touch with me by telephone, and he mentioned to me that, as Director of Labour Relations of the Canadian Construction Association, he would like to present some evidence to this Committee, or to make representations, to use his own words this morning, and also, some of the people of the union.

I would like to suggest that, with your permission, we could, perhaps, ask Mr. Stevens to appear as a witness this morning so that the Committee will know exactly what kind of representations the Canadian Construction Association would like to present to this Committee, and also those of the union people who would like to make representations.

Mr. Stevens told me on the telephone that some of the union people could not appear before the Committee for two or three weeks. I informed Mr. Stevens that it would be up to the Committee to decide if they would like to hear more representations after hearing what Mr. Stevens may have to say. I am wondering whether, after the honourable Minister answers the questions we could have Mr. Stevens, or somebody from the union, appear and tell the Committee what representations they would like to make to the Committee, since they have asked that the Committee postpone their sittings for two or three weeks. This is a problem on which the Committee will have to make a decision later.

• (10:15 a.m.)

Mr. NICHOLSON: Mr. Chairman, I think perhaps it would be helpful if I did tell the Committee that I, along with one or more officials of my Department, have had two meetings with Mr. Stevens and some of those associated with him and the written brief was later presented. The first meeting was rather a short one but our second meeting was a very extended one. We discussed all of the points that I have no doubt Mr. Stevens will be developing before this Committee. They were carefully considered. I might say the same representations were made to Mr. MacEachen approximately a year ago and I have had the benefit of a discussion with him on the subject.

While, as I said earlier, we could appreciate why one industry might like to have an exception made, I think I could tell you that the grain elevators of the prairies, the towboat operators on the Pacific coast, a great many industries in Canada like to have their particular industries excluded from the application of

the act. We felt it would be a dangerous precedent to start making exceptions unless there were some unusual grounds such as those I have mentioned: construction in the north, or something of that kind which is already provided for in the act.

Mr. BARNETT: Mr. Chairman, it seems to me it is rather important that the members of this Committee should, while the Minister has the officers of his Department here with him, first reach a clear understanding in their own minds as to the terms of the bill and the implications of it. It seems to me that we would be in a much more informed position to effect any representations that may be made to the Committee by people outside the House who are interested in the bill, if we were first to consider the bill and its implications, to the point where we are satisfied that we understand exactly what it involves. It is with that in mind that I would like to address one or two questions to the Minister. The question of how and when we meet with industry or trade union representatives could be dealt with strictly before the conclusion of this meeting. If I may I would like to ask one or two questions at this time on the implications of the bill.

As the Minister said, the Fair Wages and Hours of Labour Act has remained in our Statutes unchanged for many years, certainly long before we had any hope of having a national labour code which came into existence recently. My first question arises out of the fact that the bill seeks to incorporate into the Fair Wages and Hours of Labour Act, as I understand it, the provisions of Parts I and II of the Canada Labour Code which have to do with minimum wages and hours of work. My question is with reference to the Canada Labour Code, Parts III and IV, which deal with annual vacations and general holidays. I would like to know why it is that in this bill to amend the Fair Wages and Hours of Labour Act there is no reference to the matter contained in Parts III and IV of the Canada Labour Code?

Mr. NICHOLSON: The basic reason is, and we have tried to go along with the intent of the original legislation. Only three per cent of the construction contracts come within federal jurisdiction; 97 per cent are within provincial. As far as possible, we would like to keep in line with the holidays that are respected in the different provinces. I, personally, have no objection whatever to having the same number of holidays listed in this act as in the other one, but in view of the very relatively low percentage, and in line with the spirit of the original legislation that fair wages mean such wages as are generally accepted as current in the conditions of work, and so on, we did not deal with the holiday matter. That is the basic reason. I have no great objection to your saying that you shall have eight holidays with pay in this bill but I think our reasons are sound for not dealing with the matter.

Mr. BARNETT: I wanted to be clear on whether the question of provincial jurisdiction over employees in this field arose but I would suggest, as I understand the Fair Wages and Hours of Labour Act, this is, in effect, an intervention into the setting of standards in the field that lies within provincial labour jurisdiction, by the federal government's in these specific matters.

Mr. NICHOLSON: I have no objection... if this Committee wants to recommend there should be a given number of holidays, I personally have not the slightest objection. It might be a constructive suggestion if the Committee feels that way.

Mr. G. HAYTHORNE (*Deputy Minister, Department of Labour*): There are one or two aspects of this that, perhaps, we should have before us. One is, as Mr. Nicholson has just said, there are only about three per cent of the workers engaged in construction under federal jurisdiction. Where you have a specific job of work being done for the federal government, as you do under a contract, you have the problem arising right away about what those individual workers are doing during the rest of the year. There is a bit of a problem here which we have to wrestle pretty hard with, whether you want to have, generally, for most labour conditions the prevailing practices established either through collective bargaining, aside from these two which are pretty basic, or whether you want to have it done under provincial jurisdiction which covers by far the majority of people and on a year round basis; whereas in our case we dip in and out, as it were, whenever we have a contract, or put it into our legislation. I think, perhaps, the consensus was, after we thought about this thing pretty carefully, that we would do well, after discussing this with the provincial ministers and officials, not to move any further as Mr. Nicholson has said into the area of establishing conditions through legislation by the federal government than we had already done back in 1935. We did it then to establish the basic standards for both wages and for hours.

If you start going into these other two fields that are covered in the code, as you correctly point out, Mr. Barnett, then there are several other fields that you might feel you should go into, too; for example, safety. We have thought it is more practical and certainly much less complicated if, in the construction industry where by far the bulk of the inspection in this industry, from a safety point of view, is carried on, in any event, by the provinces we stayed with the two basic areas. We felt that rather than get into any problem here of overlapping jurisdiction we could, preferably, stay with these two basic areas, the fair wages and the hours of labour, as being the essential features of the contract, and then say, as we do now, when we let the contract it is understood that provincial regulations and provincial legislation be respected.

Mr. NICHOLSON: However, as I say, gentlemen, it is for you. That was the consensus of the experts who were advising me but you, after all, are the Committee.

Mr. BARNETT: Perhaps I could ask just one more question?

The CHAIRMAN: Is it your second question, Mr. Barnett?

Mr. BARNETT: Yes.

The CHAIRMAN: As you know, some other members of the Committee would like to ask questions. Is the second question related to the first one?

Mr. BARNETT: Not directly. It relates to a feeling that I have to wanting to be clear on all the implications of the bill. My second question relates to section six of the existing act which states that the Governor in Council, on the recommendation of the Minister, may make regulations covering the whole field of hours of work; the method of determining what are fair wages; rates of wages for overtime; classifications of employment or work; the publication and posting of wage schedules, et cetera. In view of the Minister's statement as to the nature of some representations that have been made about the bill, it does seem to me that it would be desirable to us for a proper understanding in

assessing what the policy has been in the administration of the existing Fair Wages and Hours of Labour Act to get some idea of where we may be going under the proposals contained in the Bill. If it is available, could we have a consolidation of the existing regulations before us when we are considering the bill and the representations that are made on it. Rather than have to search through the *Canada Gazette,* Part II, could we be supplied with a copy of the existing regulations?

Mr. NICHOLSON: Whatever we can do, Mr. Barnett, we would be very glad to do. We have a copy of the regulations and of the Fair Wages and Hours of Labour Act that is now in force. They are very short. They define a contract. They say the "Minister" means the Minister of Labour and there are only eight clauses to it. I think the Committee might get more help if, in addition, if they wanted to pursue this question, they looked at the regulations that have been passed under the application of the Canada Labour (Standards) Code. They are the ones that govern work generally and the government's intent is to bring the Fair Wages and Hours of Labour Act, as I said earlier, into line with the Canada Labour (Standards) Code. You really have to look at the two sets of regulations: the existing regulations under the Fair Wages and Hours of Labour Act and the new regulations under the Canada Labour (Standards) Code. I have them both here. Other copies can be made available to any member that would like to have them.

Mr. ORLIKOW: Can they be printed as an appendix of today's proceedings?

Mr. NICHOLSON: Yes, they can be put in an envelope at the back; not necessarily printed but incorporated in an envelope, so that we can photostat the existing copy.

The CHAIRMAN: Is it moved by Mr. Orlikow that these would be printed as an appendix?

Mr. BARNETT: I was hoping we might have them available before the minister's remarks are printed.

Mr. NICHOLSON: We can make them available and at the same time incorporate the suggestions made by Mr. Orlikow and attach them as an appendix to the minutes of today's meeting.

There are only 15 members present. We have enough to pass them around now.

The CHAIRMAN: Did you move a motion, Mr. Orlikow?

Mr. ORLIKOW: I so move.

Mr. RÉGIMBAL: I second the motion.

Motion agreed to.

Mr. NICHOLSON: Gentlemen, while these regulations are being passed around to you, it has occurred to me that I have not drawn attention to one of the ancillary or complementary items in Bill No. C-2. Strangely enough, while we have had this Fair Wages and Hours of Labour Act in force for over 30 years, as I have just said, and it outlines the government's objective, there is no provision for default if a contractor commits a breach of the Act and we have made provisions in this Bill No. C-2, subsection 2(c) for liquidated damages in the event of default, because there is no point in having an act with no teeth in it.

(*Translation*)

Mr. ÉMARD: I should like to ask a question of general interest, not very closely connected with the Bill. With regard to the minimum wage of $1.25 an hour, I should like to know what happens in the case of individual contractors, that is those who work alone as, for example, rural mail distributors, post office cleaners and, in some cases, cafeteria employees. Among these people there are many who make less than $1.25 an hour. For example, I know people who distribute rural mail and who have to provide a vehicle and gas yet who do not receive even $1.25 an hour. How will these people be protected by the Bill before us?

(*English*)

Mr. NICHOLSON: Mr. Chairman, I think Mr. Émard's question is a very proper and helpful one. In fact, I heard it asked when the Labour Standards Code was being debated last year. This bill applies to construction contracts only. It does not apply to mail contracts, service contracts or work of that nature. They are covered by a special government employment policy order. This bill applies only to construction contracts. The other is covered by other legislation. It has been covered. I have seen the employment regulation that provides for these minimums in other contracts.

Mr. ÉMARD: Mr. Chairman, do the conditions that govern other public works stand up to the minimum established by this law?

Mr. NICHOLSON: They stand up to the minimum of the Canada Labour (Standards) Act, if you go along with us in this bill. We want to bring the regulations that apply to this type of construction contract into line with all the regulations that apply to contracts generally within the Labour Standards Code.

Mr. RICARD: In other words, it is going to be made $1.25 right across the board.

Mr. NICHOLSON: That is correct, that will be the minimum. If they want to pay more, they can. I might say that we discussed this in the Province of Quebec with the minister and the deputy minister of labour and their advisers. They assured us that in the construction industry it was not going to cause them any problem; they already pay, in the construction industry, that minimum.

Mr. RÉGIMBAL: I am just wondering if there is not a matter of principle involved as far as actual jurisdiction is concerned. The law, as it has stood for a long time has had no teeth in it, so it was window dressing, more or less, because there was no actual application that could be brought into force. Once we put a law, such as this one, in an active state, I am worried about provincial jurisdiction, and I would like to have some of the evidence that was presented by the provinces in this respect. It was stated by the legal adviser, Mr. Haythorne, just a while ago that we could go into safety, we could go into everything once we agree to hours and minimum rates. Where does the provincial jurisdiction come in?

Mr. NICHOLSON: Perhaps I can answer that. Also at the time that the Canada Labour (Standards) Code was before the House at the last session, Mr. Régimbal, an assurance was given by the government, by my predecessor, Mr. MacEachen, that we would introduce a federal labour safety code. We have none today. We have oddbits of safety legislation; we have safety legislation

which applies to the running of trains but it does not apply to the roundhouses or the service shops or the railways, or to the people who are doing yard work. We also have safety legislation that applies to airplanes and on docks, but it does not apply to the service shops of the airlines. We are committed as a government, and reference is made to it in the Speech from the Throne. At this session, we will introduce a labour safety code.

I must say—and I am not betraying any confidence because it is generally known—that we have discussed this with all ten of the provinces, if my understanding is correct, I know with at least nine and I think with all ten and certainly with the larger provinces of Quebec, Ontario, Manitoba and British Columbia. We discussed this in some depth. Most of the provinces welcome a federal safety standards code. They have agreed with us in principle that as long as we do not go too far away from the principles incorporated in the provincial acts, they will have no objection to the federal government doing this. They have gone further than that. All the provinces that I have spoken to—and I have spoken to the ministers of at least five provinces personally —have agreed to police our new safety code if, or when, parliament adopts the code. There will be no duplication of effort and no overlapping such as might properly concern us.

Mr. RÉGIMBAL: I suspect that they would not have gone so far as this active piece of legislation has gone.

Mr. NICHOLSON: In what respect?

Mr. RÉGIMBAL: The minimum hours and wages.

Mr. NICHOLSON: No, on hours of work per day, per week and wages, each province has its own code. I doubt whether there is any province that has as yet adopted a minimum standard of $1.25 an hour. I have noticed that in the Province of Quebec, in the course of a campaign, certain assurances have been given they are going to adopt the $1.25 minimum. To my knowledge, they are very close to it in two or three provinces, but the statute does not prescribe a minimum of $1.25 an hour.

Mr. RÉGIMBAL: What I am worried about is that it applies only to three per cent. Could it not be interpreted by certain groups and even governments that it is undue influence in establishing a springboard from which they could go into the province because then they will say federally if you can establish a minimum and it does not apply provincially, this should be the springboard, the starting point of any legislation within the province. From that point, it could be interpreted as undue influence.

Mr. NICHOLSON: There are two answers to that, Mr. Régimbal. In the first place, the Parliament of Canada, in its wisdom, has passed a labour standards code—

An hon. MEMBER: Without any teeth?

Mr. NICHOLSON: No, this code has plenty of teeth. It is the old act, the Fair Wages and Hours of Labour Act, that has no teeth. The new code has teeth. All we are saying is that in the field of construction, only three per cent of construction work is federal contract work. We have said to the banks, to the railways, to the air line companies, to every industry that comes within federal jurisdiction, you have got to adopt the minimum standards of the Labour Code.

We have also said in relation to service contracts, window cleaning, also contracts in separate legislation that you should do this. All we are now saying is that contractors who are going to build or perform construction work for the federal government have got to apply the same standards that we have imposed, Parliament has imposed on every other industry in Canada that comes within federal jurisdiction. So it makes sense in that respect.

Mr. RÉGIMBAL: Speaking specifically of Bill No. C-2, to whom will this law apply?

The CHAIRMAN: Will you allow Mr. Haythorne, the Deputy Minister, to answer this question?

Mr. HAYTHORNE: Mr. Chairman, just to enlarge on what Mr. Nicholson has said, I think it may help Mr. Régimbal if we keep in mind that this is legislation that covers the manner in which the government is going to carry on its own business. We are dealing with contracting for a job of work that the federal government is doing for itself, because the legislation is dealing with construction contracts for the Government of Canada, we can stipulate, in the calls for tender, if you like, what the conditions shall be. There is no question of a constitutional problem here as far as the industry coming under federal or provincial jurisdiction is concerned. There is no question, Mr. Régimbal, that the construction industry is under provincial jurisdiction but because it is our business that we are talking about here, we can lay down—and this is what has been done over the years—the conditions. I think it is important, when we lay down these conditions, that we do keep in mind, in so far as practical and sensible, what the existing conditions are that are applicable in the provinces and that we always do. I would like to go on and just say, for a moment, that when we introduced the basic provisions for the wages and the hours of labour, we did this on the understanding that we were establishing then what we regarded, from the federal government's own point of view, as reasonable and fair. There is no question that if there should be in any provinces additional provisions that ought to be met, they will be met.

Mr. RÉGIMBAL: Would you not get the same effect though without the necessity of a law? You just put it into your specifications, as you do in other instances?

Mr. HAYTHORNE: That is what we are doing.

Mr. RÉGIMBAL: You are putting it into law. Specifications can be so much more supple and adaptable to conditions wherever you go and you do not run into difficulties. For instance, I am thinking of the application of this law in terms of outlying districts where $1.25 is a big feature and where a small employer, in this particular area, can provide employment for, say, a general average of $1.25. It suits the community and it suits everybody else. What position would he be in if, in the midst of all this, over a period of three or four or five months in the execution of a particular contract, he might possibly lose some very good men? This is where this jurisdictional difficulty comes up and I know that there is some very definite feeling about that.

Mr. HAYTHORNE: There are two points here, Mr. Chairman. One is a point Mr. Nicholson has already made and in our discussion with the provinces and,

particularly, in the province of Quebec, there is no real problem they envisage as far as $1.25 is concerned. The other point, I think—

Mr. RÉGIMBAL: I am sorry, may I ask a question? From what governments, do you mean?

Mr. HAYTHORNE: From the provincial governments, yes. We have examined carefully the decrees, you know, the standards enforced by the parity committees throughout the province and the $1.25 is not out of line—

Mr. RÉGIMBAL: What percentage of industry and labour is covered by the parity committees now?

Mr. HAYTHORNE: In the construction industries.

Mr. RÉGIMBAL: I know, but there is more than construction industries involved.

• (10:45 a.m.)

Mr. HAYTHORNE: We are only talking about the construction industry. The other point I would like to make, just briefly, is that parliament has reached a decision, that, as a national standard, $1.25 is a reasonable basic level. As Mr. Nicholson said, the commitment was made that this same minimum level would be applied on a national basis to this act.

The CHAIRMAN: Gentlemen, I have quite a few witnesses.

Mr. MACKASEY: May I just ask a supplementary question to Mr. Régimbal's—

The CHAIRMAN: Is that a supplementary question?

Mr. MACKASEY: Just one clarification. What you are saying then, sir, is when Bill No. C-2 is adopted, it will make it imperative and obligatory for the government to include these standards in all their contracts to everybody. In other words, we will adopt the principle that we have a standard minimum across Canada without exception?

Mr. HAYTHORNE: It cannot be less.

Mr. MACKASEY: And this is the main purpose?

Mr. ORLIKOW: A supplementary to that—

The CHAIRMAN: Is this question on the same point, Mr. Orlikow?

Mr. ORLIKOW: It is related but not actually.

The CHAIRMAN: I do not want to cut off Mr. Régimbal. You have a question, Mr. Régimbal?

Mr. RÉGIMBAL: Just this one. I asked this question but did not get an answer so I think I should come back to it. Who is mainly affected directly by this particular bill?

Mr. HAYTHORNE: Just the construction employees under federal government contracts.

Mr. RÉGIMBAL: The construction employees and the contractors accepting tenders? These are the two areas that are particularly concerned. Therefore, the points of view represented by construction employees are particularly important to us to consider?

Mr. HAYTHORNE: That is right.

Mr. ORLIKOW: Mr. Chairman, I am concerned about the fact that the passage of this bill not only sets a minimum, but could also very well set a maximum. In other words, if an employer is required to pay $1.25 an hour and no more, then an employer who does not use employees who are organized and does not have an agreement with the union to pay the union rates, can very well take a contract which a contractor dealing with organized employees cannot meet in terms of cost because his wages are much higher. I have no specific illustrations on whether this happened in the construction industry which this bill deals with exclusively, but I know, for example, that the International Association of Machinists had a contract for the maintenance staff, the cleaning staff, at Gander Airport which paid—I am speaking from memory—something in the neighbourhood of $1.60 an hour. Another company came in and paid $1.25 an hour and took the contract over because they could hire people at substantially less than the union contract provided for and, therefore, they could cut the tender which the company, which had the contract before, could submit. It seems to me that this could happen under this bill and I am wondering why the bill, while setting a minimum which this does, could not provide that where the rates, by negotiation, are higher they shall be the prevailing rate.

Mr. NICHOLSON: I think, Mr. Orlikow, if you look at clause 1 of the bill, at the definition of fair wages, you will see that we have answered your point.

> "Fair wages" means such wages as are generally accepted as current for competent workmen in the district in which the work is being performed for the character or class of work in which such workmen are respectively engaged; but shall in all cases be such wages as are fair and reasonable—

They would come under that, would they not?

Mr. ORLIKOW: I know, Mr. Chairman, and I do not want to anticipate, in any detail, the brief circulated by the construction association; but they did make the point there that a very substantial part of the total wage picture is now that part that we call fringe benefits and that is not spelled out in the act. If an employer could, just by paying $1.25, or something similar, ignore the fringe benefits which are just as much a part of the wage package as the exact hourly wage, then he could get into some considerable difficulty.

Mr. NICHOLSON: That is accepted. Items of that kind are generally dealt with in the collective bargaining agreement.

Mr. ORLIKOW: But I know that—

Mr. NICHOLSON: If that applies in the area they would come clearly within this definition "accepted as fair and reasonable."

Mr. LEFEBVRE: A supplementary, Mr. Chairman? If we did not have the minimum of $1.25, the contractor would have had the contract for maybe 90 cents an hour. I do not see any difficulty with this $1.25 at all. It is a guarantee; that is all it is.

Mr. ORLIKOW: Mr. Chairman, that is exactly the point I am making. I want this to be the floor. I think it should be higher than $1.25 but I will accept that for a beginning. I do not want the floor to become the ceiling.

Mr. NICHOLSON: You should understand that the fringe benefits are not dealt with in this proposed legislation. The fringe benefits differ from place to place, contract to contract and industry to industry. In this bill is a definition of "fair wages". This is a matter that we discussed with the groups that were making representations to us. We said we want to ensure a minimum fair wage. We cannot get into the details of fringe benefits in different industries in different parts of Canada.

Mr. ORLIKOW: I would like to ask a second question?

The CHAIRMAN: Yes, Mr. Orlikow.

Mr. ORLIKOW: Clause 2 deals with the question of the hours of work and says that in special cases the Minister may permit a longer week that the 40-hour week and the 48-hour week, which I presume, would be overtime. Now, I understand the argument has been put forward by the construction industry and the unions that in some work, particularly in isolated areas, both the industry and the workers want the right to work longer hours because of the usual argument that there is nothing else to do, and so on. At the same time, I am wondering if the Department has given thought, in a general way, to limits on this. I know that, for example, in my own province of Manitoba on the building of a power project for the provincial government some seven or eight years ago I had sworn affidavits from labourers that they had worked every day for six months; they had worked an average of, not forty hours a week, but 100 hours a week and, when they were asked why they did it, they said, "We were told if we would not work that way, we could quit". Personally, I do not think that anybody should work those hours, even if the worker wants to work those hours. I am wondering if the Department has given thought to the policy of maximums regardless of what the arguments are?

Mr. NICHOLSON: We have done it in this way. You remember there was some criticism directed to me for not interfering in the truckers' strike in the Province of Ontario. The reason for that was it was not uncommon, in fact, it was very common, for the trucking industry to operate 70 hours a week and, in some cases, as much as 84 hours a week. A strong delegation came from the management side in the trucking industry and did their best to persuade me, just as is being done here, that they should be excluded. They had done this for so long, and there was no question of pay, they were willing to pay more money. But there is a safety angle in driving trucks on the highway and I felt, and so did the departmental officials, that there was to be no such exception in our thinking. If the Parliament of Canada said that in general the work week should be 40 hours and that in no cases should you make the work week more, on an averaging basis than the maximum prescribed in the act, we should stick to that.

There was a little difficulty in negotiating the terms of the new contract but they have now reached the formula where they have come down from this, more or less, standard work week of 60 or 70 hours, in many cases, to where they will have the 40 hour week by the end of 1967.

The CHAIRMAN: Mr. McCleave.

Mr. ORLIKOW: Just one more question.

The CHAIRMAN: Is this on the same topic.

Mr. ORLIKOW: Just one more question and then I am finished.

The CHAIRMAN: If this is the same topic, yes, but I think Mr. McCleave should have the right to ask his question now.

Mr. ORLIKOW: We have only one topic, Mr. Chairman. Other people have asked—

The CHAIRMAN: Then, if there is only one topic, I think I am going to give the right to speak to Mr. McCleave. I will put your name on the list again, Mr. Orlikow.

Mr. MCCLEAVE: Mr. Chairman, for the convenience of the Committee, we have the submission last May to the previous minister and it seems to amount to about eight requests. I wondered if we could have some statements from the Minister or the Deputy Minister as to which requests are met by the changes in the Act, which could be met by order in council and which they feel should not be met?

Mr. FAULKNER: Do we have copies of this submission that Mr. McCleave has referred to?

The CHAIRMAN: Were they not mailed to you?

Mr. NICHOLSON: A great many members of the house got them, I know.

Mr. BARNETT: I was wondering whether it would be a more orderly method if we dealt with the questions raised by a brief which has not been directly put before the Committee after we heard from the representatives of the construction industry. I presume they may have some material that they may want to put before the Committee in an orderly form.

The CHAIRMAN: With the permission of the Committee, I would say this is one brief which was presented by the Canadian Construction Association. Is the Committee ready to hear Mr. Stevens who compiled this brief and wishes to speak in support of it?

Mr. MCCLEAVE: Mr. Chairman, the answer does not have to be given today because, obviously, all members of the Committee do not have this joint submission. I think it would be helpful, it would tend to narrow the area where the Committee has to make its consideration.

The CHAIRMAN: Gentlemen, at eleven o'clock this room is to be used by another Committee. Would you agree to adjourn the meeting until this Thursday at eleven o'clock? In the meantime, perhaps Mr. Stevens could give the clerk as many copies of the brief as are needed for the Committee which could be distributed to the members of the Committee. Mr. Stevens and/or Mr. Caroll could then answer the questions which the Committee would like to ask.

Mr. NICHOLSON: I am not altogether certain that Mr. Caroll is speaking in support of Mr. Stevens' brief.

The CHAIRMAN: I know there are some other briefs that have been submitted.

Mr. NICHOLSON: Perhaps I might now answer Mr. Orlikow's question.

Mr. ORLIKOW: Mr. Chairman, I still would like to ask my question.

The CHAIRMAN: Is the question you wish to ask relevant to the question Mr. McCleave asked the Minister?

Mr. NICHOLSON: I am speaking now because Mr. Orlikow says he has one further question. Unfortunately, I will not be here on Thursday but the Deputy Minister and the other officials of the Department will be here to answer your questions. If Mr. Orlikow, or any other member, had a question, while I am here, I will be glad to attempt to answer it.

The CHAIRMAN: I would just like to say, Mr. Nicholson, that since we have to clear this room by eleven o'clock, I suggest to the Committee that we adjourn until this Thursday at eleven o'clock.

Mr. ORLIKOW: If the Minister is not prepared to answer my question perhaps he would take it as notice. I would like to know from the Department, what the Department is planning in terms of enforcement by enforcement, I do not mean I am specifically asking about this field. I am thinking of the labour code which we passed earlier and of the safety code which I hope we are going to pass because frankly, we do not have the staff, as far as I can tell, and my experience with the provinces is that they do not have the staff.

Mr. NICHOLSON: I can answer that. We cannot go into the details of the safety bill because it has not, as yet, been laid before parliament. I said I was not betraying any secrets because it has been discussed fairly openly with the provinces that we hoped that we would be able to take advantage of their inspectional staff. They have factory inspectors, and officials working under the Workmen's Compensation Boards in the different provinces. In principle, they have agreed to accept this responsibility if we ask them and pay for it, but what the details of the safety code itself are, I could not possibly discuss at this Committee.

Mr. ORLIKOW: I did not mean that. I am just hoping that we make sure, if we leave it to the provinces, instead of having our own inspection staff, they have the staff to enforce this legislation better than they enforce their own legislation.

The CHAIRMAN: Gentlemen, I am sorry—

• (11:00 a.m.)

(*Translation*)

Mr. ÉMARD: Mr. Chairman, I have a question to ask the Minister before he leaves.

(*English*)

The CHAIRMAN: I assume we have to clear the room now, gentlemen. I will give you the right to speak at the next meeting, Mr. Émard. Is it the wish of the Committee to adjourn until this Thursday at eleven o'clock?

Mr. Stevens of the Canadian Construction Association cannot be here this Thursday, I understand. Mr. Stevens can you tell us if you will be here this Thursday or next Tuesday? Can you provide the Committee with copies of this brief which has been referred to?

Mr. P. STEVENS (*Director of Labour Relations, Canadian Construction Association*): Mr. Chairman and gentlemen, unfortunately, I am committed to attend a meeting of the National Technical Vocational Training Advisory Council which starts in Winnipeg on Thursday and the international representatives of the building and construction trade are also committed. We did not

know when the bill would come forward and whether it would be dealt with by a committee. In particular, international representatives are finding it difficult to come to Ottawa to appear before this Committee before May 30, the week of May 30.

Mr. NICHOLSON: Mr. Chairman, we went out of the usual way to refer this matter to this Committee. We could have gone ahead with this bill in the House a week or ten days ago but this is the business of parliament. We went out of our way to give those interested an opportunity to put forward their views before this Committee. That seemed fair.

Mr. MACKASEY: Mr. Chairman, if we cannot have witnesses before us, there is not much sense in continuing the Committee. This is a very simple bill that must go before Parliament because it is overdue now.

Mr. ORLIKOW: I would like to appeal to both the industry and labour representatives. Surely their testimony which is not long, their evidence and the questioning could be done in one day. Surely they could take a break in their negotiations, for one day, and come to Ottawa. I think I am known as friend of labour. I am speaking only for myself and I certainly would not agree that this Committee should stand till May 30 and not proceed because the representatives of the industry and the union cannot be here.

Mr. NICHOLSON: It was in the House. It could have been gone on with last week.

The CHAIRMAN: May I ask this matter to be referred to the steering committee and that this Committee adjourn until this Thursday at eleven o'clock as we have to give this room to another committee?

Mr. MACKASEY: Mr. Chairman, I recommend that we meet this Thursday at eleven o'clock with or without witnesses from the industry and from labour and we proceed accordingly and let the members satisfy themselves that Bill No. C-2 is in the best interests of the country and make their recommendations accordingly.

The CHAIRMAN: There is a motion that this Committee adjourn until Thursday at eleven o'clock. Is it seconded?

Mr. FAULKNER: I do so move.

Mr. DUQUET: I second the motion.

The CHAIRMAN: Motion agreed to.

Mr. DUQUET: What about the brief? Are we going to have copies of it.

An hon. MEMBER: You have to circulate those well in advance.

The CHAIRMAN: The meeting is adjourned until eleven o'clock Thursday.

APPENDIX 1

FAIR WAGES AND HOURS OF LABOUR REGULATIONS

(Made pursuant to Section 6 of the Fair Wages and Hours of Labour Act, Chapter 108, Revised Statutes of Canada, 1952, by Order in Council P.C. 1954-2030, of December 22, 1954, and amended by Order in Council P.C. 1960-715, of May 26, 1960.)

1. These regulations may be cited as the Fair Wages and Hours of Labour Regulations.

2. (1) In these regulations,

(*a*) "contract" means a contract made with the Government of Canada for construction, remodelling, repair or demolition of any work; and

(*b*) "Minister" means the Minister of Labour.

(2) Paragraph (*a*) of subsection (1) does not apply to the purchase of materials, supplies or equipment, for use in the work contemplated, under any contract of sale and purchase.

3. All cases of default in the payment of wages to employees by the contractor or other party charged with payment of wages under a contract shall be referred to the Minister for investigation and determination of the amount in default.

4. Where the Minister determines that there is an amount in default he may request the contractor or other party charged with the payment of wages to deliver to him a cheque payable to the Receiver General for the amount of the default, or may, as he sees fit, authorize and direct the Minister of the department of government concerned to deliver to him a cheque payable to the Receiver General for the amount of the default and to deduct the amount from any moneys owing by the Government to the contractor, and any amount so deducted shall for all purposes as between the contractor and the Government be deemed to be payment to the contractor.

5. Where a department has occasion through a breach of contract by a contractor to seize his security and to withhold moneys due under a contract, the department shall immediately notify the Deputy Minister of Labour.

6. Cheques delivered to the Minister under these regulations shall be deposited with the Receiver General in an account known as the Fair Wages Suspense Account, and the Minister shall authorize payment out of the account of the appropriate amounts to the employees concerned.

7. The Minister shall maintain adequate records of receipts and disbursements in respect of the Fair Wages Suspense Account.

8. (1) Every person in the employ of a contractor, sub-contractor or other person doing or contracting to do the whole or any part of the work contemplated by a contract shall

(*a*) except where the Minister otherwise orders, be paid for hours worked in excess of forty-four per week at a rate of not less than one and one-half times the wages required to be paid under the contract; and

(*b*) where the Minister so orders, be paid for hours worked in excess of eight hours per day at a rate of not less than one and one-half times the wages required to be paid under the contract.

(2) This section does not apply to any employment under a contract entered into before the first day of August, 1960.

APPENDIX 2

SOR/65-256

CANADA LABOUR (STANDARDS) CODE.

Canada Labour Code Regulations (General).

P.C. 1965-1141

AT THE GOVERNMENT HOUSE AT OTTAWA.

FRIDAY, the 18th day of JUNE, 1965.

PRESENT:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL.

His Excellency the Governor General in Council, on the recommendation of the Minister of Labour, pursuant to the Canada Labour (Standards) Code, is pleased hereby to make the annexed "Canada Labour Code Regulations (General)".

REGULATIONS UNDER THE CANADA LABOUR (STANDARDS) CODE.

Short Title.

1. These Regulations may be cited as the *Canada Labour Code Regulations (General)*.

Interpretation.

2. In these Regulations,

(*a*) "Act" means the *Canada Labour (Standards) Code;*

(*b*) "Director" means the Director of Labour Standards, Department of Labour, Ottawa; and

(*c*) "wages" means wages within the meaning of the Act.

Application to Professions.

3. The Act does not apply to the medical, dental, architectural, engineering and legal professions.

Hours of Work.

4. Except as provided in section 5 of these Regulations, where the nature of the work in an industrial establishment necessitates irregular distribution of hours of work of any class of employees with the result that

(*a*) those employees have no regularly scheduled daily or weekly hours, or

(*b*) the employees have regularly scheduled hours but the number of hours scheduled differs from time to time,

the hours of work in a day and hours of work in a week may be calculated for the employees within the class as an average for a period not exceeding 13 consecutive weeks, subject to the following Rules:

I. The standard hours of work (being the hours for which the regular rate of pay may be paid) of an employee within the class shall not exceed 520 hours if the averaging period is 13 weeks or, if the averaging period selected by the employer is less than 13 weeks, that number of hours that equals the product of the number of weeks so selected multiplied by 40; and the overtime rate prescribed by section 8 of the Act shall be paid for all hours worked in excess of the standard hours prescribed in this Rule, but hours for which a premium rate of at least one and one-half times the regular rate has been paid shall not be counted in computing the hours for which the overtime rate is to be paid at the end of the averaging period.

II. If the averaging period is 13 weeks, the total hours that may be worked by an employee within the class shall not exceed 624 hours, or, if the averaging period selected by the employer is less than 13 weeks, the number of hours that is the product of the number of weeks so selected multiplied by 48.

III. If during the averaging period an employee within the class is granted a general holiday or other holiday with pay on which he does not work or an annual vacation, the number of hours specified in Rule I and in Rule II shall be reduced by 8 hours for every such general or other holiday or day of annual vacation but not more than 40 hours shall be deducted for any full week of annual vacation.

IV. For any week in the averaging period in which an employee within the class is not entitled to wages, the number of hours specified in Rule I and in Rule II shall be reduced by 40.

V. If an employee within the class terminates his employment of his own accord during an averaging period in effect under these Regulations, he shall be paid at his regular rate of pay for his hours worked during the completed part of the averaging period, and if his employment is terminated by the employer, he shall be paid overtime pay for any hours worked in excess of an average 40-hour week over the period he has worked.

VI. Any hours for which a premium rate of at least one and one-half times the regular rate has been paid shall not be counted in determining the overtime pay that the employee is to be paid on termination of his employment.

5. (1) Where

(a) the nature of the work in an industrial establishment necessitates irregular disribution of hours of work of any class of employees with the result that

(i) those employees have no regularly scheduled daily or weekly hours, or

(ii) the employees have regularly scheduled hours but the number of hours scheduled differs from time to time, and

(*b*) a 13-week period is not sufficiently long to provide for the period in which fluctuations take place,

an employer may average over a longer period than 13 weeks if he establishes to the satisfaction of the Minister that a longer period is necessary.

(2) Where the hours of work of a class of employees are calculated as an average for a period in excess of 13 weeks

(*a*) the standard hours of work of an employee within the class shall not exceed that number of hours that equals the product of the number of weeks in the averaging period that is satisfactory to the Minister multiplied by 40; and

(*b*) the total hours that may be worked by an employee within the class shall not exceed the number of hours that equals the product of the number of weeks in the averaging period that is satisfactory to the Minister multiplied by 48.

(3) Where an averaging period has been calculated under this section for a class of employees,

(*a*) the overtime rate prescribed by section 8 of the Act shall be paid for all hours worked in excess of the standard hours prescribed in paragraph (*a*) of subsection (2) of this section, but hours for which a premium rate of at least one and one-half times the regular rate has been paid shall not be counted in computing the hours for which the overtime rate is to be paid at the end of the averaging period; and

(*b*) Rules III to VI in section 4 apply in respect of those employees.

6. The employer shall notify the Director that he has adopted an averaging period under section 4 of these Regulations for his industrial establishment, indicating the classes of employees to whom it applies, the number of employees in each class at the time of notification and the periods for which the employer is averaging.

Weekly Rest.

7. Where hours to be worked in excess of maximum hours of work prescribed by or under section 6 of the Act are permitted under section 9 of the Act, the Minister may specify in the permit that the hours of work in the week need not be scheduled as required by section 7 of the Act during the period of the permit and the Minister may prescribe in the permit alternative periods of rest to be observed.

8. During an averaging period, hours of work may be scheduled and actually worked without regard to section 7 of the Act.

Special Employees.

9. (1) An employer may employ a person under the age of 17 years in any office, plant, service, transportation, communication, construction, maintenance, repair or other occupation in a federal work, undertaking or business if

(*a*) he is not required, under the law of the province in which he is ordinarily resident, to be in attendance at school; and

(b) the work in which he is to be employed

(i) is not carried on underground in a mine,

(ii) would not cause him to be employed in or enter a place that he is prohibited from entering under the *Explosives Regulations*,

(iii) is not work as an atomic energy worker as defined in the *Atomic Energy Control Regulations*,

(iv) is not work that under the *Canada Shipping Act* he is prohibited by reason of age from doing, or

(v) is not likely to be injurious to his health or to endanger his safety.

(2) An employer may not cause or permit an employee under the age of 17 years to work betwen 11 o'clock P.M. on one day and 6 o'clock A.M. on the following day.

(3) An employer who employs any person under the age of 17 years pursuant to subsection (1) shall pay him a wage at the rate of not less than one dollar an hour or not less than the equivalent of that rate for the time worked by him where his wages are paid on any basis of time other than hourly; but an employer may pay a person under the age of 17 years who is being trained on the job at a rate less than one dollar an hour if the lesser rate is permitted under section 10 of these Regulations for the class of employees to which he belongs.

10. An employer is exempted from the application of section 11 of the Act in respect of any of his employees who are being trained on the job if

(a) those employees are registered apprentices under a provincial apprenticeship act and are being paid in accordance with a schedule of rates established thereunder; or

(b) the employer establishes to the satisfaction of the Minister that the employees are undergoing training, under the direct supervision of a person fully qualified in the occupation to be learned, in preparation for employment with the employer or elsewhere at a rate of pay in excess of the minimum rate established by section 11 of the Act, and that such employees are and will be paid during the training period at not less than a rate or rates that the Minister considers appropriate for the training period or any parts thereof.

General Holidays

11. For the purposes of subsections (2) and (3) of section 29 of the Act, if an employee's hours of work differ from day to day or if his wages are calculated on a basis other than time, the wages he would have earned at his regular rate of wages for his normal hours of work may be deemed to be

(a) the average of his daily earnings exclusive of overtime for the days he has worked in the four-week period immediately preceding the general holiday, or

(b) an amount calculated by a method agreed upon under or pursuant to a collective agreement.

Annual Vacations

12. An employer shall give each employee entitled to an annual vacation at least two weeks' notice of the commencement of his annual vacation unless otherwise agreed between the employer and the employee.

13. Where it is the custom in an industrial establishment in which a person is employed to pay vacation pay on the regular pay day during or immediately following the vacation of an employee, the employer may postpone the payment of vacation pay from the day provided under paragraph (*b*) of section 17 of the Act to the customary pay day.

14. (1) The Director, if he is satisfied of the existence of exceptional circumstances, may, upon a joint application made to him by the employer and the employee setting forth that because of the existence of exceptional circumstances the employee agrees to waive, with respect to a designated year of employment, the vacation to which he is entitled under section 16 of the Act, authorize the application as a waiver by the employee of his right to the grant of a vacation under section 17 of the Act in respect of that designated year of employment.

(2) Notwithstanding subsection (1), the employer, not later than ten months immediately following the completion of the year of employment referred to in subsection (1) or within such other period as is provided by these regulations, shall pay to the employee vacation pay in respect to that year.

15. The right of an employee to take a vacation with vacation pay to which he is entitled under the Act may be postponed in respect of a designated year of employment in the manner following:

(*a*) by filing with the Director a written agreement between the employer and the employee stating that both parties desire to postpone, in respect of the designated year of employment, the taking by the employee of the vacation with vacation pay, and the filing of the agreement shall authorize the postponement; or

(*b*) by sending to the Director a written application by the employer requesting because of the existence of specified exceptional circumstances that authority be granted to postpone, in respect of the designated year of employment, the taking of vacation with vacation pay by an employee, and the granting of the application by the Director shall authorize the postponement.

16. (1) An application for approval of a calendar year or other year as a year of employment shall be made in writing to the Director.

(2) The application shall contain the following information:

(*a*) the name and address of the employer;

(*b*) the calendar year or other year for which approval is sought;

(*c*) the reasons for requesting such approval;

(*d*) a statement of the present vacation arrangements in effect for employees of the employer; and

(*e*) such other information as may be required by the Minister.

(3) The Minister may

(a) approve the application as submitted;

(b) approve the application for a definite or indefinite period of time and subject to such terms and conditions as the Minister deems desirable; or

(c) deny the application.

Board and Lodging and other Remuneration

17. Where board or lodging or both are furnished by or on behalf of an employer to an employee, if the arrangement is accepted by such employee, the amount by which the wages of an employee may be reduced for any pay period below the minimum wage prescribed in section 11 of the Act, either by deduction from wages or by payment from the employee to the employer for such board and lodging, shall not exceed the following amounts:

(a) for each meal, 50¢ (fifty cents); and

(b) for lodging per day, 60¢ (sixty cents).

18. For the purposes of calculating and determining wages, the monetary value of any board, lodging or any remuneration other than money received by an employee in respect of his employment, shall be the amount that has been agreed upon between the employer and the employee, but where there is no such agreement or where the amount agreed upon unduly affects the wages of the employee, such amount as may be determined by the Minister.

Payment of Wages, Vacation or Holiday Pay or other Remuneration when Employee Cannot be Found

19. (1) Where an employer is required to pay wages to an employee or an employee is entitled to payment of wages by the employer and the employee cannot be found for the purpose of making such payment, the employer shall, not later than six months after the wages became due and payable, pay the wages to the Minister and payment made to the Minister shall be deemed payment to the employee.

(2) The Minister shall deposit any amounts received under subsection (1) to the credit of the Receiver General in an account to be known as the Labour (Standards) Code Suspense Account, and the Minister may authorize payments out of the account to any employee whose wages are held therein.

(3) The Minister shall keep a record of receipts and disbursements from the Labour (Standards) Code Suspense Account.

(4) Where, upon the termination of three years from the date the Minister received a payment under subsection (1), no claim has been made by the employee entitled thereto for such wages, the amount so held shall upon the order of the Minister become the property of Her Majesty in right of Canada.

Inadequate Records

20. (1) Where an inspector finds that the records made and kept by an employer pursuant to subsection (2) of section 39 of the Act are inadequate, he shall advise the employer of the inadequacy.

(2) Where, on a subsequent inspection, an inspector finds that an employer has not corrected the inadequacy on which he had previously advised, he shall notify the Minister of the failure to keep adequate records and the Minister may, by order, prescribe the manner in which records required under section 39 of the Act are to be made and kept by the employer thereafter.

Notices to be Posted

21. (1) Where an averaging plan is in effect, under these Regulations, in an industrial establishment, an employer shall post, in readily accessible places where they may be seen by the employees of the class or classes affected, notices giving clear information concerning the averaging plan in effect in such industrial establishment.

(2) Where, under the Act or these Regulations, an order, permit or authorization is granted affecting an industrial establishment or a class or classes of employees therein

(*a*) the employer shall post, in readily accessible places where they may be seen by the employees of the class or classes affected, copies of such order, permit or authorization affecting such employees; or

(*b*) the Minister may order such other means of notifying employees in an industrial establishment of the provisions of an order, permit or authorization affecting them as is, in his opinion, satisfactory in the circumstances.

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

This edition contains the English deliberations and/or a translation into English of the French.

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LÉON-J. RAYMOND,
The Clerk of the House.

HOUSE OF COMMONS

First Session—Twenty-seventh Parliament

1966

STANDING COMMITTEE

ON

LABOUR AND EMPLOYMENT

Chairman: Mr. GEORGES LACHANCE

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 2

Respecting

Bill No. C-2

An Act to amend the Fair Wages and Hours of Labour Act

THURSDAY, MAY 19, 1966

WITNESSES:

From the Department of Labour: Mr. G. Haythorne, Deputy Minister. *From the Canadian Construction Association:* Mr. A. Trottier, President; Mr. P. Stevens, Director of Labour Relations; Mr. G. H. Durocher, Personnel Manager, Ball Bros. Ltd. *From the Association of International Representatives of Building and Construction Trades:* Mr. R. G. Hill, Canadian Regional Director, International Union of Operating Engineers; Mr. C. W. Irvine, Vice-President, Operative Plasterers' and Cement Masons' International Association of the United States and Canada.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

24233—1

STANDING COMMITTEE

ON

LABOUR AND EMPLOYMENT

Chairman: Mr. Georges-C. Lachance

Vice-Chairman: Mr. Hugh Faulkner

and

Mr. Barnett,
Mr. Boulanger,
Mr. Duquet,
Mr. Émard,
Mr. Fulton,
Mr. Gordon,
Mr. Gray,
Mr. Guay,
Mr. Hymmen,
Mr. Johnston,
Mr. Lefebvre,
Mr. MacInnis (*Cape Breton South*),
Mr. Mackasey,
Mr. McCleave,
Mr. McKinley,
[1] Mr. Morison,
Mr. Muir (*Cape Breton North and Victoria*),
[2] Mr. Orlikow,
Mr. Racine,
Mr. Régimbal,
Mr. Reid,
Mr. Ricard,
Mr. Skoreyko—24.

[1] Replaced by Mr. Boulanger on May 18, 1966.

[2] Replaced by Mr. Knowles on May 17, 1966.

Timothy D. Ray,
Clerk of the Committee.

ORDERS OF REFERENCE

TUESDAY, May 17, 1966.

Ordered,—That the name of Mr. Knowles be substituted for that of Mr. Orlikow on the Standing Committee on Labour and Employment.

WEDNESDAY, May 18, 1966.

Ordered,—That the name of Mr. Boulanger be substituted for that of Mr. Morison on the Standing Committee on Labour and Employment.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House.

24233—1½

MINUTES OF PROCEEDINGS

THURSDAY, May 19, 1966.
(3)

The Standing Committee on Labour and Employment met this day at 11:15 a.m. The Vice-Chairman, Mr. Faulkner, presided.

Members present: Messrs. Barnett, Duquet, Émard, Faulkner, Gray, Hymmen, Johnston, Knowles, Lachance, Mackasey, McCleave, McKinley, Muir (*Cape Breton North and Victoria*), Régimbal, Reid, Skoreyko (16).

In attendance: *From the Department of Labour*: Mr. George Haythorne, Deputy Minister; Mr. B. Wilson, Assistant Deputy Minister; Miss Edith Lorentson, Director of Legislation; Mr. H. Johnston, Director of Labour Standards Branch; Mr. W. B. Davies, Departmental Solicitor.

From the Canadian Construction Association: Mr. A. Trottier, President; Mr. P. Stevens, Director of Labour Relations; Mr. G. H. Durocher, Personnel Manager, Ball Bros. Construction Ltd.

From the Association of International Representatives of the Building and Construction Trades: Mr. R. G. Hill, Canadian Regional Director, International Union of Operating Engineers; Mr. C. W. Irvine, Vice-President, Operative Plasterers' and Cement Masons' International Association of the United States and Canada.

The Committee resumed the questioning of the departmental officials under Clause 1 of Bill C-2.

On motion of Mr. McCleave, seconded by Mr. Knowles,

Resolved,—That Mr. Stevens be heard before the Committee before resuming the questioning of the departmental officials.

The Chairman introduced Mr. Stevens who in turn introduced the members of his delegation.

Mr. Stevens made a statement on behalf of the Canadian Construction Association and the Association of International Representatives of the Building and Construction Trades.

The Committee then questioned the witnesses.

On motion of Mr. Émard, seconded by Mr. Knowles,

Resolved,—That the *Canadian Construction Association Schedule of Hourly Wage Rates, Holiday Pay Assessments and Standard Work-Weeks in the Building Trades in Canadian Centres, DEC. 1, 1965*, be filed with the Committee as Exhibit "A".

On motion of Mr. Régimbal, seconded by Mr. Gray,

Resolved,—That the Submission by the Association of International Representatives of the Building and Construction Trades and the Canadian Construction Association to the Minister of Labour on the Fair Wages and Hours of Labour Act (*Appendix 3*), the April 29, 1966 letter to Members and Senators (*Appendix 4*), and the letter of March 6, 1966, to Mr. Nicholson, Minister of Labour (*Appendix 5*), be appended to today's proceedings.

The questioning of the witnesses being completed, the Chairman thanked Messrs. Stevens, Trottier, Hill and Irvine.

At 1.20 p.m., the Chairman adjourned the Committee until May 24, 1966, at 11:00 a.m.

Timothy D. Ray,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

• (11.00 a.m.)

THURSDAY, May 19, 1966.

The CHAIRMAN: Gentlemen, we will now come to order.

If it is the wish of the Committee I think we will proceed with the questioning of witnesses. The agenda provides for the continuation of the questioning of the departmental officials who were here last time. Are there any questions to be directed to the departmental officials?

Mr. MCCLEAVE: I have one, Mr. Chairman. I think it was not answered the other day. Perhaps we could resume from there.

I pointed out that the joint submission by the Association of International Representatives of the building and construction trade and the Canadian Construction Association to the then Minister of Labour was dated May of 1965. At page 9 of that submission, which I believe everyone has a copy of by now, there were summaries of some eight recommendations and I would ask the deputy minister to say which were being accepted and which were being rejected when we broke off last meeting.

The CHAIRMAN: Mr. Haythorne.

Mr. GEORGE V. HAYTHORNE (*Deputy Minister, Department of Labour*): Mr. Chairman—

Mr. BARNETT: On a point of order, Mr. Chairman. At a short meeting of the steering committee yesterday, in view of what happened—and I realize you were not here—those of us who were present, in my understanding, reached an agreement with the Chairman that if the representatives of the two parties who submitted this brief were here and available this morning, as far as possible we would defer the questioning of the departmental officers until later in order to first give the representatives of the Canadian Construction Association and of the association of the unions involved an opportunity to present this brief to the Committee with any comment or additional information.

The CHAIRMAN: I think that would be fine Mr. Barnett, but I have an agenda here which provides for the continuation of questioning. Now, if Mr. McCleave is agreeable and the other members are agreeable to do this, we can proceed. If not, and Mr. McCleave is the only one who has a final question and Mr. Haythorne can answer it quickly, we might clear it up. Is it going to be for long?

Mr. HAYTHORNE: Yes, it is a lengthy one.

The CHAIRMAN: Well, Mr. McCleave, would you insist we continue? Is it agreeable.

Mr. McCLEAVE: I hope.

The CHAIRMAN: Well Mr. Barnett, would you like to move that we hear Mr. Stevens, Director of Labour Relations for the Canadian Construction Association as our witness?

Mr. McCLEAVE: I so move.

Mr. KNOWLES: I second the motion.

Motion agreed to.

The CHAIRMAN: Mr. Stevens, would you like to come forward, please?

Mr. P. STEVENS (*Director of Labour Relations, The Canadian Construction Association*): Mr. Chairman, and hon. members, at the Committee's first meeting concerning Bill No. C-2, the Chairman repeatedly referred to me in person. I would like to clarify to the Committee that I merely, in view of the time involvement, happened to be signing a letter to the Chairman the moment the first meeting of the Committee was announced concerning Bill No. C-2, requesting that the two associations which had submitted the joint brief, officially which is now in the hands of members of this Committee, had asked for a hearing on the part of a joint delegation. So, perhaps, to explain the situation may I say I am not appearing as Peter Stevens, Director of Labour Relations for the Canadian Construction Association. I merely wrote a letter to the Committee's Chairman the moment it was known that this bill would be heard by the Committee We have with us, I am very happy to say, the president of the Canadian Construction Association, Mr. Armand Trottier, from Quebec city, who is city councillor of the city of Quebec He should have been attending a city council meeting in Quebec this morning. Also, we have with us from the international Representatives of the Building and Construction Trades, Mr. Roland Hill, Canadian Regional Director, Union of Operating Engineers from Toronto. He is also vice chairman of the construction union group. Unfortunately, Air Canada had to cancel the flights into Ottawa this morning due to early morning fog and seven members of the joint delegation were unable to get here.

In addition, we have Mr. Charles Irvine, vice president for Canada from the Plasterers' union; Mr. George Durocher from Kitchener, Ontario, representing the contractors.

The CHAIRMAN: I understand that this is a joint brief.

Mr. STEVENS: This is a joint brief and a joint presentation to this Committee.

Now, we have agreed that we would ask Mr. Trottier first, before making a further statement to the Committee, to say a few words in French.

● (11.15 a.m.)

(*Translation*)

Mr. TROTTIER: Mr. Chairman, our fundamental objection to this proposed legislation by the Government is that it does not recognize the total remuneration paid at the two ends of the pay scale, as has been actually established by free agreements with regard to the appropriate sector of the industry. The joint

proposals we have presented to the Government are better because in future they would not interfere with free collective negotiations by the imposing of inflexible norms which are artificially and unrealistically imposed by this legislation. As an example of that, we have the Province of Quebec, where certain provisions regarding collective agreements are applied by joint committees and "juridically extended" by decrees extending to the sixteen regions which cover almost the entire territory of the Province. Our Associations therefore feel that Federal construction work in the Province of Quebec, should be regulated with regard to hours of work, rates of pay, services given and so on, which come under the applicable decree We have often echoed the importance there was for the two groups of meeting together to discuss common problems, and I think we have a very striking example here of the possibility of realizing such a state of affairs. And if I express myself in this way, I should say that the example we are setting here by joining our efforts on such an important problem demonstrates beyond doubt that we have understood the actual nature of the problem we have before us. We have together come to a conclusion, we have arrived at suggestions which are such as to provide satisfaction to the two parties, and yet in fact, we are very much worried at the thought that we might not be heard on this side. That is in brief, what we wanted to put before you at this time.

(*English*)

The CHAIRMAN: Mr. Stevens, is it your intention to proceed?

Mr. STEVENS: If I may, Mr. Chairman.

Mr. Chairman and hon. members, our two associations very much appreciate this opportunity to appear before the House of Commons Labour and Employment Committee to answer questions on the joint labour-management representations made to the Ministers of Labour during the last twelve months concerning desirable amendments to the Federal Fair Wages and Hours of Labour Act. In addition, our joint labour-management delegation wishes to comment on the Minister's opening statement on May 17, 1966, to this Committee.

As an introduction, we wish to state that our joint brief of May 1965 to the then Minister of Labour was prepared most carefully over a period of five months. This was done particularly because our industry is governed, as members will appreciate, by a unique set of circumstances on labour relations and conditions. It was also done because of the several serious difficulties which the Canada Labour Standards Code had encountered during its passage through Parliament. Committee members will recall that several of the industries to be affected by the originally rigid provisions of this code were found to be governed by industry requirements which were equally recognized as unrealistic for them by organized labour. To substantiate this, we would only refer to the fact that the railway running trades are governed by the mileage run by train crews and not hours of work, and that steamships cannot remain stationary on a Sunday and the need to average out hours of work for some industries, for example, grain elevators.

In view of the representations made by both labour and management at that time, the then Minister of Labour held up the passage of that bill, the

labour standards bill, from October, 1964, until February, 1965. At this time he then presented a number of government amendments to provide for that flexibility which both labour and management agreed was essential if the act was to be able to achieve its commendable objectives and stand the test of time.

Since the act which Bill No. C-2 is to amend applies only to construction, as the Minister has confirmed, our two associations respectively representing the industry at the national level, prepared a joint brief for the then Minister in the hope of helping the avoidance of parallel problems for our industry in the preparation of the bill now before this Committee. We had expected that under these circumstances the government would have found it possible to meet our industry's joint proposals. We were therefore disappointed when we learned of the provisions of this bill. Regrettably, as members will know from copies of correspondence placed before them by us jointly, the Minister found himself unable to respond positively to our subsequent joint representations. We are therefore grateful to him for having this bill referred to this Committee to enable construction labour and management to appear before it to explain their joint position and their joint proposals.

Moreover, we would stress again that our two associations have an historic record of labour-management co-operation at the national level in such matters as labour legislation and standards dating back to 1921 when the first national joint board for the construction industry was established, after the first world war. We would ask who is better placed than our two national associations to speak with authority on the labour standards need of our industry in an act which applies only to construction? Failure of Parliament to heed our joint pleas for amendments to meet our joint needs is to us not only inconceivable in these circumstances but would also indicate the lack of support by hon. members for genuine labour-management co-operation and decry their recognition of the merits of free collective bargaining at the very time when Parliament is giving consideration to Bill No. C-170, an act respecting employer and employee relations in the public service of Canada, as is often asked of us labour and management, by governments and by ministers, this industry is demonstrating here its readiness to accept its responsibilities.

Now, permit us, Mr. Chairman and hon. members, some brief comments on the Minister's statements concerning this bill last Tuesday. The Minister pointed out the government's desire to have this act aligned with the provisions of the Canada Labour Standards Code. He stated our industry had pleaded for an exemption or exclusion from its provisions. This was not to our minds our intention and is not so now. What we are jointly requesting is an up-dated and superior approach to meet current conditions by having construction wage rates and hours of work conform to influencing labour market area practice for the type of construction thereby avoiding interference in the process of free collective bargaining. As an example concerning wage rate determination, we cited our wish to have negotiated employer-paid benefit plan contributions incorporated into "fair wages".

On hours of work, we asked for the elimination of overtime permit procedures and pointed out that for highway and heavy construction at remote or outlying sites current collective agreements confirm the need for differing hours of work. We would add here that on the other hand at some centres in

some trades collective agreements now stipulate a 37½ hour work week which we wish to have equally recognized under the act. Here then we are only asking for very limited flexibility (as accorded by the government's amendments to the Labour Standards Code to other industries last year) so minor that we do not consider it to amount to a request for an "exemption" or "exclusion".

The province of Quebec has long followed the principle of using the prevailing negotiated wage rates, including employer-paid benefits, and hours of work as taken from a collective agreement into regional "decrees" by juridical extension. We have also asked, under this approach, that the four major "types of construction" be given formal recognition in the act. We believe that since this act has not been changed during the last thirty years, your Committee would wish to give our proposals its most careful consideration and take the amount of time this may require, if necessary, at the cost of a minor delay in reporting the bill back to the House. Little of lasting benefit, we believe members will agree, can ever be achieved under conditions of undue rush, even though the conduct of the nation's business needs to be expeditious.

• (11.30 a.m.)

The Minister referred to the need for the government to police sub-contractors. This situation has always existed and is therefore nothing new or recent. In any case both our organizations have long been asking the department to improve its enforcement performance. Our joint brief of May, 1965, had again done this under paragraph 6, Enforcement. Our brief of May, 1965, was only given by us to the then Minister and his department officials but not to anyone else at that time, nor the press. Senators and members of Parliament were only acquainted with it on April 29, 1966. We understand, however, that the former Minister did pass one copy of the brief to one then member of Parliament who had raised a complaint against the present act.

I think, if I recall correctly, Mr. Chairman and hon. Members, the Minister announced it is not yet available. He did express the view that he might—our opposition in May, 1965, a year ago,—might have passed copies of that brief to the press or to other people or members of Parliament. We did not do so; we did not wish to be indiscreet and we are merely wanting to explain to the Minister that there was no press release at the time we submitted the brief, and the only copies that were given out were given to the Minister and officials of the department.

Finally, we would state that we believe our needs would preferably be met by a revision to the act since regulations can be changed by order in council at any time. We would therefore ask the Committee to have Bill No. C-2 referred back to the law officers of the crown in order to have the bill redrafted so that the bill to be reported back to the House will be one assuring the industry of labour standards on federal construction projects which, as a result of free collective bargaining the industry can live and progress with to the benefit of the nation and its economy.

Thank you very much, Mr. Chairman.

The CHAIRMAN: Thank you, Mr. Stevens. In so far as that is a joint brief there is nothing further to be added from your point of view.

Gentlemen, any questions?

Mr. BARNETT: I was wondering whether a spokesman for the other party to the brief had anything to add.

The VICE-CHAIRMAN: Does the Committee prefer to hear the departmental reply now? Is that the feeling of the Committee?

Mr. BARNETT: I would like to know if the spokesman for the Association of International Representatives of the Building and Construction Trades had a joint supplementary statement?

The VICE-CHAIRMAN: Is there anything further you wish to say?

Mr. R. G. HILL (*Canadian Regional Director, International Union of Operating Engineers*): No, only to emphasize again that this is a joint brief and we are here together to present our joint submission.

The VICE-CHAIRMAN: Mr. Émard?

(*Translation*)

Mr. ÉMARD: Mr. Chairman, I am sorry that we did not have time to get ourselves better acquainted with the papers that were distributed this morning. We have too many Committees here as a matter of fact, but if I have understood this thing properly, I think that the two parties involved here are asking for juridical extension of this joint agreement, such as is the case at the present time in the Province of Quebec in that trade is that it, or something like that?

(*English*)

Mr. STEVENS: The application of the same philosophy which is, we contend, superior to a basic standard of $1.25 as we have stated, we are not into 37½ hours. We think that we need this for the reasons explained in the brief, namely that contractors bidding on the job should have equal conditions of labour applied to all.

(*Translation*)

Mr. ÉMARD: I imagine we will have an opportunity later of seeing how this can be implemented. Now, according to what Mr. Trottier mentioned a while ago, I would like to know the number of hours of work. It seems that the number of hours of work prevailing in the construction industry would be 37½ hours, is that it?

Mr. TROTTIER: Not generally, it may happen in those areas where this regional agreement applies that 37½ hours of work is the rule, but what we want is for existing conventions to be respected. Agreements have been arrived at between the two parties, especially over working conditions, where we have what we call juridical extension, where the decrees apply in sixteen regions involved, and we want these conditions to be respected.

Mr. ÉMARD: You also dealt with fringe benefits, I believe. Could you give me an idea of the actual value of these fringe benefits which prevail at the present time within the general agreements you have in the industry? Do you have any value attributed to that?

Mr. TROTTIER: It might vary.

(*English*)

The VICE-CHAIRMAN: Gentlemen, Mr. Stevens has a document here which he says clarifies some of this. What is the document?

Mr. STEVENS: Mr. Chairman, in addition to our statement we have agreed to present the Committee with copies of our latest available rates for the construction industry from coast to coast. Unfortunately the French copies are not yet available.

This is the situation in our industry, of the 33, I think, or 35 largest centres in Canada in 18 construction trades from coast to coast, from St. John's, Newfoundland, to Victoria, British Columbia. This will very briefly explain to Mr. Émard, for example, the value of fringe benefits, of which the top is listed at 49 cents an hour. Mr. Irvine is the vice president of the union concerned with it.

The VICE-CHAIRMAN: Would the Committee like to have this as an exhibit?

Moved by Mr. Émard and seconded by Mr. Knowles—

Mr. KNOWLES: Is it too large a document to append to our minutes?

The VICE-CHAIRMAN: I think so. It might be up to the committee branch. It might be reduced in size by photographing.

Mr. KNOWLES: We printers can do wonderful things.

Mr. GRAY: We appreciate having the technical guidance of Mr. Knowles. I recall some matter being photographed in the Finance Committee.

The VICE-CHAIRMAN: It has already been considerably reduced. We have a motion to the effect that it be adopted as an exhibit. Does that meet with the approval of the Committee?

Motion agreed to.

(*Translation*)

Mr. ÉMARD: I am told with regard to fringe benefits, that the highest figure at least would be 49¢ per hour approximately.

Mr. TROTTIER: I mentioned no such figure.

Mr. ÉMARD: Did Mr. Stevens not mention 49¢ an hour for fringe benefits, or 51¢ an hour approximately?

(*English*)

Mr. STEVENS: At the time this value was taken in December of 1965, it amounted to 49 cents. Perhaps Mr. Irvine from our delegation could answer that.

The VICE-CHAIRMAN: Mr. Émard, would you like to repeat your question?

(*Translation*)

Mr. ÉMARD: Could you give us an idea of the approximate worth in cents and per hour of fringe benefits paid by you when you have collective agreements?

(*English*)

Mr. C. W. IRVINE (*Vice President, Operative Plasterers' and Cement Masons' International Association of the United States and Canada*): The fringe benefits cover medical care, SUB plan, supplementary unemployment insurance and a pension plan, and there are union check-offs with that fringe benefit. That is the total sum. It is all part of the wage package and is sent in as one sum to the administrator of the welfare fund; the union allocates the money to its own use. It is all one sum.

(*Translation*)

Mr. ÉMARD: Mr. Stevens mentioned a while ago that the approximate value would be approximately 51 cents an hour?

(*English*)

Mr. IRVINE: Yes. The Toronto Local, Local 48, 37½ hour week and it comes as a fringe benefit to 51 cents an hour in 1970.

(*Translation*)

Mr. ÉMARD: Could you give us a general idea—I know that it might be in that document—of the average salary paid to labourers, under your collective agreements?

(*English*)

Mr. STEVENS: Mr. Chairman, we are delighted that the deputy minister has agreed to a special study for a Centennial project of the construction industry—a joint project—to study labour-management relations in the construction industry in Canada.

This is to be a Centennial project by a steering committee on which labour and management are jointly represented under the chairmanship of Mr. H. Carl Goldenberg of Montreal. As his contribution, I think I am right in saying, Dr. Haythorne, the Department of Labour has generously agreed to do a depth research for us. We are paying for this in part because Dr. Haythorne's research branch needs strengthening and they are going to have a report for us, to answer Mr. Émard's question, we hope, by September 30, 1967, so that Mr. Carl Goldenberg at that stage can review the finding of some 12 or 13 studies to be done, which have now been allocated. We hope to be able at that time to have some authoritative government information which at this time, unfortunately, we do lack.

The VICE-CHAIRMAN: Is that all, Mr. Émard?

(*Translation*)

Mr. ÉMARD: One more question. Could you also give us the reasons why you object to the limitations on overtime?

(*English*)

Mr. STEVENS: Mr. Chairman, hon. members of the Committee, I was present, as you know, on Tuesday last at the first meeting concerning this bill, and Mr. Orlikow, I think your records will show, at that time did refer to 80 or 100 hours' work. Now realistically, and I think Mr. R. G. Hill for example, who

comes from the road building sector of the industry and whose members are mainly heavy equipment operators, will bear me out, as we stated in the statement given to you this morning—our joint statement—that on road building 60 hours is about the maximum and certainly had been on federal projects and in outlying areas. The Department of Labour, very realistically in the past, has been granting permits on application up to 60 hours. We would not dream of going beyond that figure at this time, but you do run into problems, and I am sure Mr. Hill could speak further to this, of camps and keeping people in camp, getting them, for example, from Vancouver to go to Peace River or Columbia River to build these dams if you can offer them only 40 hours of work when they can get all the work they want right in Vancouver where they can live with their families. There has to be some sort of attraction to move our labour force—an economic attraction—to move our labour force to those areas when we need them for the projects. Perhaps Mr. Hill could supplement my answer, Mr. Chairman.

The VICE-CHAIRMAN: Is there anything further you would like to say to that, Mr. Hill?

Mr. HILL: Yes. We have no objection to the number of hours except that we are stating that the influencing agreements should determine the situation in respect of the hours. This also includes the overtime premiums that might come about by the negotiated rate and premium rates in connection with the agreements covering these areas.

(*Translation*)

Mr. ÉMARD: If I have understood you properly, you do not intend to ask that overtime be eliminated. It is not a matter of removing double time or time and a half, it is just limiting it, is it not?

Mr. TROTTIER: Under existing conventions.

Mr. ÉMARD: Thank you very much.

(*English*)

Mr. GRAY: First of all, I would like to say it is impressing to see this joint presentation by labour and management and this apparent unanimity of point of view. Perhaps it is an omen for other presentations along these lines of other segments of the Canadian industrial sector. This may have been touched on at the last meeting which I, of course, had to leave a few minutes before its adjournment to go to another meeting; but just for my own benefit perhaps someone could explain to me the distinction between the association of international representatives of the building and construction trades and the unions themselves covering the particular trades.

Mr. HILL: The association is really a voluntary association of the top ranking officers of the building trades organizations.

Mr. GRAY: Well is it possible then that the building trades unions themselves, different crafts, might have different points of view on this from the international representatives?

Mr. HILL: No, we are speaking generally for each individual organization by representation in that association.

Mr. GRAY: Is it customary for the building trades to come forward through this association rather than through the unions themselves, the president speaking for the particular union or unions.

Mr. HILL: It has been done in a number of instances—it has been done possibly in a provincial area more than in a federal area.

Mr. STEVENS: Mr. Chairman, perhaps I can supplement this. For example, we referred in our statement this morning to the existence since 1921 of the national joint board, and it is this organization's representatives who spoke for the building trades, for example, during the war period, when it became a question of controlling labour standards and working conditions in that vital time. It was this association which manned that board.

• (11.45 a.m.)

Mr. GRAY: I do not want to imply that I am attempting to derogate from the authority and the prestige of the Association of International Representatives of the Building and Construction Trade, but I would not want to inadvertently see a situation arise where the unions themselves through their executives would come forward and say we have a little different point of view than some of our international representatives. Does this possibility exist?

Mr. HILL: I suppose in a free and democratic country this could exist but we cannot preclude that possibility. But, generally, as I said, we are speaking for and on behalf of our individual organization through this collective association.

Mr. GRAY: Now do not misunderstand the point of view which is implied in my question. I feel it would be useful for the Committee to understand the status both of the management and the labour side represented before us today.

Mr. STEVENS: Mr. Chairman, might I perhaps supplement that from our side. We have some 90 odd affiliated organizations in the Canadian construction association of whom some 50 become involved from time to time in labour matters. It was five months before this joint brief was presented to Mr. MacEachen in May 1965, and one reason it took this long was that once we had agreed on a joint text acceptable to our group it had to be taken to a meeting at which not only a subcommittee from that group but the full 19 building trade unions were represented. For our part, we circulated it and gave our people a month to study the subject to let us know if they had any objections. I am able to say that not one group on the management side objected in any way, shape or form. And, it takes a lot of doing, as you gentlemen as Parliamentarians will appreciate, to get everyone on one united side.

Mr. GRAY: You should teach us some of your techniques.

Mr. STEVENS: One other thing I would like to state Mr. Chairman, in reply to Mr. Gray's question, is that this is about our fifth or sixth joint presentation to government be it the federal government or a provincial government at the national level in the last three or four years, since we really started to work together in those fields where we do not have strikes. We have some strikes right now and this is why some of the union and management representatives cannot be here today.

Mr. GRAY: Your reference to provincial governments leads to my next area of questioning.

Have you gone to any of the provincial governments and asked to have your industry exempted from their minimum wage and hour standards?

Mr. STEVENS: Mr. Chairman, this situation varies from province to province. Our brief indicates, in its reference to the province of Quebec situation for example, that we do not have a problem of this nature in the province of Quebec. The Department of Labour for federal construction jobs has very properly—Mr. Harris Johnson, the director for Quebec certainly applied the wage rates as they were stipulated in the decree. In Manitoba for example, labour management co-operated at the provincial level a couple of years ago to produce a re-writing of what was the Fair Wage Act of Manitoba, I think it was and it is now a new act called the Construction Labour Act, which came into force last summer or thereabouts. It is a joint committee of labour and management chaired by Professor Harry Woods of McGill University. They worked with the deputy minister in the province, Mr. Douglas Scott, to bring about this legislation. Parallel to this, the hon. Mr. Justice Bora Laskin some three or four years ago, chaired an inquiry on the Industrial Standards Act for the government of Ontario. At that time recommendations were made concerning the application of the Industrial Standards Act to our construction industry.

Mr. GRAY: In Ontario there are minimum standards of wages and hours?

Mr. STEVENS: Yes, for example the Ontario Industrial Standards Act, which is not a minimum standards act across the board such as the Labour Standards Code. The Industrial Standards Act, say, in this city at the moment, applied to the carpentry trade in the Ottawa region, sets the union rate as the rate for construction work in the carpentry trade in the Ottawa region.

Mr. GRAY: But there is still the provincial board is there not? Your industry is not exempt from the provincial minimum wage.

Mr. STEVENS: This is $1.25 and this is why we this morning in our statement said we are for asking for a superior approach for our industry.

The CHAIRMAN: Have you a supplementary question?

Mr. MACKASEY: Well it is supplementary because Mr. Gray mentioned the province of Manitoba. Mr. Stevens, is there any standard in the hours worked per week in the heavy construction industry?

Mr. STEVENS: Yes, it varies. There are three wage boards in Manitoba for the construction industry. On building construction in Winnipeg it is 40 hours and our schedule, now in your hands, lists that for all trades, I think you will find.

The rural district, which is outside the greater Winnipeg area, provides for a 48 hour week for building construction. The third board, which governs road building, Mr. Mackasey, provides for I think, 112 hours over a two week period, subject to correction by the Department of Labour legislation bounds. I am speaking now without reference to the relevant acts and I am sure you will appreciate that.

Mr. MACKASEY: I will pursue this a little further but I just wanted to point out, Mr. Chairman, that in Manitoba they do have a set number of hours which is basically what our bill is doing.

Mr. GRAY: What I am trying to find out, sir, is this. Am I right in saying there is no province in Canada without some form of basic minimum applied by provincial law for wages and hours of work which applies equally to every segment of industry perhaps with the exception of agriculture.

Mr. STEVENS: Mr. Chairman, I am not a lawyer and I am not an authority such as Miss Lorentson is on labour law. But, I would venture to say that what Mr. Gray says is basically correct except perhaps for Prince Edward Island, and you will appreciate I am speaking from memory and without reference. I think there is now minimum standards legislation in Newfoundland which is fairly recent, I believe. However, our whole philosophy in this joint approach, Mr. Chairman and hon. members, is that $1.25, as you can see from evidence filed, is not enough to establish equitable tendering conditions for all contractors bidding federal construction contracts, which is all that is at stake in this piece of legislation. This is why I would repeat—and I think you will endorse this Mr. Hill—that we are asking for a superior approach, gentlemen, because in our industry this will create labour harmony and not labour conflict; this is what we want and this is why we are working together.

Mr. GRAY: Well, I appreciate the spirit with which you are putting this forward but what I find it difficult to understand at the moment is why you are coming to the federal government asking for something for which you are not asking the provincial governments.

Mr. STEVENS: We have.

Mr. GRAY: Have you got it?

Mr. STEVENS: The Construction Wage Act changes in Manitoba, for example, give us that flexibility and the improved situation—

Mr. GRAY: Is it a flexibility with no floor?

Mr. STEVENS: Oh, in Manitoba there is a floor.

Mr. MACKASEY: There is a floor. But the changes you are speaking about would not remove the floor.

Mr. STEVENS: The change, for example, in Winnipeg, you see—you will have what you see on the schedule, and this is what we are asking for, yes.

Mr. GRAY: If I may proceed, I understand what you are asking for if Parliament accedes to your request, is that there will be no floor for your industry except what may be created by individual collective bargaining. Is that right?

Mr. STEVENS: Well, from our point of view it would certainly be acceptable, Mr. Gray.

Mr. GRAY: Well I just wanted to understand.

Mr. STEVENS: No, we are not asking for an exemption in any way, shape or form and we would be perfectly happy to see some sort of a clause defining fair wages which says with a minimum of so and so, of $1.25, which the bill provides for, and which shall not be below, right. Define the wages and then say we shall not be below $1.25.

Mr. GRAY: Is that not what the bill says?

Mr. STEVENS: Not with regard to the fringe benefits.

Mr. GRAY: In other words, you are not opposed to the concept of a floor below which arrangements cannot go even though both parties in collective bargaining may be willing to go below it. You are not opposed to that principle?

Mr. STEVENS: No, Mr. Gray. We had a session this morning before we appeared before you to review our situation. The lowest rate we know now is in Prince Edward Island, I think I am right in saying, which is in the region of $1.44 for construction labourers, that is, basic common labourers.

Mr. GRAY: You accept the principle that there should be a floor imposed by law below which the parties cannot go even though they are willing to bargain collectively and come to an agreement for some lower point than the floor?

Mr. HILL: I would say basically this is the concept but we are not precluding that there may be some places at the moment that we are not aware of where some of these things may be arrived at which might be less than what the suggestion is. But, again, basically our position is that we are asking recognition of the total labour cost factor which might be involved in freely negotiated agreements.

The CHAIRMAN: Gentlemen, may I just point out there are no reporters present and the transcript is being recorded so would you please speak into your microphones. Is that all, Mr. Gray?

Mr. GRAY: No, I am just starting.

The CHAIRMAN: I want to be careful on these supplementary questions. I have Mr. Knowles, Mr. Muir and Mr. McCleave ready to speak. I think Mr. Muir probably has a supplementary question.

Mr. MUIR (*Cape Breton North and Victoria*): Mr. Chairman, I have only two short questions. I have another appointment at 12 o'clock and I think it is almost 12 now. Would the other gentlemen yield because I will be through in a very few seconds.

Mr. GRAY: As a matter of principle I want to say this idea of supplementary questions can go too far and it applies to myself interrupting someone else, as well as someone interrupting me.

Mr. MUIR (*Cape Breton North and Victoria*): This is not supplementary.

The CHAIRMAN: Is it agreeable that Mr. Muir proceeds?

Some hon. MEMBERS: Agreed.

Mr. MUIR (*Cape Breton North and Victoria*): Thank you, gentlemen. I just wanted to pinpoint one or two things while Mr. Stevens is here. May I ask you, Mr. Stevens, in voicing opposition to this Bill C-2, are you speaking for the Cape Breton Island construction association and contractors association?

Mr. STEVENS: To the best of my knowledge, this brief as I mentioned a short time ago, was checked with some 50 affiliated organizations which deal with labour matters in the construction industry across Canada and you will see Sydney listed in our rate schedule, Mr. Muir.

Mr. MUIR (*Cape Breton North and Victoria*): Yes, I see it.

Mr. STEVENS: And, you will find that our association, which I think is headed up by Mr. Fred Stevens of Sydney, has given its endorsement to our submission.

Mr. MUIR (*Cape Breton North and Victoria*): I assume then they are absolutely opposed to it. Now, may I ask the union representative this other question. Mr. Hill, are you speaking for the unions involved on Cape Breton Island?

Mr. HILL: I can only answer this particular question in relation to my own organization at the moment, because I have just come back from the Maritime area where I discussed these problems with my own organization down there. They are fully in accord with our position in this matter. We are in the heavy construction and highway field—the operating engineers. These are equipment operators in the construction field.

Mr. MUIR (*Cape Breton North and Victoria*): You are stating then that the unions on Cape Breton Island are opposed to this bill.

Mr. STEVENS: To the bill, yes.

Mr. HILL: To the bill.

Mr. STEVENS: Not our brief.

Mr. HILL: They are in accord with our position as we are advancing it.

Mr. MUIR (*Cape Breton North and Victoria*): That is all Mr. Chairman. I want to thank the gentlemen for giving me this opportunity.

The CHAIRMAN: Now, Mr. Gray do you want to continue further.

Mr. GRAY: I will not take too much longer. I know there are other members who want to ask questions.

Did I understand you to say before the last member asked you some questions that you would be willing to see in your industry contracts providing for wages below $1.25 an hour?

Mr. STEVENS: Far from it. We stated that to the best of our knowledge at the moment, Mr. Hill having just come back from the Maritimes, that $1.40—and the record will show this Mr. Guay—is the minimum rate in our industry in Canada today for common labourers.

Mr. GRAY: Did I understand you to suggest to the Committee that you would be willing to see collective agreements calling for more than 40 hours a week with the exception of special circumstances such as urgent highway projects and that sort of thing?

Mr. STEVENS: Mr. Chairman, I would like to ask Mr. Roland Hill, the Canadian Regional Director of the operating engineers who are the heavy equipment operators, to explain the problems which arise in this sector of the industry, which I would ask the Committee to please note. It very rarely really affects federal construction. There are some highways in national parks; the Banff Jasper road was subject to this. There are some runways at airports at times, and military installations. But, apart from that there is virtually very little. Most federal construction goes from the erection of a post office to a major prison or a national art centre.

Mr. HILL: Well, what we are suggesting, Mr. Chairman and members, is that the position in the bill recognize those agreements that we negotiate freely, even if it includes in the agreement a clause for a 50 hour work week. If there are other contingent factors—

Mr. GRAY: For an 80 cents an hour wage rate.

Mr. HILL: We have no agreement for an 80 cents an hour.

Mr. GRAY: If you did have one you would want us to accept that too.

Mr. HILL: No. We have a floor which has been negotiated in most instances—and I am talking now of heavy and highway—that is recognized on a provincial basis. This is again by virtue of an agreement covering a complete provincial area. We are asking that the recognition that is obtained in those agreements be the position that is recognized by the federal government.

Mr. GRAY: In other words, you are willing to accept a floor imposed by statute in the provinces but not in federal government contracts?

Mr. STEVENS: We have said, Mr. Gray, and the record will show this, repeatedly here—I have said it and Mr. Hill has endorsed it—that we have no objection to a fair wage definition which gives $1.25 as a floor. We have no objection whatever. There is no question of talking about 80 cents here from our point of view, Mr. Gray.

Mr. GRAY: What about 40 hours a week?

Mr. STEVENS: The bill now provides for 40 and up to 48 hours without permit on overtime.

Mr. GRAY: And in excess of that with permit.

Mr. STEVENS: Right.

Mr. GRAY: Well, Mr. Stevens, what is your problem? If this bill permits you to have better provisions freely arranged by collective bargaining agreement and if there is a very flexible provision for the issuing of permits to carry out emergency work or work because of special weather conditions, with the exception of the definition of what goes into $1.25 which I have not touched on yet, does this bill not meet the very useful points you brought forward?

Mr. STEVENS: No, Mr. Chairman. Unfortunately, Mr. Gray, it does not because we are asking for a superior approach. Let us make this clear on the record once again; we are asking that if this bill were to be applied and were to be passed by Parliament as it now stands, this, gentlemen, would amount to discrimination and variation between unionized contractors and non-unionized contractors.

Mr. GRAY: How is that?

Mr. STEVENS: Because the unionized contractors would have certain established conditions which may be $1.40 and here they could bid on $1.25.

Mr. GRAY: Well, as I understand the bill—

Mr. STEVENS: This is our problem. Everyone in our industry has to be able to bid labourwise.

Mr. GRAY: Mr. Stevens, I may have misunderstood the wording of this bill but I understand there still has to be a fair wage determination, even with the

floor. And if there is a fair wage determination and it fits the conditions in the area arrived at by collective bargaining then that is what is going to apply. Do you disagree with that?

Mr. STEVENS: Yes. The problem arises very largely in the area of fringes, for example. I think perhaps Mr. Hill should say something on this.

Mr. HILL: Well, when we talk about heavy and highway, the change in construction, the approach, the type of construction that is going on today where you have bridges and approaches, requires specialty contractors. They are now appearing in the heavy and highway field and their relations—and I am talking now about the employees—are governed by the contract that exists in that particular area they come from. A good example of this is that a number of years ago when Cold Lake, the air force base north of Edmonton, was being built—the steel was erected by the Canadian bridge people out of Windsor—the Canadian bridge people had to work in accordance with the conditions under the agreement. They differed totally from the wage schedule which was issued by the department.

Now, it just so happens there was no conflict in that area simply because it was a specialty contractor who was able to do that as opposed to maybe several people bidding on that type of work. This is the sort of thing we want to eliminate.

Mr. GRAY: I am just about finished. Do you not have the same situation now where the Department of Labour can make a fair wage order which differs from your particular collective agreement because they take a survey covering more than your agreement?

Mr. STEVENS: Yes, but let me give you another demonstration Mr. Gray.

Mr. GRAY: There is no difference, is there?

Mr. STEVENS: There is a difference, Mr. Gray, I will give you another example if I may. The difference Mr. Chairman is this. For example, in the present reading of the bill the definition of fair wages is set in the district. Our problem, we said in our statement, is in the influencing labour market area. This is where a difference can arise Mr. Gray.

Mr. GRAY: This wording has existed in the bill since 1935.

Mr. STEVENS: Right, and the bill comes up every 30 years maybe for revision, you see. This is our problem.

Mr. GRAY: You were able to live with this phraseology for 30 years.

Mr. STEVENS: Times change.

Mr. GRAY: Now one final point. I gather that you would accept $1.25 if the definition was changed to include fringes. Is that right?

Mr. STEVENS: And influencing labour market areas. The committee clerk has a copy of our statement. There are one or two very minor changes that we will be glad to give you. I will let him have a corrected copy of it.

Mr. GRAY: What effect would this have on the smaller contractor?

Mr. STEVENS: We feel that the interpretation of influencing labour market areas has been on the whole very good. But, we have had major problems

nevertheless, on specific projects. For example, if you are going to build a $50,000 post office in Flin Flon you probably are going to be using a local contractor and also local labour. The local labour rate can cover that situation perfectly well. On the other hand, if you put a prison into Cowansville, Drumheller or Matsqui, or if you are putting a DEW line up north, you are going to have to set conditions which will not be anything like the local applicable situations. This is why we said in our statement here to you, Mr. Chairman and hon. members of the Committee, that we are concerned with the influencing labour market area for the type of construction. Our original brief featured four types of construction: residential, minor commercial, the post office type of thing, and major building construction, the type of thing that goes up in Ottawa, highway and heavy construction, runways, roads in national parks, the causeway in Prince Edward Island, and industrial maintenance of such in which at the moment, the federal government is not yet involved, but conceivably with the changes in times over a period of 30 years might become involved in.

Mr. GRAY: Is not the trend in industry generally in all types of work to have minimum standards imposed by law whether provincial, federal, state or local depending on the country you are talking about?

Mr. STEVENS: We would like to have more in order to maintain labour peace in this aspect in our industry, more than minimum standards, as we do have in the province of Quebec under their legislation.

Mr. MACKASEY: What is the problem of not receiving minimum if you want more than minimum.

The CHAIRMAN: Just a moment. I think we have to watch this because there are people scheduled before you.

Mr. GRAY: I wanted to ask something about possible problems of putting fringe benefits into the minimum wage, whether it is $1.25 or what have you. Now, fringe benefits of medical plans, welfare benefits and so on is usually handled under a trust type of plan.

Mr. STEVENS: It varies, Mr. Gray.

Mr. GRAY: How many individual arrangements of that type would you think exist in Canada?

Mr. STEVENS: I have not counted them on the wage schedule which has been filed as evidence before the Committee but there are quite a few additions to it. Since December 1, 1965 Windsor has settled with additional fringes coming in. Montreal has settled after a four or five weeks strike. So, we do have plenty of facts, gentlemen. But, we also see our common point of good for the industry.

Mr. GRAY: But, the payments in question which go to make up what are known as fringe benefits, are not made directly to the employer, are they?

Mr. STEVENS: The employer?

Mr. GRAY: By the employer, I should say.

Mr. STEVENS: They are employer paid.

Mr. GRAY: They do not appear on the payroll record?

Mr. STEVENS: Yes, they go through the contractor's books and he has to take them into consideration when he bids and estimates his labour costs.

Mr. GRAY: What are they on? I think I will go into that later on. I just want to say, in conclusion, that your very helpful comments in reply to my questions, sir, seem to indicate to me up until now that the bill is designed to follow the principles you have in mind.

Mr. STEVENS: It does not give us enough, and that is our problem. That is why we are here.

Mr. GRAY: There is a minimum and then you have flexibility to do what you want above it.

Mr. STEVENS: We would like to see some of this spelled out in the act for the protection of labour-management basic peace in this area, which is vital to the construction industry.

Mr. GRAY: Thank you.

Mr. KNOWLES: Mr. Chairman, like Mr. Gray, I have found time to look over this chart and I find it very interesting. It certainly includes a good many wage rates and conditions that are a credit to your union. However, may I first of all say, unless my eyes have not seen it, that I see only two examples of a wage rate of less than $1.25 an hour. According to this chart, December 1, 1965, labourers at Moncton had a rate of $1.00 to $1.25 and labourers at Fredericton had a rate of $1.05 to $1.25 an hour. I do not find anywhere else in the charts anything below $1.25. I find this amount in a number of places but I find many figures going to $3.00 and $4.00 an hour. Congratulations. May be even these figures—

Mr. STEVENS: Out of date.

Mr. KNOWLES:—have been improved. So, you are now able to say that you do not have any workers anywhere in Canada—

Mr. STEVENS: We do not think so, to the best of our knowledge.

Mr. KNOWLES:—working for less than $1.25 an hour. So, the minimum wage rate spelled out in the bill is really no problem to you at all.

Mr. STEVENS: Absolutely and precisely, Mr. Knowles.

Mr. KNOWLES: And even the suggestion that the value of fringe benefits be included—I think that is a legitimate request—would not affect this question of the minimum wage. Your employees are getting at least $1.25 an hour even before they count fringe benefits. Now, let me look at another side of it. I was intrigued by your statement that you have some agreements for 37½ hours. Again, I am aware of the fact that this document is four or five months out of date, but I find the figure of 37½ hours in only two places on this whole large page. I find that electricians in Hamilton are to get a 37½ hour week in July, 1968 and that electricians at Vancouver are to get the 37½ hour week in April, 1967. But, I do not find it anywhere else.

Mr. STEVENS: Mr. Chairman, may I supplement that. Mr. Irvine, the vice president for Canada of the plasterers union, stated that by 1970 the plasterers in Toronto will have a 37½ hour work week. That is not reported there be-

cause we do not go that far forward. The table just is not big enough. It has had to be photographed by the printers and reduced to a reasonable size. The sheet metal workers will have it very early next year in Toronto.

Mr. KNOWLES: Do any of your agreements provide for the 37½ hour week at the present time?

Mr. STEVENS: I think they are all contractually committed in three to five year agreements.

• (12.15 p.m.)

Mr. KNOWLES: But at the present time—

Mr. STEVENS: This is the situation we will be facing.

Mr. KNOWLES: But at the present time you do not have any enjoying the 37½ hour week?

Mr. STEVENS: We are not aware of any instances where the 37½ hour week is effective, but there are agreements in effect which provide for the reduction of the hours of work to 37½ during the term of the contract.

Mr. KNOWLES: Just as in the case of these I have noted for the electricians at Hamilton and Vancouver?

Mr. STEVENS: Mr. Knowles, I would advise you that the industry is facing a very strong demand, from the carpenters at this very moment for a 35 hour work week in Vancouver, which covers the whole of British Columbia and a situation may be arising before very long where the union will be in a position to carry out a legal strike.

Mr. KNOWLES: I do not need to take any time to say that I approve of that. But when I look over this chart I am concerned at the number of places where I see the figures of 44, 48, 50 and then places where it runs 40 to 60, and figures of that sort. In other words, it seems to me that though you have no problem with the legislation with regard to the minimum wage, apparently you do have a problem with regard to the maximum number of hours of work per week.

Mr. STEVENS: Mr. Chairman and Mr. Knowles, problems arise in a few areas, but there are not too many; and there are certainly not many at 50 hours left; and you have to bear in mind that this is out of date.

The provinces, I think, through the influence of the Labour Standards Code, have been making rapid changes in the last two or three years in this regard, and some of these changes are still underway right now. We are looking at the next 15 to 30 years ahead. This act has not been amended for a period of time—not since 1935, I think the minister stated.

Our problem here is also one of, say, the labourers union—and Mr. Roland Hill should be the one to really speak to this, rather than myself—but the problem can arise where the contractor has a federal job in one place and he also has other work. This would mean that by transferring, say, a labourer who has a 44 hour work week to a federal job, his take-home pay would be cut for the weeks he would be working on the federal project. The contractor has not estimated his labour costs on the basis of a 40 hour week, but on a 44 hour week, which is his normal way of operating, and each worker has become used to that minimum take-home pay. Now, Mr. Hill, I am sure, can supplement—

Mr. KNOWLES: It just so happens that some of our amendments to the Labour Standards Code have been supported in the House.

Mr. HILL: This position is recognized (at this point the microphone in front of the witness was disconnected for ten seconds) were related or accepted by the provincial areas by that agreement. So that there are occasions, recognizing in the position again mostly because of weather, of extensions of hours really beyond the 40 or 45. But, again, there is a minimum in there in which straight time can be worked, and beyond that there is the maximum hours which are regulated by the provincial authorities, which by the premium contractors are recognized in accordance with the agreement.

Mr. KNOWLES: Mr. Chairman, it seems to me that we are close to the problem here, and it also seems to me that there is no point in our having this questioning or discussion unless we do get right to the nub of the thing.

I do not need to take any time to stress my connection with the labour movement, but I think we should be facing this fact that your problem seems to be the hours of work per week now. I mean, your goal is our goal, to get the week shorter five, ten or fifteen years from now, so that this 40 will be a maximum rather than a minimum. But I hope you see the problem you face us with in Parliament, in suggesting that we should somehow break that ceiling. We have been trying in Parliament, in response to the clamour of the labour movement, to get a standard that would protect the workers.

I wish you would explain a little further what you mean by this superior approach—and I will give you a minute to think up your answer. Legislation of this kind sets minimums; it does not make illegal collective agreements that achieve better standards. You can, in collective agreements, get $3 and $4 an hour and you are not breaking the $1.25 law. If you can get agreements for 37½ hours, you are going better than the law and nothing in the law prevents you from doing that.

An hon. MEMBER: Twenty hours?

Mr. KNOWLES: Yes. It is around this building that we break these laws more than anybody, but that is our fault.

But if you are asking us to amend the law in such a way that you can have work weeks that are longer than what we are providing, please tell me, as a friend, how you call that a superior approach?

Mr. STEVENS: Mr. Knowles, I think you have the reputation of being an extremely careful man. We have presented this, I think, to the Committee in the statement which I read at the start. Our superior approach lies in several areas, I suggest. For example, one of them is, of course, the recognition of the 37½ hour work week where it will exist. This, I think, is superior and you will readily agree.

Mr. KNOWLES: We support it whole heartedly.

Mr. STEVENS: Fine. The second area is the fringe situation. This, we feel, is superior. The changes we propose concerning the wages current for work and the character, where we would prefer to see type of construction defined in the influencing labour market area, for the type of construction, will be superior for the industry.

Mr. KNOWLES: If I may interrupt for a moment: Superior if the result is a better deal for the workers. But is it superior if it results in a 55 or 60 hour work week?

Mr. STEVENS: I am talking only about fringe benefits at this point, Mr. Knowles. No, I am sorry; I had finished with fringe benefits. Could you repeat your question?

Mr. KNOWLES: You were talking about the influencing conditions in an area and I thought you were talking about them in relation to the hours of work. You said that it was a superior approach if you get 37½ hours. Now, I am asking you is it a superior approach if, because of the influencing conditions in the area, you have an agreement of 54 or 55 hours.

Mr. STEVENS: No, we do not, and this is not the point, Mr. Knowles. The point is that the prison in Drumheller, the prison at Matsqui, the prison at Cowansville—this type of project—is the problem; the type of thing Mr. Hill has spoken about, of structural steel going up at Cold Lake, 300 miles or so north of Edmonton. This is where the problem arises and it has arisen from time to time. At that time I think the labour representatives made representations, perhaps, to the deputy minister.

To answer your point further, the question of the longer work week arises with the labourers, I think you will find, and it arises in some earth moving trades from time to time. They have been coming down very considerably in collective agreements, Mr. Knowles. If I showed you the parallel table of 15 years ago you would see a vast difference in hours of work there. But the flexibility which we need for equitable bidding conditions between unionized contractors and non-unionized contractors, and with which Mr. Hill is very concerned within our area, is a flexibility which I would put parallel to Mr. Barnett's point at the last meeting, or the minister's point, concerning the tow boat situation. You did—and we stated this this morning—have to make some more flexible adaptions to the Labour Standards Code in relation to the railway unions, for one, where you have got mileage for running crews operating, and we are merely asking for that flexibility so that Mr. Hill can live with this as well. We do not create friction between labour and management in an area where we feel there ought not to be any.

I hope I have answered Mr. Knowles' point but maybe Mr. Hill should supplement my answer.

The CHAIRMAN: Before Dr. Haythorn speaks, I would just like to draw the Committee's attention to the fact that we are now right down to our quorum. The meeting should continue until 1 oclock, and if we are to come to a vote on anything it is imperative that we maintain our quorum; but the last member of the quorum was about to leave at 12.30.

Mr. McCleave, Mr. Barnett and Mr. Mackasey have yet to speak. Is it the feeling of the Committee that we should try to get leave of the House to sit this afternoon to complete our work on this? If so, then the necessity for maintaining our quorum at this point is not important.

Mr. MACKASEY: Mr. Chairman, knowing the mood of the House, we are going to waste half of the afternoon and get a lot of bad and undeserved publicity if we ask for permission to sit during the hours of the House.

I think what we ought to do at the moment, due to the fact that someone is leaving, is to send out a messenger to find one of the 13 absentees. There are four committees going on at the moment. It is quite conceivable that certain members who are in other committees where the quorum is not quite so important or so vital, may be good enough to come in and complete the quorum, and I will volunteer to go and do this. The problem is, Mr. Chairman—

Mr. KNOWLES: That is up to you.

Mr. MACKASEY: The point is simply this, Mr. Chairman, that it is imperative that we get this bill to the House of Commons next week and time is of the essence, and I think we should make every effort to keep a quorum here until one o'clock and then rediscuss your problem at one o'clock.

The CHAIRMAN: Now, just a moment. There is not much point in discussing—

Mr. GRAY: I want to say something off the record. There is no reason why we cannot continue. Let me put it this way; There are enough people here with questions to utilize the time until one o'clock. I would be surprised if these people could finish their questioning and answers back and forth before one o'clock. Some very pressing points have been raised. I am speaking off the record here, and this can be straightened out by the clerk and the chairman when they go over the minutes. You do not have to notice the lack of a quorum unless the point is specifically raised. I think Mr. Knowles will not disagree with me. Certainly to that extent we can continue our very interesting discussion until our usual adjournment time.

Mr. KNOWLES: You do not anticipate a vote in the Committee today, do you?

Mr. GUAY: I do not see how we can when there are other members who have questions to ask; and I am sure there will be other comments from the departmental officials and so on.

The CHAIRMAN: I am happy to yield. I was not trying to pin it down to finality; I just wanted this discussion, and it has been very useful.

Mr. STEVENS: Mr. Chairman, there is one point: Mr. Hill would like to have recorded that everything I have said he endorses, particularly on the point which Mr. Knowles so validly has raised.

Mr. HILL: Yes; I want it to be clearly understood that we are not asking that we be allowed to work more hours simply because of this particular position. Again, we emphasize that all we are suggesting is that they recognize the agreement that exists in this area.

Mr. GUAY: Are you worrying about more hours?

Mr. KNOWLES: Don't spoil it for everybody!

Mr. HAYTHORNE: Mr. Chairman, I have just a very brief comment on Cold Lake because it has come up two or three times.

I happen to be very familiar with the situation which was developing in Eastern Alberta at that time. We were under considerable pressure to be sure that the workers in the eastern part of the province had some protection. Now, we can give this protection under our Fair Wages and Hours of Labour Act as it now stands, while, at the same time, not excluding the possibility of bringing

people in from the outside or by any employer or any contractor, entering into an arrangement with his workers, or the union, to pay higher wages than those which are determined as the fair and reasonable wages for that area.

We have all kinds of examples of instances where higher wage rates are paid than those that are stipulated. Therefore, I do not think that this constitutes a real problem. It is possible now, Mr. Chairman, under our present arrangements—and this has been going on for many years—to give the freedom for the collective bargaining, or negotiation, which is being requested in this joint brief.

Mr. KNOWLES: You are taking the position that what the industry wants is there if they look for it?

Mr. HAYTHORNE: It is there now, Mr. Knowles.

Mr. STEVENS: Mr. Chairman, our position on this has been that we feel that there is not enough rigidity in the Act itself, and we would prefer to see it in the act; because this is the type of legislation which does not become acute before the House very often, and we would like to see it spelled out in the act.

This is why we have said that it should not be by regulation which can be changed—we have a minority government situation at this time—and that we would like to see it spelled out the way we have asked for it in the act.

Mr. KNOWLES: Did you say that you would like more rigidity in the act?

Mr. STEVENS: More definition of the points where we have our superior approach, Mr. Knowles.

Mr. HAYTHORNE: This, we feel, does introduce rigidity of the type which we like.

The CHAIRMAN: Are you through now, Mr. Knowles?

Mr. KNOWLES: Yes.

Mr. MCCLEAVE: I have just one question, Mr. Chairman. Mr. Stevens, in the summary of recommendations on page 9 of that joint submission of May of last year I believe there are about 8 points dealt with. How many of those points request recommendations that are met in this legislation that we are now considering?

Mr. STEVENS: On page 9 we have (*a*) amendments to the act on fair wage policies, point number 1: "Revision to avoid conflict with long standing working conditions freely negotiated." I do not think that *per se*, has been recognized by this bill before the Committee in the form in which we would like to see it recognized. 2. "Provision for the incorporation of all freely negotiated employer paid contributions into fair wages." This is not recognized by this bill.

(*b*) Amendments to the act; section 2(*a*), replacing character or class of work: I think I am correct in saying, Mr. Chairman, that "by types of construction work" has not been used in the definition in Bill C-2. Then, "addition of definitions to cover the four main types of construction work."—this does not appear to have been adopted in this Bill C-2.

2. Section 31(*b*): To be amended by a provision for avoidance of all conflict with freely negotiated hours of work by types of construction work: We do not think, to our mind, this has been recognized by the bill.

In the case of the elimination of overtime permit procedures, the deputy minister was perfectly right earlier on when, in an aside, he said to me: "There was flexibility, more flexibility, than had previously existed."

I would like to again record for the record that we have no intention, if only from management's point of view, regarding dropping our activity, of ever seeing people work beyond something in the vicinity of 60 hours maximum per week, including overtime, because after that your productivity drops off from management's cost point of view; you have reached a point of no return, even before. I mean this is certainly the limit to which you can employ a construction worker on a year-round basis, which we are hoping to do more and more.

Concerning the other point about the provision of statutory limitation of 30 days on claims: I would advise the Committee here, if I may, Mr. Chairman, that our management's position, in preparing our joint brief on this originally, was something in the vicinity of between 6 and 12 months. I think I am right in saying, Mr. Irvine, that it was you who said: "If I have a member who does not know within 30 days whether or not he has been underpaid, I do not have very much sympathy for him." A union member should know when he has been properly paid, and it was at Mr. Irvine's request, when drafting this joint brief, that we came down to 30 days; because when a man receives his wage package he normally knows what ought to be in it. In many industrial labour agreements you find clauses to the effect that if you have not raised a grievance within 15 days, when you have had a week to think about it and double check it—and maybe you are being paid a week in arrears—then you have accepted that the amount is correct. You have had plenty of time. This is why we asked for 30 days, but there is no provision for this in the bill.

Addition to regulations; stipulation of effective dates for revised fair wage schedules: We have had the odd case—and I will stress the word "odd"—but we would like to see this clarified once and for all. If new conditions are established, normally by collective bargaining, of course, then we would like the contractor to have fair warning about the date. It eliminates all sorts of grievances and friction—and avoidable friction—between labour and management about when the new conditions become applicable.

We say they should become applicable when the agreement for the area, for all other work, changes; so that you avoid that unnecessary area of possible grievance.

I do not know if I have answered your question, Mr. McCleave.

Mr. McCLEAVE: We have not yet heard from the department whether this last request for the addition to regulations will be met or not. Is that correct?

Mr. HAYTHORNE: Mr. Chairman, with your permission I would like to comment on the points that Mr. Stevens has gone over because perhaps I think this might help to clarify the position of the department with respect to these proposals.

Let me say, first, that we recognize very clearly the importance of having employer-employee relationships develop in a cooperative way, and we certainly welcome the kinds of initiatives that have been taken here. We think this is excellent. We have been encouraging this for years and are very happy to see it. Our problem here has been, to put it very simply, that a commitment was made by Mr. MacEachen during the debate last year when the Canada Labour

Standards Code was before Parliament, as Mr. Nicholson pointed out the last time, to bring the principles of our Fair Wages and Hours of Labour Act into line with those of the code. This is what we addressed ourselves to, and really nothing more than that.

When we had, from the industry, a rather extensive set of proposals, many of which went some distance beyond introducing the simple kinds of amendments needed to bring the Fair Wages and Hours of Labour Act into our code, that is where we got into a good many extensive discussions. I must say that from our point of view these discussions were helpful in making quite clear what the interests of both the unions and the employers were, in this instance. Let me say that by no means was there unanimity on the union side and by no means has there been complete unanimity on the employers' side, from the discussions we have had. That does not mean that there is not obviously a preponderance of interest on the part of each group in coming forward with these proposals.

Let me deal more specifically now with these 8 or 9 points that have come up.

The CHAIRMAN: Dr. Haythorne, there is one point here that troubles me. We have, I would hope, fairly easy access to you. How many of these gentlemen are from out of town?

I am just wondering if it would not be courtesy if Dr. Haythorne would be kind enough to yield. Perhaps the Committee would like to get through the questioning of the witnesses that we have here, and if Dr. Haythorne would be good enough to come back he could be our final witness, unless there are others. If that meets the approval of the Committee I think it might be preferable.

Is that all right, Mr. McCleave, because it was really your question?

Mr. MCCLEAVE: Yes, that is fine.

The CHAIRMAN: Have you any further questions, Mr. McCleave? No? Then, Mr. Barnett.

Mr. STEVENS: Mr. Chairman, if I may interject briefly, I am also a resident of Ottawa and will be availble, as is Dr. Haythorne, and will be glad to reappear; and I shall be attending all sessions of this Committee in view of our vital interest in this issue.

The CHAIRMAN: I want to thank you, Dr. Haythorne.

Mr. BARNETT: Mr. Chairman, I would like to ask whether it would be fair to say that, on the basis of the submissions we have had so far, the objections which have been raised in the consideration of Bill C-2 are not about what is in Bill C-2 but about what is not in Bill C-2. Is that a fair statement?

Mr. STEVENS: I would say it is a reasonable approach.

Mr. BARNETT: Just so we will be perfectly clear on this point, may I ask if there is any specific point in the proposed Bill C-2, which changes the original Fair Wages and Hours of Labour Act, and to which you object?

Mr. STEVENS: We do not object to the penalties, for example. As we stated in our opening statement, we have asked for more. The minister and the department have been handicapped by lack of sufficient staff.

I think one benefit there—a rub-off of the Labour Standards Code—was the fact that the department was able to get an extra vote from Parliament to

strengthen the enforcement staff. I do not think the question of penalties is a problem for the contractors but, again, I know this is a procedure that has been long established in Quebec. But there have been teeth in the act. The minister said this penalty section was putting teeth into the act. We maintain that there has been some effective action, and we did state that 20 per cent of the contracts had been policed in recent years, bearing in mind the lack of availability of sufficient staff to do a better job.

The teeth existed in the retroactive assessment on under-payment of wages, so that contractors have paid claims which run into tens of thousands of dollars if not hundreds of thousands of dollars; and the annual report of the Department of Labour each year gives the total figure which shows a range of anything from $150 thousand to $300 thousand to $400 thousand. There appears to be a temptation in days of recession for that figure to rise and in days of full employment for that figure to fall.

I hope I have answered your question, Mr. Barnett.

Mr. BARNETT: That means then that really we are considering, in relation to your submission, is the 1935 Act as it now stands?

Mr. STEVENS: We would like to see the proposed terms of Bill C-2.

Mr. BARNETT: In that connection, and if I may refer to the proposals on page 9 of your brief, where you make some specific suggestions for amendments, I do not know how many of us on this Committee are lawyers, but when we come into this question of definition and meaning of words within the context of the law I know I have often been puzzled by the result. Quite frankly the question in my mind is what is the difference between the present wording in the Act, which says "character or class of work" and your suggestion that that be replaced by the words "type of construction work". Up until now, I have not been able to see what difference there would be, within the meaning of the law or its application, in that proposed change of phrasing.

Mr. STEVENS: As I have mentioned, I am no lawyer and I do not think our union friends are lawyers either.

Our problem here is that traditionally unions in our industry have negotiated agreements for varying sectors of the industry, which have their own idiosyncrasies, such as tugboats and railway running crews. For example, Mr. Irvine has a five-week strike in residentail construction going on right now in Toronto. That is a separate agreement with a separately chartered union local. He has a commercial industrial local. It is working.

• (12.45 p.m.)

I think I am right in saying, that Mr. Hill has certain people who work under one set of conditions with respect to excavation of major building construction under an agreement. However, with regard to road building and heavy construction, they work out in the woods and in the sticks under a different set of conditions. But you negotiate for the sector of the industry; you negotiate for the residential sector, the minor construction sector, and you negotiate for major building, industrial and commercial construction sectors. You also negotiate—and I think this is new to the construction industry on the Canadian scene rather than south of the border—working conditions for industrial maintenance by contract.

This is done quite largely in the Sarnia area where you have to be able to provide seven hours a day of service to these spectrochemical plants in the steam fitting, plumbing, and electrical trades. In this respect you negotiate completely different agreements, more of an industrial type, for a continuing operation. So these are the four sectors, and you negotiate different basic conditions to meet the idiosyncrasies of the specific requirements of that particular type of job. Perhaps the union people should supplement what I have to say.

Mr. BARNETT: Just so that we may be able to point to any remarks made in this connection, what is puzzling me, quite frankly, Mr. Chairman, is this. I think I understand, the situation generally at least. I am not unaware of everything that is going on in the construction field. However, I have seen enough of it in my own area of the country to realize that there are different classes and types of construction, but it seems to me that the points which have just been outlined are covered, as far as the application of the law is concerned, by the very phrase, "character or class of work". I cannot see how that could be more precisely defined, as allowing for this division in view of the negotiations, than it is by those particular words.

Mr. HILL: Mr. Chairman, just to go a step further in this particular area, it is true that under the word "definition" sometimes some of these particular things are pretty hard to define specifically. To give an example, in the Toronto area the road construction is really in two segments. One is known as structures because of the development of level passes as well as bridges, as opposed to the base road building feature, and this may be done by two different sets of people. I am talking of contractors now. There would be two sets of conditions on the same road job because of agreements that exist in those areas.

Again, we ask that recognition be given to these particular situations. They may appear like isolated cases, but they are really not so because the method of construction is changing over the years, and this is what we are recognizing in the field. This is also one of the matters that we are asking to be recognized under the Act itself. It might mean that there has to be a little more flexibility in this regard to recognize these particular things. But again I want to point out, from the union's standpoint—and I think that the Contractors' Association would concur in this—that what we are asking for, basically, is recognition of the basic cost factor. If you want to term it strictly a wage point, then we ask that the total cost of the labour content should be the one to be recognized. This can be done, by recognizing the agreement which governs the particular class of work in the area in which that work may be performed.

Mr. BARNETT: I may be in error, but I understood from the minutes of our last meeting, with regard to the question of what was included in the term wages, that within the existing law there was provision for taking into account the fringe package whatever it might be, in reaching a determination of what their wages mean. We have not yet seen the written record of what the Minister said, and I may have misunderstood him. Perhaps I should have some clarification before I say that that is what he said. May I ask you whether in your experience this is taken into account in arriving at what their wages mean under the administration of the present Act?

Mr. STEVENS: When the deputy minister spoke a few minutes ago, he made reference to a number of discussions which have taken place. We have made

representations, and our final letter to Mr. Nicholson of some date in March is before you, after two lengthy discussions, one of which was subsequently held with the deputy minister and I think one of his officials. Our position, unfortunately, is that we would like to see this spelled out in the Act, as we stated before when addressing ourselves to all members of the Senate and the house. It has led the Minister to be good enough to have the Bill referred to this Committee. We would prefer to see it spelled out in the Act. We have a minority government situation, and we would like this to be clear and unchangeable. This can only be done by being spelled out in the Act, and not by regulation. We have had some advice in this matter from relevant quarters.

The CHAIRMAN: Is that satisfactory, Mr. Barnett?

Mr. BARNETT: I have one other question that relates to the matter of amendments to the Act. Earlier reference was made to the phrase, "the influence in the labour market area", but as far as I can see there is no specific suggestion in the list of proposed amendments which covers that point. Reference is made to the desire for taking this into consideration on page 5 of the brief.

I would like to relate that phrase, inasmuch as it is apparently one that is quite important in the consideration we have in mind, to the phrase, in the Act, which refers to "in the district in which the work is being performed". Now what phrase, as it stands, does not spell out what constitutes a district. My question to you would be, why is that phrase not as inclusive as the one you suggested in your brief of influencing the labour market area? I would suggest, from anything you have said, you are not thinking that we should seek to spell out in the Act what the influence in the labour market area is concerned with. This might vary from time to time depending upon the availability of people in specialist trades to do a major job who might be on one side of the country or the other.

Mr. STEVENS: Mr. Chairman, our answer to Mr. Barnett on this point would be that I think his own colleague Mr. Herridge would be sadly hurt if you told him that the Columbia River area, which is, I think, in part of his riding, if I am not mistaken, was part of the Vancouver district. This is our problem, and the type of problem, to give you a B.C. illustration, with which they are concerned. They are concerned with the fact that the DEW line was very largely built with Montreal labour in the east, and northern Alberta labour, mainly based in Edmonton, in the west. Those were the conditions which in fact the Department was led to stipulate at that time. As Dr. Hayes and the deputies pointed out, this also applies to Cold Lake.

This was not a problem in Cold Lake, but it might conceivably have been so under certain conditions. However, it should also be borne in mind—and this is the very point you made yourself, Mr. Barnett—that supply and availability of labour in these skilled trades varies from time to time and from occasion to occasion. However, I believe it is agreed that the phrase in question is the desirable one. Am I correct, Mr. Hill?

Mr. HILL: Yes. I think a good example is Frobisher Bay. If there are workmen required for Frobisher Bay, they will come out of the Montreal area, in most instances, and this would be the influencing situation in that particular area.

Another situation that exists, right now—and this is being done under a private contract—are the operations in the northern part of Quebec, which is only accessible by boat at the moment. Again, the influencing factor is the Montreal situation where the supply of labour and the conditions make it enticing for that individual to go up on that particular job. These are the things to which we are referring as influencing factors in so far as agreements are concerned.

The CHAIRMAN: Gentlemen, we have two more speakers, Mr. Mackasey and Mr. Reid, and Mr. Régimbal is also planning to speak.

Mr. RÉGIMBAL: I have a short question on procedure, sir. You were referring to the summary of recommendations on page 9, which do need explanatory notes. I wonder if we could put into the record a copy of the brief as presented so that we will have everything there, as well as copies of correspondence to Mr. Nicholson and the April 29 letter? I so move.

Mr. GRAY: I second the motion.

Motion agreed to.

Mr. REID: Mr. Chairman, I have very few questions.

The CHAIRMAN: Well, we have five minutes. Can Mr. Reid and Mr. Mackasey go through in five minutes? You are finished, are you, Mr. Barnett?

Mr. BARNETT: Well, I am willing to yield my questioning for the time being.

Mr. MACKASEY: If we concluded this part of the questioning, it would help the witness in not having to come back. I do not think anyone would mind too much if we went a few minutes after one, since we are all interested in labour.

Mr. Stevens, I just want to say something for the record and it is no reflection on anything you have said. There have been several references to the minority government. I think I must point out to the Committee that when the national code was accepted it had the unanimous approval of all parties, and that there is no particular party in the House that is either anti-labour or pro-labour.

An Hon. MEMBER: They have done a tremendous job.

Mr. MACKASEY: That is right. Mr. Chairman, I also want to emphasize that I am sure we would not want to leave the impression here that, because we are a minority government, anything is being left out of the Bill which is beneficial to labour or to management. This inference could have been taken by people reading these proceedings.

Mr. STEVENS: No, I did not want that to be misconstrued in any way, shape or form, nor would Mr. Hill want to be interpreted in that manner. However, for the record, I appreciate your comments, Mr. Mackasey.

Mr. MACKASEY: I was under the impression that neither you nor Mr. Hill had any objection at all to the minimum wage of $1.25.

Mr. STEVENS: Our problem is that we are asking for more.

Mr. MACKASEY: But at least you have no objection to the $1.25. The reason I am rushing is to give Mr. Reid a chance.

Therefore, this may have been a factor yesterday morning, but it is no longer the main factor. So we can forget the $1.25, am I right, Mr. Hill?

Mr. HILL: I just want to interject here that this became a matter of record simply because it appeared in the press that if the cost factor, which includes the pension or welfare benefits plus the wage rates, then became $1.25, this is what we were seeking. This is not what we are seeking.

Mr. MACKASEY: I appreciate that very much, Mr. Hill, because I think in some areas the fringe benefits add up to $1.25. In other words, just to reiterate, Mr. Chairman, as far as the Committee is concerned, this clause of the amendment is really irrelevant in so far as Mr. Hill and Mr. Stevens are concerned. They are quite willing to accept the $1.25 minimum in the amendments.

Now, Mr. Stevens, with respect to the hours of work, have you any objection to the reduction from 44 to 40 hours before overtime is paid?

Mr. STEVENS: I think this should be answered by Mr. Hill. I think there will be problems for both union and management in this highway and heavy area for the little work that the federal government normally does under its own contacts.

Mr. MACKASEY: Have you any objections to the hours being reduced from 44 to 40 before overtime is paid?

Mr. STEVENS: I think this would create problems for both parties.

Mr. MACKASEY: Agreeing that it would create problems, would you object to it?

Mr. STEVENS: I think I gave Mr. Knowles an answer on this point which he well understood.

Mr. BARNETT: I believe what I specifically asked was if there were any points by which Bill C-2 changes the provisions of the existing Act. As I understood it, the answer I got was no.

Mr. STEVENS: There are two small areas where we have a problem in this area, and Mr. Hill has them just as much as we do.

Mr. MACKASEY: Even we have problems with truckers and everything else, but we are not discussing them right now. I would still like to know whether you object to the 44-hour week being reduced to a 40-hour week before overtime is paid?

Mr. STEVENS: I think it would create problems in the over-all situation just for highway and heavy area.

Mr. MACKASEY: The question is do you object to it. The purpose of the Committee is to come back and rearrange this Bill. Do you object to it on a monetary aspect, representing employees?

Mr. STEVENS: I think we would.

Mr. MACKASEY: Mr. Hill, as a labour representative, do you object to labour being paid overtime after 40 hours, instead of 44 hours?

Mr. HILL: I cannot object to that, but I think, basically again, without evading the question, and being very simple and straightforward about the

proposition, we are asking that the hours of work, if at premium rates, be paid in accordance with the existing agreements covering the type of work which may be involved.

Mr. MACKASEY: Now in effect?

Mr. HILL: Now or in the future.

Mr. MACKASEY: Well, what do you mean by "in the future"? Can you visualize an agreement being signed in the future which would not provide for overtime after 40 hours?

Mr. HILL: I can visualize agreements in the future providing for less than the 40 hours, or even less than the hours of work that may be in the agreements at the present time.

Mr. MACKASEY: Well, in other words, you are saying when prevailing conditions in Canada come about where 35 is accepted instead of 40. I would imagine that surely the national code will be changed at that time to bring them down to 40. In other words, your objections are diametrically for the opposite reasons to Mr. Stevens. He is objecting from a monetary point of view and you, as a good labour man, are foreseeing the day when, because of automation and other reasons, the normal work week will be 35, and you think that overtime then should begin at the 35-hour point.

Mr. HILL: The only thing I can say is that having asked for one thing on the one hand, I have to ask for the other thing that goes hand in hand with it. I say again that we have no objection to overtime being paid after 40 hours. We also recognize that there are certain agreements which provide other features, and we are simply saying that the Act should provide recognition of the agreement.

Mr. MACKASEY: To be fair, Mr. Hill, I appreciate your straightforward answer—as two labour men, we understand it. However, you have a preference for overtime being paid after 40 hours rather than overtime being paid after 44 hours.

Mr. HILL: Oh, definitely.

Mr. MACKASEY: Now, one last question, Mr. Stevens. There is a lot of talk about influence conditions in an area. We have talked about Frobisher Bay, the DEW line, and so on, but I think you will agree that, according to Clause 2 B, the Department of Labour can take into consideration extraordinary conditions such as the DEW line. Representations can be made to the Minister of Labour to permit working hours per week to go well beyond the 48 hours, so I do not think this is a factor. Are you aware, Mr. Stevens, of the conditions existing with respect to the highway, road and sewage areas here in Ottawa? I have in front of me a contract signed between the National Capital Road Builders Association on the one hand, and the Council of Trade Unions acting as the representative and agent for the International Union of Operating Engineers on the other, signed in 1964. This agreement provides overtime for water carriers and so forth, the people that normally need help, only after 120 hours of work in a 2-week period, and then at time and a half. Is this the type of influencing conditions that we should take into consideration when the federal government is setting up standards for tendering in the Ottawa area?

Mr. STEVENS: I do not know which particular union has signed that agreement. It may well be that one of the signatories to this agreement is Mr. Hill's union. However, let me say too that the problem goes back to the root. Mr. Hill and I, in answer to your previous question, find ourselves in agreement, as you may have rightly pointed out, but for different reasons. I think a grave situation is involved here because the construction industry is, very largely, still in a private enterprise economy. But the situation here is an economic one. The taxpayer is the one who has to foot the bill in the end.

Mr. MACKASEY: The taxpayer is also the water carrier who is working for 50 and 60 cents an hour.

Mr. STEVENS: I have not finished my answer, if I may, Mr. Mackasey, with all due respect. The question is, what would the conditions be if Mr. Hill's organization did not sign that agreement at the present time?

Mr. MACKASEY: Well, I am going to ask Mr. Hill about that. Here is another question, Mr. Stevens.

The Metropolitan Toronto Road builders—and I just explained Mr. Barnett's question before in getting the phraseology changed somewhere in the Bill to the four different categories—have an agreement here for labourers and teamsters at 55 hours a week before time and a half. Now, if we were to take that influencing condition in drawing up our specifications, then the federal government would be quite within their rights, despite the existence of the national code, to agree to time and a half after 55 hours.

Mr. HILL: I was going to say that our organization is party to both those agreements, and while we do not like them in the sense that they provide those particular things, you will note that those agreements are a tri-party agreement in the sense that there are three unions or three labour organizations party to this agreement. In most instances those agreements now show a definite improvement over the conditions that existed prior to the agreements becoming part of the picture today.

I would still say, recognizing those agreements, that if we sign those contracts with a contractor, a contractor's association or a group of contractors, we will still live with them if they become part of the specs for federal work. The situation again, as I point out, is the fact that we will recognize these agreements and, in turn, ask that you recognize the agreements plus the monetary factors that may be included.

I want to go a step further and point out that while these two have been brought out as an examination of the situation, I also know of another situation where a 44-hour work week was involved when the railroad and the road work was being built to Pine Point, and without any consultation with the unions involved at that particular time, extension was granted to work at straight time to the workers on that project.

Mr. HAYTHORNE: What year was that, Mr. Hill?

Mr. HILL: I am not sure. I mean this is a point, Mr. Haythorne, which is in contention. The fact was that this originally came under the field of the Federal Labour Code, and at some time during the performance of that work there was an exemption. Now, if the government sees fit to

make exemptions because of certain situations, then I think, on the other hand, they should recognize the position that we are advancing at this time. That is, whether we like it or not, there are agreements in existence covering certain things, and all we are asking is that it be recognized. Certainly, we would like to see overtime paid after 40 hours, but if we have an agreement in existence for 55 hours a week, this is what we will ask.

Mr. MACKASEY: Mr. Hill, I agree with you. My whole background is in labour, and I probably would have signed the same agreement as you did if it was an improvement over conditions at the time you signed. I am not castigating labour for signing these conditions when it was an improvement. All the amendments to the Fair Wages and Hours of Labour Act are to make it that much easier again for conditions to be standardized as a consequence and to make your role even easier. You no longer have to fight with an employer to bring the minimum wage up to $1.25. You no longer have to fight with an employer to make certain that time and a half is paid after 40 hours a week, if this is accepted. And this is what puzzled me when I saw a joint proposal, and at once I thought as a labour man, not as a government man. But I think we have a duty, not only to labour, but to the employers as well, as Mr. Stevens is anxious to tell me.

But surely, as Mr. Knowles pointed out, the relationship between public works and the employers is so great today that we cannot, in all conscience, turn around and ask other segments of the labour field in the contracting industry to recognize the $1.25 as the minimum standard when the federal government is not willing to do so. In so far as the arguments about fringe benefits are concerned, I asked Mr. Stevens about these contracts in some of these remote areas. Are we to eliminate the local contractor because he can meet the minimum standard of $1.25, but he cannot possibly meet all these fringe benefits? This, in effect, is what would happen if you dragged in fringe benefits. Am I right in that?

Mr. STEVENS: Well, this works both ways; you could discriminate either way, depending on which way you set your situation in this, Mr. Mackasey.

As we said at the outset—and I am not sure if you were here at that time—

Mr. MACKASEY: It is obvious I was not because I came in 20 minutes late.

Mr. STEVENS: —I think we have placed our position pretty squarely before the Chairman and the members of the Committee. We have agreed to do a certain thing with which both labour and management can live. We pointed out to Mr. Knowles and Mr. Barnett, I think, that there is one area on which you have now very ably put your finger where there is a problem, but there is a solution which we are putting forward and Mr. Hill has made it clear that it is the only one which will establish a situation with which the industry can live under these circumstances. Perhaps I should also state that it might be helpful to the Committee to check on what applications the agreements you have cited had to settle construction. The question is, what effect have these agreements had—over the last 5 or 10 year period—on federal employees working under these conditions?

Mr. MACKASEY: Well, Mr. Stevens, it is apparent to Mr. Chairman and Mr. Reid that many of these questions, I am sure, can be discussed by the committee

later. I would just like to summarize and ask you once again if you have any objection to the $1.25 minimum wage?

Mr. STEVENS: It is not what we have asked for. We have asked for more. That is my answer, for the record.

Mr. MACKASEY: In other words, would you like us to re-amend this and put in $1.50?

Mr. STEVENS: No. We asked for more in the form.

Mr. MACKASEY: Mr. Stevens, are you satisfied with the $1.25, if we adopt it?

Mr. STEVENS: As a base.

Mr. MACKASEY: As a base, yes. With respect to the 40 hours, as I understand it—and I am giving you a chance in case I misunderstood you—your only objection to overtime beyond the 40 hours is the monetary problem?

Mr. STEVENS: No. It is a question of establishing a situation with which the industry can live in one very small sector where there is very little federal work when you look at it on an over-all basis.

Mr. MACKASEY: Then if it is such a small segment, it is not really very effective over our operations of the general construction industry?

Mr. STEVENS: Well, we do need it, and Mr. Hill has spoken of this just as much as I have.

Mr. MACKASEY: Well, I think if you need it you are going to have to live with the 40 hours plus overtime. That is all, Mr. Chairman.

Mr. REID: Mr. Chairman, before we begin, I think we should bring it to the attention of the Committee that Mr. Mackasey is attracted to labour in more ways than one because he became a grandfather for the first time this morning, and that is why he was not able to hear the first few moments of your presentation. I think it is worth while to put this on the record.

The CHAIRMAN: Congratulations, Mr. Mackasey.

• (11.15 p.m.)

Mr. REID: Mr. Mackasey asked some of my questions on the regional labour market. However, there is one thing that bothers me, and I would like to get it cleared up, and that is with respect to page 5 where you ask for definitions of the type of construction work, along with some of the other things you have asked. As you rightly point out, it has taken a long time for this Act to come up for revision. Are you not afraid of over-rigidity in these definitions which may change in five years. But perhaps I could put it in another way and ask you a question concerning the role of the Department. As I understand it, many of the regulations of the Fair Wages and Hours of Labour Act are put out by regulations under the Minister's authority. Would you have a criticism, or perhaps it would be proper to say that you have not been entirely happy with some of the regulations that have come down respecting this method of administration. For your own protection, and for the protection of your industry, since you are not a national bargaining unit, and for the construction industry itself that is badly fractionated you are looking for some method of creating some sort of a national standard?

Mr. STEVENS: I think the question of definitions concerning construction work arose some years ago after a select committee in Ontario were again recognizing the special problems of the construction industry in the labour standards field. It was deemed advisable by the government, at that time, to provide special legislation in the Ontario Labour Relations Act. Sections 90 to 96—I stand to be corrected—were provided which specifically applied to our industry and our industry only, in view of its very specific differing needs. The definition was developed there for the first time and, so far it has stood the test of time. For example, demolition is clearly construction, which may sound ridiculous on the face of it, but definitions have been developed in recent years, Mr. Reid, to answer your point, which have, so far, in six or seven years—and Mr. Davies is solicitor to the Department of Labour—been found on an over-all basis to stand the test of time. They may change in another 30 years—things move faster today than they moved 30 years ago—but I think a definition can be conceived which has flexibility, but we should not have to live under it for some 20 or 30 years. Are there any other comments Mr. Hill might have on this?

Mr. HILL: No, I think that is generally the situation.

Mr. REID: In other words, then, the improvements you suggest for this act would bring it up to the standards of the Quebec act and the equivalent Ontario act?

Mr. STEVENS: I am not in any way talking about the philosophy of the Quebec Act, Mr. Reid I am talking about the definitions of construction in the Ontario Labour Relations Act. I would like the record to show that I am talking about the labour standards of the Province of Ontario.

The CHAIRMAN: Any further questions?

Mr. REID: No, thank you, Mr. Chairman, that is fine.

The CHAIRMAN: I would like to thank Mr. Stevens, Mr. Hill and the other witnesses and members of the Department for being here.

If it is agreeable to the Committee, we will adjourn until Tuesday, May 24, at eleven o'clock.

The meeting is adjourned.

APPENDIX 3

Submission

by the

ASSOCIATION OF INTERNATIONAL REPRESENTATIVES OF THE BUILDING AND CONSTRUCTION TRADES

and the

CANADIAN CONSTRUCTION ASSOCIATION

to the

MINISTER OF LABOUR

on the

FAIR WAGES AND HOURS OF LABOUR ACT

May, 1965.

The Honourable Allan J. MacEachen
Minister of Labour
Ottawa 4, Ontario.

Subject: "Fair Wages and Hours of Labour Act"
(C. 108, R.S.C. 1952)

(1) *Introduction*

The Association of International Representatives of the Building and Construction Trades and the Canadian Construction Association, recognized throughout Canada, welcome this opportunity to submit to you, Sir, their joint views regarding certain desirable changes in this Act.

It will be noted that the Senior Canadian Building and Construction Trades Union Representatives speak for 19 building and construction trades craft unions and a total construction labour force of about 450,000 workers.

On its part, the Canadian Construction Association and its Affiliates speaks for more than 8,000 leading construction employers in all segments of the industry.

All proposals are believed to be for the general good of the nation, our industry, its workers and its employers. We understand that this Act will be amended in the near future and hence respectfully submit our recommendations and amendments to the existing Act. We feel sure that you will want to give all the points we have raised your consideration so that the amended Act will work in the best interests of all concerned.

(2) *A Contemporary Approach*

This Act was conceived, we believe, by the late Right Hon. W. L. Mackenzie King when he was associated with the federal Department of Labour in 1905 and first adopted that year. The underlying concept was that any government

had a responsibility to ensure that all construction contracts carried out on its behalf should be executed under fair and reasonable working conditions. In those days trade unionism in construction was only in its infancy across Canada.

Today in 1965 these circumstances are very different. Both construction labour and management establish working conditions through free collective bargaining between their respective numerous and strong local organizations at regular intervals.

Our Associations would therefore respectfully urge that the Federal Government, in amending the Act, up-date its policy approach to meet current conditions. This should be done by having construction wage rates and hours of work conform to influencing labour market area practice for the type of construction work thereby avoiding interference in the process of free collective bargaining.

An excellent example of what we mean concerns negotiated employer-paid contributions which are at present not being incorporated into "Fair Wage Schedules". At some Canadian centres employer-paid welfare plan contributions have reached a level of as high as 35c per hour, thereby creating considerable inequity among bidders. Our Associations believe it is essential that equitable tendering conditions be provided for all contractors bidding any given project.

To this purpose, we urge that the Act and its Policy be amended to provide for the incorporation of all negotiated employer-paid contributions into "Fair Wages" wherever these exist.

It will be appreciated that the Act has traditionally served a twofold purpose, namely that of protecting workers against exploitation and that of protecting contractors against "unfair" competition. In cases where employees are not covered by negotiated benefits, the employer benefit contribution amount would become payable in cash to the employee himself.

Another example concerns the Province of Quebec where certain key provisions of collective agreements, which were freely negotiated and which are enforced by strong labour-managment (Parity) committees, are juridically extended by Order-in-Council in the form of "Decrees" for sixteen areas covering almost the entire Province. Our Associations therefore feel that federal construction projects in Quebec should be governed by the hours of work, wage rates, welfare benefits and labour classifications of the applicable "Decree".

The Associations therefore respectfully submit that the Act should cease to conflict with long standing working conditions freely negotiated, thereby establishing the essential equitable tendering conditions for all bidders on federal government projects.

(3) *The Present Act*

(*a*) Interpretation

The Statute as it now stands is, in itself, a very brief one indeed, leaving the Minister considerable freedom regarding the administration of the Act. Section 2(a), i.e. the definition of "fair wages", reads:

> "fair wages" means such wages as are generally accepted as current for competent workmen in the district in which the work is being performed

> for the character or class of work in which such workmen are respectively engaged; but shall in all cases be such wages as are fair and reasonable.

Our experience has been that the term "character" has not always been accorded the interpretation which we consider it should have been given. We refer here to the very major differences in character between residential construction as against building construction, and further, as against highway and heavy construction. Moreover, structural building maintenance by contract represents a fourth, again greatly differing, "Type of Construction Work". These differences have traditionally applied to wage rates for many classifications, as well as to hours of work. It is our view that in future to rectify this situation, the term "Type of Construction Work" should replace the words "Character or Class of Work" to clarify the terms of the Act. Definitions for each "Type of Construction Work" should also be added under Section 2. In support of this view, such sectoral differences in "Types of Construction Work" have long been recognized by labour and management as numerous collective agreements filed with the Department of Labour readily confirm. We believe that the recognition of differences in "Types of Construction Work" should be recognized as existing throughout the country. This request is based on our desire to eliminate difficult, disruptive influences within these various sectors of our industry.

(*b*) Contract Conditions—Hours of Work

Section 3(1)(b) of the Act states:

> the working hours of persons while so employed shall not exceed eight hours per day nor forty-four hours per week except in such special cases as the Governor in Council may otherwise provide, or except in cases of emergency as may be approved by the Minister.

Our Associations here wish to refer to the "Contemporary Approach" urged above. With regard to the hours of work now specified, we propose that all conflict with freely negotiated hours of work be avoided for the "Type of Construction Work" in the influencing labour market area. Only in this manner can equitable tendering conditions be preserved for all bidders today. We further recommend that all overtime permit procedures be eliminated. In doing so, the Associations are fully aware of the Government's wish and the nation's need for "Full" employment. Our experience during the last twenty years has proven that such permit procedures rarely create any worthwhile amounts of additional employment. Construction progresses best and most efficiently when a job is kept "running". Past procedures have forced contractors into uneconomic practices—a situation surely never desirable or defendable and costly to the owner, i.e. the taxpayer. The uncertainty prior to tender closing concerning the possibility of being granted an overtime permit has also tended to disrupt tendering conditions.

The Act should also permit all contractors and workers at outlying and remote sites to work overtime on such projects. Unless this is done, it is not (as experience has proven) possible to attract an adequate supply of competent tradesmen to such projects. We similarly urge that the Act should permit overtime for highway and heavy construction. Over two-thirds of the total volume of such work is done for either provincial governments or for Crown

corporations and often in competition against their own forces. Much of the annual national volume for this "Type of Construction" is, of course, also performed at outlying, if not remote sites. Current collective agreements confirm the need for differing hours of work for this "Type of Construction Work" and we strongly urge that the Federal Government should follow that practice.

We would hope that these proposals will therefore be given your special consideration.

(c) Statutory Limitations on Claims

The Associations would respectfully suggest that a realistic time limitation be established during which claims by the Government for underpayment of wages will be handled. A number of instances have occurred where claims have been registered long after the work in question had been completed. A statutory limit of thirty days from the date of the alleged violation is therefore proposed.

(4) *Regulations*

(a) Retroactivity

Unless the contracting departments are prepared to reimburse contractors for additional costs arising through retroactive payments under amended "Fair Wage Schedules", their effective date should be the start of the pay week immediately following the receipt of the Schedule by the contractor from the contracting department or agency.

(5) *Fair Wage Policy*

(a) Occupational and Trade Classifications

In a number of cases, it has been found that Fair Wage Schedules failed to provide wage rates for all the classifications of workers to be employed on a project. To rectify this, it was suggested by the Department of Labour that our Associations might make representations to all federal contracting departmetns and agencies, asking them to request the Department of Labour for Schedules to cover the complete set of occupations required for any given project. In such cases, our Associations would be glad to continue to cooperate with the Department to overcome problems which might arise from time to time.

(b) Wage Surveys

We understand that federal wage surveys are now being taken once a year. These are supplemented by new agreements filed with the Department. Our Associations feel that the time has come when such surveys would best be conducted more frequently so that a closer check would be kept on the pulse of changes. It will be noted that quite frequently negotiations for new wage rates, commenecd in the spring, have only been settled in late summer or fall, i.e. after completion of the present annual survey.

(6) *Enforcement*

Our Associations have, in the past, made representations to the Government or the Department urging increased enforcement of this Act. Recent statements show that only about 20% of all contracts are inspected. It is felt that it continues to be desirable to raise this figure.

(7) *Summary of Recommendations*

All recommendations made here, it is stressed again, are urged for the general good of the nation, our industry, its workers and its employers.

We hence recommend:

(*a*) Amendments to the Act and Fair Wage Policy

(i) Provisions to avoid conflict with long standing working conditions freely negotiated, and

(ii) Provision for the incorporation of all freely negotiated employer-paid contributions into "Fair Wages"

(*b*) Amendments to the Act

(i) Section 2(*a*) to be amended by:

(A) Replacing "Character of Class of Work" by "Type of Construction Work", and

(B) Addition of Definitions to cover the four main types of construction work.

(ii) Section 3(1)(*b*) to be amended by:

(A) Provision for avoidance of all conflict with freely negotiated hours of work by types of construction work, and

(B) Elimination of overtime permit procedures.

(iii) Provision of statutory limitation of thirty days on claims.

(*c*) Addition to Regulations

(i) Stipulation of effective date of revised "Fair Wage" Schedules.

It is sincerely hoped that the above yill commend itself to you, Sir, and to the Government. Our Associations are ready to assist the Department of Labour to develop the implementation of our recommendations.

All of which is respectfully submitted,

For Construction Employees:

J. B. Mathias,
Chairman

C. C. Cooper,
Secretary

Association of International Representatives of the Building and Construction Trades.

For Construction Employers:

N. R. Williams,
President

S. D. C. Chutter,
General Manager

Canadian Construction Association.

APPENDIX 4

April 29, 1966.

TO: All Honourable Senators and Members
of the House of Commons
Ottawa.

Re: Bill C-2 Amendments to Fair Wages and Hours of Labour Act

Dear Sir:

Our two Associations, representing construction labour and management at the national level, jointly wish to advise you that the provisions of Bill C-2 fail to meet the unique labour standards needs of the construction industry, the only industry affected by the Bill.

Our basic objection to this Government Bill is its failure to give recognition to total remuneration and the hours of work at either end of the scale *as established by free collective bargaining* for the appropriate sector of the industry. Our joint superior proposals to the Government (as appended) would bring about *all future avoidance of the disruption of, or conflict with the process of free collective bargaining* through the imposition of inflexible standards artificially and to us unrealistically imposed by legislation.

Moreover, our Associations have in recent years in compliance with strong Government urging, established an enviable record of labour-management cooperation on labour legislation and on other major issues affecting the industry. Our joint brief was carefully developed and submitted in May 1965. It is therefore a source of deep regret that the Government failed in this Bill to act upon the industry's joint recommendations. Action through Regulations, we are convinced, will fail to meet our needs, since these can be changed by Order-in-Council at any time.

In view of the above, our Associations urge you, Sir, to ask the Government on the Second Reading of Bill C-2 to have it referred back to the Law Officers of the Crown in order to have the Bill redrafted in such a manner that it will meet our industry's unique needs. Such a step would, moreover, indicate your interest in the promotion of genuine labour-management co-operation.

We look forward to your personal support on our behalf in this, to us, critical matter.

Yours sincerely,

J. B. Mathias, *Chairman*
Association of International
Representatives of the Building
and Construction Trades.

A. Trottier, *President*
Canadian Construction Association.

APPENDIX 5

March 6, 1966.

The Hon. John R. Nicholson,
M.P., O.B.E., Q.C.
Minister of Labour
Ottawa, Ontario.

Dear Mr. Minister:

The Association of International Representatives of the Building and Construction Trades and the Canadian Construction Association wish to thank you for the courtesy you recently extended to their joint delegation at the meetings at which the industry's views at the national level regarding Bill C-2 were brought to your attention.

We believe that it might be helpful to all concerned for us to summarize our position again. Our two Associations have, in compliance with the strong urging of the Federal Government, established an enviable record of labour-management cooperation. The joint submission to the then Minister of Labour of May 1965 regarding desirable amendments to the Federal Fair Wages and Hours of Labour Act was an excellent example of the nature of this cooperation. This brief was most carefully developed in the course of numerous meetings which extended over a period of five months. It was the belief of our Associations that the Government would welcome a joint brief in this matter, particularly since the Act virtually only directly concerns the construction industry. It was also our hope that the Government would see fit to follow these joint proposals.

As mentioned to you in the course of our recent meetings, labour relations in our industry are governed by a combination of unusual features which create a situation that has often been described as unique.

The underlying philosophy of our joint brief of last May was therefore our joint desire to bring about the development of an improved Act which would not only meet the unique needs of construction labour and management, but moreover bring about all future avoidance of the disruption of or conflict with the process of free collective bargaining through inflexible standards artificially and to us unrealistically imposed by the Act. We had also hoped that in view of the serious difficulties which revealed themselves during the passing of the new Federal Labour (Standards) Code regarding the application of its provisions to a number of key industries, that the then Minister and the Government would be all the more inclined to follow our joint proposals at the national level. We were consequently not only disappointed, but disturbed when we read the proposed amendments contained in Bill C-2.

Our joint brief specifically stressed the need for a new, superior approach to the establishment of Fair Wages and Hours of Work for our industry. We urged that this be done by recognition of total remuneration and the hours of work at either end of the scale as established by free collective bargaining for the appropriate sector of the industry in the influencing labour market area. We

pointed out that this practice had been followed successfully as a matter of principle and policy in the Province of Quebec for our industry for a period of over twenty-five years. We know that the Department and the Government are aware of the provisions of the Quebec Act which protect the public and the government against possible misapplication, i.e. Ministerial approval and the requirement to "Gazette" a pending Decree thirty days in advance of it coming into force in order that any possible objections may be raised with the Minister.

We would add that in recent years in our industry financial benefits other than take-home pay have become increasingly prevalent and should now be included in the Federal Fair Wage Schedules. This would be consistent with the principle as applied to wage rates when the present Act was adopted thirty years ago. It will be noted that the U.S. Government took this action when revising its counterpart legislation some time ago.

As was noted during the discussions, failure to stipulate the payment of prevalent total hourly remuneration on Federal construction projects leads to discrimination between bidders. Whereas you drew attention to the wide range in bids that is sometimes encountered on a construction project, the important factor is the difference between the two lowest bids. This is frequently quite small and the difference caused by different bases for estimating labour costs may well affect the order of the bidders.

The fact that some two months after the presentation of our joint brief the Prime Minister and other Ministers during the postal strike publicly extolled the virtues of free collective bargaining further encouraged us to believe that our joint proposals would gain the Government's acceptance. Under these circumstances, the industry cannot but feel disillusioned over Bill C-2.

We again thank you for your demonstrated concern regarding our presentations and hope that the further review of the matter which you have so kindly agreed to undertake will result in Government amendments which will help to resolve our difficulties to the satisfaction of all concerned.

Yours sincerely,

J. B. Mathias, *Chairman*
Association of International
Representatives of the Building
and Construction Trades.

A. TROTTIER, President
Canadian Construction Association.

HOUSE OF COMMONS

First Session—Twenty-seventh Parliament

1956

STANDING COMMITTEE

ON

Labour and Employment

OFFICIAL REPORT OF MINUTES

OF

PROCEEDINGS AND EVIDENCE

MINUTES OF PROCEEDINGS AND EVIDENCE

This edition contains the English deliberations and/or a translation into English of the French.

Copies and complete sets are available to the public by subscription to the Queen's Printer. Cost varies according to Committees.

LEON-J. RAYMOND

The Clerk of the House.

TUESDAY, MAY 29, 1956

WITNESSES:

From the Department of Labour: Mr. W. Dunbrack, Deputy Minister; Mr. H. Johnstone, Director of the Labour Standards Branch. From the Canadian Labour Congress: Mr. W. Ladyman, General Vice-President of the C.L.C., International Vice-President International Brotherhood of Electrical Workers. From the Canadian Construction Association: Mr. P. Stevens, Director of Labour Relations.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1956

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The Clerk of the House.

HOUSE OF COMMONS

First Session—Twenty-seventh Parliament

1966

STANDING COMMITTEE

ON

Labour and Employment

Chairman: Mr. GEORGES LACHANCE

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 3

Respecting

BILL No. C-2

An Act to amend the Fair Wages and Hours of Labour Act

TUESDAY, MAY 24, 1966

WITNESSES:

From the Department of Labour: Mr. G. Haythorne, Deputy Minister; Mr. H. Johnstone, Director of the Labour Standards Branch. *From the Canadian Labour Congress:* Mr. W. Ladyman, General Vice-President of the C.L.C., International Vice-President International Brotherhood of Electrical Workers. *From the Canadian Construction Association:* Mr. P. Stevens, Director of Labour Relations.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

24235—1

STANDING COMMITTEE ON LABOUR AND EMPLOYMENT

Chairman: Mr. Georges-C. Lachance

Vice-Chairman: Mr. Hugh Faulkner

and

Mr. Barnett,
Mr. Boulanger,
Mr. Duquet,
Mr. Émard,
Mr. Fulton,
Mr. Gordon,
Mr. Gray,
Mr. Guay,
Mr. Hymmen,
Mr. Johnston,
Mr. Knowles,
Mr. Lefebvre,
Mr. MacInnis (*Cape Breton South*),
Mr. Mackasey,
Mr. McCleave,
Mr. McKinley,
Mr. Muir (*Cape Breton North and Victoria*),
Mr. Racine,
Mr. Régimbal,
Mr. Reid,
Mr. Ricard,
Mr. Skoreyko—(24).

Timothy D. Ray,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, May 24, 1966
(4)

The Standing Committee on Labour and Employment met this day at 11:25 a.m. The Chairman, Mr. Lachance, presided.

Members present: Messrs. Barnett, Émard, Johnston, Knowles, Lachance, Mackasey, McCleave, Régimbal, Reid, Ricard.

Also present: Mr. LeBlanc (*Rimouski*).

In attendance: *From the Department of Labour*: Mr. George Haythorne, Deputy Minister; Mr. B. Wilson, Assistant Deputy Minister; Miss Edith Lorentson, Director of Legislation; Mr. H. Johnstone, Director of Labour Standards Branch; Mr. W. B. Davies, Departmental Solicitor.

From the Canadian Labour Congress: Mr. W. Ladyman, General Vice-President of the Canadian Labour Congress and International Vice-President of the International Brotherhood of Electrical Workers.

From the Canadian Construction Association: Mr. P. Stevens, Director of Labour Relations.

The Committee resumed consideration of Clause 1 of Bill C-2.

Agreed,—That Mr. Ladyman would make a statement on behalf of the Canadian Labour Congress and the Canadian Construction Association.

Mr. Ladyman made a statement, following which the Committee questioned Messrs. Ladyman and Stevens.

Mr. Haythorne commented on the statement by Mr. Ladyman, and was questioned by the Committee during the questioning of Mr. Ladyman.

After the conclusion of the questioning of Messrs. Ladyman and Stevens, Mr. Haythorne made a statement.

The Chairman thanked Messrs Ladyman and Stevens for appearing before the Committee.

At 1:20 p.m., the Chairman adjourned the meeting until Thursday, May 26, 1966, at 11:00 a.m.

Timothy D. Ray,
Clerk of the Committee

24235—1½

EVIDENCE

(Recorded by electronic apparatus)

TUESDAY, May 24, 1966.

• (11.00 a.m.)

The CHAIRMAN: Order, gentlemen. We hope to have more members very soon. I should point out to you that Mr. Ladyman, who is the general vice-president of the C.L.C. and also vice-president of the International Brotherhood of Electrical Workers, sent me a telegram and asked to be heard. Is it agreeable to hear Mr. Ladyman right away, or would you like to entertain any other questions?

An hon. MEMBER: I think we should hear Mr. Ladyman.

The CHAIRMAN: Mr. Ladyman, will you please come in. Do you have a statement to make, Mr. Ladyman?

Mr. LADYMAN (*General Vice-President of the Canadian Labour Congress*): Yes, I do have a statement to make, Mr. Chairman, and honourable Members. It was drafted in rather a hurry this week end because I was not aware until Friday morning that I was actually going to be here myself, so I hope you will bear with me if I should happen to make any mistakes. I think the general intent of what we would like you people here in the House to realize is contained in the statement.

As General Vice-President of the Canadian Labour Congress, who speaks in that Congress for the Canadian construction unions on its executive committee, I appreciate very much this opportunity to address your Committee regarding Bill C-2. I am conversant with the nature of the joint proposals to the Government since last May, as I was a Member of the Joint Committee which prepared that brief. As a member of the Economic Council of Canada, I know that all governments and ministers of labour plead for and support labour-management co-operation in those fields where this is possible. My own organization, the I.B.E.W., has for many years actively participated and contributed to the benefit of its members, the industry and our economy in such efforts. We are proud of our record in this regard and I am confident that all members of your Committee also share this point of view.

The joint delegation appearing before you last Thursday stated why our two organizations, speaking for the industry at the national level, prepared our joint brief. It was pointed out in certain areas we feel the Act requires more precision, and in one particular the hours of work for only three of nineteen trades in only one type of construction requires a little more flexibility. These three trades all specifically endorsed this joint submission, because of the very practical reasons to which I will return later, which govern highway and heavy construction jobs. It was our intention, bearing in mind the serious problems which had convinced the government and members of parliament to adopt several amendments to the original Labour Standards Code Bill last year, to

help the avoidance of parallel problems for our industry in the preparation of the Bill now before you.

I feel that I should point out here the one fundamental difference between the purpose of the Labour Standards Code and that of the Fair Wages and Hours of Labour Act. The Code serves only one purpose, namely to establish basic minimum standards for all employees under federal jurisdiction. The Fair Wages and Hours of Labour Act, on the other hand, has served this as well as a much more important purpose, namely to establish fair conditions for federal construction. This then is the difference. The Code merely sets minimums, but this Act provides for fair conditions. To our minds, the Act of 1935 today no longer provides the correct basis for the establishment for fair conditions. To our associations' minds, such fair conditions are established, as has been the practice in the Province of Quebec for over thirty years, by the full recognition of prevailing collective agreements through juridical extension for the type of construction and trades involved subject to ministerial approval. We would surely all agree that free collective bargaining, as is now about to be accorded to the federal public service, establishes conditions which as a package are clearly fair and superior to basic minimum standards, particularly in construction as the evidence placed before you last Thursday confirmed. We are here, therefore, dealing with a piece of legislation which by its very nature requires an approach which must differ from that to the Code. This Act sets minimum wages to be paid on federal projects for each trade and classification within that trade where such exist.

Our joint approach on desirable amendments to this Act was therefore based on the superior level of free collective bargaining. We wished to see the Act avoid conflict with freely negotiated conditions, as has been done for so long already in the Province of Quebec. This, due to the unique nature of our industry, represents the soundest manner in which the construction industry can operate. We would therefore again ask you to give our recommendations, as a package, your most serious consideration. The wage table placed before you last week shows that 66 trades at 37 different centres are paid wages ranging between $1.25 and $2.00, 311 between $2.00 and $3.00 and 219 between $3.00 and $4.00 per hour. However, in a growing number of centres and trades affecting already the larger bargaining units, fringe benefits ranging between 5 cents and 51 cents per hour are now established. These should not be ignored under the Act as has so far been the case. On the other hand, with regard to hours of work, the table shows that out of a total of 600 reported units, there are only 107 working hours in excess of the forty hour work week and only 24 above forty-eight hours. Legislative intervention on this point will run the real risk of immediately reducing the worker's pay package on federal projects, a situation which I believe no member of the Committee would wish to see established.

• (11.30 a.m.)

Speaking for the unions only, I must express our concern regarding the competitive ability of our members to gain this work in those few instances. The difficulties concerning hours of work on highway and heavy construction to be encountered, if the Act would fail to accommodate this minor flexibility, would here also first lie in the fact that the overtime premium costs would

result in loss of jobs or income to a worker whose income is already extremely susceptible to climatic conditions. The federal government itself only becomes involved in this type of construction to a very minor degree in its total annual budgets of projects subject to this Act. Minimum standards and hours for this type of construction are governed by the provinces and municipalities. They are almost the exclusive clients here. To illustrate, 1965-66 estimates state that on highway construction the provinces will spend $972 million, municipalities $329 million, and the Federal Government directly only $50 million out of a total of $1.4 billion. This is less than five per cent of the total market. In fact, it is closer to 3 per cent than 5 per cent.

My members often work on highway, airport and bridge lighting, on transmission line erection and on power projects, as well as on the Dew Line maintenance under contract. Under these economic facts of life, I must advise you that any effort on the part of this Committee to effectively help to reduce the work week for this type of construction at this time can only backfire on the workers concerned in the immediate reduction of their annual earnings. The federal volume of less than 5 per cent of roadwork is simply too small to carry economic sway. Members are fully aware of the serious climatic difficulties which highway and heavy construction jobs encounter not only during our winters, but in addition in rainy summers when many days can be lost by poor weather.

Our reason for agreeing to longer work weeks on highway and heavy construction jobs arises from our need to protect the workers' annual incomes and their industry attachment. We know his regular work year of 2,000 hours has to be condensed into a period of 8 to 9 months at most. This then calls for a regular work week of 50 to 60 hours and is the basis of provincially set highway construction hours and from which we have to start negotiations. Some agreements therefore also average out work weeks over fortnights or a month. The siutation has a parallel to that recognized under the Code for grain elevator operations, a similarly highly seasonal activity.

We feel that much progress has already been made through collective bargaining to reduce these longer hours of work and thereby to help these workers to improve their hours of work with full protection of their incomes. I would ask you to give this aspect of our joint recommendations your most serious consideration. Our unions would not be helped by an Act which looks fine on paper, but which in effect hurts our members.

Mr. Chairman, may I close with an appeal to this committee to adopt a statesmanlike approach by demonstrating your confidence in responsible labour-management cooperation as well as the superior merits of establishing fair working conditions through free collective bargaining. I would therefore respectfully urge you most sincerely to have this Bill meet the joint proposals placed before you. Only these would eliminate all possibilities of discrimination and establish truly fair conditions for federal construction projects and avoid to us the undesirable interference with the results of free collective bargaining.

I could quote an example here of what I am talking about. For instance, at the Atomic project in Pinawa, Manitoba the carpenters, who are well organized in the area, established wage rates and conditions with the contractors on that particular federal job. However, when other contracts are let on that particular project the Federal government goes on its own B rate, which is in the rural

areas of Manitoba, and that should be an unrealistic approach to this question because it created nothing but trouble on this job. We have had the same thing happen elsewhere. As I say, it is an unrealistic approach in our opinion.

I am sure most of you have heard of what is called "pre-hire" agreements. Now that is where a contractor or a group of contractors, knowing they are going to be bidding and have every possibility of getting a large project, must do some planning before these projects are started. They meet on a joint basis with the trades, and we sign agreements before a person is even employed on this job, knowing on both sides of the fence what has to be faced, the supply of manpower, and the rates that have to be established.

This is a perfectly normal affair; it has always been done this way in Canada and the United States, and I think it will have to continue to be done. And yet once this is established, both the fair contractor and the union employee, who is covered by these agreements, can actually be hurt by the bid being given, in our opinion, to an unfair non-union contractor who can underbid on the basis of this type of attitude that is proposed here. We think this would be a most unfortunate situation, and it is with us, it does happen and it can happen again.

Now, speaking for the building trades, as an IBEW vice president, I would like to ask Mr. Knowles, who I am sure was very well intentioned in his request of the previous Minister of Labour, to release the government from its undertaking of merely adjusting this Act to the Labour Standards Code so that we can progress towards an improved situation. It may sound strange to some of you that I may sit here advocating what to you may seem longer hours of work. Well, I would like to assure you all, ladies and gentlemen, that I have been advocating a shorter work week ever since I came into this business, which was 1932, and I think the electrical workers have demonstrated that this we intend to do, and this we have done.

We will have two contracts in this country within the next eighteen months in very large industrial areas where we will have a 37½ hour week. I am sure you have read in the past of the 25 hour week established in New York. It is not the intent of the IBEW or myself to advocate that there must be longer working hours; I will continue to work for shorter working hours. We say that in the particular fields, which this Act concerns most, the longer work week is a necessity at the present item. It is seen this way by the unions involved, but not by my particular union because we will work the forty hour week anyway, with the exception of situations such as the Dew Line which is an absolutely isolated area and the members themselves requested that the minimum be a fifty-four hour week, and this is the minimum.

These are special circumstances and we have to take these into consideration. So please do not misunderstand me and think that I am here advocating that we all return to the 60 hour week because this is not so. However, there are special conditions, and I have tried to demonstrate in this short brief that where circumstances warrant these things must be done, and we feel that the process of free collective bargaining is the most important way of determining what is necessary on these jobs.

In closing, I would like to repeat that I think it is a fact that our unions will not be helped by an Act which looks fine on paper, but which in effect does hurt

our members. I am not speaking particularly of the electrical workers; I am talking about the construction workers who are most involved in this type of project. Thank you, Mr. Chairman.

The CHAIRMAN: Do you have any questions to ask of Mr. Ladyman.

Mr. MACKASEY: I was the last speaker on Thursday, so I am quite willing to wait. Mr. Ladyman, it was only in listening to you that I realized we had the IBEW in common. I became active in it in 1939, which is not quite as long as you, and that is why I am rather happy that you did at least state that fundamentally, in the long-run, you are working for a shorter hour week. Now, as I understand the Bill, there are really only two provisions; one that overtime begin at the end of forty hours, and two that we tend toward a shorter hour week. Clause 2 of the Bill, Mr. Ladyman, makes provision for exactly the type of situation you are talking about. Have you had an opportunity to look at the Bill or analyze the Bill.

Mr. LADYMAN: Yes, I have, but in this country I am talking more of the roadbuilding industry than anything else. The question is, is it realistic? We do not think it is for roadbuilding.

Mr. MACKASEY: Well, Mr. Ladyman, on Thursday I discussed a contract in the Ottawa city area with roadbuilders who appraised time and a half after 120 hours of work. This was an agreement signed between Labour and the roadbuilders of the Ottawa district who paid time and a half after 120 hours of work. There was a total of 120 hours work performed in two weeks before time and a half was paid. This is in 1964, the first 120 hours of straight time.

Mr. LADYMAN: Was this type of work being done in Ottawa or in an isolated area.

Mr. MACKASEY: This was done in Ottawa by the National Capital Roadbuilders Association. This is the type of negotiated contract we are talking about. You talked about pre-negotiations. This was in 1964.

Mr. LADYMAN: I wonder what it would have been on the job if there had been no agreement, if it had been a non-union job?

Mr. MACKASEY: On Thursday the previous witness for labour, Mr. Hill, argued that organized labour has to accept this type of agreement to compete with non-union operators. The argument was that if he did not sign to 120 hours of straight time before time and a half and 60 cents an hour, the contractor who hired union employees would lose the contract to contractors who used non-union employees. Now, it seems to me that this Bill precisely levels out all types of labour because whether you hire non-union labour or union labour, you must pay a minimum of $1.25 and you must start paying overtime at the end of 40 hours. Therefore, it seems to me that this is a protection to union employees in unfair competition with non-union employees. The contractors who now hire non-union labour can no longer quote 40 or 50 cents an hour if this provision is accepted; they must pay a minimum of $1.25 and they must start paying overtime not after 120 hours for two weeks, but after a forty hour week. So it seems to me that this is a blessing to unions in the roadbuilding industry.

Mr. LADYMAN: In my opinion it would not look like a blessing to unions. It would look as though it should make it more difficult to organize in this

particular field. I regret hearing about the type of agreement you are talking about; I was not aware of it.

Mr. MACKASEY: These are not in remote areas of the country. This is in the capital of Canada.

Mr. LADYMAN: What I am told is that the people who do work in this particular type of work know it is a very seasonal type of job; there are only so many days in the year that they can work on roads, and there is very little else they can do in the off peaks because when they are off, everything else is off for the type of work they can do, and therefore they always feel that they must put in the maximum number of hours whenever possible.

Mr. MACKASEY: At 60 cents an hour in 1964?

Mr. LADYMAN: No, I do not agree with you.

Mr. MACKASEY: Well, this is the contract signed. This would be impossible under the new Bill.

Mr. LADYMAN: I would like to see the agreement myself. It sounds like something out of the middle ages.

Mr. CHAIRMAN: Excuse me, gentlemen. I have to remind you to speak directly into the microphone and one at a time.

Mr. MACKASEY: I have one other point. You made an argument which impressed me with regard to take-home pay. You cannot agree with the policy that affects the take-home pay of labour. Now at the same time, I do not think labour can have it both ways. Labour has always tended to favour a shorter week and higher wages. There is still a certain resistance in the labour movement to have both long weeks and high wages, and I think that Clause 2 of this particular bill takes care of just what you mentioned which says:

> The working hours of persons while so employed shall not exceed eight hours per day, nor 44 hours per week, except in such special cases that the Governor in Council may otherwise provide or except in case of emergency as may be approved by the Minister.

You mentioned having to squeeze 2,000 hours into 8 or 9 periods. Well, according to the Deputy Minister, there is no reason in the world why this type of thing does not fall into that category; why some satisfactory averaging provision over a year, if necessary, cannot be worked out under permit. This is precisely why that was put in there.

Mr. LADYMAN: How would this be done?

Mr. MACKASEY: Would you like to explain this, Mr. Haythorne? Or perhaps I can. It is going to be the same as the truckers that come in, the grain elevators that come in. They sit down and present their problem. We are not out to hurt labour and we are not out to hurt management so we come up with a compromise to provide a period of adjustment, when management is faced with the realization that they can no longer hire people at 60c an hour for a 60 hour week. We give them 18 months or so to make the adjustment, to bring their pay up to a living wage so that labour does not have to work 120 hours in two weeks to take home a decent pay. This is the purpose of the standards and this is the purpose of this bill.

• (11.48 a.m.)

The CHAIRMAN: Do you want to make any comment, Mr. Haythorne?

Mr. HAYTHORNE: There is not much to add, Mr. Chairman, except to say that we have worked out, Mr. Ladyman, with a number of industries under our Canada Labour Standards Code a satisfactory arrangement for averaging, when there are obviously peak seasons. You mentioned the grain elevators. We are in the process of working out with the grain elevators in the west an arrangement whereby these two seasons can be levelled off with the opposite of the peak, the slack season, during the winter months. This does not have to be over the full year; it could be over a shorter period, or if it is over a full year, it is necessary for the employee to remain on the employer's payroll. We have been urging, very strongly, in those industries where training can make a significant contribution to the industry, that the employer should be ready to keep his employees on during slack seasons wherever training is appropriate and practical so that they could get advantage of the slack season for levelling out their total employment period, and arrive at a level of hours over the year which maintains a decent take-home pay but it does not involve overtime costs except for hours over 40 on the average throughout the year for the employer.

The CHAIRMAN: Are you through with your questions, Mr. Mackasey?

Mr. MACKASEY: Yes, I am.

Mr. RÉGIMBAL: Mr. Chairman, could I ask Mr. Mackasey to give us more specifications on that contract. It is conceivable that there must be a wage scale involved.

Mr. MACKASEY: Yes, I am just checking in here because I might have to make a correction on the rate per hour. Obviously, I was confused with the hours per week. One thing I am sure of, Mr. Régimbal, is that the water carriers work 120 hours in the two week period before they are entitled to time and a half. I do not have the specific rate per hour yet, and I apologize if I misled the Committee on the specific time per hour because labourers get $1.55 per hour but they must work 120 hours over a two week period before they get time and a half.

The CHAIRMAN: Any questions, Mr. Knowles.

Mr. KNOWLES: Mr. Chairman, I was not planning to ask questions but I seem to be getting an invitation from two or three sources. First of all, I must thank Mr. Ladyman for the unsolicited compliment he gave me in suggesting that I should release the Minister of Labour from his commitment to bring in this legislation. I have been accused of having power over the government in various ways, but this is one to put into the record.

An Hon. MEMBER:: You do not agree?

Mr. KNOWLES: I have to say to Mr. Ladyman that he has not yet persuaded me to release the Minister from that commitment. However, the purpose of this Committee is to listen to all representations.

Mr. Ladyman, I have listened with interest to your comments on free collective bargaining as a better way of arriving at wages and hours. I have also

listened to your reference to a superior way but I take it, it is the same area that you are talking about. I have also noted your reference to the fact that in the Fair Wages and Hours of Labour Act we are concerned not only about the minimums but areas above minimums. But when you come down to something concrete you seem to have only one point and that one point is the maximum work week.

Now, there is no point in our discussing these things unless we are quite frank with each other, and I must say that you have not get persuaded me that in 1966 we should have legislation that permits, without overtime rates of pay, hours of work in excess of 40 per week. There is no argument on the part of anybody in this Committee about the necessity of averaging; we went through that in the debate over the labour code and we boiled it down to the general principle of 2,000 hours a year. Are you asking that your members be required to work more than 2,000 hours in a year before overtime rates of pay are in effect?

Mr. LADYMAN: No, we are not.

Mr. KNOWLES: Then what change is necessary in this legislation? The legislation permits, with the agreements as yet made, averaging so that it is 2,000 hours a year we are talking about; it does permit work in excess of that at overtime rates. You and I both belong to the trade union movement in which we argue for penalty rates for overtime. Now, just taking you at your own submission of what is wrong with the legislation on this one specific point, I am talking to you as though we were sitting around the table with the C.L.C. executive council. You are there now and I was there.

Mr. LADYMAN: I understand. As I did say, Mr. Knowles, I am not here representing the I.B.W. in this particular field of hours because we do not look after that.

Mr. KNOWLES: No, you have done well.

Mr. LADYMAN: I am here representing basically the three base trades; the teamsters, the labourers and the operating engineers who are the mass of workmen on these construction jobs. This, to them, is the realistic approach to this particular question at the present time.

Mr. KNOWLES: Would you say what you mean by the realistic approach?

Mr. LADYMAN: At the present time, due to the competitive feature in this industry, that agreement, as I said, is a sad thing, as far as I am concerned. The people whom they do represent, and it is not too highly organized a field because of the temporary nature of the work, I would imagine, which is one of the problems of the unions involved, but it is a highly competitive field, and these people have indicated to the association of which I am a part and also jointly with the contractors' association that these are things that have to be dealt with realistically. They feel that any advantage such as this act can seem to be giving the unfair contractor is going to be a disadvantage to the union members regardless of the sad state of the agreement and the hours they work.

Now, it may seem to this Committee that 120 hours in two weeks is a most unrealistic working period today. It is not on certain jobs, and I think this is a sad thing, as a union man. You will find this even in crafts today. When they do go on isolated jobs they are not going today unless they do have an extended

work week. This is fine. The crafts that do have a proper agreement and have been able to exert their economic pressure over the years have established rates of pay and they will not vary these agreements. Their overtime provisions will prevail. These other people are not in that situation—the three basic trades—and that, when we are talking about hours, is basically what we are arguing for here. They feel that they are competitive; that they can improve these conditions through collective bargaining over the years, and they do think that this act will give their unfair competitors better innings in this particular field.

There is one other point, Mr. Knowles, while I am answering your question. You say that there is only one thing concrete here; but there is something which is just as concrete as far as the other trades are concerned and this is the fringe benefits. The United States government has recognized in the past year or two, that these benefits as contained in collective bargaining agreements, will apply to all federal projects. Here we do not apply them. This is most important to the other trades. Fringe benefits vary across the country from 7 cents an hour to something like 50 cents an hour. It is possible that some of these jobs will be left and these provisions are not paid. Either they should be paid in money, if it is a federal job, or these fringe benefits should be paid to these people who have already bargained and gained them and enjoy them on their other work. This act makes no provision for this at all. I think this is a very concrete point.

Mr. KNOWLES: I want to get back to the maximum hours per week question but before I do so, is it not a fact that this fringe benefit issue has no practical application to the minimum wage so far as your unions are concerned? They are all getting or will be getting $1.25 in cash.

Mr. LADYMAN: Oh, yes.

Mr. KNOWLES: It is not an issue in that connection.

Mr. LADYMAN: The fringe benefits are; if their rate is $2.00 or $3.00 an hour plus 50c, then on your jobs they will get $3.00, period; they will not get the other 50c.

Mr. KNOWLES: You say that, but I say that so far as the minimum wage requirement is concerned, it is not an issue any more.

Mr. LADYMAN: No, the minimum wage is not an issue.

Mr. KNOWLES: Let us go back to the hours of work issue. I am not trying to pin you down exactly or maybe you will say that I am, but when you say that we have to be realistic do I understand that you are, in effect, arguing that you be permitted to have contracts in which there are more than 2,000 hours a year before overtime is paid?

Mr. LADYMAN: No, I do not advocate that.

Mr. KNOWLES: I am still puzzled as to what is wrong. The act says 2,000 hours work per year, above that there must be overtime. You agree to that, all your unions agree to that.

Mr. STEVENS: This act does not say 2,000 hours a year.

Mr. KNOWLES: No but this act assimilates its provisions to the Canada Labour Standards Code and there is a section of averaging in that under which

agreements get made. I am assuming the Department of Labour will be just as cooperative and understanding in this field as it has been with the grain elevators, and so on.

• (12.00 noon)

On the general point, Mr. Ladyman, about competition with non-union outfits I would like to hear you philosophize on this a little more. I belong to the international typographical union, which we think is a pretty sophisticated outfit—the best union in North America and that sort of thing, so it says on our masthead.

Mr. LADYMAN: We believe it.

Mr. KNOWLES: We face an awful lot of competition from non-union print shops, but we do not let our standards down because of that. I wish you would, as a trade union representative, explain to me why you feel that because there are non-union employers that the unionized employers must be permitted to go to these lower rates.

Mr. LADYMAN: They are not going to lower rates, Mr. Knowles. They have established rates now that are better than non-union management is paying. If it were not for the provincial minimum wages, the highway industry would be in the state it was not too many years ago when it was the most cutthroat business in this country and, frankly, the working conditions, the living conditions and everything else were terrible; I am sure you know this. While the unions that we are talking about here perhaps have not progressed as much as they wished, I think they have done the best they could under very difficult circumstances. I believe competition is the reason for this.

Mr. KNOWLES: But the minimum wage legislation in the provinces has helped these unions?

Mr. LADYMAN: Yes. It is amazing how contractors, with all due respect to my friend Mr. Stevens, have a way of cutting corners regardless of minimum wages too, and non-union contractors find it much easier to cut corners than union contractors. This happens, Mr. Knowles; there are wage receipts received or paid for monies that are not really there. I am quite sure that the Act, as you envisage it, will give some protection, but as of now we are dealing with people who are now working on these jobs; they have established an agreement for 60 hours a week, they are getting so much money for that. I am told that this act can in effect eliminate a certain amount of their take-home pay if the contractor chooses not to take advantage of certain things within the act.

Mr. KNOWLES: Pardon me again, but you are concerned with these 60 hour week arrangements, which raises in my mind the question of the 2000 hours. What is wrong with a 60 hour week contract if you have an agreement to the effect that once you are over 2000 hours in a year overtime starts to apply?

Mr. LADYMAN: In my opinion this is foreign; I do not agree with this principle. I would say, as the act does, that overtime will apply after 8 hours and after 40 hours in a week. In the case of a day, if you work over a certain period, be it 8 or 10 hours, then your overtime will apply after that. I do not think we should say that after 2000 hours in a year's work he should get overtime; I think the overtime should apply daily and weekly.

Mr. KNOWLES: Mr. Chairman, may I ask Dr. Haythorne a question on that point? Does the legislation contain a provision in it under which the same thing can be done under these contracts as is done under the Labour Code.

Mr. HAYTHORNE: There is no averaging provision as such in the legislation as is the case in the code. I must say here, just to be sure that we are in the clear, that for years under the present act we have had the provision of overtime after 8 hours during a day and after 44 hours during a week, this applied generally across the board. The purpose of this amendment is to reduce the 44 hours to 40. However, Mr. Knowles, we do have a provision for permit, and we can, under present legislation, through governor-in-council, provide for a variation. We feel though that these would have to be exceptional situations and I think that the unions would not be very anxious to see us departing from what has been fairly generally accepted in the construction industry as being sound, that is the 8 hour day and the 44 hour week, or now the 8 hour day and the 40 hour week.

Mr. KNOWLES: May I ask both Dr. Haythorne and Mr. Ladyman this question: What is happening at the present time with the 44 hour limit in the Fair Wages and Hours of Labour act—is it right that it is 44 hours?

Mr. HAYTHORNE: It is 44 right now.

Mr. KNOWLES: —in relation to these 60 hour contracts?

Mr. HAYTHORNE: Perhaps Mr. Johnstone could speak on this because he is the person who is responsible for the administration of this act.

Mr. JOHNSTONE: As far as the initial overtime permit is concerned now, it requires time and a half after 8 hours per day and 44 hours per week. Most of the permits in the far north are for maximum hours of 10 per day and 60 per week, but overtime is paid after 8 and 44.

Mr. STEVENS: Mr. Chairman, I would like to interject here, if I may, to clarify one point. I think Mr. Johnstone would agree that in recent years, very often at the joint request of labour and management, the 44 hour week has been condensed into 5 days and you have granted permit on application very readily, in fact as a matter of routine, I would say, for 4 days, Monday through Thursday, 9 hours a day without overtime and that leaves, to make up 44, 8 hours for the Friday so that the worker doesn't have to take the trouble of going to work for 4 hours on Saturday morning. I think this has become the prevalent practice for the time being until this act is amended.

There is one other point which I would ask Mr. Ladyman to restate in order to answer Mr. Knowles fully.

Mr. CHAIRMAN: Before you answer, Mr. Ladyman; did you direct a question to Mr. Johnstone?

Mr. STEVENS: Yes.

Mr. JOHNSTONE: Mr. Chairman, Mr. Stevens referred to a special kind of permit we issue in some situations, not the majority of situations, and that is where the employer and the workers want to compress the 44 hours in 5 days instead of 5½, we issue what we call a warning clause permit allowing hours of 9 and 44 provided they do not exceed 9 in a day and 44 in a week. Under those

circumstances we do not assess overtime at time and a half for the 9th hour provided that they comply with the terms of the permit and work the 44 hours in the 5 days instead of the 5½. Unfortunately, in many of those cases the employer might exceed the 9 hours or the 44 and then we assess overtime after 8 and 44 because he has not complied fully with the terms of the permit.

Mr. KNOWLES: What happens to these people on 60 hour contracts?

Mr. JOHNSTONE: They get time and a half after 8 and 44. That has been our policy for 10 or 12 years.

Mr. LADYMAN: I would like to ask Mr. Johnstone a question if I may. How do you arrive at this condensing of the work week? Is it by unilateral request from management, or by union and management, or what?

Mr. JOHNSTONE: It started a few years ago as a joint request of the workers and management.

Mr. HAYTHORNE: I would like to add here, Mr. Chairman, that it had to do eventually with encouraging work in the winter months. We found it was possible for a job to be for instance, cut out on a day when the weather was particularly bad and this could be picked up later in the week; the employer was prepared to go ahead with this, so were the union members, without having to suffer much extra cost provided we had a little flexibility. This was the basis really, as a positive encouragement for more employment in the winter.

Mr. CHAIRMAN: I believe Mr. Reid and Mr. Barnett have some questions.

Mr. LADYMAN: Mr. Stevens seems to think I should emphasize what I did read on page 2 of this statement to point out the difference between the code and the Fair Wages and Hours of Labour Act, and this is what I said:

> I feel that I should point out here the one fundamental difference between the purpose of the Labour Standards Code and that of the Fair Wages and Hours of Labour Act. The Code serves only one purpose, namely to establish basic minimum standards for all employees under federal jurisdiction. The Fair Wages and Hours of Labour Act, on the other hand, has served this as well as a much more important purpose, namely to establish fair conditions for federal construction. This then is the difference. The Code merely sets minimums, but this act provides for fair conditions. To our minds, the act of 1935 today no longer provides the correct basis for the establishment for fair conditions. To our Associations' minds such fair conditions are established by the full recognition of prevailing collective agreements through juridicial extension for the type of construction and trades involved, subject to ministerial approval.

Mr. KNOWLES: The matter, whcih it seems to me we are discussing, is whether these people on 60 hour work weeks work 44 hours at straight time and the other at time and a half, or whether they work 40 hours at straight time and the rest of it at time and a half. Is that not the difference?

Mr. LADYMAN: Would you repeat that, Mr. Knowles, please.

Mr. KNOWLES: What we are talking about boils down to a very specific difference. People at the moment who are working 60 hours a week, under a contract, work for 44 in straight time and the balance at overtime rates. This legislation would say to those same people that they shall work 40 hours at straight time and the balance at overtime rates, and it is this change that you are objecting to.

Mr. REID: The change of four hours additional overtime work.

Mr. KNOWLES: Yes; basically.

The CHAIRMAN: Maybe we should allow Mr. Ladyman to answer the question so that we do not get mixed up with too many questions.

Mr. LADYMAN: I can only answer Mr. Knowles by saying that the three trades that are mainly concerned in this field think that this is the necessary and good thing. They will be able to determine their own destiny through collective bargaining better than this act will do it.

Mr. KNOWLES: The better thing that you said these three trades want is to leave the straight time up to 44 hours rather than having it stop at 40 hours?

Mr. LADYMAN: No; I do not think so.

Mr. MACKASEY: Mr. Ladyman, if you do not change the bill you have to go under the prevailing legislation, which provides overtime after 44 hours.

Mr. LADYMAN: Even there they feel that eventually they will be able to do it through their own efforts rather than government intervention.

Mr. REID: In other words, Mr. Ladyman, would it be safe to say that the main point of your submission is that you prefer to better your conditions by collective bargaining than for the government to take action?

Mr. LADYMAN: Certainly. In the construction field we sometimes feel that the government should not even have an act pertaining to construction; we do it much better ourselves in most respects.

So far as fringe benefits are concerned, I do not like this emphasis only on the hours because the fringe benefit involves all trades—the hours involve basically three trades. But there are 19 trades that are involved in this many times and the fringe benefits are important to each and every one of them, and this is absolutely ignored in the act.

The CHAIRMAN: Are you through with your questions, Mr. Reid?

Mr. REID: Yes, I think I will pass, Mr. Chairman.

Mr. BARNETT: Mr. Chairman, some of the matters that I intended to ask some questions on have been clarified, at least in part. I think the Deputy Minister has verified one question that I wanted to ask so we could perhaps understand exactly what we are discussing, and that is the relationship between clause 2 of the bill and of subsection 2 of clause 5 under part one of the Canada Labour Code, which is the one which sets out what has been referred to in our discussion as the averaging principle.

If I am not quite clear on this I would like Mr. Haythorne to clarify it but, as I understand it, clause 2 of the bill—or indeed, the provision in the present act

in relation to the 44 hours—does make provision by action through Order in Council to implement the principle as set out in subsection 2 of section 5 of the Canada Labour Standards Code, although, as I understand it, the department so far has not considered it desirable that this averaging principle be applied. In many cases it leads to the construction industry as it operates under contract with the federal government. Is that a correct summary of the relationship between the labour code and the fair wages and hours of work act in this particular connection.

Mr. HAYTHORNE: Mr. Chairman, I think this sets out the situation fairly well. We have, in the past, under permit, if we felt it was sound in the interest of the industry, and we have joint applications, introduced some flexibility here, as Mr. Johnstone has said in the case of the four or the five day week. We do not feel though, on the basis of our experience over the years, that it is wise to depart very far from the eight and the 40, and this is the main reason, Mr. Barnett, why we did not think it was necessary to introduce the averaging provisions into the amendment. However, if at any time we felt this was a sound practice to develop—which we have some questions about—then, as I said earlier in the discussion this morning, under this provision of clause 2 where it says: "Except as the Governor in Council may otherwise prescribe," we could resort to this kind of an approach.

Our experience so far has indicated that we would be wise in this industry to stick to eight and the 44, or now the 40, as the basis for determining overtime.

Mr. RÉGIMBAL: Mr. Ladyman, I just wanted to come back to that last statement you made in which I believe you said that you are willing to put up with the 44-hour week as it stands, basically you are putting up with it. However, you would rather have the whole thing left to private initiative and the people interested in collective bargaining?

• (12.15 p.m.)

Mr. LADYMAN: That is right.

Mr. BARNETT: Mr. Chairman, I must confess that I still share some of the puzzlement that has been expressed by Mr. Knowles about the position that has been put forward by Mr. Ladyman, and also by Mr. Savage in his earlier presentation to the Committee.

Mr. KNOWLES: You mean Mr. Stevens. You called him "Savage"—the labour man's response to management.

Mr. BARNETT: Mr. Chairman, I assure you there was no association of that kind, and I think what I am about to say may clarify the point. I think I am correct in saying that by and large Mr. Stevens represents the contracting interests in Canada who have entered into collective agreements with the various unions in the construction trade. We are quite aware that Mr. Ladyman is here representing the workers who are, for the most part, quite well organized and capable of carrying on vigorous negotiations with the employing interests from time to time. Mr. Ladyman made some reference, as I recall, to the possibility of this legislation having some—I do not think this was his word, but I will use my own—"disrupting" effect upon existing contracts that have

been entered into and the undesirability in the minds of some of the unions involved that this should take place.

In this connection, I would like to know what he has to say about Clause 5 of the Bill which specifically says that this act will not apply to any contract or bids which have been invited by the government of Canada on or before the commencement of this act. Perhaps I might go on to say that I have always understood that the only purpose that some of us had in mind, particularly those of us who, like Mr. Knowles and myself, have had a fairly active association with trade union organizations, is that there should be some measure of protection provided for the bodies of workers who, up until the present time at least, have not been organized and are not in a position to bargain effectively concerning their working conditions.

Now, in this connection, and also in connection with the discussion we had dealing with the Labour Standards Code, my mind keeps dwelling on statements which I usually heard coming from the Federal administration during the Parliament between 1953 and 1957. The answer then given to proposals for a labour standards code or for some of the things which are now embodied in the Labour Standards Code was that practically all of the work force under federal jurisdiction was organized into unions and it would therefore have little application. Some of us at least have been concerned that that percentage of workers, be it 5%, 10%, 20%, whatever it might be, should at least have the protection of minimum standards. In my view the proposed minimum standards in the Labour Code are really quite modest in relation to the hopes and aspirations and indeed the achievements of some of the existing unions in their contracts. I have always felt that not only was minimum standards legislation a protection to the organized workers, but it was also a protection to the employers who were prepared to enter into agreements with unions.

I still find myself puzzled, in view of the reference that this legislation has no retroactive effect, as to why there should be this concern on the part of unions an dthe Canadian Construction Association in respect of the conditions that will apply in future contracts. On the one hand, I cannot understand why it would work against the interest of workers, but on the other hand, it does seem to me that it will work in the interest of the average kind of employer who has a good contract with the workmen under his jurisdiction on these jobs.

Let us leave aside for the moment, if I might suggest, this question of what is included in the term "fair wages"; in other words, the question of fringe benefits. I think perhaps this could be clarified separately, but I have particular reference to the question of overtime and hours of work. I think everybody recognizes the conditions under which highway construction works have to be carried on. In British Columbia, where I come from, sometimes it is a matter of avoiding the rain more than the frost. We have some awareness of this kind of situation.

Mr. LADYMAN: Well, speaking of your province now, which is a highly organized province there is no problem there; the forty hour week is established on all roadbuilding, but in Manitoba they can work 120 hours. This is the law, which I believe, is part of all government contracts; they ask for bids on the basis of a 120 hour 2-week period and stipulated wages. This is why I say there is the difference.

We have other areas in this country where the state of organization is not such that we have been able to get what should be enjoyed by these people who do this, in the main, most miserable work. In British Columbia they do have it organized on a 40-hour basis. There are other areas where we are gradually bringing up the standards.

This is a most competitive field. They have just not been able to do this, and they do feel that there is a competitive advantage to the unfair contractor who will take advantage, and there are lots of them who will. Some of them even belong to Mr. Stevens' Association. These people are the lowest paid groups on the jobs; they are the people who do the hard work. The sad thing is this, that they are the people who need organization the most and really appreciate it the least in the beginning. They are very, very hard to organize. The three particular trades involved feel that this is giving an advantage to the unfair contractor who will be able to keep them in this state for the rest of their lives. They are genuine in this.

I find it a little foreign because, being an electrical worker, this is not a problem which we have. Our people are craftsmen; they have been able to look after themselves over the years, and they will continue to do so in the future, with or without legislation. We can do this. These people are not in this happy situation. They are the people who do the dirtiest work under the poorest conditions, but really they are the hardest to organize. It may seem to you, gentlemen, that it is just a matter of walking down the road and saying to them, "Join a union; you will be better off tomorrow." It just does not work that way. We feel that these people will eventually be looked after by unions if we are left alone to do it in our own way.

Now, I cringe when I think of the type of agreement which was quoted over here. As I said, I still do not agree with the sixty cents; I do not think that is correct. There are situations in this country today in isolated areas, as I have tried to suggest, in projects, where actually the contractor or group of contractors will, in conjunction with the Unions concerned, agree to work longer hours. Sometimes there are accommodations made because of the wish of the man on the job. Rather than sit in the bush doing nothing for two days during a weekend, he would prefer to work, even if it be on straight time. Now this is sometimes done, and I point this out to indicate that the jobs we are talking about are basically the isolated projects and the long road building away from civilized points where the man is not at home and he wants to work long hours. This is something that they have accepted; it is part of their way of doing business. If we restrict them to forty hours or forty-four hours, then this is what they will work. Even if they get an increase in wages, their take-home pay will still be less. This is also important.

Mr. STEVENS: Mr. Chairman, could I supplement what Mr. Ladyman has said? To answer Mr. Barnett's point with respect to Section 5 of Bill C-2, which is really the origin of your question relating to contracts and the retroactive application, if I understood you correctly, Mr. Barnett, the point here is that this section, to my understanding, concerns federal construction contracts. The contracts which Mr. Ladyman has asked and our organization members have asked not to be interfered with are collective agreement contracts, labour contracts. So perhaps that clarifies the point of your real question, as I understood it, Mr. Barnett. That is all I have to say.

Mr. BARNETT: Mr. Chairman, it certainly was clear in my mind that this was referring to federal contracts, not to labour contracts or union contracts.

Mr. STEVENS: I must have misunderstood you. I am sorry, Mr. Barnett.

Mr. BARNETT: We will consider the question of a federal contract inasmuch as the illustration of highway construction work has been brought into this discussion. I think it has been quite correctly pointed out that the federal government's operations are only a very small part of the whole picture, or the paving of airfields, in areas where existing working conditions in respect of hours and wages are less favourable than those proposed in this Bill. Is it not correct that all contractors bidding on a federal government job would know in advance of putting in any bid on a particular job that they would have to comply with the terms of this act? I cannot see where, under those circumstances, one contractor, whether he had a union agreement or not, would be at a disadvantage over another in respect of at least complying with the basic minimum. Now in reference to the suggestion that there are contractors who cut corners, is not the answer to this a matter of proper policing of the act by the Department to ensure that the workmen in fact do get at least the minimums that are provided under the Act or that they are paid what are the fair wages established under their wage schedules. These are the questions that are in my mind. If I might address a question to the Union spokesman in this field, would this not be of some assistance, so far as the organizing effort of the union is concerned, to at least ensure that minimum decent standards apply; indirectly, this may serve to influence the general pattern that may prevail within a particular region where lower standards prevail. I might just add that I have heard complaints from time to time about the invasion of certain areas of British Columbia by contractors from areas where lower standards than prevailed in British Columbia applied, not in respect to federal government contracts but in the general picture. Now I have heard the argument advanced that minimum standards would make it easier for the contractors of British Columbia and the Unions to protect themselves against this kind of invasion.

• (12.30 p.m.)

Mr. LADYMAN: It does not always work that way. The minimum standard becomes the maximum so often. In fact we argue this in negotiations every year. We do not bargain for maximums; we bargain for minimums, but once the agreement is signed that always becomes the maximum. It is the same in this area; if you have a collective agreement in an area covering a group of people and there are non-union contractors in the area then the non-union contractor will certainly bid the lowest possible figures that he can bid and undercut the fair contracts in the area. It does not matter about his efficiency always; the money is the important thing, and they will get the job. Now the man who does get the job is prepared to pay the minimum; he must pay the minimum, but there are things established in the area for these people. They have welfare benefits now; the tradesmen have things today they never had years ago and, as I say, it goes up to 50 cents an hour and more than that in some cases. These people are entitled to this. This is a fringe benefit surely, but it is also a part of the wages he earns and that the one contractor must pay. You, on the other hand, say the other one does not. If you can get that kind of a contractor you

are going to do all your work without paying fringe benefits, which are amounting to quite a lot of money. Thirty years ago vacations with pay, sick pay, welfare benefits, insurance and statutory holiday pay was unheard of in these fields. But it is an accepted thing today, and we do not see one contractor being allowed to bid on your work and not face the facts of life. Now it could be said that the minimum wage establishes some protection for the organized people. Now, I do not think this is correct. The establishing of fair wage acts or minimum wage acts actually has always worked to the detriment of the unions engaged in organizing, and very often over the years it has worked to the detriment of the people who requested these things in the beginning because why should I join a union if you, as a government, guarantees me what the union is going to get me. In Manitoba this has very definitely had a detrimental effect on the state of organization in that province. They have a fair wage act, and the day I sign an agreement for an electrician every electrician in the province will get that rate. Well, I do not bargain for all the electricians in that province; I bargain for the I.B.W. electricians and that is the rate that should be paid. As a consequence there are many people there who, as I say, say, "Why join a union; the government legislation guarantees me all this." Well, we are not ready to relinquish our field in collective bargaining as yet to the government. I do not think he wants us to. Yet, in effect, this is what we are intending to do here.

Mr. BARNETT: Mr. Chairman, to clarify my own position, I thought I made it clear that I consider minimum standards to be a primary benefit to the unorganized people rather than the organized. I was raising a question about the indirect effect of unions dealing in certain areas where lower standards prevail. If I might just add a bit of my own philosophy here, so far as I am concerned, if any worker is content to remain at a level of $1.25 for work that requires skill or a good deal of energy then perhaps he should have to suffer for that attitude.

Mr. STEVENS: I will supplement what Mr Ladyman said to Mr Barnett, if I might. He was talking about enforcement and I think the record will show, Mr. Chairman, that at the meeting last Thursday the employer spokesman, myself at that time, pointed out very strongly that for many years—and the Department can confirm this and I can produce the brief— our association had requested the federal government to increase this enforcement of the schedules, to police the work. We have asked this for years—long before we prepared this joint presentation, and we asked it on our own as employers, as responsible employers I would say, and we have no objection—and this record will show—to the penalties which the Minister described as the teeth. There were some penalties which I pointed out last Thursday morning, namely the assessment of wages, of underpaid wages, which amounted—I think I quoted from the annual reports of the Federal Department of Labour—to $150,000 up to $350,000 a year depending on whether we were in a recession or a boom situation. This fluctuates; it depends on the over-all total federal volume of production, of course, too; but it is a very small percentage when the Federal Government spends in the vicinity of $3 million to $4 million, of underpaid wages, and in spite of this situation we have still as responsible employers repeatedly in 1958 and 1959, when we were faced with a different Government at that time, asked for better enforcement,

and only since the passage of the Labour Standards Code has Mr. Johnston now got some more people to do this. There is no objection on the part of responsible employers to maximum policing; in fact the Quebec Act, to which this joint brief refers, does this under statutory authority of a joint parity committee which meets weekly, made up of labour and management, and they have the statutory right to prosecute and levy the penalties. There is something like 1200 to 1500 prosecutions a year in the city of Montreal.

(*Translation*)

Mr. ÉMARD: Did the labour movement in the past make any recommendations to the federal government regarding the "juridical extension" of collective agreements in the construction industry?

(*English*)

Mr. LADYMAN: Not to the Federal government; at least, I am not aware of any.

(*Translation*)

Mr. ÉMARD: Are there provinces other than Quebec where the system is applied just now?

(*English*)

Mr. LADYMAN: There is no other province that I know of.

(*Translation*)

Mr. ÉMARD: If "juridical extension" was introduced by the federal government, do you not think that parity committees throughout Canada would be too costly in this regard?

(*English*)

Mr. LADYMAN: I do not think so. To tell the truth I have not considered this.

(*Translation*)

Mr. ÉMARD: It was mentioned in a brief which was tabled last week. That is why I am talking about it today.

(*English*)

Mr. LADYMAN: I was not here last week and I did not see the brief that was presented, sir.

Mr. STEVENS: Mr. Chairman, if I might answer that point. The brief asked for the adoption of the Quebec concept. You will see it is asking for more enforcement at the discretion of the Government. We did not ask for a national parity committee for this purpose parallel to the ministerial discretion in Quebec; for example, he fears there may be provisions, sweetheart agreements, which could arise in certain situations with some odd organization from the labour side perhaps, and also perhaps some odd contractors. We are not concerned with that aspect of it. We are concerned with the philosophy of establishing fair conditions, which this Act is supposed to do—not minimum but fair. The Quebec philosophy, which is unique in Canada, of extending the agreement as negotiated subject to ministerial discretion and government

enforcement in an improved way as we feel now we have the assurance will be carried out.

(*Translation*)

Mr. ÉMARD: I understand that you did not ask for a committee but it seems the only way in which some control could be established over the legal extension.

Do you think that the contractors whose workers are not unionized are facing unfair competition when they work for lower salaries and do not have fringe benefits?

The CHAIRMAN: To whom was your question addressed?

Mr. ÉMARD: To Mr. Ladyman.

(*English*)

Mr. LADYMAN: I do not think that they do have the fringe benefits. We find them very loath to give any fringe benefits at all unless it is required by the law, and even there they will get around the law. Now, in Quebec you have this joint parity board, and I understand it is contributed to by both the employee and management. The organization and management must contribute one half per cent payroll each. Now they do an excellent job of policing. We do not find this policing in other areas of Canada. There are laws but there is not enforcement. We are talking about now when it comes to hours of work. Our people tell us the policing is non-existent there, and fringes are non-existent also.

Mr. MACKASEY: Could I interject here, Mr. Chairman, to point out to Mr. Ladyman that if it is only road builders that are concerning you it is practically nil so far as federal government contracts are concerned. We have a little bit in the National Parks and beyond that there is nothing.

• (12.44 p.m.)

(*Translation*)

Mr. ÉMARD: Perhaps I could repeat the first part of my question. Do the contractors whose workers are not unionised face unfair competition from other contractors?

(*English*)

Mr. LADYMAN: We feel they are very definitely unfit.

Mr. STEVENS: And our association endorsed that view point, you will have noted, last Thursday. I might, if I may Mr. Chairman, add two things of which Mr. Ladyman has spoken which are also equally crucial to the contract. First of all Mr. Johnstone here has referred to overtime service. Now a contractor will bid on a big job, for example, some work on the twinning of the St. Lawrence seaway; there the seaway authority, in its wisdom, established a labour agreement before these contracts were called. Technically, at that time the Department was not able to recognize those rates when tenders were called, nor does the contractor have an assurance of what overtime he will be able to work in advance. This makes it so vital from the contractors point of view that there should be preheir agreements and a clear-cut statement on overtime in all tendering conditions. This has been a major worry—and Mr. Johnstone is well

aware of that, I think—it has been a major worry to contractors because you are taking a chance. If you are out in the sticks are you going to get 60 hours or are you not? You do not know; you have nothing in black and white; you are taking a gamble, as contractors always have to do. You do not know what the weather is going to be. You might have a rainy summer like Saskatchewan had last year. Two months of heavy road building work was lost because of an extremely rainy summer. This is a gamble you always run. Over and above that, you do not know whether or not you will get overtime. Under the present conditions you have to apply after you have been awarded the contract. There may have been exceptions, but what I am saying applies to normal situations.

Mr. MACKASEY: If there is any other opinion, I would like to hear the other side.

Mr. JOHNSTONE: Mr. Chairman, on the question of the overtime permits, they can be obtained in two ways. They can be obtained after the contract is let provided they (the contractor and the contracting department) establish that there are emergency circumstances warranting the permit, or they can be obtained in advance of that by the contracting department asking for a schedule. It is quite a regular procedure that when a department asks for a schedule for a contract in the far north or at world Expo, they will say that because of the emergency circumstances and the need to get this work done in time, "will you please put an overtime permit in the schedule?" Then that is included in the specifications put out to tender. All contractors know that they can get a permit where circumstances warrant it and they know that they have to pay overtime, after 8 and 44 hours. The regular procedure in a great many contracts is to put the overtime permit in the schedule when it is sent out if the contracting department makes its case. Practically all of the contracts at world Expo, at least over a hundred of them, contain that permit when the schedule is made up and nearly all schedules made for the far north contain that kind of permit.

Mr. STEVENS: Mr. Chairman, I am not disputing what Mr. Johnstone has said at all; this is perfectly correct. Nevertheless, it has happened, and I am talking now of what has been happening over the last 5 to 10 years, Mr. Chairman and members. These are exceptional cases such as Expo, DEW line and that sort of thing. However, on the whole, I have found, and I am sure Mr. Johnstone can substantiate this, that over this period I have had to call him and ask him whether the possibility existed, before tenders closed, for the department to declare its position and whether or not on this work overtime permits would be granted. Let us forget about Expo, which is a unique situation and we probably will not have it for a while again, and let us also forget about the DEW line, which we might even dismantle one of these days. On the whole, these situations have been exceptions rather than the rule in the minds of the contractors for whom I can speak.

Mr. JOHNSTONE: I am sorry, Mr. Chairman, but I do not agree with what Mr. Stevens has said in regard to the department declaring its position. We do not declare our position; we wait until the contracting department tells us whether there is a case for an overtime permit and if the department that lets the contract establishes its case when they ask for a schedule, I do not know of any case right now where we have refused to give them that permit in advance.

Mr. STEVENS: I think I can cite one case which comes to my mind, Mr. Chairman. I am referring to an airfield in the Moose Jaw area. National Defence Construction Limited would be the federal contracting agency rather than the department in this case. I may be wrong, but there have been cases where a contractor asked in advance, and I think the contracting agencies supported it, and he could not get a commitment on this point at that time. This goes back 3 or 4 years, and at that time there was unemployment in that area and the department deliberately, as a matter of policy, held down the hours in order to offer more employment. This again is a situation which is fine in theory, but in the industry it does not work out in practice under certain situations. From a contractor's point of view, each additional man you put on your payroll costs you so much overhead money, so you try to keep your labour force to a reasonable volume which you can handle. It still remains a problem to the contractor if, for example, a pre-hire agreement cannot be recognized so that he knows what the precise situation is. Labour and management have created this problem together.

The CHAIRMAN: I understand Mr. Émard still has one question to ask of Mr. Stevens.

(Translation)

Mr. ÉMARD: I have two as a matter of fact. Since I have been a member of the committee, this question keeps coming back and that is the one of overtime. Is that the only important question, is it a question that is really more important than the others.

This question keeps coming out and it seems to cause some amount of debate, and I was wondering if it is an outstanding one.

(English)

Mr. LADYMAN: No, this is not the only question. Overtime is a very important question, there is no doubt about it, but the overriding question is the entire principle of fringe benefits. There are many fringe benefits that are important here which are not taken into consideration. The statutory holiday pay is part of the grievance. Vacations with pay are ignored in some areas when it's possible to do it. We have as much as 7 per cent vacation pay in some of our agreements. They will pay the absolute minimum.

The matter of group insurance is also a welfare payment and a fringe benefit. In some cases it amounts to well over 50 cents an hour. In others, some unions prefer to take the money in take-home-pay because of their own structure. It may be only 7 cents an hour, but you cannot ignore 50 cents or even 7 cents an hour if the man is entitled, under a collective agreement, to get that money. If there is any other way of contracting that work which denies him that right, then we must oppose it and this is what is being done, we think.

(Translation)

Mr. ÉMARD: Mr. Ladyman, in your opinion, would a system based on the concept of legal extension, as in Quebec, settle the problems that you have in the case of the bill we are studying now, C-2.

(English)

Mr. LADYMAN: To a great degree. I do not agree with everything you do in Quebec and the decrees are certainly an embarrassment to us in the construction field in many ways, but it does have its good facets.

Mr. MCCLEAVE: I have one question for either of the witnesses. Have they estimated the effect on highway construction workers' annual income if they were to be placed on a 40 hour work week.

Mr. LADYMAN: I would say it is possible that you would reduce their income by one-third.

Mr. BARNETT: Mr. Chairman, I have one or two questions that lie in a somewhat different area. They relate in part to some of the arguments presented by Mr. Stevens at an earlier meeting. He may recall that I asked him at one point, in reference to the brief presented, whether the main purport of it was to point not so much to what was in Bill C-2, but as to what was in the present act which, as has been noted several times, has been standing in its present form since 1935. I presume that in presenting the brief he had in mind that this committee might consider not only what is proposed in the Bill, but what other possible amendments or considerations we might think of now that the act has been opened up.

There has been a good deal of discussion about the development of what are often referred to as fringe benefits since 1935 as part of union agreements. Certainly there is some question in my mind as to whether the act, as it is presently worded in its reference to the interpretation of what constitutes wages properly, allows for consideration in the establishment of what are considered to be fair wages for some of these matters. Perhaps I could pinpoint this by inquiring whether, in the definition of fair wages, consideration has been given to modification of the existing definition section which might include some such phrase after the words "means such wages", as "employees' benefits". This is in the first line of the definition of fair wages.

Perhaps while I am on this point I migh raise one other question, and that has to do with the reference to the definition, "in the district in which the work is being performed for the character or class of work." Now comparing that with the definitions which are expanded upon in the fair wages policy regulations of the government, I find under schedules B of 2(C), at the bottom of that paragraph, it has reference to the term "current wages" and the term "hours of labour fixed by the custom of the trade." It goes on to say:

> In the foregoing are meant respectively the standards of wages and hours of labour either recognized by signed agreements between employers and workmen in the district from which the labour required is necessarily drawn or actually prevailing.

Now I know that we had some earlier suggestion about the fact that labour, particularly in the steel trade, is much more mobile today with air travel and all that goes with it, and the undertaking of major construction projects is much more mobile in respect of going to jobs in certain areas than probably was the case in 1935.

I am wondering whether some modification might be considered of the definition section after this reference to "in the district in which the work is being performed" to include within the act a phrase which would be comparable

to the one in the regulations "in the district from which the labour required is necessarily drawn". If that were added to the expression "in the district in which the work is being performed" or "from which the labour required is necessarily drawn", this might enable it to be clearly established in the act for the guidance of the administration of the department. It may be that this factor should be taken into consideration in establishing the various wage schedules from time to time. So there are those two points, apart from this question of overtime which I wanted to bring up. I would be interested in having the committee consider, perhaps on the basis of a statement from the department initially, whether there might be any merit in such a modification of the definition.

The CHAIRMAN: Well, I understand Mr. Ladyman would like to make a short answer with respect to your remark.

Mr. LADYMAN: I agree with what you are suggesting sir, but perhaps there should be a little more emphasis on the fringe benefits which are so important to us today; they are part of the man's current wage. However, it is not recognized as such by the federal government or by the provincial government. I could give you an outstanding example of what I mean that is happening right now and has actually closed two jobs in Toronto in recent weeks. Metro Toronto recognises the collective agreements in the area. They have the wage rates established on a schedule and they pay those rates plus so many cents per hour for fringe benefits. Now every contractor knows that this is what he is faced with when he bids. Toronto proper observes the same schedule and pays these rates.

Ontario Housing Corporation are now building houses in the Toronto area. They are governed by a term of reference from the Ontario Government which says the wage rates that they will pay will be determined by the federal department of labour as the prevailing wage rates and that is the rate with no conditions, no fringe benefits or anything else. Now here is a most unfortunate situation because of the lack of some accommodation for the paying of fringe benefits, and it will be settled in Toronto because, whether they like it or not, they will pay the fringe benefits or there will be no public housing built. This is just how simple it is. Now why should it not be stipulated to avoid this kind of thing from happening?

The CHAIRMAN: Gentlemen, it is one o'clock. Is it the wish of the committee to carry on until 1:15?

Mr. MACKASEY: Perhaps if we sit for another five or ten minutes, it will prevent Mr. Ladyman from having to come back. I only have one or two questions and perhaps Mr. Haythorne might have a statement. You mentioned, Mr. Ladyman, vacations with pay. Is it not a fact that contractors, even working on federal contracts are governed by provincial legislation?

Mr. LADYMAN: Yes.

Mr. MACKASEY: And is it not a fact that there is only one province in Canada that does not have vacation with pay?

Mr. LADYMAN: Yes.

Mr. MACKASEY: Therefore, would you not have to provide vacation anyway whether it is in the federal contract or not?

Mr. LADYMAN: You surely do, but you provide the minimum which can be 2 or 4 per cent depending on what province you are in. Our agreement has 6 and as high as 7 percent.

Mr. MACKASEY: Are you now talking about the I.B.W.?

Mr. LADYMAN: No. I am talking about trades. We are not alone in this.

Mr. MACKASEY: You are talking about skilled trades?

Mr. LADYMAN: Yes. Now what we get eventually does apply to these other people—I do not like to call them unskilled; they are skilled in their own field and any contractor who is honest will admit it. The labourer is skilled in his own particular work, the operating engineer is certainly skilled, and the teamster is skilled, but they are basic trades. Now they tend to follow actually the skilled trades. The crafts usually do set the pace and they come along afterwards, but as of now the minimum should apply under the provincial law, as you say. However, this is not what we have earned and received through collective bargaining, and is a part of the agreement which you should be dealing with.

Mr. MACKASEY: Well, Mr. Ladyman, in all fairness to you, you are talking as a union man should.

Mr. LADYMAN: I hope so.

Mr. MACKASEY: And Mr. Stevens was talking as a contractor. There is also a third class of people, perhaps too numerous for your liking and my liking, who are non-union workers and still have certain rights, one of which is to earn pay outside a union, even if they are ill-advised in doing so. This minimum wage does give them some degree of protection against exploitation which is the purpose of the act. Now, apart from the fact that as one who has been on the successful end of collective agreements all your life—

Mr. LADYMAN: Not always; I have taken an awful beating sometimes.

Mr. MACKASEY: Well, I have taken them too. I remember working for the I.B.W. for 30 cents an hour which is not a great deal of money, $12 a week, and the first ten was taken for union fees.

Mr. LADYMAN: Do you mean ten dollars or ten cents?

Mr. MACKASEY: I do not regret it. However, the fact still remains that I would like to ask you one or two specific questions. The point I am getting at is, apart from having a general aversion to this type of law in general.

As a labour man, do you not prefer overtime after eight hours and forty than eight hours and forty four?

Mr. LADYMAN: Yes; I cannot disagree with that.

Mr. MACKASEY: Secondly, do you not think it is more logical that it be a forty hour week rather than a forty-four hour week?

Mr. LADYMAN: Yes, I do. It is logical with this exception, that we are talking about specific projects here and because of their circumstances they demand different treatment.

Mr. MACKASEY: But in these special projects, Mr. Ladyman, I think you and I both agree that you are referring to the length of the week. However, presuming that because of ministerial discretion, permission is granted for an abnormal work week, you still would not want to sacrifice the principle that overtime should begin after forty hours.

Mr. LADYMAN: No, speaking for myself and my own organization.

Mr. MACKASEY: If you take these two facts out of this bill there is nothing left. All we are doing, actually, is bringing the forty-four down to forty and re-establishing the fact that overtime should be paid after eight hours. This is not Mr. Stevens' concern; I am talking as a labour man to a labour man. The working conditions are your concern and my concern at the moment.

There is a provision in here for ministerial discretion in the abnormal type of condition that seems to worry you, and rightly so. You send a labourer up to a certain area at $1.25 and he is going to be limited to a 40 hour week; it is hardly worth while for him to travel several hundred miles to the project. He suffers real hardship until such time as he can get his pay up to $2.00 an hour through negotiation. However, there is a clause which takes into consideration these events with special significance to the projects which you mentioned.

Mr. Johnstone pointed out that in the specifications the rate of pay for all classes of people on the project are outlined, there is not just a minimum of $1.25 an hour and then let everybody hustle for the rest. In federal contracts we do go up as high as $4.00 for skilled labour. So it is not quite as bleak as we have pointed it out today where minimums may become maximums.

I would like to take advantage, Mr. Chairman, of the moment to apologize for any unintentional reference to the 60 cents an hour; I meant 60 hours a week.

I have one or two other points, however, that I would like to read into the record, Mr. Ladyman. The Metro Toronto Roadbuilders, which I think you mentioned before, have a contract here providing—

Mr. LADYMAN: No. I was talking about house building, residential houses.

Mr. MACKASEY: Mr. Stevens mentioned on Thursday that roadbuilders was one of the classifications he would like to see set up; he said he would like four classifications, including road building. In Metro Toronto it is 55 hours a week before time and a half and no fringe payments. In Windsor, 50 hours a week straight time; no employer paid contribution. In Metro Toronto sewer and water main contractors, 50 hours a week before time and a half. In London, Ontario, 48 hours before time and a half. These are not up in the backwoods where local working conditions prevail. The point I am getting at is that the federal government is not taking refuge in prevailing conditions in certain areas; they are willing to go well beyond it by putting in the minimum of $1.25 an hour. According to Mr. Johnstone, nobody is affected west of Ontario anyway with the $1.25 because everybody is receiving more than this.

Mr. LADYMAN: That is right.

Mr. MACKASEY: After all, you are here at the request of Mr. Stevens.

Mr. LADYMAN: No, I am not here at his request.

Mr. MACKASEY: I apologize for that inference. One thing that Mr. Stevens admitted to me on Thursday is that his objection to the reduction of 44 hours to 40 hours for overtime is strictly a monetary problem. This is what confused me, that labour and management would be signing an identical brief, and that is why I asked you if you would not prefer the 40 hours rather than the 44 hours.

Mr. LADYMAN: I established the first 40 hour work week in the Province of Saskatchewan in 1940, I think it was, or shortly after that, and I have always fought for shorter hours. I must repeat that when we are talking hours we are talking about the three basic trades who feel, with their employers jointly, that there must be extended work weeks on this type of work.

Mr. MACKASEY: I must agree that provision is in the act for that type of extension, but the act does say that regardless of whether you get that extension by the government or not, you must start paying your overtime at the end of 40 hours. Do you agree with that principle?

Mr. LADYMAN: I surely do.

Mr. MACKASEY: There is nothing else in the bill.

The CHAIRMAN: Mr. Haythorne, do you have a very short statement to make?

Mr. HAYTHORNE: Well, I can make it very short.

The CHAIRMAN: I thought Mr. Mackasey referred to you a moment ago.

Mr. MACKASEY: I thought Mr. Ladyman might want to hear it from Mr. Haythorne.

Mr. BARNETT: If it is in reference, of course, to a question that I raised, I would be quite willing to hear him.

• (1.13 p.m.)

Mr. HAYTHORNE: Well, Mr. McCleave asked me on two occasions to make comments on the departmental position with respect to all of the points in the brief. I do not know if you want to take the time to go into all these matters this morning, but I would like just very briefly to comment on, as we see it, the two principal points which seem to have come up repeatedly. One of these, of course, is hours of work and the other is fringe benefits. Now, these two are closely interrelated, it seems to me. On the one hand the Union and management briefs seem to be suggesting that we should depart from the principle, which we have had in our Act all along, of having basic standards for working conditions. They are rather suggesting that we leave that to collective bargaining. On the other hand, they are saying that in so far as the determination of wages is concerned they would like to see our legislation going even farther than it does, by stipulating what the additional wages-in-kind items are that could be added to the basic wage.

We fully recognize the role of collective bargaining, and I just want to emphasize that in our Labour Code we found last year that we, through the Code, were able to protect not only the non-union members, Mr. Ladyman, but sometimes the Union members, against themselves, in introducing a provision for a socially acceptabble standard for the country as a whole, which is in advance of some localities. This in effect, is what we are doing here.

I think, too, we have to recognize—and Mr. Stevens made some reference to this earlier—that in periods of high unemployment it may be important, from a national point of view, to reduce hours, even though, from the standpoint of the parties to a collective agreement, it may not, from perhaps their own more immediate point of view, seem to be the most desirable thing to do.

I would like just to say here, on this question of hours in the northern areas, Mr. Ladyman, that from our experience we have not found the Act under much resistance from the employers to paying overtime rates after 44, and I suspect we will not find much hesitation in paying them after 40. Therefore, it seems to me that what we are doing by retaining this overtime provision in the Act after 40 is making the work on these northern jobs more attractive by requiring overtime rates rather than leaving the situation free for some employers—and maybe some unions, too—to take advantage of longer hours without any overtime rate.

If I could turn quickly to the other point, the fringe benefit item, we understand the interest here of both management and unions to extend the provisions in certain areas where the patterns have been established on the basis of collective bargaining. I think most of the discussion has turned on the payment to a welfare fund of a certain number of cents per hour for each employee covered by the welfare clause.

We have three main reasons for rejecting the recommendation that we include these items along with the cash wage. First, the initial task of determining in each locality where government work is undertaken whether such payments do prevail for each class of employees included in a fair wage schedule would be very substantial. The administrative difficulties in applying such employer-paid contributions to the employees of the main contractor and to the employees of the subcontractor—which can be as many as twenty to forty on a large job—for the duration of the contract, are so complex and numerous that it would be impossible to carry out this program without a great enlargement of staff and additional expenditure of the taxpayer's money. The effort required would outweigh, we feel, the benefit to be derived. We have a national hospitalization plan in Canada and a pension plan; we have a comprehensive system of workmen's compensation; we are moving towards a medicare plan. We have legislation on annual vacations in almost all parts of Canada, and legislation on public holidays in most of the provinces. While it is open to the industry to negotiate welfare plans, it is a question whether the federal government, through its contract program, should enter into, or interfere in, this field.

The second main concern we have is that only a very small part of the total construction industry comes within federal influence through federal government contracts. As I am sure Members know, this industry is primarily subject to provincial regulation. It is not an industry coming under federal jurisdiction. We enter this industry only indirectly. For this reason, we have wanted to keep

the federal standards confined to the basic wage rate and to the hours of work. If we go beyond this, we have this very real concern: Where do we start and where do we stop? We have discussed this with the provincial people on various occasions. The provincial governments, I know, would very much prefer that we stop where we are now rather than getting into other areas of regulations which come directly under their prerogative.

Thirdly, we do not want to introduce through legislation conditions that would prevent the small contractor from being able to bid on the types of jobs he is able to perform.

It is our feeling that the question of a fringe benefit really boils down essentially to a matter of either provincial regulations or legislation on the one side, or collective bargaining on the other, and that we, through our legislation here in providing these two basic and simple provisions which have stood the test of time, are providing, as it were, the floor, or the basis here, and with the flexibility that we have in the Act we think we can take care of the kinds of situations where adjustments are needed.

Thank you, Mr. Chairman.

The CHAIRMAN: The Committee agrees to adjourn until Thursday at eleven o'clock in Room 307.

OFFICIAL REPORT OF MINUTES

OF

PROCEEDINGS AND EVIDENCE

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LÉON-J. RAYMOND,

The Clerk of the House.

HOUSE OF COMMONS

First Session—Twenty-seventh Parliament

1966

STANDING COMMITTEE

ON

Labour and Employment

Chairman: Mr. GEORGES-C. LACHANCE

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 4

Respecting

BILL No. C-2

An Act to amend the Fair Wages and Hours of Labour Act

THURSDAY, MAY 26, 1966

WITNESSES:

From the Department of Labour: Hon. John R. Nicholson, Minister; Mr. G. Haythorne, Deputy Minister; Mr. H. Johnston, Director Labour Standards Branch; Miss Edith Lorentson, Director of Legislation.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

24309—1

STANDING COMMITTEE ON LABOUR AND EMPLOYMENT

Chairman: Mr. Georges-C. Lachance

Vice-Chairman: Mr. Hugh Faulkner

and

Mr. Barnett,
[1]Mr. Boulanger,
Mr. Duquet,
Mr. Émard,
Mr. Fulton,
[2]Mr. Gordon,
Mr. Gray,
Mr. Guay,
Mr. Hymmen,
Mr. Johnston,
Mr. Knowles,
[3]Mr. Lefebvre,
Mr. MacInnis (*Cape Breton South*),
Mr. Mackasey,
Mr. McCleave,
Mr. McKinley,
Mr. Muir (*Cape Breton North and Victoria*),
Mr. Racine,
Mr. Régimbal,
Mr. Reid,
Mr. Ricard,
Mr. Skoreyko—(24).

[1]Replaced by Mr. Clermont on May 25, 1966.
[2]Replaced by Mr. McNulty on May 25, 1966.
[3]Replaced by Mr. Tardif on May 25, 1966.

Timothy D. Ray,
Clerk of the Committee.

ORDERS OF REFERENCE

WEDNESDAY, May 25, 1966.

Ordered,—That the names of Messrs. Clermont and McNulty be substituted for those of Messrs. Boulanger and Gordon on the Standing Committee on Labour and Employment.

Ordered,—That the name of Mr. Tardif be substituted for that of Mr. Lefebvre on the Standing Committee on Labour and Employment.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House.

24309—1½

REPORT TO THE HOUSE

THURSDAY, May 26, 1966.

The Standing Committee on Labour and Employment has the honour to present its

FIRST REPORT

Your Committee has considered Bill C-2, an Act to amend the Fair Wages and Hours of Labour Act, and has agreed to report it without amendment.

A copy of the Minutes of Proceedings and Evidence relating to this Bill (issues Nos. 1 and 2), is appended.

Respectfully submitted,

GEORGES LACHANCE,
Chairman.

MINUTES OF PROCEEDINGS

THURSDAY, May 26, 1966.
(5)

The Standing Committee on Labour and Employment met this day at 11:15 a.m. The Chairman, Mr. Lachance, presided.

Members present: Messrs. Barnett, Clermont, Émard, Faulkner, Gray, Guay, Hymmen, Knowles, Lachance, Mackasey, McCleave, McKinly, McNulty, Muir (*Cape Breton North and Victoria*), Racine, Reid, Ricard, Tardif—(18).

In attendance: *From the Department of Labour*: Hon. John R. Nicholson, Minister; Mr. G. Haythorne, Deputy Minister; Mr. B. Wilson, Assistant Deputy Minister; Miss Edith Lorentson, Director of Legislation; Mr. H. Johnston, Director of Labour Standards branch; Mr. W. B. Davies, Departmental Solicitor.

The Committee resumed consideration of Clause 1 of Bill C-2.

The Minister and officials of the Department of Labour were questioned by the Committee.

Agreed,—That Clauses 1-6, the title, and the Bill be adopted.

Agreed,—That the Chairman report the Bill to the House without amendment.

The Chairman thanked the Minister, the Deputy Minister, the various officials of the Department, the representatives of the Canadian Construction Association, and the representatives of the Association of International Representatives of the Building and Construction Trades for their valuable contribution throughout the proceedings.

The Chairman adjourned the meeting to the call of the Chair, at 12:30 p.m.

Timothy D. Ray,
Clerk of the Committee.

EVIDENCE

(*Recorded by Electronic Apparatus*)

THURSDAY, May 26, 1966.

• (11.00 a.m.)

The CHAIRMAN: Gentlemen, we have a quorum. We will resume consideration of clause 1 of Bill C-2. Mr. Barnett, you raised a question the other day. Do you have any further questions?

Mr. BARNETT: Mr. Chairman, as you may recall, at just about the end of our last meeting I raised two questions about clause 1 of the bill, which has to do with the interpretation of what is meant by fair wages in the rest of the act. In my view, in many ways, this is the real substantive part of the act, in the way it can be applied. I think Dr. Haythorne had dealt in some detail with the first question in respect of whether or not wages in the act should be defined as including employee benefits. However, the second question had to do with the phrase in the bill and also in the act as it now stands concerning the district in which work is being performed, and I drew attention to the reference in the Regulations which have been issued under the title of the fair wages policy of the Government of Canada and to the fact that this is expanded somewhat. So, there is provision made in the regulations to take into account the district from which labour required is necessarily drawn. I raise the question whether or not in the light of circumstances that have changed in the nature of the construction industry since 1935 it might be advisable to amend slightly the long standing definition in respect of the district in which work is being performed. I think it might be useful if we could have some information as to whether or not this might be considered as an amendment to the act as it now stands which would mean, of course, amending the bill that we have before us. Might we have some discussion on this point.

The CHAIRMAN: Have you any clarification to make on this Dr. Haythorne.

Mr. HAYTHORNE: Mr. Chairman I was aware that I had not dealt with the second question that Mr. Barnett had raised at our last session. The members of the committee will recall that we were rather hurried at the end, tried to get finished and I was making my comments mainly on the first, which seemed to be the important point for discussion at that time. Perhaps by inference I dealt with it, but I realize that I had not dealt with it directly. I would just like now in the light of what Mr. Barnett has said this morning to say that we have followed the practice in the past, as he has pointed out, under our policy order of applying to the definition of the word "district" in this case and to the definition of "fair wages" for the character or class of work a fairly liberal

interpretation so if, as I mentioned the other day in the case of Cold Lake, it was necessary to bring in from outside that part of Alberta highly skilled people to do structural steel work that we can assess a fair wage for such classes of skilled workers which has a broader application in terms of a territory than we do for some other categories of workers who are found immediately in that area. So, we have under the policy order given that broader interpretation which we think is consistent with the act since under the act itself we have powers for issuing regulations. The very first of these powers is set out in Section 6, subsection A of the act which reads:

> The Governor in Council, on the recommendation of the Minister, may make regulations with regard to wages and hours of work—

and,

> (*a*) the method of determining what are fair wages and the preparation and use of schedules of rates relating thereto;

We would feel, Mr. Chairman, that we can deal with this problem under the the Regulations. We have followed this practice in the past. We have not run into any problems in so interpreting the act or the policy order which has been developed under the act, and I see no real difficulty in the future.

Mr. BARNETT: Mr. Chairman, I had noted Section 6(*a*) of the present act to which Dr. Haythorne referred. I realize that sometimes it is a bit difficult, for those of us who are layman in the sense that the legal fraternity refer to such matters, to understand fully the intent of certain words or phrases in the act; however, I think the governing principle is that the power of making regulations is limited in the last analysis by the actual wording of the act which under certain circumstances may require interpretation in the Courts. Now, I take it that this sort of situation has never developed in respect of the Fair Wages and Hours of Labour Act so that we have not anything more than individual opinions on what the limitations are in the phrasing, "district in which work is being performed" in the definition section of the act, as against the authority given to make regulations in section 6, in the method of determining what are fair wages. In view of the concern that has been expressed in representations that have been made to the Government and to the Committee, it did seem to me that this was an important point that did require some clarification so far as the Committee was concerned, in determining whether or not the Committee should consider making any recommendations for any further amendments to the act than those that are now contained in the bill we have before us. I may say, Mr. Chairman, that I felt that many of the questions that were raised in the submissions to Committee really revolved around the manner in which the act was being administered rather than around the question of making changes to the act as it stands. Certainly on this particular point there is some question in my mind whether it might not be desirable to consider some redefinition or expansion of the phrasing in the definition section of the Act.

Now, I have put forward my point, Mr. Chairman, and the Deputy Minister has given the explanation of the functioning of the Act as he sees it, in his experience, which, of course, is undoubtedly greater than any of the members of the Committee. I will have to leave the matter in the hands of other members of

the Committee as to whether or not they feel there is a consideration here that would require further discussion.

Mr. HAYTHORNE: Mr. Chairman, I wonder if I could ask Mr. Johnstone to make any further comments he might have on this point because he has been associated with the administration of this Act a good deal longer than I have. I would appreciate any comments that Mr. Johnstone might have on the question of handling this satisfactorily under the regulations.

Mr. JOHNSTON: The paragraph that Mr. Barnett referred to is in schedule A of the policy order and it is also in schedule B of the policy order. The policy order, by the way, predated the act. The policy order was started back in 1900, and because it contained instructions as to policy and administration we retained the policy order and treated it really as part of the regulations under the act, and in addition enacted other regulations under the act. When the new legislation is passed we propose to consolidate all of the things in the policy order that we were using as regulations into new regulations under the amended act and retain the existing regulations under the act. So, the paragraph mentioned by Mr. Barnett is a concept that we have been using, and I think it can be included in the new regulations.

Mr. NICHOLSON: I did not have the benefit of hearing the Deputy Minister's comments, but I can assure you that when the briefs were received and following two extended discussions with Mr. Stevens and the others who came in to see me, I went into this matter at some length with the law officers of the department. They felt that this act having stood the test of time and that the provision in what will become of section 6(*a*) is certainly wide enough. The regulation section permits the Governor in Council to make such regulations that are necessary to take care of everything in the field of fair employment practices. You could not have any wider language than that. I assured Mr. Stevens and his group that this would be taken into consideration when the regulations were drafted, and that rather than change an act which has stood the test of 35 years it was preferable to do it the other way. The law officers—there are three of them here—went along with this and had this in mind when the act was drafted.

Mr. KNOWLES: You have no problem in re-enacting all of the policy regulations that you have had during the past half century.

Mr. NICHOLSON: No, and most of these have gone back to the turn of the century.

Mr. BARNETT: Mr. Chairman, I am intrigued by the information we have received about this fair wages policy regulation ante dating the Act. I do not imagine many of us were aware of this. This may be slightly off the track but it might be interesting to be informed under what authority the government initially enacted this Policy.

Mr. NICHOLSON: It was a very ingenious Deputy Minister of Labour.

At the time there was an order in council. The government was letting contracts for the building of post offices, docks and wharves right across the country. They felt they should have a policy to say what wages should be paid. It came into force just as a matter of government policy. Anybody letting a

contract can put terms in it. These were put in as guide lines in the days when Mackenzie King was Deputy Minister.

Mr. BARNETT: Would this be done under the powers of the Financial Administration Act, I wonder.

Mr. NICHOLSON: No. I would think it is the right of any person who is letting a contract to put in reasonable conditions that are not illegal.

Mr. HAYTHORNE: In other words, you can stipulate what you require when you are having work done for you, and this is the basis, I am sure.

Mr. NICHOLSON: When you issue the specifications under a contract these are really part of general specifications to apply to government construction contracts. That is the information that I get out of it.

Mr. JOHNSTON: May I add a word. It started as a resolution of the House of Commons in 1900, then later became an order in council in 1907, and then it was amended and expanded over the years.

Mr. KNOWLES: Who brought in that Resolution?

Mr. HAYTHORNE: Sir William Unlock who was the Postmaster General and also the first Minister of Labour.

Mr. JOHNSTON: In the year 1935, although the policy order has been considerably expanded, nevertheless the Trades and Labour Congress made representations that there should be a special act to deal with construction. The policy order deals with both construction and the manufacture of equipment and supplies. So, in 1935 the Fair Wages and Hours of Labour Act was passed, and the policy order is consistent with it.

• (11.30 a.m.)

Mr. BARNETT: I would like to make a further comment at this point, Mr. Chairman. I think this information is both interesting and relevant. Certainly I think that one of the considerations any parliamentary committee should keep in mind when dealing with legislation and the question of what can be left to government policy by way of regulation is the fact that governments do change from time to time and, therefore, the policy and the regulations might change from time to time.

Mr. MACKASEY: Mr. Barnett, you will agree in this case that even though government changed periodically from 1900 no one bothered to change or wanted to change it. I think this is proof we should leave it alone for the future.

Mr. BARNETT: Well, this is why I say I think this background of history is interesting, that no government since 1900 has apparently attempted to move in a backward direction in respect of fair wages and hours of labour.

Mr. NICHOLSON: I think we are definitely moving in the right direction, a constructive direction with a 40 hour a week at a minimum of $1.25.

(Translation)

Mr. ÉMARD: Mr. Chairman, I believe that it is a very important item which is not covered in this act; it is the right of the government to legislate on fringe benefits paid by the various contractors. You know that this can involve

inequalities, this can create, for example, in the case of tenders inequalities due to the fact that some contractors under contract or under collective bargaining, have to pay fringe benefits which have a very high value. Some cases of 50¢ were mentioned last week by some witnesses who presented their evidence. It was also stated that some contractors, paying lowest basic salaries, pay no fringe benefits at all. I do not see in the act here any clause allowing the government to move in and oblige people to pay minimum fringe benefits.

(*English*)

Mr. HAYTHORNE: I have just a very short comment. I made three main points at the end of the last session, that had all been taken into serious consideration by the Department and government in reaching our conclusion regarding moving into this field of fringe benefits. First, was the very difficult administrative problem, Mr. Émard, which would arise. The second was that we felt it very desirable to keep this matter so far as possible in the hands of the authority, which in this case is the provincial government, which has the jurisdiction for the industry as a whole. As I said, if you start moving into the area of fringe benefits it is very difficult to know where to start and where to stop. In our discussions with the provinces, as Mr. Nicholson said at the opening session, we came to the mutual conclusion that it was to be preferred that we in our act stay with the two basic points of our fair wage legislation, the cash wage and the hours. We put into the contract that the contractor must abide by whatever regulations or legislation applies to this industry under the provincial jurisdiction, wherever he may happen to be working. Thirdly, I pointed out that we were still quite concerned about the position of the small contractor who might not be in a position in, all cases at least, to cope with the same type of fringe benefits that are being provided by larger contractors, and yet the small contractors might be in a position, depending on the type of work that he was bidding on, to perform quite satisfactory services and meet the requirements at a lower cost for the community as a whole, and have his position protected. In other words, if we were to introduce a requirement for him to pay fringe benefits it would be introducing an additional factor which may not be present or, in fact, is not present in most cases now. So, generally, in conclusion, we thought that it is preferable to leave the item of fringe benefits either, as I said, to the arrangements made through legislation or other provisions under provincial jurisdiction on the one hand or to the agreements that are reached through collective bargaining by the two parties, on the other hand.

Mr. NICHOLSON: I would just like to supplement that remark, by saying you will recall my mentioning that 97 per cent of the construction work comes within provincial jurisdiction. It is 3 per cent in the federal field. That is why we have had discussions with all of the provinces.

(*Translation*)

Mr. ÉMARD: However, Mr. Minister, I know you want to protect these smal contractors, but we also should think about the workers, because most of them, most small contractors have non union labour and if we do not make sure we are giving a basic minimum the employees will be working under less satisfactory conditions than those they would enjoy in construction at large or in

industry. We have nothing at all at the present time to protect these people who are not organized. This is what I would like to see. Could we not, in the bill, have something to protect unorganized labour?

(*English*)

Mr. HAYTHORNE: There are two points. First we do have, of course, in the act the basic protection that is required for such workers. This is why we are required to develop fair and reasonable wages, and why the government itself feels it is desirable to keep the basic provisions for hours consistent with the provisions of the Canada Labour (Standards) Code. Now, with respect to the other items which you speak of, the fringe benefits, the provinces provide, and will be providing much more, I am sure, in the future, the kind of protection which may be required for the types of workers in the industry of which you speak.

Mr. KNOWLES: I have one or two questions that I would like to ask. First, may I say that with respect to what this bill does, I am satisfied. I take it, it has stood up to the inquiry and examination that was given it. As I say, so often my only regret is that it has taken so long to get this on the statute books. However, let me ask one or two questions.

The bill specifically deals, and the notes so say, with bringing this act into line with the Canada Labour Standards Code with respect to the hours of work per week and the minimum wage. Where do we stand with respect to the other two items in the Canada Labour Standards Code, namely, general holidays and annual holidays. Are they already covered in some way for people who work on this kind of job.

Mr. HAYTHORNE: These are handled, as I explained the first day, Mr. Knowles, under provincial jurisdiction, and we felt that it was better to leave these items, along with all the others that we have been talking about, to be handled by the authority which is mainly responsible for this industry. We should stay with our two basic subjects that have been dealt with all along. If we start to move into these other who areas, vacations with pay or statutory holidays, then it might be said, "Well, why do you not move into a number of others, such as safety, etc." As Mr. Nicholson has said, and as I have said, in our discussions with the provinces, we felt that there are satisfactory arrangements now in most of the provinces for taking care of these other items, including statutory holidays and a vacation.

Mr. KNOWLES: You say, Dr. Haythorne, that satisfactory arrangements obtain in most provinces. Now, the inference in that is that there maybe one or two cases where such conditions do not obtain. Did we not have the assurance of the previous Minister of Labour that fair wages and hours of the Labour Act would be amended so that people who do work under its provisions would have all of the benefits set out in the Canada Labour Standards Code.

Mr. HAYTHORNE: Minimum wage particularly, Mr. Nicholson, you may recall, and hours.

Mr. NICHOLSON: Well, I have a recollection, but I have not read Hansard on the subject for at least two months.

Mr. KNOWLES: Well, if you do not hear from me in the House it means that I have looked up and found this is correct; otherwise, you will hear from me. I

thought it was a commitment that would be a complete assimilation of one to the other.

Mr. NICHOLSON: As I stated at the first session of this Committee I, personally, and as the Minister, would have no objection to this. I say that in our discussions that we have had, and—I participated in them with five of the provinces—there was a general discussion which preceded that with all 10 provinces. Some of the provinces were not anxious to have us go into too much detail, but I said we have got to have a minimum hourly rate and a 40 hour week. We did not discuss in any detail the question of the general holidays.

Mr. KNOWLES: I would like to take a case in point now and I would ask Mr. Johnston to come into this, because it relates to a case down in Newfoundland; the correspondence about it was handled by Mr. Johnston and it concerned some work on some contracts let by the federal government. Mr. Thomas was the writer of the correspondence to you, Mr. Johnstone, and your reply was certainly in line with the law, that up to this point the fair wages now in the labour act did not conform to the Canada Labour Standards Code. Now, I take it with this legislation, that kind of worker will be protected so far as minimum wage, hours of work and overtime are concerned, but if I hear from these workers next month that they are not protected in terms of general holidays or statutory holidays, are we not still in trouble?

Mr. JOHNSTON: That point has been covered really, Mr. Knowles. We have authority under the Fair Wages and Hours of Labour Act to deal with only those items cited in the Act: wages, hours, classifications and overtime, and the policy of not expanding into the field of statutory holidays and vacations with pay already has been covered by Mr. Nicholson and Mr. Haythorne in their remarks.

Mr. NICHOLSON: Might I just give you a reference that might help you, Mr. Knowles. Will you look at Hansard of February 18, 1965, page 11,501, Mr. MacEachen speaking:

> "I undertook on the part of the government in introducing this legislation to say that when we establish these standards in this bill, we would make them apply to all employees of the government service. That is a very big step. I said that we would amend the Fair Wages and Hours of Labour Act to apply the wage and hour standards to construction contracts and to designated categories of service contracts."

Mr. KNOWLES: In other words, the commitment to make it cover all four applied to government employees.

Mr. NICHOLSON: That is right.

Mr. KNOWLES: But in respect of this group only the two.

Mr. NICHOLSON: The reason for that is that they have different holidays in different provinces, especially in the Province of Quebec where they have religious holidays, and with only 3 per cent of them goverment contracts—some contractors have small forces and other have large forces—it was felt it would be better to leave it in that particular field.

Mr. GRAY: Mr. Chairman, what the Minister just said touched on what I wanted to suggest to Mr. Knowles, that is that the application of standards of

wages and hours, including over-time, can be applied to very small units of time, a day or part of a day, whereas I could see very practical problems of administration regarding application of holiday standards on contracts which may last a week, a month or six weeks, and may not touch on any holiday period. In other words we may be trying to apply standards of holidays for periods when the contractor is not even working on any project for the fedral government. I might say in passing though that I personally am not adverse to seeing the Federal government extend its efforts with regards to standards farther than it has up until now, although I think this is a major step forward.

• (11.45 a.m.)

The CHAIRMAN: Does 1 carry?

Mr. KNOWLES: Could we put on record that if we come to this bridge we will have to do something about it.

Mr. MCCLEAVE: What have in recent years been the main complaints against the present act and by whom?

Mr. JOHNSTON: Most of the complaints that we receive are complaints that the wage paid does not come top to the standard of the wage required in the schedule. Another complaint is that the men have been working in excess of 8 hours and 44 hours a week without a permit and on the basis of straight time rates of pay. A third complaint is the misclassification of employees; a man may be classed on the payroll as a labourer and he might be doing carpenter work. Those are three main complaints. Many of those complaints arise because the contractor fails to post the wage schedule on the project, as he is required to do, and sometimes the employee himself does not know that he is underpaid until we make an inspection.

Mr. MCCLEAVE: Do these complaints arise on work performed where there is collective bargaining or are they on small contracts or jobs involving small contracts?

Mr. JOHNSTON: Well, it arises in all kinds of contracts. If the contractor has a collective agreement with a union that embraces all the employees on the contract project, the bargaining that takes place is usually for conditions that might be a little better than are contained in the schedule. Usually you bargain for something better than the prevailing standards; but, in most contracts the tradesmen themselves might be covered by their own craft agreement and in that case we do not have much trouble in seeing that these labour conditions are observed with respect to them.

Mr. MCCLEAVE: Would you classify the number of complaints substantial or very small?

Mr. JOHNSTON: In relation to the total business we do they are small. The government of Canada let 4,805 construction contracts in the last fiscal year. We investigate every complaint. We make inspections on our own initiative to the extent that we can do so with our manpower. In the last fiscal year we collected wage arrears of about $80,000 for distribution to about 1800 employees from about 100 contractors. Some years that has been higher. It has gone as high as $200,000 and it has been lower. That is going on all the time.

Mr. MCCLEAVE: About 100 complaints out of 4,805 contracts.

Mr. JOHNSTON: Well, I said we collected that money from 100 contractors; we may have more than 100 complaints.

Mr. HAYTHORNE: Mr. Chairman, we have also been criticized—and I suppose it is really a form of complaint—for not having a more extensive staff for field work in this field. That I think Mr. Johnston is a legitimate complaint. It is also a fact that there have been complaints that employers who have been found negligent in not paying up to the level have tended to repeat this action, and this is one of the reasons why in our present bill we have included the provision for penalties. I think this may help to meet that complaint.

Mr. MCCLEAVE: Were the federal departments of Public Works, Transport, National Defence and Northern Affairs consulted regarding these present amendments?

Mr. NICHOLSON: Public Works, Transport; I can not speak for Northern Affairs.

Mr. JOHNSTON: No, I do not recall consultations with Northern Affairs.

Mr. NICHOLSON: These have been all been cleared with Treasury Board, Transport and Public Works.

Mr. GRAY: This bill was also presented to Cabinet, I presume.

Mr. NICHOLSON: Yes.

Mr. JOHNSTON: The declaration, of course, was made in the House of Commons by Mr. MacEachen of what the Government proposed to do.

Mr. MCCLEAVE: The Departments were consulted and the Treasury Board have given the bill approval. Am I correct in that assumption? Now, were the provincial Departments of Highways consulted? You mentioned consultations with the provinces.

Mr. NICHOLSON: I must say we felt that we covered it fully; we took it up with the Minister of Labour in each of the provinces, and we assumed if there were any questions he in turn would clear it up right there.

Mr. MCCLEAVE: The other day, Mr. Minister, Mr. Ladyman of the Canadian Labour Congress, estimated that the take home pay of highway construction workers could be reduced by one third if they were placed in the 40 hour work week.

Mr. NICHOLSON: I am not an expert. I would have to refer that to the Deputy Minister or one of my other officials. But, I would question that very seriously. I will let the experts deal with that.

Mr. HAYTHORNE: This assumes Mr. McCleave that there would be a reduction in the hours. What happens in most of these cases is that there is an accommodation reached between the union or the workers, on the one side, and the employer on the other, as to what is a fair and reasonable number of overtime hours. The overtime hours of course, being paid at time and one-half, go a considerable distance in maintaining take home pay. It has to be recognized that on the one side you have the problem of maintaining take home pay as against the added costs for the employer on the other; but, in our experience in working with industries under the Code—and I am sure this will happen here—there will be an accommodation reached so that there will not be in many instances anything like this extent of a drop in a take home pay.

Mr. McCLEAVE: Would this, Dr. Haythorne, be done under Section 6, the regulations that can be passed under the current act.

Mr. HAYTHORNE: This would be largely a matter for the parties themselves to work out, I would suggest.

Mr. McCLEAVE: But would they not have to make the request of your Department to be given the blessing to come outside the operations of the act.

Mr. HAYTHORNE: Well, they have freedom in working an extra 8 hours. If an employer wishes to work his men more than 48 hours they have to obtain a permit, and in obtaining a permit it would be assumed that they would have an arrangement with their men to pay them overtime after 40 hours. Mr. Johnston might speak to this because it is my understanding, Mr. Johnson that we have never had any serious problems in collecting or requiring employers, under our present provision, to pay overtime after 44 hours.

Mr. JOHNSTON: If I may speak to that, first of all, the Government of Canada does very litle road work. Road work in our national parks and airport runways are regarded as roadwork. But in the national parks and in the Northwest Territories there is always a demand, always an urgency to get work done in the shortest possible time, especially with an asphalt job; and in the Northwest Territories we recognize the special circumstances there and when they ask for a permit to work longer hours we usually give it. Sometimes we give it with the schedule so that it is included in the specifications put out for tender and the contractors who are bidding know that they have a permit already. But that permit requires time and a half after eight and 44 and most of the permits are for ten hours a day and 60 hours a week maximum. Now, with time and a half after eight and 44 it means that the workmen working the full 60 hours get paid for 68 hours and the contractors really use those permits and pay that 68 hours work per week. They do it in the national parks, in Prince Albert, Jasper, Banff and Kootenay, all the other parks when we give permits. We do not withhold those permits if they establish a case of urgency.

Mr. McCLEAVE: Mr. Chairman, I thought Mr. Ladyman was an excellent witness and a very cautious one in the type of evidence he gave. It did concern me, and I am sure it concerned other members of the Committee, terribly that we might, by endorsing the legislation, be hitting at a particular section of industry. After all, the highway construction work is very dependent on weather and I suppose if the people in that industry are prepared to recognize this as a way of life they have to work longer periods at certain times of the year when the weather conditions are favourable. I hope the minister or the department can give the assurance that all due regard will be paid to this factor of weather and the point that was made by Mr. Ladyman.

Mr. NICHOLSON: That is right in the bill. I do not think Mr. Ladyman's attention has been drawn to it. The bill was drawn with that in mind. Would you look at clause 2(b)(ii) of the bill, at the top of page 2 "by the minister in cases of exceptional circumstances including, without limiting the generality of the foregoing, the circumstances that the work concerned has to be completed or carried on in a short working season or in a remote area", that was put in for that very reason.

The CHAIRMAN: Do you have any more questions, Mr. McCleave?

Mr. MCCLEAVE: Was the promise that your predecessor made to, I think, Mr. Knowles—I was not here at the time—made before the views of union leaders and construction leaders were given, I think, to the minister. If so, I wonder if under those circumstances he still considers himself bound by that promise which was spoken of, I suggest, without all due regard to the views of the construction industry.

Mr. NICHOLSON: Yes, because the minister did have representations long before the legislation was introduced. It is true that the brief dated March 6, 1965 was attached to the letter of May 28, 1965. That letter was written later. The representations that were contained in that brief had been made to Mr. MacEachen and the department before they were reduced to writing. So far as I can remember Mr. MacEachen in answer to a question by Mr. Knowles gave the undertaking with due regard to this situation and as I said we made doubly sure or I did that special circumstances at this time would be covered and that accounts for the wording of the section I read a few moments ago.

Mr. HAYTHORNE: I was present when this brief was first presented to Mr. MacEachen in his office last spring and it is true, Mr. Nicholson, that these groups on each side had had extensive discussion over quite some time. We had not had any formal discussions with them up until that time but Mr. MacEachen made it quite clear at the meeting that he could not depart from what he had promised in the House of Commons.

Mr. MCCLEAVE: Would the fair wage schedule be able to recognize special project agreements and conditions negotiated by organizations representing interested labour and management, for example the Welland canal twinning?

Mr. HAYTHORNE: In the past we have recognized in determining the fair wages in any area the collective bargaining rates. We do this all the time. Mr. Johnston I would like you to answer this.

Mr. JOHNSTON: The standard of wages spelled out in the act is the current rate being paid in the district for competent workmen and that is the standard that we use in preparing schedules of classes and rates to put in the contract. In many areas of Canada the key rates are the recognized collective agreement rates. As a matter of fact in British Columbia which is more highly organized I think in the respect than the other provinces would say fully one half or more of the rates we carry in our master schedule, or work sheets are collective agreement rates.

Mr. MCCLEAVE: I have a few more questions the first one to the minister. In Nova Scotia Mr. Nicholson the legislature and the government have adopted the practice of making changes in labour laws only after a direct request by both labour and management. This seems to be the approach that is being asked here by the construction people on the management and union side. I was wondering why this philosophy could not be adopted here.

Mr. NICHOLSON: Because Parliament in its wisdom has decided that unless there are unusual circumstances the maximum work week should be 40 hours in Canada and that the minimum pay should be $1.25. Now we know that was not easily acceptable in all parts of Canada; it was not received with too much favour in the Atlantic provinces—at least in some parts but nevertheless

Parliament felt these were minimum standards. It is not as if the construction industry have not had an opportunity to make their views known—and they were known and they were recognized when the Labour Standards Code passed and in the course of that I feel certain that the former minister would have been flying in the face of the wishes of Parliament if he had not been prepared to extend these minimum benefits right across the country in all industry including the construction industry.

Mr. McCLEAVE: Mr. Nicholson members of Parliament did not have the advantage of the evidence that has been presented to this Committee about the special need of the construction industry or the special problems and needs of the construction industry?

Mr. NICHOLSON: That may be one reason why we have opened the door here. I was the one who took the responsibility of suggesting in the House that it be referred to this Committee, I know I am not a member of the Committee—you make your own recommendation—but speaking for the government it certainly is our feeling that these two minimums should apply to the construction industry the same as any other industry in Canada. These are minimum standards and I might say, in discussions I have had with some of the provincial ministers they said that the construction industry would be the last one to complain about them because they all pay more than $1.25 an hour and they have been working in a framework where they have been paying overtime, over 44 and it will not be too difficult to adjust to the 40.

Mr. McCLEAVE: I suppose, Mr. Nicholson, the reason we do have this strong stand by the construction association and the association relating to the unions is that they are organized on both sides and their fear is that they will be discriminated against by non union firms and non union workers.

Mr. NICHOLSON: I question that very seriously but, on the other hand. there are dangers the other way. If you get unions and employers getting together to oppose legislation that Parliament, in its wisdom, has said, is to achieve minimum standards, then I would be inclined to be a litle suspicious when they get together in that field.

Mr. McCLEAVE: Do you think there is a danger that these very strong standards, protecting workers in industry with fringe benefits and the like, will be eroded away by contractors who do not employ union labour.

Mr. MACKASEY: Mr. Nicholson, with Mr. McCleave's permission I think that I hit on the point with Mr. Stevens, who had to admit that it has the opposite effect. On of the problems that organized labour has in many areas of Canada is non union labour—contractors who will underbid for 60c an hour. Certain people exploited by contractors are working on projects for 60 cents to 90 cents an hour, whatever they can get non union labour for, on government contracts. Now, under the provisions of this law, regardless of whether labour is union or non union, they must be paid $1.25 and they must be given overtime after 40 hours. So this works to the benefit of organized labour and I think the tendency will now be for contractors, because the difference will be so little, to go to organized labour whenever possible.

Mr. NICHOLSON: Another thing, Mr. McCleave, just replying to you, while this brief was signed by the Chairman of the Association of International

Representatives of the building trades, it has been widely advertised that this proposed legislation was coming before this Committee and I would have thought that the national labour organizations would have taken a viewpoint had they opposed it. You have not seen any representation from the CLC as a body, from the CNTU or from other organizations of that nature.

Mr. McCLEAVE: I do not know to what degree Mr. Ladyman spoke for the Canadian Labour Congress but he was certainly the top—

Mr. KNOWLES: I could comment on this. Mr. Ladyman is one of a good many vice-presidents of the Canadian Labour Congress but he is not one of the group at the top that specifically speaks for the Congress. He made it very clear and straightforwardly himself that while he is a vice-president he was speaking for the particular unions that he represents. There is no denying that he is one of quite a number of vice-presidents of the Canadian Labour Congress.

Mr. MACKASEY: In addition to what Mr. Knowles said, he represents the I.B.E.W. whose average rate on this type of thing is well over $2.00 an hour; he was more encerned with the provision of overtime than he could possibly have been with the minimum standard of $1.25. It is only of academic interest to a man whose crafts are in the $3.00 and $3.50 and in some cases $4.00 an hour bracket. In other words I do not think Mr. Ladyman here represented the CLC; he represented Mr. Ladyman.

Mr. KNOWLES: I think he went further than the I.B.E.W. I think he did have the right within the union structure to be speaking for the building trades unions, but he was not speaking—and he did not claim to be speaking—for the Canadian Labour Congress.

Mr. McCLEAVE: He is member of a trade union. Am I correct in that assumption?

Mr. HAYTHORNE: He mentioned that he spoke for three unions.

Mr. KNOWLES: If the CLC generally was critical of this, because I know the CLC, I do not think they would have hesitated to be here and say so.

Mr. McCLEAVE: My final question is to Dr. Haythorne. At the end of the last day's hearing, Dr. Haythorne, you were dealing with the summary of recommendations in this joint submission of May, 1965 and I take it that of some eight requests here none of them are being met. Is this correct?

Mr. HAYTHORNE: No, that is not quite correct, Mr. McCleave. I did not go into the other six; I dealt with two. I could briefly comment on the others if you would like me to.

Mr. McCLEAVE: If you could I think it would be helpful to the Committee.

Mr. HAYTHORNE: There was a request, you will remember, one of the eight, with respect to overtime permit procedures. In considering this request we indicated that we were not prepared to eliminate the overtime permit procedure but we were prepared to relax it, and the amendment which the Committee has before it proposes that a six day, 48 hour week, may be worked without a permit so long as the overtime rate is paid for the sixth day. Further, some of the exceptional circumstances under which the minister may issue permits, as Mr. Nicholson has already pointed out this morning, are spelled out in the new section 2(1)(ii) and this you will remember refers to the circumstance that

work concerned has to be completed or carried on in a short working season, in a remote area or where the public interest requires an expeditious completion of the work. We have actually, Mr. McCleave, introduced a little more flexibility in the permit provisions than exist now because at the moment a permit is required after 44 hours. We said for those eight hours between 40 and 48 no permit is required but it is afterwards, and we are retaining it and, in fact, making it more explicit in the bill what the circumstances for the exceptional circumstances are.

Now, you will recall it was also recommended that there be a provision of statutory limitations of 30 days on the claims. Our experience has shown that a statutory limitation of 30 days on claims would not be fair to the workman. To agree to incorporate the 30 day limit from the day of alleged violation would mean that we would be unable to adjust most of the wage deficiencies and would seriously impair, we think, the effective enforcement of fair wages on these contracts. There is no time limit presently fixed for wage claims but the practice has been to continue to deal with wage claims so long as there is money held back from the contractor available to meet such claims. On the question of an appropriate limitation on claims, we think 30 days is too short, but a more reasonable period is one that could be dealt with in the regulations, and we are certainly prepared to pursue this further.

The industry's brief suggested that there is a problem with regard to retroactivity. It is our view that any problems there have been in regard to this matter have been resolved. When a wage schedule is revised to reflect the higher rate currently being paid in the area by the construction industry, it is our practice to send the revised schedule to the contracting agency with the request that the contractor be told to apply the revised rates on the next immediate payroll. As a general practice the new rate is implemented by the contractor at the start of the pay week immediately following the receipt of the revised schedule by that contractor. It would seem that our present practice is in line with the request in the brief but we are prepared to consider further whether we might develop some regulations in this regard.

Now, with respect to the proposal that section 2(*a*) of the act be amended by replacing "character or class of work" by "type of construction work" and also the addition of definitions to cover the four main types of construction work, members of the Committee will recall Mr. Barnett's questions with respect to this and the discussion at an earlier session. I recall that this was considered at some length last Thursday. The words "character or class of work" permits recognition of any observable distinction, we feel, in the class of work in any district. We are not able to see that any purpose would be served by the change suggested. There is, however, authority to make regulations providing for classifications of employment or work, and this is one of the matters that we would be prepared to consult further certainly with both sides of the industry.

The associations have urged increased enforcements of the act pointing out that only about 20 per cent of all contracts are inspected. We appreciate the desire of both sides of the industry that contract conditions should be well enforced. It should not be necessary, in our view, to maintain an inspection staff

of a size to inspect every contract. You will recall that there are about 2,000 contracts going on at any one time across Canada. Labour conditions in the contract are available when specifications are issued and the general contractor, we feel, should assume the responsibility of seeing that these are implemented. One difficulty in the past has been that a contractor, as I have already mentioned this morning, had nothing to lose by violating the labour conditions. There has been an effective means of collecting money on behalf of the employee but there was not with regard to the contractor. It is for this reason that we have inserted a clause in the amendment requiring a contractor who is found to be in default to pay liquidated damages, and it was indicated in the hearings last week the industry has made no complaints to us with respect to this provision.

• (12.15 p.m.)

I think this, Mr. McCleave, covers the points. I would just say, in summary, that we have inserted a clause in the amendment requiring a contractor who is period under which the claims by workers under the legislation should be made and also the question of retroactivity when introducing new wage rates. On the two main points that we discussed last time, I think our position is clear.

Mr. NICHOLSON: Mr. Chairman, might I supplement what Mr. Haythorne has said. When it was suggested to me by members of three of the different parties in the House that this should be referred to this Committee it was to afford an opportunity to get the type of information that Mr. McCleave is asking for now, because we have considered every point in this brief.

Mr. MUIR (*Cape Breton North and Victoria*): I know a case where a contractor was carrying out a contract for a governmental department, the hourly rates were stipulated and for a period of two to three months the contractor got away with paying the worker 20 to 30 cents an hour less than he was supposed to have paid; then at a later date the worker dared to contact his Member of Parliament and it was brought to the attention of the department concerned. The point I am trying to make is that in this instance it was quickly remedied and there was good satisfaction from the department concerned. Following this should the contractor then feel that the services of the worker or workers are no longer required, what protection does the worker or workers have under the regulations with the Department of Labour? What redress does he have in event that he is released from his employment? I have found through experience that there are contractors in the country who are quite willing to get workers to work for them at the lowest possible wage. Can someone tell me what protection there is for the worker?

Mr. HAYTHORNE: The regulations, I do not think, provide any specific protection in this regard. Mr. Johnstone might like to add to what I have said.

Mr. JOHNSTON: The fair wages legislation has never attempted to regulate employee-employer relationships, including separation. If the employee makes a complaint and wishes his name withheld we make a routine inspection to cover all employees and make all necessary adjustments without disclosing the name of the complainant. Many times a contractor demands to be told who complained about him, but we do not give that information if there is any risk to

the employee or if he specifically asks his name be withheld. The legislation does not go as far as protecting against separation.

Mr. HAYTHORNE: Mr. Chairman, there are two minor additions here. Of course, if there is a collective agreement there are, of course, grievance procedures here. This is one advantage, as you know, Mr. Muir, of the union; it gives protection.

Mr. MUIR: I realize that.

Mr. HAYTHORNE: Secondly in our experience in a good many cases the complaint might be made by the worker after he has left the employment.

Mr. BARNETT: Mr. Chairman, arising out of the information we have been getting in answer to Mr. McCleave's questions, there is one aspect of this matter that has been dealt with in the brief concerning retroactivity and the amending of fair wage schedules, that I am still not quite clear on; that is, what happens where a contractor has taken a contract to do a certain job of work for the federal government at a certain price and there is an upward revision of the fair wage schedule during the course of that contract being carried out. Is there any provision for compensating in accordance with the upward revision in the total remuneration he receives or just how does this work in relation to a contract that has actually begun under a certain set of fair wage schedules? And does it happen that sometimes there is a revision while he is in process of performing that work which would materially affect his position in respect of the original bid.

Mr. JOHNSTON: Most of the departments and agencies—and we prepare these schedules for all government departments and for many government agencies—have somewhere in their specifications the requirement that the contractor's firm bid is a firm bid for the duration of the job, and if he encounters any increases in wage rates or other costs, that is his responsibility. That is not covered in our fair wages schedule but the schedule is based upon the current rates being paid in the district at the time of the letting of the contract. The minister has authority to issue revised schedules from time to time, and if the level of rates go up most contractors will observe the higher level without a revised schedule. But if it is necessary to issue a schedule revision it is sent to the contracting department which sends it to the contractor to apply it on the next immediate payroll. The contractor may say he needs an addition to the contract price to take care of it. That is a matter that has to be settled between the contractor and the department or agency that lets the contract; most departments hold the line at the bid price and say that is the risk the contractor ran when he bid on the job. And, during the currency of the contract which might run for three years it is up to him to anticipate any increase he might encounter in wage costs and to take that into consideration in preparing his bid. But most government contracts are for much shorter periods. A government contract will last from a few days to a few months. Not many of them run over a year. The average life might be six or seven months. So, they are able to anticipate more clearly wage costs that might rise above the level at the time of bidding. But it is a responsibility to be settled between the contractor and the department or agency that let the contract. It is not the responsibility of the Department of Labour.

Mr. BARNETT: Could I ask one further question just to clarify this point in my mind. If a revision of the fair wages schedule takes place, would this be as a

result of new rates which have been negotiated in collective agreements between employers and employees or unions in the area in all cases or would there be cases where the department might revise the schedules under other circumstances than a general rise in relation to union wage schedules? I think this might be taken as an example somewhat out of the ordinary.

Mr. JOHNSTON: Sometimes part of the construction industry negotiates with its unions for higher rates of pay; and sometimes by the very contractor who has the contract. In other cases we might receive complaints that our rates are out of line and make a survey in an area that is relatively unorganized and come up with wage information that indicates that our rates and our schedules are falling behind. In that case we would issue a revised schedule of rates.

Mr. REID: I am just concerned about the applicability of this act. Does it extend to those areas where, say, the government contracts for a service.

Mr. HAYTHORNE: No. It covers the construction industry only.

Mr. REID: Do you have any other act that would apply to such area?

Mr. HAYTHORNE: The policy order which Mr. Johnston mentioned earlier, is applied to some of them.

Mr. RICARD: To supplement Mr. Muir's question, Mr. Johnston, you said that there was no provision in the law to enforce this. Do you not think we should put some teeth in it?

Mr. HAYTHORNE: At the present time all we can do is collect the money and pay it to the employee. The contractor who has underpaid his men and who is not apprehended, is that much farther ahead.

Mr. MCCLEAVE: In relation to the future procedure involved in this bill, would it immediately come before the House of Commons or would it have to wait until the transcript of evidence is available?

Mr. MACKASEY: Is there a rush or a deadline we have to meet.

Mr. NICHOLSON: We hope to have this legislation in force in 1966.

Mr. MCCLEAVE: Mr. Chairman, how soon do you anticipate that the printed report will be available?

The CHAIRMAN: I am afraid I cannot answer you, Mr. McCleave. I am told by the clerk that maybe in a week and a half or two weeks it will be available. We cannot give you any set time, Mr. McCleave.

Mr. MCCLEAVE: Could I ask the minister if he would be agreeable to bring the bill up, say, some time in the middle of June by which time we could anticipate the evidence being ready.

Mr. NICHOLSON: I am really in the hands of the Committee. I would have liked to have seen the legislation passed six months ago. I do not like to give a commitment of that kind.

Mr. MACKASEY: Excuse me, Mr. Nicholson, but there is a question also of the House leaders trying to get legislation through. This is badly overdue and every day we delay we are denying somebody in some part of Canada overtime after 40 hours, and they will still be getting it only after 44 hours.

Mr. NICHOLSON: What disturbs me is the fact that people are not getting what, in principle, Parliament and the government feel they should be getting. Even two weeks delay is wrong, in my opinion.

Mr. GRAY: Also, Mr. Chairman, I can understand your concern, sir but I think we should remember as a committee of Parliament we are creatures of the House of Commons. I do not think we are in a position to tell the House of Commons in what order it should deal with the business which may come before it, after or before study by this Committee.

Mr. KNOWLES: The minister has to get this bill out of the way so he can meet the commitment he gave me yesterday to get a safety code in.

Clause 1 agreed to.

Mr. NICHOLSON: I think you will be glad to know that the safety code is now before the Senate.

Clauses 2 and 3 agreed to.

Mr. BARNETT: Mr. Chairman, there is just one minor question on clause 4. I made a note at the time; it has to do with the lettering of the subsection. I have almost forgotten the point now but it seemed to me that as the proposal was to amend the original act we are going to be left with a gap in the alphabetical sequence. I thought perhaps while we were amending this we should renumber the following subsections so that it would continue to read, "(*i*), (*j*), (*k*)".

Mr. NICHOLSON: We are only putting in a reworded subsection (*b*) and we are adding a (*j*).

Mr. KNOWLES: You are taking out (*i*) and (*j*) and putting in an (*i*). There will be no (*j*).

Mr. NICHOLSON: There will be a (*j*) because there is an "and" after (*i*); (*j*) will follow and it is the one under which penalties will be imposed.

Mr. BARNETT: (*i*) and (*j*).

Miss E. LORENTSON (*Director of Legislation Branch*): Mr. Chairman, I discussed this with the drafting officers of the Department of Justice. We were aware that we were leaving "j" empty, as it were, and they suggested that for purposes of simplicity it was better to leave this for the statute revision committee to clear up when the statutes are revised rather than trouble Parliament with it at this time.

Mr. BARNETT: I was not seriously worried about it but I thought I should mention it.

Clauses 4 to 6, inclusive, agreed to.

Title agreed to.

The CHAIRMAN: Shall the bill carry?

Some hon. MEMBERS: Carried.

The CHAIRMAN: Shall I report the bill without amendment?

Some hon. MEMBERS: Agreed.

The CHAIRMAN: Well, gentlemen, there being no other business before this Committee we will adjourn. Before doing so I want to thank the minister and the officers of the department for their valuable contribution; also my thanks on behalf of the Committee to the various representatives of the Canadian Construction Association, the building and construction trades. I want to thank you, gentlemen, for your attendance at this Committee and, on your behalf, to thank the clerk and all the employees who helped us.

HOUSE OF COMMONS

First Session—Twenty-seventh Parliament

1966

STANDING COMMITTEE

ON

LABOUR AND EMPLOYMENT

Chairman: Mr. GEORGES LACHANCE

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 5

THURSDAY, NOVEMBER 24, 1966

Respecting

BILL S-35

An Act respecting the prevention of employment injury in federal works, undertakings and businesses.

WITNESSES:

From the Department of Labour: Mr. George E. Haythorne, Deputy Minister; Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

24311—1

STANDING COMMITTEE

ON

LABOUR AND EMPLOYMENT

Chairman: Mr. Georges-C. Lachance

Vice-Chairman: Mr. Hugh Faulkner

and

Mr. Barnett,
Mr. Clermont,
Mr. Duquet,
Mr. Émard,
Mr. Fulton,
Mr. Gray,
Mr. Guay,
Mr. Hymmen,
Mr. Johnston,
Mr. Knowles,
Mr. MacInnis (*Cape Breton South*),
Mr. Mackasey,
Mr. McCleave,
Mr. McKinley,
Mr. McNulty,
Mr. Muir (*Cape Breton North and Victoria*),
Mr. Racine,
Mr. Régimbal,
Mr. Reid,
Mr. Ricard,
Mr. Skoreyko,
Mr. Tardif—24.

Michael B. Kirby,
Clerk of the Committee.

ORDERS OF REFERENCE

FRIDAY, October 21, 1966.

Ordered,—That Bill S-35, An Act respecting the prevention of employment injury in federal works, undertakings and businesses, be referred to the Standing Committee on Labour and Employment.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House of Commons.

24311—1½

REPORT TO THE HOUSE

THURSDAY, May 26, 1966.

The Standing Committee on Labour and Employment has the honour to present its

FIRST REPORT

Your Committee has considered Bill C-2, an Act to amend the Fair Wages and Hours of Labour Act, and has agreed to report it without amendment.

A copy of the Minutes of Proceedings and Evidence relating to this Bill (issues Nos. 1 and 2), is appended.

Respectfully submitted,

GEORGES LACHANCE,
Chairman.

MINUTES OF PROCEEDINGS

THURSDAY, November 24, 1966.
(6)

The Standing Committee on Labour and Employment met this day at 9.50 a.m. The Chairman, Mr. Lachance, presided.

Members present: Messrs. Barnett, Clermont, Émard, Faulkner, Gray, Guay, Hymmen, Johnston, Knowles, Lachance, Mackasey, McCleave, McKinley, Ricard, (14).

In attendance: From the Department of Labour: Mr. George E. Haythorne, Deputy Minister; Mr. Jean-Pierre Després, Assistant Deputy Minister: Mr. W. B. Davis, Departmental Solicitor; Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch.

The Chairman read, in French and English, the Orders of Reference, after which Bill S-35 was declared to be officially before the Committee.

Mr. Chairman then read the Second Report of the Subcommittee on Agenda and Procedure as follows:

THURSDAY, November 24, 1966.

Your Subcommittee recommends:

1. That the Honourable J. R. Nicholson, Minister of Labour, with such officials from his department as he deems necessary, be invited to appear this day to make an introductory statement on Bill S-35.

2. That witnesses submitting briefs, be requested to supply the Clerk with 45 copies in English and 20 copies in French, at least two days prior to their date of appearance."

On motion of Mr. Clermont, seconded by Mr. McKinley,

Agreed,—That the Second Report of the Subcommittee on Agenda and Procedure be adopted as read.

Mr. Chairman gave the names of the various organizations contacted and listed those who had replied that they wished to make a submission.

Agreed,—That the C.L.C. and the C.N.T.U. appear before the Committee December 6, 1966.

Mr. Chairman inquired if the Committee wished to do anything about the size of the quorum and the hours the Committee might sit, and after discussion it was *agreed* that no attempt be made to change either at this time.

Mr. Chairman explained that because of a misunderstanding the Honourable Mr. Nicholson, Minister of Labour could not be present. The Chairman, after introducing the officials, called on Mr. Haythorne to make a statement.

Mr. Clermont raised a question of privilege during Mr. Haythorne's statement that there was no English to French interpretation. After some discussion and an explanation by the interpreter, the Chairman asked if the Committee wished to instruct the Clerk to write a letter of complaint to the officials concerned. After some minutes, an English to French interpreter arrived and it was *agreed* that no action be taken.

Mr. Haythorne concluded his statement and was questioned.

The Committee then stood the Preamble and clause I of Bill S-35. On clause 2, the Chairman asked Mr. Currie to give a clause by clause explanation of the Bill.

A set of Explanatory Notes, prepared by Mr. Currie as a memorandum "to himself" was tabled, and it was *agreed* that it be appended to the Minutes of Proceedings and Evidence of this day. (*See Appendix 6*)

Later it was *agreed* that Mr. Currie reappear on Tuesday, November 29, 1966, to conclude his testimony and that the Canadian Railway Labour Executives Association also appear at that time.

At 11 o'clock a.m. the questioning of the witnesses continuing, the Chairman adjourned the Committee to 9.30 o'clock a.m., Tuesday, November 29, 1966.

Michael B. Kirby,
Clerk of the Committee.

EVIDENCE

(*Recorded by Electronic Apparatus*)

THURSDAY, November 24, 1966.

9.48 a.m.

The CHAIRMAN: Gentlemen, we now have a quorum. We are sitting today by authority of an order of the house which is as follows:

(*see Order of Reference this issue*)

Gentlemen, now that we have this bill before the Committee, with your permission I will read you the report of the subcommittee on agenda and procedure which held a meeting on Thursday, November 24, 1966. This is the second report of the subcommittee and it reads as follows.

(*See Minutes of Proceedings*)

May I have a motion for the adoption of this report.

Mr. CLERMONT: I so move.

Mr. MCKINLEY: I second the motion.

Motion agreed to.

The CHAIRMAN: May I introduce the new Clerk of this Committee, Mr. Michael Kirby, who replaced Mr. Tim Ray since the last sitting of this Committee. Gentlemen, I will give you a list of the associations that we have contacted.

We have sent letters to the Canadian Marine National Employees Association, the Canadian Merchant Service Guild; the S.I.U. in Montreal; the Canadian Brotherhood of Railway, Transport and General Workers; the Canadian Air Lines Flight Attendants Association in Vancouver; The Automotive Transport Association; The C.L.C.; the C.N.T.U.; The Canadian Trucking Association; The Canadian Railway Labour Executives Association; The Canadian Shipowners' Association; The Bell Telephone Company; Lakehead Terminal Elevators Association; North-West Line Elevators' Association; The Ontario Grain & Feed Dealers Association; The C.P.R. and C.N.R. Most of them have answered either verbally, or by letter that they did not wish to submit a brief. Some of them have said that since the C.L.C. will present a brief they will be satisfied with that. We have had an affirmative answer from the C.L.C. and they said they would be ready to present a brief on December 6. They had several commitments; at first they said that they would not be able to appear before this Committee until December 19. We discussed this with Mr. Morris, and since Mr. Morris wished to appear personally he said that if it is the wish of the Committee the C.L.C. will appear on December 6.

The C.N.T.U. have also said that they would appear before the Committee on December 6. The Canadian Railway Labour Executives Association have forwarded a brief. Mr. Gibbons who represents this association is with us today and if we have time, and if it is the wish of the Committee, he will present the brief today or at the next sitting of this Committee.

I am told by the Clerk of the Committee that the Canadian Trucking Association Inc. has also answered expressing an interest but as of today, they are not sure whether they will present a brief or not. As I have said, we have had an answer either verbally or by letter from each and every one of these associations.

Mr. KNOWLES: It adds up to three groups for sure and one possible.

The CHAIRMAN: Does the Committee wish to entertain a motion to sit on December 6 to hear the C.L.C. and perhaps the C.N.T.U?

Mr. CLERMONT: I so move.

Mr. FAULKNER: I second the motion.

Motion agreed to.

The CHAIRMAN: At this time do you think it would be proper to entertain a motion for reducing the quorum? It is up to the Committee to decide that; the quorum is still 13 and it has never been reduced.

Mr. MACKASEY: Mr. Chairman, we should not need too many meetings to get through this bill. It has already been through the Senate.

The CHAIRMAN: We will probably need three meetings.

Mr. MACKASEY: To avoid another long, lengthy debate in the house about quorums I think we should try to meet the 13. Perhaps if we could schedule our meetings at a more opportune time, when there are not six others, which is no reflection on you, we might have a better chance of getting a quorum.

Mr. KNOWLES: I think that is the counsel of wisdom.

The CHAIRMAN: Does the same thing apply to sitting while the house is sitting?

Mr. BARNETT: Mr. Chairman, as you recall, when this matter was being discussed in the steering committee, I expressed the view that if possible we should try to avoid that particularly in view of the number of other committees that are meeting. If we found ourselves in the position where witnesses had come from distant points in Canada to appear before the Committee we might perhaps then try to make an arrangement, if it were necessary, to complete their presentation, requesting the Committee to sit in the evening or at times when it is necessary. But otherwise I felt that it would be better for us not to request at this time to sit while the house is sitting.

The CHAIRMAN: I call Bill No. S-35. May I introduce to you Mr. George V. Haythorne, Deputy Minister, Department of Labour; Mr. Jean-Pierre Després, Assistant Deputy Minister, Department of Labour; Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch, Department of Labour and Mr. W. B. Davis, Departmental Solicitor, Department of Labour.

The Minister of Labour, the Hon. J. R. Nicholson had agreed to present a brief. Due to a misunderstanding—and a misunderstanding is very easy—I told him yesterday that the C.L.C. brief was to be presented on December 6, and he understood that the meeting this morning was postponed or would be postponed until December 6, so he made some other commitments. He asked Mr. Haythorne to be present today. I am told that if we need Mr. Nicholson for any explanation he could be called next week. The Minister will be available on November 29 if it is the Committee's wish.

Mr. GEORGE V. HAYTHORNE (*Deputy Minister, Department of Labour*): Mr. Chairman, and members of the Committee, as the Chairman has said, Mr. Nicholson was unable to be here this morning. He asked me to express his regrets and to make a short statement on his behalf. You have already been introduced to the other officials who are with me here this morning. We will be very glad to assist the Committee in any way we can in the consideration of this bill. I am also pleased that Mr. Mackasey, the Parliamentary Secretary to the Minister of Labour, is able to be with us this morning, too.

Last year when the Canada Labour (Standards) Code Act was enacted the government indicated, as I am sure you will all recall, its intentions to put forward a companion measure designed to promote the safety and well-being of persons during the course of their employment in federal works, undertakings and businesses. The general purpose of the proposed legislation is to require all industries under federal jurisdiction to observe minimum occupational safety standards and to vest in the Department of Labour responsibility for the development of safety standards and for the regulation and inspection of work places as may be necessary for the safety and health of the employee.

There is, at the present time, no federal legislation of general application directed towards the prevention of employment accidents and the elimination of hazards in work places coming under federal jurisdiction. There are some industries under federal control, for example, the railways, shipping and air transport, in which occupational safety—the safety of the public, and in some instances, the safety of employees—is covered under statutes which apply broadly to these industries.

In the absence of federal controls, some provincial safety regulations have been applied. At least an attempt has been made to apply these on occasions to federal establishments with varying success and more than a little difficulty. Studies have disclosed that there are substantial groups of employees and in numerous work places in federal industries to which no government authorities are applying safety and health standards. This constitutes, in our view, a serious gap and a federal act, we feel, would clarify this far from satisfactory situation and would enable clearcut provision to be made for all situations.

A number of departments and agencies, notably the Department of Transport, the Department of National Health and Welfare and the National Energy Board, are administering several acts under which the operation of certain industries is controlled and regulated and safety aspects may be included. There is nothing in this bill, S-35, which will limit or interfere with their responsibilities. The application of this measure will be subject to any other act of parliament, so it really would be complementary to other statutes and would deal with those safety matters for which other federal departments have not already assumed a responsibility.

Because of the close relationship to other federal and provincial provisions as regards safety, and to ensure the effective collaboration of all those concerned in these matters, it is intended that there would be continuous consultation and exchange of ideas and experiences among the various authorities. I would like to emphasize here, too, that it certainly would be our intention to have close consultations at all times with both management and unions or management and employees with respect to the development and the enforcement of the standards.

The proposed safety legislation would have application to the operation of works, undertakings and businesses that are within the legislative authority of parliament. More specifically, the range of industries within the scope of the proposals would be the same as those to which the Canada Labour (Standards) Code Act and a number of other acts administered by the Department of Labour apply. Legislation would also apply to many federal crown corporations that are engaged in production, training or service operations of a commercial or an industrial nature: for example, Air Canada; Canadian Broadcasting Corporation; Eldorado Mining & Refining Ltd.; the National Harbours Board; the Polymer Corporation Limited and the St. Lawrence Seaway Authority.

Provision is included to make it possible for the Department of Labour to enter into agreements with provincial authorities whereby their safety services could be utilized in performing much of the field work under the act. There are, we feel, obvious advantages in having, as far as practicable, what would in effect be a single inspection service dealing with a particular matter, let us say, for example, boilers and pressure vessels or elevators in an area and which would be applying the same or essentially the same standards to both federal and provincial enterprises.

In other words, what we are striving for here, and we have had a number of discussions already with the provinces with respect to this, is a greater degree of uniformity in applying safety standards across Canada. When one considers the variety and extent of provincial standards and services which are available today, and are now being applied on a voluntary basis in some federal areas, or are capable of being so applied, the possibilities for more effective and more co-ordinated control are real and substantial.

A number of the provinces have urged the enactment of federal safety legislation as have also representatives of organized labour. The absence of this kind of legislation has given rise to many problems including the extent to which federal enterprises submit to provincial regulation and the right of provincial safety officers to carry out inspections in industries under federal jurisdiction.

It has been demonstrated in this and other countries that the object of the legislation, the control and reduction of accidents at work, can be more effectively carried out by concerted action according to accepted standards of adequate inspection and advisory services. While the immediate problem is the regulation of work places in accordance with the best standards now available or to be developed as quickly as possible, there is the longer range objective which should be kept in mind and that is, as I have indicated, the development of consistent standards across the country at the highest level attainable.

We have confidence that we can, through this legislation, with the continuing co-operation of the provinces, the accident prevention associations as well as

the employers and employees, establish a safer environment in which Canadians work. It will reduce human suffering and the loss of manpower resources. It will also have an effect on the high dollar cost of occupational accidents.

The cornerstone of this program is well developed legislation.

(*Translation*)

Mr. CLERMONT: A question of privilege, Mr. Chairman, there is no interpretation; the interpreter cannot be heard.

(*At this point a discussion on the interpretation took place. See the Minutes of Proceedings.*)

The CHAIRMAN: Shall we proceed with Mr. Haythorne now that the matter is settled?

Mr. HAYTHORNE: Mr. Chairman, I was nearly finished but I can perhaps repeat a little of what I was saying. We have confidence that we can through this legislation with the continuing co-operation of the provinces, and as I already have said, we have had excellent discussions with the provinces on this question of safety legislation, so we have assurance that we will be able to develop a good working relationship with them. With this continuing co-operation of the provinces and of the accident prevention associations, as well as of the employers and employees, we have confidence that we can establish a safer environment in which our Canadian people work. It will reduce human suffering and the loss of manpower resources. It will also have an effect on the high dollar cost of occupational accidents.

The cornerstone, we feel, of this program is well developed legislation. Based on this, we can proceed with the enforcement of the legislation in line with the standards that are drawn up and also with research and with education. As I also said earlier, we feel that consultation is a very important aspect of the work in this, as in other fields in the field of labour. We would want to maintain very close consultation at all levels with employers and with unions.

Mr. Chairman, if there are any general questions that members of the Committee might have with respect to the legislation we would be pleased to know of them. If, on the other hand, the Committee would like to proceed with an outline in somewhat more detail of the contents of the bill, clause by clause, Mr. Currie, the director of our accident prevention and compensation branch, will be glad to go over the bill clause by clause for the members of the Committee.

The CHAIRMAN: Do the Committee members have any further questions to ask of Mr. Haythorne before we proceed with Mr. Currie?

Mr. BARNETT: Mr. Chairman, it does seem to me that when we are in the area of dealing with the general explanation, or getting the beginning of the total picture in this field, it might be useful if we had some specific explanations of the relationship between the application of this bill in the provincial field and to other federal acts, how it fits into the picture of the operation of the various workmen's compensation legislation, both federal and provincial. I think we all recognize that the workmen's compensation boards in the provinces are concerned with the field of safety and with the general reduction of accidents, in the matter of economy of expenditure, if for no other reasons, in as much as

administration of inspection does lie in this field. I notice there is a clause at the end of the bill which suggests that we are going to have in our revised statutes a certain list of federal legislation which will be associated, but no reference is made there to existing federal compensation legislation.

If I might, just by way of illustration, mention a case in point on the Pacific Coast which by coincidence happened to develop just about the time I knew we were going to begin the Committee meetings in this field. I had brought to my attention the fact that as a result of a mechanical failure, or equipment failure, on the large log loading barges which are classified as vessels under our shipping legislation they had to be withdrawn from service or were withdrawn from service following a fatal accident when, according to information given to me, the deck plates to which the cranes were anchored pulled loose and toppled the crane with the operator into the sea and he was drowned. A suggestion was made to me that, and I am not sure whether this is the true picture or not, the Workmen's Compensation Board of British Columbia had indicated that they might not be prepared to honour any further claims unless and until this situation had been corrected. The latest information I have is that this is in the process of being corrected through design changes and repairs to the log barges. It does, I think, illustrate the point I am trying to make that there is a direct relationship between the question of workmen's compensation and its operation to this bill. I wonder if we could have this put into the picture at this point in our proceedings.

Mr. HAYTHORNE: Mr. Chairman, I would be happy to make a few observations and Mr. Currie might like to add something to what I say. First of all, as I am sure you are aware, Mr. Barnett, there is a difference in the administration of safety inspection work in the provinces across Canada. In some cases, notably in British Columbia, and a few others, most of the responsibility for the inspection is carried out under the Workmen's Compensation Board. In other cases it is done largely under provincial departments of labour. In some cases it is combined but, in all cases, there is an effort to maintain a close contact between the administration of workmen's compensation on the one side and the development of adequate safety standards on the other. In our case, we are planning to combine the administration of our Government Employees Compensation Act, which is our federal act, as you know, and the administration of this legislation in the same branch. We have changed the name of the branch within the last year or two to Accident Prevention and Compensation. It used to be called the Government Employees' Compensation Branch. There is no doubt that it is desirable to maintain that kind of close connection because, as you point out in your example, if you do not have people who are aware of the necessity and need for a close watch on these matters, and the compensation people are equally knowledgeable about these things, you can have the administrations going off in different directions. This is what we want to avoid.

The CHAIRMAN: May I draw the attention to the members of the Committee that Mr. Currie who is the Director of the Accident Prevention and Compensation Branch will go through the bill and give a clause by clause explanation of it. He was good enough to have copies made of these explanatory notes which will be distributed to all the members. Would you like to have Mr. Currie give a clause by clause explanation of the bill unless you have other questions to ask of Mr. Haythorne.

Mr. BARNETT: No mention was made in Mr. Haythorne's statement or in the suggested consolidation of legislation of the workmen's compensation legislation. I felt that this was, in a sense, a general question that perhaps can be further clarified when we get into the clauses of the bill.

Mr. J. H. CURRIE (*Director, Accident Prevention and Compensation Branch, Department of Labour*): We deal with it under Clause 6, Mr. Chairman.

Mr. KNOWLES: There is one question I would like to ask, and the reason I would like to ask it is that like four or five other members of this Committee I expect a summons any time to another Committee. Because the act provides coverage and also because it does name an exception or two, I would like to ask two questions.

The CHAIRMAN: Of Dr. Haythorne?

Mr. KNOWLES: Yes. The first one is: Does the legislation apply to railway shops, both C.P.R. and C.N.R. and air line hangars and shops? The second question is: Does it fail to apply to the operation of ships, trains or aircraft, and if so, why?

Mr. HAYTHORNE: The answer to the first question, Mr. Knowles, is yes, it does apply to the shops in each case.

Mr. KNOWLES: There is no qualification or modification of that at all.

Mr. HAYTHORNE: No. The answer to the second question is that, and this will become clear, I think, in Mr. Currie's explanation, it can apply to the operation of trains or ships or aircraft as you will notice in Clause 3(3). But in this case, it is to the non-operational aspects of these activities, but it could also apply to the operational aspects by order in council. Mr. Knowles, we feel we have protected both the existing legislation, where the existing legislation is satisfactory, if you like, with respect to safety and with regard to the operation of the trains, ships or aircraft, but we have also taken the precaution that if at any time additional steps are needed with respect to safety, even with respect to the operation of these transportation instruments, action can be taken through order in council.

Mr. KNOWLES: What guarantee is there that there will be no gap. You said there was no qualification about shops; all shops are covered.

Mr. HAYTHORNE: The guarantee that there will be no gap is that we are providing, where there is good evidence that the gap should in fact be closed, under this legislation which has not been closed under some other legislation, steps can be taken to do it under this legislation.

Mr. KNOWLES: My concern is that in the one case it is mandatory and in the other case it is permissive.

Mr. HAYTHORNE: This is correct.

Mr. MCCLEAVE: Mr. Chairman, I would like to ask two brief questions. Would it cover, for example, work being done on a naval war ship in refit? Does this act cover it? Presumably, a naval war ship is for the advantage of two or more provinces.

Mr. HAYTHORNE: Mr. McCleave, this is a matter really of the auspices under which this activity is being carried out. If it were done by the Department of

National Defence as a direct departmental activity, then it would be covered through the Department of National Defence. Perhaps I should explain that the coverage of the bill, as it stands, just like our Canada Labour (Standards) Code Act, applies to the industries under federal jurisdiction. It does not apply directly to federal employees, but it would be the policy of the government, and I am sure Mr. Nicholson will have more to say about this later, that the same principles apply as far as federal employees are concerned, or people working for the federal government. If, on the other hand, Mr. McCleave this was a job that was being done under a federal contract, for instance, a construction contract, there is some question here.

Mr. McCLEAVE: I wonder if that could be cleared up because Mr. Douglas and I have both received a fair amount of correspondence involving a young man who lost his life while carrying out refit work on a war ship at Halifax Shipyards last year. I can see that when it is carried out at dockyards this would be under the federal establishment but Halifax Shipyards are not. It seems to me the issue has been batted back and forth as to whether anybody had responsibility for the sure and safe conditions aboard that ship at that time. I hope, sir, that that could be dealt with at another time. The other question is: Why does this bill apply only to radio broadcasting stations and no reference is made to television stations at all.

Mr. CURRIE: Mr. Chairman, by definition under the Radio Act these words cover any type of broadcasting, which includes television. We are relying upon the established phrases which are used in other statutes.

Mr. HAYTHORNE: May I ask Mr. McCleave a question? I do not think we have learned of this case that you speak of.

Mr. McCLEAVE: Mr. Haythorne, I will be glad to send you the report of the magisterial inquiry and all of the information I have in my possession.

Mr. HAYTHORNE: Would you mind? I would be pleased if you would, sir.

Mr. HYMMEN: Mr. Chairman, I have a general question similar to the one Mr. Barnett introduced. While I can appreciate the desirability of the legislation, in order to provide an umbrella, but one thing that is concerning me is this: Does this bill take precedence over other legislation? I am considering now a conflict of interest, duplication of effort and double expense. What is the position of this bill regarding other legislation where there is no gap and where provision is provided?

Mr. HAYTHORNE: Do you have any particular area in mind, because it is difficult to answer that.

Mr. HYMMEN: It is a very general question.

Mr. HAYTHORNE: I appreciate that.

Mr. HYMMEN: It may be answered in the clause by clause consideration of the bill; I do not know.

Mr. HAYTHORNE: We cannot give a blanket answer to it, I am afraid, because as I said in my opening statement, some forms of legislation—broad legislation, for example the Shipping Act, include now some provisions on safety matters. In order not to conflict any more than one can help here, we have attempted to

protect sensible safety provisions where they exist. We have not brushed everything aside and said: "We are starting *de novo* and this is going to cover everything regardless." We thought it was perhaps a better approach to accept, where there were sensible and sound standards which had been developed and where these were working well, to recognize them. As I explained earlier in my comments on Mr. Knowles' question, we felt that putting in 3(3), which Mr. Currie will explain more fully when we get to that point, we are giving this legislation the opportunity, or we are taking the opportunity under this legislation to take steps to correct any existing measures that are inadequate or to fill in gaps by an order in council regardless of the existing legislation.

The CHAIRMAN: Are you ready for the clause by clause explanation of the bill now? I wish to stand the preamble and Clause 1 of the bill. I will ask Mr. Currie to give a clause by clause explanation beginning with Clause 2.

On clause 2—*Definitions.*

Mr. CURRIE: Thank you very much, Mr. Chairman. Gentlemen, I perhaps ought to preface my comments by saying these explanatory notes were originally prepared in the form of a memo from me to myself, so that they may not be quite as finished as I would have wished them to be had I known they were coming before you today. However, I do think they may facilitate our discussion. I have attempted to elaborate where I thought necessary. I am sure the intent and implications of most of these clauses will be self-evident. With that qualification I shall proceed. I am sorry that we do not have it available in French.

Mr. CLERMONT: Mr. Chairman, will these be made available later on in French for the French speaking members. Could they be ready before the next meeting on December 6.

Mr. CURRIE: I am sure they could be, Mr. Clermont.

Mr. CLERMONT: It would be appreciated.

Mr. KNOWLES: If you read this into the record the record will be translated.

The CHAIRMAN: Yes, but it will not be translated before December 6.

Mr. KNOWLES: Touché.

Mr. CURRIE: Mr. Chairman, we will do the best we can. I am sure we can do it.

Perhaps we can go on to Clause 2. Would it be satisfactory to the Committee, Mr. Chairman, if I deal with this item by item rather quickly although pausing now and then for any interjections. It would perhaps be more valuable if we went through the whole thing so we could get it as a piece but I would be very happy to deal with any interjections that arise.

Under Clause 2(a) we used the term "employment injury" very advisedly. It is not found quite as extensively in other legislation of this kind but we wanted to be very sure that it would cover any conceivable situation that might produce harm to an employee. We cover industrial accidents, occupational diseases and hazards of any kind which might be harmful to the employee.

The other definitions there are to be found in other federal statutes and I thought it useful to note, as the deputy minister has already pointed out, the

legislation *per se*, does not apply to Her Majesty in right of Canada, although it is intended that the principles embodied in it, and the standards that will be developed under it, will be fully applied to employment under the public service of Canada.

2(e)—"Safety officer". "Safety officer" is not as common a word as you find in other legislation of this kind but we felt it too denoted a wider appreciation of the role of these individuals. It is not just a matter of being an industrial policeman, although there is certainly a great deal of enforcement to this legislation. We want our safety officers to be advisers and consultants and technically qualified people. We do not want them to just play the role of an enforcer. We feel this broader concept is very important particularly having regard to the kind of industries to which this legislation will be applied.

The CHAIRMAN: If any member wishes to ask questions just raise your hand.

Mr. KNOWLES: Occupational disease in 2(a); I wonder if Mr. Currie would comment further on that. Is it because of a disease which has built up because of working for a long time under certain conditions or is it some immediate damage to health? Does an accident have to be something physical such as the loss of a member or can it be pneumonia because you work in a draft.

Mr. CURRIE: Or silicosis. It can be any form of pneumonoconiosis or any other type of disease or disability the onset of which occurs as the result of exposure over a long period of time. This certainly would be covered. In fact, this type of gradual disablement, if you like, a gradual injury rather than—originally under the workmen's compensation legislation there had to be a specific happening, an accident as such, an isolated event, which produced some injury. The workmen's compensation authorities in all jurisdictions in Canada now recognize that this may happen over a period of long years of exposure. Workmen's compensation authorities recognize these as employment injuries and we would regard any working condition or environmental factor, whether it was air or ventilation or lighting or something else which might result in some deterioration in the worker's general health as being within this category of an occupational disease. We do not limit it to defined or scheduled diseases which you will find, for example, under the workmen's compensation act. It is very wide indeed.

(*Translation*)

Mr. ÉMARD: Mr. Chairman, in Workmen's Compensation legislation occupational diseases are specified. In many cases it would appear to me that the Act does not recognize certain conditions as such, whereas we would feel that these are, in fact, occupational diseases. I think there should be a more liberal interpretation of that definition.

(*English*)

The CHAIRMAN: Did you ask a question, Mr. Émard?

Mr. CURRIE: I think the member wished a wider interpretation of this phrase. I do not know how we can have any wider phrase. We are not in any way restricted to whatever interpretation is given to the phrase "industrial disease" by any workmen's compensation board. Even there, whereas I appreciate your

comment that there are scheduled diseases, but these are not the only diseases the workmen's compensation authorities may recognize and award compensation. It is competent for the board or the Lieutenant Governor in Council or by some other means to recognize these. As a matter of fact, the Government Employees Compensation Act has wording to the effect that any disease that is peculiar to, or characteristic of the trade or occupation of the worker may be regarded as an occupational disease. Since we do not define it we do not limit it in any way whatsoever. All that has to be demonstrated is that the kinds of conditions against which this bill will be set would be something which might produce some occupational disease. With respect, I do not know how it could be any wider.

Mr. GRAY: I just wanted to ask Mr. Currie if his explanatory notes indicate that this expression has now been accepted by the International Labour Organization. I presume then that this term has been found acceptable and possibly tested in usage by various other jurisdictions.

Mr. CURRIE: This is correct. This is the wording which is now found in the most recent ILO convention on workmen's compensation principles and standards.

Mr. RICARD: Mr. Chairman, in the case of a disagreement over the recognition of occupational disease who has to make the proof? Is it the person making the claim or is there some procedure so that the injured person may have recourse?

Mr. CURRIE: Mr. Chairman, I think we may be straying a little far from the subject of the legislation. However, I think it is a good question. There are two procedures to be followed by workmen's compensation authorities. If a workman claims to be suffering from an occupational or industrial disease which is a scheduled disease, which is listed in the official documents of that workmen's compensation authority, then it is proved. No further proof is required. If it is medically attested that he is suffering from a disease and he works in a kind of a process associated with that disease as scheduled by the compensation authority there is no further proof required. If, however, the claimant is of the opinion he is suffering from an occupational disease which is not scheduled, then the burden of proof is on him to convince the workmen's compensation authority, to whom the claim has been sent, that he is in fact suffering from this disease and further that it evolves out of his employment. The two kinds of situations may arise.

Clause 3 is where we stake out our claim, if you will, of the general area to which the legislation may have application. Those of you who are familiar with other statutes administered by the federal Department of Labour will recognize this schedule of activities (a) to (i) at the outset. These are found in several other federal statutes administered by the department. The wording has been tested in the courts many times. It is not always as clear as it might be, as the previous question relating to radio broadcasting, for example, under 3(1) (f) disclosed. However, jurisprudence has been built up and established that this is, in fact, the area to which federal labour laws may apply. We are merely following this formula. You will notice that, and I think this will answer a question raised a short time ago, at the very outset of this clause 3(1), we say:

3. (1) Subject to any other Act of the Parliament of Canada.

The same phrasing is found elsewhere in the bill and I think it establishes that this legislation would not take precedence over any other federal statute which may be dealing with a similar matter. For example, there is an act dealing with the control of radioactive material under the Atomic Energy Control Act. There are regulations under this statute which are administered by the Department of National Health and Welfare and in co-operation with provincial health departments and other authorities. It would be plainly ridiculous, even though this may be a very great hazard in employment of some people, to suggest that we should take over this area. It is already being well dealt with in this highly specialized field by competent persons. One could give other illustrations but this is the point of saying: "Subject to any other Act of the Parliament of Canada." We will not replace anything; we will complement those which now exist and fill in the gaps.

(*Translation*)

The CHAIRMAN: Any questions, Mr. Émard?

Mr. ÉMARD: No, I don't think so, Mr. Chairman.

(*English*)

Mr. BARNETT: Mr. Chairman, I would just like to say that when we come to discussing this clause there are some questions related to what I would like to raise, but I would prefer to wait until Mr. Currie is finished.

Mr. CURRIE: I will try to go through it quickly.

The other explanatory notes you have on page 2 illustrate the general industrial areas we will be dealing with under the code.

Clause 3(2) deals with federal crown corporations. Listed here are those that would appear to be directly within the scope of the code.

The CHAIRMAN: Mr. Currie, the Committee must rise at 11 o'clock. We have to make room for another Committee. May I suggest that since we will not finish this by 11 o'clock that we sit next Tuesday at the same time and in the same room. After we hear Mr. Currie we will hear Mr. Gibbons of the Canadian Railway Labour Executives Association. Is this the wish of the Committee.

Some hon. MEMBERS: Agreed.

The CHAIRMAN: Mr. Currie, you may proceed.

Mr. CURRIE: I am sure we will have a good deal of discussion on Clause 3(3). Perhaps these explanatory notes may clear up some of the areas that I am sure concern you.

Let us now turn to Clause 4 which is on page 5 of the notes. We felt it desirable to have in here a sort of omnibus provision setting down the obligations and the responsibilities of the employer. These are overriding duties and responsibilities of the employer regardless of what may be said in any specific set of regulations.

Clause 5 gives the employee a particular duty or set of duties. At the time we inserted this in the bill it was fairly novel. However, now in several provinces, provisions of a similar character are found in industrial safety legislation in the last year or two.

Mr. RICARD: With regard to the obligations of employees failing to take the necessary precautions, in your experience has there ever been any prosecutions against an employee who neglected to look after his own protection.

Mr. CURRIE: Yes, Mr. Chairman, there have been a number of prosecutions even here in the city of Ottawa. In the last year or two the local magistrates have fined employees—under other statutes of course—who failed to wear a hard hat or a life line or a safety belt or something of this kind. Other prosecutions have been taken in the province of Ontario of which I am more familiar. This may have happened in other places as well.

Mr. RICARD: Who takes the—

Mr. CURRIE: The administering authority lays a charge against the employee for not having observed a particular safety rule.

Mr. RICARD: Your supervisor or—?

Mr. CURRIE: No, it would be the local safety inspector operating in this case under the construction safety act of the province of Ontario. We have some experience in this to observe; whether or not it is totally effective one cannot say.

Mr. RICARD: I think there has to be someone after them all the time. They are supposed to observe the safety laws but they do not do so. You have to have someone looking after them all of the time.

Mr. CURRIE: It seems a sad commentary that you have to go to this extreme to get employees to do something in their own interest but this apparently is true.

Mr. Chairman, on Clause 6, I might like to deal with Mr. Barnett's question regarding the relationship of this to workmen's compensation. First of all, there is no direct relationship at all. Workmen's compensation, as administered in several provinces, as Mr. Haythorne pointed out, provinces differ in the role of workmen's compensation boards in the accident prevention field. It is very substantial in western Canada but in Ontario and the provinces east of here the workmen's compensation board's participation in this activity is quite limited. We wanted to be very certain that this bill in no way interfered with any rights or entitlement of any worker to workmen's compensation considerations. We have had discussion on this provision with the compensation authorities, and they are happy to see this sort of thing to make it very, very clear that we are in no way impinging upon these other statutory rights. In fact you will find similar clauses in the general industrial safety statutes of several of the provinces and for the same reason, that the entitlement to workmen's compensation benefits is determined under the workmen's act and nothing else.

You may have grossly neglected to wear your safety equipment and were injured as a consequence, but this is no bar to workmen's compensation benefits. We have tried to preserve the separation of these two things.

It is quite another matter when it comes to enforcing safety regulations. We have now, and will continue to have, the closest day-to-day co-operation with the provincial compensation boards in administering safety rules. In fact we have had the benefit of their experience and wisdom in drafting this legislation.

Mr. BARNETT: There is one point here, and it might be useful if there is some direct reference you could give me. The thing that I am not clear on in my own mind is in regard—I am not talking now about federal government employees but employees engaged in works or undertakings that lie within federal jurisdiction—to the area of responsibility for coverage of them by workmen's compensation. This is really what was in the back of my mind. It arose out of this suggestion that the compensation board in British Columbia was suggesting that they might have to withhold coverage in this situation that I mentioned. Now I do not know for a fact that it did happen. But it was a matter of concern as expressed to me. This is something I have never been quite clear about in my own mind. In what way are we assured that such employees are in fact under compensation coverage when the work they are undertaking is under federal jurisdiction. Is there a statutory reference that you can refer me to in this connection?

Mr. CURRIE: It is very difficult to deal with this matter in a short time because it is extremely complex. I will take a stab at it. I cannot give any particular statutory reference but let me put it this way: The workmen's compensation act of British Columbia—to illustrate—sets down all the industries to which that act does apply. If it is a statutory obligation they have no choice in the matter. It is a mandatory application to all the industries cited. There are some exceptions which are also cited. Any employee of any employer, other than the federal government or Her Majesty in right of Canada, working in the province of British Columbia, or whose head office is in the province of British Columbia, and is within the scope of Part I of the workmen's compensation act of British Columbia which is the compulsory part, is required to pay assessment and all his employees are covered without exception and even if the employer fails to pay assessment the employees are still covered and are entitled to any benefits which may accrue to them as a result of work connected injuries. I would be very surprised indeed if under the circumstances you related that the compensation board could withhold compensation benefits to such persons.

A man may be working on a ship or refitting a ship or constructing the Heron Road bridge, if you like, but he is doing this under contract with the federal government and the persons engaged on that contract or to do that particular work are not employees of Her Majesty in right of Canada: they are not employees of an industry under federal jurisdiction: they are employees of a private contractor who happens to have a contract to do something for either a government department or an industry under the control of parliament for other purposes. If the C.N.R. lets a contract for someone to build a hotel or a bridge, the construction of that piece of work is in itself not a federal work, undertaking or business. It is for these reasons that we have to distinguish between the things which are done under private contract. The test, it seems to me, is whether or not the employer is either (a) the federal government of Canada or (b) the employer is engaged in an operation which is defined in our statutes as a work, undertaking or businesses within the federal field.

Mr. BARNETT: An illustration of the case in point, and it happened quite a number of years ago, so it is rather hazy in my recollection, was a case involving the collapse of a ladder leading down into a ship's hold. A workman was on it and the ladder collapsed and he was injured in the fall to the bottom of the hold. My recollection may be faulty, but as I recall it, at the time there was some

argument or question whether or not he was going to be able to receive compensation benefits because the question of whether or not that ladder was a safe ladder did not fall within the jurisdiction of the provincial authorities. This is the area I want to be quite sure in my mind is not being overlooked. These kinds of situations—

The CHAIRMAN: Gentlemen, I have to inform you that it is now past 11 o'clock. Before we adjourn, should these explanatory notes be made an appendix to today's proceedings?

Some hon. MEMBERS: Agreed.

The CHAIRMAN: The meeting is adjourned until Tuesday, December 6, at 9.30 a.m. It will be held in the same room. We will at that time carry on with Mr. Currie's explanatory notes and hear the evidence of Mr. Gibbons.

APPENDIX 6

EXPLANATORY NOTES

Clause 1

This title is a positive expression and conforms to the wording used in respect to the Canada Labour (Standards) Code; it is in keeping with what is contemplated under Clause 30 relating to the consolidation of a number of labour statutes; the work "code" denotes the systematic presentation of a body of related material under a variety of headings.

"Safety" is defined in a dictionary as—"freedom from danger, injury or damage"; in a provincial statute the word is defined as—"means freedom from injury to the body or freedom from damage to health."

Clause 2

(a) "employment injury"—considered in the broadest form; covers the general type of contingencies for which workmen's compensation is usually provided and is the expression now employed with reference to these matters by the ILO.

(b) "employer"—is limited to those whose operations are within the scope of the Bill.

(c) "federal work, undertaking or business"—generally similar to the provision in the Canada Labour (Standards) Code and is limited as set out in Clause 3:

> Departments and departmental agencies of the federal government are not included: Sec. 16, Interpretation Act (RSC 1952-c.158)
>
> "No provision or enactment in any Act affects, in any manner whatsoever, the rights of Her Majesty, her heirs or successors, unless it is expressly stated therein that Her Majesty is bound thereby."

(e) "safety officer"—could be any person appointed by the Minister to perform duties under the Bill and could include federal employees, provincial employees and other qualified persons; a variety of titles are used elsewhere, e.g., inspector, accident prevention officer, inspection officer, safety adviser but this seems more all inclusive of the functions to be performed, is positive and in keeping with the title of the Bill.

Clause 3

The application of the Act is circumscribed by the phrase "Subject to any other Act of the Parliament of Canada and any regulations.....". This means that nothing in the Bill could be construed to limit or restrict the responsibilities and operations of other federal departments who might be dealing with matters that may have some relationship to the subject of employment safety. This qualification should eliminate any duplication or overlapping of effort. The Bill therefore can be said to be complementary to any other federal legislation and activity in this field. "subject to"—means conditional upon or dependent upon *Clause 3* (1)

This Clause includes the classes of works, undertakings and businesses as they are set out in a number of other statutes administered by the Department of Labour; see list in Clause 30.

As in some of these earlier statutes, works, undertakings and businesses of a local or private nature in the Yukon Territory or Northwest Territories are excluded. If this provision were not there the Bill would take precedence over the local Ordinances dealing with any of the subject matters covered in the Bill. On the other hand, federal works, undertakings and businesses in the Territories are within the scope of the Bill.

The Yukon Council and the Northwest Territories Council possess the same powers for regulating conditions of work as a provincial legislature and are competent to deal with all matters of a local or private nature in the Territory. This provision recognizes the Councils' field of jurisdiction. Both Councils have already passed a number of Ordinances dealing with matters of safety.

The following Ordinances in the Territories regulate certain aspects as their titles suggest:

Yukon Territory

Fire prevention, blasting, mining safety, steam boilers, and public health (the last mentioned among other things authorizes the making of rules respecting the health of persons exposed to conditions, substances and processes in any industry or occupation that may be injurious to health).

Northwest Territories

Electrical protection, fire prevention, mining safety, steam boilers pressure vessels and public health (see note re Yukon).

The Code applies to the *operation* of such works, undertakings or businesses as—

interprovincial or international highway transport and railways
interprovincial or international canals
interprovincial or international telephone, telegraph and cable systems
banks
grain elevators
services connected with air and water transportation
interprovincial or international pipelines
interprovincial or international ferries, tunnels and bridges
stevedoring
radio and television broadcasting
uranium mining and processing
flour and feed mills, feed warehouses and seed cleaning mills

Clause 3 (2)

Crown corporations that are not "departments" under *the provisions of the Financial Administration Act*

1. *Agency Corporations*
Atomic Energy of Canada Ltd.
Canadian Arsenals Ltd.
Canadian Commercial Corporation
Canadian National (West Indies Steamships Ltd.)
Canadian Patents & Development Ltd.
Centennial Commission
Crown Assets Disposal Corporation
Defence Construction (1951) Ltd.
National Battlefields Commission
National Capital Commission
National Harbours Board
Northern Canada Power Commission

2. *Proprietary Corporations*

Canadian Broadcasting Corporation
Canadian Overseas Telecommunications Corporation
Central Mortgage & Housing Corporation
Eldorado Aviation Ltd.
Eldorado Mining & Refining Ltd.
Export Credits Insurance Corporation
Farm Credit Corporation
Northern Transportation Company Ltd.
Polymer Corporation Limited
Seaway International Bridge Corporation Ltd.
St. Lawrence Seaway Authority

Agency Corporations—responsible for the management of trading or service operations on a quasi-commercial basis, or for the management of procurement, construction or disposal activities on behalf of Her Majesty.

Proprietary Corporations—responsible for the management of lending or financial operations or for the management of commercial and industrial operations involving the production of or dealing in goods and the supplying of services to the public and is ordinarily required to conduct its operations without appropriations.

Departmental Corporations—responsible for administrative, supervisory or regulatory services of a governmental nature.

OTTAWA,
December 14, 1965.

Clause 3 (3)

This general limitation relates only to "operational safety" of the transportation industry under federal jurisdiction which is or may be dealt with under other statutes administered by the Department of Transport—

(a) *Railway Act*

Under this Act the Board of Transport Commissioners has power to make orders and regulations to generally provide for the protection of property and the protection, safety and comfort of the public and of railway employees. (Ref. R.S.C. Chap. 234, Sec. 290 (1) (g) and (1)).

(b) *Canada Shipping Act*

Under this Act various inspection and other services are provided for the safety of ships' crews and passengers.

(c) *Aeronautics Act*

Under this Act effective controls are exercised over the air transportation industry in the interest of the provision of safe, efficient services.

The enforcement of safety standards on the *non-operational activities* connected with rail, ship and air transportation, are generally speaking, not subject to similar inspection and regulation. For example, railway stations, hotels, workshops and various other facilities operated by railway companies are not regulated by the Board of Transport Commissioners. Similarly the regulations issued by the Board of Transport Commissioners do not cover in the interest of safety the manner in which much of the construction and maintenance work on the railways is actually carried out.

In some railway premises in some provinces provincial inspectors carry out inspections of boilers, elevators, electrical installations, etc. on a "courtesy" basis. They do not have any authority for this and their recommendations are not enforceable. These illustrate some of the areas to which attention will be directed under the proposed Canada Labour (Safety) Code, in cooperation with the Department of Transport.

The available statistics indicate that there are considerably more employees of the railways injured in "non-train" accidents than there are in train accidents, and this suggests there is need for vigorous, positive action.

As regards the shipping industry there is at the present time no regulatory control relative to safe working conditions for stevedoring crews.

In connection with the air transportation industry there are no regulatory provisions governing the premises and terminal facilities or non-operational, commercial activities, etc. on airports which is not related to air safety. For example, garages for the repair of vehicles used in the airport area. There are also shops for personal services and restaurants as well as building cleaning and maintenance.

The same general observations with respect to provincial safety services apply to the non-operational aspects of shipping and air transport.

N.B. It will be noted that, notwithstanding this general limitation, the Governor in Council may extend the application of the Safety Code to employment in connection with the operating of ships, trains or aircraft should this become necessary.

Clause 4

(1) This expresses the general objective of the Bill and imposes an obligation on employees to carry on their activities in a way that will not endanger the safety and well-being of the employees. The primary responsibility for this rests with the employer.

endanger—expose to harm

(2) Not only must he not operate the enterprise in an unsafe way but he must take positive steps under this sub-clause to prevent employment injury.

Clause 5

This would impose upon employees an obligation to carry out their own individual functions and responsibilities in the proper way in the interest of their own safety and that of their fellow-workers. Though the imposition of this duty upon employees is not commonly found in similar provincial statutes, during the past two or three years a provision of this effect has been inserted in a few new provincial Acts.

Clause 6

(1) Intended to assure that nothing in this Bill could affect any benefit, liability or obligation of any employer or employee with respect to workmen's compensation matters generally: e.g. wilful misconduct.

(2) Irrespective of the duty of the employees under Clause 5, this sub-clause makes it clear that the general responsibility for the safe operation of the undertaking and safe employment therein resides in the employer.

Clause 7

(1) Provides for the making of necessary regulations establishing standards, practices and other requirements. From the opening words it is evident that whatever authority is contained here is subject to any other Act of the Parliament of Canada and any regulations made under such Acts.

The reason for this is that there are several Acts of Parliament dealing with specific kinds of federal works, undertakings or businesses, or aspects thereof, and these Acts contain provisions or authorize regulations that may have a bearing on the safety of employees. It is not the purpose of this Bill to supersede any such provisions or regulations. Rather it is to enable these matters to be suitably regulated where no regulations now exist.

The following Acts of Parliament under which extensive regulations are issued, illustrate this point:

Railway Act
Canada Shipping Act
Aeronautics Act
Department of National Health & Welfare Act
National Energy Board Act

These Acts are largely directed to the safety of the public and the safe operation of a service as distinct from protecting the safety of employees.

It is the intention to adopt by regulation appropriate standards now in force in the provinces where this appears desirable and practicable. On some matters new standards will be developed as required.

The list of subjects on which regulations may be issued covers the usual safety and health hazards met with in industrial employment. The list does not restrict the authority of the Governor in Council to make regulations on any other condition of work affecting the safety and health of employees. It is possible that it may not be necessary to make regulations on all the items listed, and there may be other matters which call for regulation.

(2) This sub-clause authorizes the making of regulations applicable in general to all federal works, undertakings or businesses or making them applicable to one or more federal works etc. There may be certain problems that will only pertain to particular federal industries, areas or operations and this will allow for these situations to be dealt with on a 'custom made' basis after consultation with the affected industry or undertaking. This will allow for the flexibility that is essential in dealing with so many different subjects in all 10 provinces, each of which has its own legislation, standards and enforcement.

Clause 8

It will be necessary to establish numerous advisory and consultative committees to work with departmental officials in the development of reasonable standards and to assist generally in matters arising out of the administration of the Act. It is considered desirable to have express reference to representatives of employers and employees. Comparable provisions are found in a number of provincial statutes but this is by no means the universal practice. In a few provinces there is provision for public hearings or conferences to consider proposed regulations. This provision would not operate to exclude the formation of task forces, committees or select groups of experts to do preliminary work or undertake special projects of a highly technical nature.

Clause 9

This would enable formal inquiries to be made into particular or general occupational safety problems or situations. The same provision is made in the Canada Labour (Standards) Code. See 9(2) below.

Clause 10

Provides for the designation of persons to serve as safety officers, and includes the designation of provincial inspectors and others where this is practicable and appropriate. The advisory and consultative approach will be emphasized in the duties of these officers which together with their inspection functions suggests the use of the general and more positive title of safety officer.

Clause 11

There would be many advantages to entering into agreements with the provinces for the utilization of their various inspection and related services. In each province there are a number of agencies administering different Acts and regulations in the field of industrial safety, and it is hoped that to a considerable extent these resources could, by arrangement, be made available for the purposes of the Bill.

Clause 9 (2)

Inquiries Act—section 4:

Power of summoning witnesses,

require them to give evidence on oath or solemn affirmation production of documents and things deemed requisite to the investigation—power to enforce attendance of witnesses and compel them to give evidence as is vested in any court of record in civil cases.

Clause 12

(1) In order for more effective action to be taken in the prevention of accidental injuries at work, it is necessary to study intensively the root causes and other factors relating to these accidents. Studies of this nature could be carried out in cooperation with other agencies which are concerned with industrial accident control.

(2) As part of the general progam for promoting safety and accident prevention, this sub-clause would enable research findings and other data to be made available to all interested persons. Such technical information will provide valuable assistance in the building of regulations, codes and practices, and in developing appropriate training and training aids.

Clause 13

The purpose of this Clause is to provide for general educational and publicity work and the promotion of safety and safe work practices, which programs will be carried out in cooperation with others doing similar work. This could include, e.g. increased emphasis on safety in technical and vocational training.

Clause 14

(1) This charges the safety officer with the various duties that he might be called upon to perform in carrying out the purposes of the legislation. The range of the duties are similar to those carried out by provincial safety personnel.

(2) Enables the safety officer to have recourse to various sources of information that might have a bearing upon conditions of work, affecting the safety and health of employees and would also empower him to remove samples of materials for the purpose of analysis.

(3) Allows the safety officer the right of entry into the premises to carry out his duties in accordance with the Bill and also provides for private conversations with the employee when it may appear desirable to do so.

(4) This provides for the identification of persons carrying out inspections or performing other services under authority of the legislation.

(5) The person in charge of the operation is required by this sub-clause to facilitate the work of the safety officer and give him all reasonable assistance.

Clause 15

(1) It would be an offence for anyone to impede the safety officer in his discharge of his duties.

(2) The provision of false and misleading information to a safety officer is prohibited.

Clause 16

(1) Unless authorized by the Minister to do so a safety officer will not be required to give testimony in a civil suit with regard to information he will have obtained in carrying out his duties.

(2) This would assure the confidential nature of information obtained by a safety officer and would be an assurance to the employer that any process or trade secret to which a safety officer had access would not be disclosed except as might be required by law.

(3) Other persons, such as his superiors or departmental officials, to whom the safety officer may furnish reports and information are likewise prohibited from disclosing such confidential information.

(4) The identity of persons providing confidential information is to be protected.

(5) This would protect the safety officer from any action taken against him providing what he had done was carried out in good faith and under the authority of the law.

Clause 17

(1) In very exceptional situations where there is an imminent danger to employees, the safety officer may require that action be taken immediately or within a specified time to correct the unsafe conditions. If this cannot be done

and the danger to employees persists then he may direct that the operation be discontinued until the hazard can be removed. A provision similar to this is found in several provincial statutes and is exercised from time to time when the circumstances warrant; often referred to as a "stop order".

(2) Any direction given under this Clause must be confirmed by notice to be posted at the source of the danger so that all may be aware of the matter.

(3) When a safety officer has issued a direction to discontinue some operation this sub-clause requires that the matter or thing will not be used until the corrective action has been taken.

Clause 18

(1) Where an employer is not prepared to accept the direction of the safety officer to discontinue the operation that is considered to be an imminent danger, the employer may request the reference of the matter to a magistrate for review.

(2) The magistrate after enquiring into the matter may vary, rescind or confirm the direction and his decision will be final and conclusive.

(3) The referral of a "stop order" to a magistrate cannot operate as a stay in the execution of the safety officer's direction.

Clause 19

(1) This refers to the less serious type of situation or condition which, though requiring correction, does not constitute an imminent danger calling for immediate protection. It is usually stipulated that the hazard must be removed within a certain period. It is a provision common to provincial safety legislation.

(2) If the person receiving the safety officer's direction under this Clause considers it ill-founded or unreasonable or otherwise unacceptable, he can appeal to the regional safety officer.

(3) The regional safety officer would be empowered to review the matter, hear the employer's side, and deal with the subject matter conclusively.

(4) This would allow the acceptance of oral notice of appeal, providing that it was confirmed in writing within a short time.

Clause 20

(1) This imposes penalties for infractions by employers or persons in charge of the operation who (a) do not conform to the Act or regulations or (b) who do not act upon the direction of a safety officer or (c) who discriminate against a person who may have provided information.

(2) The employer who is found guilty of an offence is liable to a fine of up to $5,000 or to imprisonment up to 1 year or both.

(3) Persons who are in charge, who have supervisory, managerial or other responsibilities of this kind and who are found guilty of an offence under sub-clause (1) are punishable on summary conviction. This means a fine of up to $500 or up to 6 months imprisonment, or both.

Clause 21

(1) This would enable a penalty to be imposed upon an individual employee who might act in contravention of the Act or regulations. The penalty would be up to $500 fine or up to 6 months imprisonment, or both.

(2) Before proceeding against an individual employee the consent of the Minister would be required. This is thought to be desirable for a number of reasons including the wish to not substitute penalties under this Bill for ordinary disciplinary action by the person's employer, or to have this penalty in addition to what the employer may do.

Clause 22

A general provision dealing with offences for which no other penalties are set out. The penalty would be up to $500 fine or up to 6 months imprisonment, or both.

Clause 23

This Clause outlines a rule of evidence by which the copy of a direction under the Bill may be submitted to the court as prima facie evidence without production of the original.

Clause 24

This provision expands the limitation period provided in the Criminal Code for summary convictions (6 months).

Clause 25

This Clause allows for the trial of the issue to take place where the accused is resident or carrying on business notwithstanding that the offence was committed in another territorial jurisdiction.

Clause 26

This Clause expands the requirement that an information be confined to one offence.

Clause 27

In those cases where an employer is found guilty of an offence, this would enable persons in the employ of that employer to be penalized, on summary conviction, where they occupied responsible positions and where they were in a position to carry out or frustrate the carrying out of the requirements. The amount of penalty is considerably less than on summary conviction under the Criminal Code.

Clause 28

Where an employer may persist in carrying on his operations in contravention of the Bill he can be enjoined from continuing the operation by an order of a superior court. This appeared preferable to laying repeated charges against the employer for continuing offences under the Act.

Clause 29

(1) Provides the means whereby the Minister requests the furnishing of information required pursuant to the Bill. See 7(1) (G)

(2) This outlines the manner of proof in court that information requested was not supplied.

Clause 30

This would enable the 5 Acts mentioned to be brought together under a general statute dealing with conditions of employment and labour relations relating to works, undertakings and businesses under federal jurisdiction.

Clause 31

As it will take a considerable length of time to recruit the required staff and make administrative and the other necessary arrangements to bring the legislation into actual operation, an effective date will be some time distant after the Bill has been enacted.

OFFICIAL REPORT OF MINUTES

OF

PROCEEDINGS AND EVIDENCE

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LÉON-J. RAYMOND,
The Clerk of the House.

HOUSE OF COMMONS

First Session—Twenty-seventh Parliament

1966

STANDING COMMITTEE

ON

Labour and Employment

Chairman: Mr. GEORGES LACHANCE

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 6

TUESDAY, NOVEMBER 29, 1966

Respecting

BILL S-35

An Act respecting the prevention of employment injury in federal works, undertakings and businesses.

WITNESSES:

From the Department of Labour: The Hon. J. R. Nicholson, Minister of Labour; Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

24313—1

STANDING COMMITTEE

ON

LABOUR AND EMPLOYMENT

Chairman: Mr. Georges-C. Lachance

Vice-Chairman: Mr. Hugh Faulkner

and

Mr. Barnett,
Mr. Clermont,
Mr. Duquet,
Mr. Émard,
Mr. Fulton,
Mr. Gray,
Mr. Guay,
Mr. Hymmen,
Mr. Johnston,
Mr. Knowles,
Mr. MacInnis (*Cape Breton South*),
Mr. Mackasey,
Mr. McCleave,
Mr. McKinley,
Mr. McNulty,
Mr. Muir (*Cape Breton North and Victoria*),
Mr. Racine,
Mr. Régimbal,
Mr. Reid,
Mr. Ricard,
Mr. Skoreyko,
Mr. Tardif—24.

Michael B. Kirby,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, November 29, 1966
(7)

The Standing Committee on Labour and Employment met this day at 9.45 o'clock a.m. The Chairman, Mr. Lachance, presided.

Members present: Messrs. Barnett, Clermont, Émard, Faulkner, Guay, Hymmen, Knowles, Lachance, Mackasey, McKinley, Reid, Ricard, Tardif (13).

In Attendance: *From the Department of Labour*: The Hon. John R. Nicholson, Minister of Labour; Mr. Jean-Pierre Després, Assistant Deputy Minister; Mr. W. B. Davis, Departmental Solicitor; Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch.

The Chairman welcomed the Minister, Mr. Nicholson, and pointed out that the Minister would have to leave early to attend a Cabinet Meeting.

The Minister of Labour made a statement on Bill S-35, and was questioned.

At 10.15 o'clock a.m. the Chairman thanked the Minister for the Committee who left.

Mr. Currie, of the Department of Labour, then continued his clause-by-clause explanation of Bill S-35, and was questioned.

Mr. Ricard drew attention to the inclusion of a figure indicating a subclause in clause 10 of the French copy of Bill S-35. It was *agreed* that the figure indicating a subclause in clause 10 be deleted from the French copy of Bill S-35.

Later the Chairman pointed out that Mr. Gibbons, Executive Secretary of the Canadian Railway Labour Executives Association was waiting to be heard. After some discussion, it was *agreed* that Mr. Currie continue and that the Canadian Railway Labour Executives Association be heard on Thursday, December 1, 1966.

At the request of Mr. Faulkner, it was also *agreed* that the Departmental officials would try to ascertain, and supply information to the Committee, as what procedures the Provinces use to hire safety inspectors and what qualifications they are required to have.

At 10.50 o'clock a.m. Mr. Currie concluded his clause-by-clause explanation. There being no further questions, the Chairman adjourned the Committee to 9.30 o'clock a.m., Thursday, December 1, 1966.

Michael B. Kirby,
Clerk of the Committee.

24313—1½

EVIDENCE

(Recorded by Electronic Apparatus)

TUESDAY, November 29, 1966.

• (9.42 a.m.)

The CHAIRMAN: Gentlemen: we have a quorum.

Mr. Nicholson has been good enough to come to this meeting today, but I understand that he has to attend a cabinet meeting at 10 o'clock.

With your permission I will first of all welcome the Minister of Labour, Mr. Nicholson, and ask him, if he so desires, to make a few comments on this bill.

Mr. NICHOLSON: Mr. Chairman and gentlemen, I think the purpose of this bill has already been outlined to you by my Deputy Minister, Mr. Haythorne, and I believe some detailed discussion had started when Mr. Currie and the other officials of the department have been in attendance.

It is a matter of great regret to me that I could not be here the day that your discussion on this bill opened. I had been under a misunderstanding; I thought that your meeting was going to be adjourned because of the request that had been received, and that a new date that had been fixed, for the hearing of a brief being presented by the Canadian Labour Congress. However, I am here and I will be glad to assist in any way you feel that I can.

The general purpose of the legislation, the industries and the activities to which it applies, as well as the course that we intend to follow in trying to achieve our objective—that is, safer work environment for those who come within federal jurisdiction—have already been explained to you.

This morning it occurred to me that I might perhaps underline what is contemplated with respect to the implementation of this bill, if you see fit to recommend it and the Commons sees fit to pass it. As you know, it has already been examined in some detail in committee in the Senate and has been approved by the Senate.

There are several important clauses in it, but there is one particular one, clause 11. That was put in, I might say, after discussion with the provincial governments. We not only had the provincial governments meet here in Ottawa, or at least have their ministers of labour meet here last January, but my deputy and I met with the ministers of labour of Quebec, Ontario, British Columbia, Manitoba and Alberta, and there may have been one or two other provinces. I know we met with the ministers of most of the provinces. We received the assurance of all of the the provinces, I might say, that, in order to avoid duplication of work, they would undertake on our behalf certain inspection services to ensure that the safety provisions provided for by this bill and the regulations would be enforced.

I may say that the provinces welcome this legislation. One or two of the provinces were sceptical about its necessity in the first place, but after it was explained to them every one of the provinces with whom we discussed it came out and supported the legislation, and most of them agreed with us that it was long overdue.

I believe that the community of interest that the federal government has with the provinces in this complex field of safety will be strengthened and improved through the passage of a bill such as this.

The fundamental principle of the bill, namely, the necessity for safety regardless of what working conditions prevail, or what emergencies exist, and the objects of the legislation, have as I say been explained to you. The bill does not cover the public service of Canada because the people who pay the bill for the government, namely, the Treasury Board, are treated more or less as another employer, and we come in to make sure that the standards that are adopted are enforced.

With respect to working conditions generally, the government, as they did the case of the Canada Labour Standards Code, will take the necessary steps to ensure that all government employment comes within the principles of this bill, as is the case under the Labour Standards Code.

As I mentioned, the Treasury Board will be in a special position. They will take the position of the ordinary employer, such as a bank, or some other organization that comes within the general scope of the bill.

I think it is of the utmost importance that the government and all branches of government live up to the letter and the spirit of the bill if it becomes law; that is so for both humanitarian, and, I think, for economic reasons. There is going to be some difficulties in the early stages of enforcement but with the effective cooperation of the provinces I would anticipate it will not be too long before we are established on a proper course.

A few years ago, an old friend of mine, who is now dead, Mr. Justice Sloan, who was Chief Justice of British Columbia, spent some years as a commissioner inquiring into the Workmen's Compensation Act of that province and the necessity for amending it. There is a passage in his report that I have thought of more than once, and my attention was drawn to it very recently by one of the officials of my department. I would like to read it:

> "Man cannot be made safety-minded by legislation. Unless there is a will to safety all the regulations in the world will not by themselves prevent accidents. Alternatively, the desire to minimize hazards needs as its aids the promulgation and enforcement of fundamental regulations "governing the operations of machines and the conduct of men. These two essentials must be present in order to have and maintain an efficient accident prevention programme."

Needless to say, I am in complete agreement with that statement, and I think that the objective to which the late chief justice referred can be accomplished, because they are covered in the principles of this bill and the regulations which will be needed to implement it.

The CHAIRMAN: Gentlemen, for those who arrived after I made the introduction, the Minister of Labour will have to leave before 10 o'clock. He has to

attend a Cabinet meeting. I will take the names of any members who have questions of Mr. Nicholson. I know Mr. Reid wants to ask one question.

● (9.50 a.m.)

Mr. NICHOLSON: I may have the officials answer some of the questions.

Mr. REID: I am interested in subparagraph (d) of clause 7(1) concerning the sanitary regulations. Am I correct in assuming that provisions in this bill will not necessarily apply to railway operations, that they are already covered by regulations of the Board of Transport Commissioners

Mr. NICHOLSON: That is correct. I may say that this was gone into at considerable length by Mr. Gibbons, whom I am very pleased to see here, before a committee of the Senate. Mr. Gibbons and others speaking for the railway employees questioned this very point. He can speak for himself later, but they would have liked to have seen more teeth on this point in this bill. The Government gave this very careful consideration. There was an inter-departmental group which studied it—officials of the Department of Transport, officials of the Department of Industry, I think, the Department of Manpower and of my department. They felt that since there is a code of law and some judicial precedents that have been established as a result of the regulations approved by the Board of Transport Commissioners—we should not undo that and should let them continue in effect. I may say that we took care of that situation, I think, by provision contained in clause 3(3), at the bottom of page 2. Subclauses (1) and (2) define the scope of the industries and the activities that come within this bill, and then clause 3(3) reads:

> Notwithstanding subsections (1) and (2) and except as the Governor in Council may by order otherwise provide, nothing in this Act applies to or in respect of employment upon or in connection with the operation of ships, trains or aircraft.

Now when you get on an aircraft or are around an airport you see certain prescribed regulations, and you see the same thing on most trains—you should see it on all trains. The reason why this clause was put in is that we have recognized the jurisprudence that has been built up, but if these things do not accomplish the objectives that we have in mind, it is still open for the governor in council, on the recommendation of the Minister of Labour or a private individual, to correct or change the situation.

Mr. REID: Dealing with this matter of sanitation in the railroads and other transportation facilities, and with the Department of National Health and Welfare having been brought into it, it is my impression that the department has not been very—"enthusiastic" is not the right word—forceful in enforcing and imposing certain regulations that already exist.

Mr. NICHOLSON: Again I do not want to make a parrot of myself, but Mr. Gibbons and his associates made those same representations before the Senate committee, and I have no doubt they will be making them again today.

Mr. REID: Yes; I read that minute of the Senate committee.

Mr. KNOWLES: Mr. Chairman, Mr. Nicholson referred to the fact that this act would work well if we had the cooperation of the provinces. As I read this piece

of legislation it is exclusively a federal statute. Would Mr. Nicholson explain what he meant by that phrase?

Mr. NICHOLSON: I did, Mr. Knowles, just before you came in.

We do not want to duplicate inspection services, inspection of elevators in federal buildings and certain other services of that kind, and with my deputy I have discussed with the ministers of labour, and in most cases their deputies, the question of enforcement. We contemplate making agreements with the provinces so that to avoid duplication of services of this kind they may perform certain functions on our behalf, through their officials in their workman's compensation boards and other bodies of that nature.

Mr. KNOWLES: But it is your conviction that when this act is in effect there will be no areas of employment that are not covered by some safety legislation.

Mr. NICHOLSON: That is the intention of this bill. As mentioned earlier, we have legislation now that provides for certain health safeguards in the operation of railways, such as sanitary drinking cups and things of that kind that some people say are more respected in the breach than in the carrying out. We want to supplement any legislation that now exists that governs the activity of trains, railways, on the docks, to make sure that we have a safety code for every industry and everything that comes within the federal jurisdiction.

Mr. KNOWLES: I am still concerned about one or two points that Mr. Gibbons made before the Senate Committee, but I see that he is here and I will wait until he appears before us.

Mr. ÉMARD: Mr. Chairman, I wonder if the minister could explain why this bill was referred to a committee of the House after being passed by the Senate? Not all Senate bills come to a committee of the House, I understand, and I do not see the reason for this.

Mr. NICHOLSON: There are two reasons. This bill reached the Senate shortly before we adjourned for the summer recess. My predecessor Mr. MacEachen, had given an assurance in the House of Commons, when the Canada Labour Standards Code was going through, that this legislation would be given top priority at this particular session of Parliament, and when the time of the Commons was taken up with the St. Lawrence seaway workers' problems and other problems our schedule got behind, and in the hope that we could expedite matters it was referred to the Senate. They did study it in committee. I know I appeared before them on two occasions with officials.

One of the larger organizations, the Canadian Labour Congress, was not able to attend the two sessions of the Senate committee, and they asked that it be deferred. When the matter came up in the Commons, a similar request was made to me and to certain members of the House that this should be deferred to give them an opportunity to be heard. They represent not only the railway organizations affiliated with them but they have other industries that come within the federal ambit of jurisdiction. The Leader of the Official Opposition spoke to me, the House Leader of the New Democratic Party spoke to me, and I agreed that I would recommend to the government, and they agreed, that it should be referred to this committee for those reasons.

Mr. BARNETT: Mr. Chairman, Mr. Nicholson in his opening statement drew attention to clause 11 which is, of course, related to clause 10, in regard to the appointment of safety officers. In my view this is a very laudable feature of the bill, and I believe it does parallel a situation that has worked reasonably well in the fisheries field where, for many years, various public employees of the provinces have been designated as fisheries officers in certain matters of administration under the federal Fisheries Act.

The point I would like to refer to Mr. Nicholson is here is the question that is raised in clause 3 of the bill and which is high-lighted in my mind by the phrase at the beginning of clause 3 which says: Subject to any other Act of Parliament, this law will apply although the minister did point out what I might call the saving subclause (3). I must say that in my mind there is a considerable area for discussion on this clause. I suppose it is partly a matter of assessment or judgment, but inasmuch as I think this does involve a basic policy consideration I just wanted to say, while Mr. Nicholson is here, that I feel that we should have some definite consideration of the issues that revolve around this point.

I suggested at the last meeting that I tend to favour the approach that would say: Notwithstanding the provisions of any other bill, this law would apply. In other words, for adequate coverage in the field of safety, I would like to feel that one agency of the federal government in this case the Department of Labour, would be the coordinating and the prodding agency; in other words, my suggestion is that the role of the Department of Labour be upgraded in this connection. If one explores the situation in the major areas that lie within federal jurisdiction, and we think immediately of railways, airlines and shipping in its various forms it does seem to me that a great deal of what might be within this bill is, by virtue of this clause, excluded.

I recognize, from Mr. Nicholson's argument, that he would not want to wipe out the jurisprudence, I think—

Mr. NICHOLSON: Excuse me Mr. Barnett; I did not say that the minister would not like to wipe it out. I said that there was an inter-departmental group that had studied this and that they felt that they should not disturb the existing practices, and that they should carry on. Then we had subclause 3 put in to make it possible for the Department of Labour, or the minister or, as, I said earlier, any individual, who felt that the intent of the act was not being complied with, to move in by order in council to give greater responsibilities to the Department of National Health and Welfare, or to the Department of Labour, if such action became necessary.

Mr. BARNETT: Well, I pose this as an argument, with all due respect to the governor-in-council, because I think it is sometimes a rather ponderous undertaking to get agreement that action should be taken in the matter of regulations. If the thing were the other way around, the minister and the Department of Labour could move expeditiously to close any gaps.

The other question in my mind is the matter of people knowing where to turn when a safety problem arises. Mr. Nicholson made reference to the late Chief Justice Sloan's emphasis on the human element.

If I might just cite a case in point, I recently, had a situation brought to me in respect to the handling of explosives over a federal public wharf. This was in

effect a recurrence of something that had happened a number of years ago, and at that time, rightly or wrongly I understood from the reply I received then, as I recall, that this was a matter under the jurisdiction of the Minister of Mines and Technical Surveys under the Explosives Act. The situation was corrected. I wrote again and I had a letter recently from the minister saying that although this matter came to a certain extent under his jurisdiction, it was really a matter covered under the government's wharves regulations which are administered by the Department of Transport. Where does one begin and the other end, where explosives are brought in by vessel, put on a wharf and then loaded by truck, which then brings them under the jurisdiction on the administration of the provincial act in their transportation to the storage area? If it were clearly established under this proposed safety code bill that the Department of Labour was the co-ordinating and prime authority, then I think we could develop a knowledge of the situation among people. It is difficult enough for a Member of Parliament, but when it comes to the ordinary citizen, the question of where one turns becomes quite important.

I think that the issue raised by the present phasing of clause 3 should be fully explored in a committee before we—

Mr. NICHOLSON: Well, Mr. Barnett, all I can say is that my deputy minister and the officials who are here with me—more particularly my deputy and Mr. Currie—put forward the viewpoint that you have expressed in the inter-departmental discussions. They were put forward very strongly.

They were met, on the other hand, by the argument that the Board of Transport Commissioners has jurisdiction over such things as level crossings, railroad crossings, and things of that kind, that they have had a broad background of experience in that field, and that there have been some judicial precedents built up, of which they do not want to lose the benefit. They took a very strong stand.

I can only repeat myself by saying that out of these discussions came the clause that has been embodied in this bill, which is reflected largely in subclause (1) and subclause (3) of clause 3. It was thoroughly developed at the inter-departmental stage and discussed at considerable length in the Senate committee and in the cabinet, but we cannot discuss what took place in the Cabinet.

Mr. BARNETT: Well, we can discuss this at some point when we get to clause 7, which has to do with regulations on this point. For example, clause 7 (1) (i) provides that under this act regulations could be made "respecting the protection of employees from fire and explosion". I mention this because of my earlier reference to the handling of explosives.

In view of the Explosive Act under Mines and Technical Surveys and the government War Regulations and the Department of Transport, I think we should know where the regulations under this act fit in?

Mr. NICHOLSON: I might say that I think the same problem exists in every one of the provinces in Canada. I know that it exists in British Columbia and Ontario, the two provinces where I have had some industrial experience, having run an industry in Ontario for ten years, where we had explosives and combustible materials in the operation of the Polymer Corporation which came within the federal jurisdiction, and, next door, Imperial Oil which came within

the provincial jurisdiction, and the chemical companies alongside it. The provincial inspectors had the same problem. They have got provincial acts as well as federal acts that they have to enforce, and I am happy that under this act, as you have mentioned already, Mr. Barnett, we are going to have the same inspectors doing it. But the provinces have this same problem, and they follow much the same course that is followed here.

The CHAIRMAN: I hope they are not waiting for you, sir, to complete a quorum at a Cabinet meeting?

Mr. NICHOLSON: Oh, no; to form a quorum at a cabinet meeting they need only three.

The CHAIRMAN: Mr. Émard.

(*Translation*)

Mr. ÉMARD: Mr. Chairman, I would like to know, sir, why the application of this Act, insofar as it concerns section 3, excludes the Yukon and the Northwest territories. The reference here is to "any work, undertaking or business of a local or private nature". It seems to me that in the Yukon or the Northwest Territories, it is the federal government which is often the only authority, so who is going to look after safety in those territories?

(*English*)

The CHAIRMAN: Which clause are you referring to?

Mr. ÉMARD: Clause 3 (1).

Mr. NICHOLSON: Well, as in other statutes, works, businesses, or, as we say in the bill, undertakings of a local or private nature that you find in the Yukon Territory or in the Northwest Territories, are excluded. If this provision were not there, this bill would take precedence over all local ordinances, and there are certain local ordinances up there that are somewhat similar to the legislation that is passed by the different provinces. Since, in the federal territories there is no provincial government, the federal government takes the place of the province except to the extent that there has been delegation to the governing council, where they can govern by ordinance, and we want to respect the ordinances up there that apply to mining and other things that would normally come within the jurisdiction of the provinces. We want to make the part that the federal government plays in the territories similar to the one it plays in the provinces, but at the same time we want to ensure that there are no loopholes.

• (10.10 a.m.)

(*Translation*)

Mr. ÉMARD: If I understand, sir, if I understand rightly, it says here "subject to—"

(*English*)

Mr. NICHOLSON: I am sorry; what are you referring to?

(*Translation*)

Mr. ÉMARD: Clause 3 subclause (1). "Subject to any other Act of Parliament of Canada or other regulations under this Act applies to or in respect of employment in connection with the operation of any work, undertaking or

business that is within the legislative authority of the Parliament of Canada, excluding"—and this is what I would particularly like to emphasize—"excluding any work, undertaking or business of a local or private nature in the Yukon Territory or the Northwest Territories." Sir, if I understand the government in these Territories is, in many cases, the only government with total jurisdiction in the Northwest Territories. There is no municipal council, there is no province. If I am not mistaken, this Act is not to apply to the two Territories, who may undertake some kind of enforcement if there is no municipal or provincial authority?

(*English*)

Mr. NICHOLSON: Mr. Currie will reply to that.

Mr. CURRIE (*Director, Accident Prevention and Compensation Branch, Department of Labour*) Mr. Chairman, if I may will just underline some of Mr. Nicholson's remarks with respect to the existence in those territories of ordinances of various kinds. In both territories the local government, which is a council in each case, has, in fact, passed ordinances to regulate many of the kinds of things which the provinces do in those organized areas.

The situation in the territories is analogous to what it will be, in the provinces under this legislation. The territories now, through various ordinances, regulate working conditions, and we have a number of them. They deal with electrical protection, fire prevention, mining safety, steam boilers, pressure vessels, public health and things of this kind.

The bill will apply to any federal work undertaking or business that operates in the Yukon or in the Northwest Territories, just as it will apply to any such undertaking operating in a province; and if we follow in the territories the same course that we intend to follow in the provinces, we will hope to have the ordinances in each of these territories effectively applied to the federal undertakings in those places, therefore one way or another so far as a safe working environment is concerned industries under federal jurisdiction will be effectively regulated.

An hon. MEMBER: This is where there is no provincial legislation—

Mr. CURRIE: As Mr. Nicholson said, they would all be protected because there is no provincial legislation; but where an ordinance does apply, we do not diminish this, we do not interfere with it, we do not restrict it in any way. We are merely seeking to have an extension of the application of these measures to federal industries in those areas.

(*Translation*)

Mr. ÉMARD: I understand why you speak about federal industries or woorks under federal jurisdiction, but I do not understand why you should exclude any business of a private character. Do I understand well, or does it mean that the federal government has no jurisdiction over the local enterprise? I felt that for private enterprise, the federal government should check what is going on.

(*English*)

Mr. NICHOLSON: The federal government has jurisdiction in the two territories, there is no question about that; it has complete jurisdiction in this field. But more and more we are giving to the local councils, or we have tried to give to

the local councils, more autonomy. We have already given them jurisdiction to deal with matters that are normally dealt with by provincial governments. We want that to continue.

Mr. KNOWLES: When this legislation is through, anything up north in the fields of banking, airlines, radio broadcasting, or railways, will come under this legislation or the regulations of the Board of Transport.

Mr. NICHOLSON: Yes.

Mr. KNOWLES: But anything of a local or private nature, such as Imperial Oil, which had something up there, will come under the ordinances of the local territory.

Mr. NICHOLSON: Yes.

Mr. KNOWLES: But if we did not have this saving clause in there, we would be forced to do all of it by the terms of the British North America Act.

Mr. NICHOLSON: That is right; including all the little details and minute things that are normally done by the provincial government.

The CHAIRMAN: Mr. Barnett.

Mr. BARNETT: Perhaps I might comment on the point that has been raised by Mr. Émard, as I was one of the members of the Northern Affairs Committee who toured the territories this summer.

I say at once that had this clause not been in the bill I, for one, would have been raising some questions about it because of the very strongly expressed attitudes and desires of the people we met in the northern communities that, as soon as possible, their territorial council should be allowed to move into the areas that are normally legislated on by the legislatures of the provinces. I am sure that if the northern people had become aware of its omission we would have heard about it very quickly here in Ottawa. Therefore, I, for one, am very pleased to see that in the drafting of this bill this point was taken care of, so as to ensure that there will be, as much local autonomy as possible.

Mr. NICHOLSON: Mr. Barnett, if you will allow me to supplement what was said in answer to Mr. Émard's very proper and cogent question, you will find a similar provision in the Labour Standards Code, for instance. You will find similar provisions in other federal legislation.

Mr. GUAY: In other words, this is to give assurance to the people in the Territories and the Yukon that they are not forgotten.

Mr. NICHOLSON: That is correct; and also that we want to continue to delegate to them responsibility in local fields.

The CHAIRMAN: Gentlemen, on behalf of the Committee I would like to thank Mr. Nicholson—before he leaves—Mr. Guay, have you another question?

(*Translation*)

Mr. GUAY: To follow up Mr. Émard's supplementary questions in the rules that pertain mostly to the Northwest Territories, are those rules as strict, or will they be added to the bill as it is written now?

(*English*)

Mr. NICHOLSON: My information is that the rules that now exist in the Northwest Territories are very similar to the safety regulations that you would get if they were passed by the province of Quebec, or the province of Ontario, or the province of British Columbia.

You have similar regulations applying in the mining areas of Quebec or northern British Columbia to what you have here. We believe they are effective, and to the extent that they are not effective, the initiative, we believe, in matters that do not come exclusively within the federal jurisdiction should rest with the local council; but when you get into fields that may not be covered, as Mr. Knowles has said, we want to make sure that they are covered under this bill.

(*Translation*)

Mr. ÉMARD: Mr. Chairman, what would be the position of the federal government in the case where complaints were lodged against a province that does not do its work effectively?

(*English*)

Mr. MACKASEY: Perhaps the provincial safety inspectors who are doing your duties.

Mr. NICHOLSON: I think I explained earlier, Mr. Émard, that we intend, as far as it is practical to do so and in order to avoid duplication of services, to use the provincial safety inspectors, the men who do the work for the Workmen's Compensation Board, the men who do the work under the provincial Factory Act and work of that nature. We will reimburse the provincial governments for their performance of these services. We will be paying them, and we would have, in that sense, a right of supervision to make sure that they were doing their jobs, just as with any other contractor or employee that you might engage.

Mr. ÉMARD: I do not think that I made myself clear. What would happen in the case where a report was made to the federal government about inspectors paid by the provincial government, if you like—because it does not matter who reimburses them; but in a jurisdiction that is definitely provincial, let us say—to the effect that the inspectors who are working on a certain project are not doing their job properly? That does happen, as you know. Let us say that a union makes a report to the federal government that the standards are not being applied on a particular project under provincial jurisdiction. What would be your position in such a case?

Mr. NICHOLSON: Our position would be to investigate promptly, and to make sure that the spirit of the regulations in this bill was lived up to.

In the same way, if we may take a converse case, most of the provincial governments retain the mounted police to do policing services, yet the responsibility for the administration of law and order in the province is that of the provincial government. But if the mounted police do not do their work in a particular province the attorney-general of that province, I suppose—I cannot speak from experience—promptly gets after the federal government to make sure that they do do their job. The converse would apply here, I would think.

Mr. KNOWLES: I think Mr. Nicholson has not heard Mr. Émard's question yet, or, if he has, I have misunderstood it. Has he answered your question?

Mr. ÉMARD: What did you have in mind?

Mr. KNOWLES: I thought you asked what happened if, in an industry under provincial jurisdiction—

Mr. ÉMARD: That is what he said

Mr. KNOWLES: That is what he said, yes.

Mr. ÉMARD: Not only the industry—

Mr. KNOWLES: The provincial people are not doing their jobs? The union complains—

Mr. NICHOLSON: We will not intervene in the provincial jurisdiction. That is their responsibility, not ours.

Mr. KNOWLES: The union would be told that it would have to make its complaint to the provincial government.

Mr. NICHOLSON: We have no right of supervision in these fields because of the jurisdictional division.

Mr. ÉMARD: And if a complaint has been made to the provincial government, without success, then there is no recourse—

Mr. NICHOLSON: There is no recourse to us—none at all.

The CHAIRMAN: The only thing you can do is to remember that at the next provincial election.

Mr. RICARD: Could not the union in such a case apply to the courts?

Mr. NICHOLSON: Yes, certainly they could.

Mr. RICARD: That would be the course to follow, I think.

The CHAIRMAN: I will thank Mr. Nicholson again, and I take this opportunity to invite him to all of our sittings.

Mr. NICHOLSON: Thank you very much. I will endeavour to get back for other sessions in addition to this. I am sorry that I am not going to be here to hear Mr. Gibbons and any of the other witnesses today. I will certainly do my best to attend as many of the sittings as possible. Thank you, and excuse me.

The CHAIRMAN: Thank you, gentlemen.

On clause 2 of Bill No. S-35 I call on Mr. Currie to continue his clause-by-clause explanation.

We have the French translation of the explanatory notes, and the members of the committee who wish to have it may ask the clerk. Mr. Currie.

Mr. CURRIE: Thank you, Mr. Chairman, I think we had concluded our brief encounter with clause 6 at the last meeting.

I will proceed to clause 7 and simply say that this is the real meat of this bill. It is under this clause that we would hope effectively to regulate the working conditions of people in the federal field of jurisdiction.

The items enumerated under this clause are pretty well standard areas where you will find that the provinces and the Northwest and Yukon Territories have, over the years, enacted regulations or specific legislation to meet the problems. In other words, we have tried to combine into this one clause all the

standard subject headings which may be found in a considerable variety of provincial legislation.

I think most of the headings speak for themselves. We can deal with that later.

On subclause (2), I am sure it is obvious to the Committee that not all regulations will apply equally to all industries or necessarily to all parts of the same industry; therefore, obviously one must have a provision which will enable you to apply these things reasonably and to custom-make them where that would seem to be most appropriate. This again is a standard provision which is found in virtually all industrial safety legislation.

Clause 8: If clause 7 is the meat of the bill, clause 8 is certainly a prelude to it, because under this clause we anticipate the most extensive—in fact, continuous—consultation both on a fairly formal basis, with a number of standing advisory committees representing various industries, or activities, or subject matters, as well as any number of *ad hoc* task forces, advisory groups and expert groups dealing with a particular aspect of working conditions. We hope to make the most extensive use of Clause 8.

Clause 9 is now pretty well standard in many pieces of legislation, so that we may go into a rather more extensive, formal type of inquiry than you would ordinarily conduct under other provisions of the legislation as a matter of regular application.

By clause 10 we hope to provide the necessary number of safety officials. These, as the minister explained, would largely be provincial safety inspectors and other types of officials, but literally they could be anybody with particular competence who might be appointed, either on a continuing basis or on a term bases, to do a particular job. This would be the place from which he would derive his authority as an officer under the act.

Mr. RICARD: There seems to be an error in this clause, because there is now only one—

Mr. CURRIE: I beg your pardon; there was a change from the original draft, and your notes may read a little differently.

Mr. RICARD: I have the French version, I do not know if—

Mr. CURRIE: Do you have a copy of the first reading or third reading of the bill, sir?

The CHAIRMAN: Mr. Ricard, do you have the bill?

(*Translation*)

We have the bill as passed by the Senate on the 30th of June 1966.

(*English*)

Mr. CURRIE: There was a change in the original bill as presented to the Senate and the bill as passed, and I think you will find that now clause 10 is in one part only. You may have an earlier version.

The CHAIRMAN: Is it a misprint?

Mr. CURRIE: No; we are at the later version, Mr. Chairman.

The CHAIRMAN: There is a misprint.

Mr. CURRIE: Oh, I see. There is only one section in clause 10, as revised.

The minister dealt with clause 11 this morning. We hope to make this a very workable arrangement, and we have assurances that it will be.

• (10.30 a.m.)

I might mention here that there is a great array of provincial agencies operating in this field. We have counted no fewer than 80 provincial government departments and agencies who are responsible for some aspects of administering legislation bearing upon employment safety; in any large province, as many as 8 or 10, and in the smaller ones there may be 3 or 4; but in no province is there any one provincial agency responsible for all the matters within the ambit of this legislation.

The CHAIRMAN: Mr. Faulkner, you have a question on this section?

Mr. FAULKNER: How are the safety inspectors and officials appointed? Are they appointed through competitive civil service examinations?

Mr. CURRIE: I could not answer that, since they are all appointed under the jurisdiction of the provinces, by whatever method the provinces may employ for the recruiting of staff. I think, in general, this is the principle which is adopted.

Mr. FAULKNER: If we can get any information on this I would be interested; because where the federal government is going to be using provincial personnel, I think it may be important for us to know how those people are appointed. It seems to me that it would be at least important to know whether they are appointed through competitive examination.

Mr. CURRIE: I shall try to find that out for you.

Mr. REID: I think Mr. Faulkner is worried in view of the example we have had in the recent collapse of the bridge in Ottawa here, where there was some question about the adequacy of the provincial safety officers.

Mr. FAULKNER: I had not that specifically in mind, but—

Mr. CURRIE: I will be glad to find that out, Mr. Chairman. There are at least five or six hundred persons in Canada employed in this capacity by the various provincial agencies.

Mr. KNOWLES: I think that Mr. Faulkner's point is well taken, that if they are going to be used on the federal level, we have the right to know the basis on which they are appointed.

Mr. MACKASEY: That leads to another question which I should have asked Mr. Nicholson. If we got into a legal action, Mr. Knowles, let us say, through the inefficiency of an inspector, who would be legally responsible—the federal government or the provincial government—if the provincial inspector is inspecting on behalf of the federal government?

Mr. KNOWLES: I do not propose to answer legal questions around here, but I suppose it would depend upon which legislation he was acting under.

The CHAIRMAN: Gentlemen, I would like to point out that Mr. Gibbons, who is the executive secretary of the Canadian Railway Labour Executive Association is with us today and the chairman of the committee has more or less promised

that we would hear him today. We have to vacate this room by eleven o'clock, so I would like to have your advice on this matter.

Mr. KNOWLES: We will have to have another meeting, including yourself, right now.

An hon. MEMBER: Perhaps we could hear him now.

The CHAIRMAN: I am sorry—

An hon. MEMBER: You cannot do that.

The CHAIRMAN: Is it the wish of the committee that we carry on—

Mr. MACKASEY: Mr. Chairman, I think we should, in courtesy, hear Mr. Gibbons, because this is one of the reasons why he appeared before the Commons Committee rather than strictly before the Senate Committee. But I am wondering if we have enough time to do justice to Mr. Gibbons?

The CHAIRMAN: Mr. Gibbons, could you tell us how long you would be?

Mr. GIBBONS: It is very difficult to say, Mr. Chairman, but we are not reluctant to come back again if you are short of time today. We will be only too happy to come back on another occasion, because we certainly would not want to have time interfere with our presentation and the questions that may develop.

Mr. MACKASEY: I suggest, Mr. Chairman, that you accept a motion that at the next meeting the first order of business Mr. Gibbons' appearance as a witness.

Some hon. MEMBERS: Agreed.

Mr. BARNETT: That might give us time to complete before eleven o'clock the clause-by-clause description that Mr. Currie is giving us today, and keep things in sequence.

Mr. MACKASEY: Do we have copies of the brief?

The CHAIRMAN: May I ask, Mr. Gibbons, if you would mind if the brief was distributed to the members of the Committee today?

Mr. GIBBONS: I must apologize for the fact that through lack of time and despite every effort, we were unable to have the French translation done, but we have placed 50 copies of our brief in the hands of the clerk of the committee.

The CHAIRMAN: We will distribute your brief today to the members of the Committee, and you will be the first witness to be heard at the next sitting on Thursday at 9:30 a. m. Is that agreeable to the Committee?

Mr. KNOWLES: Did you clear it with that other committee, so that we do not clash?

An hon. MEMBER: There are a lot of committees at 9:30.

The CHAIRMAN: I have to admit that we just cannot do anything more about it.

An hon. MEMBER: Does this Committee have the power to sit while the House is sitting?

The CHAIRMAN: No; unless the Committee is ready to entertain such a motion.

Mr. CLERMONT: Mr. Chairman, you may have conflict with other committees which are sitting now.

The CHAIRMAN: This room has been made available to this Committee on Thursday and also next Tuesday, December 6; and, by the way, on that date the CLC and the CNTU have undertaken to be present.

Mr. KNOWLES: Can it be understood that all the witnesses for the CRLEA, the CLC and the CNTU, when they come, appear at the start of the session?

The CHAIRMAN: We will hear Mr. Gibbons this Thursday, and I have committed the Committee to hearing the CNTU and the CLC on December 6. I have accepted this arrangement for December 6 at the last meeting.

We will distribute Mr. Gibbons' brief. I am sure the Committee will accept Mr. Gibbons' apology for not being able to have the brief translated into French, since he did not have enough time. There was, in fact, very little time available. I am afraid the Committee cannot make arrangements to have this brief translated into French by this Thursday.

Mr. Gibbons, this Thursday, you will be the first witness to be heard.

Mr. GIBBONS: That is fine, Mr. Chairman.

Mr. CURRIE: Clause 12 is largely self-explanatory. It would enable the department to undertake, in co-operation with other people, possibly with some universities as well as with other agencies, various kinds of basic research into the causes of accidents. There is really a dearth of this kind of activity in Canada, and perhaps the federal Government is in the best position to do something about this, and to make the results available to the provinces and to all other persons interested in this field.

Clause 13 simply speaks of the intention to carry out the general type of educational work that most industrial safety programmes generate. Again this would be done extensively in cooperation with all the agencies that are now operating in this field in Canada. There are many voluntary groups as well as provincial and other types of agencies doing this kind of work. I think there is a job here of co-ordination and of greater emphasis on particular aspects.

Under clause 14 we have enumerated the various duties and responsibilities and powers—in other words, the *modus operandi*—of the safety officer, and the sorts of things he will be expected to do as he goes about his daily rounds. These are fairly well patterned after the kinds of provisions that are made in provincial safety laws. They are nearly standard. I do not think that there is anything unusual about them.

(*Translation*)

Mr. ÉMARD: I am sorry I have to leave but I have to go to the Committee on the Public Service.

(*English*)

Mr. CURRIE: Clause 15 is again a standard type of provision.

Clause 16 follows along, dealing with those matters that will arise in respect to the kinds of information that the safety officer might obtain in the course of

his work, with respect to his liability, for anything done by him in the course of his duties providing it is done in good faith and under the authority of the legislation. These again are fairly standard provisions.

Clause 17 gets us into the area where there is an immediate threat to the safety or well-being of employees, and under this provision it would be possible for a safety officer—if he felt it was sufficiently serious—to order the immediate shut-down of operation until the potentially hazardous matter or thing had been corrected. This again is found in most provincial safety legislation. In most provinces, if not all, the Workmen's Compensation Boards, for example, have authority to close down an operation if they are advised by their people that it is a source of danger. This is necessary, and it is used very sparingly; but it is important that this kind of provision be available in the event of non-compliance and there is an immediate real danger to workmen.

In order to protect the employer against any unfounded or ill-advised or unreasonable acts under clause 17, clause 18 provides an avenue of appeal for the employer so that the matter may be heard before a local magistrate and be resolved. However, the reference of the matter, or the question, to the local court will, as you notice under subclause 3 of clause 18, not operate to be in effect a stay of the order given by the safety officer. It is very important, of course, that the employers have access to a tribunal of some sort to resolve these fundamental differences.

In clause 19 there are the usual items governing the day-to-day activities of the safety officer, and how he would go about seeking to have corrections made in conditions which he thought were harmful to the people working there. Again, there is the right of appeal to the regional safety officer, so that the matter may be heard at a higher level; and in the ordinary course of events, there is also the channel available always, under any administration, to refer the matter to the deputy minister or to the minister of the department that may be responsible. But this clause 19 deals with the ordinary sort of run-of-the-mill, day-to-day type of activity.

In clause 20 we make provisions for some pretty stiff penalties for non-compliance. We feel that this is important. It is necessary to have the strength here. Again, we do not expect it to be used very often. We would rather rely upon our standards which would have a wide measure of acceptance and which would be reasonable and practical, but in the last resort the courts may be required to assess a penalty.

Mr. RICARD: Are the provisions of this clause negotiable, or are they to be taken as they are? Has there been any objection on the part of the unions representing the employees up to now?

Mr. CURRIE: In respect to this clause?

Mr. RICARD: Yes.

Mr. CURRIE: No, sir; there has been no representation in respect to the enforcement provisions of this legislation from any source, to the best of my recollection.

Mr. RICARD: There has never been any objection by the unions to subparagraph (c), for instance?

Mr. CURRIE: No, Mr. Chairman.

Clause 21 is a continuation of the enforcement provisions whereby an individual employee who may be guilty of non-compliance may be penalised. We felt, however, that it was important that in such cases the minister's consent ought to be obtained in advance since the employer and/or his union have other disciplinary avenues open to them.

Again, carrying on to clauses 22 to 27 inclusive, these are matters which will govern various proceedings in the courts, the types of offences and the penalties some of which are the same as provided for in the Criminal code on summary convictions.

Clause 28 is not a universally-used provision, although it is now being found more commonly in some of the newer provincial statutes. Where an employer may persist in carrying on his undertaking in contravention of the legislation, rather than repeated fining under the ordinary offences clauses it was thought advisable to have a provision whereby an injunction could be obtained on application to the appropriate court.

I think you will recognise clause 29 as a procedural matter, and is required in connection with certification, on the provision of required information.

Clause 30 expresses the intent of consolidating this measure, if it is passed, with four other federal statutes which bear upon the general conditions of employment within the federal field of jurisdiction. This would seem to present a very fine opportunity to consolidate all these statutes.

With regard to clause 31, I am sure that the Committee will appreciate that the administrative and other preliminary work is very extensive indeed, involving the establishment of offices in the provinces, the recruitment of staff, the development of our administrative procedures and administrative regulations and so on, so that it may well be some time after this bill is approved, if it is, before we could actually go into operation.

Thank you Mr. Chairman.

The CHAIRMAN: Thank you very much, Mr. Currie.

I have spoken to the clerk, and if it is agreeable to you, copies of the brief of the Canadian Railway Labour Executives Association will be distributed to all members of the committee by mail this afternoon. All members of the Committee should have a copy of the brief by this afternoon.

If there are no more questions on other business we will adjourn until this Thursday, December 1, at 9:30 a.m. in the same room. Notices will be sent.

Mr. Gunter: No, Mr. Chairman.

Clause 27 is a continuation of the enforcement provisions whereby an individual employee who may be guilty of non-compliance may be penalised. We felt, however, that it was important that in such cases the minister's consent ought to be obtained in advance since the employer and/or his union have other disciplinary avenues open to them.

Again, carrying on to clauses 22 to 27 inclusive, these are matters which will govern various proceedings in the courts, the types of offences and the penalties some of which are the same as provided for in the Criminal code on summary convictions.

Clause 28 is not a universally-used provision, although it is now being found more commonly in some of the newer provincial statutes. Where an employer may persist in carrying on his undertaking in contravention of the legislation, rather than repeated fining under the ordinary offences clauses it was thought advisable to have a provision whereby an injunction could be obtained on application to the appropriate court.

I think you will recognize clause 29 as a procedural matter, and is required in connection with certification, on the provision of required information.

Clause 30 expresses the intent of consolidating this measure, if it is passed, with four other federal statutes which bear upon the general conditions of employment within the federal field of jurisdiction. This would seem to present a very fine opportunity to consolidate all these statutes.

With regard to clause 31 I am sure that the Committee will appreciate that the administrative and other preliminary work is very extensive indeed, involving the establishment of offices in the provinces, the recruitment of staff, the development of our administrative procedures and administrative regulations and so on, so that it may well be some time after this bill is approved, if it is, before we could actually go into operation.

Thank you Mr. Chairman.

The CHAIRMAN: Thank you very much, Mr. Currie.

I have spoken to the clerk, and if it is agreeable to you, copies of the brief of the Canadian Railway Labour Executives Association will be distributed to all members of the committee by mail this afternoon. All members of the Committee should have a copy of the brief by this afternoon.

If there are no more questions on other business we will adjourn until this Thursday, December 1, at 9:30 a.m. in the same room. Notices will be sent.

OFFICIAL REPORT OF MINUTES

OF

PROCEEDINGS AND EVIDENCE

This edition contains the English deliberations and/or a translation into English of the French

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LEON-J. RAYMOND,
The Clerk of the House.

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HOUSE OF COMMONS

First Session—Twenty-seventh Parliament

1966

STANDING COMMITTEE

ON

Labour and Employment

Chairman: Mr. GEORGES-C. LACHANCE

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 7

THURSDAY, DECEMBER 1, 1966

Respecting

BILL S-35

An Act respecting the prevention of employment injury in federal works, undertakings and businesses.

WITNESSES:

From the Canadian Railway Labour Executives Association: Mr. A. R. Gibbons, Executive Secretary.

From the Department of Labour: Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch.

From the Department of Transport: Mr. Jacques Fortier, Chief Counsel.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

25359—1

STANDING COMMITTEE

ON

LABOUR AND EMPLOYMENT

Chairman: Mr. Georges-C. Lachance

Vice-Chairman: Mr. Hugh Faulkner

and

Mr. Clermont,
Mr. Duquet,
Mr. Émard,
Mr. Fulton,
Mr. Gray,
Mr. Guay,
Mr. Hymmen,
Mr. Howard,[1]
Mr. Johnston,
Mr. Knowles,
Mr. MacInnis (*Cape Breton South*),
Mr. Mackasey,
Mr. McCleave,
Mr. McKinley,
Mr. McNulty,
Mr. Muir (*Cape Breton North and Victoria*),
Mr. Racine,
Mr. Régimbal,
Mr. Reid,
Mr. Ricard,
Mr. Skoreyko,
Mr. Tardif—24.

Michael B. Kirby,
Clerk of the Committee.

[1] Replaced Mr. Barnett on Wednesday, November 30, 1966.

ORDER OF REFERENCE

WEDNESDAY, November 30, 1966.

Ordered,—That the name of Mr. Howard be substituted for that of Mr. Barnett on the Standing Committee on Labour and Employment.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House of Commons.

25359—1½

MINUTES OF PROCEEDINGS

THURSDAY, December 1, 1966.
(8)

The Standing Committee on Labour and Employment met this day at 9.48 o'clock a.m. The Vice-Chairman, Mr. Faulkner, presided.

Members present: Messrs. Clermont, Émard, Faulkner, Howard, Hymmen, Knowles, Mackasey, McNulty, Régimbal, Ricard, Tardif.

Also present: The Hon. John R. Nicholson, P.C., Minister of Labour.

In attendance: From the Canadian Railway Labour Executives Association: Mr. A. R. Gibbons, Executive Secretary; Mr. J. F. Walter, Assistant Grand Chief, Brotherhood of Locomotive Engineers.

From the Department of Labour: Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch; Mr. Jean-Pierre Després, Assistant Deputy Minister; Mr. W. B. Davis, Departmental Solicitor.

From the Department of Transport: Mr. Jacques Fortier, Chief Counsel.

The Vice-Chairman called on Mr. Gibbons to present his brief.

During the presentation, Mr. Gibbons laid before the Committee a document entitled "*Sanitary Code; Recommended Requirements for Common Carriers, Construction Camps and Eating Establishments under Federal Jurisdiction*" published by the Public Health Engineering Division of the Department of Health and Welfare in January, 1966.

At the suggestion of Mr. Knowles, it was *agreed* that the document tabled by Mr. Gibbons be filed as Exhibit "B".

Mr. Gibbons continued and later displayed a canister approximately eighteen (18) inches high with a handle and large hollow lid which was used as a water container for railway employees. He also displayed a white enamel cup. Both were in various states of disrepair, showing a great deal of rust and the cup being badly chipped. On completing his presentation Mr. Gibbons and Mr. Walter were questioned.

Later Mr. Currie and Mr. Jacques Fortier spoke briefly and were questioned.

The Vice-Chairman then brought to the attention of the Committee a letter which he had received as a reply to a question he raised in the Committee on Tuesday, November 29, 1966.

On motion of Mr. Clermont, seconded by Mr. Ricard it was

Agreed,—That the letter from Mr. Currie of the Department of Labour to Mr. Faulkner, Vice-Chairman, dated November 30, 1966 be made an appendix to

the Minutes of Proceedings and Evidence, (*See Appendix 7*), and that the Clerk be instructed to have it translated and circulated to the members of the Committee.

After thanking the witnesses, at 11.00 o'clock a.m. the Vice-Chairman adjourned the Committee to 9.30 o'clock a.m. on Tuesday, December 6, 1966.

Michael B. Kirby
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, December 1, 1966.

● (9.46 a.m.)

The VICE-CHAIRMAN: Gentlemen, I call this meeting to order. Our first witness is Mr. Gibbons, the Executive Secretary of the Canadian Railway Labour Executives' Association.

Mr. A. R. GIBBONS (*Executive Secretary, The Canadian Railway Labour Executives' Association*): Mr. Chairman, gentlemen, again I offer our apologies for not having the time to produce our brief in both languages.

We wish to express appreciation on behalf of the Canadian Railway Labour Executives' Association for the opportunity to present to your Committee our views relative to Bill S-35, an Act respecting the prevention of employment injury in Federal works, undertakings and businesses.

Our Association, the Canadian Railway Labour Executives' Association, represents the membership of all the international railway unions, which includes practically all railway employees in Canada.

On June 15, 1966, we presented a brief to the Standing Committee of the Senate on Transport and Communications on the subject matter of Bill S-35, the brief becoming part of the record of proceedings No. 6 of the Senate Committee dated June 15, 1966.

Bill S-35, cited as the Canada Labour (Safety) Code, is, in our opinion, designed to close gaps in existing legislation insofar as safety, etc. is concerned, and in this respect we endorse the principle of comprehensive coverage for all workers under its jurisdiction.

Section 3(1) of the Bill sets out those industries and undertakings that come under the authority of the legislation and section 3(1) (b) in particular covers railways which are under the jurisdiction of the Parliament of Canada.

Section 3(3) reads as follows—

> "Notwithstanding subsections (1) and (2) and except as the Governor-in-Council may by order otherwise provide, nothing in this Act applies to or in respect of employment upon or in connection with the operation of ships, trains or aircraft."

Section 7(1) of the Bill states that the Governor-in-Council may make regulations for the safety and health of persons employed upon or in connection with the operation of any Federal work—

Section 7(1) authorizes the making of regulations respecting the provisions and maintenance of potable water supplies and of sanitary and other facilities for the well-being of employees.

What concerns us is that the Bill, while having the purpose of ensuring the carrying on of Federal works, undertakings, and so on, in a manner that will not endanger the safety and health of employees, becomes contradictory by excluding employment upon or in connection with the operation of ships, trains or aircraft, except as the Governor-in-Council may by order otherwise provide.

When the Bill first came to our attention, we addressed a joint letter to the Ministers of Transport, National Health and Welfare, and Labour, in which we expressed concern about what appeared to us to be aggravation of an already confusing situation.

Our reason for taking such a stand can only be explained by reviewing our efforts over the years to obtain reasonable sanitation standards for railway employees.

In 1949, the then Minister of National Health and Welfare, the Honourable Paul Martin, advised representatives of the railway unions that his Department had authority with regard to health and sanitation in buildings on the property of international or interprovincial railway companies.

In 1951, the Department issued a set of minimum standards entitled "Sanitary Requirements for Bunkrooms". The standards were not enforceable. Representations have been made on this matter to the Government each year in our Annual Briefs.

A new Sanitary Code was issued by the Public Health Engineering Division, Department of National Health and Welfare in January 1966. Again the Code is not compulsory and is only recommended requirements for common carriers, construction camps and eating establishments, under Federal jurisdiction.

Mr. Chairman, if I may digress just momentarily from the brief, I wish to file the sanitary code that I referred to. I might say that as a result of our annual representations to the federal government, it finally came to the attention of the Honourable Waldo Monteith when he was Minister of National Health and Welfare. We appeared before a standing committee, which recommended that the Federal government should get together with the provincial governments, the departments of Health and Welfare, and should develop a sanitary code that would be applicable to railway personnel. This is the document that was produced, and it certainly gives evidence of the necessity for and the recognition of what we, in the railway industry were far short of, namely satisfactory conditions as they related to sanitation and so on. This document consists of 108 pages. We participated in the drafting of it. Each draft was sent to us; we made suggestions, as well as the railway companies, and finally we were satisfied, with one or two minor exceptions that are related to the lack of lavatory facilities on a diesel unit, that this is an excellent code. May I file this as an exhibit?

The VICE-CHAIRMAN: Is it agreed that this document be made an Exhibit?

Some hon. MEMBERS: Agreed.

Mr. GIBBONS: We had been urging that they be given the authority of the law. In other words, this is nothing more than a minimum standard. On each and every occasion when we appeared before the cabinet we have asked that they be given regulatory authority.

Mr. KNOWLES: Can you tell us what its present status is?

Mr. GIBBONS: It is a minimum standard that the railway companies should use in construction camps, on diesel locomotives, in cabooses, on all railway property, camps and the like of that.

Mr. KNOWLES: It was issued by the Department of National Health and Welfare, but it is really just for information purposes.

Mr. GIBBONS: Recommended codes.

Mr. KNOWLES: A set of guidelines.

Mr. GIBBONS: Yes.

The Department of Transport advises us that the Board of Transport Commissioners for Canada, under Section 290 (1) of the Railway Act has authority to make orders and regulations for the protection, safety, accommodation and comfort of railway employees.

In August 1909, which is quite a while ago, the Brotherhood of Locomotive Engineers made application to the then Railway Commission for "Suitable Quarters for Firemen and Engineers at Divisional and Terminal Points", which application was heard by the Commission on November 4, 1910.

The Judgement contained in Canadian Railway Cases, Volume XI, 1911, pages 336 to 338, stated in part—

> "When the engineer and fireman arrive at a divisional point and turn their engine over to the proper custodian, they are then 'off duty'. The railway company is under no more obligation to house them than it is to feed them. Section 30 of the Railway Act gives the Board authority to make orders and regulations requiring proper shelter to be provided for all railway employees 'on duty'. When these men are in at divisional points they are not 'on duty'. The whole matter must be left to the good judgment of those in charge of the operation of railways."

If that good judgment had resulted in good conditions I dare say we would not be before you today.

When Mr. R. Kerr, Chief Commissioner of the Board, was asked for an opinion on this matter when Bill S-35 was under consideration in the Senate, he expressed the opinion that Section 290 of the Railway Act would give the Board power to order toilet and sanitary facilities for railway employees on trains. We have now requested the Board to issue an order in this regard.

If I may read the exchange of correspondence into the record I then will give the committee a copy of it.

This letter is addressed to Mr. Rod Kerr, Chief Commissioner of the Board of Transport Commissioners, on November 7, 1966:

NOVEMBER 7, 1966

Mr. R. Kerr
Chief Commissioner
Board of Transport Commissioners
Ottawa, Canada
Dear Mr. Kerr:

When Bill S-35 was under consideration by the Standing Committee of the Senate on Transportation and Communications, the Railway

Brotherhoods made representation to the Committee, seeking the deletion of Clause 3(3) of the Bill.

Our proposal would, in our opinion, have brought Railway employees within the jurisdiction of the Bill.

We also wrote to the Ministers of National Health and Welfare, Transport and Labour, for the purpose of ascertaining which department has jurisdiction in the field of safety standards as they relate to railway employees.

The Honourable J. W. Pickersgill, Minister of Transport, wrote me on July 5, 1966, and attached to his letter copy of a memorandum on the matter which is set out below—

Memorandum

The Board of Transport Commissioners is empowered pursuant to Section 290 of the Railway Act to make orders and regulations for the protection, safety, accommodation and comfort of raiyway employees, and as the Board constitutes a court of record, the Minister of Transport has no jurisdiction in respect of the orders and regulations made by the Board.

I think this is very important because by the Ministers own admission this is not the Department of Transport, it is the Board of Transport Commissioners that have the authority.

The Chief Commissioner points out that in 1956, when the question of toilet facilities on diesel locomotives was discussed by members of the Board and the National Legislative Committee of the International Railway Brotherhoods, he suggested that a simple way of testing the Board's jurisdiction in this matter was for the Brotherhoods to make a request for an Order of the Board in a specific situation as a test case. No move was made by the Brotherhoods to proceed in this way.

The Chief Commissioner is of the opinion that Section 290 of the Railway Act would give the Board power to order toilet and sanitary facilities for railway employee on train and, however, that the Railways might dispute the Board's power and the Chief Commissioner states that if the Brotherhoods wish the Board to hold an inquiry, the Board is willing to do so and that if the Railways questioned the Board's jurisdiction the Board would rule in the matter after hearing the parties.

The Memorandum states that it is your opinion that Section 290 of the Railway Act would give the Board power to order toilet and sanitary facilities for railway employees on trains. However, you state that the Railways might dispute the Board's power and you indicate that if the Brotherhood's wish the Board to hold an Inquiry, the Board is willing to do so, and that if the railways question the Board's jurisdiction, the Board would rule in the matter after hearing the parties.

I have been instructed to request that the Board issue an Order that will require the railways under the Board's jurisdiction to provide and maintain potable water supplies and toilet and sanitary facilities for railway employees.

This raises questions and I would appreciate hearing from you as soon as possible in this respect. Is it your opinion that the Board's

jurisdiction applies only to railway employees on trains, or does the jurisdiction extend to all railway employees. If the Board's jurisdiction covers only those employed in the operation of trains, would this jurisdiction cover these same employees when they are at a terminal and using railway bunkhouses etc.?

It is important that we have answers to these questions as soon as possible, so as to enable us to direct our attention to the proper authority in the event there is a division of jurisdiction.

The idea behind that was that we felt that we would be appearing before your committee, Mr. Chairman, and we wanted to have this correspondence so we could include it in the record.

On november 28, I received an answer from the Chief Commissioner, which reads as follows:

My secretary wrote to you on November 9 in respect of your letter of November 9th and said that I was in Montreal presiding at hearings and would give consideration to your letter upon my return. I have now had an opportunity to consider it.

In your letter your state:

"I have been instructed to request that the Board issue an Order that will require the railways under the Board's jurisdiction to provide and maintain potable water supplies and toilet and sanitary facilities for railway employees"

The Board will treat that request as an application for the Order requested therein. The railways are interested parties entitled to make answer and submissions and be heard and therefore a copy of your letter and of this reply will be sent to them for that purpose.

Your letter also quotes, as follows, from a memorandum received by you from the Honourable J. W. Pickersgill, Minister of Transport:

I will not quote the memorandum again.

I wish that there be no misunderstanding on the matter of the opinion mentioned in the memorandum. The opinion is my opinion, (this is the Chief Commissioner speaking) necessarily the opinion of all Board members. It is not a ruling. Should the Board's jurisdiction or power be questioned, the Board would rule on the matter after hearing the parties.

You now ask for my further opinion as follows:

This is my quote and my questions.

"This raises questions and I would appreciate hearing from you as soon as possible in this respect. Is it your opinion that the Board's jurisdiction applies only to railway employee on trains, or does the jurisdiction extend to all railway employees? If the Board's jurisdiction covers only those employed in the operation of trains, would this jurisdiction cover these same employees when they are at a terminal and using railway bunkhouses, etc.?"

Mr. Kerr continues:

> The Board has always been willing to inform parties respecting previous decisions; but it has been the Board's practice not to give advance opinions to parties on arguable questions of interpretation of statutes upon which it may later have to give rulings. An opinion expressed by a Commissioner before hearing the interested parties might well be premature and be subsequently varied; it might also prejudice that Commissioner's right to sit at a hearing to determine the issue; it might unduly influence a party in deciding whether to make or oppose an application or otherwise as to what action to take. For these and other reasons, the Board's practice in this respect is well founded. However, in a desire to be helpful in your consideration of the subject matter, but with misgivings as to departure from the Board's practice, I am willing to offer my views, subject to the qualifications that they are not rulings; that they are subject to further consideration, and possibly modification upon hearing the interested parties, if the question becomes an issue for determination in the course of an application; and that my views are given without knowing what views other members of the Board may have on the question.

Section 290 (I) (e) and (l) are as follows:

> "290. (I) The Board may make orders and regulations—
>
> (e) requiring proper shelter to be provided for all railway employees when on duty;—
>
> (l) generally providing for the protection of property, and the protection, safety, accommodation and comfort of the public, and of the employees of the company, in the running and operating of trains and the speed thereof, or the use of engines, by the company on or in connection with the railway."

The next part of his letter refers to the same decision that I referred to and that the Commissioners made, and I will not read that because it will be a part of the record anyway.

Reference is made to the decision whereby the board in 1910, in the case that I referred to, said that the railway companies were not legally bound to offer shelter or provide shelter for railway employees off duty.

> In the light of the facts and the wording of the statute, that decision does not appear to have been erroneous. If the Board does not have power to order railway companies to provide bunkhouses, it would appear to me that it does not have power to order that sanitary facilities, etc., be provided in such bunkhouses.
>
> As to what railway employees may be included in section 290 (I) (l), above quoted, it appears to me that the governing words in that respect are "the employees of the company, *in the running and operating of trains or the use of engines.*" I am not able at this time to give an exhaustive definition of the employees included in those underlined words.

That is the end of the quote.

The situation today then is as follows. The Department of National Health and Welfare claims jurisdiction, but to date has refused to exercise its authority beyond recommending minimum standards.

The Department of Transport, or the Board of Transport Commissioners for Canada claims jurisdiction, but only for those employees employed in the actual operation of trains, and only on trains. This is not a fact as yet, but remains to be decided upon by the Board, as indicated by Mr. Kerr.

Now the Department of Labour, through Bill S-35, is seeking jurisdiction, but wishes to qualify its jurisdiction to the degree contained in Section 3(3).

The need for legislation in the matter of health and safety on railways is unquestionable.

Diesel Engines and Cabooses, with few exceptions, do not have toilet facilities. On the CPR the drinking facilities on a Diesel are a bucket, with the lid being the common drinking cup. We have in our records, and on record with the Department of National Health and Welfare, cases involving hepatitis and tuberculosis, and one can readily see the danger to other individuals having to use common drinking cups.

In this regard, Mr. Chairman, with your permission, I would like to show the committee the type of pail that I am referring to. This is in common use on diesel locomotives on the Canadian Pacific Railway. You can examine this. I was sent this on request; it had been placed on the outgoing rack after having been scalded and cleaned, so that the engine crew could pick it up clean and fill it with water. Now this is the common drinking cup. You slosh a little water in here and drink it. If we envisage a passenger train leaving Montreal for Vancouver and envisage the number of different crews which use that same drinking cup, it certainly does not offer much protection for infectious diseases such as hepatitis and others. Now those people who look after the tracks do not have a bucket like this, they have a wooden keg. This is the cup, with "CPR" underneath, that they dip into the bucket to get a drink of water. It is a common cup, and you may have gangs of varying sizes, in numbers from ten to thirty, using that cup. If you use a wooden barrel for water long enough, you cannot even scald it. So, to cleanse it, they put a little gravel in the bottom of the barrel and slosh it around in order to cleanse the open bucket.

(*The Canisters are described in the minutes of Proceedings*)

Mr. KNOWLES: Are these exhibits going to the filed?

Mr. GIBBONS: My thought was just to show them to you.

Another problem that confronts us is the fact that railway employees are covered by the compensation acts of the Provinces.

The compensation boards have varying methods of "inspection", designed to assist in the preventing of employment injury. However, the inspectors are without authority to inspect railway shops or other railway work operations.

Again the question arises as to why Section 3(3) should qualify the jurisdiction that the Bill proposes to cover. Surely it would be better to recognize now that there are gaps in existing legislation and to amend Bill S-35 in such a

manner so as to close the gaps, rather than compel groups such as we represent to apply to the Governor-in-Council for an order to have employees covered by the Bill.

At the present time we have initiated a movement requesting that the Board of Transport Commissioners deal with it. Why should we, or other groups of individual citizens in Canada, have to go to these various groups on our knees, so to speak, to find out whether or not they have the jurisdiction to look after our problem.

We are of the opinion that the Bill should be amended so as to provide coverage for all railway employees not otherwise covered by existing legislation. If Mr. R. Kerr, Chier Commissioner, Board of Transport Commissioners for Canada, is correct in his opinion that the Board's authority only extends to the actual movement of trains, then Bill S-35 should be amended to cover these same employees when they are in terminals and all other employees under all circumstances in their capacity as employees, and we so recommend.

The VICE-CHAIRMAN: Thank you Mr. Gibbons. Before we get into the questioning may I say that with Mr. Gibbons is Mr. Walter, the Assistant Grand Chief, Brotherhood of Locomotive Engineers. Mr. Walter have you anything to contribute to the testimony so far, or are you just here to answer questions?

Mr. WALTER: Mr. Chairman, I am just here to answer questions.

The VICE-CHAIRMAN: Fine.

Mr. GIBBONS: With your permission, Mr. Chairman, may I just address a few remarks to the brief. When we referred, in the last paragraph, to the fact that the "Bill should be amended so as to provide coverage for all railway employees not otherwise covered by existing legislation", we are referring to the fact that the Board of Transport Commissioners under Section 290 of the Railway Act have very, very broad authority. That authority has seldom been exercised. On very few occasions has the Board issued orders or regulations, without application for such orders being made by the Railway Brotherhood—even to the extent that we had electric lights put on locomotives as a result of representations made by a Railway Brotherhood. All of the safety factors as they relate to the operation of its range—between terminals, from terminal A to terminal B—come under the Board of Transport Commissioners. Now there are numerous general orders and rules that are applicable to safe operations. One that comes to my mind is the uniform code of operating rules that is applicable all across Canada. There is a Board order that covers the design of a diesel locomotive and the specifications, and the railways are not permitted to change or alter those specifications in any way without approval of the Board. The locomotive must be so designed that the diesel fumes are expelled outside of the cab for the safety of employees. There are many aspects of safety that are covered by the Board, but they have not yet extended that authority to include health and sanitation as it pertains to the use of toilets or proper and sanitary potable water supplies on diesels or cabooses.

So that is one group that is covered by the Board. We would not very well support, as we did before the Senate, a deletion of Section 3(3) because we do recognize that there is a division of jurisdictions. But we say in all due respects and as firmly as we can, that the onus of responsibility should not be placed upon

us to decide or to initiate the move that would establish who has jurisdiction. Surely, in the preparation of such a bill, the responsibility lies with the Department of Labour, the Department of Transport and the Department of National Health and Welfare, to determine who has the jurisdiction, spell in out unequivocally, and exercise it.

Mr. NICHOLSON: May I ask this question Mr. Chairman. Do you not agree that all three departments have jurisdiction with regard to certain subjects, certainly with regard to health and welfare. Do you not agree that they have a responsibility.

Mr. GIBBONS: I cannot agree, Mr. Nicholson. I would agree to the point that I think they all should have certain responsibilities, but from our experience since 1909 we have come to the conclusion that perhaps they have the jurisdiction but we are not sufficiently legally endowed, like the Supreme Court of Canada, to determine that each has his specific jurisdiction. Look at the code; it is a wonderful code, and one that we all have agreed upon. But it is just so much paper with so many words on it without the regulatory authority. So evidently they decided that they do not have the authority. I have been listening to the representations that have been made by the Department of Transport. They claim jurisdiction, but the Hon. J. W. Pickersgill says "no, we do not have jurisdiction; only the Board of Transport Commissioners, which is a court of record, and I as Minister cannot even question their proceedings and their authority".

Now we come to the Department of Labour. I hope you do not misunderstand me, sir, but we think that the principle of this bill is wonderful. All we ask is that you spell out the authority in no uncertain terms so that we do not have to go on looking for that proverbial egg under the cup. We want to know where to go to obtain satisfaction for this unhappy situation.

The VICE-CHAIRMAN: Thank you, Mr. Gibbons. Are there any further questions, Mr. Minister.

Mr. NICHOLSON: No I wanted to hear Mr. Gibbons' testimony because I am quite interested in it.

Mr. KNOWLES: I think it is clear, Mr. Gibbons, and I hope I will be forgiven if I just ask you to underline it, that you are not concerned by whom you are covered; you just want to be sure that you are covered—and as you see the situation, there are two or three pretty serious gaps?

Mr. GIBBONS: Yes, right now in so far as workmens compensation is concerned in our provinces, and as it relates to all employees other than those in the actual movement of trains. This is still subject to interpretation, Mr. Knowles, as indicated in Mr. Kerr's letter. He will not give an exhaustive interpretation on who is covered. But if we assume that the operation of trains involves the actual movement of a train from terminal A to terminal B, then those people are covered as to their safety and working conditions pursuant to the board orders that are put out. Now, when we move into a terminal, work camp, or any other place where employees are engaged, although we are covered by the respective workmens compensation act in the various provinces, we are without the inspection of the authorities in each province because they have no right to go on railway property. So there is a gap that I think the Department of Labour can fill

immediately. When we come to health and sanitation, as opposed to covering of machinery and so on, that would normally come under conditions of employment other than as they relate to health and sanitation, we are confronted with another gap. The Board is now going to consider our application and make a determination as to whether or not it has authority to rule that it will cover those operating employees for potable water supplies, toilets and so on, on moving trains. Therefore all of the other people are still not covered, or there is no definite jurisdiction as yet because, if you read 290 (1) and then you read the section 3 (3), you will find that they are wide open for interpretation.

Section 290 (1) of the Railway Act, which is still subject to a final decision by the Board reads:

> ...of the employees of the company, in the running and operating of trains...

Clause 3(3) of the Act says:

> ...applies to or in respect of employment upon or in connection with the operation of trains...

Now that is a much broader definition than "running and operation of trains", one is the "running and operation of the train", and the other is "in connection with". Now I cannot think of an employee on the CNR, from Donald Gordon down, who is not "in connection with" the operation of a train. I think this will have to be looked at very carefully because, knowing the CPR, we will have to go to the Supreme Court in order to test it.

Mr. KNOWLES: It was made pretty clear to us the other day, by the officials I believe, that Bill No. S-35 will cover railway shops. You are questioning even that, are you not?

Mr. GIBBONS: With all due respect—I have a tremendous admiration and respect for Mr. Currie, both personally and as the head of that department—that is an opinion. Any Bill that we have been involved with over the years is still subject to testing in the courts. We had the experience, Mr. Knowles, as you well know, with Section 182 of the Railway Act, and we found that although we appealed the decision of the Board of Transport Commissioners on a particular case, the supreme court upheld the decision of the Board, although one of the learned chief justices wrote that in principle the employees are right, that these individuals are covered under Section 182 of the Railway Act. However, the individual who wrote the legislation was not a meticulous grammarian. That gave no satisfaction whatsoever to our people. So I say, maybe what is in order is to get some more meticulous grammarians to straighten this out so that, unequivocally, there is coverage.

The VICE-CHAIRMAN: Are there any further questions?

Mr. KNOWLES: You would be afraid that under this clause 3 there would not even be any requirement on the CPR to provide toilet facilities in the office of the president.

An hon. MEMBER: I think it is broad enough.

Mr. GIBBONS: Not likely, and that is an opinion.

Mr. KNOWLES: If you think that was facetious let me relate it to a railway shop in Transcona or Weston. You are afraid that because those men are doing

work in connection with the operation of a train, they would not be covered either. I think you and I, critical though we are, would both agree that that is not the intention of Bill No. S-35.

Mr. GIBBONS: I agree, I agree, and we endorsed the principle and the intent of this bill; they are trying to close up the gaps. But in all due respect, if Mr. Kerr will not give us a more exhaustive interpretation of what running and operating of trains includes, then it seems very clear to both Jack Walter and I that somebody is going to have trouble to interpret "in connection with".

Mr. KNOWLES: In other words, you have three problems the way I see it. You have the problem you have with the Board of Transport Commissioners, to get sanitary facilities on diesel units and cabooses; you have the problem of whether or not railway workers on the ground, in the shops, are really covered, and even if both of those matters are taken care of, you have this problem of operating employees who are at terminals and who are at the moment not actually running a train.

Mr. GIBBONS: I think I should put on the record that over the years we have had wonderful co-operation from the environmental health division of the Department of National Health and Welfare. Although these standards do not have regulatory authority, they have sent inspectors in to investigate bunkhouses, and we have had improvements in that regard. But, on the other hand, this has been going on since the early 1900's. I was in Newfoundland last spring, when I visited a bunkhouse at Port aux Basques. Because it is a port, rats were there, and they got underneath the bunkhouse. So they hired a firm of rat exterminators. They came in and drilled holes in the walls and floors, and filled them up with some kind of a seed that kills rats, and then they plugged them. It killed the rats alright, but they are still in the walls and underneath the floor. Our people registered a complaint. Now, I or brother Walters, or any of my other associates, have to register that complaint with Mr. Edmonds, the head of the division. He has an inspection made, and they make a recommendation to the railway company. Anyone knows that once you have made the recommendation, even if it does not have regulatory authority, you cannot close the place up as you would under normal circumstances. In a woods camp or anywhere else where the conditions were less than satisfactory, they would put a lock on the door and arrange for other facilities. But our people are still subjected to those conditions.

The VICE-CHAIRMAN: Are there any further questions? Mr. Hymmen.

Mr. HYMMEN: From information the Minister, Mr. Currie and others have given us regarding Bill No. S-35, I am quite sure that the members of the committee feel this bill will provide for some facilities, including portable water on railways. Your exhibit A was most interesting; it seems to me that after 56 years we should be able to find a proper solution. You mentioned the CPR; does the CNR have an alternative arrangement for drinking water on their diesels?

Mr. GIBBONS: Yes, but it is not completed yet. They have put on a more suitable arrangement; there is a double container with ice and water and individual drinking cups. The CPR, on newly acquired locomotives, also has placed a similar type of drinking water facility on it, but there are still 900 odd locomotives not equipped.

Mr. HYMMEN: It seems a question of jurisdiction. I imagine it could be done if somebody insisted to the proper authority that it be done.

Mr. GIBBONS: Once we get wired down who has the authority, I do not think it will be any problem from there on.

Mr. TARDIF: What process is followed now to supply that service to them.

Mr. GIBBONS: Well I told the rest of the members it was a bucket. This is the common drinking pail and this is the cup.

Mr. TARDIF: Is that one of the deluxe models or is it just an ordinary model?

Mr. GIBBONS: It is a little smaller than we used to have, we used to have larger ones.

The VICE-CHAIRMAN: Are there any further questions? If not, I would like to thank Mr. Gibbons for his very forceful points and colourful testimony. Mr. Currie, are you anxious to say anything at this point, or at all?

Mr. CURRIE: I think I might be able to make one or two useful comments.

The VICE-CHAIRMAN: If it is the pleasure of the committee, we still have about three quarters of an hour.

Mr. CURRIE: Mr. Chairman, there are one or two comments I would like to make with respect to the brief submitted by Mr. Gibbons. I made a marginal note on the bottom of page 4. The authority of existing provincial inspection services is now limited. As Mr. Gibbons correctly points out, they do not have authority now to go onto railway premises, shops and so on. I think this is the very sort of situation Bill No. S-35 would cure. Through the agency of Bill No. S-35, these provincial inspection services will be duly authorized to go into any federal work, undertaking or business and carry out what has to be done.

Mr. CLERMONT: What section of the bill will authorize that?

Mr. CURRIE: Clause 11 is the one under which we would hope to engage the services of all kinds of provincial inspectors. And those persons engaged under Clause 11 would have all the duties, responsibilities and authorities that are contained in Clause 14 and those that follow in relation to the function of the safety inspectors.

Mr. CLERMONT: And these people will act as safety agents? They will have nothing to do with sanitation and so on.

Mr. CURRIE: Oh yes, indeed they may. The safety officer is not restricted to matter just relating to mechanical or other types of safety; the whole scope of their work relates to the safety and well-being generally of employees engaged in federal works undertaken through businesses. They will have to see, under regulations promulgated under Clause 7—which may well deal with such matters as potable drinking water, clause 7(1) (d); in (e) the fencing of machinery, (f) transportation, storage etc. of harmful substances and so on, that the safety officer is competent to exercise his judgment and insist on compliance with whatever is laid down in the regulations. So it is really quite broad.

Mr. RÉGIMBAL: But will this authority extend beyond one department, or are they going to run into the same difficulties with the final authorities, the Board of Transport Commissioners, the labour department and so on.

Mr. CURRIE: As I understand it by orders of the Board of Transport Commissioners, certain duties and responsibilities devolve upon certain employees of the Department of Transport, or the inspectors of the Board of Transport Commissioners, and the like. Certainly, it would be our expectation that the safety officers engaged to carry out duties under this legislation would not impinge upon the territory of these other inspectors. Similarly, there are responsibilities and proper functions which the officials of the department of National Health and Welfare are especially qualified to carry out. It would not be our intention to try to upstage or to replace them, but merely to use all these facilities to carry out our duties. If the Health and Welfare Department through their occupational health services, for example, would establish that the lighting, the ventilation or some other general environmental factors, were inadequate, and would recommend standards that would be applied, it would seem reasonable to me that the labour Department would accept those, consult the industries and the representatives of the employees concerned and, after due consideration, promulgate regulations based upon those recommendations, and then their safety officers would apply them. In the application of those we do not restrict ourselves to just provincial safety officers; we may well use—and I am sure we would—the competent officials of the Department of Health and Welfare or any other federal or provincial department, in assisting us in seeing that proper standards, first of all, were produced, and to use their facilities to see that they were enforced. We certainly will not have a competence in all these special fields; we do not propose having it. We will call upon the others that are available.

Mr. MCNULTY: Mr. Currie, if this bill becomes legislation, would the Department of Labour have final jurisdiction? Would they be able to order that certain things be done along with the Department of Health and Welfare and others?

Mr. CURRIE: Yes, indeed. This is really the whole burden that the department proposes undertaking. It will have an enforcement role. There will be a requirement, an obligation on the part of employers and employees to comply with the regulations and standards that would be developed. This is not now the case. The Health and Welfare Department recommends standards. There is certainly doubt whether or not they are enforceable. The standards that we will adopt will definitely be enforceable, and as later clauses illustrate, there will be penalties for non-compliance.

Mr. KNOWLES: What is your comment on Mr. Gibbons' fear about the wording of Clause 3 (3), namely the phrase "in connection with the operation of trains".

Mr. CURRIE: Mr. Chairman, it is extremely difficult to be precise here. Certainly this is capable of differing interpretations. I think you have the benefit of departmental views as to what is meant here in the note that I circulated. There is little doubt in our minds, so far as clause 3(3) is concerned, that we will have authority to fill in all the gaps that result from either a condition where the Board of Transport Commissioners did not feel it had the authority to regulate, or where having the authority to regulate, for various reasons it may not regulate as far as the legislation they have would permit them to do. The purpose of Clause 3—I think I can say this authoritatively, because we had the

most extensive discussions on this with the Department of Transport and other officials—was not, not to remove railway employees from the coverage of this legislation.

The purpose of clause 3 (3) was to make it abundantly clear that the existing legislation applicable to trains, ships and aircraft, the Railway Act, the Shipping Act, the Aeronautics Act, which primarily are concerned with the provision of safe and efficient transportation under federal jurisdiction, was not in any way interfered with, that the responsibility of the minister, that department, the Air Transport Board, the Board of Transport commissioners and the like, were unimpaired. There would be no chance for Labour department or its inspector, for example, to come along and say "This aircraft cannot fly today." or "This train may not leave the terminal today." This is drawing a pretty long bow, but theoretically I suppose this could have happened. So it is to make sure that those things that are already being regulated, or are capable of being regulated—I quite agree to that—remain the statutes that are now available and under the authority that now exists. There is nothing under Bill No. S-35 which would prevent us from filling any gaps, whether they are railway employees at the terminal just getting off the train, railway employees working in a shop, restaurant, a railway crossing, gate house, or what have you.

Mr. KNOWLES: Would the desire not to interfere with the jurisdiction, which you so well described, be interfered with if you worded clause 3 (3) simply: "in respect of employment upon ships, trains or aircraft". I am picking up Mr. Gibbons' fear of those additional words "in connection with", this seems to underline the gap. We are agreed that those who are actually on the train perhaps can best be covered under the Board of Transport Commissioners if they would just make up their minds. But it is this vague description of people whose work is in "connection with".

Mr. GIBBONS: Mr. Chairman, could I please answer that?

The VICE-CHAIRMAN: Yes.

Mr. GIBBONS: I think you have the key to it because, as Mr. Currie pointed out the other day, if we have the Board of Transport Commissioners consider our application to cover those in the running and operating of trains, insofar as health and sanitation, potable water supplies, toilets on diesels and cabooses is concerned, in the event that they say yes, we have the authority and we will put out a general order ordering the railways to equip diesels and cabooses with this, then I say that would be fine for those employees who come under the Boards jurisdiction. But right now we do not know who they are because, as Mr. Kerr says, it is still subject to a decision by the Board. If its authority extends that far it covers them insofar as health and sanitation is concerned, as well as which employees will be covered. The Railway Act's definition is much narrower; it says "in the running and operating of trains". This is not hard to interpret, but even then the Chief Commissioner will not. In the event that the decision went the other way, and the Board said no, it does not have the authority, we could then come back to the Department of Labour, having accomplished something for them, established the jurisdiction and say, now, we ask for an order by the Governor in Council to have the Department of Labour include them. I am afraid now, under clause 3 (3), that the CPR will say that every employee in the shop

is in connection with the operation of a railway; therefore, you do not have authority, and we will take you to the Supreme court of Canada to prove you do not. Do you follow me?

Mr. KNOWLES: Oh I do, that is the same CPR I have had to deal with.

Mr. GIBBONS: Exactly, they have not changed at all.

Mr. KNOWLES: Maybe an alternative to my suggestion of just reducing it to "employment upon" would be the wording from the Railway Act that Mr. Gibbons has just referred to. But at any rate, would it do any harm to the purpose that Mr. Currie has referred to, to eliminate the phrase "in connection with".

The VICE-CHAIRMAN: I would be interested in the argument for eliminating the whole of clause 3 (3). I am wondering if it is not covered adequately under clause 3 (1).

Mr. CURRIE: I think the suggestion made regarding the elimination of the words "or in connection with" certainly deserves consideration. I am sure the committee are well aware that the drafting of these bills is a long tortuous process, and this particular clause has gone through a great many versions. However, we would be very happy to give that further consideration. I do see some difficulty however, and this is purely an offhand comment. We are not only dealing with trains here Mr. Chairman; we are dealing with ships and aircraft, and it might well be as we improve our facilities for navigation on the Great Lakes, the St. Lawrence Waterway and so on, that there will be off shore, say, radio communications, aids to navigation, and so on, and it might well be that the appropriate transport authorities would feel that this was very essentially in connection with the operation of the ships, even though it was not actually on board. Again, in the case of aircraft, you have all the air traffic controlling facilities, radio communications and so on. I am not sure that it lends itself to a ready deletion of "in connection with". At the same time I recognize that it is so broad that one could argue that the man who flags you down and does not let you cross the railway crossing because there is a freight train shunting in a local yard, presumably is employed in connection with operation of a train. However, we will certainly look into that.

On another point, Mr. Chairman, "subject to any other act of parliament" is the phrasing that is used to introduce clause 3 (1). I would have thought that this establishes very clearly that nothing in Bill No. S-35 is to supplant, interfere, or diminish what may be done under any federal statute relating to similar matters. Certainly this was the intent. There is for example, the energy board act under which our national pipelines operate; there is the health and welfare act, the Aeronautics Act and others that I have mentioned, all of which may have a bearing in a number of ways upon employment and working conditions from a safety point of view. Historically these have been operating, and they have a variety of provision. It would be quite wrong, it seems to me, that we would have any overriding authority to displace any of these provisions. So, "subject to any other Act of the Parliament of Canada" was advisedly put in. I would think that since this legislation is conditional upon such things as the Railway Act, it might have taken care of the situation that is now before us. However, this matter was very extensively considered, as the Minister reported here, and also in the Senate committee. The present wording of clause 3 (3) is

a result of very extensive consideration between ourselves and the Transport Department, the Department of Justice and others, and there was a genuine concern that if clause 3 (3) were not here, it would be possible, at least theoretically, for a safety officer or some other very zealous person, under this legislation, to actually interfere with the operation of a ship, a train or some aircraft. And to make it abundantly clear, to reinforce this premise upon which the legislation was based, namely that it was subsidiary or conditional upon other federal statutes and that this could not ever be used to interfere with a safe and efficient operation of these forms of transport, this was put in to make it very explicit.

I think, Mr. Chairman, that does represent the conclusions reached by the interdepartmental group.

The VICE-CHAIRMAN: It seems to me we are faced with somewhat of a dilemma here because, on the one hand, you argue that this act does provide for the activities of safety inspectors supplementary to existing regulations governing air, rail and shipping legislation but, on the other hand, they cannot in any way interfere with the operations of these. Is it inconceivable, for instance, that there could be discovered on a train about to leave from Montreal, conditions in respect of the operations from, say, the diesel operators point of view, that constitutes a safety hazard that should prevent the train from leaving? Now it is clear, with this provision, that I guess there is nothing he can do about it. But, on the other hand, the train does leave with a safety hazard for the operator, and he does seem to have power according to your interpretation, to do something about it. At this point, we seem to be faced with some sort of a dilemma and I do not know how we will resolve it. I do not know if that is a fair interpretation of the situation, but that is the situation as it appears to me.

Mr. CURRIE: Well, if I understand your question correctly, Mr. Chairman, surely the preparations of a train for a run from Montreal to Ottawa, and all the things pertinent to that, must be carried out in accordance with the orders issued by the Board of Transport Commissioners, including how the train is made up, the compliment it is to carry and all the other running orders. Now if these are not in conformity with existing standards to provide safety for employees as well as the travelling public, it seems to me the remedy then would lie with the company under the provisions of the orders produced by the Board of Transport Commissioners. Would that not be right?

Mr. GIBBONS: That is correct Mr. Chairman. In respect of the operation of a train between terminals we are adequately covered by the Railway Act, which is administered by the Board of Transport Commissioners through general orders. But suppose there is no toilet or potable water on that diesel? This is one area where we are not covered, and where we still have to test the Boards authority, if you follow me. What we are suggesting is that if you can bring perhaps the definition in clause 3 (3) closer to the Railway Act definition, and when we finally determine the final interpretation, what employees are included in clause 290 (1) of the Railway Act in the running and operating of trains, then we will have served the Department of Labour well by defining it for them if their wording was the same as the Railway Act. And by the same token, regardless of what the Board's decision would be in that respect, we would still have recourse if it was negative—as they said, we do not have jurisdiction—then we could still

come back and apply under the wording of clause 3 (3) to the Governor in Council for an order to cover these employees in this particular aspect which are not covered.

Mr. KNOWLES: Generally speaking, you would be reasonably happy if the Board of Transport Commissioners covered everything on the trains, including water and sanitation. But you do not want to run the risk of the gap that seems to be in clause 3 (3) because of the words "in connection with". If the reconsideration that Mr. Currie refers to, produces a rewording here, we might solve the problem.

Mr. CLERMONT: Mr. Gibbons, what was the reaction of the railway company to your group's recommendations regarding drinking water facilities?

Mr. GIBBONS: If I remember rightly, the Rt. Hon. John Diefenbaker mentioned in the speech from the throne—I think it was December of 1960—that there were two points that were going to be dealt with by the government. One dealt with what he referred to as "turnaround comforts", and the other was the inequitable position that certain pensioners found themselves in. Perhaps you can correct me on the date, but I think it was December of 1960 that that speech was made.

They subsequently referred this matter to the then standing committee of the House of Commons on airlines, shipping and railways. Donald Gordon and the representatives of the CPR read their briefs. When they appeared before the committee they had a well documented brief and painted a very rosy picture as to what their attempts were in the line of bringing about more adequate sanitation facilities for those involved in the operating of trains, and the cost factor became very obvious. When you consider costs you have to relate to the diesel locomotive, I suppose, costs in the neighbourhood of a quarter of a million dollars, but a drinking water bucket—I do not know what that one out in the hall would cost, but it would be very small in relation to it—became a factor. That committee of the House did not make any recommendation for any legislation in that regard, in spite of the fact that we had come forth annually to the government, appeared before that committee and pointed out the inadequacies. So it seems that cost is a prevailing factor. I have to say, in all due respect, that since we have brought all this pressure to bear, there has been a definite attempt by the Canadian National Railways—they are using experimental toilets; they have 2 or 3 equipped—to make progress. As I indicated earlier, they have made progress in providing better drinking water facilities on diesels. They are now equipping new cabooses.

Mr. CLERMONT: What about the CPR?

Mr. GIBBONS: They are most reluctant. Let us be honest. You cannot exert the same pressure on the CPR when appearing before committees such as yours, or the government, as you can on the CNR. They refuse to be pressured.

The VICE-CHAIRMAN: I think Mr. Walter wants to speak. Before we get off this point, Mr. Jacques Fortier, the Chief Counsel of the Department of Transport is here, and he might like to say something on this particular point.

Mr. R. J. FORTIER (*Chief Counsel, Department of Transport*): Thank you Mr. Chairman. In connection with the suggestion to delete from paragraph 3 of clause 3 of the bill, the words "in connection with", I would like to point out that

of course we are not in this section concerned exclusively with the operation of trains; the exception deals also with aircraft and with ships. I would certainly ask the chairman for the opportunity to discuss this proposed deletion with the technical officers in the air services division of the Department of Transport, before agreeing to this—also with the steamship inspection branch of the Department of Transport, which regulate and control operation of ships. But, may I suggest, Mr. Chairman, that the whole question raised today by Mr. Gibbons may be said to be this. He wants provision of sanitary and comfort facilities for railway operating employees on duty on trains and on duty not on trains. Now, section 290 of the Shipping Act gives the board the power to make regulations, not only of—Mr. Gibbons quoted this section—generally providing for the protection of property, and the protection, safety, accommodation and comfort of the public, and of the employees of the company, in the running and operating of trains. There is another subparagraph which gives authority to the Board to make regulations requiring proper shelter to be provided for all railway employees when "on duty".

It does not say "on duty on trains" or "on duty not on trains". Now, it is true that the Minister of Transport is charged with the administration of the Railway Act. However, as Mr. Gibbons pointed out, the Board of Transport Commissioners, which is created under the Railway Act, constitutes a court. The orders and the decisions of the Board are enforceable in the same manner as a judgment of any other court. They are also subject to appeal to the Supreme Court of Canada. When Bill No. S-35 was before the senate committee, Mr. Gibbons, on behalf of the Association, asked that provision be made for toilet and sanitary facilities on diesel engines. This request was made to the Minister of Transport, who referred it to the Board. And the Chief Commissioner, in his reply, which Mr. Gibbons quoted, suggested that if an application was made to the Board, a hearing would be held. Recently, at the beginning of November, Mr. Gibbons made formal application for this provision on diesel engines. The matter is now before the Board. The Chief Commissioner has agreed there will be a hearing; the matter will be decided and an order will be made. That order will be subject to appeal if it goes contrary to the Association. In the event that final judgment goes against the wishes of the Association, in that case, I would say that under paragraph 3 of clause 3 of the bill, it then would be up to the Department of Labour to regulate and to control the situation, the duties of the Board having been exhausted. Now, in addition to this request that was made by Mr. Gibbons, he also asked the commissioner to rule on two further questions:

> Is it your opinion that the Board's jurisdiction applies only to railway employees on trains, or does the jurisdiction extend to all railway employees? If the board's jurisdiction covers only those employed in the operation of trains, would this jurisdiction cover those employees when they are at a terminal and using railway bunkhouses?

In his reply to Mr. Gibbons, the chief commissioner invoked an old decision of 1910 of the Board of Transport Commissioners. However, I would like to point out that in his letter—although he expressed some doubt as to the propriety of the chief commissioner expressing an opinion—he stated that the Board would entertain an application if the Association made an application to the Board to settle these two points. It would be open to the Association to file an application.

The application would be heard by the Board—there would be a hearing—and, again, a decision would be made which would be subject to appeal. In the final analysis, if the appeal went contrary to the wishes of the Association, then under paragraph 3 of clause 3 of Bill No. S-35 it would be open to the Department of Labour to regulate the matter. So I would suggest, Mr. Chairman, that on the question of the provision of these facilities on trains, or not on trains, for employees when on duty, that both the Railway Act and Bill No. S-35 are amply sufficient, and that the Association should have no anxiety on this point.

On the further question as to what happens in the case of ships and aircraft, well, before any amendment is made to paragraph 3, I would respectfully ask that the Department of Transport be given the opportunity to consider that.

Mr. KNOWLES: Mr. Chairman, may I ask this question. Would there not be some danger that if the Board of Transport Commissioners ruled that it did not have the authority to cover operating employees when they are off the train because of the wording in the Railway Act, that those same employees might find themselves not covered by this act because of the different phraseology—the phraseology in the Railway Act being "in the operating or running of trains", and the phraseology in this act being "in connection with". You heard one of the suggestions we made, if it was not proper to reduce this to only a word or two, at least have the wording the same in the two acts. Would that not be a precaution to avoid the danger of the employees falling between two stools.

Mr. FORTIER: I would suggest that if the Board makes a ruling and there is a final decision on the point that the Railway Act and the Board has no jurisdiction in respect of employment "in connection with the operation of trains", then the other provisions in that paragraph would come into operation, and automatically the Department of Labour would have jurisdiction to deal with the matter.

Mr. KNOWLES: As I understand it, the ruling of the Board would not use the language "in connection with". Would not the Board have to use the language in its own act.

Mr. FORTIER: Well the wording in the Railway Act generally just provides for the Board to have authority to make orders "in connection with" what is in paragraph (1) of the subparagraph of this clause—in connection with:

> . . .proper shelter to be provided for all railway employees when on duty.

That does not say upon trains. So that if a final decision was arrived at after a decision of the Board this does not include the provision outside of trains and, automatically, I would suggest that the Department of Labour would have authority under the present paragraph (3).

Mr. GIBBONS: If I may, and with all due respect, the Railway Act does not refer to "in connection with". Nowhere in clause 290 is the word "in connection with" referred to. It says "The Board may make orders and regulations (a) "limiting the rate of speed at which railway trains". . .not "in connection with" and,

> (e) requiring proper shelter to be provided for all railway employees when on duty.

That is the key for shelters.

> (1) generally providing for the protection of property, and the protection, safety, accommodation and comfort of the public, and of the

employees of the company, in the running and operating of trains and the speed thereof or the use of engines, by the company on or in connection with the railway.

The VICE-CHAIRMAN: Gentlemen, we are faced with a problem. We have to be out of here in two minutes. It is clear that we have not resolved this particular problem. It may be the feeling of the committee that we would like to raise this again with Mr. Currie and Mr. Fortier, and Mr. Gibbons and Mr. Walters may want to come back at some later date. I regret having to cut this off, but we have to be out of here at 11.00. Before Mr. Knowles goes, I have a reply from Mr. Currie to my question regarding the appointment of safety inspectors, and I would like the approval of the committee to have this standard made an appendix to today's proceedings and the Clerk given the authority to circulate it in English and French.

Mr. KNOWLES: I so move.

Mr. RICARD: I second the motion.

Motion agreed to.

The VICE-CHAIRMAN: The next meeting will be Tuesday, December 6, when we will hear briefs from the C.L.C. and the C.N.T.U. Thank you gentlemen.

APPENDIX 7

Canada Department of Labour
Accident Prevention and
Compensation Branch

Ministère du Travail du Canada
Direction de la Prévention des
Accidents et de l'Indemnisation

Mr. Hugh Faulkner, M.P.
Vice-Chairman
Committee on Labour and Employment
Room No. 425, West Block
House of Commons
Ottawa, Ontario

Ottawa 4, Ontario
November 30, 1966

Dear Mr. Faulkner,

At yesterday's meeting of the Committee which was considering Bill S-35, Canada Labour (Safety) Code, you enquired about the methods of recruitment of safety inspectors by the provinces in view of the fact it is contemplated that these provincial officers would be looking after much of the field work under the new safety code. Obviously, in this short time, it has not been possible to make a survey of this since not only are all provinces involved but also many provincial departments and agencies are active in this general area.

However, I think this question was dealt with rather well by the Government of Canada in reporting to the International Labour Organization in 1964 in compliance with an ILO Convention (No. 81) on the subject of Labour Inspectorates. To the question,

> "Please describe the status, conditions of service, recruitment, training, etc. of labour inspection staff (Articles 6, 7 and 15)"

the following answer was made:

> "It is specifically stated in certain Acts in most provinces and it is general practice in all provinces, that the appointment of labour inspectors (includes safety inspectors) is subject to the provisions of the public service Act. In accordance with civil service regulations, appointments are made on the basis of qualifications only, as determined by the competent authorities. Recruitment for the public service is usually by way of competitive examination. In this way inspectors are assured of stability of employment and are independent of changes of government and of improper external influences.
>
> "Training is mainly conducted on the job, under the supervision of a senior inspector. A new officer receives instruction concerning the laws and regulations he is to enforce, the organization and policies of the department, inspection procedures, and the problems and operations of the industrial fields he is to encounter. On-the-job training is supplemented by refresher or training courses in some provinces."

This reply to the ILO was prepared by the Department of Labour after consultation with the provinces. We have no reason to believe that the situation today is any different from what it was in 1964 and from casual observations it is apparent that an open competitive procedure is widely used in appointments of this kind.

The adequacy and the competency of inspection services is, of course, fundamental to the success of the program envisaged under the Canada Labour (Safety) Code. As Mr. Justice Charles W. Tysoe noted in his report earlier this year on the Workmen's Compensation Act of British Columbia (page 121), "It is of little value to promulgate accident regulations unless you are prepared to employ adequate staff to ensure their enforcement". I am sure that adequate here is meant not only in terms of numbers but also connotes sufficient calibre to carry out their duties effectively.

I have observed that during the last two or three years there has been some expansion and upgrading of provincial inspection staffs in terms of qualifications required, their status and remuneration. We would hope that through our projected Canada Labour (Safety) Code we could strengthen and perhaps advance this process.

Yours truly,

J. H. Currie.
Director.

JHC: jf
cc. Mr. Bryce Mackasey
Mr. M. Kirby
Mr. J.-P. Despres

HOUSE OF COMMONS

First Session—Twenty-seventh Parliament

1966

STANDING COMMITTEE

ON

Labour and Employment

Chairman: Mr. GEORGES-C. LACHANCE

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 8

TUESDAY, DECEMBER 6, 1966

Respecting

BILL S-35

An Act respecting the prevention of employment injury in federal works, undertakings and businesses.

WITNESSES:

From the Department of Labour: Dr. George V. Haythorne, Deputy Minister; Mr. J. H. Curtis, Director, Assistant Prevention and Compensation Branch.

From the Canadian Labour Congress: Mr. Jean Marie, Executive Vice-President; Mr. A. Andras, Director, Legislative Branch.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

OFFICIAL REPORT OF MINUTES

OF

PROCEEDINGS AND EVIDENCE

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LÉON-J. RAYMOND,

The Clerk of the House.

HOUSE OF COMMONS

First Session—Twenty-seventh Parliament

1966

STANDING COMMITTEE

ON

Labour and Employment

Chairman: Mr. GEORGES-C. LACHANCE

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 8

TUESDAY, DECEMBER 6, 1966

Respecting

BILL S-35

An Act respecting the prevention of employment injury in federal works, undertakings and businesses.

WITNESSES:

From the Department of Labour: Dr. George V. Haythorne, Deputy Minister; Mr. J. H. Currie, Director, Assistant Prevention and Compensation Branch.

From the Canadian Labour Congress: Mr. Joe Morris, Executive Vice-President; Mr. A. Andras, Director, Legislative Branch.

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OTTAWA, 1966

25361—1

STANDING COMMITTEE

ON

LABOUR AND EMPLOYMENT

Chairman: Mr. Georges-C. Lachance

Vice-Chairman: Mr. Hugh Faulkner

and

Mr. Barnett,[1]	Mr. Johnston,	Mr. Muir (*Cape Breton North and Victoria*),
Mr. Clermont,	Mr. Knowles,	Mr. Racine,
Mr. Duquet,	Mr. MacInnis (*Cape Breton South*),	Mr. Régimbal,
Mr. Émard,	Mr. Mackasey,	Mr. Reid,
Mr. Fulton,	Mr. McCleave,	Mr. Ricard,
Mr. Gray,	Mr. McKinley,	Mr. Skoreyko,
Mr. Guay,	Mr. McNulty,	Mr. Tardif—24.
Mr. Hymmen,		

Michael B. Kirby,
Clerk of the Committee.

[1] Replaced Mr. Howard on Tuesday, December 6, 1966.

ORDER OF REFERENCE

TUESDAY, December 6, 1966.

Ordered,—That the name of Mr. Barnett be substituted for that of Mr. Howard on the Standing Committee on Labour and Employment.

Attest.

LÉON-J. RAYMOND,
The Clerk of the House of Commons.

25361—1½

MINUTES OF PROCEEDINGS

TUESDAY, December 6, 1966.
(9)

The Standing Committee on Labour and Employment met this day at 9.48 o'clock a.m. The Chairman, Mr. Lachance, presided.

Members present: Messrs. Clermont, Émard, Gray, Howard, Knowles, Lachance, Mackasey, McCleave, McKinley, Régimbal, Reid, Ricard, Tardif (13).

Also present: Messrs. Barnett and Watson (*Assiniboia*).

In attendance: From the Department of Labour: Dr. George V. Haythorne, Deputy Minister; Mr. Jean-Pierre Després, Assistant Deputy Minister; Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch; Mr. W. B. Davis, Departmental Solicitor.

From the Canadian Labour Congress: Mr. Joe Morris, Executive Vice President; Mr. A. Andras, Director, Legislative Branch.

The Chairman brought to the attention of the Committee a letter from Thomas O'Grady of Lodge 934 of the Brotherhood of Railway Trainmen. The Chairman read the letter.

On motion of Mr. Reid, seconded by Mr. Ricard,

Agreed,—That the letter from Mr. O'Grady of the Brotherhood of Railway Trainmen be printed as an appendix to this day's Minutes of Proceedings and Evidence (*See Appendix 8*).

The Chairman also read a letter from the Minister of Labour, the Hon. John R. Nicholson, P.C., M.P.

On motion of Mr. Clermont, seconded by Mr. Régimbal,

Agreed,—That the letter from the Minister of Labour be printed in the record of this day's Minutes of Proceedings and Evidence (*See Appendix 9*).

The Chairman then called the witnesses from the Canadian Labour Congress. After discussion it was agreed that the C.L.C. witnesses would comment on their brief and then answer questions.

On motion of Mr. Knowles, seconded by Mr. Reid,

Agreed,—That the brief of the Canadian Labour Congress be printed in this day's Minutes of Proceedings and Evidence, (*See Appendix 10*).

The Witnesses then commented on their brief, pointing to areas which it emphasized. Later they, along with the Departmental officials, were questioned.

At 11.05 o'clock a.m., the questioning of the witnesses continuing, the Chairman adjourned the Committee to 9.30 o'clock a.m., Thursday, December 8, 1966.

Michael B. Kirby,
Clerk of the Committee.

EVIDENCE

(*Recorded by Electronic Apparatus*)

TUESDAY, 6 December, 1966.

The CHAIRMAN: Good morning, gentlemen.

First, may I make some brief remarks to the members of the Committee along the same line as those made by Mr. Gibbons last week. I have received a letter from Mr. Thomas O'Grady of the Brotherhood of Railroad Trainmen, in connection with clause 3 subclause (3) of the bill. It is very brief, and perhaps I should read it.

An hon. MEMBER: Read it.

(*See Appendix 8 for text*).

The CHAIRMAN: Is it agreed that it be made an appendix to the minutes of proceedings and evidence?

Mr. REID: I so move.

Mr. RICARD: I second the motion.

Motion agreed to.

The CHAIRMAN: I have a letter from the Minister of Labour in connection with this matter. The letter is self-explanatory, but Mr. Nicholson is not in town today, and that is why he has sent me this letter. Is it agreed by the Committee that I read this letter?

Some hon. MEMBERS: Agreed.

The CHAIRMAN: I will read the letter.

Mr. George C. Lachance, Chairman,
Standing Committee on Labour and Employment.

Dear Mr. Lachance.

This is a 2 and a half page letter, but I think the members of the committee would like to know what Mr. Nicholson has to say about clause 3.

(*See Appendix 9 for text of letter*).

Is it agreed that the letter be made an appendix to the minutes of proceedings and evidence?

Mr. CLERMONT: I so move.

Mr. RÉGIMBAL: I will second that.

The CHAIRMAN: The Confederation of National Trade Unions has notified me that they will not appear today, or at any time on this bill, as they do not wish to make any more submissions at this stage of the bill. I understand from what they say that they are satisfied with the bill.

An hon. MEMBER: Have they made a submission to the Senate committee?

The CHAIRMAN: No, they have not.

An hon. MEMBER: No submission.

The CHAIRMAN: No.

Gentlemen, I have the pleasure to introduce to you today the representatives of the Canadian Labour Congress, Mr. Joe Morris, executive vice-president, to my right, and Mr. Andras, director of the legislative branch of the Canadian Labour Congress. I would ask Mr. Morris or Mr. Andras if they have any comment on the brief they have submitted to the Committee, which has been circulated to you, or is it the wish of the committee that the brief be read again and that any comments or questions be put to the witnesses?

Mr. KNOWLES: Has it been made part of the record?

The CHAIRMAN: No, not yet.

Mr. KNOWLES: I so move

Mr. REID: I will second that.

The CHAIRMAN: Did you move that it be made part of the record, or that it be an appendix, Mr. Knowles?

Mr. KNOWLES: If it is read it is part of the record, but if they are going to comment on it I think it should be an appendix.

The CHAIRMAN: Is it the wish of the committee that the brief before them be read?

Some hon. MEMBERS: No.

The CHAIRMAN: No?

Mr. KNOWLES: Perhaps you should ask the witnesses what they would prefer to do.

Mr. MORRIS: It really does not matter to us. We presented it ahead of time for the perusal of the Committee. If the committee wishes it to be read...

Mr. KNOWLES: I have suggested that it be made part of the record and that the witnesses be asked to comment on it.

Mr. REID: I have seconded that.

Motion agreed to.

Mr. ANDRAS: Mr. Chairman, and members of the Committee, this submission is made on behalf of the Canadian Labour Congress, a trade union centre, the largest trade union centre in Canada, representing some 1,300,000 workers, a very considerable number of whom are in the federal domain.

The Canadian Labour Congress has had a consistent record of interest in the whole issue of occupational health and safety, and this is really the reason why it appears before you today. The Bill No. S-35, which you are now considering, is a piece of proposed legislation which the congress has viewed with a great deal of interest, and I should say with pleasure, that such a bill should have been brought forward. Our only regret would be that it has taken so long to introduce such a measure in the federal domain. By and large, therefore, in terms of the principles involved in this proposed legislation, we would favour it. On the other hand, when we examine the bill in detail then we have some reservations, and I would like briefly to deal with these.

The first reservation—and this is the principal one, and was dealt with in the letter, which you have just heard, from Mr. Nicholson, the Minister of Labour —is the question of conflict of jurisdictions, and the consequential exclusion of certain industries from the province of the bill, at least insofar as the Department of Labour is concerned. It is our feeling that this makes for a weakness in the legislation, which will not correct the present situation, and on which you have preferred to see them placed in the same category as other employees, and of the bill.

Clause 3 subclause(1) makes the conventional description of those industries and undertakings which come within the federal domain. This language is quite familiar to us, and, I am sure, to everyone present here. Ordinarily, if the bill had stayed there with clause 3 (1) we would not have taken serious exception, with one extra group that we would have wanted to see in—and I might as well mention it now—and that is the inclusion of the public service of Canada. We regret that the government did not see fit to include Her Majesty in right of Canada as an employer. According to the record, Mr. Nicholson points out—I think in proceedings No. 9 of the Senate Committee study of this bill —that the public service are under the jurisdiction of Treasury Board. We would have preferred to see them placed in the same category as other employees, and coming within the province of this bill.

Beyond that, however, we observe that the intent of the bill is to maintain a divided jurisdiction over matters of occupational health and safety. Certain employees are to remain under the Department of Transport; others are to be subject to supervision by the Department of Health and Welfare; and still others, generally, under the Department of Labour. I suppose we might not have objected to this if there had been a clear-cut and unambiguous record of very careful and effective supervision by the Departments of Transport and Health and Welfare over the employees who come within the purview of these departments. But you have already had representations—and the Senate committee before you—by the railway workers' unions, and I believe by those in air transport, that the *status quo* is not satisfactory; that the degree of supervision or care by government departments over railway workers and airline workers is not good; that the Railway Brotherhoods, in particular, have spent easily 20 years or more in seeking to get appropriate standards of occupational health and safety for their members, but without success. And the reason for this is a lack of clear-cut jurisdiction.

We would therefore, have to say—and we do in our brief to you today—that Bill No. S-35, however desirable it may be in other respects, is deficient in that it maintains this lack of clarity on jurisdiction, and a consequential lack of effectiveness in providing for the health and safety of employees who come under clause 3, sub-clause (3), and that would be employees connected with the operation of ships, trains or aircraft.

I wish to emphasize, on behalf of my colleague and myself, that this is really the nub of our representations here today. We have other matters of detail to which we refer in our brief, and I shall deal with them rather quickly in order to provide you with the time that you require for cross-examination.

We have taken exception to the exclusion of the Northwest Territories and the Yukon, insofar as the coverage of this bill is concerned. These areas, although

they are now still small in population, nevertheless have employers with employees of various categories, and it is a gap in the legislation to omit these territories which are so clearly within the competence of the Parliament of Canada. We believe that the bill to that extent has been weakened.

Now, there are, in a number of cases, references in the bill to action by the minister, which is permissive rather than mandatory. I will give you, as an illustration clause 8 of the proposed legislation, which says:

> The Minister may establish consultative and advisory committees on which employees and employees are represented to advise the Minister...

We would wish to see the word "may" deleted, and the world "shall" substituted for it, because from our point of view the establishment of such committees should be a requirement of the legislation and not merely an option on the part of the minister. We would, in the context of the same clause 8 suggest that it should read "The Minister shall establish consultative and advisory committees on which employers and employees are equally represented". We are firmly wed to the principle of equality of representation on government committees. We endorse the principle of tripartite committees, but where they are to be established we want to be assured that the employee representation shall be not less than that of the employers. Therefore, in regard to clause 8 we would have two suggested changes "Shall" for "may" and the inclusion of the word "equally" before "represented".

In the case of clauses 12 and 13, we again wish to see "may" taken out, and "shall" put in. In the case of clause 12, the opening phrase is:

> The Minister may undertake research into the cause of and the means of preventing employment injury...

We would want "shall" substituted for "many" in the first line of that provision, and, presumably we should make it consistent through the piece: Here is a second "may" in line 34.

In the case of clause 13 the opening phrase is:

> The Minister may undertake programs to reduce or prevent employment injury...

We are quite strong in our view that the term should be "shall" in that instance because of the importance of the subject matter.

In the case of clause 4 subclause (2) we do suggest in our brief the deletion of some words which to us seem to minimize the importance of the programs to be undertaken. I refer to the words "or reduce the risk" in line 8 of subclause (2). The subclause reads:

> Every person operating or carrying on a federal work, undertaking or business shall adopt and carry out reasonable procedures and techniques designed or intended to prevent or reduce the risk of employment injury...

We would like to see the emphasis on prevention rather than on reduction. We are apprehensive about the inclusion of the phrase "reduce the risk" because it may lead to a second-best kind of program rather than one with a strong emphasis on prevention. And on the basis of very long experience in the field of occupational health and safety, we are firmly convinced that the greatest contribution that can be made to the health and well-being of employees on the job are sound and adequate preventive measures.

There are other clauses in the bill which deal with inspectors and the function of inspection. We are concerned in this respect, not with the provisions as they are, because we agree with the need for inspectors and for them to have the necessary authority to carry out their duty. What we are concerned about is the adequacy of inspectors; that there should be enough of them; that they should be properly trained; and that they should have the necessary *savoir faire*, I suppose, to go into places of employment and be able to discern hazards, or potential hazards, and at that point be able to put a stop to any operation in the establishment which is, or threatens to become, a hazard to the employee who is engaged on it.

There is one other matter that I will deal with, and I will deal with it briefly. If my vice-president wishes, he can elaborate on it, and then we will be prepared to answer the questions.

I refer to clause 14 (2) subparagraph (d). Clause 14, as a whole deals with the powers of a safety officer, and they are quite extensive powers. Basically, I want to make it clear that we do not quarrel with the need to give a safety inspector a good deal of authority, because that is the only way in which we can be sure that he can put a stop to dangerous operations. The only matter that troubles us is subparagraph (d) of subclause (2) which gives the inspector the right to demand disclosure of records.

Now, we can well appreciate that records are important to an inspector in carrying out his duties. What we are troubled here with, is some invasion of the privacy of employees, of trade union committees, and the possibility that what are normally closed union records—minutes of meeting and so on—may be open for what amounts to public inspection. If we had some assurance that this would not lead to abuse, then, I think we would be satisfied. But as it reads now, we have some apprehension about the inclusion of Clause 14 (2) (d).

Substantially, therefore, Mr. Chairman and members, we consider the bill desirable, and we would like to see it obtain speedy passage, but we would like to see it corrected in the ways that I have just outlined to you, and which are set out much more elaborately in the brief itself.

Simply to reiterate, we would like to see clause 3 subclause (3) taken out and jurisdiction placed squarely in the Department of Labour. We would then know where to look if we had grievances. The experience that we have—the advice that we get from our affiliated unions, particularly in the railway and airlines industries—is that the present situation is not satisfactory, and therefore we want to have it changed.

Mr. Morris has drawn my attention to another matter which we deal with in our brief, and that is clause 19 subclause (2). The bill includes what, in effect, is an appeals procedure against a decision of a safety officer. Our feeling is that this clause taken as a whole, and more particularly clause 19 subclause (2), may lead to unnecessary delays in carrying out this whole process of review. We would ask you to give this consideration with a view to suitable change.

Thank you, Mr. Chairman.

The CHAIRMAN: Do you have any further comments, Mr. Morris?

Mr. MORRIS: No; thank you, Mr. Chairman.

The CHAIRMAN: Dr. Haythorne, I understand that you followed very closely the remarks of Mr. Andras. Do you have any comments on these remarks?

Dr. HAYTHORNE (*Deputy Minister, Department of Labour*): Do I have to comment now, or after questioning time?

The CHAIRMAN: Or during, as you wish.

Mr. MACKASEY: Mr. Chairman, possibly Mr. Haythorne was waiting for and anticipating the questions I suggest that the members might have an opportunity to put questions, and perhaps at about a quarter of eleven he can comment on them.

The CHAIRMAN: Are the members of the committee ready for . . .

Mr. KNOWLES: I should like to hear from Mr. Haythorne on Clause 3 subclause (3). There are some other details that have been drawn to our attention by the Canadian Labour Congress, but this seems to be the point where we have an impasse.

The CHAIRMAN: If there are any questions that the members of the Committee would like to put to the witness perhaps they should go ahead. This will give Mr. Haythorne some time to prepare his answers.

Dr. HAYTHORNE: I would be quite happy, Mr. Chairman, to comment on clause 3 (3), because, as Mr. Andras indicated, I think that is the nub of their brief.

The CHAIRMAN: I see that Mr. Clermont has a question to ask.

Mr. CLERMONT: I was going to ask the same question as Mr. Knowles.

The CHAIRMAN: All right, Dr. Haythorne.

Dr. HAYTHORNE: Mr. Chairman, and members of the committee, I think the main consideration here is the fact that there are, on the statute books now, a number of laws which pertain to safety, particularly in the operation of transportation services coming within our federal jurisdiction. If we were starting from scratch—

The CHAIRMAN: If you will excuse me, Dr. Haythorne, do you have a copy of Mr. Nicholson's statement?

Dr. HAYTHORNE: Yes. If we were starting from scratch and there were no other pieces of legislation then I think there would not be anything like the problem which confronts us when we were trying to work out what is the most sensible way to proceed with over-all legislation in the safety field, at this juncture in time.

We have felt for some time that there were two ways of dealing with this in the presence of the existing legislation. One was to recognize that it was there and to exempt these activities altogether from our legislation. After extensive discussions on this matter with the departments concerned, in particular, transport in this case, we came to the conclusion that it would be best for us to recognize the existence in our legislation of the other ways in which safety is being taken care of now. At the same time—and this, I think, is the most important aspect of clause 3 (3) that enables action in the long run—if it is found that there are gaps, or that there are ways in which the existing legislation is not taking care of the safety requirement adequately, then this clause will permit action being taken by order in council. And as Mr. Nicholson has said in his letter, as he said before the Senate committee, and as we have said to the

members of this committee we feel that in this way we can be satisfied that those agencies of the government, which are now concerned with safety, will see under the existing legislation that the requirements are being carried out. But we always have under our legislation a fall-back position which enables action to be taken if it is found that the services that are being provided are not covering all aspects completely.

Now, you may say,"Well, what kind of action can we take to be sure that these gaps do not continue to exist?" Our inspectors, working in close co-operation with the other departments and the provincial agencies concerned, can report on the existence of gaps; and if we find that we are not in a position to take care of these adequately, then we can move in the direction that is printed under clause 3 (3), namely, the proposed action by order in council.

I think it is also very important for us to recognize that by including this clause we have not excluded safety with respect to the non-operational aspect of transportation services. If we had exemption of the transportation industry as a whole then there would have been a problem about the non-operational aspect of such services. In full co-operation with the departments concerned, we have included in this bill—and this we need to emphasize—our involvement in all of the non-operational aspects. In answer to Mr. Knowles' question at the second session—Mr. Knowles had asked me whether, under this bill, the Department of Labour would have jurisdiction over railway shops and airline terminal shops —I told him the answer was "Yes, we will", because under the bill we would automatically have control over the non-operational aspect.

It is just in the operational aspect where, as I said, the control has been vested, under other forms of legislation, with the agencies of the government responsible for these operations, and where we have statutes that permit and require safety precautions to be taken, that we have recognized the existence of these; but as I have said we have the fall-back provision, which we think is very important, of being able to take action if and when it is required.

Mr. KNOWLES: May I ask Dr. Haythorne a question? You said, Dr. Haythorne, that what we should do is to look at this in the light of existing legislation, but is it not true that it is precisely because, under the existing practices, certain people are not covered, that there is this fear that gaps will still exist?

We had before us Mr. Gibbons and his group the other day, and they told us of things on the trains themselves that are not covered despite the fact that the Departments of Transport and Health and Welfare have some jurisdiction. Then there is the problem of the people who operate trains at the moments in time when the trains are not actually running—at the terminals, and so on.

To pick up your own theme, you say that we have to draft legislation in the light of what we have now got. It is precisely because what we have now got does not fill certain gaps that we are apprehensive about this gap that is still left in clause 3 (3).

Dr. HAYTHORNE: I think part of the confusion may have arisen from the fact that the Board of Transport Commissioners, in looking at their field of operation, have not been absolutely sure about how far they can go and how far they cannot go.

Mr. KNOWLES: That is important.

Dr. HAYTHORNE: This is a very valid point; but our thought is that we have now clearly established the fact that we can take care of the non-operational aspect. After all, you must remember that the non-operational aspect involves about three quarters of the employees of these services if my memory is correct, and we can take care of the bulk of them under this legislation. If we find that there is not follow-up action being taken on operating people we can move in there, too.

Mr. KNOWLES: But my point is that that so-called follow-up action is now being missed. Why do you need to wait until there is further evidence of the gap? The evidence is already there.

Dr. HAYTHORNE: Well, I think this comes back to the steps which can be taken under the jurisdiction of the present act. The fact that the Board of Transport Commissioners is now inquiring into this whole situation is, I think an indication that they are moving forward. You may say that it has taken a long time to do it, but the fact is that insofar as they have the responsibility for doing it, and are moving ahead, our feeling is that if we start moving in, too, there is bound to be some real problems as between their jurisdiction and ours. Our thought was that it is easier and neater and helps to draw—which it does—a clear cut line between the operational and the non-operational. If they carry through—and we assume they will—the responsibility for safety that they have under their legislation, then this is taken care of.

I do not want to make any comment on the way in which these responsibilities have been carried out, or the timing, because there are many elements in this that I think we are not in a position here to go into without a good deal of exhaustive inquiry; but I do feel that by having under our legislation, if this is adopted, the authority to take action on all of the non-operational employees we can move ahead with a good deal of dispatch. A lot of work has been done, as perhaps the members of the committee know, on the safety and health precautions and the standards that are needed by the Department of Health and Welfare as a result of a pretty exhaustive inquiry that has been going on. Having got all that action behind us, we feel we should be in a position, when this legislation is adopted, and provided that these standards stand up—as we fully expect they will—to be able to move forward with dispatch.

Mr. MORRIS: May I ask a question?

The CHAIRMAN: Yes.

Mr. MORRIS: Dr. Haythorne, you said that you had not excluded the non-operational people from the act. What do you consider to be the non-operational people in the operation of trains, ships, or aircraft?

Dr. HAYTHORNE: The non-operational groups in these three fields of transportation would consist essentially of the people who are in the shop—crafts, for example; on the railways, maintenance of way groups; the people who are engaged in stations, particularly the yard services; the freight services; all the sorts of operations that are not directly associated with the actual manning and operating of trains.

Mr. MORRIS: Therefore, in effect, you have not excluded anybody who works aboard a train, boat, or aircraft?

Dr. HAYTHORNE: Well, the people who would be excluded, or, at least, who are not brought directly under it would be the operating people on the train—the engineers, the conductors, the trainmen, who actually operate the train; and the pilots and the people who operate the aircraft.

Mr. MORRIS: I have to get this straight because it is quite important. Are you saying that the cabin crews on aircraft are covered by the provisions of this legislation?

Dr. HAYTHORNE: No, they are not.

Mr. MORRIS: But they are not operating personnel.

Dr. HAYTHORNE: Mr. Currie, have we got to the stage where we have been able to define clearly, in the case of aircraft-operation, what categories would be included and what would not?

Mr. Morris has asked whether the cabin crews on an aircraft, for example, would be regarded as operating, or not. Certainly the pilot, the engineer and the people who actually do the operating would be included. In the determination on where you draw the line there are some shady edges, and we have to think this one through pretty carefully.

Mr. Currie might answer this one.

The CHAIRMAN: Mr. Andras, do you have a question before Mr. Currie answers?

Mr. ANDRAS: No; I am just being rude, I am afraid.

The CHAIRMAN: All right, Mr. Currie.

Mr. CURRIE: I am sorry, Mr. Chairman, I am operating today under some difficulty.

There are not yet any precise definitions or categories of individuals who may, or may not, be included. I think, however, that, within the general framework of our legislation and what we are trying to do; it would be fair to conclude that persons who are employed in an aircraft while it is aloft would be engaged in the operation of the aircraft.

Mr. MORRIS: That leads me to another question. Do you say that the dining room steward, the cook and the people who look after the sleeping accommodation on trains are covered by this bill?

Mr. CURRIE: I think there is a basic misconception here, Mr. Chairman. Nobody is excluded from this bill, period. This is the problem. You simply say that certain types of individuals, whose working involvement causes them to be employed in an aircraft, on a ship, or in the operation of a train, are not automatically subject to the provisions of this law, because the Railway Act, the Aeronautics Act, or the Shipping Act, may, and probably does, affect their working conditions in a variety of ways. But this provision says that if they do not do as good a job as the governor in council thinks they ought to be doing, with respect to the working environments of these people, then the Minister of Labour may, under this clause, recommend that certain standards of working conditions or other regulations, be applicable to those people. There is no exclusion whatever.

Mr. MORRIS: I well understand the permissive aspects of the legislation as set forth, but our position is that this should not be a permissive thing; that it

would be better for the legislation to spell out, in no uncertain terms, that this should be the overriding legislation that would cover the application of safety in all fields, whether it is in transportation or not. It is a rather peculiar set of circumstances that all unions who operate in this particular field where the exclusion is, in the fields of train service, steamship service and aircraft service, are all of one mind, and their mind is that this legislation should cover the operation of those three services and that there should not be a permissive exclusion in the act.

I realize that there is a problem of jurisdiction of departments under the laws under which they operate, but if you remember the presentation made by the Railway Brotherhood, they stated quite factually that they have been trying to get changes to legislation, or get things corrected, under the Railway Act since 1909. Now, if the permissive aspect of this legislation is going to be used to delay the proper implementation of safety practices, then the legislation will not carry out the objects for which it has been framed.

We are very concerned about the safety not only of people who work on trains, ships and aircraft, but also of the travelling public who are carried on these means of transportation, who should be able to feel that they are being given adequate protection when they are travelling.

It seems to me that if this subclause (3) is left in clause 3 then the permissive aspects of it will result in delays in the implementation of the very piece of legislation which the government has finally got around to framing, in order to bring some sense into the situation.

If there had been a clause in here such as the one in the Canada Labour Standards Code, which makes the legislation overriding, then we would have been quite happy with the total legislation in its present form. There are some things that we have small disagreements about, and they may be worked out; but this is so important, this question of delays that may be caused through jurisdiction because of the administration of the transportation service by other than the Department of Labour, that we believe that it would cause a real problem in the administration of the act, and will not give the result that we feel should come from a piece of legislation of this type.

The CHAIRMAN: Are there any members of the Committee who would like to ask questions of Mr. Morris? You will understand, Mr. Morris, that the witnesses are here today to answer the questions of the members. I know Mr. Clermont has asked—

Mr. CLERMONT: Could we have some explanation from the officials of the department regarding some remarks made by this brief?

The CHAIRMAN: I thought perhaps we could carry on with questions to Mr. Morris or to Mr. Andras, and then we could proceed with Dr. Haythorne.

Mr. CLERMONT: Yes; but if we asked the officials a question we could get their reactions. We have had the brief and we have read it. What we want is an explanation from these gentlemen. If I ask questions either of Mr. Currie or of—

The CHAIRMAN: I think that we should carry on with questions to the witnesses.

Mr. KNOWLES: I think Mr. Clermont should be allowed to question. We are dealing with the whole bill at the moment.

The CHAIRMAN: Mr. Clermont?

(*Translation*)

Mr. CLERMONT: Mr. Currie, what was the purpose of Bill S-35, as far the exclusion of the Yukon and the Northwest Territories, is concerned? Why did those who prepared or negotiated this bill provide for this exclusion?

(*English*)

Mr. CURRIE: The question, Mr. Chairman, relates to subclause 1 of Clause 3, to be found at the top of page 2. I think this is being misread Mr. Chairman, or being misunderstood. We do not exclude the application of the proposed legislation to the Yukon and Northwest Territories, it applies absolutely to any Federal work, undertaking, or business in either of the two territories.

The exclusion in the legislation is that it should not apply to local or private undertakings which are under the control and supervision of the ordinances. In this case, the situation is the same as it is in the provinces. The Parliament of Canada has conferred upon the two Councils of the territories power to pass ordinances regulating working conditions, and they have many such ordinances. We simply say that we do not wish to invade that. The exclusion relates only to local or private undertakings, not federal works, undertakings and businesses.

(*Translation*)

Mr. CLERMONT: You yourself, Mr. Currie, explained this last week or two weeks ago. I was here at the time. But you might enlarge on this because it might serve to enlighten us in regard to your brief, or make a case for it.

(*English*)

The CHAIRMAN: Is that a normal exclusion in other bills?

Mr. CURRIE: My understanding, Mr. Chairman, is that that is so. It is a common legal construction to make sure that the federal statute does not take away something which has been conferred upon the Councils by other federal statutes.

If I might just elaborate Mr. Chairman, in the two territories there are already ordinances dealing with such matters as electrical protection, fire prevention, mining safety, steam boaters, pressure vessels, public health, and things of this kind. Now these are there, and they apply to local works, undertakings and businesses, as, indeed, in a province they would be under the jurisdiction of official authorities.

Those things which the provinces may not regulate—federal works, undertakings or businesses—are the same kinds of things which the local Councils in the territories may not regulate, and we say that Bill No. S-35 will regulate those. It is analogous to what happens in the provinces.

(*Translation*)

Mr. CLERMONT: What Bill S-35 is supposed to cover in the other provinces, is under the jurisdiction of the federal government. The same thing should be covered in the Yukon and the Northwest Territories.

(*English*)

Mr. CURRIE: This is precisely what the bill says, sir.

Mr. CLERMONT: This is exactly it. This is the point. It is an argument to bring against the brief, because they claim that it should not be so.

Mr. CURRIE: I think, perhaps, there has been a misapprehension regarding this point.

Mr. ANDRAS: I do not know that it is entirely a misapprehension. We ran into a similar situation—Dr. Haythorne can correct me if I am wrong—when the Parliament of Canada enacted a statute dealing with vacations-with-pay in the federal domain. The question of the Northwest Territories and the Yukon came up, and, as I recall it, there was the same kind of exclusion. We took the matter up at that time with the government of the day—without any result, I might say—but we still felt that it was not reasonable to exclude these territories. That was before the Canada Labour Standards Code. It was under the old vacations-with-pay legislation. In any event, our concern is that we appreciate very well, Mr. Chairman, that the Northwest Territories and the Yukon are at present in a stage of evolution, that they have Councils, and that ultimately they will take on a very great measure of self-government. Nonetheless, we are concerned about our constituents, or working people generally, in those territories, and we are apprehensive that the omission of the Yukon and the Northwest Territories from any relevant federal legislation may do harm to the people who would otherwise be covered if the Parliament of Canada exercised its jurisdiction to the full. This is really what we are saying here.

Dr. HAYTHORNE: Well I think, Mr. Chairman I should like to make a comment. This came up, Mr. Andras, as some of the members of this Committee may recall during discussion of the Canada Labour (Standards) Code. There was confusion, I am afraid, and it is very easy to understand how this confusion may arise, because the wording has to be very carefully done so that we retain complete control over the operations of any federal activity in this part of Canada, as in any other part of Canada; there is no question about that, Mr. Andras. The only question, as Mr. Currie has explained, is that there are activities, that would normally come under provincial jurisdiction in the other parts of Canada, which, because these are still territories rather than provinces, are still under over-all federal control. But because we have established Councils, and because these Councils have passed bylaws, or taken action with respect to these sorts of activities, we felt it was only right and proper that that be recognized; and that is all we have done.

Mr. ANDRAS: I read this purely for information. There are hardrock mines, gold mines, up in the North. If the territories were provinces they would come within the provincial domain, unless they were uranium, for example. This would be a local work of a private nature. This is precisely what we are concerned about. There are mines up in the Yukon, for example—and I do not know how many people are employed there—which employ miners and people around the mines. Unless these councils referred to by Dr. Haythorne specifically legislate, or regulate, the conditions of safety around the mine, then these employees are left without the kind of protection that this bill would otherwise seek to provide for them.

Mr. CURRIE: Mr. Chairman, in the illustration brought forward, this particular industry now is subject to regulatory control under a department. I do

not know what the name of the present department is, but it used to be the Department of Mines and Technical Surveys. It has a mining inspection branch with a chief mining inspector here in Ottawa, and there are three or four mining inspectors resident in the territories, and their function is to enforce the mining ordinances locally.

Mr. ANDRAS: There is even more jurisdictional conflict than we were aware of.

Mr. CURRIE: Indeed, there is.

Mr. MORRIS: There is another question I would like to ask in regard to this particular case where you mentioned the misunderstanding with regard to the exclusion. What I would like to know is what is the effect of (i) of subclause (1) which says:

> Any work, undertaking or business outside the exclusive legislative authority of provincial legislatures.

The Yukon and Northwest Territories are not provincial legislatures therefore they have no exclusive legislative authority. Now, what is the position with respect to the Yukon and Northwest Territories within the context of (i) of subclause (1)?

Dr. HAYTHORNE: Mr. Chairman, this would seem to be a clause to take care of certain things that may have been, shall we say, overlooked as I was saying, at one time this whole question was discussed.

Mr. CLERMONT: I asked a very short question, and I think that the Committee has got a lot of explanation. I asked only one question, and you will agree that it was not a bad question. You gentlemen have been talking about this for the last ten minutes, and I would like to ask another question.

The CHAIRMAN: Have you a question on the same matter, Mr. Régimbal?

Mr. RÉGIMBAL: I would like to come back to clause 3.

Mr. KNOWLES: I would like to ask a supplementary to it.

In this clause dealing with the Yukon and the Northwest Territories has the department thought about having the same kind of back-up provision that there is in clause 3 (3)? The concern is that there might be some people who do not get covered either under local ordinances or under the federal authority because of this exception. Had you thought of this kind of back-up that you have got in clause 3 (3) where the Governor in Council could decide that if people are missed we will cover them? I am talking about the Yukon and the Northwest Territories.

Mr. CURRIE: I think, Mr. Chairman, we should turn back a little further to page 1, the first part of subclause (1) of clause 3, and bear in mind that this act would apply—

> —to and in respect of employment upon or in connection with the operation of any work, undertaking or business that is within the legislative authority of the Parliament of Canada—

This is the scope of the legislation. What appears after that really is explanatory, and is traditional; it is, as I understand it, the customary form of legal construc-

tion that these things take. But the total scope of this legislation, unless it is qualified as it is in subclause (2) of 3, applies to anything within the legislative authority of the Parliament of Canada. Now I think that the point which Mr. Knowles makes is that anything that is in this competence can be dealt with by the legislation, unless, as in clause 3 (3), there is some specific limitation.

Mr. KNOWLES: But right there in clause 1 there is not a period where you stop—

Mr. CURRIE: No; but you could, theoretically.

Mr. KNOWLES: The word "excluding" is there.

Mr. CURRIE: Well, the initiative would be with the local authority, or the territories have been given this authority by Parliament.

Mr. KNOWLES: But my point is: What about works that may be missed because local ordinances do not cover them? You now have taken them out of the federal authority by the exclusion at the end of clause 1.

Mr. CURRIE: Well, the initiative would be with the local authority, or the industry, or the employees affected, to urge the local council—

Mr. KNOWLES: This is where we are in clause 3 (3).

Dr. HAYTHORNE: Yes; I think that if you follow the practice of giving your local commissions or authorities the power to make ordinances it is pretty difficult to take it away. You give it to them, and if they are not carrying out their responsibilities adequately, then there are certain further steps, presumably, that can be taken by the departments concerned with northern affairs. The Department of Energy and Resources, as Mr. Currie has indicated, this department which is the Department of Mines, too, would be in a position to follow through in the normal course of their work, and see that where there are gaps action is taken by these local commissions. What would concern me is that we might be then accused of taking back what we have already given to them in terms of responsibility. Then I think you are in a worse situation than by making it clear that they have it; otherwise, two groups have it, and it is confusing —even more confusing than it is at the moment.

Mr. BARNETT: If I may comment on this point—

The CHAIRMAN: Well, Mr. Barnett, I was going to ask the committee if they wanted to carry on the discussion on this question.

Mr. CLERMONT: I think Mr. Chairman, that it would be proper to finish with the objection brought up by this brief.

The CHAIRMAN: I would like to have Mr. Davis' comment on whether this discussion is really in order.

Mr. CLERMONT: I do not think it is up to Mr. Davis to settle this. I think it is up to you.

The CHAIRMAN: He is the departmental solicitor, and I would like to have his advice on this matter.

Mr. GRAY: Mr. Chairman, if I may raise a point of order, I think that advice of this type should be sought from counsel to Parliament, and his associates,

rather than from a departmental official. If you are not prepared to make such a move yourself and you need advice I think you should ask it of Dr. Ollivier, or his associates.

Mr. KNOWLES: Let us not blow this up to that proportion.

Mr. GRAY: I am not suggesting that we should. I am just saying it on a point of order.

Mr. MACKASEY: I think that Mr. Clermont—

The CHAIRMAN: Is this on the same point of order, Mr. Mackasey?

Mr. MACKASEY: I think Mr. Clermont has an excellent point. We might as well exhaust the discussion on the Northwest Territories because it has dominated all our meetings so far. We should exhaust it, and everybody should satisfy themselves that they have the answers they want, then we can proceed to something else, and you can rule them out of order if they come back to it. If you cut it off now, they are going to come back to it anyway.

The CHAIRMAN: Are there any more questions on this matter?

Mr. BARNETT: May I make a comment, Mr. Chairman?

The CHAIRMAN: Even if you are not a member of the Committee you have the right to ask question, Mr. Barnett.

Mr. BARNETT: Mr. Chairman, the comment I would like to make on this point arises out of the fact—as I think I mentioned in an earlier meeting—that as a member of the Northern Affairs committee I did make a tour of the Arctic this summer and became very strongly aware of the increasing desire of the residents of the Northwest Territories to manage their own affairs in a manner parallel to the way the people of the provinces do.

On this point that has arisen about over-riding jurisdiction, I would like to mention something which has not been mentioned here, and that is that the power of initiation of legislation in the territorial councils rests with the commissioner who is, in effect, an agent of the Minister of Northern Affairs. It is my view that if there are existing gaps in safety regulations in such industries as mining, or others, in the Northwest Territories, pressure for the creation of that kind of coverage could come from two directions: (a) from the residents of the Territories themselves; and (b) from the Parliament and the Government of Canada through the Minister of Northern Affairs by direction to the Commissioner of the Northwest Territories or of the Yukon Council. In view of the temper of the people of the Northwest Territories, and of the provisions that are suggested in the Carruthers report, it does seem to me that this would not be psychologically the time for the Parliament of Canada to appear by this legislation to be robbing the people of the territories of provisions which are common to other pieces of legislation, and for which there is a growing insistence that they be expanded rather than subtracted.

Mr. GRAY: Mr. Chairman—

The CHAIRMAN: Mr. Gray, is this on the same point of order?

Mr. GRAY: Mr. Chairman, although I mentioned a point of order I did not want to stress it. As Mr. Knowles said it is not like the tensions—

The CHAIRMAN: If it is not on the point of order there are some other members who have expressed the wish to ask questions.

Mr. GRAY: Mr. Émard made an extensive comment on what was a supplementary question of some kind. I am not sure if Mr. Barnett—

The CHAIRMAN: I know that Mr. Émard has a question to ask—

(*Translation*)

Mr. ÉMARD: On a point of order, Mr. Chairman. Mr. Régimbal and I have given our names to put questions and we have been waiting all this time before being given the floor. You have recognized everybody except us. If you do not want to follow the agreed procedure, you should tell us and we will do like the others. In other words we will speak up at any time.

(*English*)

The CHAIRMAN: Mr. Émard, will you please accept some remarks from the chairman? I understand that your question is not on the same matter that was raised by Mr. Clermont. I thought—

(*Translation*)

Mr. ÉMARD: But Mr. Chairman, you cannot know what my question is going to be. I have not put it yet. Since 10.15, though, I should have been given an opportunity to speak.

(*English*)

The CHAIRMAN: You asked for the right to speak, Mr. Émard, when you did not know what question Mr. Clermont was going to ask.

Mr. HOWARD: Mr. Chairman, who raised the point of order, and what is it?

The CHAIRMAN: Mr. Gray raised a point of order.

Mr. HOWARD: Then leave him to it.

Mr. GRAY: I will accept your direction.

The CHAIRMAN: Are there any more questions on the Yukon and Northwest Territories? Are you going to speak on this question, Mr. Gray?

Mr. GRAY: All I wanted to suggest to the witnesses and to the officials is that we have to harmonize two policies, one, a commendable policy to improve the safety standards of those workers under Federal jurisdiction, and the other to encourage the people of the Northwest Territories to move towards self-government and provincial status. I gather that this legislation is worded in a way that attempts to do both, because if you have local structures set up or elected by the people themselves, you cannot expect them not to have anything to do in this area which is handled to some extent by the provinces in the rest of Canada. Am I right in saying this is what you are attempting to do?

The CHAIRMAN: Mr. Régimbal is it on this matter that you ask the right to speak?

Mr. RÉGIMBAL: I should like to get back to clause 3 (3).

The CHAIRMAN: That is why I want to know if we are still speaking on the same matter. Are you, Mr. Régimbal.

Mr. RÉGIMBAL: Dr. Haythorne, what is the difficulty about resolving the jurisdictional disputes which are apparently the main cause of delay in getting action on health and safety? What is wrong in giving authority to the Department of Labour, rather than doing it strictly by ricochet? It is going to get to you eventually, apparently, and it will only cause another delay by allowing the other Boards to say "well, let us wait and see what the Department of Labour is going to do". It is eventually going to end, apparently, by being done by order in council. Why not do it now?

Dr. HAYTHORNE: Well, Mr. Chairman, up to this point there has been a long history of action taken by government departments, and particularly by the Department of Transport, in the safety field. Even though certain questions have arisen in some areas about delays and so on, we should not leave the impression that there has not been a great deal of very important substantial work done in all of these three fields—flying, shipping and the operations of trains. There have been questions. Mr. Currie will be able to correct me if I am wrong here, because he has been having different discussions with the department and their officials on this matter but there has been some uncertainty about the extent to which the Department of Transport, and particularly the Board of Transport Commissioners, has had jurisdiction. This is not something that they are to be blamed for; it is a question of trying to get this thing properly sorted out.

I fully appreciate what Mr. Andras and Mr. Morris have said and what Mr. Gibbons said the last time, that this has given rise to some lengthy delays. It is because of these delays that we have this problems—as Mr. Andras himself said in his opening remark—of some concern about our jurisdictional responsibilities. Mr. Andras, if I remember, made the comment—

The CHAIRMAN: I am sorry, Dr. Haythorne, I have been reminded by the clerk to the Committee that we should have adjourned five minutes ago. This room was reserved for our Committee until 11.00 o'clock, and it is now 11.05.

Gentlemen, we still have this problem of whether the Committee wish to sit while the House is sitting, or are we going to have our meetings only in the morning?

I should imagine that the Committee would like to ask questions of our witnesses, Mr. Morris and Mr. Andras. Are there any further questions to be asked of Mr. Morris and Mr. Andras?

An hon. MEMBER: You mean we are allowed to ask them questions!

The CHAIRMAN: Does the Committee wish to have the witnesses come back—

Mr. CLERMONT: I think we should have another meeting with these gentlemen.

The CHAIRMAN: We should?

Mr. CLERMONT: That is my opinion. However, I am only one member of the group.

The CHAIRMAN: May I suggest Thursday at 9.30 a.m.?

Some hon. MEMBERS: Agreed.

The CHAIRMAN: The meeting will adjourn until Thursday at 9.30 a.m.

APPENDIX 8

House of Commons Standing Committee
on Labour and Employment,
House of Commons,
Ottawa, Ontario.

Lodge #934.
Brotherhood of Railroad Trainmen,
c/o 867 Honore Mercier,
Chomedey, Laval, Quebec.
November 29th, 1966.

Dear Sirs,

This letter comes to you from the members of the above lodge, where our membership is made up of Dining Car Employees, on the Canadian Pacific Railway Co.

In our Efforts in the past to improve Health and Safety conditions for our members, we have found that we lie betwixt and between, it would seem that the National Dept's concerned are uninterested, and we are outside of Provincial jurisdiction.

It is therefore our earnest plea, that in your forthcoming consideration of Bill No. S-35 that we be included within the scope of the Bill, and we therefore ask that Art. No. 3 sub-section No. 3 be deleted in its entirety, in order to give it legislative authority to cover our members in train operations.

For the members,

Thomas O'Grady

APPENDIX 9

MINISTER OF LABOUR

Ottawa 4, Ontario
December 2, 1966

Mr. Georges-C. Lachance, M.P.
Chairman
Standing Committee on Labour and Employment
Room 261, West Block
House of Commons
Ottawa, Ontario

Dear Mr. Lachance,

I regret that I was not able to remain with the Committee yesterday to take part in the discussion of the Brief presented on behalf of the Canadian Railway Labour Executives' Association by Mr. A. R. Gibbons. Similar representations were made earlier this year to the Standing Committee of the Senate on Transportation and Communications and there was considerable discussion on the matters raised by the Association.

There was genuine interest in the question of providing facilities for the comfort and well-being of certain railway employees which has concerned them for such a long time. This situation has been aggravated by some uncertainty about which government department or agency had authority to establish enforcable requirements. When the Senate Committee was informed that the Board of Transport Commissioners was "prepared to entertain a petition from the Brotherhoods for regulating and making orders in this matter" (see page 162, Proceedings No. 9 of the Transport and Communications Committee, June 29, 1966), a clear course was opened to the Association for some definite action. Their Brief indicates that the Board of Transport Commissioners has now been seized of the matter.

Until that Board has dealt with the question, we will not know to what environmental conditions or to what employees of the railways and in what circumstances any such orders of the Board may apply. When this has been determined my Department would, if Bill S-35 is passed, consider what, if any, further requirements are indicated and in consequence how the general regulations contemplated under Clause 7 would apply to the non-operational work places and employments.

We would also give consideration to any additional action that might appear necessary, i.e. a submission to the Governor-in-Council as may be made under Clause 3(3). I wish to reaffirm that the sub-Clause does not effect any outright exclusion of these activities from the application of the safety code. It is rather a limitation on the general application of the legislation with respect to the operational aspects of these transportation systems.

There can be no doubt that under the provisions of either the Railway Act or the Canada Labour (Safety) Code, if passed, there is or will be authority to

establish and enforce reasonable standards of safety and well-being for all railway employees. Therefore, in view of such general or universal coverage, it would seem to me both unnecessary and impractical to attempt to define categories of workers or the conditions to which one or the other Act would apply. The gaps that now exist in the regulation of work places and whatever conditions may not be dealt with by the Board of Transport Commissioners could be taken up under our proposed legislation. Definitions have a tendency to be restrictive and might make the Code less flexible and therefore less responsive to changing conditions.

With reference to the suggestion that Clause 3(3) might be amended by deleting the phrase *in connection with*, I do not believe this would be a desirable change. It will be noted that these words appear elsewhere in this Clause (see page 1, line 24; page 2, line 7 and, on page 3, lines 11 and 34). The same phrase appears in a number of later clauses in the Bill. This standard construction is to be found in a number of other statutes administered by this Department such as those cited in Clause 30. It is of some importance that there be consistency in these several statutes.

I understand that it was suggested that this phrasing be made to conform to that used in a provision in the Railway Act but I would point out that this sub-Clause includes the other two principal forms of transport, namely, ships and aircraft, and it would not be desirable to make this distinction. Further, I would like to draw your attention to the same wording that is to be found in Section 290(I) (1) of the Railway Act, to which Mr. Gibbons referred, as follows:

> "(1)—generally providing for the protection of property, and the protection, safety, accommodation and comfort of the public, and of the employees of the company, in the running and operating of trains and the speed thereof, or the use of engines by the company on or *in connection with* the railway."

In view of all these considerations, I believe that it would be inadvisable to amend this sub-Clause and I hope that the Committee will concur, especially in the knowledge that such problems as that presented by the Canadian Railway Labour Executives' Association can be taken care of as I have outlined in this letter.

Yours sincerely,

John R. Nicholson

APPENDIX 10

A submission in respect of Bill S-35
AN ACT RESPECTING THE PREVENTION OF EMPLOYMENT INJURY IN FEDERAL WORKS, UNDERTAKINGS AND BUSINESSES

Prepared for presentation to the
STANDING COMMITTEE ON LABOUR AND EMPLOYMENT OF THE HOUSE OF COMMONS

(By J. Morris
of the Canadian Labour Congress)

OTTAWA, ONTARIO.
DECEMBER 6, 1966.

Mr. Chairman and Members of the Committee:

1. The Canadian Labour Congress welcomes this opportunity to appear before the Committee on Labour and Employment to submit its views on this most important proposed addition to the laws of Canada. The Honourable Mr. Nicholson, Minister of Labour, has stated that the purpose of the legislation is to provide for the protection of employees. This is a laudable purpose and we believe that the proposed legislation is generally sound in its aims and that many of its provisions will be effective.

2. The interest of the Canadian Labour Congress in the subject of safety ranges as widely as the geographic and occupational distribution of the labour force. As a trade union centre consisting of affiliated and chartered unions and other bodies such as district labour councils and provincial federations of labour, the main concern of the Congress is the economic and social well-being of its members and their families. The fact that the Canadian Labour Congress groups together upwards of one million three hundred thousand union members and their dependants emphasizes the breadth of our interest in this legislation. We constitute, in fact a considerable proportion of the total population of Canada.

3. The Canadian Labour Congress is of relatively recent origin, having been founded in 1956, but there is a continuity of concern about safety and health which can be traced through the history of its two predecessor organizations, the Trades and Labour Congress of Canada and the Canadian Congress of Labour. Perhaps not as well known is the fact that the present Congress has adopted far-reaching policies regarding occupational health and safety and, together with its constituent bodies, is engaged in a continuing education, legislative and information program on this subject.

4. The program emphasizes the tripartite nature of responsibility for safety. The three elements are government, management and workers. Our appearance before this Committee does not call for us to express our views regarding the respective roles of management and workers except to point out that the official policy position of the Canadian Labour Congress is that it stands ready to co-operate to the fullest extent of its resources with all concerned so that

hazards to life and limb may be eliminated. We are committed to full recognition of our individual and collective concern, and of our individual and collective responsibility.

5. For the working men and women employed in this industrial society, a safe working environment is necessary for survival. Surely we owe them the opportunity to reach retirement age sound in mind and body, without loss of limb or any faculties as a result of occupational disease or injury.

6. The program of the Congress, directed toward appropriate action by all parties concerned, can be fully effective only if there is a firm foundation of law upon which our activities can be based. We believe that the passage of health and safety laws by the provinces, together with such provisions as exist in various federal laws, are gradually building this foundation. But we need to redouble our efforts, and speed them up if those most concerned are to benefit.

7. We believe that those who are most concerned are those we represent either directly or otherwise. When everything has been said with respect to the cost of enacting and enforcing safety laws, and with respect to the costs to industry that are involved, there still remains the emphasis that was put so eloquently by Ontario Justice W. D. Roach in his report on an inquiry conducted into the Ontario Workmen's Compensation Act in 1950. He said:

> "If a workman is maimed in industry the employer has to pay the compensation, but no monetary allowance can ever adequately compensate a workman who has to go through the balance of his life minus an eye, or a hand..."

8. We know that members of this Committee are well aware of the toll that is taken by our industrial process every day, so we will not labour the point. Suffice it to say that we share, deeply and sincerely, the concern of this Committee that the legislation now before us, when enacted, will do the job that it purports to accomplish.

Background of Need for Legislation

9. This Bill was introduced in the Senate and prior to its passage there on June 30, 1966, was the subject of hearings before the Standing Committee on Transport and Communications. Much of what was said before the Committee on Transport and Communications is worth reiterating at this point.

10. One fact that emerged with considerable clarity is that considerable confusion has existed for years over legislative jurisdiction about safety in respect of federal undertakings. Submissions were made to the Senate Committee on behalf of the railway brotherhoods which confirm the experience of our unions that health and safety matters have been an exercise in "buck-passing" between several departments of government. This has been well documented, in respect of the matters with which the railway brotherhoods have been concerned, in their submission to the Senate Committee entitled A Brief on the Subject Matter of Bill S-35, presented to the Standing Committee of the Senate on Transport and Communications by the Canadian Railway Labour Executives' Association, dated June 15, 1966.

11. The experience of the railway brotherhoods indicates that while, for example, the Department of National Health and Welfare recognized a responsi-

bility regarding health and sanitation it could only issue *guide-lines* which have had no regulatory effect. The exchange of correspondence between the railway brotherhoods and successive Ministers of the Crown representing the Department of Transport, the Department of National Health and Welfare and the Department of Labour has been going on, quite literally, for years and years. The railway brotherhoods, quite naturally, have expressed concern about the ability of the Bill now before you to put right this situation, and have drawn attention in particular to sub-section 3 of Article 3 which has the effect of excluding railway train operations except as they are brought within the scope of the law by order of the Governor-in-Council.

12. A further example of difficulties faced by another of our affiliates may be referred to. This affiliate is the Canadian Air Line Flight Attendants' Association. It has attempted, through representations to the Department of Transport, to ensure that regulations would be introduced and enforced to fully safeguard the life and limb of its members who are generally referred to as "cabin crew". It is the view of the Association that the Department of Transport has never exercised its jurisdiction over normal employee safety. The Association reports many cases of injuries to its members because of lack of protective measures and equipment during turbulence, at landing and take-off times, etc. The Canadian Labour Congress has reviewed a submission prepared by officials of this Association and by Executive Council action has instructed the officers of the Congress, as a first step, to make representations to the Minister of Transport. Congress officers have initiated action in this direction.

13. The Association anticipated that the long heralded federal legislation which is now before you would include the kind of provision which would make it mandatory for the Department of Transport to promulgate and apply adequate regulations. The Canadian Air Line Flight Attendants' Association shares our concern that the exclusion in sub-section (3) of Article 3 of "employment upon or in connection with the operation of ships, trains or aircraft" in favour of action by Order-in-Council leaves its membership without a safety program as envisaged in the Bill under subsection (1) of this article.

14. On this matter of confused jurisdiction perhaps the most eloquent testimony that can be offered is that of the Minister of Labour himself, the Honourable John R. Nicholson, when the appeared before the Senate Committee already mentioned. By the time this submission is presented to the Honourable Members of this Committee the Minister of Labour may already have stated his views to you. However, it will do no harm to include in this submission some of the comments made by him.

15. It is worth noting, at the outset, that the Bill now before you, short-titled *The Canada Labour (Safety) Code* is looked upon as a companion measure to the *Canada Labour (Standards)* Code which was approved by Parliament last year. In fact, Article 30 of Bill S-35 provides that the Statute Revision Commission is to consolidate as one Act under a *Canada Labour Code* the two above-mentioned measures and also the *Female Employees Equal Pay Act*, the *Canada Fair Employment Practices Act*, and the *Industrial Relations and Disputes Investigation Act*. The Congress welcomes this attempt to codify such legislation.

16. The Congress has been aware that in Canada industrial safety legislation is almost entirely provincial. We have known that the Federal Department of

Labour does not administer any legislation having a direct bearing on safety but that there are a number of federal statutes such as the *Railway Act*, the *Canada Shipping Act*, and the *Aeronautics Act*, that include provisions intended to ensure the safety of the public and of the employees. We welcome the comment of the Minister of Labour that there has been a gap in our legislation with respect to employee safety in federal undertakings and that this legislation is designed to make sure that this gap is filled.

17. It is good to know that this gap is recognized. It is encouraging also to note that the Minister of Labour and his associates in the Department have stated, in effect, that if it appears after full exploration that employees are not fully protected under existing laws, such as the *Railway Act*, the *Canada Shipping Act*, the *Aeronautics Act*, and others, sub-section 3 of Article 3 of Bill S-35 would become operative and regulations could be issued to correct the situation. To put the matter in the Minister's own words, "With this legislation we will not be able to pass the buck any longer".

18. With regard to the respective jurisdictions of the Federal Government and of the provinces it is welcome news to know that Bill S-35 has been the subject of discussion and consultation between representatives of the Department of Labour and appropriate provincial authorities, and that the majority of the provinces have urged enactment of this legislation. Furthermore, the Minister has affirmed that the intention is to engage in continuous consultation and an exchange of ideas and experiences among the various authorities.

19. The Congress has already referred in this brief to its conviction that health and safety matters are an individual and collective responsibility. If we are to interpret the intent of Bill S-35 as revealed in its various sections and, more particularly, by the testimony of the Minister of Labour and his associates from the Department of Labour, we are to enter a period in which the Department will have something of a "watch-dog" function with respect to the health and safety of employees in federal undertakings. This is an excellent goal; our concern is whether this complex legislation will attain the goal.

Bill S-35

20. We note that prior to passage by the Senate a small number of changes were made in the Bill. Generally these have served to better define the area of applicability of the Act. The Bill as it stands cannot but lead to the conclusion that its value will depend in very large measure on those who have the responsibility of administering it. This will be true, we believe, initially in respect of the regulations that are promulgated under the Bill and also on the degree of effective enforcement of the Act and the regulations.

21. It is not the intention of the Congress to attempt any detailed proposals with respect to the text of the Bill but rather to confine itself to observations which we trust will be given full consideration by the Committee and by the law officers responsible for the drafting of the Bill.

22. First of all, we would have welcomed a Bill which had as part of its provisions a clause similar to section 4, sub-section 1 of the *Canada Labour (Standards) Code* which reads as follows:

> "This Act applies notwithstanding any other law or any custom, contract or arrangement, whether made before or after the commence-

ment of this Act, but nothing in this Act shall be construed as affecting any rights or benefits of an employee under any law, custom, contract or arrangement that are most favourable to him than his rights or benefits under this Act."

23. We are familiar with the reasoning behind Bill S-35 in its present form, i.e. that the wording as it stands was arrived at only after weeks of discussion and with regard to the respective jurisdictions of such departments as Transport and National Health and Welfare. But we cannot help reiterating our misgivings, as others have done in respect of this Bill, regarding sub-section 3 of Article 3 which has the effect of excluding employment upon or in connection with the operation of ships, trains or aircraft except as the Governor-in-Council may by order otherwise provide. The Congress shares the viewpoint of those who question why, at the point of passage of this legislation the areas of jurisdiction could not be defined and clarified for all time.

24. In effect, what we are being asked to accept is a bill which in sub-section 1 of Article 3 provides for a very broad coverage indeed and then diminishes this coverage in the sub-section 3 already referred to. As this Committee will have gathered by now, the Canadian Labour Congress is deeply concerned about these particular provisions. At one and the same moment we stand on the threshold of a major breakthrough with legislation intended to overcome the discrepancies and evils of the past and simultaneously are confronted with a provision which seems to make possible the perpetuation of those discrepancies and evils. Sub-section 3 of Article 3 could perhaps be tolerated if we lived in a country much smaller than ours, one which did not have the myriad of industrial and transportation processes, and the occupational classifications which are an integral part of them.

25. The members we represent have long suffered the consequences of unclear jurisdictional lines, not only as between federal departments, but between federal, provincial and municipal jurisdictions. Practically within a stone's throw of the building in which we meet there have been accidents which could have been avoided had the line of responsibility for enforcement been drawn clearly. On each of these occasions we have been assured that the absence of clearly drawn lines of jurisdiction and the lack of communication between the various authorities which is an inevitable consequence of those confused jurisdictional lines, would be overcome. We have been told that henceforth there would be continuous and adequate consultation so that no worker would be maimed and no worker lose his life because each authority had assumed that one of the other two was acting as the enforcer of legislation. Such a situation cannot be tolerated any longer. Jurisdiction should be clarified now and the unwieldy procedures contemplated in sub-section 3 of Article 3 avoided by deleting the sub-section.

26. We take exception, also, to the exclusion of "any work, undertaking or business of a local or private nature in the Yukon Territory or Northwest Territories". We seek assurances that those who work in these important geographic areas will be fully protected in accordance with the intent of this Bill. If this Committee, after reviewing the situation, is not satisfied that such protection is to be available then the law as now written should be revised.

27. This is perhaps as appropriate a place as any to advance the view of the Congress that steps should be taken immediately to establish committees of a consultative or advisory nature as mentioned in Article 8 of this Bill. We propose that the word "may" in the first line of Article 8 be changed to the word "shall" and that the word "equally" be inserted after the word "are" at the end of line 10, to provide for full representation from both employers and employees. It is the considered view of the Congress that the establishment of committees such as those outlined in the legislation is long overdue. They will undoubtedly serve many useful purposes not least of which is that of reducing the time that elapses between the discovery that a particular department is not in fact exercising its jurisdiction with regard to safety, or does not in fact have such jurisdiction. The great danger inherent in sub-section 3 of Article 3 is that hazardous conditions that could result in injury or death may continue to exist indefinitely. The time lag between the discovery of hazards and the steps that must be taken to eliminate them can only be reduced under the legislation as proposed if the lines of communication between those affected and those who must take action are kept open. With respect, we suggest that for most of the undertakings contemplated under Bill S-35 the network of trade union organization that is spread from coast to coast offers ready made machinery whose employment is vital to the successful enforcement of this proposed law.

28. In Article 4, sub-section 2 it is proposed that:

> "Every person operating or carrying on a federal work, undertaking or business shall adopt and carry out reasonable procedures and techniques designed or intended to prevent *or reduce the risk of* employment injury in the operation or carrying on of the federal work, undertaking or business."

Such procedures and techniques should be designed or intended specifically to "prevent". We therefore propose that the underlined words "or reduce the risk of" be deleted from this sub-section.

29. Articles 10 and 11 are concerned with safety officers whose responsibility it would presumably be to enforce or recommend enforcement of the provisions of Bill S-35 when enacted. We note with interest, and some concern, the provision in Article 11 which would enable the Minister to enter into an agreement with a province or any provincial body with respect to the terms and conditions under which a person employed by the province or provincial body might act as a safety officer. Our concern springs from the fact that there seems to be general consensus that some provinces or provincial bodies dealing with safety are already seriously understaffed in respect of the number and the qualifications of those who serve as inspectors. It prompts us to emphasize the importance of administering Bill S-35 with a full complement of highly qualified and well trained safety officers.

30. If this Bill receives approval it will be effective only to the extent that it is firmly and effectively applied. For this we need an inspection force informed as to its responsibility, enjoying adequate pay and security of tenure on the job, and confident that when exercising its responsibilities those under whom it works will give support in "calling the shot". Furthermore, the corps of safety officers should be in such numbers as to adequately cover all undertakings and establishments coming under the Act. Any agreement entered into between the

Minister and the other bodies mentioned should make provision for an additional number of qualified safety officers if necessary, and such an agreement should not contemplate the enforcement of the proposed law by those who, from our observation, are already greatly overworked and quite often inadequately trained and equipped for this important assignment.

31. Section 12 will permit the Minister to undertake research into the causes of and the means of preventing injury. This is a long neglected area of endeavour and it is encouraging to note that research has been singled out for special emphasis. We recommend that the permissive word "may" in the first line of this section should be changed to the word "shall".

32. Section 13 makes provision for programs designed to reduce or prevent injury. Here again, we propose that the word "may" on the first line become "shall" and the words "reduce or" be deleted in the interests of a positive approach. May we also reiterate the point made above that the hundreds of locals with their thousands of officers in the trade union movement provide a means of communication and continuous liaison which can and should be utilized in the accomplishment of the purpose of this Article.

33. In Article 14 which is concerned with *Safety Services*, exceedingly wide powers are given to safety officers in sub-section (d) of section 2 in respect of employees and, presumably their unions. Our concern here is that such a provision may open the door to an unwarranted invasion of privacy in respect of both the employee in relation to fellow employees and in respect of the records of union safety committees.

34. Article 19 makes provision that in the event that a direction given by a safety officer is considered unjustified, the employer or person charged may appeal to the regional safety officer. Although not laid down in the procedure, it is assumed that the regional safety office does not have the final word and recourse may be had to the Minister of the Department concerned.

Conclusion

35. It is the view of the Congress that the legislative and educational processes are inextricably intertwined. At its best the legislative process is in fact an educational and informational experience which should be shared not only by the legislators but by all citizens in our society. In the legislation under review it would appear to us that a special case can be made to make the most of the interdependence of these two processes.

36. The introduction of this Bill in the Senate and in the House of Commons has already brought in its train extensive information and the Bill has undoubtedly been studied by many organizations and individuals in addition to those represented here to-day by us. May we make a plea that this process continue after the enactment of the Bill? Using all the resources of government, including especially the personnel charged with the administration of the Act, there should be launched an all-embracing program designed to bring to the attention of every working man and woman concerned, using whatever methods, techniques and languages that may be needed, full and detailed information regarding rights and responsibilities under the Act. Similarly, a program designed to acquaint all those who operate federal works, undertakings etc., should be

mounted to the end that no employer, regardless of size or condition, will be able to say that he was without knowledge of the law and the regulations that will be promulgated under it.

37. These proposals will undoubtedly involve all concerned, i.e. government, employer and employee in a considerable expenditure of money, time and effort. But the stakes are worth it, for they involve no less a precious possession than life itself.

Ottawa, Canada,
December 6,1966.

HOUSE OF COMMONS

First Session—Twenty-seventh Parliament

1966

STANDING COMMITTEE

ON

Labour and Employment

CHAIRMAN: Mr. GEORGES-A. LANGLOIS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 3

THURSDAY, DECEMBER 8th, 1966

WITNESSES:

From the Department of Labour: Dr. George V. Haythorne, Deputy Minister; Mr. J. H. Carrie, Director, Accident Prevention and Compensation Branch.

From the Canadian Labour Congress: Mr. Joe Morris, Executive Vice-President.

From the Canadian Trucking Associations Inc.: Mr. John Magee, General Manager.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

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OFFICIAL REPORT OF MINUTES

OF

PROCEEDINGS AND EVIDENCE

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LÉON-J. RAYMOND,
The Clerk of the House.

HOUSE OF COMMONS

First Session—Twenty-seventh Parliament

1966

STANDING COMMITTEE

ON

Labour and Employment

Chairman: Mr. GEORGES-C. LACHANCE

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 9

THURSDAY, DECEMBER 8th, 1966

Respecting

BILL S-35

An Act respecting the prevention of employment injury in federal works, undertakings and businesses.

WITNESSES:

From the Department of Labour: Dr. George V. Haythorne, Deputy Minister; Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch.

From the Canadian Labour Congress: Mr. Joe Morris, Executive Vice-President.

From the Canadian Trucking Associations Inc.: Mr. John Magee, General Manager.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

25363—1

STANDING COMMITTEE

ON

LABOUR AND EMPLOYMENT

Chairman: Mr. Georges-C. Lachance

Vice-Chairman: Mr. Hugh Faulkner

and Messrs.

Barnett,	Johnston,	Muir (*Cape Breton North and Victoria*),
Clermont,	Knowles,	Racine,
Duquet,	MacInnis (*Cape Breton South*),	Régimbal,
Émard,	Mackasey,	Reid,
Fulton,	McCleave,	Ricard,
Gray,	McKinley,	Skoreyko,
Guay,	McNulty,	Tardif—24.
Hymmen,		

Michael B. Kirby,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

THURSDAY, December 8, 1966.
(10)

The Standing Committee on Labour and Employment met this day at 9.45 o'clock a.m. The Chairman, Mr. Lachance, presided.

Members present: Messrs. Barnett, Clermont, Duquet, Faulkner, Gray, Hymmen, Johnston, Knowles, Lachance, Mackasey, McCleave, McKinley, McNulty, Muir (*Cape Breton North and Victoria*), Reid, Ricard, Tardif (17).

In attendance: From the Department of Labour: Dr. George V. Haythorne, Deputy Minister, Mr. Jean Pierre Després, Assistant Deputy Minister; Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch; Mr. W. B. Davis, Departmental Solicitor;

From the Canadian Labour Congress: Mr. Joe Morris, Executive Vice President;

From the Canadian Trucking Associations Inc.: Mr. John Magee, General Manager.

The Chairman reminded the committee that Mr. Morris had returned to answer any further questions on his brief. After questioning, the Chairman thanked Mr. Morris and he was excused.

The Committee *agreed* to hear Mr. Magee who made an oral presentation and after questioning, the Chairman and members of the committee thanked him. He was excused.

The Committee then went to a clause by clause examination of the bill. At the suggestion of Mr. Mackasey and other members of the committee it was *agreed* that the Departmental Officials be called to the table in order to aid the committee in its examination.

Agreed,—That clause 1 stand.

Agreed,—That clause 2 carry.

On clause 3, Mr. Barnett moved, seconded by Mr. Knowles,—That clause 3 of Bill S-35 be amended by deleting in line 22 thereof the words, "Subject to" and substituting therefor the word, "notwithstanding",

And that sub-clause 3 of clause 3 of Bill S-35 be amended by deleting the words, "applies to or" and substituting therefor the words, "affects the provisions of any other Act or regulations thereunder".

It was *agreed* that clause 3 and the amendment moved by Mr. Barnett be allowed to stand.

Agreed,—That clause 4 stand.

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Agreed,—That clauses 5 and 6 carry.

On motion of Mr. McCleave, seconded by Mr. Reid, it was

Agreed,—That clause 7(1)(f) be amended by inserting a comma after the word "Storage" on line 19 and that the word "and " at the beginning of line 20 be deleted.

Agreed,—That clause 7, as amended, stand.

Agreed,—That clauses 8 and 9 carry.

On motion of Mr. Ricard, seconded by Mr. Reid,

Agreed,—That clause 10 in the French copy of the bill be corrected by deleting the figure "(1)" indicating a subclause.

Agreed,—That clause 10 as amended, carry.

Agreed,—That clauses 11 to 13 carry.

At 11.10 o'clock a.m., the consideration of Bill S-35 clause by clause continuing, the Chairman adjourned the committee to 9.30 o'clock a.m. Tuesday, December 13, 1966.

Michael B. Kirby,
Clerk of the Committee.

EVIDENCE

(*Recorded by Electronic Apparatus*)

THURSDAY, December 8, 1966.

● (9.43 a.m.)

The CHAIRMAN: Gentleman, I will call the meeting to order.

I have received suggestions from some members and I have discussed the arrangement of the Committee with some officials of the committees branch. We have been told that we should try to conduct the sittings of the Committee on the usual basis of having one witness who would sit in the witness' chair to answer any questions that members might ask, one witness at a time. If there are other questions asked of another witness, we would ask him, to sit in the witness' chair.

I presume you still have questions to ask Mr. Morris from the C.L.C. and if you would indicate that you want to ask questions, I will make a note of it.

Mr. Morris, do you have any further comments to make?

Mr. MORRIS: No.

The CHAIRMAN: Gentlemen, do you have any further questions to ask Mr. Morris?

The witness can always be recalled at the request of the Committee, so whatever questions you might like to ask of either Mr. Morris, Dr. Haythorne, Mr. Currie or any of the other witnesses—

Mr. KNOWLES: May I put it this way, Mr. Chairman. Has Mr. Morris anything more he would like to say on clause 3(3) in the light of the discussions which took place the other day?

The CHAIRMAN: Mr. Knowles, I asked the same question of Mr. Morris a moment ago. I do not think Mr. Morris has any further comments, but if he has he can proceed.

Mr. J. MORRIS (*Executive Vice-President, Canadian Labour Congress*): No, I think we made our position clear with respect to clause 3(3) on Tuesday. We have not read into the bill the position as set forth by the government. We think it needs more clarification. Our position is that because this is an act of such importance to people who work, not only in the other fields which are supervised by the federal Labour Department, but in the fields of transportation as well, that there should be an overriding consideration which would make the provisions of this bill applicable where no other provisions were laid down by other departments. This is really the major question we have with respect to this piece of legislation. As we set out in our brief, we are quite happy with the legislation in its present form if there were a clarification of subclause 3 of clause 3 along the lines set out in our objections.

The CHAIRMAN: Are there any more questions, gentlemen?

Mr. KNOWLES: I think we agree with Mr. Morris.

Mr. MACKASEY: I agree with Mr. Morris. The ideal situation, certainly, would be if everything pertaining to safety in the federal field came under the Department of Labour and, particularly, Bill No. S-35. I think you will appreciate what we are up against. We are up against entrenched interests of other departments in the field of safety.

We also have particular problems in the Department of National Health and Welfare pertaining to the drug industry, the pharmaceutical industry, isotopes and the rest of it. I think, Mr. Morris, one encouraging feature coming out of your representations and those of other groups is that, at least, now if the safety regulations coming under the three other acts, the Aeronautics Act and other acts, are not enforced unions and individuals and employees would have a right to appeal to the Department of Labour and point out the fact that the other groups are not enforcing the law and in that case, the Minister of Labour then can, through the cabinet, demand, and I think in the Senate hearings he emphasized that these areas that are being neglected would be turned over to the Department of Labour through the powers of this particular bill for enforcement.

Mr. MORRIS: I understand that and believe me I am well aware of jurisdictional problems and jurisdictional feelings. We have a lot of those problems ourselves. The thing that bothers us about this particular aspect is the time element that is involved in the investigation before the complaint is laid, with the Labour Department, and the Labour Department making representations and getting authority to apply the provisions of the act. This may take a length of time which really we cannot afford to take. This is the problem we have in reconciling our thinking with regard to the legislation in its present form. I would say that when you find a formula for licking this jurisdictional problem, let us have it because we could use one ourselves.

Mr. MACKASEY: I think on that happy note, we should end this right here and now.

The CHAIRMAN: Thank you very much, Mr. Morris. Would you be good enough to remain with us; the Committee may have other questions to ask you today.

Gentlemen, I received a telephone call from Mr. John Magee, General Manager of the Canadian Trucking Association Inc., who expressed a wish to appear before this Committee for a brief comment on the bill. Mind you, at our first meeting it was mentioned that the Canadian Trucking Association Inc. might want to appear. Is it the wish of the Committee to hear Mr. Magee immediately? Mr. Magee is here this morning. Is it agreed?

Some hon. MEMBERS: Agreed.

Mr. MACKASEY: Is this the last witness we have, Mr. Chairman?

The CHAIRMAN: This will be the last witness unless members of the Committee have some further questions to ask of the officers of the department.

Mr. MACKASEY: Could I ask it in another way? Is it the last brief from outside interests?

The CHAIRMAN: Yes. Mr. Magee.

Mr. John MAGEE (*General Manager, Canadian Trucking Association Inc.*): Mr. Chairman, members of the Committee, I appreciate very much your willingness to hear the Canadian Trucking Association which has a brief submission to make to you on the bill. I apologize for not having copies of this brief with me, but it is going to be very short; it is on one particular aspect of the bill and the relationship of the trucking industry to this legislation.

I might, first of all, explain to members of the Committee, who may not be aware, that the Canadian Trucking Association is a national federation of all the provincial trucking associations in Canada representing the owners of some 7,000 trucking firms. It is at the direction of these associations, through our national board of directors, that I make this submission.

The subject of safety is of paramount concern to Canada's trucking industry. For our operations we rent, and pay a full and fair share for that rental, a roadbed consisting of city streets and highways used by the general public. We are, at all times, conscious of our contact with the public and are constantly addressing our attention to any measure that will strengthen and improve the trucking industry's safety record. We welcome any legislation that represents a genuine attempt to uphold and improve safety performance in the trucking industry. We believe that Bill No. S-35 is such legislation.

However, the trucking industry is subject already to an infinite variety of safety legislation and regulation. I will not impose upon the Committee by reviewing the situation, province by province, nor even the entire situation as to legislation and regulations in any one province, but I will pick one province, Ontario, simply as an example of the point we make.

Here are some of the statutes in Ontario concerned with matters dealt with in Bill No. S-35. The Municipal Act which provides authority for building codes; the Elevator and Lift Act providing for the safety of elevators; the Boiler and Pressure Vessel Act providing for the safety of steam boilers; the Highway Traffic Act providing for safety on the highways; the Gasoline Handling Act providing for safety in the handling of gasoline; the Factory, Shop and Office Building Act providing for working conditions within factories, shops and offices; the Public Commercial Vehicles Act providing for the regulation of motor carriers and the Workmen's Compensation Act providing, among other things, for industrial safety. In addition to such provincial statutes there are effective controls imposed by such institutions as insurance companies, and mortgage companies engaged in financing buildings who insist that the provincial statutes be conformed with and by various insurance institutions who frequently go beyond the requirements of provincial laws in establishing procedures for the handling of dangerous materials.

The same kind of statutory and institutional control in the field of industrial safety exists, more or less, for all provinces, depending upon the extent of their industrial development. The provincial governments have occupied the field of industrial safety. Trucking firms, whether interprovincial, international or intraprovincial in character have not challenged the right of the provincial governments to do so. Although there are approximately 1,000 extra provincial trucking firms which cross provincial borders and the international boundary, most of these firms remain essentially provincial in the nature of their operations and services.

Within the provincial regulatory environment, a typical trucking firm starts out as a firm providing service within a municipality or a county or between urban centres in a province. As its business develops, the firm extends its operations and at some point in its development, services may be provided that cros provincial boundaries.

One of the obvious difficulties in regulation of extraprovincial motor transport arises from the split jurisdiction over the trucking industry under the British North America Act. The Winner case of 1954, in the decision rendered by the Judicial Committee of the Privy Council, showed clearly that trucking cannot be divided neatly into firms that are intraprovincial carriers and firms that are interprovincial carriers.

We suggest to the Committee that common sense demands that we recognize the provincial character of the industry and yet the law indicates that whenever a firm is involved in interprovincial traffic—this may be only 1 or 2 per cent of the total business of this particular trucking firm—if it is involved in interprovincial traffic on a regular basis it falls under federal jurisdiction no matter what the relative importance may be of its intraprovincial services.

With this background of provincial orientation, it might have been supposed that the trucking industry would be the least likely of all industries under federal jurisdiction to be exposed to a potential new layer of safety regulation and yet we find in the bill, in clause 3 subclause (3) of which you have heard, that the trucking industry is the only industry omitted from the exception as follows:

> Notwithstanding subsections (1) and (2) and except of the Governor in Council may by order otherwise provide, nothing in this Act applies to or in respect of employment upon or in connection with the operation of ships, trains or aircraft.

Our respectful submission to the Committee is that because of the occupancy of the field of safety in all provinces and the application of these safety laws and regulations to the trucking industry, it is unnecessary to cover trucking in this legislation.

Throughout a period of more than 30 years, from the birth of the trucking industry, safety requirements at the provincial level have been developed for the industry and, in addition, the industry has shown a keen disposition towards self-policing in this all important matter. Our respectful submission to the Committee is that because of the occupancy of the field in all provinces, trucking should be exempted from the legislation.

If the Committee is of the view that the federal Labour Department must have the ability to cover a gap, if one is found, with respect to safety regulation of the trucking industry, then we respectfully suggest that trucking should be at least, included in the exception clause and that the words "ships, trains or aircraft" should be enlarged to include our industry. This course of action would make it possible for the Governor in Council, on the recommendation of the Labour Department, to make a regulation in respect of trucking.

That, Mr. Chairman, is our submission.

The CHAIRMAN: Thank you, Mr. Magee.

Mr. McCLEAVE: You had the provisions of the bill before you when you were invited to attend the Senate Committee hearings and yet declined to go there. I wonder why you had changed your mind, Mr. Magee?

Mr. MAGEE: We did not decline, Mr. McCleave; we, through an error which was my responsibility, and I believe it is the first time in 19 years that I have missed a hearing of a Committee at which I should have been present, the trucking industry did not make a submission to the Senate Committee before the hearings terminated. That is the exact situation.

Mr. McCLEAVE: I do not want to inquire into what probably was a mistake, but, Mr. Magee, since we are concerned with safety provisions in the trucking industry from one end of Canada to another, is it true that there are safety provisions set by the provincial governments from one end of Canada to the other, or do the standards vary provincially?

Mr. MAGEE: They vary.

Mr. McCLEAVE: Are there vacuums in any provinces where they have not dealt with safety provisions? Apparently Ontario has nine or ten acts which might apply.

Mr. MAGEE: Quebec has a great number, too. I meant to bring the actual regulations in a packet to display because there are a large number of them for Quebec as well as Ontario. I would say that there is not, certainly, complete uniformity in the regulations across Canada.

Mr. McCLEAVE: Are the standards too low or too high, in your opinion, from looking at these different provincial enactments?

Mr. MAGEE: I think the standards are satisfactory and I also might point out that in the trucking industry we must—our individual companies—put safety of operation as a paramount consideration because if they are an accident prone company, they lose their insurance, and as soon as they lose their insurance they are out of business because their public service vehicle permit is cancelled. This makes every company—every legitimate operator properly licensed by the provincial authorities—very keenly aware of this problem and it is a problem to which they are constantly giving attention.

Mr. KNOWLES: Mr. Chairman, I have two questions. Perhaps I might be pardoned for being facetious by saying we could meet the wishes of the two witnesses we have had this morning by taking ships, trains and aircraft out of this excluding clause and putting trucks in. I doubt whether we will adopt that solution.

My two questions are, first, is it not true that there are other areas in which employees will come under separate sets of regulations, for example, banks and radio broadcasting stations are covered by this legislation with respect to the health of the people working in such places while at the same time banks and broadcasting stations come under the building codes of the provinces?

Mr. MAGEE: Yes, that is so.

Mr. KNOWLES: My second question is related to this. Is it not pretty clear that there is every intention of co-operation between the federal and provincial authorities in matters of safety? As you know, the plan is to use some of the

same safety officers for inspection and in view of all this, do you think there really is the danger of overlapping. Is not co-ordination likely to hasten the day when we will have one set of standards across the country?

Mr. MAGEE: Mr. Knowles, I think you have got right to the root of the concern which has lead to this submission. I think that if the trucking industry understands that there will be a co-ordination of the regulations and not a new overlapping layer of regulation on top of something that is already serving the purpose in the field of safety, that that will be a very reassuring factor for the industry.

Mr. KNOWLES: Did you notice that in clauses 10 and 11 of the bill—

Mr. MAGEE: Yes.

Mr. KNOWLES: —the minister may designate any person as a safety officer and enter into an agreement with the provinces.

Mr. MAGEE: Yes, that is correct. I think if that approach is followed through it is another way of meeting the concern—I think it is a legitimate concern—that the industry has that it will be laden down with some new regulations that are already in effect in some other jurisdiction to which they have been adhering.

Mr. BARNETT: Mr. Chairman, Mr. Knowles has already indicated some of us may have our views about the proposed exemption of ships and airlines and railways under subclause (3), but leaving that aside for the moment, I wonder if Mr. Magee is aware of the fact that in some previous discussion on this question the suggestion was made that the reason for this subclause (3) is the existence of certain other federal legislation such as the Aeronautics Act, the Railway Act and the Canada Shipping Act and as far as I am aware, no parallel legislation exists federally to cover the trucking field. I wonder, whether in the light of the discussions in this connection, Mr. Magee really feels that there is a parallel argument or a parallel situation. I do not know of any intention to cover the situation with respect to trucking in a manner similar to that which is already in existence with respect to other forms of transportation.

Mr. MAGEE: Certainly at the present time there is no central federal board regulating extraprovincial trucking. There are, in effect, 10 federal boards because under the federal Motor Vehicle Transport Act provincial regulatory boards have been designated as the federal controlling agencies for extra-provincial trucking. This was the decision of parliament in 1954, and this is the way it is still working. It appears from Bill No. C-231, which would become the National Transportation Act, that in time there may be a direct federal control of extraprovincial trucking under the Canadian Transport Commission.

Mr. BARNETT: Thank you.

Mr. MAGEE: There is in that bill a Part III which provides for a very comprehensive form of direct federal regulation but that does not come into effect until the Governor in Council stops the working of the Motor Vehicle Transport Act and puts Part III into effect.

The CHAIRMAN: Do you have any further questions, Mr. Barnett? I know Mr. Tardif wants to ask a question.

Mr. TARDIF: No. The question I wanted to ask has already been asked.

Mr. BARNETT: I do not know whether the previous questioning is on the record. If it is not necessary, I will not repeat it.

The CHAIRMAN: I understand, Mr. Barnett, the answer has been recorded; maybe not your question.

Mr. BARNETT: I have only one further point. I was going to say that I was aware of the 1954 legislation. I remember some of the discussion which took place on the pros and cons of it at that time. Perhaps, I could put it more directly. Is it because of the proposals in the transportation bill that have been under current consideration that you are actually appearing to make this representation on this bill?

Mr. MAGEE: No, these representations were decided upon and the instructions which were given to me were given outside the context of Bill C-231.

The CHAIRMAN: I mentioned, Mr. Barnett, at the beginning of the meeting before Mr. Magee gave evidence, that he had expressed a wish to appear but I understand he was not able to do so before today.

Mr. BARNETT: I recall that there had been an indication that he might wish to appear.

The CHAIRMAN: Are there any further questions of Mr. Magee?

Mr. MACKASEY: Mr. Magee, mostly from curiosity, you mentioned that your association represented 7,000 trucking firms?

Mr. MAGEE: Yes.

Mr. MACKASEY: How many of the 7,000 have the right to haul between provinces rather than strictly within a province?

Mr. MAGEE: Approximately 1,000, I would say. There are some companies which are intraprovincial and only their extraprovincial operations are international. That applies, for example, in Ontario and in Quebec, but the number of extraprovincial companies which seem to be clearly under federal jurisdiction is 1,000.

Mr. MACKASEY: Do you not think, Mr. Magee, that for these 1,000, at the present moment, the only safety standards or legislation which applies to them, is provincial in nature? Do you not think that including the trucking industry, as we are doing in this bill, will, perhaps, hasten the day when we have a uniform safety code across the country because this has been the pattern in other areas? This bill, as you know, has been drawn up after very close consultation with the different provincial departments of labour. If I were a trucking man, it would seem to me that this would be an obvious advantage and, as Mr. McCleave was indicating the trucking industry would know the safety regulations to which they must conform and not realize that every time it goes from province to province it is subject to a different standard, in many cases, perhaps, archaic and outmoded laws. The one very good, direct feature of this bill is that it will, in all probability, lead to a uniform safety code across the country.

Mr. MAGEE: I would think that if the Committee did not agree with our proposal that we be removed from the bill, at least I would say that I hope, in the event that the Committee does not agree to our proposal that we be removed

from the bill, the results that you are suggesting do flow from it and I see no reason why they should not if it is handled in a co-operative manner.

Mr. REID: Mr. Magee, it is true that the trucking industry has been—even those firms which come under federal jurisdiction—traditionally governed by the provincial legislation because the federal government has turned its power over to agencies of the provincial governments. My question is that in your submission, as I understand it, you want to change this to some extent and to provide as a new transportation bill that the trucking industry—that part which is interprovincial—will be governed more by the federal statutes. This would mean, too, that you would come under them almost directly. There would be the safety code and there would be the new transportation legislation.

Mr. MAGEE: Yes, but in regard to the national transportation legislation, we have, as probably many members of the Committee are aware, supported that legislation, in principle, and have made our submission on it.

Mr. REID: And your amendment was accepted, as I recall?

Mr. MAGEE: Yes, we were very encouraged with the results of our submission.

Mr. REID: The real purpose of your amendment or your suggested inclusion in this particular bill would be to bring yourself more closely under federal jurisdiction for the purposes of safety?

Mr. MAGEE: I think in respect of safety, the view of the industry was that this was being taken care of adequately by the existing provincial statutes and regulations and for this reason, in respect of this particular legislation, we should ask to be exempted from it.

Mr. HYMMEN: Mr. Chairman, I have a question but I do not know whether it is fair to ask the witness or not. With reference to the transportation bill No. C-231, there are various bills in the house at various stages or in Committee in which there has been correlation and we all know about previous submissions. I believe I have met Mr. Gibbons of the Railway Brotherhood of Locomotive Firemen and Engineers repeatedly at hearings by the Board of Transport Commissioners on safety and health matters involving the railways. Is there any clause in this transportation bill specifically pointing out safety standards which, again, would refer to this clause 3 subclause (3) of the bill.

Mr. MAGEE: I believe it is clause 32 subclause (p) which is being added to the bill which will empower the Canadian Transport Commission, once it assumes direct control over extraprovincial trucking, or perhaps I should say, if and when it assumes direct control over extraprovincial trucking, to regulate on safety matters.

The CHAIRMAN: Are there any further questions, gentlemen?

Mr. HYMMEN: It would seem you are not going to get away from us, anyway.

Mr. MAGEE: No.

The CHAIRMAN: Thank you very much, Mr. Magee. Should we proceed with the clause by clause examination of the bill?

Since there are no further witnesses, unless you still have other questions to ask of the officers of the department, if you agree we can proceed to the clause by clause examination of the bill. Is it the wish of the Committee?

Mr. BARNETT: I assume that if there should be questions arising on particular clauses as we come to them the deputy minister or Mr. Currie would be available to give any explanations required.

The CHAIRMAN: I am in the hands of the Committee.

Mr. MACKASEY: May I make a suggestion, Mr. Chairman? If we are going on to the committee stage, we could invite either Mr. Currie or Dr. Haythorne to sit in a place where we can hear them and see them so that we will not be without their advice.

The CHAIRMAN: Mr. Mackasey, are you suggesting—? If the members of the Committee have questions to ask these officials they may ask them now.

Mr. MACKASEY: You said I was suggesting but you did not tell me what I was suggesting. If you start to tell me what I am suggesting, would you continue, please, so I will know.

The CHAIRMAN: Are you suggesting that Mr. Currie should—

Mr. MACKASEY: I am suggesting, now that we are getting into the committee stage, that we get Dr. Haythorne and Mr. Currie up here where we can ask questions on a particular specific clause of the bill.

The CHAIRMAN: It is up to you, gentlemen.

Members of the Committee, before we take up the clauses, would the Committee wish to undertake the clause by clause study in camera? It is up to the Committee to decide.

Mr. KNOWLES: We might have an amendment to move, Mr. Chairman, and how we vote on these things is a matter of public record.

Mr. MCCLEAVE: I wonder if I could ask Dr. Haythorne a question? We have had some correspondence about it but I think this should be included in the minutes of the proceedings.

A few meetings ago, Mr. Chairman, I raised the question of the death of a young workman aboard a warship undergoing refit and repair at a private yard in Halifax. I acquainted Dr. Haythorne with this problem by letter and he was good enough to reply to me by letter with an indication that the Department of Defence Production would be asked in future to require some safety provisions be worked into contracts involving private shipyard works on naval waships. The question I ask Dr. Haythorne, is this, is he satisfied that the department will be agreeable to this approach suggested by himself?

Dr. G. V. HAYTHORNE (*Deputy Minister, Department of Labour*): Mr. Chairman, we looked into this with some care, as you perhaps gathered from my reply.

Mr. MCCLEAVE: Your reply was a very excellent letter, sir.

Dr. HAYTHORNE: Thank you very much, Mr. McCleave. This will take some time to work out with the Department of Defence Production. We have suggested that this seemed to us to be a practical way to proceed with it. I feel quite

sure that they recognize, just as we do, the importance of taking effective action in dealing with safety questions of this sort. I am hopeful we can develop something within a reasonable period. I would not like to say, Mr. McCleave, just when we can do it but we will stay with it and will be glad to keep in touch with you if you remain interested.

Mr. McCLEAVE: Yes, indeed, I shall be interested and I shall appreciate being kept informed.

I wonder if I could ask a supplementary question? Should the department not be amenable to your suggestion, is there still power to cure this situation by regulation within the bill we are considering this morning?

Dr. HAYTHORNE: As you know, the bill before us deals with industries under federal jurisdiction; it does not deal with activities of the crown, as such. At the present time, we cannot take action under this legislation, Mr. Chairman and Mr. McCleave, but through the arrangements we have with the Treasury Board we can follow up with the kind of inspection, the kind of action, which seems to the Treasury Board and ourselves, sensible across the whole government field. We have the assurance of the Treasury Board that this is what they are prepared to do and we want to push ahead with that just as soon as we can.

The CHAIRMAN: Gentlemen, shall clause 1, the short title carry?

On clause 1—*Short title.*

Mr. KNOWLES: I think we deal with this last, do we not, Mr. Chairman? Do we not always deal with clause 1 last?

The CHAIRMAN: Clause 1 will stand. Clause 2.

On clause 2—*Definitions.*

The CHAIRMAN: Shall clause 2 carry?

Mr. BARNETT: I have a question I would like to raise about clause 2 which is the interpretation or definition clause of the bill, in particular with respect to clause 2(b) which contains the definition of an employer, it being a person operating or carrying on a federal work, undertaking or business. My question arises out of some experience we have already had in connection with the definition section of employer in the Canada Labour Standards Code with particular reference to the longshoring industry on the west coast of Canada. This relates, as most members will recall, to the question of the application of statutory holidays under the Canada Labour Standards Code, and came to the point where the Minister gave an undertaking to introduce an amending proposal to that piece of legislation.

I do not have the draft of the proposed amendment before me in connection with the other act, but I would like to raise this question about the definition of employer in this bill in view of our previous experience with the other one. I am sure probably most of us would agree that we would not want to run into any situation of the same nature in respect of the application of this bill. I wonder if we could have some explanation or clarification of this point. I would like to know whether this has been considered by the department in the drafting of this legislation.

Dr. HAYTHORNE: Mr. Chairman, this question which Mr. Barnett has raised does not apply or does not come up in the same way under this legislation as it does under the Canada Labour Standards Code, for this reason, that the problem under the Canada Labour Standards Code to which you refer, Mr. Barnett, is the problem of multi employer employment, as we are now calling it, where a worker in the normal course of his work may be employed, is, in fact, employed by more than one employer over the course of a month or a season. The question we ran into there is the question of the responsibility of the employer for vacation pay and statutory holiday pay, and we have to pin down just who is the responsible party and if there is more than one, how this will be shared and that is the intent of the amendment which is now before the house.

The question here of the responsibility with respect to safety is an individual matter of the man at the moment for whom the worker is employed, and we do not see the question likely to come up in the same form here, so we have not introduced any change the usual definition applied in cases like this.

Mr. BARNETT: In other words, the employer of a stevedore on the west coast would be his particular employer at any given moment in time as far as this legislation is concerned.

Dr. HAYTHORNE: Exactly, and it applies equally to all.

The CHAIRMAN: Shall clause 2 carry?

Some hon. MEMBERS: Carried.

Clause agreed to.

The CHAIRMAN: Clause 3.

On clause 3—*Application of Act.*

The CHAIRMAN: Shall clause 3 carry?

Mr. KNOWLES: Maybe we should stand this clause; it might get the rest of the bill through.

The CHAIRMAN: Mr. Knowles, do you have any amendments?

Mr. KNOWLES: My right hand man has an amendment, yes.

The CHAIRMAN: May I remind you that usually an extensive amendment has to be submitted in writing.

Mr. REID: We could stand this clause if there is going to be an amendment. It is about the only contentious clause in the whole bill. If we could have a copy of it, we could take it up at the next meeting.

Mr. BARNETT: Mr. Chairman, if other members of the Committee would like to know what I have in mind and I think we all recognize, in view of the representations we have had and some earlier discussions before we heard witnesses, that this has been the major question in the minds of some members of the Committee, the proposed terms of this clause. If it is the wish of the Committee I would be quite prepared to propose my amendments and if it was the desire then to let the clause stand along with the amendments, I would be quite agreeable to that. I could then give you the copies I have. I do not have enough copies for every members of the Committee but I have enough to pass around.

The CHAIRMAN: As the Committee knows, it is quite a long clause. Will your amendments, Mr. Barnett, apply to the whole clause? If not, we coud go to the part of clause 3 not affected and stand whatever sub-clauses to which you intend to move amendments.

Mr. BARNETT: Mr. Chairman, I would like to propose an amendment to subclause (1) of clause 3 and also, what I might describe as a consequential amendment to subclause (3). If it is agreeable, I am quite willing to propose these amendments now. I suppose, inasmuch as they are all in the one clause, I could do it in one amendment. If it is the desire of the Committee to defer any discussion on this clause or the amendments to it, I would be quite glad to do that.

The CHAIRMAN: I think we should stand clause 3.

Mr. MCCLEAVE: I think if we are given notice today of the amendments he would like to see, then we can have time to consider them before we come to the next meeting. We can pass the rest of the clauses. This has been done quite effectively in the Public Service Committee. I think it is a good approach.

Mr. KNOWLES: I suggest whether or not Mr. Barnett formally moves his amendment, this Committee might like to have him read them out.

Mr. BARNETT: Mr. Chairman, I would like to move that subclause (1) of clause 3 be amended by deleting in line 22 thereof, the words, "subject to" and substituting therefor the word, "Notwithstanding", and that subclause (3) of clause 3 be amended by deleting the words, "applies to or" which is in line 43, and substituting therefor the words, "affects the provisions of any other act or the regulations thereunder". Perhaps, I could, just by way of explanation, say that as I understand it, the effect of my amendment would be—the change in subclause (1)—to give this legislation overriding jurisdiction in the field of safety, but at the same time providing by the proposed amendment in subclause (3) that the safety provisions in existing acts or the regulations which are made under them would be waived or amended only by specific order in council. This, I believe, would avoid wiping out the effect of existing regulations except by action of the Governor in Council, but at the same time, in my view, make it clear that the initiative for a co-ordinated safety program applying in all of the federal fields of jurisdiction would rest under this act and with the Minister of Labour. In other words, rather than the Minister of Labour having to convince his other colleagues in the cabinet that changes were desirable, he could take the initiative and they would have to prove they were not desirable. This is the general intent of the amendment which I suggest.

The CHAIRMAN: Are you making a formal proposal of these amendments, Mr. Barnett?

Mr. BARNETT: If it is agreeable, I would so move and then in the light of the other discussion—

The CHAIRMAN: I imagine you have a seconder?

Mr. KNOWLES: Your imagination is very sharp. I second the motion.

Mr. MCNULTY: Would you read the motion out loud again?

Mr. BARNETT: Perhaps, Mr. Chairman, if it is the desire of the Committee I could read the two subclauses as they would be with the amendments as I have proposed them. Subsection (1) would read, if it were amended as I propose:

Notwithstanding any other Act of the Parliament of Canada and any regulations thereunder, this Act applies to and in respect of employment upon or in connection with the operation of any work, undertaking or business that is within federal jurisdiction.

Then, subclause (3) would read as follows:

Notwithstanding subsections (1) and (2) and except as the Governor in Council may by order otherwise provide, nothing in this Act affects the provisions of any other Act or the regulations thereunder in respect of employment upon or in connection with the operation of ships, trains or aircraft.

As has previously been explained to us, this applies to the operating personnel actually on ships, trains or aircraft.

The CHAIRMAN: Are there any further questions, Mr. McNulty?

Mr. MCNULTY: Just that addition after "act". Would you read that again?

Mr. KNOWLES: "Affects the provisions of any other act or the regulations thereunder". Those words take the place of the words "applies to or".

Mr. MACKASEY: At first glance, Mr. Chairman, the amendment to subclause (3) seems innocent enough but I would suggest, Mr. Chairman, with Mr. Barnett's co-operation, that we take the suggested amendment under advisement so that the law officers can read whatever implications into it they feel like and we can have a more fruitful discussion on it at the next meeting.

Mr. BARNETT: I do not pretend to substitute for the law officers in the matter of the drafting; all I am trying to do is to make my intent clear. If it was a matter of drafting to put it in proper legal form, I would certainly be amenable to any suggestion in that direction.

The CHAIRMAN: Are any further amendments contemplated by any member of the Committee before we stand this clause? It seems to be the most contentious clause of the bill. There may be further amendments.

Mr. RICARD: Not at this stage, Mr. Chairman, but I may have an amendment to move at the next meeting.

The CHAIRMAN: On clause 3, Mr. Ricard?

Mr. RICARD: On clause 3.

The CHAIRMAN: Shall clause 3 stand?

Some hon. MEMBERS: Agreed.

Clause 3 stands.

The CHAIRMAN: Clause 4.

On clause 4—*Duty of employer.*

The CHAIRMAN: Shall clause 4 carry?

Mr. BARNETT: Mr. Chairman, on clause 4, there was a suggestion made in the presentation by the Canadian Labour Congress in connection with the phrase "or reduce the risk of" and perhaps we should give some consideration to that suggestion. The argument advanced, as the Committee will recall, was that the

objective should be simply to prevent employment injury, and while we might be prepared to agree that complete elimination of employment injury is not too easy to achieve, nevertheless the legislation might clearly indicate that the objective of the legislation was to prevent or eliminate employment injury rather than simply to be content with reducing it.

Mr. MACKASEY: I understand the spirit in which Mr. Barnett brings forward his suggestion, but the moment we introduce the word "prevent" we are changing the spirit of the bill and we are leaving ourselves open to the facts of life that we will never prevent accidents entirely because accidents do have a human element. You can never regulate emotions and you are always going to have accidents. The minute we use the word "prevent" we are dooming the bill to failure for all time because we are never going to completely prevent accidents. The main purpose of the bill—although this is the laudable end result, or Utopia if you want to put it that way,—is to reduce accidents.

Mr. KNOWLES: Does Mr. Mackasey not know that in the area of aircraft regulations, the rule is that the predictable margin of error must be zero?

Mr. MACKASEY: I hope it is any time I am up there, Mr. Knowles. Every time one of them flunks, we have to say we have not reached what we are after.

Mr. KNOWLES: Yes; accidents occur, but the aim is to prevent them.

An hon. MEMBER: Of course.

Mr. MACKASEY: I just do not think that if the definition is that close we are gaining anything by substituting "prevent". What are we gaining other than—

Mr. KNOWLES: It is already there.

The CHAIRMAN: Strike off "or reduce".

Mr. KNOWLES: Eliminate the words "or reduce the risk of", so the line would read: "Intended to prevent employment injury".

Mr. MACKASEY: How are we improving the bill by removing "or reduce"?

Mr. KNOWLES: We are setting a higher standard.

Mr. MACKASEY: How are we setting a higher standard? We are setting a more noble motive, maybe, but how are we improving the bill?

Mr. BARNETT: Mr. Chairman, might I suggest that there may be, from time to time, disputes arising out of this legislation in which it may have to be argued where a certain responsibility lies. It does appear to me, as it is worded now, that if, for example, there was a dispute whether an employer had taken proper safety precautions, he might successfully argue in a court that he had taken steps to reduce the risk of, and the court would then have to rule that the court was satisfied that he had reduced the risk of injury. On the other hand, the opposing parties might argue that, in their view, he had not taken steps to prevent employment injury that were adequate. It seems to me, not being, as we often say, learned in the law, that we are, in effect, leaving a loophole as it is worded here for implementation of safety prevention measures at a lower level than would be the case if we eliminated that phrase.

Dr. HAYTHORNE: Just on the point Mr. Barnett is making, Mr. Chairman, I would have thought that in a situation where it could be shown that it is quite

impossible or, at least, impracticable to prevent an accident, a court might, if we do not have this in here, say that the man could not be charged on the grounds of preventing that, but he could have been charged on the grounds of taking a reasonable step to reduce the risk. Just to turn your point around the other way, Mr. Barnett, I think that there might very well be, in a realistic situation, a position where it could be argued that a man could not be expected to prevent an accident because of slippery ground or you can think of all kinds of situations, where he could not prevent it, and if we do not have these words in he might not have even taken reasonable steps for reducing the risk. We do not want to lower the responsibility on a person but we want to be realistic in a situation.

The CHAIRMAN: Shall clause 4 stand? Mr. Barnett, do you have any further comments?

Mr. BARNETT: I do not feel too dogmatic on this point in my own mind. I think there are pros and cons to the point I raised and the point Dr. Haythorne raised.

The CHAIRMAN: Shall clause 4 stand?

Some hon. MEMBERS: Agreed.

The CHAIRMAN: Clause 5.

Clauses 5 and 6 agreed to.

On clause 7—*Regulations.*

The CHAIRMAN: Gentlemen, here I would call for a motion inserting a comma after the word "storage" in line 19, and delete the word "and" in line 20 in subclause (f). Put a comma after "storage" and delete the word "and" before the word "use" in line 20. Shall the amendment carry?

Mr. KNOWLES: This is not beyond the terms of the royal recommendation?

Mr. MCCLEAVE: This makes us truly the chamber of sober second thought.

I move that clause 7 (f) be amended by inserting a comma after the word "storage" on line 19 and that the word "and" at the beginning of line 20 be deleted.

Mr. REID: I second the motion.

Mr. MACKASEY: Mr. Chairman, Mr. Davis, our legal adviser, has suggested that in view of Mr. Barnett's original amendment to clause 3 and because we have asked that clause 3 stand, clause 7 should stand also because he feels that it could have a direct effect on it.

Mr. BARNETT: I was about to raise that point, Mr. Chairman, with respect that clause 7 as amended now, should stand until we have dealt with.

Mr. KNOWLES: Stand the clause as amended.

The CHAIRMAN: Shall the amendment to the clause carry?

Some hon. MEMBERS: Carried.

Amendment agreed to.

The CHAIRMAN: Shall clause 7 stand?

Some hon. MEMBERS: Agreed.

The CHAIRMAN: Clause 8.

On clause 8—*Special committees.*

The CHAIRMAN: Shall clause 8 carry?

Mr. BARNETT: Mr. Chairman, I wonder if we might have any comment on the point that was raised on clause 8 by Mr. Morris when he was presenting the brief on behalf of the Canadian Labour Congress? He did raise two points in connection with this clause. One was the question of substituting the word "shall" for "may". I have listened to a number of discussions about these two words and I have heard it argued that there is not too much difference legally between the meaning of them.

The second point was the suggestion that it should be made clear in the legislation that employers and employees should have equality of representation on the advisory committee. I wonder if we could consider for a minute the idea of inserting the word "equally" after the word "are"; that is, between lines 9 and 10, so that it would read: "on which employers and employees are equally represented to advise the Minister on any matters arising in relation to the administration of this Act."

Dr. HAYTHORNE: On the first point, we have considered this observation which was made by Mr. Morris and Mr. Andras. Since "may" is the usual language in a case like this, we felt it was preferable to use "may" rather than "shall". I think the other consideration is that it does give us a little more flexibility. If it is felt on occasion that it would be found to vary the approach, then we can do it. If we say "shall", then we always have to, whether it is appropriate or not and establish committees. We think it is better to leave it this way because it gives us all the authority we need and, as I said, gives us this slight degree of flexibility which, I think, on occasion, may be practical.

On the question of equality, we have also considered this and our preference would be to leave the text as it stands simply because there may well be occasions when we would want to have more employees on a committee than we would want to have employers. We do not necessarily feel it is desirable to be tied. It could be one way or the other, and we would normally, where the interests are equally represented or should be equally represented, follow the practices we normally do of having equal representation but there might be occasions when it would be desirable to have, as I said, more of one or the other.

Mr. GRAY: Mr. Chairman, I think that the suggestions made by the Canadian Labour Congress the other day were very constructive in this area and, perhaps, while I understand the official's desire to maintain flexibility in any statute the official has to administer, I think it would be useful if the officials of the department could state the intention of the department with respect to advisory committees so that even if this Committee of the house did not press for changes in the wording we would know what the department has in mind.

I think we should be assured that the minister intends to establish consultative and advisory committees. I might also add that I find it difficult to see a situation where it would be useful to have more employers than employees. I could see situations where the reverse might be useful but I find it difficult to see where it would be constructive to have a committee with more employers than employees. Again, while I think there is some merit in giving the administrators of this code some flexibility, I hope that the situation will not arise and we

see employees represented less than equally in any committees which might be established under this act. I would like to hear from Dr. Haythorne on these points.

Dr. HAYTHORNE: There is no doubt, Mr. Chairman and Mr. Gray, that we will go ahead with the establishment of committees. This is the firm intention. We believe in these types of committees. We think it is most essential in a case like this, as I think I said at the very opening of the sessions of the Committee, to have participation from both sides, we feel it is very important in developing our standards and seeing that the standards are carried out.

I would certainly agree with Mr. Gray, too, that where we would depart from having equality, it would be on the employee's side in by far the majority of cases. I cannot think of a situation at the moment where we would want to have more employers than employees, but I made the comment earlier because there is always the possibility that something might develop which is highly technical from the employer's point of view. Normally, I would agree that if we do vary, it would be on the employee's side and I can think of occasions when this might be very desirable.

Mr. GRAY: Mr. Chairman, I will be very brief. I do not want to lengthen the discussion in any way. I just want to say that I think encouragement by this government of the principle of labour-management consultation is an extremely vital one at this time and in the future and I think we should press ahead with this in any legislation under our jurisdiction that pertains to this aspect. I want to say that I hope Dr. Haythorne can tell us whether or not consideration of committees is presently under way so that at least one general committee can be established for purposes of consultation and advice as soon as possible after parliament might give its approval to this legislation.

The CHAIRMAN: Mr. McCleave and Mr. Barnett after him.

Mr. GRAY: I have finished my remarks on this phase.

Mr. MCCLEAVE: The point I want to make is about Dr. Haythorne's opposition to the use of the word "shall". I think if you read it strictly with the word "shall" it would probably mean that the department or the minister would have to establish, say, 1,000 committees, most of which would be useless or valueless, nobody would want to work on them but it would be mandatory for him to establish them rather than to pick the areas where the establishment of a committee would be helpful. So I certainly would oppose the use of the word "shall".

Mr. BARNETT: Mr. Chairman, I find myself reasonably satisfied with the explanation of the intent of the minister and of the department in respect of equality of representation. I could see where there might be a situation, for example, where a number of smaller employees or a number of smaller employers perhaps, only one large union might be involved, where this kind of flexibility might be desired. As long as we have a firm understanding that, generally speaking, this is the intent, that the practice of equality of representation will be followed, I, for one, would be satisfied to see the bill remain as it is. I am sure that there are enough interested parties who will be watching the administration of this act to make known their dissatisfaction if at any time in the future the practice should vary from this.

Mr. MACKASEY: Perhaps, Mr. Barnett, you were also swayed by the very logical argument of Mr. McCleave to withdraw your suggestion.

Mr. BARNETT: I was not stressing that; I wanted some explanation on it.

The CHAIRMAN: Shall clause 8 carry?

Some hon. MEMBERS: Carried.

Clause agreed to.

The CHAIRMAN: Clause 9.

Shall clause 9 carry?

Some hon. MEMBERS: Carried.

Clause agreed to.

The CHAIRMAN: Clause 10.

On clause 10—*Safety officers.*

The CHAIRMAN: In the French version I have to ask for a motion to delete the sign "(1)" indicating a subsection. Is there a motion to this effect?

Mr. RICARD: I move that clause 10 in the French copy of the bill be corrected by deleting the sign "(1)" indicating a subclause.

Mr. REID: I second the motion.

The CHAIRMAN: Shall the amendment in the French copy of clause 10 carry?

Some hon. MEMBERS: Carried.

The CHAIRMAN: Shall clause 10 as amended in the French text carry?

Some hon. MEMBERS: Carried.

Clause agreed to.

The CHAIRMAN: Clause 11.

On clause 11—*Agreements respecting use of provincial employees as safety officers.*

(*Translation*)

● (10.59 a.m.)

Mr. CLERMONT: Regarding Clause 11, has Dr. Haythorne got anything to say with respect to the brief presented regarding this clause, or regarding agreements which the Minister may make, or has made, with the provinces in the matter of security?

The CHAIRMAN: What brief are you referring to?

Mr. CLERMONT: I am referring to Mr. Morris' brief of last Tuesday. I am referring to page 11 of the French version, paragraph 28. He says:

> "We note with interest, and some concern, the provision in Article 11 which would enable the Minister to enter into an agreement with a province or any provincial body with respect to the terms and conditions under which a person,—

And so on; this brief seems to show some anxiety because it says that some inspectors will be overloaded with work in certain provinces.

(*English*)

Dr. HAYTHORNE: Mr. Chairman, Mr. Nicholson made a comment in his statement to the Committee about the extent to which we have already been co-operating in the development of this legislation with the provinces. We have also had several discussions with them about how we can best enforce or apply the legislation, and we have been very encouraged by the desire on the part of the provinces to work closely together with us in the development of standards and in the development of practical plans for utilizing provincial inspectors. This is exactly what we would like to work out with them wherever this can be done on a practical and sensible basis.

We are aware that this is a big task and that, in some of the provinces, the men who are already involved in this work are overworked. It would be our intention to see that we not only expand our own staff as quickly as we can where this is necessary but encourage additional staff where they are needed in the provincial governments and assist with the training of these people. I think we are all aware that safety inspectors need to be well trained and we would want to develop, and I have every confidence, having talked this matter over with the provincial deputy ministers of labour, that they are ready to move ahead in a realistic way with a training program for safety inspectors in which we would all co-operate.

(*Translation*)

Mr. CLERMONT: Regarding the addition of regular staff, would this come under the province or the Federal Government?

(*English*)

Dr. HAYTHORNE: It could come under both. Some would be ours and some provincial.

The CHAIRMAN: Shall clause 11 carry?

Mr. GRAY: Mr. Chairman, I realize that the intentions of the government and the department are of the best with respect to this clause and I can see, again, the need for flexibility in arrangements and it is not obligatory for this inspection to be carried out by provincial officers, but I would like to state my own view at this time.

In my opinion, the federal government should, wherever possible in matters clearly under its jurisdiction, carry out its work with its own officers to make sure that its responsibilities are adequately and fully carried out. I think it is clear that in provinces such as Ontario, as the Canadian Labour Congress' brief indicated, there are many cases of a shortage of provincial staff and there is even some question whether the provincial laws with provincial staff are carrying out their duties adequately. I hope that the federal government will not rush into giving this responsibility to provincial officers. I agree fully with the need for consultation on standards and the need for co-operation, but I would like to state, at this time, that I would view with some regret a widespread use of this particular clause. I feel the Department of Labour should use its powers of jurisdiction in as creative and complete a manner as possible and this includes powers under this new act.

The CHAIRMAN: Shall clause 11 carry?

Some hon. MEMBERS: Carried.

Clause agreed to.

Clause 12 agreed to.

On clause 13—*Employment safety programs.*

The CHAIRMAN: Shall clause 13 carry?

Mr. BARNETT: Mr. Chairman, I have a question I would like to ask on clause 13 which has to do with the minister undertaking programs to reduce or prevent employment injury in co-operation with other government departments or provincial governments or other organizations. I would like to ask whether or not this clause as it is worded would provide authority for the minister to undertake training programs for safety officers in, perhaps, the organization of courses in the vocational and technical schools or institutes.

There had been some earlier discussion about the fact that some existing safety officers in various jurisdictions are, perhaps, not as well qualified as they might be. We hear a lot of discussion about the lack of trained personnel in various fields these days and I am wondering whether it is understood that this clause, as it is drafted, would authorize the minister as part of a program to reduce or prevent employment injury, to undertake specific programs or to organize courses in this field for the training of safety officers where such may not now exist?

The CHAIRMAN: Before we adjourn, Dr. Haythorne, would you like to make some comments?

Dr. HAYTHORNE: If I could just answer briefly, I would say, on this point, Mr. Chairman, that reading clause 13 along with clause 11 and the fact that the minister has general authority, under our departmental votes and responsibilities, for staff, there would be no question about our ability under this clause to develop the kind of programs which you have in mind which would involve training. This also, of course, permits various types of educational programs to be undertaken. Educational programs would involve seminars or conferences on the one side but also broader kinds of public relations activities through the press, through pamphlets and various activities of this kind. The actual development and the preparation of people to undertake this can be done under this in co-operation with or taking into account our other authorities, so I would anticipate no problems as far as the authority is concerned.

Mr. BARNETT: Has any assessment been made of the need for a training or upgrading program for safety officers, or considered by the minister?

Dr. HAYTHORNE: We have given a lot of thought to the extent to which we will need additional staff. We have our plans well developed here. We are fully aware that this will involve a training program. We would anticipate the kind of training that our people will need being done, as I said a few minutes ago, in co-operation with the provinces.

Mr. BARNETT: In other words, if I may say so, more is envisaged than simply a new series of posters suggesting that we do not stub our toes.

Dr. HAYTHORNE: Absolutely; very, very much more.

The CHAIRMAN: Shall clause 13 carry?

Some hon. MEMBERS: Carried.

Clause agreed to.

The CHAIRMAN: Gentlemen, since members have other committees to attend, the meeting is adjourned until next Tuesday.

HOUSE OF COMMONS

First Session—Twenty-seventh Parliament

1966

STANDING COMMITTEE

ON

Labour and Employment

Chairman: Mr. GEORGES-C. LACHANCE

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 10

TUESDAY, DECEMBER 13, 1966

Respecting

BILL S-35

An Act respecting the prevention of employment injury in federal works, undertakings and businesses.

WITNESSES:

From the Department of Labour: The Hon. J. R. Nicholson, Minister of Labour; Dr. George V. Haythorne, Deputy Minister; Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

25421—1

STANDING COMMITTEE

ON

LABOUR AND EMPLOYMENT

Chairman: Mr. Georges-C. Lachance

Vice-Chairman: Mr. Hugh Faulkner

and

Mr. Barnett,
Mr. Clermont,
Mr. Duquet,
Mr. Émard,
Mr. Fulton,
Mr. Gray,
Mr. Guay,
Mr. Hymmen,
Mr. Johnston,
Mr. Knowles,
Mr. MacInnis (*Cape Breton South*),
Mr. Mackasey,
Mr. McCleave,
Mr. McKinley,
Mr. McNulty,
Mr. Muir (*Cape Breton North and Victoria*),
Mr. Racine,
Mr. Régimbal,
Mr. Reid,
Mr. Ricard,
Mr. Skoreyko,
Mr. Tardif—24.

Michael B. Kirby,
Clerk of the Committee.

REPORT TO THE HOUSE

WEDNESDAY, December 14, 1966.

The Standing Committee on Labour and Employment has the honour to present its

SECOND REPORT

Your Committee has considered Bill S-35, An Act respecting the prevention of employment injury in federal works, undertakings and businesses, and has agreed to report it without amendment.

A copy of the Minutes of Proceedings and Evidence relating to this Bill (Issues Nos. 5 to 10 inclusive) is appended.

Respectfully submitted,

GEORGES-C. LACHANCE,
Chairman.

25421—1½

MINUTES OF PROCEEDINGS

TUESDAY, December 13, 1966.
(11)

The Standing Committee on Labour and Employment met this day at 11.20 o'clock a.m. The Chairman, Mr. Lachance, presided.

Members present: Messrs. Barnett, Clermont, Duquet, Émard, Faulkner, Gray, Guay, Hymmen, Johnston, Knowles, Lachance, Mackasey, McCleave, McKinley, McNulty, Reid, Skoreyko, Tardif—(18).

In attendance: *From the Department of Labour*: The Honourable J. R. Nicholson, Minister of Labour; Dr. George V. Haythorne, Deputy Minister; Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch;

And also Dr. P.M. Ollivier, Q.C., Parliamentary Counsel.

The Chairman informed the Committee that Clauses 1, 3, 4 and 7 had been allowed to stand and that Clauses 2, 5, 6, 8, 9, 11, 12 and 13 had been adopted.

Agreed: that clauses 14 to 31 carry.

The Committee then recalled clause 3 and after discussion the question was put on the amendment of Mr. Barnett, seconded by Mr. Knowles,

That clause 3 of Bill S-35 be amended by deleting in line 22 thereof the words, "subject to" and substituting therefor the word, "notwithstanding",

and that

sub-clause 3 of clause 3 of Bill S-35 be amended by deleting the words, "applies to or" and substituting therefor the words, "affects the provisions of any other Act or regulations thereunder".

The amendment was *negatived* on Division.

Mr. Knowles moved, seconded by Mr. Barnett,

That sub-clause 3 of clause 3 of Bill S-35 be deleted entirely.

On Division, the amendment was *negatived*.

Agreed—That clause 3 carry.

The Committee then recalled clause 4.

Mr. McCleave, seconded by Mr. Barnett moved,—That sub-clause 2 of clause 4 be amended by striking out in line 8 the words "or reduce the risk of".

After discussion, Mr. McCleave by *unanimous* consent withdrew his motion. Later it was

Agreed,—That clause 4 carry;

Agreed,—That clause 7 carry;

Agreed,—That clause 1 carry;

Agreed,—That the Title carry.

On motion of Mr. McCleave, seconded by Mr. Reid,

Agreed,—That the amendments to clause 7 in the English copy and to clause 10 in the French copy of Bill S-35, made on Tuesday, December 8, 1966, be considered as corrections to clerical and printing errors and that they not be reported back to the House but drawn to the attention of the Parliamentary Counsel and the Law Translators by the Clerk of the Committee.

Ordered—That the Chairman report the Bill without amendment.

The Chairman thanked the members of the Committee, the Minister of Labour, the Departmental officials and the other witnesses for their attendance, before the Committee.

At 12.35 o'clock p.m., there being no further business, the Chairman adjourned the meeting to the call of the Chair.

Michael B. Kirby,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

TUESDAY, December 13, 1966.

• (11.17 a.m.)

The CHAIRMAN: Order, please, Gentlemen.

At the last meeting of the Committee we were at clause 14. Shall we carry on with the study of the bill at this point? Clauses 14 to 18 inclusive, agreed to.

On clause 19—*Directions arising out of inspection.*

(Translation)

Mr. CLERMONT: Is the regional officer able to appeal or does a corporation have the right to appeal to a higher court?

The CHAIRMAN: Mr. Clermont, would you like to repeat your question please.

Mr. CLERMONT: Does the regional officer have the authority to appeal for an employee?

(English)

Dr. G. V. HAYTHORNE (*Deputy Minister of Labour*): On clause 19, sir?

Mr. CLERMONT: Yes.

Dr. HAYTHORNE: Mr. Chairman, I would expect that in the ordinary course of events a decision by a regional safety officer could, if necessary, be taken to the minister of a department, or to the deputy minister, or to other senior officials—those responsible for the general administration of the legislation. There are well-established channels for this sort of thing in any case, and I would wish to assure the Committee that this kind of pattern of communication would certainly be maintained. The regional safety officer is not necessarily going to be the last word.

Mr. CLERMONT: But clause 19 does not say so?

Dr. HAYTHORNE: That is quite correct, sir. I think that in the administration of any of the laws in our department over the years there have been many uses of these informal channels for representation, and since the minister is responsible for the totality of the legislation under our interpretation section. I would think this would be the normal course to follow if any one is dissatisfied with the administration of the legislation in any way.

Clauses 19 to 29 inclusive agreed to.

On clause 30—*Statute Revision Commission to consolidate Labour Statutes.*

The CHAIRMAN: Shall clause 30 carry?

Mr. KNOWLES: Mr. Chairman, I would like to say a word of approval and appreciation of this clause. I think it will be a good idea to have all of our labour legislation in one place. I do not mean by that that the various acts which are going to be consolidated are necessarily satisfactory.

An hon. MEMBER: I hope.

Mr. KNOWLES: That is right; because there is room for improvement in them, and I look forward to this being done. I think the selection of an over-all title, Canada Labour Code, is good. I take it, however, Mr. Chairman, that when this is done we will have, in one statute, all of the legislation affecting workers who come under federal labour jurisdiction but it will not include people who work for the government, or are on government contracts?

Is it not possible to produce a document similar to the one I am thinking of for the Fair Wages and Hours of Labour Act and the various regulations under other statutes? And, of course, there is the whole business of collective bargaining which is coming in. You are probably going to tell me that this is under some other department, but if we do get workers who come under federal jurisdiction in the preferred position where their legislation is all in one place. Why should government employees not be in the same kind of position? As it will stand, their legislation will be all over the place.

Could Dr. Haythorne comment?

Dr. HAYTHORNE: We felt, Mr. Chairman, that we were taking a very important step here in consolidating all of these acts that are under federal jurisdiction.

I think that to go any further than this at the moment, Mr. Knowles, would raise quite a number of questions, because of the fact that you have different agencies responsible for administering the different acts. We have the responsibility, as you know, in the Department of Labour, for administering the Fair Wages and Hours of Work Act. The collective bargaining act will be under the Treasury Board. Under the Financial Administration Act there are provisions for looking after working conditions and related matters of employees in federal departments. That is distinct, as you know, from the collective bargaining act which is now before the House.

I think it is a matter that could, perhaps, be looked at some time, but at the moment I would see quite a lot of difficulty because of the differing jurisdictions.

Mr. KNOWLES: I thank Dr. Haythorne for supporting my proposition. He has spelled out that there is considerable confusion.

Generally we are told that people who work for the federal government will, of course, get the same benefits and provisions as we enact for everybody else, but when we try to find them it becomes pretty difficult.

At the moment, I suppose, all I can do is ask that this matter be studied, and that there be some kind of companion piece for employees of the government comparable to this charter or code that is being put together for workers who come under federal labour jurisdiction.

Dr. HAYTHORNE: Perhaps I might just add that there must might be less difficulty for those who are employed directly by the government, because these are all being handled by the Treasury Board now. The problems which arise in

connection with work under contract, which is what we handle under our Fair Wages and Hours of Labour Act, represent a sort of middle or third group that is not really directly under federal jurisdiction except during the time when they are working for us.

I think this is a matter which might very well, as Mr. Knowles is suggesting, be looked into and we would be glad to co-operate in such an inquiry.

Mr. KNOWLES: I have one question about the Fair Wages and Hours of Labour Act. That Act actually applies to people who are not federal employees but who are working on contracts under the federal government,

Dr. HAYTHORNE: Exactly.

Mr. KNOWLES: Why could it not be included in this proposed new Canada Labour Code?

Dr. HAYTHORNE: Because they are not directly under federal jurisdiction, and they could not be considered as within the definition of the "federal works and undertakings" which come within our sphere. This would give rise to some confusion.

The CHAIRMAN: Mr. McNulty and then Mr. Faulkner.

Mr. MCNULTY: Mr. Chairman, I just want clarification of Mr. Knowles' statement. When he was referring to federal employees, was he referring to the civil service or others outside the civil service?

Mr. KNOWLES: I was trying to distinguish between the two groups of people. When we talk about workers who come under federal labour jurisdiction we mean railway workers and bank employees and so on—people who work for outside employers but who, under the constitution, come under federal jurisdiction. When I talk about government employees who come under the Treasury Board I am talking about civil servants and the whole range of that kind of employee.

Mr. FAULKNER: Again, I just have a point for clarification. For my own purposes, it would seem that Mr. Knowles has a very valid point here if we had instances of wide-spread discrepancies between standards as applied to the one group as opposed to the other; whereas, in fact, if we have a situation in which although the jurisdiction appears to be divided and the authority appears to be different, that conditions are the same, then the only reasons for bringing them together would be for, maybe, administrative purposes and neatness. I was wondering if there has ever been any suggestion that the standards are radically different as between the two groups?

Mr. KNOWLES: We had quite a job getting the minimum wage established for everybody who works on parliament hill, after the Canada Labour Standards Code was passed.

You have a problem right with us today. Even Eldon Woolliams was confused yesterday when he was talking about the threatened strike of the Air Traffic Control people as though they were Air Canada employees. They are government employees who come under federal Treasury Board legislation as opposed to the Air Canada people who come under the Canada Labour Code.

Mr. BARNETT: May I ask one other question, which might be a question for Dr. Ollivier?

In the general indexing in the revised statutes, there is usually a heading of a group of acts that are listed; acts for reference, in this case in the Department of Labour. Would it be possible for the Statute Revision Commission to include the Fair Wages and Hours of Labour Act in respect to federal contractors in this heading so that there would, at least, be that much of a grouping of acts.

Mr. P. M. OLLIVIER (*Parliamentary Counsel*): It would not be in the index, but in the cross-index. In the cross-index you might make a reference to all the statutes which deal with those subjects, but my objection to Mr. Knowles' suggestion is a little different. For instance, in the Public Service Act, you have a general code for the public service there, and the suggestion seems to me that he wants to take certain clauses out of that and put them in the Canada Labour Code. Now, when you read the Public Service Act you would miss those clauses which would have been transferred to the—

Mr. KNOWLES: No, Dr. Ollivier, I was not asking that they be taken out of the Public Service Employment Act. I was simply asking that there be a compendium of various things like the Public Service Employment Act and the collective bargaining legislation and other pieces of legislation which directly affect government employees; so that there would be a document all in one place for government employees similar to this document that is all in one place for non-government employees.

Mr. OLLIVIER: Yes, but there are two classes of people who would come under your labour code. They would be the people who come under the public service and also the people who are not under the public service, but who have come indirectly under the jurisdiction of the federal parliament. I do not think they should be confused, because the same clauses do not apply to them. You cannot say that the minimum salaries for instance in the public service will be the minimum salaries in the railways.

Mr. KNOWLES: Well, Dr. Ollivier they do not. None of these statutes listed here affect government employees directly.

Mr. OLLIVIER: No; so why put public servants in the code.

Mr. KNOWLES: I am not suggesting, Dr. Ollivier, that they be put in the same volume. I am suggesting there be another volume.

Mr. OLLIVIER: It will be a labour code that will cover everybody.

Mr. KNOWLES: No, no, I want two labour codes—

Mr. OLLIVIER: Oh, oh.

Mr. KNOWLES: But just as there is one code where there is in one place everything that affects the private employees, I would like to have one document that has everything in it that affects government employees in their labour relations.

The CHAIRMAN: Are you through, gentlemen.

Mr. KNOWLES: I am not asking for only one; I am asking for two.

Mr. MCNULTY: Both administered in the same department, is that it?

Mr. KNOWLES: The other may have to be under the Treasury Board.

Mr. OLLIVIER: So you would have to have three. You would have to have one for parliamentary employees also.

Mr. KNOWLES: I am glad you are working on that, Dr. Ollivier.

Mr. MCCLEAVE: Perhaps there are four because the outside people are on subcontracts.

Mr. KNOWLES: I am sorry if I have been misunderstood. I approve of what is being sought in clause 30 of this bill. I just want the same thing done for direct federal employees.

An hon. MEMBER: Carried.

Mr. OLLIVIER: Oh, yes. You cannot do it in this bill.

Mr. KNOWLES: I have asked for it to be studied.

The CHAIRMAN: Shall clause 30 carry?

Clause agreed to.

On clause 31— *Coming into force.*

Mr. MCCLEAVE: Do we get an indication when this might be done or would Dr. Haythorne be able to speak to us on this point.

Dr. HAYTHORNE: Well, after the bill is passed we have to develop the regulations; we have been working on some of them. We will have to have extensive discussions with the provincial governments on this further. We have developed it, as I said at the beginning, in co-operation with the employers and the unions concerned. It will take some months. I would not want to say when.

Mr. MCCLEAVE: You could chart this for some time in 1967?

Dr. HAYTHORNE: We would hope to get it some time in 1967.

The CHAIRMAN: Shall clause 31 carry?

Clause agreed to.

The CHAIRMAN: Now, gentlemen, we are back to the clause that was stood on account of amendments. I shall now call clause 3.

On clause 3—*Application of Act.*

An amendment was moved by Mr. Barnett and seconded by Mr. Knowles that clause 3 of Bill No. S-35 be amended by deleting in line 22 thereof the words "subject to" and substituting therefor the word "notwithstanding". And that, in the same clause 3, subclause (3) of Bill No S-35 be amended by deleting the words "applies to or" and substituting therefore the words "affects the provisions of any other act or the regulations thereunder".

Mr. DUQUET: Which clause?

The CHAIRMAN: Subclause 3, Mr. Duquet. There are two different amendments. I think we should proceed with the first amendment.

Mr. BARNETT: Mr. Chairman—

Mr. KNOWLES: We could take them both together: it is one amendment.

Mr. BARNETT: Mr. Chairman, when I moved the amendment I pointed out that both amendments are to the same clause.

The CHAIRMAN: Yes.

Mr. BARNETT: In my understanding one amendment was consequential on the other. This is why I feel they more or less have to be considered together.

The CHAIRMAN: These amendments are in two parts, but I understand the two parts are the same.

Mr. KNOWLES: It is one amendment to clause 3.

The CHAIRMAN: Are there any members of the Committee who wish to speak on this amendment?

Mr. FAULKNER: Well, Mr. Chairman, does Dr. Haythorne or Mr. Currie have any comment to make on the amendment?

The CHAIRMAN: Dr. Haythorne, do you have any comments?

Dr. HAYTHORNE: Mr. Chairman, I think we have made clear on several occasions the position of the department and of the Minister with respect to this. I think the Committee, perhaps, might be reminded though that this legislation was drafted not as overriding legislation but as complementary legislation. I think this is the key point, and if we were to follow the suggestion Mr. Barnett has made it would be at variance with the whole conception of the approach we have taken that this is really complementary to other quite important federal statutes which deal not exclusively but often quite specifically in these various statutes with matters concerning safety; matters concerning healh; matters concerning the operation of equipment, atomic energy, for example, many areas where there has been action taken by parliament in order to take care of specific areas under federal jurisdiction.

So, when we approached the development of this legislation, we felt it was essential for us to recognize the existence of these other acts of parliament dealing with safety and the efficient operation of these other certain federal industries. We recognize in the legislation that safety measures are, in fact, being taken under these other statutes, but the important provision we think we have included in clause 3(3) does enable action to be taken under this legislation when action is not being taken under other existing statutes. In this sense, as both Mr. Currie and I have pointed out to the Committee, there is no exemption from the legislation. Now, this is a different concept though, from making the legislation overriding. It rather says that we recognize the existence of these other acts of the Canadian parliament over the years; we recognize that there has been and is very important work now being done under these statutes by various departments and agencies of government. What we want to do under this legislation is to make sure there are no gaps; that we fill all the areas in the legislation where there has been no action taken at all. We provide for that. But, we go even further and we say that even though there is legislation, if it is found that the action being taken is inadequate, or there is no action under the legislation, then we have the authority by order in council to take action even in those fields.

Mr. FAULKNER: In other words, even though the legislation as drafted here necessarily makes the powers of the bill complementary to existing regulations, you still have within the bill the authority to meet inadequacies within existing legislation in the safety field?

Dr. HAYTHORNE: Exactly.

Mr. FAULKNER: In other words, you are saying that the intent—as I assume Mr. Barnett's intent is—is to make sure that not only do you fill the vacuums but that you also have the power to deal with inadequacies within existing legislation and therefore I think the purpose behind his amendment is to make it overriding. You suggest the same purpose can be accomplished with the existing bill.

Dr. HAYTHORNE: That is right.

Mr. FAULKNER: The purposes in both cases are—

Dr. HAYTHORNE: Remember, Mr. Morris and Mr. Gibbons both said that if they could be satisfied that action could be taken under our bill to make sure that any gaps were closed or that action that had not been taken where they had been urging it to be taken in the past can in fact be taken under ours, then their opposition would certainly be essentially removed. I did not have the opportunity to say this to Mr. Morris but this is exactly what we have done. We have proposed action under the bill which not only closes the gaps but where there is evidence that there is inaction or lack of adequate action, then our representation is to act on it. If our inspectors determine that this is the case, then we can see that action is taken and taken quickly by order in council, if necessary.

The CHAIRMAN: Mr. McCleave has questions.

Mr. MCCLEAVE: Not questions, but could I make just three points and explain why I intend to vote against Mr. Barnett's amendment. First, I think the purpose of this legislation is to fill vacuums and not inadvertently create vacuums in the safety field. Second, it is probably important now that we do not put extra work on the department as it moves to fill certain vacuums. The third point, I think, though is that I hope there is going to be a real liaison between the Department of Labour and the departments of transport and national health which are the other two that come mind already in the safety field, and that some time, say after a five year period, an effort would be made to codify and put everything together in a much neater package.

The CHAIRMAN: Mr. Émard, would you wait a minute?

Dr. HAYTHORNE: If I might just comment on your second point first, which I think is a very important point. We have the full assurance of both these two departments you mentioned of the closest of co-operation. We have already had extensive discussions, Mr. Currie in particular, and other members of his branch, with both of these departments. I feel satisfied that we can move ahead as a team in this and the other departments concerned, including the Treasury Board. This comes back to Mr. Knowles' earlier point. We want to be sure that the safety provisions that are made for public servants are also adequate. We have an understanding, as Mr. Nicholson said to the Committee, that we will be the agency in the government who will follow up in these areas with the full support and approval of the Treasury Board.

On your last point, it seems to me that this is a suggestion that might very well be given serious consideration. It is very desirable that those of us who are working in this field know exactly where our authorities are and I would suggest, Mr. Ollivier, in answer to your comment, that if a code could be made within a reasonable time in this area it would receive our full support.

(*Translation*)

Mr. ÉMARD: Dr. Haythorne has just mentioned that this Bill would fill the gaps which exist at the present time. Therefore, I do not understand why it is decided in the same Bill to set up exceptions as mentioned for example in paragraph (3), subsection (3) of section (3) which says that this does not apply to ships or aircraft, etc. If this Bill is intended to fill gaps, why are there certain limits or restrictions as in this section?

The CHAIRMAN: Mr. Émard, are you speaking of the amendment at the present time?

Mr. ÉMARD: Certainly, it is on the amendment. This is what we are now discussing.

The CHAIRMAN: It is on this particular point that you are now discussing?

Mr. ÉMARD: Yes, Mr. Chairman, it is.

(*English*)

Dr. HAYTHORNE: Mr. Chairman, looking at the last clause, Mr. Émard, it is a fact that there are now statutes governing the operation of ships. There are separate statutes concerning the operation of trains and another statute dealing with aircraft. This goes back to my point that we have developed complementary legislation. If you look carefully at the wording of 3(3) you will observe that even though these acts are recognized as having the authority in these areas that we want for safety purposes—notwithstanding that fact—the Governor in Council may take action over and above or with respect thereto. That is what the words mean "except as the Governor in Council may by order otherwise." You see it is in order to be satisfied that we can take action with respect to these statutes that they are brought in. That is the only reason. That is the purpose of 3(3), in order to bring them in and in order to make clear that they do act as the basic authority, unless action is taken by the Governor in Council, and authority is given by this act to the Governor in Council to take such action if it is deemed to be required.

(*Translation*)

Mr. ÉMARD: What I do not understand is, why is it only the Governor in Council who can intervene in such cases, why have these restrictions, why not leave it like in the other clauses. For instance with regard to trains and aircraft, etc. you can intervene directly, but in the case of transport, the only way in which we can intervene is as you have just mentioned, when the Governor in Council decides by Order in Council, because there are already special laws. I understand, Dr. Ollivier, that there are particular laws, but I am reading the explanatory note on page (4). You mention the Railway Act and the Shipping Act, the Aeronautics Act, which covers these points, but are there not any laws covering the other employees of the railways with regard to security?

(*English*)

Dr. HAYTHORNE: Mr. Chairman, no there are not and this is why we are very careful to say operations, as I have explained to the Committee. This bill would cover the other railway employees, the non-operational railway employees, who, as I said, are by far the most numerous of the railway employees. Mr. Émard, on

your first point, we are operating under this act under regulations approved by the Governor in Council. Under the other statutes which are already in existence those departments responsible for these acts also have regulations under which they are operating, and we have to go to order in council because an executive decision is necessary for any change in the regulations when two different agencies are responsible.

(*Translation*)

Mr. ÉMARD: What I do not understand is why there are limits and restrictions which do not permit you to intervene in a case of various acts, in the three cases mentioned just now, if I remember right, there have been certain reasons given and there were certain complaints also made with regard to the application of the legislation, in the particular case of the C.P.R. Now, if this bill was to give authority to intervene directly, would it not be better than having the restrictions which you are now imposing?

(*English*)

Dr. HAYTHORNE: Mr. Chairman, I think Mr. Emard is referring to the rather long standing difficulties over the application of safety regulations to some of the railway employees. This results, Mr. Emard, from confusion and uncertainty over how far their authorities go. This bill will remove that confusion completely, because we say that for non-operating employees we are taking the full responsibility. You are shaking your head, and perhaps you have a point, because I said "completely". In the long run I am sure it will.

In the short run we still have the problem, as I agree quite frankly, of getting clear where the authority of the Board of Transport Commissioners is going to stop, and where ours picks up. But again—and this is the virtue, I think, of the way the bill is now drafted—if there is any problem at all with respect to these borderline cases, then we are in a position to recommend to the government how action should be taken under this bill, and the confusion and the uncertainty then will be removed.

(*Translation*)

Mr. ÉMARD: Either?

(*English*)

Dr. HAYTHORNE: Either, sir. We can apply through order in council, when authority is required, for both operating and non-operating employees.

The CHAIRMAN: I have Mr. Barnett and then Mr. Guay. Mr. Barnett?

Mr. BARNETT: Mr. Chairman, I have listened to the discussion concerning the manner in which subclause (3) is to give authority by the Governor in Council to move in and fill the gap. I find myself perhaps even more puzzled by the manner in which this is put together. I am wondering why, in view of the arguments which Dr. Haythorne has been advancing, the application of subclause (3) is specifically limited to operating employees engaged on ships, trains or aircraft. If I understand correctly, the other legislation involved to which he has made reference is the Railway Act, the Aeronautics Act and the Canada Shipping Act. What about safety legislation made under other acts involving fields of employment other than the operating employees on railways, ships and aircraft? The opening words of subclause (1) read:

Subject to any other Act of Parliament.

I will put my question by way of an example. As this is drafted even the Governor in Council would have authority to move in to close any gaps that might exist under safety provisions enacted under the Explosives Act which is administered, if I understand it correctly, by the Minister of Energy, Mines and Resources, and of the Transport Act administered by the Minister of Transport in respect of the government wharf regulations which apparently have some sections dealing with the handling of unsafe cargo over federal docks.

The argument that has been advanced by Dr. Haythorne is that in these three specific fields where there is other existing legislation namely railways, ships and aeroplanes, operating employees can be covered by action of the Governor in Council. Now, what about situations outside of those three acts or the employees under the acts which are specifically referred to in subclause (3)? Even accepting the premise under which the argument is beind advanced, how can the Governor in Council move in to close any gaps which may exist now or from time to time in respect of other fields covered by other legislation?

Dr. HAYTHORNE: The overriding consideration here is in clause 3 (1). Mr. Barnett is quite correct when he calls our attention to "Subject to any other Act of the Parliament of Canada and any regulations thereunder," and there are, aside from the acts I have referred to with reference to clause 3 (3) about 8 or 10 acts of the government which deal with safety in various other fields. Under this legislation we cannot propose changes in those other acts by order in council. All we can do under this legislation with respect to those other acts is to close the gap. Where action is not being taken under the regulations of those other acts we can, under this act, Mr. Barnett, automatically move in and take action, so there is no real problem there as far as the gaps are concerned.

The reason we have singled out these three acts in clause 3 (3) is to be sure that we are covering the non-operating employees under this legislation.

Mr. BARNETT: I cannot quite see how cover the non-operating employees by excluding the operating employees.

Mr. NICHOLSON: The operating employees are taken care of.

Mr. BARNETT: I will not argue the point in this connection.

(Translation)

The CHAIRMAN: Mr. Guay.

Mr. GUAY: Mr. Chairman, referring to Mr. Émard's question—

The CHAIRMAN: Would you, please, speak slowly, Mr. Guay?

Mr. GUAY: Yes.

The CHAIRMAN: Please?

Mr. GUAY: Does what is now law according to the other Act, conform to what is in the present bill and is there not a danger that these particular acts could be contrary to the bill which is now under study?

(English)

Dr. HAYTHORNE: Mr. Chairman, we would not say "contrary", but it is quite conceivable that there might be some instances of inadequacy or, as I said before, failing to deal with some aspects of safety which we feel must be dealt with in

the interests of this legislation and the preceding legislation, and we can, with the authority of this legislation, move in and take action without any further legislation or order in council, provided we have the appropriate regulations to deal with this under our act.

(Translation)

Mr. GUAY: Would it not be possible then that the other acts which are now exempt should be revised so that they should be more in conformity with the bill which is now under study?

(English)

Dr. HAYTHORNE: This is an alternative way to proceed. We felt, perhaps, that in order to be sure that this is really complementary and we were taking care of the weaknesses that may exist elsewhere, that the quickest way to get action would be to have the authority here to act. This does not mean though that it might not very well be action taken by some of the agencies or the departments concerned, if it seemed more appropriate under their specific acts. Mr. Nicholson, before you came in Mr. McCleave suggested that maybe within the next five years or so it might be useful to take a look at all federal legislation dealing in the safety field, with the idea of working out some practical consolidation, and we thought that this might be worth while examining. But I am just going to say that this might bring out, Mr. Guay, some of the points you have in mind.

Mr. NICHOLSON: I think there is actually a lot of merit in Mr. McCleave's suggestion. I might say that the Prime Minister recently asked me to chair a committee on safety involving some 6 or 8 departments of government and we are now forming that committee. I am sure it is the same idea that Mr. McCleave has in mind.

Mr. MCCLEAVE: There is a lot of merit in it.

(Translation)

Mr. GUAY: One last question, to confirm what Mr. McCleave just said of my last question. It is this: would it involve a great deal of work to establish one single Act which would deal with safety in all fields?

(English)

Mr. NICHOLSON: It might. There are other dangers in it. The biggest danger that I see in it is in the difficulties that it would cause to the different groups that are involved. It would tend—as I see it—to fragment the representation process. We have got several groups in government each with different interests, and an amendment of this kind would, in my opinion, destroy the theory and practice of having appropriate units each put forward their own ideas. Now, I am not saying that out of a study such as Mr. McCleave has mentioned, some formula might not evolve. But, I certainly would not want to experiment with some new approach in this legislation until a study in depth has been made. It would mean that we would have to delay this legislation, I would think, for perhaps 2 or 3 years.

Dr. HAYTHORNE: May I make one or two comments on Mr. Guay's remarks. I think maybe the most important constructive step that is being taken here, Mr. Guay, on your point, is that this legislation will permit us to develop general standards of safety and the development of regulations of general application.

This is the positive step forward. I think, Mr. Nicholson you would agree, that this will have undoubtedly an impact right across the government service, and the agencies of the government.

The CHAIRMAN: Mr. Knowles.

Mr. KNOWLES: Mr. Chairman, we have been over this backwards and forwards several times, so I will not ask to go beyond the allotted 40 minutes with what I now have to say. In fact, I have boiled it down to three points and I will state them very quickly.

First of all, we do understand, despite the logic in reserve that Dr. Haythorne referred to, that this bill brings non-operating employees in railway shops, aircraft hangars, and so on, under its provisions. The second point I would like to make is that I think that Mr. Morris and Mr. Gibbons asked—now I have not got the text, I do not want to quarrel over a word—but I think it was not so much "could this be done under this legislation" as "would it be done". Dr. Haythorne said they would be satisfied if it could be done. I think in all fairness to them they would be satisfied if they were sure it would be done. There is a slight difference between those two words.

The third thing I want to say—I am going to have a job filling my 40 minutes—is that when we talk about the gaps that you, the Labour Department may move into, we are concerned about Mr. Gibbons' statement that they had been open since 1909, for some things, and we are concerned about the complaints, admitted by Dr. Haythorne, that the line has not yet been made clear so far as the Board of Transport Commissioners is concerned. There are still people who are in a gap—the gap is there, he has waited for 5 years to find it, it has been there for 56 years, and we think that because the gap is there, because experience has shown that the gap is there, that it should not be left conditional. We think that it should now come under the authority of your department, and that is why Mr. Barnett moved this amendment and that is why I supported it.

Mr. NICHOLSON: Well, I must say that I was impressed by Mr. Gibbons' presentation, I was not here for all of it, but I heard most of it, and I also heard his presentation before the Senate committee. It is the intention, certainly of he Department of Labour, to see to it that these gaps are filled, but I more than seriously doubt whether you would fill the gaps by an amendment such as has been suggested here. It is an experiment. The fact that the job has not been done when it should have been done by another agency is not a reason why you should bring the Department of Labour in to do it at this stage. It is giving the Department of Labour a prong to prod with.

Mr. KNOWLES: But you are contradicting yourself, because if you say you should not be brought into it then how can—

Mr. NICHOLSON: I was going to say that we can if we need to. We now have a prong with which to work if we have to, under this legislation, we have not had it before.

(Translation)

Mr. ÉMARD: Mr. Chairman, from a practical point of view, what I have difficulty in understanding is the following. This bill is applied by the Department of Labour, it comes under its jurisdiction. And now you are introducing

certain exceptions where only the Department of Transport has jurisdiction. I am wondering why preference is given to the Department of Transport—why this preferential treatment?

(*English*)

The CHAIRMAN: Dr. Haythorne do you have any comments?

Dr. HAYTHORNE: I am sure Mr. Nicholson is well aware of the point of the statement I made earlier, that we are working in very close contact with the Department of Transport, and have been in the past and will be in the future in this area, Mr. Émard, and any action that we find that is not being taken under their present statutes, we can then see that proposals are made for action, for seeing that the sorts of things which have not been taken care of in the past, are in fact taken care of. The virture of this clause is that it helps—perhaps in an indirect way,—but nevertheless it does ensure a cementing of the actions where this is needed under the two forms of legislation.

(*Translation*)

Mr. ÉMARD: I do not wish to prolong the discussion but there is a question which arises in my mind. Does the Department of Transport not have confidence in your department?

(*English*)

Mr. NICHOLSON: That is not the case, Mr. Émard, it is a case, if this amendment went through, of our having confidence in the Department of Transport. The Board of Transport Commissioners have been in there for a long time.

Mr. KNOWLES: And have not acted.

Mr. NICHOLSON: That is right, they have not perhaps taken the action that my department would like. We are not in a position to move in if they do not, we have never been in that position before.

The CHAIRMAN: Is the committee ready for the question.

Some hon. MEMBERS: Yes.

The CHAIRMAN: All those in favour please raise their hands. Those against.

I declare the amendment lost.

Mr. KNOWLES: Before you take the vote on the clause, may I make one other amendment, one other try at the same thing. I will not make a speech. I move, seconded by Mr. Barnett that clause 3 be amended by deleting therefrom subclause (3).

Mr. NICHOLSON: I think that would be worse, with all due respect to Mr. Knowles.

Mr. KNOWLES: We offered to compromise. You say you want a clause, and we will give you a real one.

Mr. NICHOLSON: We feel we have a clause.

The CHAIRMAN: It is moved by Mr. Knowles and seconded by Mr. Barnett that clause 3 be amended by deleting therefrom subclause (3).

Is the Committee ready for the question?

All those in favour, please raise their hands. Those against. I declare the amendment lost.

Clause 3 agreed to.

On clause 4—*Duty of employer.*

The CHAIRMAN: I have an amendment. It is moved by Mr. McCleave, seconded by Mr. Barnett, that clause 4 be amended by striking out the words "or reduce the risk of" in line 8.

Mr. MCCLEAVE: If I may, Mr. Chairman, I will speak very briefly on this.

I think the big protection in there is the word "intended". An employer has it if he does his honest best to prevent an accident; and even if one happens, if he can prove that his intention was there then he avoids being penalized in the courts.

Let us take it out of the realm of the fanciful and consider a practical event. Suppose one had a wharf that had rotten planks on it. There are two ways of obviating accidents under such conditions. One is to remove the rotten planks and put in solid planks. The other is to put up a sign which says: "Walk here at your own risk". I suggest that the employer should be told to replace the rotten planks and that this is done if he adopts procedures and techniques designed and intended to prevent employment injury. If the clause remains as is, and he puts up the sign saying: "Walk here at your own risk", then I suppose he could go into court and say that he took a step to reduce the risk of employment injury.

I do not think that is satisfactory, if it is your intention to have carried out exactly what you want to have within section 4. That is why I am moving that those words be deleted.

The CHAIRMAN: Dr. Haythorne, do you have a comment?

Dr. HAYTHORNE: Mr. Chairman, there would be no question that the owner of this dock, or the person responsible for the dock, would be obligated to remove those rotten planks. He is obligated under clause 4 (1) to carry on his business in such a way as not to endanger safety or health. I think there could be no real problem there.

I would like to go on and suggest that the intention of 4 (2)—where we deal, in the first part of the clause, with the use of reasonable procedures and techniques designed or intended to prevent employment injuries—generally relates to mechanical, technical, engineering, or other related technical aspects that have to do with operations; whereas the next clause reduces the risk of employment injury. We would have in mind here such things as the general and physical conditions; environmental factors, such as supression of industrial noises; control of atmospheric conditions, such as lighting, ventilation and the temperature in which people work; the provision of sanitary or other facilities for personal well-being; and the reduction of exposure to harmful conditions. We would have in mind here, for example, development of what might be termed reasonable procedures to make sure that in the use of chemicals or other substances of a toxic character precautions are taken; that there is a low risk from fire; whether you can remove it altogether is a question, but certainly you

can expect people to reduce the risk of fire; to reduce the risk of explosion; to reduce the risk of exposure to harmful gases.

In the case of maternity protection, you could say that there have to be reasonable precautions taken where a pregnant woman is working in a plant.

These are the sorts of things we had in mind, which relate more to the conditions under which people are working than to the mechanical or technical aspects of a job.

I think it is important to keep in mind, too, that under clause 7, where we are given the authority to spell out, under regulations, the requirements or the standards which must be met, we will make sure that we go the whole way with you, Mr. McCleave, on the physical or the technical aspects of a job. If there are rotten planks, then they must be removed, as a prevention.

In the other cases to which I have referred we will have to draw our regulations in a slightly different way, recognizing that it is essential that employers reduce the risk wherever, and to the extent, that is possible. But to remove this entirely could I think, get us into problems of a practical nature; and if I may refer again to our discussion at the last meeting, I think possibly it could expose us to difficulties in courts, where it might be said that this was a very unreasonable kind of action to take.

Mr. McCLEAVE: If I could make a brief comment on that, Mr. Chairman. I am afraid that by keeping the "or reduce the risk of" you encourage some employers to take the negative step of for example, the posting of sign rather than the taking of a positive step to improve the environment or the working conditions.

Mr. NICHOLSON: I think this is a point well taken, I must confess that when I saw the bill, Mr. McCleave, I was confused by the difference between the two subsections.

Mr. HYMMEN: Mr. Chairman, I would like to ask Dr. Haythorne a question. We all know that the intent of the bill is accident prevention and thereby employment injury and loss of life. I would like to ask why the drafters of the bill left out the word "accident" after the word "prevent"? I think this would clarify the whole situation very greatly.

Dr. HAYTHORNE: Under 2 (a) "employment injury". As you will understand, "employment injury" means personal injury, caused by an industrial accident.

The CHAIRMAN: Is the Committee ready? Mr. Knowles.

Mr. KNOWLES: Dr. Haythorne makes a pretty good case, but I think he overlooks the fact that already in the clause are qualifying words such as "reasonable" and "intended". The person operating federal works and so on is only required to carry out reasonable procedures; they are not absolute; and they shall be intended to do such and such. I think, therefore, that it would not hurt to tighten it up a little bit, which is all that Mr. McCleave's amendment proposed to do.

Dr. HAYTHORNE: Mr. Chairman, could we say on this subject to Mr. Nicholson's concurrence, that we would, in our regulations, take these observations into consideration and make sure that in our regulations we do the kind of tightening up that I was suggesting.

Mr. NICHOLSON: I am so much in agreement with you that I have already practically said that. I think it can be done by regulation because I think Mr. McCleave's point is a good one.

Mr. KNOWLES: A vote for Mr. McCleave's amendment, that would be rather telling.

Mr. NICHOLSON: Well, I would hope we would not have to go back to the Senate, if he was even to stick one word in; you would. I would like to get this legislation through before Christmas. It has been overdue now for about a year; it was promised over a year ago.

Mr. MCCLEAVE: Mr. Chairman, on Mr. Barnett's point, the main thing was to get the show on the road, and if I have consent I will withdraw the amendment.

The CHAIRMAN: Is there consent to Mr. McCleave withdrawing his amendment?

Some hon. MEMBERS: Agreed.

The CHAIRMAN: Shall clause 4 carry?

Clause agreed to.

The CHAIRMAN: There are more amendments to clause 3. Shall clause 7 carry?

On clause 7—*Regulations.*

Mr. BARNETT: There is a point I would like to raise under clause 7. It was put at the time because of a consequential amendment. If I might make reference—and I had to search to find this—to 7(1)(l). This whole clause has to do with the authority to make regulations for various purposes under the act. But subclause (l) concerns the making of regulations respecting the reporting and investigation of accidents and dangerous occurrences. The concern I have is, what rights are going to be set forth—and they are not specifically set forth as far as I can find in the act—with regard to individuals who are prepared to take the initiative in reporting to safety officers the existence of unsafe conditions. Now, I take it that the idea of regulations under 7(1)(l) will enter into this field. I wonder if we could have some explanation of what is in mind in this connection.

Now, the reason I raise the point is that I think this should be clear. I could—if I wanted to take the time—cite examples in the past under areas in provincial jurisdiction, where there has been direct or indirect intimidation against individual employees drawing to the attention of, say, the inspector, certain conditions. Or I could cite examples where skilful management has been able to whisk safety inspectors in and out of their premises before any of the employees really knew they were there. In my experiences, in cases where there are fairly well organized union bodies with safety committees, and so on, this is a declining situation. Nevertheless, the question is: is it the intent in the regulations made under this clause to set out clearly the rights of individuals in such a way that it would be fairly sure that no individual will be—or can be—legally intimidated; or to make it clear that the inspectors in the course of inspecting premises must not only consult employers in their examination, but also employees. This has been a matter, I know, certain jurisdiction of considerable dispute and contention in the past, in order to establish employee rights. I am

thinking particularly at the moment of the Workmen's Compensation Act in the province of British Columbia.

Mr. McCLEAVE: Is this not covered by clause 20?

Mr. BARNETT: I think this point should be set out clearly.

Mr. NICHOLSON: It is covered in 20(1).

Mr. BARNETT: This point should be set out clearly in our proceedings so that we have a clear understanding of just what the intention is, and just how the points I have made will be considered in the regulations or how they are considered in the bill.

Dr. HAYTHORNE: Mr. Chairman, Mr. Currie could make a comment; I think 14 is also applicable.

The CHAIRMAN: Mr. Currie?

Mr. CURRIE: Thank you, Mr. Chairman. Regarding 7(1)(l), the main reason for this provision is that at the present time there is no standard method employed in Canada for the reporting of industrial accidents. We want to be very certain that our accident prevention program gets off on a sound basis; that when we talk about an accident we know what we mean by the term. There will be specifications laid down under this under which employers will be required to give certain types of information in a standardized form according to accepted definitions and other norms. This really will get away from the discrepancies that now exist among the different provinces, in the way that accidents are reported to compensation boards, for example.

Under clause 14(3) we foster, I think, the encouragement of employees to discuss with the safety officer when he makes his rounds the matters that may concern that individual employee. Under clause 20 subclause (1) there are very strict penalties for any employer who may try to intimidate an employee because he has co-operated with a safety officer. Apart from all those things, as we now receive many representations from individuals in the administration of other statutes, they would be free to write to the department, or any of the safety officers at any time bringing to their attention—anonymously even, if necessary —conditions with which they are concerned and about which their employer apparently has not yet seen fit to take any action.

Mr. NICHOLSON: Mr. Chairman, what I had in mind when I referred to clause 14, was not just subclause 3 which says that a safety officer may at any reasonable time enter upon any property and may question any employee apart from his employer. Then if you look at subclause (5), there is an obligation on every employer and every person employed to give the safety officer all reasonable assistance in order to answer questions. And then you have clause 20(1) which says if they do not do it, it is an offence.

Mr. BARNETT: My concern in part arose from the fact that as I read some of these clauses the general tenor of them seemed to be that the initiative of approach lay in the hands of the safety officer rather than in the hands of the individual approaching the safety officer. I felt that this should be brought out and perhaps kept in mind when the details of the regulations are being drafted.

(*Translation*)

Mr. ÉMARD: Mr. Chairman, just for information, I would like to know, in the case where a union wishes to lay complaint with regard to safety conditions, must it apply, must it follow the established procedure or go to the safety officers, according to this bill?

(*English*)

Mr. NICHOLSON: I would think it would go either way.

The CHAIRMAN: Shall clause 7 carry?

Some hon. MEMBERS: Carried.

Mr. KNOWLES: As we amended it here today?

The CHAIRMAN: Yes.

Clause, as amended, agreed to.

Mr. KNOWLES: So it does have to go back to the Senate.

An hon. MEMBER: What was amended? How was it amended?

The CHAIRMAN: I was just going to tell the Committee that on the last sittings the Committee has accepted amendments to correct clerical and printing errors. I have been told by Dr. Ollivier that we did not need to do it; so I thought maybe Dr. Ollivier could comment on this before we move an amendment to retain the amendment.

Mr. OLLIVIER: I do not think there is any difficulty there. In the case of clerical corrections, I have the authority—and I have been doing it all the time—to make those corrections when the bill is reprinted. In the case of this bill, of course, it will be reprinted only for the statutes.

On the other hand, if we have to send an amendment like that to the Senate, we have to wait until they sit, then wait until they send back another message. I do not think it is necessary at all. For instance, I have other bills in front of me, like the Bank Act, for instance where there are going to be perhaps 50 amendments. On the side of that, in those bills, I have something like 30 or 40 amendments myself which I will make which will not even come before the Committee. These are purely clerical corrections such as putting in a comma, taking out an "and" in this case.

Mr. KNOWLES: Could I come and see you some day?

Mr. OLLIVIER: Sure you can.

Mr. KNOWLES: I have some bills I would like to get changed just slightly.

Some hon. MEMBERS: Hear, hear.

Mr. OLLIVIER: I will tell you how far I can go.

Mr. MCCLEAVE: Mr. Chairman, I just wanted to say that we somehow anticipated Dr. Olliver's clerical correction in clause 7 (1) (f).

The CHAIRMAN: Mr. McCleave, would you be ready to move an amendment as follows:

> That the amendments to clauses 7 and 10 of Bill S-35 made on Thursday, December 8, 1966 be considered as corrections of clerical and printing

errors and that they not be reported back to the House but drawn to the attention of the Parliamentary Counsel and the law officers by the Clerk of the Committee for correction.

Mr. McCLEAVE: I so move.

Mr. REID: I second the motion.

Motion agreed to.

Clause 1 agreed to.

Title agreed to.

The CHAIRMAN: Shall I report the bill?

Some hon. MEMBERS: Agreed.

The CHAIRMAN: I would like to thank Mr. Nicholson, Minister of Labour, and the officers of the Department, Dr. Haythorne and Mr. Currie, and all the witnesses who were kind enough to make representations to this Committee. I would like to thank also the members of the Committee for their good co-operation.

If there is no other business we will now adjourn to the call of the Chair. Merry Christmas to all.

Some hon. MEMBERS: A merry Christmas.