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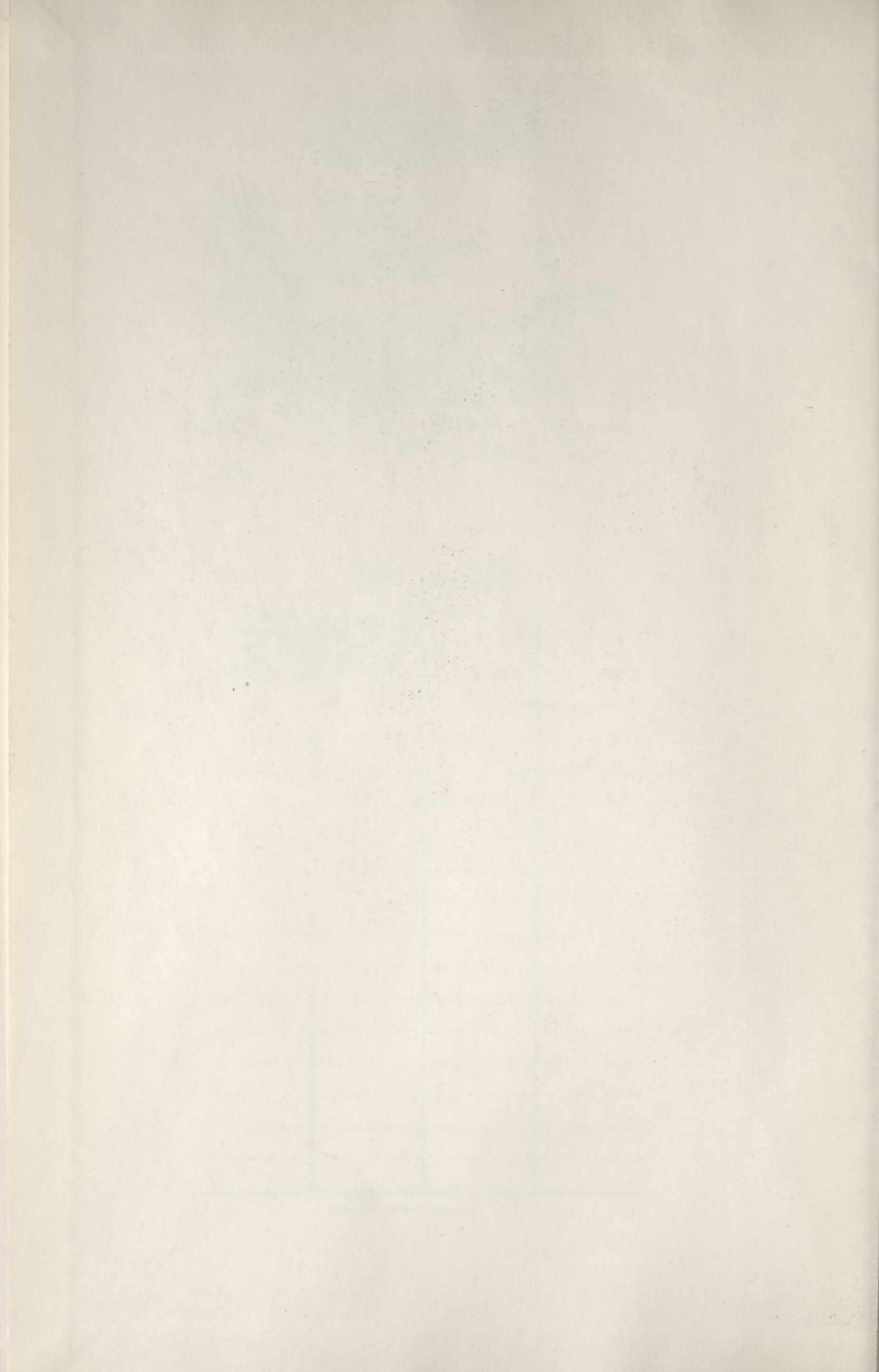
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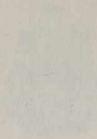
CANADA. PARLIAMENT. SENATE. STANDING
COMMITTEE ON TRANSPORT AND COMMUNICATIONS.
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THE SENATE OF CANADA

PROCEEDINGS
OF THE

STANDING COMMITTEE OF
TRANSPORT AND COMMUNICATIONS

The Honorable A. J. HUGHESSEN, Chairman

No. 1

Special Proceedings under the

Transport and Communications Act in respect of the Canadian
Transit Railway Company

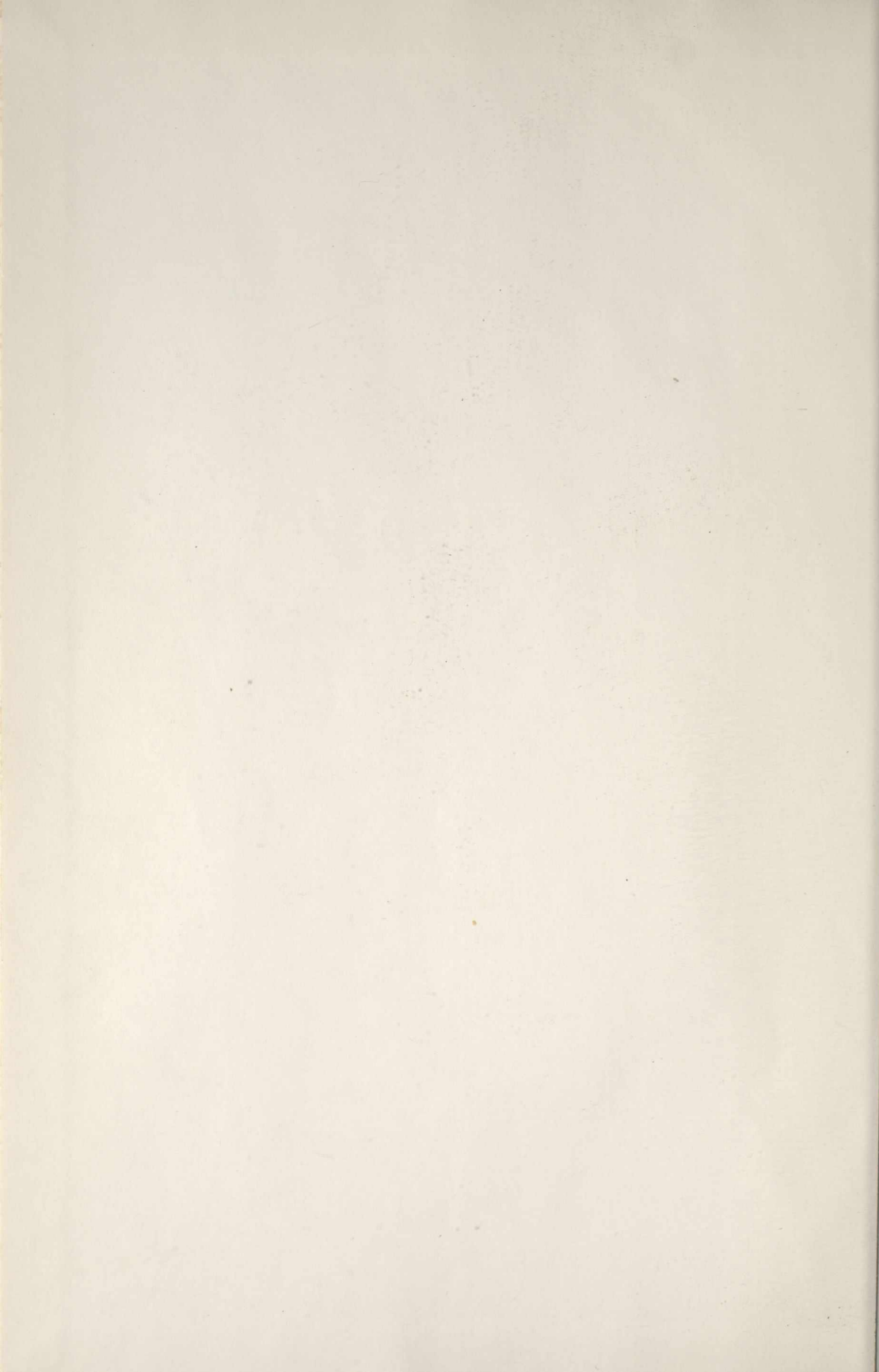
THURSDAY, FEBRUARY 8, 1946

WITNESSES

Dept. of Transport: Mr. Thomas Ferner, O.C., Assistant Commissioner of
Legislative Procedure; Mr. J. R. Walker, Assistant Commissioner
for Motor, Canadian National Railway; Mr. J. W. D. Macdonald, O.C.,
General Manager; Public Works and Civil Commission; Lt.-Col. General S. J.
Clark, Chairman.

REPORT OF THE COMMITTEE

PRINTED BY THE QUEEN'S PRINTER
OTTAWA, 1946





First Session—Twenty-seventh Parliament

1966

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING COMMITTEE ON

TRANSPORT AND COMMUNICATIONS

The Honourable A. K. HUGESSEN, *Chairman*

No. 1

Complete Proceedings on Bill S-2,

intituled: "An Act to incorporate the Ottawa
Terminal Railway Company"

THURSDAY, FEBRUARY 24, 1966

WITNESSES:

Dept. of Transport: Mr. Jacques Fortier, Q.C., counsel; Brotherhood of Locomotive Engineers: Mr. J. F. Walter, Assistant Grand Chief Engineer; Canadian National Railway: Mr. J. W. G. MacDougall, Q.C., general solicitor; National Capital Commission: Lieut. General S. F. Clark, Chairman.

REPORT OF THE COMMITTEE

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



First Session—Twenty-seventh Parliament

1988

THE SENATE OF CANADA
on

TRANSPORT AND COMMUNICATIONS

The Honourable

ADRIAN K. HUGESSEN,

Chairman

The Honourable Senators

- | | |
|--|------------------------------------|
| Aird, | McDonald, |
| Aseltine, | McGrand, |
| Baird, | McKeen, |
| Beaubien (<i>Provencher</i>), | McLean, |
| Burchill, | Methot, |
| Connolly (<i>Halifax North</i>), | Molson, |
| Croll, | Paterson, |
| Dessureault, | Pearson, |
| Dupuis, | Phillips, |
| Farris, | Power, |
| Fournier (<i>Madawaska-Restigouche</i>), | Quart, |
| Gelinas, | Rattenbury, |
| Gershaw, | Reid, |
| Gouin, | Roebuck, |
| Haig, | Smith (<i>Queens-Shelburne</i>), |
| Hayden, | Thorvaldson, |
| Hollett, | Veniot, |
| Hugessen, | Vien, |
| Isnor, | Welch, |
| Jodoin, | Willis, |
| Kinley, | Woodrow—(46). |
| Lang, | <i>Ex officio members</i> |
| Lefrançois, | Brooks, |
| Macdonald (<i>Brantford</i>), | Connolly (<i>Ottawa West</i>). |
| McCutcheon, | |

(Quorum 9)

REPORT OF THE COMMITTEE

ROGER DUBARRE, P.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1988

MINUTE PROCEEDINGS
ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Wednesday, February 2nd, 1966:

"Pursuant to the Order of the Day, the Honourable Senator Hugessen moved, seconded by the Honourable Senator Bouffard, that the Bill S-2, intituled: "An Act to incorporate the Ottawa Terminal Railway Company", be read the second time.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Hugessen moved, seconded by the Honourable Senator Bouffard, that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative."

J. F. MacNEILL,
Clerk of the Senate.

It was resolved to report the Bill without any amendment.

At 11:45 a.m. the Committee adjourned to the call of the Chairman.

Attest:

John A. Riada,
Asst. Chief Clerk of Committee.

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Wednesday, February 2nd, 1888:

"Pursuant to the Order of the Day, the Honorable Senator Huggess moved, seconded by the Honorable Senator Boardman, that the Bill S-2, intituled: 'An Act to incorporate the Ottawa Terminal Railway Company,' be read the second time.

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

The Bill was then read the second time.
The Honorable Senator Huggess moved, seconded by the Honorable Senator Boardman, that the Bill be referred to the Standing Committee on Transport and Communications.

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

J. F. MacNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

THURSDAY, February 24, 1966.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 11.00 a.m.

Present: The Honourable Senators Hugessen (*Chairman*), Aird, Aseltine, Connolly (*Halifax North*), Haig, Hollett, Isnor, Kinley, McCutcheon, McGrand, Pearson, Rattenbury, Roebuck, Smith (*Queens-Shelburne*) and Veniot.—15.

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

Bill S-2, An Act to incorporate the Ottawa Terminal Railway Company, was read and considered clause by clause.

The following were heard: *Dept. of Transport:* Mr. Jacques Fortier, Q.C., counsel. *Brotherhood of Locomotive Engineers:* Mr. J. F. Walter, Assistant Grand Chief Engineer. *Canadian National Railway:* Mr. J. W. G. MacDougall, Q.C., general solicitor. *National Capital Commission:* Lieut. General S. F. Clark, Chairman.

On motion of the Honourable Senator Smith (*Queens-Shelburne*), it was resolved to report recommending that authority be granted for the printing of 800 copies in English and 300 copies in French of the Committees proceedings on the said Bill.

It was resolved to report the Bill without any amendment.

At 11.45 a.m. the Committee adjourned to the call of the Chairman.

Attest:

John A. Hinds,

Ass't Chief Clerk of Committees.

REPORT OF THE COMMITTEE

THURSDAY, February 24, 1966.

The Standing Committee on Transport and Communications to which was referred the Bill S-2, "An Act to incorporate the Ottawa Terminal Railway Company", has in obedience to the order of reference of February 2nd, 1966, examined the said Bill and now reports the same without any amendment.

All which is respectfully submitted.

A. K. HUGESSEN,
Chairman.

THE SENATE

THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Thursday, February 24, 1966.

The Standing Committee on Transport and Communications to which was referred Bill S-2, to incorporate the Ottawa Terminal Railway Company, met this day at 11 a.m.

Senator A. K. Hugessen in the Chair.

The CHAIRMAN: Honourable senators, we are to consider today a bill which is not new to us, as this is the third time we have had to consider it. It is Bill S-2, an act to incorporate Ottawa Terminal Railway Company. It is an important public bill, so I think we should have the usual motion to permit the reporting and printing of the proceedings.

The committee agreed that a verbatim report be made of the committee's proceedings on the bill.

The committee agreed to report recommending authority be granted for the printing of 800 copies in English and 300 copies in French of the committee's proceedings on the bill.

The CHAIRMAN: Gentlemen, we have here as witnesses on behalf of the National Capital Commission, our friend Lieutenant General S. F. Clark, whom we have heard before on this matter; Mrs. E. M. Thomas, Counsel for the N.C.C.; Mr. D. L. McDonald, Director of Planning; Mr. J. M. Landry, Director of Information; Mr. W. M. Davidson, Railway Consultant; and Mr. H. A. Davis, Assistant General Manager of Operations.

From the Department of Transport we have Mr. Jacques Fortier, Q.C., Counsel. Representing the two railway companies, the Canadian National Railway and the Canadian Pacific Railway, we have Mr. J. W. G. MacDougall, Q.C., General Solicitor, Canadian National Railways, who is not a stranger to this committee.

We also have the Brotherhood of Locomotive Engineers representative, Mr. J. F. Walter, Assistant Grand Chief Engineer.

I may say that I instructed the Committees Branch to notify regarding today's hearing all those people who had appeared either at the last meeting or the meeting before that. So I think everybody who is interested in this bill has had notification of this hearing.

I do not know how the committee wishes to proceed with this bill. We had a very long and full discussion of the bill last June. Perhaps the best thing to do will be to get Mr. Fortier to tell us in what respect, if any, the present bill now before us differs from the bill we had on the last occasion, when we reported it favourably.

Some Hon. SENATORS: Agreed.

The CHAIRMAN: Mr. Fortier, will you tell us the respects in which this bill now differs from that which was before us last year?

Mr. Jacques Fortier, Q.C., Counsel, Department of Transport: Honourable senators, the bill is in exactly the same form and terms as the bill which was approved by this committee last year, except for one amendment. In clause 10, paragraph (e) we have deleted from last year's Bill S-3 the power of the Ottawa Terminal Railway Company regarding hotels. The deletion has been made at the request of both railways, the C.N.R. and C.P.R., and the amendment was concurred in by the Minister of Transport. Otherwise, the bill is in the same form and terms.

Senator ROEBUCK: Mr. Chairman, may I say that honourable senators will recollect that when this bill came before the Senate some little time ago, objection was taken to the fact that no provision was made in the bill for the protection of the workers on the railroads who would be transferred from their former employment with the C.N.R. and C.P.R. to the new company which was being formed.

No provisions were made for their continued wage structure, the bargaining rights which they possessed as a result of many years of such experience. Also, above all, nothing had been said with regard to seniority.

We heard representations from the railroads regarding the running trades and non-ops, and we were taking, I think, some credit to ourselves for having brought the parties together. A letter was exchanged, of which I have a copy, between Mr. W. G. McGregor, of the National Legislative Committee, Brotherhood of Railroad Trainmen, and Mr. F. H. Hall, representing the Non-Operating Committee, which seemed to settle the matter entirely and very satisfactorily. The railroads and the men had come to an agreement. I cannot give you the details of it and that is unnecessary.

Today we have representatives from the locomotive engineers. I would like to introduce Mr. J. F. Walter, the legislative representative of the Brotherhood of Locomotive Engineers.

In addition, we have Mr. F. J. Lapointe, the local chairman of the Brotherhood of Locomotive Engineers, C.N.R.

We have here with us also Mr. J. C. Gillespie, noble chairman of the Board of Locomotive Engineers, C.P.R. They are not joining entirely in the settlement included in this letter.

I fancy we could proceed most expeditiously by asking Mr. Walter to state the exception which he makes in the general arrangement made between the Brotherhood of Railroad Trainmen, the non-ops, and the railroad. If that is satisfactory, may I call on Mr. Walter?

The CHAIRMAN: Honourable senators, does that meet with your approval?

Hon. SENATORS: Agreed.

Mr. J. F. Walter, Assistant Grand Chief Engineer, Brotherhood of Locomotive Engineers: Mr. Chairman and honourable senators, I have not prepared a formal brief, but I have some notes which will explain our position.

We are honoured and appreciate the opportunity to appear before the Senate Committee on Transport and Communications to speak on behalf of locomotive engineers who will be affected by the changes in railway operations proposed in Bill S-2 which is now before your committee. Honourable senators will recall that representatives of various railway unions appeared before your committee last year and asked for consideration of an amendment to Bill S-3 which was the Ottawa Terminal Railway Bill at that time. The amendment asked for was designed to provide what is generally termed "successor rights". The position was set out very well by Mr. W. G. McGregor, Vice-Chairman of the National Legislative Committee and you can find the record of this at page 52 of Volume 4 of the proceedings of this committee on Thursday, June 3, 1965.

Honourable senators will also recall that agreement in principle was reached between representatives of the railways and the Brotherhoods wherein assurance was given that

"... employees would continue to receive benefits, or equivalent benefits, that they now enjoy under their applicable collective agreements or otherwise established benefits and practices in effect, including pension rights and pass privileges, until normal termination or until such agreements or benefits are replaced through normal collective bargaining processes under the I.R.D.I. Act between the Ottawa Terminal Railway Company and the respective unions representing the employees concerned."

At the time our brotherhood joined with the representatives of other unions in the representations which were made to your committee. We were very appreciative of the efforts on our behalf and the results obtained. I understand that the other trade unions involved are satisfied that any problems arising out of the creation of the Ottawa Terminal Railway will be adequately dealt with by the commitments given by the railways as to the protection which will be given employees in the transition from the parent companies to the Ottawa Terminal Railway Company.

The reason we come before your committee today is to ask that you give consideration to an amendment to the bill which will protect employment rights that locomotive engineers presently have with the parent companies that they cannot possibly obtain working for a new company, such as the Ottawa Terminal Railway Company. I refer to rights to main line and yard service. In this respect locomotive engineers are in a considerably different position than any of the other groups of railway employees. Our men, as you may know, hold seniority on the main line, as well as in yard service. Main line work is generally considered preference employment; however, yard service is important to our men because of regular hours and job opportunity for employment of engineers who may not qualify for main line work due to medical reasons. We are, therefore, reluctant to give up rights to either yard or main line service. These rights have been hard won by the men we represent and to ask employees to choose between yard or main line service on a permanent basis is a serious proposition for men who have worked years to establish seniority entitlement to these jobs.

Our brotherhood does not agree that it is necessary or desirable to transfer employees from the parent companies to the Ottawa Terminal Railway Company. We feel this problem should be met by the parent companies supplying locomotive engineers to the Ottawa Terminal Railway Company as required. This will have the effect of protecting all employee rights in the parent company while giving the Terminal Railway Company a ready supply of trained personnel without upsetting seniority or service benefits.

We would suggest, therefore, that consideration be given to the amendment of Bill S-2 which would require the Ottawa Terminal Railway Company to utilize the service of locomotive engineers presently employed by the Canadian National Railways and the Canadian Pacific Railway Company in place of hiring personnel for this purpose.

I would like to add to that by saying that since we appeared here the last time we have had the benefit of the Freedman Commission Report, in which Mr. Justice Freedman has recognized the obligation of employers to employees when dealing with any situation such as in that particular case, run-throughs. We have a comparable situation here, inasmuch as the railways are joining in an arrangement whereby the services of a locomotive engineer on the parent company will now only be required in the Ottawa terminal—that is, if the

railways go ahead with their plan to hire new personnel from the parent companies for their Ottawa terminal.

We feel that in view of what Mr. Justice Freedman has said, and the recognition he has given to the rights of employees to seniority and conditions of employment prior to the proposed run-throughs, this same principle should apply in dealing with the locomotive engineers, or any employee for that matter, who may be affected by the changes proposed in Bill S-2. We would ask your committee to give consideration to this problem.

The CHAIRMAN: Mr. Walter, it would help the committee if you could give us the text of any proposed amendment you would like to make. Have you considered that?

Mr. WALTER: I have not considered a text, but I would be very pleased to do that.

Senator ROEBUCK: May I ask a question? Would it not be satisfactory if, instead of amending the bill, you could arrive at an agreement or an understanding such as that which the other unions have achieved, and which appears in the letter with which you are familiar? It is a mere amendment to the situation which developed between the companies and the other unions. I am referring to Mr. McGregor's letter in which he says:

It is pleasant to receive such considerate action—

He is speaking about the action of the committee.

—and I am very pleased to advise that the Brotherhood of Railroad Trainmen will not make representations with respect to the subject matter of this Bill as an exchange of correspondence between the railway companies and representatives of the Union have agreed upon basic principles to resolve the matters raised before the Committee on June 3, 1965.

So, that matter was disposed of with respect to all the other unions with the exception of yours. What about the firemen?

Mr. WALTER: I cannot speak for the firemen, Senator Roebuck. I imagine they would be in somewhat the same position as we are.

Senator ROEBUCK: Then, your difficulty is that the men of your union—and this differentiates them from the others—have seniority in both yard and road service.

Mr. WALTER: That is right.

Senator ROEBUCK: And if they transfer to the new company they will have seniority in yard service only?

Mr. WALTER: That is right.

Senator ROEBUCK: And only so far as the staff of the new company is concerned?

Mr. WALTER: Yes.

Senator ROEBUCK: What you are asking is that the company, as it needs the services of your men, will call upon the pool which you have in both these companies?

Mr. WALTER: Exactly.

Senator ROEBUCK: You suggest an amendment to the act which would require the new company to call upon the railroads when they need an engineer. You would also require, would you not, some compulsion on the part of the railways to supply the engineers?

Mr. WALTER: Yes, that is correct.

Senator ROEBUCK: Not only would the company be required to go to the railroads for its engineers, but also the railroads would be required to supply the engineers?

Mr. WALTER: That is right.

Senator ROEBUCK: Would not that be better achieved by an understanding between yourselves and the railroads than by any possible complicated amendment to the bill?

Mr. WALTER: Well, certainly we would be agreeable to sitting down with the railways and discussing this, to see if we could arrive at an understanding. The understanding that was previously put forward by the railways contemplated that all employees would transfer to the new company. If we could reach an understanding with the railways on this matter then we would be more than pleased to handle it in that manner.

Senator ROEBUCK: Mr. Chairman, are the representatives of the railroads here? If so, perhaps they can speak to this point.

The CHAIRMAN: Mr. MacDougall represents both railway companies. Perhaps he can say a word to us on this.

Mr. J. W. G. MacDougall, Q.C., General Solicitor, Canadian National Railways: Mr. Chairman and honourable senators, I had no notice of the representations that were being made to you this morning by Mr. Walter. Therefore, I must speak from my general knowledge of the situation. As I understand it, the plans of the two railway companies with respect to the handling of trains by locomotive engineers does not contemplate at any time having engineers transferring from the Canadian National and the Canadian Pacific to the new Ottawa Terminal Railway Company.

It is my understanding that the engine-men necessary to handle trains, in both road and yard service in the operations to be conducted here, will be drawn by the Ottawa Terminal Railway Company from the Canadian National and the Canadian Pacific. All those employees will retain their seniority on their own railroad, and will retain their employment on their own railroad, and the Ottawa Terminal Railway Company will contract for the services of those who will be required to carry on the operations here. So, I think I can safely say that the problem envisaged by Mr. Walter will not arise—at least, not in the contemplation of the railroads.

However, if he wishes to put his point down in a letter to the railroads I can assure him that they will be willing to study the matter, and to give all the assurance that is required. Certainly, the railroads would have no objection to that.

Senator PEARSON: Will the crews of the Ottawa Terminal Railway Company and the crews of the railway companies be interchangeable? Will the railways run right into the station, or will their crews be discharged at a point outside the area?

Mr. MACDOUGALL: No, the passenger trains will go right through.

Senator PEARSON: There will be no stop somewhere along the way to pick up a new crew?

Mr. MACDOUGALL: No.

The CHAIRMAN: As I see it, the Ottawa Terminal Railway Company will employ railroad engineers only in shunting operations?

Mr. MACDOUGALL: Yes, on switching operations, and they will come from the railways. They will not be employees of the Ottawa Terminal Railway Company.

Senator ROEBUCK: Is not that satisfactory, Mr. Walter?

Mr. WALTER: That is precisely what we want to hear, but we have been unable to get this commitment up to this point at the local level. We will certainly get a letter out to you to verify this. That solves our problem, I think,

if that is the intention of the Canadian National Railways—and, of course, you are speaking for the Canadian Pacific as well.

Mr. MACDOUGALL: As I understand it, that is the position.

Senator PEARSON: Are you speaking for the Canadian Pacific, too?

Mr. WALTER: Yes, I am speaking for the Brotherhood of Locomotive Engineers.

Senator ISNOR: Mr. Walter, have you written such a letter?

Mr. WALTER: No, we have not written a letter yet, simply because we have been dealing with this at the local level. Our problem here is that we have difficulty in dealing with the Ottawa Terminal Railway Company until it is set up, so that all we can do is to deal with the Canadian National Railways and the Canadian Pacific Railway Company through our local representatives. When they approached the Canadian Pacific or the Canadian National they were invariably told that things have not yet been decided, and that they could not be given specific answers to these questions until the terminal is set up, the officials hired, and a policy as to how this matter will be handled is set down. We have had no concrete answer up until today as to how the crews will be assigned, or how they will be hired by the Ottawa Terminal Railway Company.

The CHAIRMAN: Mr. Walter, you have heard the policy stated by the representative of the railway companies. It is public, and it will be printed in our record. I think you could very easily close the matter by correspondence.

Mr. WALTER: Yes, I think we can, and we are quite happy with that solution. Thank you very much.

The CHAIRMAN: Does the committee wish to hear General Clark? You will remember that he gave us a very full presentation last June. Would you like to hear him on what has transpired since then?

Perhaps, General Clark, you would give us a word on that. Of course any members of the committee who were not present when General Clark gave evidence here previously may ask any questions they see fit.

Lieutenant General S. F. Clark, Chairman, National Capital Commission: I can make this very brief by just outlining the program since we appeared before you last June. The contracts for the new railway station have been let since that time and we hope it will be finished on or about July 17 of this year. Our hope is that it will be open during July or August. The contract has been awarded for the depression of the Prescott subdivision to keep the roads and railway separate, and we expect to be able to put the station into operation on or about July 1st this year. That would permit us to proceed with the other programs contingent upon the finishing of that part of the railway plan.

I think that is as briefly as I can put it.

Senator HOLLETT: General Clark, you are familiar with the question raised last year about the removal of the tracks on Riverside Drive. Is there any further action in that respect?

General CLARK: Mr. Chairman, this point was raised by the City of Ottawa and by a group of people known as the Citizens for Ottawa Planning. In order to try to resolve it, the City of Ottawa suggested at a meeting with the commission and the railways that a private consultant be engaged to see if it was feasible to remove the Beachburg subdivision from Ross Junction to Hurdman—that is the location of the new station. The commission received authority to pay 50 per cent of the cost of the study if the city wished, and a firm of consultants by the name of C. C. Parker and Associates are now studying the matter to determine whether there is an engineering solution which would be acceptable to the railways from the point of view of railway

operations and to determine the costs and what would be involved in the elimination of that section of the Beachburg subdivision. We shall not receive that report for some months as it is a very complex study.

Senator HOLLETT: That is how the matter stands at the moment.

The CHAIRMAN: Any further questions of General Clark? Thank you, General. Does the committee wish any further evidence or are you prepared to proceed with the bill on the evidence we have received so far?

Some Hon. SENATORS: Proceed.

The CHAIRMAN: Shall I go through the bill section by section?

Hon. SENATORS: Agreed.

The CHAIRMAN: Section 1: Short title. Shall section 1 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 2: Incorporation. Shall section 2 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 3: Provisional directors. Shall section 3 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 4: Capital stock. Shall section 4 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 5: Head office. Shall section 5 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 6: General meetings, and Annual meeting. Shall section 6 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 7: Numbers of directors. Shall section 7 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 8: Executive committee of directors, Number of Members, and Composition. Shall section 8 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 9: Undertaking. Shall section 9 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 10: Powers of Company—this is the section with the general powers and the change in subsection (e) omitting the word "hotels". Shall section 10 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 11: National Railways may convey to the Company lands, buildings, etc. in the City of Ottawa. Shall section 11 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 12: Canadian Pacific Railway Company may convey to the Company lands, buildings, etc. in the City of Ottawa. Shall section 12 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 13: Agreement for use of Company's undertaking. Shall section 13 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 14: Issue of securities. Shall section 14 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 15: C.N.R. and C.P.R. may acquire stock of the Company and guarantee principal and interest of securities. Shall section 15 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 16: By-laws and regulations and management of terminal. Shall section 16 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 17: Time for construction. Shall section 17 carry—General Clark, you have the first day of January, 1967 to complete everything—will that be satisfactory still?

General CLARK: Yes, Mr. Chairman.

The CHAIRMAN: Shall section 17 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 18: Application of Railway Act. Shall section 18 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 19: Declaratory. Shall section 19 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall the preamble carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall the title carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall I report the bill without amendment?

Hon. SENATORS: Agreed.

The CHAIRMAN: Thank you very much, gentlemen. I should inform the committee that it will be necessary to hold a meeting sometime next week to consider the bill dealing with the St. Croix River Bridge which we discussed in the Senate last evening. The committee will receive notice of the meeting in due course.

Thank you very much.

The committee adjourned.



First Session—Twenty-seventh Parliament

1966

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

TRANSPORT AND COMMUNICATIONS

The Honourable A. K. HUGESSEN, *Chairman*

No. 2

Complete Proceedings on Bill S-15

intituled: "An Act to authorize the construction of a bridge across the St. Croix River between the Province of New Brunswick and the State of Maine"

THURSDAY, MARCH 3, 1966

WITNESSES

Mr. P. A. Bridle, Chairman, Interdepartmental Committee on International Bridges, Dept. of External Affairs; Mr. G. T. Clarke, Chief Engineer, Development Engineering Branch, Dept. of Public Works.

REPORT OF THE COMMITTEE

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

Mr. Secretary called.

The Chairman asked: "By-laws and regulations and management of business - what order is this?"

Mr. Secretary called.

The Chairman asked: "Section 11: Time for the meeting - Section 17: carrying over - what order is this?"

Mr. Secretary called.

The Chairman asked: "Section 18: Appointing Secretary - what order is this?"

Mr. Secretary called.

The Chairman asked: "Section 19: Appointing Secretary - what order is this?"

Mr. Secretary called.

The Chairman asked: "Section 20: Declaration - what order is this?"

Mr. Secretary called.

The Chairman asked: "Section 21: The president - what order is this?"

Mr. Secretary called.

The Chairman asked: "Section 22: The vice president - what order is this?"

Mr. Secretary called.

The Chairman asked: "Section 23: The secretary - what order is this?"

Mr. Secretary called.

The Chairman said: "Thank you very much. I should inform the committee that a well known committee is being created sometime next week to consider the bill which will be introduced in the House which we discussed in the Senate last week. The committee will be a sub-committee of the committee in due course."

Thank you very much.

The committee adjourned.



First Session—Twenty-seventh Parliament

1966

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE
ON
TRANSPORT AND COMMUNICATIONS

The Honourable A. K. HUGESSEN, *Chairman*

No. 2

Complete Proceedings on Bill S-15

intituled: "An Act to authorize the construction of a bridge across the
St. Croix River between the Province of New Brunswick
and the State of Maine"

THURSDAY, MARCH 3, 1966

WITNESSES:

Mr. P. A. Bridle, Chairman, Interdepartmental Committee on International
Bridges, Dept. of External Affairs; Mr. G. T. Clarke, Chief Engineer,
Development Engineering Branch, Dept. of Public Works.

REPORT OF THE COMMITTEE

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

THE STANDING COMMITTEE

on

TRANSPORT AND COMMUNICATIONS

The Honourable

ADRIAN K. HUGESSEN,

Chairman

The Honourable Senators

Aird,	McCutcheon,
Aseltine,	McDonald,
Baird,	McGrand,
Beaubien (<i>Provencher</i>),	McKeen,
Burchill,	McLean,
Connolly (<i>Halifax North</i>),	Methot,
Croll,	Molson,
Dessureault,	Paterson,
Dupuis,	Pearson,
Farris,	Phillips,
Fournier (<i>Madawaska-Restigouche</i>),	Power,
Gelinas,	Quart,
Gershaw,	Rattenbury,
Gouin,	Reid,
Haig,	Roebuck,
Hayden,	Smith (<i>Queens-Shelburne</i>),
Hollett,	Thorvaldson,
Hugessen,	Veniot,
Isnor,	Vien,
Jodoin,	Welch,
Kinley,	Willis,
Lang,	Woodrow—(46).
Lefrançois,	<i>Ex officio members</i>
Macdonald (<i>Brantford</i>),	Brooks,
	Connolly (<i>Ottawa West</i>).

(Quorum 9)

WITNESSES:

Mr. P. A. Bédard, Chairman, Interdepartmental Committee on International
Bridges, Dept. of External Affairs; Mr. G. T. Clarke, Chief Engineer,
Development Engineering Branch, Dept. of Public Works.

REPORT OF THE COMMITTEE

HODGKIN BURNHAM, P.R.S.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1966

MINUTES
ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Wednesday, February 23, 1966:

"Pursuant to the Order of the Day, the Honourable Senator Rattenbury moved, seconded by the Honourable Senator Bourque, that the Bill S-15, intituled: "An Act to authorize the construction of a bridge across the St. Croix River between the Province of New Brunswick and the State of Maine", be read the second time.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Rattenbury moved, seconded by the Honourable Senator Bourque, that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative."

J. F. MACNEILL,
Clerk of the Senate.

ORDER OF BUSINESS

Extract from the Minutes of the Proceedings of the Senate, Wednesday, February 23, 1888:

Pursuant to the Order of the Day, the Honorable Senator Rattensbury moved, seconded by the Honorable Senator Bourque, that the Bill S-18, intituled, "An Act to authorize the construction of a bridge across the St. Croix River between the Province of New Brunswick and the State of Maine," be read the second time.

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

The Bill was then read the second time.

The Honorable Senator Rattensbury moved, seconded by the Honorable Senator Bourque, that the Bill be referred to the Standing Committee on Transport and Communications.

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

J. F. MACKELL,

Clerk of the Senate

(Printed by the Government Printer)

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MINUTES OF PROCEEDINGS

THURSDAY, March 3, 1966.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 11.30 a.m.

Present: The Honourable Senators Hugessen (*Chairman*), Aseltine, Burchill, Connolly (*Halifax North*), Croll, Fournier (*Madawaska-Restigouche*), Gershaw, Hollett, Lefrançois, McCutcheon, McDonald, McGrand, McLean, Rattenbury, Willis and Woodrow.—16.

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

Bill S-15, "An Act to authorize the construction of a bridge across the St. Croix River between the Province of New Brunswick and the State of Maine", was read and considered.

On motion of the Honourable Senator Burchill it was resolved to report recommending that authority be granted for the printing of 800 copies in English and 300 copies in French of the proceedings on the said Bill.

The following were heard:

Mr. P. A. Bridle, Chairman, Interdepartmental Committee on International Bridges, Dept. of External Affairs.

Mr. G. T. Clarke, Chief Engineer, Development Engineering Branch, Dept. of Public Works.

On motion of the Honourable Senator Burchill, it was resolved to report the Bill without amendment.

At 11.45 a.m. the Committee adjourned to the call of the Chairman.

Attest.

John A. Hinds,
Ass't Chief Clerk of Committees.

REPORT OF THE COMMITTEE

THURSDAY, March 3, 1966.

The Standing Committee on Transport and Communications to which was referred the Bill S-15, intituled: "An Act to authorize the construction of a bridge across the St. Croix River between the Province of New Brunswick and the State of Maine", has in obedience to the order of reference of February 23rd, 1966, examined the said bill and now reports the same without any amendment.

All which is respectfully submitted.

A. K. HUGESSEN,
Chairman.

THE SENATE

THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Thursday, March 3, 1966.

The Standing Committee on Transport and Communications, to which was referred Bill S-15, to authorize the construction of a bridge across the St. Croix River between the Province of New Brunswick and the State of Maine, met this day at 11.30 a.m. to give consideration to the bill.

Senator A. K. HUGESSEN in the Chair.

The CHAIRMAN: Honourable senators, I call the meeting to order.

The committee agreed that a verbatim report be made of the committee's proceedings on the bill.

The committee agreed to report recommending authority be granted for the printing of 800 copies in English and 300 copies in French of the committee's proceedings on the bill.

The CHAIRMAN: We have before us Bill S-15, an Act to authorize the construction of a bridge across the St. Croix River between the Province of New Brunswick and the State of Maine.

The witnesses are Mr. P. A. Bridle, Chairman of the Interdepartmental Committee on International Bridges, of the Department of External Affairs; Mr. J. N. Whittaker, Officer, U.S.A. Division, Department of External Affairs, and Mr. G. T. Clarke, Chief Engineer, Development Engineering Branch, Department of Public Works.

I suppose none of these witnesses can give us evidence on the matter of principle which I see in this bill, which is as to whether we should encourage citizens of the Province of New Brunswick to find new ways of escape to the State of Maine.

In the meantime we have a map here and I think Mr. Clarke would be the person to give us the engineering details required. Mr. Bridle will give us the general presentation of the bill. Perhaps, Mr. Bridle, you could go over to the map and explain what the proposal is.

Mr. P. A. Bridle, Chairman, Interdepartmental Committee on International Bridges, Department of External Affairs: I would be very glad to explain the proposal. With your permission I will make a brief opening statement, and then perhaps you would like to ask questions. There may be some points requiring clarification.

As the bill before you makes clear, the Government of the Province of New Brunswick wishes to build this bridge between the town of Milltown and the city of Calais across the St. Croix River. This, of course, would be an international bridge between Canada and the United States. The bridge would be constructed, operated and maintained by the Government of the Province of New Brunswick in co-operation with the Government of the State of Maine.

Each of these governments would pay one-half the cost of constructing the bridge and the entire cost of all approach works and right of way within its own borders. Each government would share the cost of maintenance and operation of the bridge on the same basis. The federal Government would make no financial contribution to the bridge. The bridge would be toll free.

Procedurally there is to be an agreement between the Province of New Brunswick and the State of Maine which would cover these points I have mentioned, and others that may be necessary. In order to give this agreement its appropriate status there would at an appropriate time be an exchange of notes between the Secretary of State for External Affairs and the United States Ambassador in Ottawa relating to the agreement and indicating the approval of the two federal governments to its conclusion.

The CHAIRMAN: In other words, the governments of Maine and New Brunswick cannot make an agreement between themselves without the approval of the External Affairs Department?

Mr. BRIDLE: That is correct.

Senator WOODROW: What is the estimate of the total cost?

G. T. Clarke, Chief Engineer, Development Engineering Branch, Department of Public Works: It is \$235,000. New Brunswick's share is \$130,000, and Maine's share is \$105,000. This difference is probably due to part of the New Brunswick approach being included in the bridge contract.

Senator FOURNIER (*Madawaska-Restigouche*): Is there in existence at the present time an old bridge?

Mr. BRIDLE: Yes.

Mr. CLARKE: There is an old existing timber bridge which is now at the end of its useful life. The new bridge will be about 65 feet downstream.

Senator CROLL: What is the traffic like on the bridge normally?

Mr. CLARKE: It must be very light because it is in pretty poor shape. Heavy trucks use the international bridge five miles south.

Senator WOODROW: You say there are no tolls on that bridge?

Mr. BRIDLE: No. Maine and New Brunswick each bears its share with regard to maintenance.

Senator WOODROW: Have you any estimate of what that amount will be?

Mr. CLARKE: It is \$5,000 a year or less.

Senator BURCHILL: Mr. Chairman, I move that the bill be reported.

Senator HOLLETT: Before the bill is reported, Mr. Chairman, may I refer to the first part of clause 3 of the bill, which says:

The Province of New Brunswick (hereinafter referred to as the "Province") may, either alone or in conjunction with. . .

Is it possible for New Brunswick to construct the bridge alone?

Mr. BRIDLE: I think, sir, this is purely permissive. The clear and stated intention of the Government of New Brunswick is to build this bridge in co-operation with the State of Maine.

Senator HOLLETT: I am wondering if that word "alone" should not be deleted altogether.

Mr. BRIDLE: The Governments's law officers felt that that provision could appropriately be included, since from the point of view of the Canadian Government there would be no objection to the Province of New Brunswick building the bridge itself, should it wish to do so.

Senator HOLLETT: Is there anyone who could give authority to build the bridge alone?

The CHAIRMAN: The question might arise that perhaps the authority in Maine might say, "All right, we will let New Brunswick build the whole bridge for us."

Senator HOLLETT: Yes, but we do not know that, because it is not stated. Can the Government give anybody the right to build a bridge connecting with the United States? All we have now is an authority which is not named.

Senator McCUTCHEON: It is possible that we could get authority, and the United States might say we cannot build it.

Senator RATTENBURY: The Government of the State of Maine has already signed the necessary document.

Senator HOLLETT: But can somebody in Canada give the right to build a bridge alone?

The CHAIRMAN: Not by itself. That authority, together with authority from Maine would be sufficient, would it not?

Senator HOLLETT: I just thought I would draw that to the attention of the committee.

The CHAIRMAN: I think the wording is all right.

Senator FOURNIER (*Madawaska-Restigouche*): May I ask what is the type of navigation here?

Mr. CLARKE: Any stream that is navigable in part is considered to be navigable throughout under the Navigable Waters Act; hence approval under the Navigable Waters Act would have to be secured before the bridge could be built.

The CHAIRMAN: Honourable senators, I have a motion to report the bill, if there are no further questions.

Bill reported.

The CHAIRMAN: Shall I report the bill without amendment?

Bill reported without amendment.

Whereupon the committee adjourned.



First Session—Twenty-fourth Parliament

1965

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

TRANSPORT AND COMMUNICATIONS

The Honourable A. K. HUGHESSEN, Chairman

No. 3

Complete Proceedings on Bill C-165

intituled: "An Act respecting the construction of a line of railway in the Province of Ontario by Canadian National Railway Company from the vicinity of Amosdale in the Eastern Township of the Canadian National Railway in a north easterly direction for a distance of approximately 21 miles to a point in the vicinity of Bruce Lake in the District of Huron".

WEDNESDAY, MAY 4, 1965

WITNESSES:

Canadian National Railway Company: G. M. Cooper, Assistant General Solicitor; K. M. Halston, Mining Engineer; *Department of Transport:* Jacques Fortier, Q.C., Director, Legal Services.

REPORT OF THE COMMITTEE

ROGER DURAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1965



ORDER OF PREFERENCE

Extract from
May 4th, 1966.

First Session—Twenty-seventh Parliament

1966

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

TRANSPORT AND COMMUNICATIONS

The Honourable A. K. HUGESSEN, *Chairman*

No. 3

Complete Proceedings on Bill C-165,

intituled: "An Act respecting the construction of a line of railway in the Province of Ontario by Canadian National Railway Company from the vicinity of Amesdale in the Redditt Subdivision of the Canadian National Railway in a north northwesterly direction for a distance of approximately 68 miles to a point in the vicinity of Bruce Lake, in the District of Kenora".

WEDNESDAY, MAY 4, 1966

WITNESSES:

Canadian National Railway Company: G. M. Cooper, Assistant General Solicitor; K. M. Ralston, Mining Engineer; *Department of Transport:* Jacques Fortier, Q.C., Director, Legal Services.

REPORT OF THE COMMITTEE

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



First Session—Twenty-seventh Parliament
1936

THE STANDING COMMITTEE
ON
TRANSPORT AND COMMUNICATIONS

The Honourable Adrian K. Hugessen, *Chairman*

The Honourable Senators

- | | |
|--|------------------------------------|
| Aird, | Lang, |
| Aseltine, | Lefrançois, |
| Baird, | Macdonald (<i>Brantford</i>), |
| Beaubien (<i>Provencher</i>), | McCutcheon, |
| Bourget, | McDonald, |
| Burchill, | McElman, |
| Connolly (<i>Halifax North</i>), | McGrand, |
| Croll, | McLean, |
| Davey, | Méthot, |
| Dessureault, | Molson, |
| Dupuis, | Paterson, |
| Farris, | Pearson, |
| Fournier (<i>Madawaska-Restigouche</i>), | Phillips, |
| Gélinas, | Power, |
| Gershaw, | Quart, |
| Gouin, | Rattenbury, |
| Haig, | Reid, |
| Hayden, | Roebuck, |
| Hays, | Smith (<i>Queens-Shelburne</i>), |
| Hollett, | Thorvaldson, |
| Hugessen, | Veniot, |
| Isnor, | Vien, |
| Jodoin, | Welch, |
| Kinley, | Willis—(49). |

Ex officio members: Brooks and Connolly (*Ottawa West*).

(Quorum 9)

WITNESSES:

Canadian National Railway Company: G. M. Cooper, Assistant General
Solicitor; K. M. Ralston, Mining Engineer; Department of Transport:
Jacques Fortier, O.C., Director, Legal Services.

REPORT OF THE COMMITTEE

ROGER DUNHAM, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA 1936

MINUTES OF PROCEEDINGS

ORDER OF REFERENCE

FRIDAY, MAY 6th, 1966.

Extract from the Minutes of the Proceedings of the Senate, Wednesday, May 4th, 1966:

"Pursuant to the Order of the Day, the Honourable Senator Benidickson, P.C., moved, seconded by the Honourable Senator Burchill that the Bill C-165, intituled: "An Act respecting the construction of a line of railway in the Province of Ontario by Canadian National Railway Company from the vicinity of Amesdale in the Redditt Sub-division of the Canadian National Railway in a north northwesterly direction for a distance of approximately 68 miles to a point in the vicinity of Bruce Lake, in the District of Kenora", be read the second time.

After debate, and—

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

The Bill was then read the second time.

The Honourable Senator Benidickson, P.C., moved, seconded by the Honourable Senator Burchill, that the Bill be referred to the Standing Committee on Transport and Communications.

After debate, and—

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

J. F. MacNEILL,
Clerk of the Senate.

Frank A. Jackson,
Clerk of the Committee.

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Wednesday, May 4th, 1908.

"Pursuant to the Order of the Day, the Honourable Senator Beaudry, P.C., moved, seconded by the Honourable Senator Burchill that the Bill C-165, entitled: "An Act respecting the construction of a line of railway in the Province of Ontario by Canadian National Railway Company from the vicinity of Amherst in the Red Hill Sub-Division of the Canadian National Railway in a north northwesterly direction for a distance of approximately 88 miles to a point in the vicinity of Bruce Lake, in the District of Kenora," be read the second time.

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

The Bill was then read the second time.
The Honourable Senator Beaudry, P.C., moved, seconded by the Honourable Senator Burchill, that the Bill be referred to the Standing Committee on Transport and Communications.

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

J. F. McNEILL,
Clerk of the Senate.

(West)

(1908)

MINUTES OF PROCEEDINGS

FRIDAY, May 6th, 1966.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 11.00 a.m.

Present: The Honourable Senators Hugessen (*Chairman*), Aird, Baird, Brooks, Burchill, Connolly (*Halifax North*), Connolly (*Ottawa West*), Hollett, Isnor, Kinley, McCutcheon, McDonald, McKeen, Paterson, Rattenbury, Smith (*Queens-Shelburne*) and Welch. (17)

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

Bill C-165, An Act respecting the construction of a line of railway by the C.N.R. in the province of Ontario from the vicinity of Amesdale to a point in the vicinity of Bruce Lake, was read and examined, clause by clause.

The following witnesses were heard:

Canadian National Railway Company:

G. M. Cooper, Assistant General Solicitor.

K. M. Ralston, Mining Engineer.

Department of Transport:

Jacques Fortier, Q.C., Director, Legal Services.

On Motion of the Honourable Senator Isnor it was Resolved to report the said Bill without amendment.

At 12.15 p.m. the Committee adjourned to the call of the Chairman.

Attest.

Frank A. Jackson,
Clerk of the Committee.

REPORT OF THE COMMITTEE

FRIDAY, May 6, 1966.

The Standing Committee on Transport and Communications to which was referred the Bill C-165, intituled: "An Act respecting the construction of a line of railway in the Province of Ontario by Canadian National Railway Company from the vicinity of Amesdale on the Redditt Sub-division of the Canadian National Railway in a north northwesterly direction for a distance of approximately 68 miles to a point in the vicinity of Bruce Lake, in the District of Kenora", has in obedience to the order of reference of May 4th, 1966, examined the said Bill and now reports the same without any amendment.

All which is respectfully submitted.

Adrian K. Hugessen,
Chairman.

The following witnesses were heard:

- Canadian National Railway Company
- G. M. Cooper, Assistant General Solicitor
- K. M. Ralston, Mining Engineer

Department of Transport:

Jacques Fortier, O.C., Director, Legal Services

On Motion of the Honourable Senator Inan it was Resolved to report the said Bill without amendment.

At 12:15 p.m. the Committee adjourned to the call of the Chairman.

Attest:

Frank A. Jackson,
Clerk of the Committee.

THE SENATE

THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Friday, May 6, 1966.

The Standing Committee on Transport and Communications to which was referred Bill C-165, respecting the construction of a line of railway in the Province of Ontario by Canadian National Railway Company from the vicinity of Amesdale on the Redditt Subdivision of the Canadian National Railway in a north northwesterly direction for a distance of approximately 68 miles to a point in the vicinity of Bruce Lake, in the District of Kenora, met this day at 11 a.m. to give consideration to the bill.

Senator A. K. HUGESSEN in the Chair.

The CHAIRMAN: Honourable senators, it is now 11 o'clock and time for the convening of this meeting. The Senate has referred to us Bill C-165, an act respecting the construction of a line of railway by Canadian National Railway Company in the north northwesterly part of the Province of Ontario.

As this is a public bill of considerable importance, I would appreciate the usual motion that we be allowed to report the proceedings of the committee and that authority be granted for printing.

The committee agreed that a verbatim report be made of the committee's proceedings on the bill.

The committee agreed to report recommending authority be granted for the printing of 800 copies in English and 300 copies in French of the committee's proceedings on the bill.

The CHAIRMAN: This bill was introduced in the Senate by Senator Benidickson, who is present this morning. Have you anything you wish to add before we proceed, senator?

Senator BENIDICKSON: No, thank you, Mr. Chairman. We have representatives here.

The CHAIRMAN: Yes, I have the names before me.

Senator BENIDICKSON: I think they will be more competent than I to speak on the subject.

The question was raised in the Senate the other day about the probable profit or net return that might come from this investment. This does involve, as everybody can appreciate, something in the nature of a competitive relationship with industry. The Government was given, by the Canadian National Railway, overall assurance that the enterprise should be profitable for it. However, it is perhaps not wise to present all the contractual detail to the public at large in order to protect this government company in a competitive position. There is no member of Parliament who cannot get this information or even ask a question about it here. My only point is that it might not be wise to put the financial detail on public record.

The CHAIRMAN: Thank you, senator.

Senator ISNOR: I raised the particular question when the honourable member was so ably sponsoring the bill, because I was anxious to know whether there was a sufficient return for this public expenditure. After all, we must bear in mind that the C.N.R. deficits are taken care of each year by the public. It is only fair that the public should know whether this is a wise investment, and the cost per mile, perhaps, as compared to similar work in other districts. That was my thought on the matter.

Senator BROOKS: The officials are here to give us this and other information, are they not?

The CHAIRMAN: Yes. I can give the committee the list of officials who are here. We have, for the Canadian National Railways, Mr. G. M. Cooper, Assistant General Solicitor; Mr. D. F. Purves, Assistant Vice-President; Mr. K. M. Ralston, Mining Engineer; and Mr. Rolland Boudreau, Solicitor. We also have Mr. Jacques Fortier, Director of Legal Services of the Department of Transport.

I spoke for a moment or two to these witnesses before the meeting. I asked them specifically if they had read the debate which took place on Wednesday in the Senate on this bill with a view to seeing what sort of questions were in the minds of senators. They told me they had read it. Therefore, I believe we will find they are in a position to discuss these questions. I am told that the preliminary presentation on behalf of the railway company will be made by Mr. Cooper, the Assistant General Solicitor. Should we hear Mr. Cooper?

Hon. SENATORS: Yes.

Mr. G. M. Cooper, Assistant General Solicitor, Canadian National Railways: Mr. Chairman and honourable senators, Bill C-165 which is before you is a bill in the usual and familiar form of branch line legislation. It relates to a proposed branch line which is 68 miles in length and is proposed to be built at an estimated cost of \$11.1 million to provide rail service to a mine site, referred to as The Griffith Mine, at Bruce Lake in northwestern Ontario.

Geographically, the branch line is indicated here on the map, which has been set up. The Griffith Mine is located at the top end of this bright red line, which is the route of the proposed branch line under discussion. These other red lines are Canadian National lines, this one being the main line between Lakehead and Winnipeg. The green line below is the Canadian Pacific Railway line, and this, running easterly from Nakina, is the National transcontinental railway.

Senator BROOKS: What is the mileage to the Lakehead?

Mr. COOPER: To the Lakehead I think it is in the order of 318 miles. The branch line is approximately 68 and I think the remaining distance is about 250 miles.

The operation at The Griffith Mine—which is primarily a Steel Company of Canada undertaking, although I believe a well-known firm, Pickands Mather, actually manage the mine—is planned for open-pit extraction of a relatively low-grade iron ore, which would be concentrated at the mine site. The concentrate would be processed physically into pellets for ease of shipment. The pellets of iron concentrate would be shipped from the mine site over Canadian National lines to Lakehead, there stock piled and then, ordinarily, would be trans-shipped to vessels for carriage by water to Hamilton.

Senator BROOKS: What is the distance from Lakehead to Hamilton, the water transportation distance? I was thinking of comparing that distance with the distance between Hamilton and the Labrador mines.

Mr. COOPER: I am sure it would be considerably less. Perhaps we would more readily know the rail distance from Lakehead to Hamilton, which of course would not be the same but would afford some rough measure, if we do

not have another one. I wonder if Mr. Ralston can inform me on the rail distance.

Mr. K. M. Ralston, Mining Engineer, Canadian National Railways: No, I do not have the rail distance handy. The water distance via Lake Superior would be about 800 miles.

Senator KINLEY: Can you calculate the distance on the map?

Mr. COOPER: We have the Lakehead but unfortunately we do not have Hamilton shown on this map.

Senator SMITH (Queens-Shelburne): The estimate I heard from behind me was 800 miles.

Mr. COOPER: Yes, I understand that it would be in the order of 800 miles.

Senator BENEDICKSON: It is not contemplated to move the ore by rail through to Hamilton. It is contemplated to stock pile the ore at the Lakehead in the winter?

Mr. COOPER: Yes. We would be happy to move it by rail, but the economics of it indicate that the regular movement would be by water beyond the Lakehead.

Senator PATERSON: Will you use the existing ore dock or build a new one?

Mr. COOPER: The existing dock.

Senator BROOKS: The point I raised the other day was a comparison I had made in my own mind, without knowing very much about this matter, between production in this mine and production by the Wabush people in Labrador. The rail haul would clearly not be so long in the Labrador district and the water transport would be from stock pile at Sept-Iles via the St. Lawrence. I was wondering whether The Griffith Mine was chosen because it was cheaper to get the iron ore from it than from the tremendous development in Labrador.

Mr. COOPER: Possibly, because of the development there. If you wish to pursue this, perhaps we should have the mining engineer rather than the legal representative. Otherwise I am apt to confuse you rather than to inform you. Would you like Mr. Ralston?

Senator BROOKS: Not just now, Mr. Chairman.

Mr. COOPER: As I understand the magnitude of the financial investment in the mine property, it is in the order of \$60 million, and the regular labour force we think would be about 500 people.

Senator BROOKS: There is another point. Does the \$11 million for construction include the cost of the right of way?

Mr. COOPER: Yes, it covers the cost of acquisition of lands. They are mainly provincial Crown lands.

The CHAIRMAN: There is no settlement along there?

Mr. COOPER: There is very little settlement, and not along the right of way itself.

As to the form of the bill, its first clause intends the authorization of the construction and completion of the line which is described, in terms of physical and financial quantities, in the schedule on the back cover of the bill; Order in Council approval is a requisite after the legislation itself is passed. Competitive tenders are provided for in the second clause. The third clause fixes the limit of expenditure at 115 per cent of the estimated cost, which limit as appears in clause 4, is \$12,765,000; borrowing authority to that extent is provided by clause 4. Provision for temporary loans appears in clause 5 and the usual guarantee of securities is in clause 6.

Senator BROOKS: This is not a guarantee that it would not cost any more than what is stated here. By Order in Council the Government could allow more money if the railroad costs more than it is estimated?

Mr. COOPER: Yes. It must not cost more than the estimate plus contingencies, except, as it says in clause 3, with the approval of the Governor in Council.

Senator BROOKS: It is a usual clause?

Mr. COOPER: It is the usual clause, yes.

Senator KINLEY: Suppose your costs go over that; what would happen in that event?

Mr. COOPER: Well, this situation would manifest itself before the day came when the last of the statutory money was to be spent and representations would no doubt be made to the Governor in Council well in advance.

Senator KINLEY: Is this cost excessive—\$163,000 per mile?

Mr. COOPER: It is a hard estimate of the costs of construction in this particular terrain.

The CHAIRMAN: This is quite a rough area.

Mr. COOPER: Yes. By way of contrast is the bill we had before the Senate last year for a short line in the area of Sarnia.

Senator KINLEY: You can build a spur two miles long without coming here?

Mr. COOPER: Six miles long.

Senator KINLEY: You have authority to do that without coming to Parliament at all.

Mr. COOPER: We have to go to the Governor in Council, but not to Parliament. But in excess of six miles its special legislation requires Canadian National to come to Parliament.

Senator KINLEY: Then do you have the company guarantee a certain amount of traffic which it can supply without your coming here?

Mr. COOPER: We have an agreement respecting the volume of traffic which supports the economics of this application.

Senator BAIRD: What about connection with the CPR line which is also in that region?

Mr. COOPER: Such connection would require construction of another 20 miles of line which would add considerably to the cost of the project and would leave unresolved problems of interchange and handling, and would substantially affect the economics of the whole proposal. We would be seeking perhaps \$15 million instead of \$11.1 million.

Senator BAIRD: Are the C.P.R. interested in that? Would they be interested in establishing a branch line from the mine?

Senator BENEDICKSON: Isn't that up to the Steel Company of Canada?

Senator BAIRD: They own the mine.

Mr. COOPER: The other railroad would require a different traffic guarantee to support the additional cost. I do not know whether there was an inquiry, but this matter now is being dealt with as between Canadian National and Stelco as an industry application to this railroad.

Senator BENEDICKSON: Are your arrangements with the Steel Company of Canada under your agreement absolutely firm to the extent that, if in a period such as we are now in—that is, a period of rising costs—115 per cent of your estimate is not adequate, are you enabled to get any better return from the Steel Company of Canada or are you stuck under the agreement to a certain amount of per ton revenue over a certain period of time?

Mr. COOPER: I would say we cannot, just as we would not want them to reopen the contract we have made. Our return from the contract would be diluted to the extent that our capital costs as built into the application here or the proposal here were inadequate. But the amount has been carefully looked at and there would be some margin in our economics to take care of this. We would not want them to be able to say "Oh, well, now it has cost us more to build this plant, so please reduce the freight rate which we have negotiated."

Senator ISNOR: Could I ask Mr. Ralston through you if the cost per mile of the average line construction during the past few years is comparable with this \$163,234 per mile?

Senator KINLEY: You are here in the interests of the railroad?

Mr. COOPER: Yes.

Senator KINLEY: You are satisfied that this is a good bargain for your company?

Mr. COOPER: Yes.

Senator ISNOR: I am not asking about the bargain; I am asking about the comparison of cost per mile. It struck me from other bills that this was a little higher than the average.

Senator BENIDICKSON: But it is in Precambrian rock.

The CHAIRMAN: I don't think that will help the committee very much. You will remember last year, in connection with the construction of this line near Sarnia which was through very flat country, the cost was \$50,000 to \$60,000 a mile. In this case the country is very rocky indeed.

Senator McDONALD: Does Mr. Ralston represent the railroad or the iron ore company?

The CHAIRMAN: He is the mining engineer of the Canadian National Railways.

Mr. COOPER: Mr. Fortier assists me here with two instances. Last year we were before this committee with respect to a 12-mile line at Sarnia where the estimated cost was \$850,000, which is very close to \$70,000 per mile. The line built for Brunswick Mining and Smelting near Bathurst in New Brunswick in 1962 was 15 miles at \$1,450,000, or slightly under \$100,000 per mile. The difference would be caused by the terrain and whether or not any major bridges were required.

Senator HOLLETT: I take it the only reason for the construction of the railroad is for the iron ore, is that right?

Mr. COOPER: The whole economics of this are based on the iron ore.

Senator HOLLETT: What is the estimated tonnage?

Mr. COOPER: The planned tonnage—

Senator HOLLETT: I don't mean that. For how many years is this likely to last?

Mr. COOPER: More and more I would like Mr. Ralston to assist me in this to give an estimate of the overall tonnage of ore available for mining in terms of the expected economics life of the mine.

Mr. RALSTON: Mr. Chairman, the official established ore reserves have been released to us by Picklands Mather and Company, which are managing agents for The Steel Company of Canada and which will operate this mining property.

Senator BENIDICKSON: Picklands Mather and Company is a world-wide mining engineering company with headquarters in Cleveland, Ohio.

Mr. RALSTON: Yes, indeed. Picklands Mather have long experience in operating mines of their own and, as managing agents, mines of other companies. Their official estimate of established reserves at The Griffith Mine is

sufficient ore to maintain a shipping rate of 1½ million long tons per year of iron concentrate pellets for a period of 30 years—this to an open-pit depth of 735 feet, I think it was—which would, of course, indicate total reserves, in terms of product, of 45 million long tons.

Senator HOLLETT: And hiring how many men?

Mr. RALSTON: When they get into operation, regular operation, about 450.

Senator HOLLETT: The reason I am asking this question is that we have a lot of iron ore down in Bell Island, Newfoundland. I was wondering if we could not give them all the ore they wanted.

Mr. RALSTON: Of course, Bell Island has immense reserves. It is not known how far the iron deposits extend under the sea but, as you know as well as I do, although Wabana has operated for many years, in the drastically changed climate of the iron ore industry the quality of Wabana ore is not as acceptable as it once was.

Senator HOLLETT: What is the iron ore content in the place we are considering now?

Mr. RALSTON: The Griffith Mine product will average 65 to 68 per cent iron.

Senator HOLLETT: That is after it is concentrated?

Mr. RALSTON: Yes, that is after it is concentrated and pelletized.

Senator HOLLETT: What is it now, in the raw state?

Mr. RALSTON: As crude ore?

Senator HOLLETT: Yes.

Mr. RALSTON: As mined it would average about 29 per cent.

Senator HOLLETT: I think Bell Island is 37 per cent, isn't it?

Mr. RALSTON: It is higher than that in iron—about 48 per cent.

Senator HOLLETT: That may be.

Senator BENEDICKSON: Is there not a sulphur problem?

Mr. RALSTON: A phosphorous problem. I am quite certain that if Dosco could find a market—and they have been making strenuous efforts to upgrade the ore—Wabana would continue operations.

Senator BROOKS: In making comparisons, how does the iron ore at this mine and Bell Island compare with that in Labrador? I understand they have very high concentration there.

Mr. RALSTON: They have various grades in Labrador—that is, the general area, Labrador and northern Quebec.

Senator BROOKS: In limited quantities though.

Mr. RALSTON: The ore of the Iron Ore Company of Canada at Schefferville is rather superior—that is, direct-shipping ore, as it is called, is about 54 per cent iron. At Carol Lake, where the deposits are also owned by the Iron Ore Company of Canada, which, as you know, is composed of a number of companies, I think the average grade, speaking from memory—and this is crude ore—is about 35 per cent. The company concentrates it to just about the same grade as the concentrate of The Griffith Mine. The Iron Ore Company also produce pellets from their Carol Lake concentrate. For the last three or four years production of pellets has been at the rate of about 5 million tons a year and, as you no doubt saw in the press, in the last couple of months the company have decided to increase production to about 10 million tons a year of pellets, which is double the present capacity at Carol Lake.

Senator BENEDICKSON: What is the relationship in tonnage between the open-pit crude ore and the tonnage of pellets? We are talking in terms of eventually having 1½ million tons of pellets.

Mr. RALSTON: Yes.

Senator BENIDICKSON: How many tons of crude ore would be involved?

Mr. RALSTON: Well, I visited the property and looked at the deposits, and studied certain reports. Picklands Mather have not issued any such figures, but knowing the approximate average grade of the ore and the average grade of the product, I arrived at a ratio of concentration of roughly three to one. That is to say, for every one ton of iron concentrate pellets produced you will have to mine and mill about three tons of ore.

Senator BENIDICKSON: Actually, that is not our problem. We are concerned about the freight of the pellets on the railway.

Mr. RALSTON: I am sorry, did I not answer your question?

Senator BENIDICKSON: Your problem and our problem is the freight, the tonnage of pellets, I perhaps raised an irrelevant question.

Mr. RALSTON: No, because the tonnage that is shipped depends absolutely on the tonnage that is in the ground as reserves, and the one relates to the other.

Senator HOLLETT: Looking at it from the investment point of view of Canadian National, would you not consider that if you put \$12 million into assistance on Bell Island you could use your own ships to handle the ore? There are 10,000 people on that island living off that ore. Do you not think that if Canadian National invested \$10 million or \$12 million or more there, it would be wiser?

Mr. RALSTON: Dosco have been in the business for years.

Senator KINLEY: But they have been prepared to give it to you.

Mr. RALSTON: They have made every effort for the last six or eight years to improve their product and to find a market, and they know the business; but, unfortunately and most regrettably, they have not been successful, so they have been forced to close Wabana. We could hardly set ourselves up as iron ore experts and undertake to go in and do what Dosco have been unable to do under the changing situation of today in the iron ore industry.

Senator HOLLETT: I think Stelco could. I have no objection to the bill, but I am thinking of 10,000 souls on Bell Island, and with some help in pelletizing that crude ore on Bell Island they could be kept there and thrive, in my opinion. But here is the Canadian National, a Government agency, investing \$12 million with the hope that the mine may last a mere 30 years. Bell Island had been there since '95.

Mr. RALSTON: When I said 30 years, I stated that was the estimated figure established by Picklands Mather. I do not mean that this represents all the ore that is there, by any means. I would say that you could probably count on double this amount of ore, and perhaps even more. The ore bodies have not been delimited.

Senator KINLEY: What advantages are there over the mining operation used in Newfoundland? This is surface mining, is it not?

Mr. RALSTON: Yes. It is open pit, and that is an advantage right away.

Senator KINLEY: Is it more economic for the steel company to operate that than to operate Bell Island? Dosco owns Wabana Mine, I think, and probably this.

Mr. RALSTON: No.

Senator McCUTCHEON: It is the Steel Company of Canada.

Senator KINLEY: The Steel Company of Canada is going to build a big plant in Quebec, and I think they are stopping it because of the austerity at present—that is, the inflation.

Senator McCUTCHEON: I think that is Dosco you are referring to.

Senator KINLEY: Yes, that is Dosco.

Mr. RALSTON: But Dosco has announced plans for a plant on the south shore of the St. Lawrence.

Senator KINLEY: This is not Dosco?

Mr. RALSTON: No, The Griffith mine has nothing whatever to do with Dosco. But to answer your question, in the case of an open-pit mine the costs of extracting the ore are almost always less than the costs of extraction from an underground mine.

Senator KINLEY: No trouble with phosphorous?

Mr. RALSTON: No trouble with phosphorous or with any other deleterious material.

Senator BROOKS: Is there not open-pit mining in Labrador?

Mr. RALSTON: Yes.

Senator HOLLETT: There is some on Bell Island off Newfoundland. I have been down there. The mine goes two miles out under the sea, and there is enough ore down there to last forever.

Mr. RALSTON: Well, it goes out for a considerable distance, that is right. It is a tragedy that the mine, after all these years, has to be closed down.

Senator AIRD: Having regard to the freight rates that will be established, at what time do you visualize the CNR getting its money back from its capital investment?

Mr. RALSTON: Well, we have to take the freight rates that have been agreed to—mind you, in the traffic guarantee agreement there is nothing whatsoever about freight rates. Freight rates are a separate matter which are settled, first of all, between Stelco and the freight sales department of the Canadian National. Those freight rates are not fixed for all time. There is always a proviso that they are subject to change authorized by the Board of Transport Commissioners for Canada. Having settled the freight rates, we then base our economics, of course, on the freight rates and, in turn, we settle the terms of the traffic guarantee agreement.

Senator BROOKS: The cost of production is likely to go up this year or next year, is it not, on account of a strike that is pending? The cost of production at the mine will go up, as I understand it, because—

Mr. RALSTON: Well, of course, the mine has not started operations yet. The company is still in the process of its planning. Until we get approval from Parliament, of course, they can hardly go ahead and make a huge expenditure on the mere assumption—

Senator BROOKS: They will have to look at the plan again, and anticipate what the costs are going to be. From what I have read in the *Financial Post* I gather the cost of producing iron ore is going to go up by about \$1.25 a ton.

Mr. RALSTON: Do you mean the labour costs?

Senator BROOKS: Yes, the wages at the mine.

Mr. RALSTON: That is, you might say, really Stelco's concern, but they have no doubt taken it into account. If there is any substantial inflation it is usually reflected sooner or later in an increase in the price of the product.

The CHAIRMAN: There has been a great deal of interest expressed in the provisions of the contract you have with Stelco and their guarantee of freight. I think we should have some details of that, in so far as you feel you can properly give them. We do not want to embarrass you by asking you for information that you think might be useful to competitors, or something of that kind. What is the

agreement with the Steel Company as to the amount they will pay, and its relation to the cost of the enterprise?

Mr. RALSTON: Yes, Mr. Chairman, with respect to all these branch lines we have a traffic guarantee, but the traffic guarantee is not designed to keep us completely whole. If the mining company for some unforeseen and remote reason have to close down then the traffic guarantee will not return our capital expenditure, but it does provide an earnest of the mining company's intention, and it pays our fixed charges. If, for some reason, for a period of time the mining company have to suspend shipments then the impost, which is always attached to the traffic guarantee, goes into operation, and this impost per ton of deficiency multiplied by the guaranteed tonnage equals the interest on our investment, plus our fixed maintenance, so that during the life of the traffic guarantee our fixed charges are covered.

Senator BROOKS: The costs of depreciation would be paid in that time—in the 30 years?

Mr. RALSTON: No, the traffic guarantee does not extend for that period. It extends for a certain period, and it provides that the mining company will ship a certain tonnage per year during the life of the traffic guarantee, and for every ton that they fail to ship below that guaranteed tonnage they will pay us an impost per ton of deficiency.

Mind you, they are not legally obliged to ship any more than what is specified in the traffic guarantee, but we make sure that while the specified tonnage is not in any way—at least, this is our object—an onerous handicap to the mining company, it does at the same time, if the mining company merely meet their legal obligation, make a certain contribution to our system overhead. There is an additional safeguard in that the mining company are spending \$60 million of capital, and you may depend upon it that they will do everything possible to produce right up to capacity; otherwise they have unused capacity for which they have paid out capital money.

Senator BROOKS: Is it the same guarantee that you have with the Heath Steele Mines, for instance?

Mr. RALSTON: It is the same principle exactly.

Senator BROOKS: And at Pine Point?

Mr. RALSTON: That is a horse of another colour. The Pine Point line is not one of our branch lines. We have no capital in it, senator. The capital for that line, as you know, was put up by the Government of Canada.

The CHAIRMAN: Suppose everything goes perfectly and the mine starts to operate, and it operates annually at the minimum and ships the minimum. What effect will that have on the finances of the Canadian National Railway?

Mr. RALSTON: If everything goes as is hoped and expected, Mr. Chairman, they will ship not at the minimum but at the designed capacity of the plant, which is considerably above the minimum. When you say "the minimum" I presume, Mr. Chairman, you mean the guaranteed tonnage?

The CHAIRMAN: Yes.

Mr. RALSTON: They will do everything possible, of course, to ship at their designed capacity because they have spent the capital money to install that capacity, and they have designed that capacity in accordance with the requirements of the market.

The CHAIRMAN: If that happens what will be the effect on the revenues of the Canadian National Railways?

Mr. RALSTON: If they operate at 1.5 million tons a year, which they have every expectation of doing, especially since they are a captive industry, there will be what we regard as a satisfactory contribution to our system overhead.

That is to say, the operation will cover our full costs of transportation, the interest on our capital, and will over a period of years return that capital and leave an excess as a contribution to system overhead.

Senator ISNOR: What is that period? You have referred to a period; what is it?

Mr. RALSTON: We based our economics—and this has no reference to the period of the guarantee—on a period of 25 years.

Senator HOLLETT: Are there any people living in that area at the present time?

Mr. RALSTON: As doubtless you know, Red Lake is quite a centre around which there are flourishing gold mines. There are people around Ear Falls, and there is some lumbering and pulpwood activity.

Senator RATTENBURY: This line will serve other interests, will it not?

Senator HOLLETT: That is why I asked that question.

Mr. RALSTON: Yes, we hope and expect it will.

Senator BURCHILL: Under this act you have authority to issue securities or bonds, to provide the funds for the building of this branch line.

Mr. RALSTON: I think Mr. Cooper can answer that.

Senator BURCHILL: When you say that the cost of operation would be paid as well as the interest, do you include the cost of land financing, the sinking fund, and so on?

Mr. COOPER: Amortization of the investment is in the economics, senator. The estimated return from this line will amortize the cost of it.

Senator BURCHILL: Over a 25 year period?

Mr. COOPER: Yes.

The CHAIRMAN: I gather from what the witnesses have said, the position is that if the mine is not as successful as they hope the guarantee will at least give you your operating expenses and charges of that kind. If, on the other hand, it is successful and reaches the maximum, it will contribute to the—

Mr. COOPER: To the system's indirect costs, yes.

Mr. RALSTON: If they do only what is specified in the guarantee there will be a small contribution. If they do what they have the capacity to do, there will be a substantially larger contribution.

Senator McCUTCHEON: If the Steel Company of Canada is able to invest \$60 million on this, I do not think we should spend too much time on the Canadian National Railways' proposal.

Senator KINLEY: They have not spoken yet.

Mr. RALSTON: Of course, that is true; but if a company is willing to invest a very large sum of money, it does not always follow it is a sound operation for us to go into, and we want to make sure that it is a sound operation.

Senator McCUTCHEON: You said it is a sound operation.

Mr. RALSTON: Yes, but we have to check it; we don't accept their word for it.

Senator AIRD: Do you have independent line consultants?

Mr. RALSTON: No. We go in and have a look at the property and satisfy ourselves that it is a viable operation.

Senator BENEDICKSON: You are a professional mining engineer?

Mr. RALSTON: That is right, senator.

The CHAIRMAN: Any further questions? One question that arose on second reading, which I think the Leader of the Opposition, Senator Brooks, raised, is

in connection with some of these other guarantees. We have had a number of these in the past eight or ten years of lines under agreements with special industries. I think you raised the question whether those have been carried out and how far they have been successful.

Senator BROOKS: I did, Mr. Chairman. And a few moments ago I asked, along the same line, for a comparison of these other mines, and whether the railways had lost money or not through these branch lines which had been built up to the mines in other parts of the country on the same terms as they propose to build this line.

Mr. RALSTON: Since the end of the war we have built 13 branch lines.

Senator BENEDICKSON: And the mileage is terrific.

Mr. RALSTON: It is about 800 miles altogether.

Senator BENEDICKSON: Then it is substantial?

Mr. RALSTON: Yes; and the only one in which we ever had to collect an impost, that is to say, in which the mine company has not for a period fulfilled the obligation under the traffic guarantee—fulfilled the obligation in so far as tonnage of shipments is concerned—is Heath Steele Mines in New Brunswick. They suspended production for about three years, for reasons over which they had no control. They began production in the mid-fifties, at the very peak of base metal prices. They produced copper concentrate, zinc concentrate, and lead concentrate. They no sooner got into production than the prices of base metals fell very substantially. When I say "very substantially," I mean that prices were cut in half. At the time of initial production, copper was about 46 cents, and zinc and lead about 18 cents a pound. Very soon after the company began production copper dropped to about 23 cents, and lead and zinc to about 8 or 9 cents a pound. The company found that it had an exceedingly refractory ore—that is, a difficult ore to treat—and these two factors—falling metal recoveries and prices—forced the mine to close down for a time. With solution of their metallurgical problems and increases of metal prices, the company resumed production and have been operating ever since.

Senator BROOKS: Well, you cannot take one or two years, for instance, and say a mine has been a success. This mine will have to run for 30 years before you know whether it is actually a success or not.

Mr. RALSTON: I can hardly agree with that.

Senator BROOKS: I am not criticizing. The point I tried to make the other day, and about which I am not altogether satisfied, is that in the development of the mines in Labrador, where we have mountains of iron ore, it could have produced and been shipped to Hamilton, and these other places, probably cheaper than from this mine. This is the general criticism I was making. Of course, I am not an engineer.

Mr. RALSTON: It must be remembered that the people who have leased this property for 75 years also have a large interest in Wabush Mines. In considering the ore they are going to get from Wabush, they must have concluded that they also required ore from this mine. They are paying a royalty to the owners of the mine—that is, Iron Bay Mines Limited—of 50 cents per ton shipped.

However, in answer to your earlier question, I have already cited the one instance in which we had to collect an impost for a few years. All our other branch lines have been wholly successful, and all lines for which we sought Parliamentary authority are making a substantial contribution to our system overhead.

Senator AIRD: What is your forecast as to the time period within which the capital invested will be returned to the railway? In this regard what has been your experience relating to the return of the capital invested?

Mr. RALSTON: In every case the actual cost of construction was less than our estimated cost of construction.

Senator AIRD: The point is that the return on capital invested to the CNR came back within a reasonable target date of entering into the contract.

Mr. RALSTON: In some cases the lines are completely paid for. In other cases, they are still being paid for year by year, and the situation as a whole is very healthy.

Senator BAIRD: What is the name of the owner of the mine?

Mr. RALSTON: It is owned by Iron Bay Mines Limited, which company leased the property, leased the ore deposits, to Stelco under an arrangement which gives Stelco the right to mine the ore for a period of 75 years in consideration of paying Iron Bay Mines Limited a royalty of 50 cents per ton of iron concentrate shipped.

The CHAIRMAN: Are there any further questions that honourable senators wish to ask?

Senator PATERSON: I would like to point out that in the *Montreal Gazette* this morning appeared an article about General Motors laying off men because of lack of demand for cars. That has a very direct effect on the iron ore industry. I would like to point out that guarantees are very important, and I presume that Canadian National will have themselves well protected. However, I suppose this committee realizes that for a road built in 1962, compared to a road built today, the interest on the money was 4 per cent as compared to today's 6 per cent. These things are very important in considering this bill. There is a nervousness in the market about a possible depression. New York had a bad break this morning and had a bad one yesterday.

That should not affect the risk of developing our country at present, but it is something to consider. I presume that the Canadian National is very much alive to the situation and that so is the Steel Company of Canada?

Mr. RALSTON: Yes.

Senator PATERSON: These traffic guarantees are quite important.

The CHAIRMAN: I think you would agree with me, senator, that if we are to get any guarantee from anyone, the Steel Company of Canada is about the best company to get a guarantee from.

Senator BENEDICKSON: Senator Paterson raised another question and I would like to get a little further information on it. You are familiar, Mr. Ralston, with the iron ore dock, the arrangements for loading iron ore from rail cars to ships at the Lakehead. Another customer of yours is, of course, Steep Rock Mines on another line almost directly south of this projected area. The senator wanted to know whether, as a result of this development, you were contemplating having to come to Government for further expenditure of a capital nature on the iron ore dock.

Mr. RALSTON: Is the sense of your question that as a result of this development, the iron ore dock would be operating at full capacity and therefore we would be faced with a situation where we would have to increase it?

Senator BENEDICKSON: That is right.

Mr. RALSTON: At the moment the iron ore dock has sufficient capacity to handle the output of Caland and of Steep Rock and of this mine.

The CHAIRMAN: In other words, you do not envisage, as a result of this project, that, next year or the year after, you will require to come to Parliament for an extra few million dollars for addition to the dock that is in Port Arthur?

Mr. RALSTON: Not as a result of this development, Mr. Chairman.

Senator BROOKS: They can come, under the bill, if they wish.

The CHAIRMAN: Has the committee heard sufficient evidence in regard to this bill? Is there anything that any senator wishes to ask? If not, is the committee willing to consider the bill?

Senator KINLEY: Is the Steel Company of Canada here? Are they coming before the committee?

The CHAIRMAN: There is no representative of the steel company here.

Senator KINLEY: Should not there be?

Senator BAIRD: Why?

Senator KINLEY: Because they are thinking of giving a guarantee.

Mr. COOPER: The railway has the steel company's contractual guarantee.

Mr. RALSTON: It is signed.

The CHAIRMAN: I do not know what we could ask the steel company to say, except that they signed the guarantee, and to explain it.

Senator BROOKS: Mr. Cooper explained to us the agreement that exists with the steel company.

The CHAIRMAN: Is the committee ready to consider the bill?

Hon. SENATORS: Yes.

The CHAIRMAN: Section 1, construction and completion. Shall section 1 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: It is carried. Section 2, competitive bids or tenders. Shall section 2 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: It is carried. Section 3, maximum expenditure. Shall section 3 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: It is carried. Section 4, issue of securities.

Senator ISNOR: I would like to have the situation clarified in regard to sections 4 and 5. The cost of construction is \$11,100,000, but they provide here for borrowing authority for \$12,765,000.

Mr. COOPER: Mathematically, that is the 15 per cent on top of the estimated cost. It is the contingency clause.

Senator ISNOR: I wished to have that clarified and put on the record.

The CHAIRMAN: I think that has been a feature of each one of these bills which have been passed. Does that satisfy you, senator?

Senator ISNOR: Yes.

The CHAIRMAN: Shall section 4 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: It is carried. Section 5, temporary loans. Shall section 5 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: It is carried. Section 6, guarantee, form and terms, guarantees may be general or separate. Shall section 6 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: It is carried. Section 7, deposit of proceeds of sale, etc., of securities. Shall section 7 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: It is carried. Section 8, report to Parliament. Shall section 8 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: It is carried. Shall the preamble carry?

Hon. SENATORS: Carried.

The CHAIRMAN: It is carried. Shall the title carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Carried. Shall I report the bill without amendment?

Hon. SENATORS: Agreed.

The CHAIRMAN: It is agreed. Is there a motion to adjourn.

The committee adjourned.



First Session—Twenty-seventh Parliament

1966

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING COMMITTEE ON

TRANSPORT AND COMMUNICATIONS

The Honourable H. de M. Molson, *Acting Chairman*

No. 4

Complete Proceedings on Bill C-153,

intituled: "An Act to amend the Aeronautics Act"

WEDNESDAY, MAY 11, 1966

WITNESSES:

For the Department of Transport: Mr. J. R. Baldwin, Deputy Minister;
Mr. Jacques Fortier, Director of Legal Services; Mr. M. M. Fleming,
Air Services Branch.

For certain international airlines: Mr. Murray E. Corlett, Q.C., Ottawa.

REPORT OF THE COMMITTEE

APPENDIX



First Session—Twenty-seventh Parliament
1966

THE STANDING COMMITTEE
ON
TRANSPORT AND COMMUNICATIONS

The Honourable Adrian K. Hugessen, *Chairman*

The Honourable Senators

- | | |
|--|------------------------------------|
| Aird, | Lefrançois, |
| Aseltine, | Macdonald (<i>Brantford</i>), |
| Baird, | McCutcheon, |
| Beaubien (<i>Provencher</i>), | McDonald, |
| Bourget, | McElman, |
| Burchill, | McGrand, |
| Connolly (<i>Halifax North</i>), | McKeen, |
| Croll, | McLean, |
| Davey, | Méthot, |
| Dessureault, | Molson, |
| Dupuis, | Paterson, |
| Farris, | Pearson, |
| Fournier (<i>Madawaska-Restigouche</i>), | Phillips, |
| Gélinas, | Power, |
| Gershaw, | Quart, |
| Gouin, | Rattenbury, |
| Haig, | Reid, |
| Hayden, | Roebuck, |
| Hays, | Smith (<i>Queens-Shelburne</i>), |
| Hollett, | Thorvaldson, |
| Hugessen, | Veniot, |
| Isnor, | Vien, |
| Jodoin, | Welch, |
| Kinley, | Willis—(49). |
| Lang, | |

Ex officio members: Brooks and Connolly (*Ottawa West*).

(Quorum 9)

REPORT OF THE COMMITTEE

APPENDIX

MINUTE ORDER OF REFERENCE PROCEEDINGS

Extract from the Minutes of the Proceedings of the Senate, Tuesday, May 10, 1966:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Deschatelets, P.C., seconded by the Honourable Senator Hays, P.C., for the second reading of the Bill C-153, intituled: "An Act to amend the Aeronautics Act".

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Connolly, P.C., for the Honourable Senator Deschatelets, P.C., moved, seconded by the Honourable Senator Hays, P.C., that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative."

J. F. MacNEILL,
Clerk of the Senate.

The following were heard:

For the Dept. of Transport: Mr. J. R. Baldwin, Deputy Minister; Mr. Jacques Fortier, Director of Legal Services; Mr. M. M. Fleming, Air Services Branch.

For certain international airlines: Mr. Murray E. Corlett, Q.C., Ottawa.

On motion of the Honourable Senator Thorvaldson, a brief submitted by Mr. Corlett was ordered to be printed as an appendix to these proceedings.

On motion duly put it was resolved to report the Bill without any amendment.

At 12.10 p.m. the Committee adjourned to the call of the Chairman.

Attest.

John A. Hinds,
Assistant Chief Clerk of Committees.

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Tuesday, May 10, 1966:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Deschamps, P.C., seconded by the Honourable Senator Hays, P.C., for the second reading of the Bill C-162, entitled: 'An Act to amend the Aeronautics Act'."

After debate, and the question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Campbell, P.C., for the Honourable Senator Deschamps, P.C., moved, seconded by the Honourable Senator Hays, P.C., that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative.

J. F. MARSHALL,
Clerk of the Senate.

- Mr. Clark
- Mr. Deschamps
- Mr. Hays
- Mr. Johnston
- Mr. Molson
- Mr. Paterson
- Mr. Pearson
- Mr. Phillips
- Mr. Power
- Mr. Quart
- Mr. Rattensbury
- Mr. Reid
- Mr. Robb
- Mr. Smith (Queens-Shelburne)
- Mr. Thorvaldsen
- Mr. Veitch
- Mr. Vien
- Mr. Welsh
- Mr. Willis

(West) (Ontario) (Ontario)

MINUTES OF PROCEEDINGS

WEDNESDAY, May 11, 1966.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 11.00 a.m.

Present: The Honourable Senators Aird, Beaubien (*Provencher*), Fournier (*Madawaska-Restigouche*), Gershaw, Haig, Hays, Hollett, Lang, McDonald, Molson, Rattenbury, Thorvaldson and Willis.

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

In the absence of the Chairman and on motion of the Honourable Senator Beaubien (*Provencher*), the Honourable Senator Molson was elected Acting Chairman.

Bill C-153, "An Act to amend the Aeronautics Act", was read and considered clause by clause.

On motion of the Honourable Senator Haig, it was resolved to report recommending that authority be granted for the printing of 800 copies in English and 300 copies in French of the proceedings on the said Bill.

The following were heard:

For the Dept. of Transport: Mr. J. R. Baldwin, Deputy Minister; Mr. Jacques Fortier, Director of Legal Services; Mr. M. M. Fleming, Air Services Branch.

For certain international airlines: Mr. Murray E. Corlett, Q.C., Ottawa.

On motion of the Honourable Senator Thorvaldson, a brief submitted by Mr. Corlett was ordered to be printed as an appendix to these proceedings.

On motion duly put it was resolved to report the Bill without any amendment.

At 12.10 p.m. the Committee adjourned to the call of the Chairman.

Attest.

John A. Hinds,

Assistant Chief Clerk of Committees.

REPORTS OF THE COMMITTEE

WEDNESDAY, May 11, 1966

WEDNESDAY, May 11, 1966.

The Standing Committee on Transport and Communications to which was referred the Bill C-153, intituled: "An Act to amend the Aeronautics Act", reports as follows:

Your Committee recommends that authority be granted for the printing of 800 copies in English and 300 copies in French of its proceedings on the said Bill.

All which is respectfully submitted.

H. de M. Molson,
Acting Chairman.

The Standing Committee on Transport and Communications to which was referred the Bill C-153, intituled: "An Act to amend the Aeronautics Act", has in obedience to the order of reference of May 10th, 1966, examined the said Bill and now reports the same without any amendment.

All which is respectfully submitted.

H. de M. Molson,
Acting Chairman.

THE SENATE

THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Wednesday, May 11, 1966.

The Standing Committee on Transport and Communications to which was referred Bill C-153, to amend the Aeronautics Act, met this day at 11 a.m.

Senator HARTLAND DE M. MOLSON, Acting Chairman, in the Chair.

The ACTING CHAIRMAN: Honourable senators, we have before us Bill C-153, to amend the Aeronautics Act, and we have appearing before us witnesses from the Department of Transport, and also Mr. M. E. Corlett, Q.C., representing certain international airlines.

If it is your pleasure, I suggest that we ask the Deputy Minister of Transport, Mr. J. R. Baldwin, to go over the bill and perhaps when we come to any clause where there is any contention, we could then pause at that point and hear what is to be said, if in fact there is any opposition. Does that meet with your approval?

Hon. SENATORS: Agreed.

The ACTING CHAIRMAN: We should have the usual motion to authorize the reporting and printing of the proceedings.

The committee agreed that a verbatim report be made of the committee's proceedings on the bill.

The committee agreed to report recommending authority be granted for the printing of 800 copies in English and 300 copies in French of the committee's proceedings on the bill.

The ACTING CHAIRMAN: We also have with us Mr. Jacques Fortier, Director of Legal Services, and Mr. M. M. Fleming and Mr. T. McGrath of the Air Services Branch, Department of Transport.

J. R. Baldwin, Deputy Minister of Transport: Mr. Chairman and honourable senators, the bill itself does not have any one single theme. There are a series of proposed amendments which deal with several subjects, and perhaps the best thing would be to mention the principal subjects in the order in which they are dealt with in the bill, and then revert to the clauses in the order of presentation.

One of the subjects is a section in the Aeronautics Act regarding the charges which may be made for the use or provision of the facilities which are required for the operation of aircraft. There are charges for this use presently in existence which have been made under the Financial Administration Act and which are adjusted from time to time by the Governor in Council.

There is a wide variety of different types of charges, such as landing fees, terminal use fees, and so on. When we had a problem regarding a proposed trans-Atlantic service charge some years ago, an idea which has subsequently been dropped, the Department of Justice advised us that they felt that in the long run we would be better advised to have a section granting the authority for the making of charges placed in the Aeronautics Act, rather than continuing to rely on the Financial Administration Act. It is in consequence of this suggestion that the proposed amendment is now included in this bill.

The amendment takes two forms. The first is the provision that a charge may be made for actual use of a facility by an aircraft—that is a specific use that can be traced in time and in the physical sense. An airport landing fee is the easy example to give.

The second is a provision that a charge may be made for availability of facilities or service in a general sense which would apply in those instances where we cannot prove or demonstrate actual use, yet we know the facility has to be provided and is used by the airlines.

This latter is not a new concept in any sense of the word. There are charges of this sort in existence in other countries, and it is the sort of charge that has been envisaged by the International Civil Aviation Organization in its discussions on charges. The best example I can give of the type of thing we have in mind is that a specific type of radio aid or navigation ground aid might be required by general aviation. It might be of a nature which we, or the Government—the Treasury Board—decided should be put on a user charge basis. But it is automatic in its working, so we would have no particular knowledge as to whether Air Canada or Canadian Pacific or the Timothy Eaton Company executive jet, or any other plane, was using that facility or that set of facilities on a given flight or a given day, because it works automatically from the system. Therefore we need to have the right to make a charge, based on the availability of facilities.

These are the two basic concepts, user charges, directly related to proven use, and charges where a service is provided on an availability basis—where we know it is used but cannot measure it.

It would be our intent under this provision to transfer, in due course, the present charges that are presently set up by order in council under the Financial Administration Act to the provisions of the Aeronautics Act, if these are passed. We do not contemplate at the present time any new or radical changes in the system of charges.

The next principal section in the bill is a series of technical clauses, which I will not explain in detail at this time, because I think that the answers can more easily be given by technical staff when the clauses are considered in detail. They relate to matters of air safety in certain new areas where we have found it necessary to seek specific jurisdiction in regard to technical regulation and air safety—with one possible exception, that is, section 2(1)(k), which relates to maximum working hours for air crew. This is not new. It is a transfer from Part II to Part I of the act. The reason is that this clause, which was originally included in the act some years ago, possibly through error, was put in Part II, which is the section dealing with the Air Transport Board and economic regulation. In fact, the regulatory aspects of air crew working hours are a safety measure, so far as the department's jurisdiction is concerned. This amendment transfers the clause from Part II to where it properly should be, Part I, which deals with technical and safety matters.

There are certain provisions spread in two or three clauses which deal with boards of inquiry to investigate accidents. I think the necessity for this is obvious. We have had boards of inquiry, and we have regulations dealing with that now. These have been made in the form of regulations under the broad powers of the Aeronautics Act.

Here again, the Department of Justice advised us some time ago that because of the importance of the subject matter we should make specific reference to these powers in regard to accident investigation in the act itself, and there are a series of clauses dealing with that.

A number of the amendments deal with the powers of the Air Transport Board. The principal items I should mention in this connection are, first, that there is a proposed increase in the size of the Air Transport Board from three members to five members, to take care of the increasing volume of work.

The second is a change in regard to the appeal procedures that presently exist in the act. The present procedures have certain anomalies in them which have been recognized for some time. When the Air Transport Board grants a licence for a new air service, the granting of licence must be subject to the approval of the minister even though subsequent amendments by the board to that licence, which may change it in major fashion, do not require ministerial approval. In addition, there has been a right of appeal to the minister by a person denied a licence by the Air Transport Board or who as a licence holder has had a sanction imposed upon him.

The inconsistency is that the right of appeal existed only for those persons who were denied certain things or had a sanction imposed upon them. Other interested parties to a case felt their right of appeal was being overlooked, and in fact it was not possible for them to appeal under the act.

The basic change is a removal of the requirement that an initial licence granted by the board must have the approval of the minister so that the board's jurisdiction is clear cut in regard both to initiating action in granting licences and the broadening of appeal so that any interested party who is involved in a board decision may have the right of appeal.

Mr. Chairman, I think those are the principal clauses. I believe there are one or two lesser ones I have not commented on which perhaps could be dealt with seriatim, if that would be satisfactory.

The ACTING CHAIRMAN: Yes, thank you, Mr. Baldwin. If that meets with approval, we might return to clause 1 of the bill and consider that. As we mentioned, Mr. Corlett is appearing for five international airlines, and has expressed an interest in section 1 of the bill. Would it perhaps be your pleasure to hear him at this point?

Hon. SENATORS: Agreed.

Mr. M. E. CORLETT, Q.C.: Mr. Chairman and honourable senators, my name is Corlett, and I am a colleague of Mr. Gordon Maclaren, Q.C., who is sitting beside me. This is a joint effort on our part, although I have been elected to be the spokesman. We are a law firm in Ottawa, and with reference to Bill C-153 we are acting for five international airlines: Pan American World Airways, Trans World Airlines Incorporated, an American airline; KLM-Royal Dutch Airlines; SAS, which is the Scandinavian Airlines System, and Irish International Air Lines.

Our interest relates only to clause 1 of the bill, in which it is proposed to add a new section to the Aeronautics Act, namely section 3A. This matter, of course, has been before Parliament off and on over the past few years. There was a Bill C-117, which was an amendment to the Aeronautics Act, introduced in the House of Commons in December, 1963, but because of opposition that developed and perhaps for other reasons, the bill, as far as I remember, never reached the Senate.

In fairness, I must say that our clients will readily admit that the present version of section 3A contained in this bill, C-153, from their point of view, is infinitely preferable to what appeared in the earlier bill two or three years ago.

The purpose of section 3A is to provide statutory authority for the imposition of charges which would be paid by airlines, both domestic and international, which use facilities provided by the Department of Transport and also facilities which are available. This availability feature, of course, has been a sore point in the past with the international airlines, because it was felt they might be charged for services which, although technically available, they might not necessarily need, because this is a fast-moving industry from the technological point of view.

However, in paragraph (b) of section 3A in the bill before you this morning it will be noted that this right to levy an availability charge is

restricted to flights within Canada. The minister, when piloting this bill through the House of Commons, was not crystal clear as to what he had in mind by a flight within Canada, at least it would appear so from a perusal of *Hansard*. However, I am assuming—and I presume the Department of Transport officials will correct us if we are wrong in this respect—that this contemplates a charge with reference to an international air flight which might fly at one point of time over the territorial jurisdiction of Canada but the plane would not land within Canadian territory.

However, as far as paragraph (b) is concerned, our clients cannot have any objection to it—this is the availability charge—in its present form because Canada has the right legally to impose a charge of this kind. This was a major change that appeared in this bill, and this will be satisfactory to our clients.

Turning now to paragraph (a) of proposed section 3A, it will be noted it is broken down into two parts, and the criterion used in paragraph (a), as far as imposition charges are concerned, is not on availability of service but use of service by a particular aircraft. So I suppose the relationship between the Department of Transport and the company owning a particular aircraft that requires certain information or services provided by the Department of Transport would be based on the law of contract. There again, of course, there cannot be any dispute as to the right of Parliament to impose a charge of this kind.

However, it will be noted in connection with paragraph (a) that the user charge is not restricted to flights within Canada. This raises a reservation which is mentioned in the memorandum which, at the request of Senator Hugessen, we brought with us—and I believe copies have been distributed for you. But what is to happen with reference to a user charge imposed by the Department of Transport with reference to an international flight that will not touch down on Canadian territory, but which might be several hundreds of miles from Canadian shores? I am thinking particularly of the North Atlantic, where as a result of arrangements entered into in the late forties as a result of the Dublin Conference of ICAO, the International Civil Aviation Organization, Canada voluntarily assumed jurisdiction over what would be roughly the northwest quadrant of the North Atlantic as far as facilities in connection with trans-Atlantic air traffic was concerned.

I raise this question as to whether the Government, through the Department of Transport, intends to impose a user charge, for the sake of argument, on Pan American planes flying from London to New York that at no time would be nearer than, say, 100 miles to the Canadian shore, because as we see it this problem is really a world-wide one. You as legislators are looking at it from the point of view of Canada, but other countries might deal with the matter in the same way. From the point of view of international airlines, this might cause difficulties and confusion, and for that reason I suppose you have a very good reason why the International Civil Aviation Organization was created as an agency of the United Nations arising from the Chicago Treaty of 1944.

This matter of user charges with relation to aircraft while operating over the high seas was the subject of an international conference under the sponsorship of ICAO in 1958, and I suppose that being an international agency things move slowly, but the point is that this matter is now to be the subject, as I understand it, of a major ICAO conference to be called the Charges Conference. I understand that provision for it has been provided for in the 1966 estimates of ICAO, but for one reason or another it is not likely that a conference to deal with this problem, user charges while operating over the high seas, will take place until early 1967. It would seem in this type of case that this is a problem that can better be solved internationally or under the auspices of an international agency such as ICAO, to which Canada has contributed a great deal and of which it is an important member.

I am speaking only of user charges that might be imposed against aircraft with reference to flights over the high seas and not charges for flights over Canada. Our clients' view is that it might be better for the Canadian Government, and through it Parliament, to delay dealing with the right to impose a user charge with reference to flights over the high seas until after this major ICAO 1967 conference is held. That is what prompted us to suggest a slight amendment in the wording of paragraph (a)(i) of the proposed section 3A. Our amendment would have the effect of restricting the right to impose a user charge against aircraft while the aircraft is operating within the territorial jurisdiction of Canada.

As an alternative, and quite conceivably, the Government might say, "We have no intention of doing this," and Parliament might say that the Government is correct. But I hope I have indicated to you the problem that is facing the international airlines. Supposing the Canadian Government, acting under the authority of new section 3A (a), imposes unilaterally user charges against a foreign aircraft while operating beyond the territorial jurisdiction of Canada, and then the ICAO conference next year comes up with some different form of solution. I would like to pose certain questions, which I presume the Department of Transport officials here today could answer, and I think it would be in the public interest that they do so.

Firstly, assuming that section 3A is enacted in its present form, does the Canadian Government propose to impose charges for the use of facilities only by aircraft while outside Canadian territorial jurisdiction? That will be my first question.

My second question would only require an answer if the first question is answered in the affirmative. Would such action on the part of the Canadian Government be consistent with a possible ICAO solution to this problem of user charges to be imposed against aircraft while flying over the high seas?

The third question would be: Would such user charges be imposed before ICAO has taken a definite position on this particular point, presumably as a result of the 1967 ICAO charges conference which is now on the agenda?

So much for that point. The only other observation we have, and it is contained in the memorandum and I will not detain the committee at any length on it because it is a matter that has come up before: the proposed section 3A indicates that the Governor in Council will have the right to impose user charges. The Honourable Mr. Turner, when speaking to this bill on second reading in the House of Commons on March 31, indicated that in his judgment this was not a form of tax. It had been alleged by some member or members that, in effect, you are permitting, as a result of the wording used in the proposed section 3A, the right of the executive to impose taxes by order in council. The minister said, no, that he did not think it was, that a charge of this kind would not be a form of tax.

From the point of view of our clients, we would take the position that it would be a form of tax, because of the element of compulsion.

To take up that assertion, I would refer the committee—and we mention it in our written submission—to the recent publication prepared by the Canadian Tax Foundation at the request of the Canadian Tax Structure Committee of the federal and provincial governments, entitled, "Occupancy of tax fields in Canada." On page 2 the author gives what admittedly she says is a rule of thumb definition, but she considers it to be adequate as to what is a tax. She says:

—the element of compulsion seems to provide as useful a rule of thumb as any as to what is a tax—

For that reason, we would take the position, from the point of view of the airlines, that the imposition of a charge, whether it be an availability charge or

user charge, would represent a form of tax. That being so, as we have indicated in our submission, we refer this committee back to the debates that occurred in the 1959 session of Parliament when the export tax on electricity was being transferred from a special statute, the Export of Electricity Act, to the Excise Tax Act. Up until 1959, for years the Governor in Council was given the right to impose the tax up to a certain maximum. In this case, of course, there is no maximum. The legislators, both in the other place and in the Senate, took a very strong view on the matter at that time, and we make mention of that in our submission. To be fair, it is true that the Honourable Mr. Turner, in the house, did indicate on March 31:

I can assure the honourable member that these charges will not be imposed without consultation with the air lines concerned and we have already given them our undertaking that the charges will be reasonable.

On behalf of our clients, I would like the Department of Transport officials here today to affirm that understanding of the minister which he gave in the House of Commons, at page 3669 of *Hansard* for March 31 last.

Mr. Chairman, I think those are the views we wish to present to the committee on the part of our clients, namely, the five international airlines.

The CHAIRMAN: Thank you, Mr. Corlett. Honourable senators, first, do you wish to have this memorandum printed as an appendix to the proceedings?

Senator THORVALDSON: I so move.

Senator HAIG: I second the motion.

(See appendix to today's proceedings).

The CHAIRMAN: Perhaps you should return at this point, Mr. Baldwin, and deal with clause 1, about which apparently there is a little controversy.

Senator THORVALDSON: Mr. Chairman, may I ask Mr. Baldwin a question first? Mr. Corlett, suggested that paragraph 3(a) gave the minister a right to make a charge against an airline even if the flight were not over Canada—the flight might be 100 miles away from Canada, above the ocean. Does this paragraph, in your opinion, give such a power to the minister?

Mr. BALDWIN: Yes; and we are making such charges now and the airlines are not objecting.

Senator THORVALDSON: What is the purpose of that charge?

Mr. BALDWIN: If I might go back for a moment, I think Mr. Corlett has placed his questions in a very fair manner. I think I can satisfy him with the answers, and in so doing answer the question you have raised, sir. We have, I suppose, 18 to 20 international airlines operating into Canada, most of which also operate in areas contiguous to Canada where they may make use of some of our air traffic control and other facilities. They are "in range", so to speak. There are a number of airlines that operate in this contiguous sense and also pass through our air space without actually landing in Canada. Some 15 to 18 airlines actually serving Canada have not seen fit to raise any opposition to this amendment. Of the five which Mr. Corlett mentioned I think two do serve Canada and three do not, although they operate contiguous to Canada in crossing the Atlantic.

We had discussed these questions with the International Air Transport Association which represents international airlines, and as Mr. Corlett indicated, made some adjustments in paragraph (b) because of what we felt were legitimate fears on their part, and they have expressed themselves as satisfied.

To give a specific example of how this would work, perhaps I could refer to what is now known as our telecommunications charge. We maintain as part of the general network of aviation support which includes air traffic control,

weather meteorological services for flying, and radio aids, a very extensive communications network composed of a wide variety of different types of teletype circuitry, land lines, and microwave, that crosses the whole of Canada and has international connections to the United States, across the Atlantic and the North and South Pacific. This network upon occasion is very useful to an aircraft when it is flying in the air for the purpose of conveying some message relating to operation—not a message that is part of our responsibility but basically a company message, which may be, for instance, between dispatchers.

We established the principle some time ago of a charge system so that if an airline asks to send a message over our network we make a charge which we think is reasonable relating to the cost. This charge may apply on a domestic flight or an international flight.

The charge on the North Atlantic is \$20 if an airline wishes to make use of this message movement service. The aircraft may be moving from Montreal to Paris, from Toronto to London, from Vancouver to Amsterdam—it does not matter; if they call on our facilities to send a message we impose this charge.

Equally, we have been imposing a charge—and so far as we are aware there have not been airline objections—if an aircraft, let us say coming from New York to London and passing along the Canadian coastal area, even though not in Canadian air space, says, "We would like you to transmit the following message."

Senator RATTENBURY: What is the basis of the charge?

Mr. BALDWIN: We do not feel really that there should be any discrimination, let us say, between a B.O.A.C. flight going from Toronto to London, or going from New York to London. If they demand the same specific service, we feel we should make the same charge; otherwise we would be imposing a charge on those airlines serving Canada which we were not imposing on airlines not serving Canada.

Senator THORVALDSON: Is it standard practice internationally to have similar legislation?

Mr. BALDWIN: There is a wide variety of service charges in existence all over the world, and they are related either to the facility concept that I have described as applicable to paragraph (b) or the type of thing we are now talking about. We feel we should have the right to impose reasonable user charges where there is clear evidence of specific use of a facility provided by the Canadian Government or the Canadian taxpayer in a non-discriminatory fashion, without making any distinction between airlines using it.

We would not act in a manner that was inconsistent with anything that might be decided by the International Civil Aviation Organization. It is our basic policy to act in accordance with the general position taken by that organization. We do not contemplate at the present time any new type of user charges applicable in the North Atlantic within the context of this new legislation. However, one cannot give any commitment as to the position at some date in the future. All I can say for the moment is that there is no new action contemplated, and if we should by any chance find something that we are doing which is inconsistent with the broad international position taken by the international organization, I feel sure we would try to reconcile the position, because this has been our basic policy in regard to that organization since its inception.

That I think answers the first part of the point raised by Mr. Corlett. Now, I am not an expert on tax law, and perhaps Mr. Fortier could comment on that.

The CHAIRMAN: Mr. Corlett, that appears to answer your three questions. Are you satisfied with your answers?

Mr. CORLETT: Yes, Mr. Chairman, I feel that Mr. Baldwin has satisfactorily answered the first three questions. There was a fourth question relating to what the Honourable Mr. Turner said in the house that the Government had given assurances concerning any new types of charges to be imposed in the future. I presume there would be consultation with the airlines?

Mr. BALDWIN: That has been our standard practice in this matter; and again, we assured the International Air Transport Association in writing that we intended to continue this practice when the clause was under discussion.

Senator THORVALDSON: In other words, Mr. Baldwin, you must be in communication with those countries, and there must be some kind of a contractual relationship established as a result of this section. Would that be accurate?

Mr. BALDWIN: Yes, but since this clause has been under discussion for quite some time we have given a written commitment, which is in accordance with the procedure we follow anyway, to the Secretary General of the International Air Transport Association that any new regulations considering new types of charges that will be breaking new ground under this legislation will be a matter of discussion with them before any recommendation is made to the Government.

Senator LANG: Mr. Baldwin, I assume these principles do not apply to marine aids. Does shipping pay user charges on calls?

Mr. BALDWIN: In certain circumstances, yes. There is a more complicated situation which applies to marine communications, but there are circumstances in which the marine user turning to the use of Department of Transport marine communications facilities for specific purposes, pays a fee.

Senator RATTENBURY: For aids to navigation?

Mr. BALDWIN: No, this applies to the forwarding of messages.

Senator LANG: Are we concerned with aids to navigation in connection with the word "facility"?

Mr. BALDWIN: We may in the long run, but this might be more appropriate under clause (b) than under clause (a).

The ACTING CHAIRMAN: Would you like Mr. Fortier to deal with the tax aspects?

Mr. BALDWIN: Yes, I would prefer that, sir.

Mr. Jacques Fortier, Director of Legal Services, Department of Transport: Mr. Chairman and honourable senators, the second point that was raised by Mr. Corlett in his brief refers to the question as to whether these charges constitute a tax. He states in his memorandum:

Undoubtedly, it will have to be admitted that such a user charge will represent a form of a tax imposed against the owner of the said aircraft.

I would submit, Mr. Chairman, that it is irrelevant whether these charges contemplated under section 3A constitute a tax. The section authorizes the Governor-in-Council to provide services and facilities, and to make charges, and the question of whether it is a tax is of absolutely no importance.

It is admitted that Parliament has full authority to provide as is contemplated in section 3A, and Mr. Corlett says so in his memorandum where he says:

It is recognized that such delegation is within the powers of Parliament . . .

In this connection I should like to point out that in the Financial Administration Act, section 18 authorizes the Governor-in-Council to impose charges for the

provision of such services. This section in the bill before us has the general purpose as section 18 of the Financial Administration Act.

In addition, Mr. Chairman, I might point out that if we were to follow the suggestion of Mr. Corlett, it would mean that every time we wished to impose a charge for these services or facilities we would have to go to Parliament. The charges that are contemplated are very numerous, and from time to time we may have to reduce them. As a matter of fact, the charges which now exist have to be amended from time to time, and if we were to follow Mr. Corlett's suggestion it would mean that every time a revision or an amendment was required we would have to go to Parliament, and this would create an impossible situation.

Senator HAIG: In connection with what Mr. Baldwin said, you charge each airline a certain percentage in accordance with space qualifications in regard to ticketing, freight charges, and so on in air terminals. Is that based on an average fee, or is it just whatever the traffic will bear in the air terminal?

Mr. BALDWIN: I am not quite sure to which particular charge you are referring. We have, as you said, a huge schedule of charges. Our revenues from airport operations generally are in the neighborhood of \$25 million a year, and we are coming very close to meeting our operating costs. At airports one of the charges is the landing fee, and this relates to the size of the aircraft and the nature of the flight.

We charge also a rent for space in airport buildings. This, again, depends upon the value of the space, some of our floor space being more valuable than other space.

We have a common user charge which is related to the number of times an aircraft comes to the building. This may be the type of thing you are thinking of. This is intended to recover the costs of certain common user space which cannot be identified as related to the use of one particular airline. They all use it generally. Therefore, we impose a fee on them related to the number of times they pull an aircraft up to the building. It is on a percentage basis related to the recovery of the costs.

Senator HAIG: What is the reason for charging ten cents to go onto the observation platform at an air terminal?

Mr. BALDWIN: I think this is worth over \$50,000 a year to the general income. It is one of the established ways of raising money that we have employed. The revenue is surprisingly large, and we have not had much objection to it, although we have had some.

Senator RATENBURY: I think it is more or less a form of nuisance.

Senator HAIG: For \$50,000 a year it is a darned good nuisance.

Senator McDONALD: Mr. Baldwin, you mentioned that the revenues were about \$25 million.

Mr. BALDWIN: They are close to that figure. I do not have up-to-date figures with me, but for the fiscal year 1965 they were \$22.5 million, and they have been going up steadily.

Senator McDONALD: And this is close to your capital costs?

Mr. BALDWIN: The operating costs. That does not include depreciation, mind you.

Senator McDONALD: You have no revenues to offset the capital costs?

Mr. BALDWIN: We do keep an accounting for each airport on a full accrual basis. I do not have it with me at the moment. The initial target we set for ourselves was to try to cover operating costs. It has been a long uphill fight, but we are getting there.

The ACTING CHAIRMAN: On the accrual basis I assume it is entirely in red ink?

Mr. BALDWIN: Yes, although one or two of the larger airports are covering their depreciation now, but not the interest on the depreciation.

Senator RATTENBURY: Do these charges stand even though the Department of Transport does not operate the air terminal? I am thinking of the case of municipally-owned terminals.

Mr. BALDWIN: Yes, but not by compulsion on our part, but because it is the custom of municipally-owned airports to follow our scale.

Senator RATTENBURY: You would not allow them to get too far out of line?

Mr. BALDWIN: I think the answer is that as yet they have never shown any indication of doing so. Usually they have used our charges as the norm.

The ACTING CHAIRMAN: Mr. Corlett, with regard to Mr. Fortier's explanation, would you agree that in view of the undertaking that has been given by the department with respect to the imposition of new fees, that perhaps his point is well taken? That is, with respect to your allegation that it is a tax?

Mr. CORLETT: I did not hear your last sentence, senator.

The ACTING CHAIRMAN: In view of the undertaking given by the department that no new type of charge is to be made, and that these charges will be consistent with those of any ICAO solution that is subsequently reached, would you agree that his view that the question of whether this is a tax or a charge is irrelevant at this point?

Mr. CORLETT: I would certainly agree that our first question was by far the more important, but since we were committed to make a presentation we felt that we should also give our observations on this other point. If we had a choice we would take the solution to the first problem as against one to the second.

The ACTING CHAIRMAN: Thank you. On behalf of the committee I thank you for having come here this morning and giving us your views.

Are there any other questions with respect to clause 1? Shall clause 1 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: We come now to clause 2. This, as Mr. Baldwin said, is a mixture of a variety of principles, the first one being the hours of work. I wonder if you would care to go over this, Mr. Baldwin?

Mr. BALDWIN: Mr. Fleming, the Superintendent of Air Regulations is present, and he will deal with this.

Mr. M. M. Fleming, Superintendent, Air Regulations Branch, Department of Transport: Mr. Chairman and honourable senators, subparagraph (k) reads:

the maximum hours of work and other working conditions for pilots, co-pilots, navigators, and flight engineers—

As Mr. Baldwin indicated earlier I think this is merely a transfer of the powers of Part II of the act to get Part I, and it is intended to be used only in ensuring the safety of flight. In other words, the social conditions of the employment of air crew are not intended to be considered in administering this proposed clause. It is only to control the hours of work as they affect the fatigue of flight crews. It has been our experience—and not enough is yet known about this, perhaps—that about 120 hours of flying per month is the maximum that should be contemplated as consistent with an alert and safe pilot.

Senator HAIG: May I interrupt you for a moment? Have not these airline pilots and air crew members union agreements with the airlines?

Mr. FLEMING: Some of them have, but some of them have not. The major Class 1 airlines do have, almost invariably, agreements with the pilots in which the hours vary from 85 to 100 per month, depending upon whether it is a domestic or intercity or long-haul operation. There are many operators of aircraft on many airlines who do not enjoy the benefit of such agreements.

Senator HAIG: Would this clause allow you to protect the ground crew and people in the tower, and so on?

Mr. FLEMING: No, sir; flight crew only. We say:

—pilots, co-pilots, navigators and flight engineers employed by any person operating a commercial air service—

These are all flight deck personnel.

Senator LANG: From a practical point of view, how is it enforced where another country might take a different stance?

Mr. FLEMING: This would be imposed on Canadian carriers, though we would expect international carriers who are certificated in Canada for the exercise of traffic rights into Canadian ports either to comply with the rules set up under this clause or else an equivalent clause set up by the state of registry. In other words, if we found a foreign airline operating crews at 160 hours a month and they were licensed by the Air Transport Board and certificated by the department for the purpose of carrying Canadian traffic, we would certainly intercede.

Senator THORVALDSON: This subject of the hours of pilots and people like that, is it one which is discussed at meetings of the international organization?

Mr. FLEMING: Yes, senators. However, to date the problem has been so complex, there are so many situations which must be controlled, that the International Civil Aviation Organization have not come up with standards of their own, though they have indicated an intention to do so.

At the moment we have what amounts to recommended practices for airlines, which we include in the operations manual or insist be included in the operations manual of the carrier, which contains their own instructions to their own personnel. But this would be very hard to enforce.

Senator THORVALDSON: The government of the United States, or whatever legislative authority has similar jurisdiction to your department, do they deal with this question of hours?

Mr. FLEMING: Yes, at the last count I think there were 14 countries which had legislation of this kind, not necessarily in these precise terms.

Senator FOURNIER (*Madawaska-Restigouche*): Do the companies operating charter flights come under these regulations?

Mr. FLEMING: Yes, sir.

The ACTING CHAIRMAN: Are there any other questions? Do you wish any discussion on paragraph (1)?

Senator McDONALD: There is one question I would like to ask about the 120 hours a month. Are there any restrictions as to how much flight time a flight crew can put in in 24 hours?

Mr. FLEMING: Yes, I used 120 hours as being an indication of what we consider to be the point beyond which it is perhaps unwise to go. There is a daily, weekly, monthly, quarterly and yearly maximum.

Senator THORVALDSON: With regard to paragraph (1), what type of investigations and reasons for them are contemplated under this paragraph? For instance, if the Douglas Aircraft Company has a factory in Canada, it would be subject to inspection by your department?

Mr. FLEMING: Basically, this would be to provide for the examination of their quality control system and the inspection system that is being provided. I think these are the two main things we are looking at.

The ACTING CHAIRMAN: Surely, the department goes into aircraft factories today and carries out these inspections? Is there no authority for this at the moment?

Mr. FLEMING: I am afraid not. However, there is a sort of "backdoor" authority, in that we ultimately issue a type certificate for the aircraft, and we can reserve the right not to issue this if we are not satisfied.

The ACTING CHAIRMAN: Paragraph (m)?

Senator HAIG: In connection with aircraft accidents, the investigation is made by D.O.T. and the airline?

Mr. FLEMING: Customarily, the major airlines invariably conduct their own investigation. They are not required to do so.

Senator HAIG: But, as a matter of practice, they do, do they not?

Mr. FLEMING: Yes, they do, but their investigation is independent of our own, although the two crews might work very closely together.

The ACTING CHAIRMAN: Paragraph (m)? Paragraph (n)? Paragraph (o)? These are all safety matters. In the absence of any further questions, shall clause 2 carry?

Hon. SENATORS: Carried.

Senator HAIG: When has there been any case of obstruction or hindrance of an investigation?

Mr. BALDWIN: There is a great tendency on the part of the public, unwittingly perhaps, to pilfer.

Senator HAIG: To steal?

Mr. BALDWIN: Yes.

The ACTING CHAIRMAN: In some instances you might be free to describe it as looting.

Mr. BALDWIN: Yes. This is in a major accident where some member of the public might reach it before you have adequate security staff on the ground.

Senator THORVALDSON: With regard to a situation where a bad accident occurs, is it the department or the airline that takes the major share of the investigation?

Mr. BALDWIN: We consider the prime responsibility rests with the department.

The ACTING CHAIRMAN: Clause 3?

Mr. BALDWIN: This is all part of the same pattern of giving necessary powers to establish boards of inquiry for the purposes of accident investigation.

The ACTING CHAIRMAN: The practice of establishing boards exists presently. Is it not with regard to the payment of fees, and so on, that this has to do?

Mr. BALDWIN: No, I think we are broadening the whole basis.

Mr. FORTIER: The reason we are putting it in the act, although it is already in the regulations, is that we are under the advice of the officers of the Department of Justice that, in order to compel witnesses to attend and in order to be able to take depositions under oath, it is preferable to have something in the act rather than just in the regulations.

The ACTING CHAIRMAN: Is that satisfactory?

Hon. SENATORS: That is satisfactory.

The ACTING CHAIRMAN: Shall clause 3 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Clause 4. The first amendment deals with increasing the size of the Air Transport Board from three to not more than five members.

Senator THORVALDSON: Who are the present members of the Air Transport Board?

Mr. FORTIER: The Chairman, Mr. Gerard Morisset; the vice chairman, Mr. John Belcher, and a third member, Mr. Russell Boucher.

Senator HAIG: You have mentioned an increase in the work of the board. Is there any reason for it, other than an increase in air traffic?

Mr. FORTIER: Commercial traffic, and I think you can say the same for non-commercial traffic, is doubling in volume every four or five years. This represents a fantastic rate of growth.

The ACTING CHAIRMAN: Shall clause 4 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Clause 5. Shall clause 5 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Clause 6. What is the change here, Mr. Baldwin?

Mr. BALDWIN: One is a minor change in the clarification of the board's powers. They have been exercising powers along these lines generally since 1951. The balance of the change relates to a change in the appeal procedure I described at the outset.

Senator HAIG: As I read clause 4a, an applicant or an intervener who receives or does not receive a licence from the board can go to the minister and the minister makes the decision:

—the minister shall thereupon certify his opinion to the board and the board shall comply therewith.

What is the use of having an appeal from the Transport Board?

Mr. BALDWIN: The appeal is from decisions of the board to the minister.

Senator HAIG: And what does the minister decide?

Mr. BALDWIN: He may overrule the board. This has been the practice heretofore, though the number of cases where the minister has varied a board decision would be extremely minute, a fraction of one per cent.

Senator THORVALDSON: I was going to suggest that I do not imagine a power of this kind is used very frequently.

Mr. BALDWIN: That is correct.

The ACTING CHAIRMAN: Are there any other questions on clause 6? Shall clause 6 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Shall the preamble carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Shall we report the bill back?

Hon. SENATORS: Carried.

The committee adjourned.

APPENDIX

Brief presented by Mr. Murray E. Corlett, Q.C.

RE: BILL C-153—An Act to Amend the Aeronautics Act

We are acting for five international airlines who have a vital interest in Section 1 of this Bill. The purpose of this Section 1 is to add a new Section 3A to the Aeronautics Act.

The international airlines in question are:

- (1) Pan American World Airways
- (2) Trans World Airlines Inc. (TWA)
- (3) KLM—Royal Dutch Airlines
- (4) Scandinavian Airlines System (SAS)
- (5) Irish International Air Lines

Bill C-153 is a government bill which has already been passed in the House of Commons. The proposed Section 3A referred to in Section 1 of this Bill as amended and passed by the House of Commons reads as follows:

“3A. The Governor in Council may make regulations

- (a) prescribing charges for the use of
 - (i) any facility or service provided by or on behalf of the Minister for or in respect of any aircraft, and
 - (ii) any facility or service not coming within subparagraph (i) provided by or on behalf of the Minister at any airport, and
- (b) imposing upon the owners or operators of aircraft, wherever resident, in respect of flights within Canada, charges for the availability during such flights of any facility or service provided by or on behalf of the Minister, and every charge so imposed constitutes a legal obligation enforceable by Her Majesty by action in the Exchequer Court of Canada.”

It will be noted that proposed Section 3A has been divided into paragraphs (a) and (b). Paragraph (a) in turn has been broken down into subparagraphs (i) and (ii). The purpose of this new Section is to empower the government to levy charges against airline operators arising from the use of facilities maintained by the Department of Transport under paragraph (a) and arising from the availability of services maintained by the same Department under paragraph (b).

It will be remembered that the government introduced a somewhat similar bill (C-117) in the House of Commons on December 3rd, 1963 but due to opposition raised, it was never proceeded with beyond the House of Commons.

With reference to that part of proposed Section 3A contained in the current bill relating to the imposition of charges based upon the criterion of availability of services (paragraph (b)), it is satisfying to note, after comparing it with its counterpart in the 1963 bill, that such charges are now restricted to flights within Canada. No longer is it intended to impose an availability charge against foreign aircraft when operating outside of the territorial jurisdiction of Canada. Also, the right to resort to the use of the arbitrary writ of extent has been dropped from the wording used in paragraph (b). These were objections raised by our clients in 1963. Since they have now been removed from the wording used in paragraph (b) of proposed Section 3A, our clients have no further objections to raise concerning these points insofar as paragraph (b) is concerned.

Turning now to paragraph (a) of proposed Section 3A, its purpose is to empower the government to prescribe charges against airline operators for services rendered by the Department of Transport to aircraft which request the information or service provided. This type of charge would be based upon contract since the aircraft has requested the information or service. Similarly, in the same paragraph (a), charges will be imposed for use of airports by any aircraft, which airports are those maintained by the Department of Transport. Here again, the charge is based upon the law of contract. Therefore, subject to one reservation, no objection can be taken to the general intent expressed in paragraph (a) of proposed Section 3A. The charges levied under paragraph (a) will apply to both Canadian and foreign aircraft.

However, our reservation relating to the form of wording used in paragraph (a) arises from the fact that, as presently worded, the paragraph could be interpreted as permitting the imposition of charges for use of facilities by aircraft while outside of the territorial jurisdiction of Canada. It admitted that some method of providing for payment of facilities offered by national governments and enjoyed by aircraft while passing over the high seas will have to be established but this is presently a world-wide problem which more logically comes under the jurisdiction of the International Civil Aviation Organization (ICAO) of which Canada is an important member.

It is submitted that it would not be in the interest of Canada as a member of this international community if Canada were to impose user charges at this time against aircraft while operating beyond Canadian territory in a manner which might be inconsistent with an ICAO solution to this problem.

It is a fact that ICAO has not dealt with this specific issue since the time of the 1958 En Route Charges Conference when certain very broad principles were established. Because of a number of factors, including the economic health of airlines, the continued growth of airline traffic and the increased expenses incurred by national governments relating to the installation of facilities and services for international aviation, the 1965 ICAO Assembly authorized the convening of an ICAO Charges Conference. This proposed conference has been budgeted for in the calendar year 1966, although present indications are that it will not likely be convened until some time early in 1967.

Canada, along with a number of other governments, has been anxious to have this proposed charges conference convened as early as possible since it is hoped that, following its deliberations and decisions, agreement on principles and even details will have been reached. This would then enable Canada and other interested countries to institute a system of user charges covering international flights over the high seas which will be consistent with international principles established by ICAO.

It is understood that this view was expressed by the Canadian representative at the recently held ICAO Council meeting on this subject on January 17, 1966.

Since the ICAO Charges Conference will be held early in 1967 and in order to assist in the formulation of acceptable international principles relating to the imposition of user charges while aircraft are over the high seas, it is submitted that subparagraph (i) of paragraph (a) of proposed Section 3A be qualified so that it will read:

any facility or service provided *in respect of flights within Canada*, by or on behalf of the Minister for or in respect of any aircraft, and—

Proposed Section 3A as it appears in Bill C-153 states that the Governor in Council can, if it so desires, make regulations imposing a user charge upon the

owners of foreign aircraft. Undoubtedly, it will have to be admitted that such a user charge will represent a form of a tax imposed against the owner of the said aircraft. As Section 3A has been drafted, Parliament has delegated the right to impose a specific tax of this kind to the Governor in Council. It is recognized that such delegation is within the powers of Parliament but at the same time, it is submitted that much a method is contrary to good Parliamentary practice. A good example of Parliament's attitude towards this type of tax in recent years can be demonstrated by looking at the case of the export duty on electricity which was imposed until the 1963 Federal budget, when it was finally repealed. For many years, the authority to levy an export duty on electricity was established under the Electricity and Fluid Exportation Act, and later the Exportation of Power and Fluids and Importation of Gas Act. Under both of these statutes, it was enacted that the Governor in Council could make regulations imposing export duties not exceeding \$10 per horse power per annum upon power exported from Canada. At this point, it will be observed that in each of these two power statutes the delegation from Parliament to the Executive of the right to impose a tax was granted but with the notable exception that in these power statutes a maximum tax was established by Parliament. In Section 3A of Bill C-153 there is not even a maximum rate established in the bill itself. Then, as recently as 1959, the government of the day decided as a matter of policy that the discretionary authority heretofore given to the executive government to establish an export duty on power within a statutory maximum should be removed and the entire right restored to Parliament. This was achieved by placing this power tax in the Excise Tax Act (Section 8) where the exact rate of tax was spelt out in full. When dealing with this change in the law, the then Minister of Finance said:

The feature of that existing law (Exportation of Power and Fluids the Importation of Gas Act) which I must say I could not approve, is that it gives power to the Governor in Council subject to a ceiling to establish the rate of the tax... What we are doing is to make that a statutory tax and to remove any power to establish the tax by Order-in-Council... There is no change in the rate of tax.

Hansard House of Commons, May 19, 1959, Pg. 3820)

On the same point Senator Ross Macdonald said in the Senate:

Should we approve of taxation by order in council or should we insist that taxation measures be approved or disapproved by Parliament? That, in my opinion, is the whole issue here.

(Senate Hansard June 17, 1959, Pg. 839)

A user charge as provided for in Section 3A will clearly have a bearing on the revenue of the Federal government and therefore would be a taxation provision. This being so, it is submitted that better Parliamentary practice requires that the imposition of such a tax should be established by Parliament and not by order-in-council of the executive government.

Finally, it is submitted that such a user charge represents a form of tax within the accepted principles of taxation. Recently, in December 1965, the Canadian Tax Foundation published an authoritative study entitled "Occupancy of Tax Fields in Canada". This study is significant since it was prepared at the request of the Tax Structure Committee of the federal and provincial governments for their use. At page 2 of this study, a comprehensive and simple definition is given of what constitutes a tax. It states:

In this study *any form of compulsory payment levied by government was accepted as a tax*, whether it was in the form of a premium, licence

fee or other impost. This broad (and loose) definition of a tax is, of course, open to debate. However, *the element of compulsion* seems to provide as useful a rule of thumb as any as to what is a tax and it permits a more complete listing of revenue.

It is our view that the user charge referred to in Section 3A of Bill C-153 falls clearly within this definition.

GORDON F. MACLAREN, Q.C.
MURRAY E. CORLETT, Q.C.

OTTAWA, Ontario.
April 27th, 1966.

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE
ON
TRANSPORT AND COMMUNICATIONS

The Honourable A. K. HUGESSEN, *Chairman*

No. 5

Complete Proceedings on the Bills

- S-32, "An Act respecting Canadian Pacific Railway Company" (Burstall Subdivision, Sask.)
- S-34, "An Act respecting Canadian Pacific Railway Company" (Red Deer Subdivision, Alberta)

THURSDAY, JUNE 2, 1966

WITNESSES:

- Mr. Gregory J. Gorman, Counsel and Parliamentary Agent.
- Mr. J. M. Roberts, Vice-President, Traffic, C.P.R.
- Mr. J. C. Mills, General Manager, Saskatchewan Minerals, Sodium Sulphate Division.
- Mr. D. L. Bohannon, Vice-President, Canadian Superior Oil Ltd.
- Mr. C. A. Colpitta, Chief Engineer, C.P.R.
- Mr. J. Cherrington, Assistant Regional Engineer, C.P.R.
- Mr. J. R. W. Sykes, Assistant General Manager, Marathon Realty Ltd.
- Mr. W. J. Bagnall, Reeve, County of Mountain View #17, Didsbury, Alberta.

REPORTS OF THE COMMITTEE
APPENDICES A, B and C.

...of a charge or other impost (this broad (and loose) definition of a tax is of course open to debate. However, the element of compulsion seems to be provided as a general rule of thumb as to what is a tax and if Parliament has a more complete history of revenue... it is our view that the gear change referred to in Section 3A of Bill C-155 falls clearly within this definition.

GORDON F. MACLAREN, Q.C.
MURRAY F. CORLIET, Q.C.

OTTAWA, Ontario
April 27th 1966

...the later part of the Exportation of Power and Fluids Act... the Governor in Council... the rate of tax per horse power per annum... At this point, it will be observed that in each of these two powers, the delegation of authority... the right to impose a tax was granted but with the notable exception that in these powers a maximum rate was established by Parliament. In 1954, there is not even a maximum rate established in the Act... the discretionary authority heretofore given to the Governor in Council to establish an export duty on power within the limits of the Act... the entire right restored to Parliament... this power tax in the Excise Tax Act (Section 4) was repealed and the tax was set out in full. When dealing with this change...

The Section of the existing law (Exportation of Power and Fluids) the intention of which I must say I could not approve, is that it gives power to the Governor in Council subject to a ceiling to establish the rate of the tax. What we are doing is to make that a statutory matter and give power to establish the tax by Order-in-Council... The rate of tax.

Honourable Member of Commons, May 10, 1959, Pg. 3820)

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A new charge as provided for in Section 3A will clearly have a bearing on the revenue of the Federal government and therefore would be a taxation measure. This being so, it is submitted that better Parliamentary practice requires that the imposition of such a tax should be established by Parliament by order-in-council of the executive government.

It is submitted that such a new charge represents a form of tax... In a study published in December 1965, the Department of Finance published an excellent study entitled "Occupancy Tax in Canada". This study is significant in that it was prepared at the request of the Tax Structure Committee of the federal and provincial governments for their use. At page 2 of this study, a comprehensive and simple definition is given of what constitutes a tax. It states:

This study is a form of compulsion imposed by government... except as a tax, whether it was in the form of a premium, licence...



First Session—Twenty-seventh Parliament

1966

THE SENATE OF CANADA
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OF THE
STANDING COMMITTEE
ON
TRANSPORT AND COMMUNICATIONS

The Honourable A. K. HUGESSEN, *Chairman*

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Mr. J. R. W. Sykes, Assistant General Manager. Marathon Realty Ltd.
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REPORTS OF THE COMMITTEE
APPENDICES A, B and C.

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



First Session—Twenty-seventh Parliament
1965

THE SENATE OF CANADA
PROCEEDINGS
THE STANDING COMMITTEE
ON

TRANSPORT AND COMMUNICATIONS

The Honourable Adrian K. Hugessen, *Chairman*

The Honourable Senators

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| Aird, | Lefrançois, |
| Aseltine, | Macdonald (<i>Brantford</i>), |
| Baird, | McCutcheon, |
| Beaubien (<i>Provencher</i>), | McDonald, |
| Bourget, | McElman, |
| Burchill, | McGrand, |
| Connolly (<i>Halifax North</i>), | McKeen, |
| Croll, | McLean, |
| Davey, | Méthot, |
| Dessureault, | Molson, |
| Dupuis, | Paterson, |
| Farris, | Pearson, |
| Fourrier (<i>Madawaska-Restigouche</i>), | Phillips, |
| Gélinas, | Power, |
| Gershaw, | Quart, |
| Gouin, | Rattenbury, |
| Haig, | Reid, |
| Hayden, | Roebuck, |
| Hays, | Smith (<i>Queens-Shelburne</i>), |
| Hollett, | Thorvaldson, |
| Hugessen, | Vien, |
| Isnor, | Welch, |
| Kinley, | Willis—(47). |
| Lang, | |

Ex officio members: Brooks and Connolly (*Ottawa West*).
(Quorum 9)

REPORTS OF THE COMMITTEE
APPENDICES A, B and C.

ORDER OF REFERENCE

Extracts from the Minutes of the Proceedings of the Senate, Wednesday, May 11, 1966:

"Pursuant to the Order of the Day, the Honourable Senator McDonald moved, seconded by the Honourable Senator Davey, that the Bill S-32, intituled: "An Act respecting Canadian Pacific Railway Company", be read the second time.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator McDonald moved, seconded by the Honourable Senator Davey, that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative."

"Pursuant to the Order of the Day, the Honourable Senator Prowse moved, seconded by the Honourable Senator McDonald, that the Bill S-34, intituled: "An Act respecting Canadian Pacific Railway Company", be read the second time.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Prowse moved, seconded by the Honourable Senator McDonald, that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative."

J. F. MacNEILL,
Clerk of the Senate.

REPORT OF THE COMMITTEE

THURSDAY, June 2, 1966.

The Standing Committee on Transport and Communications to which was referred the Bill S-32, intituled: "An Act respecting Canadian Pacific Railway Company", has in obedience to the order of reference of May 11, 1966, examined the said Bill and now reports the same without any amendment.

All which is respectfully submitted.

A. K. HUGESSEN,
Chairman.

REPORT OF THE COMMITTEE

THURSDAY June 2, 1966.

The Standing Committee on Transport and Communications to which was referred the Bill S-32, intituled: "An Act respecting Canadian Pacific Railway Company", reports as follows:

Your Committee recommends that authority be granted for the printing of 800 copies in English and 300 copies in French of its proceedings on the said Bill.

All which is respectfully submitted.

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Chairman.

MINUTES OF PROCEEDINGS

THURSDAY, June 2, 1966.

Pursuant to adjournment notice the Standing Committee on Transport and Communications met this day at 10.00 a.m.

Present: The Honourable Senators Hugessen (*Chairman*), Aird, Aseltine, Baird, Beaubien (*Provencher*), Bourget, Brooks, Connolly (*Halifax North*), Connolly (*Ottawa West*), Croll, Fournier (*Mad.-Rest.*), Gélinas, Gershaw, Haig, Hays, Hollett, Isnor, Kinley, Lefrançois, McCutcheon, McDonald, Methot, Pearson, Power, Quart, Rattenbury, Smith (*Queens-Shelburne*), Willis.—(27)

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

Bill S-32, "An Act respecting Canadian Pacific Railway Company", was read and considered.

On motion of the Hon. Senator Aseltine, it was resolved to report recommending that authority be granted for the printing of 800 copies in English and 300 copies in French of the proceedings on the said Bill.

The following were heard:

Mr. Gregory J. Gorman, counsel.

Mr. J. M. Roberts, Vice-President, Traffic, CPR.

Mr. J. C. Mills, General Manager, Saskatchewan Minerals, Sodium Sulphate Division.

A plan of the approximate location of Ingebright Lake Branch, submitted by Mr. Gorman, was ordered to be printed as Appendix A to these proceedings.

On motion of the Hon. Senator McCutcheon it was resolved to report the Bill without any amendment.

Bill S-34, "An Act respecting Canadian Pacific Railway Company", was read and considered clause by clause.

On motion of the Hon. Senator Aseltine, it was resolved to report recommending that authority be granted for the printing of 800 copies in English and 300 copies in French of the proceedings on the said Bill.

The following were heard:

Mr. Gregory J. Gorman, counsel.

Mr. J. M. Roberts, Vice-President, Traffic, CPR.

Mr. D. L. Bohannen, Vice-President, Canadian Superior Oil, Ltd.

Mr. C. A. Colpitts, Chief Engineer, CPR.

Mr. J. Cherrington, Assistant Regional Engineer, CPR.

Mr. J. R. W. Sykes, Assistant General Manager, Marathon Realty Ltd.

Mr. W. J. Bagnall, Reeve, County of Mountain View No. 17, Didsbury, Alberta.

A plan of the approximate location of Didsbury Westerly Branch, submitted by Mr. Gorman, was ordered to be printed as Appendix B to these proceedings.

Two letters referred to in the brief submitted by Mr. Bagnall were ordered to be printed as Appendix C to these proceedings.

Eighty letters, submitted by Mr. Bagnall, were ordered to be tabled.

On motion of the Hon. Senator Croll, it was resolved to report the Bill without any amendment.

At 11.40 a.m. the Committee adjourned to the call of the Chairman.

Attest.

John A. Hinds, Assistant
Chief Clerk of Committees.

THE SENATE
THE STANDING COMMITTEE ON TRANSPORT AND
COMMUNICATIONS

EVIDENCE

OTTAWA, Thursday, June 2, 1966.

The Standing Committee on Transport and Communications, to which was referred Bill S-32, respecting Canadian Pacific Railway Company, and Bill S-34, respecting Canadian Pacific Railway Company, met this day at 10.15 a.m. to give consideration to the bills.

Senator A. K. Hugessen in the Chair.

The CHAIRMAN: Honourable senators, as both of the bills before us are for the construction of new lines I suggest there should be a *Hansard* report of our proceedings.

Hon. SENATORS: Agreed.

The CHAIRMAN: May I have the usual motion with respect to printing.

The committee agreed that a verbatim report be made of the committee's proceedings on the bills.

The committee agreed to report recommending authority be granted for the printing of 800 copies in English and 300 copies in French of the committee's proceedings on the bills.

The CHAIRMAN: Bill S-32 is an act respecting Canadian Pacific Railway Company, and its proponents are present. They are Mr. Gregory J. Gorman who is the parliamentary agent, and the witnesses who are with him are Mr. J. M. Roberts, Vice-President, Traffic, Canadian Pacific Railway Company; Mr. J. C. Mills, Saskatchewan Minerals, Sodium Sulphate Division; Mr. C. A. Colpitts, Chief Engineer, Canadian Pacific Railway Company; Mr. J. R. W. Sykes, Assistant General Manager, Marathon Realty Limited; Mr. J. E. Paradis, who has appeared before us before and who is the Senior Solicitor, Canadian Pacific Railway Company; and Mr. R. J. Madge, Solicitor, Canadian Pacific Railway Company.

This bill stands in the name of Senator A. Hamilton McDonald. Have you anything you wish to add before we proceed, Senator McDonald?

Senator McDONALD: No, Mr. Chairman. As you have indicated, the officials are present, and if the committee has any questions then I think they should be asked of the officials rather than myself. I have nothing to add.

The CHAIRMAN: Which of the proponents wishes to speak to the bill? I have a report from our legal counsel that the bill is in proper legal form and that he has no suggestions.

Gregory J. Gorman, Parliamentary Agent and Counsel: Mr. Chairman and honourable senators, the purpose of this bill is to authorize the construction of an 11 mile branch line of the Canadian Pacific to serve the plant of Saskatchewan Minerals Corporation. The branch line will be located on the Canadian Pacific's Burstall subdivision in the Province of Saskatchewan.

Your Chairman has given you the list of appearances, and I think it would be most useful if, first of all, Mr. J. M. Roberts, Vice-President of Traffic of

Canadian Pacific Railway Company, were to explain the general purposes of the line of railway.

J. M. Roberts, Vice-President, Traffic, Canadian Pacific Railway Company: Mr. Chairman and honourable senators, I am Vice-President of Traffic of the Canadian Pacific Railway Company, and I am in my 44th year with the traffic department.

The Canadian Pacific Railway has been associated with Saskatchewan Minerals, Sodium Sulphate Division, since they commenced operations in Chaplin in 1948, and we have also taken care of the transportation requirements from Bishopric, which has operated since October 1958.

The Canadian production of sodium sulphate is marketed to the extent of about two-thirds in Canada and one-third in the United States. Saskatchewan Minerals Corporation supplies approximately 40 per cent of the Canadian market.

In anticipation of the growing demand brought on by the expansion of the wood pulp industry, Saskatchewan Minerals asked that we consider construction of a branch line to provide the necessary rail service, and we have undertaken to do so, to their new plant, which is at Lake Ingebright.

This is the reason, honourable senators, that we are before you in connection with this bill covering the construction of the line which we have undertaken to construct, providing of course the necessary authority is received from Parliament.

That is all I have to say, Mr. Chairman, except that to the best of my ability I shall be pleased to answer any questions anyone may wish to ask in connection with traffic matters.

The CHAIRMAN: Mr. Roberts, as an easterner, may I ask where is Saskatchewan Fox Valley situated?

Mr. ROBERTS: It is almost at the Saskatchewan-Alberta border. It is on a private line that starts in Saskatchewan, runs through Alberta and ends at a place in Saskatchewan called Fox Valley.

The CHAIRMAN: I hope honourable senators have had an opportunity to see the map which is before them. One reason I asked the question was that I was anxious to know whether it is entirely CPR territory, or whether the CNR runs through there, or whether there is any objection by the C.N.R.

Mr. ROBERTS: Well, it is in what one might call the "football" area on the map. It is formed by our railway line which breaks off at Java and runs through to Bassano, and in the south, Java again through Medicine Hat, also to Bassano. It is right in the centre, sir.

Senator BURCHILL: I believe you mentioned the wood pulp and paper industry, Mr. Roberts?

Mr. ROBERTS: Yes, senator.

Senator BURCHILL: To which particular mill do they propose to ship?

Mr. ROBERTS: There is the extension in British Columbia and Prince George.

Senator BURCHILL: I am thinking of the middle west.

Mr. ROBERTS: Most of our production, and increased production we are glad to say, is in Canada.

Senator BURCHILL: Will it be shipped to the coast?

Mr. ROBERTS: To the coast and to Eastern Canada, which they do now.

Mr. GORMAN: Mr. J. C. Mills, General Manager of Saskatchewan Minerals, Sodium Sulphate Division, is here and could provide details of the exact nature of the product it markets, and other details of that nature.

The CHAIRMAN: Unless there are further questions of Mr. Roberts, shall I call on Mr. Mills? Thank you, Mr. Roberts.

Mr. John C. Mills, General Manager, Saskatchewan Minerals Corporation, Sodium Sulphate Division: Mr. Chairman and honourable senators, Saskatchewan Minerals is a Crown Corporation operating sodium sulphate plants at Bishopric and Chaplin, Saskatchewan. Sodium sulphate produced in Saskatchewan is sold primarily to the Kraft pulp industry in Canada and the United States, and in smaller quantities to the glass and mineral feed industries. Sodium sulphate is a relatively cheap commodity selling for slightly over $\frac{3}{4}$ cents per pound.

Saskatchewan producers do not yet produce a product of sufficient purity that can find use in the synthetic detergent industry, but Saskatchewan Minerals plans to have such a product available sometime later this year.

During 1964-65 Saskatchewan Minerals produced between 45 per cent and 50 per cent of all sodium sulphate produced in Canada. Our company exports between 35 per cent and 50 per cent of our production to the United States and in 1965 we exported 65 per cent of the total imports of sodium sulphate.

With the tremendous expansion in the Kraft pulp industry the demand for sodium sulphate in Canada is expected to increase by 200,000 tons over the next five years and our new installation near Fox Valley is being built to assure that adequate supplies are available to meet this demand.

The demand for sodium sulphate will also increase in the United States, and it is our intention to continue to improve our sales to that country. We are also endeavouring to develop offshore markets in New Zealand, Australia and Japan.

Since late 1963 we have been overselling our annual harvest of raw material from our lakes at Bishopric and Chaplin, and reserves stockpiled in previous years have been used. Without the new installation we would be forced to cut back on sales within the next 12 months.

The plant to be built at Ingerbright Lake near Fox Valley will cost approximately \$1.7 million and will have a productive capacity of 150,000 tons per year. The deposit contains in excess of nine million tons of sodium sulphate. Initially we must employ 24 to 30 people and the community will benefit from an annual payroll of approximately \$180,000. In addition to this contractors will be used in the winter months to harvest and stockpile our raw materials.

This operation will cover a period of two months each winter and utilize the services of 15 to 20 men. As production increases it will be necessary to employ additional people.

The municipality will of course benefit from this project by way of grants in lieu of taxes from our company and the village of Fox Valley will benefit by way of taxes on employees' housing. The village will also benefit later on as the Valley and the residents of the village will have natural gas available for their use.

I would like to say that we have had excellent co-operation from the people in the district and also from both the village and municipal councils in planning and proceeding with our project.

Due to our geographical location the nature of our product and the fact that our markets are from 1,000 to 2,500 miles distant the most economical way of transportation is by railroad and hence our request to the C.P.R. for a rail line to link up with the existing line at Fox Valley.

We plan to have storage capacity of 11,500 tons for finished product and cars will be loaded daily and scheduled according to customers' requirements.

Without this line we would be forced to truck our material to Fox Valley and the added cost could endanger our competition position in future markets.

We are satisfied with the arrangements made between our company and the CPR, and are fully in support of this application to Parliament for construction of the proposed branch line.

Senator CROLL: What does this mean? Can you relate it to dollars, both production and export?

Mr. MILLS: Our annual statement is public knowledge, senator. Our sales last year amounted to over \$2.5 million.

Senator CROLL: And exports?

Mr. MILLS: Exports last year amounted to over \$1,100,000. This is our business. There are additional sales made to the United States by other companies.

Senator CROLL: What do you mean by other companies; do you mean companies related to you?

Mr. MILLS: No.

The CHAIRMAN: Are there any questions? Perhaps I should at this point advise the committee of a letter I received from the counsel to the Department of Transport, Mr. Fortier, whom you know. This refers both to this Bill S-32 and to the bill we have to consider next, S-34. It is addressed to Mr. Batt, Chief Clerk of Committees, and reads:

I refer to private Bills S-32 and S-34, being acts respecting Canadian Pacific Railway Company, for the purpose of authorizing this company to construct an 11-mile branch line in the vicinity of Fox Valley in the Province of Saskatchewan and a 16-mile branch line in the vicinity of Didsbury, Alberta.

The provisions of these bills have been reviewed by the Minister of Transport, who has advised that there are no objections to the bills.

It would be appreciated if you would so inform the Senate Committee on Transport and Communications when Bills S-32 S-34 for being reviewed by the committee.

Yours truly,

Jacques Fortier.

Honourable senators, do you wish any further evidence with respect to Bill S-32?

Senator McCUTCHEON: I propose that the bill be reported.

Senator CROLL: I second.

The CHAIRMAN: It has been moved and seconded that this bill be reported. I suggest to you that I put the clauses in the normal way. Clause 1, line of railway authorized. Shall clause 1 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: It is carried. Clause 2, time for completion. Shall clause 2 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: It is carried. Shall the preamble carry?

Hon. SENATORS: Carried.

The CHAIRMAN: It is carried. Shall the title carry?

Hon. SENATORS: Carried.

The CHAIRMAN: It is agreed. Shall I report the bill without amendment?

Hon. SENATORS: Agreed.

The CHAIRMAN: Honourable senators, we have before us now Bill S-34, with respect to a line in Alberta. I have received in respect of this bill also a

favourable report of our Law Clerk, Mr. Hopkins, that in his opinion the bill is in proper legal form and that he has no suggestion to offer for its amendment.

There are some representations to be made by representatives of the area itself, in respect of this bill. I suggest that we hear the sponsors first and then call upon the representative of the district, Mr. W. J. Bagnall, Reeve of the County of Mountain View, Alberta.

Mr. GORMAN: Mr. Chairman, I think that for this bill also, Mr. Roberts would be the appropriate person to lead off.

The CHAIRMAN: Very good. Honourable senators, I have two letters from local residents about this line. Shall I read them to you now, or shall I wait until the proponents have finished?

Senator McDONALD (*Moosomin*): Would it not be proper for the railroad to make their presentation first and that we then hear the opposition?

The CHAIRMAN: That is what I thought, that we should hear the proponents first and then the opposition, and at that time I would read the two letters which have been addressed to us.

Mr. ROBERTS: Mr. Chairman and honourable senators, Canadian Pacific Railway was asked by Canadian Superior Oil Company in 1965 to construct a line of railway into their projected sulphur plant at Harmattan, Alberta, in order to provide rail transportation necessary to move the sulphur to market. The capacity of the projected plant was such that it was estimated production would amount to approximately 280,000 long tons annually.

The demand for sulphur in the world market has increased tremendously in the last three years, and it continues to grow. At the present time, markets for sulphur produced in Alberta, are offshore in countries such as Australia, Japan, India and European markets, or in the United States and Canada, in that order of importance, tonnage-wise.

An example of the growth is in the export through British Columbia coast ports by Canadian Pacific Railway, which in 1962 was less than 100,000 tons, and in 1965 in excess of 500,000 tons.

We therefore informed Canadian Superior Oil Company that we were prepared to build the necessary trackage and provide the rail service essential for the marketing of their sulphur—if, of course, we are authorized by Parliament to do so.

If there are any questions involving traffic matters, I will endeavour to answer them to the best of my ability.

The CHAIRMAN: Mr. Roberts, I have two letters addressed to the committee by local residents. Apparently, their concern is that if you build this line you will abandon another branch line extending from Crossfield to Cremona, some distance farther south. Have you anything to say about that?

Mr. ROBERTS: Mr. Chairman, I would say that such matters involving abandonments do come through my department, as they are processed by Research Department, which is responsible for analysing traffic movements. Nothing has reached me so far. Before we left Montreal on Tuesday, I asked them if they were studying this Crossfield branch line and they said they were not.

The CHAIRMAN: Are there any further questions to Mr. Roberts?

Mr. GORMAN: I would suggest, Mr. Chairman, that we should now hear from Mr. Bohannen, who is vice president of Canadian Superior Oil.

Mr. D. L. Bohannen, Vice President, Canadian Superior Oil, Ltd: Mr. Chairman, Canadian Superior Oil, Ltd is building in the Harmattan area of Alberta a 42-million cubic feet per day raw gas processing plant. The designed capacity will yield some 817 long tons per day of sulphur and 15.5 million cubic

feet per day of residue pipe line gas, or on an annual basis, some 283,000 long tons of sulphur and 5.4 billion cubic feet of pipe line residue gas.

In the Harmattan areas it is estimated that there is a recoverable, proven reserve of some 8.5 million long tons of sulphur and 165 billion cubic feet of residue gas. This represents a proven 30-year supply of reserves at the present plant capacity. Drilling exploration is continuing in the immediate area and, in fact, may prove an even greater reserve.

The residue gas is contracted for sale on a long-term contract for export to the U.S.A. Canadian Superior is currently actively engaged in arranging markets for its own share of the sulphur production. With the demand for sulphur exceeding the supply, it is anticipated that 100 per cent of the sulphur will be marketed as soon as adequate transportation is arranged. Present market indications are that a major portion of the sulphur will be sold in the offshore market, that is the Far East, while the remainder will probably go into the central U.S.A. Current indications are that the plant gate price will exceed \$25 per long ton. Assuming that some 200,000 long tons per year are exported, the value would represent some \$5 million in foreign exchange.

The plant is unique in that it is one of the first being built for the purpose of extracting sulphur from natural gas as a primary product and pipe line residue gas as a secondary product.

The plant will cost some \$7.5 million plus three-quarters of a million dollars for the gas-gathering system, and \$2.5 million for the gas wells themselves. This makes a minimum expenditure of some \$10½ million. When the plant goes into operation next month, some 31 people from the Didsbury area will be employed.

The plant construction is proceeding on time and is scheduled for start-up on July 1 of this year, with actual production of sulphur and residue gas by mid-July.

Canadian Superior Oil has arranged for the orderly exploitation of the raw gas by investing in the drilling of wells, construction of the plant and the necessary raw gas pipe lines, and now it is absolutely essential that a railroad be immediately completed to the plant in order that we may complete the chain from the source of supply to the ultimate market and consumer.

Thank you. I am available for questions.

SENATOR BURCHILL: Where will the chief market be?

Mr. BOHANNEN: I think it will be offshore, in the Far East.

Senator PEARSON: What are the main demands for this sulphur?

Mr. BOHANNEN: Mainly for the manufacture of fertilizers.

Senator SMITH (*Queens-Shelburne*): Will you be supplying material to the fertilizer plant in Calgary?

Mr. BOHANNEN: In that regard I can only say what I have read in the papers, but I believe a contract has already been arranged through another plant.

Senator BURCHILL: Will you supply the pulp industry in Canada?

Mr. BOHANNEN: Not from this plant, but from interests in other plants that we have.

The CHAIRMAN: Has the committee heard sufficient evidence in support of the bill? Shall we proceed to objections?

Mr. GORMAN: Since it appears from the brief handed to us by one of the opponents that there are certain questions with regard to the route chosen, I think it would be useful and helpful to the senators if they were to hear from one of the officers of the engineering branch of the railroad who can explain why that particular route was chosen, and also from the witness who has dealt with the actual acquisition of the lands for the right-of-way. I might say a

considerable part of the lands has already been acquired—at least options have been acquired. I think it would be useful to have this information at this stage. Mr. Colpitts, who is chief engineer of the railroad, is here with Mr. Cherrington. He is the engineer who did the actual work on the spot and can provide details of the route. Mr. Colpitts is here and he will be supported by Mr. Cherrington.

Mr. C. A. Colpitts, Chief Engineer, Canadian Pacific Railway Company: My name is C. A. Colpitts, chief engineer of Canadian Pacific. I have been with the company approximately 40 years and most of that time I have been employed in an engineering capacity.

The plant of Canadian Superior Oil, Ltd. is located in the northeast quarter of section 27, Township 31, range 4, west of the fifth meridian as shown on the plan before you. To serve the plant by railway, Canadian Pacific Railway proposes to construct a line which will connect with its railway system at Didsbury, Alberta, a point 46.9 miles north of Calgary, Alberta, on the company's Calgary-Edmonton line.

The proposed line will extend in a generally westerly direction from Didsbury for a distance of 15.3 miles.

In determining the best possible route for a line, a reconnaissance is made by experienced railway engineers and the route shown on the plan before you has been selected as the most feasible for the purpose of economical railway construction and operation and to serve in the most efficient manner possible the interests of the industry. A detailed survey to establish the exact location of the line has been made.

We have with us today Mr. James Cherrington, assistant regional engineer for the Pacific region, who has been closely connected with the location of the railway line. He is prepared to answer any questions you may wish to ask him.

I may add, honourable senators, with regard to the question of the closest railway, that the nearest is the Canadian National approximately 45 miles north of this plant.

Senator CROLL: You said the objective was to serve the interests of the industry?

Mr. COLPITTS: Yes.

Senator CROLL: What about these people who are complaining? Is it also in their interests, or is it only in the interests of the industry?

Mr. COLPITTS: No, sir, I believe when Mr. Cherrington presents his testimony you will see this question has been given thorough examination. He has made every effort to take into account all the interests involved.

Senator THORVALDSON: What is this Crossfield subdivision?

Mr. COLPITTS: It is shown on the plan.

Senator THORVALDSON: Yes, I know, but why don't you come from Sundre and down to Cremona?

Mr. COLPITTS: Mr. Cherrington will explain this in detail.

Senator SMITH (*Queens-Shelburne*): Did the witness not say that the nearest was 40 miles away? What about Cremona?

Mr. COLPITTS: I said the Canadian National was the nearest.

Senator PEARSON: What other use would be made of that line besides this?

Mr. COLPITTS: At this time, none, sir.

The CHAIRMAN: Are there any further inquiries of the witness? Perhaps these gentlemen will wait and hear what the opponents have to say, and then perhaps we can examine them further later.

Mr. GORMAN: Mr. Chairman, I think we might give more details at this stage with regard to why this particular choice was made. This would provide an answer to Senator Croll's question.

Mr. James Cherrington, Assistant Regional Engineer, Pacific Region, Vancouver, Canadian Pacific Railway Company: Mr. Chairman, honourable senators, I am a professional engineer employed by the Canadian Pacific Railway for the last 25 years, and am presently Assistant Regional Engineer, Pacific Region, Vancouver.

When the plant for the production of sulphur was first proposed various routes were examined from existing topographical maps, and a reconnaissance was made on the ground by engineers experienced in location surveys.

Three routes were projected. Two routes originated from the end of the Crossfield subdivision near Cremona.

The CHAIRMAN: I think all honourable senators have copies of this map and can follow what the witness is saying.

Hon. SENATORS: Yes.

Mr. CHERRINGTON: The third route originated at Didsbury. The route west from Didsbury was chosen as the most logical from all engineering factors considered, with favourable grades and curvature for railway construction and line use. The route chosen not only served the industry but in addition would give improved switching service at both the proposed plant and the existing liquefied petroleum gas loading facilities now located at Didsbury.

The railway company has revised the original location to follow quarter section lines where physically possible, and over two-thirds of the line now follows the quarter section lines to prevent undersirable severing of the land.

If the railway were to be built from the end of the Crossfield subdivision on either of the two alternatives considered, it would be necessary to upgrade this subdivision since it could not handle, in its present condition, the movement of the heavy sulphur cars due to the light rail—70 to 72-pound—and due to the ballast which was placed there in 1930 and also due to the drainage conditions. The added cost of this improvement or upgrading is estimated at about \$750,000. The proposed route west of Didsbury is in rolling prairie country rising to the west.

If there are any questions I would be pleased to answer them, Mr. Chairman.

Senator PEARSON: What height of land is it?

Mr. CHERRINGTON: Approximately 3,700 feet.

Senator PEARSON: A rise of 700 feet from Didsbury?

Mr. CHERRINGTON: No. I have not the height, but I think the plant is around a height of 3,700 feet.

Senator HAIG: How many acres are involved? Is it a 100-foot right-of-way?

Mr. CHERRINGTON: A 100-foot right-of-way practically right through.

Senator HAIG: How many acres are involved?

Mr. CHERRINGTON: Roughly 200 acres.

Senator BURCHILL: What is the difference in the mileage between the two routes?

Mr. CHERRINGTON: North from Cremona one alternative route ran around 14 miles. Taking off east of Cremona, about a mile east, it was between 15 and 16 miles. West of Didsbury it is 15.3 miles. So they are all comparable in mileage, with the exception you still have 28 miles of the Crossfield subdivision.

Senator BURCHILL: In addition to the amount of \$750,000 for the upgrading, how do the costs compare on the various routes?

Mr. CHERRINGTON: We have done detailed surveys on the line west of Didsbury; it is approximately \$1,134,000. On one of the alternative routes it is roughly \$1,100,000; and on the other one, roughly \$1,200,000. So for consideration, all based on estimates, they are practically the same, but the one addition is the \$750,000 upgrading on the Cremona subdivision.

Senator BURCHILL: What about the switching?

Mr. CHERRINGTON: With regard to the switching from Didsbury we will be able to put in a yard switcher. That will be built to service the proposed plant, to serve the gas-loading facilities north of Didsbury and to service other industries within 30 miles of Didsbury.

From the Crossfield subdivision, due to labour agreements, the subdivision would be over 30 miles long with the proposed alternate route. Therefore, you cannot put in a road switcher and it would be necessary to run a train out of Calgary to switch this plant at Harmattan, which would make a return trip of roughly 140 miles. It is doubtful the crews could do it in one day and do the necessary switching. Also you would not be able to give the service to the plant that you could give with a road switcher just 15 miles away from the plant.

The CHAIRMAN: There is one question I would like to ask you, Mr. Cherrington. I do not know if you can reply to it. These letters that we have received seem to indicate apprehension by local residents that if we grant you this right to build the line from Didsbury you will immediately attempt to close the Cremona line.

Mr. CHERRINGTON: To my knowledge, Mr. Chairman, the Canadian Pacific has not yet made any study on the abandonment of the Crossfield subdivision.

Senator CROLL: There is a suggestion in one of these letters that you are using very productive land, as against other land that might be available that is less productive.

Mr. CHERRINGTON: I think if I could refer that question to Mr. Sykes, who is the real estate man and has gone into the land.

The CHAIRMAN: Do you wish to hear Mr. Sykes on that?

Senator CROLL: Surely.

Mr. CHERRINGTON: I have been over the alternative routes and I could, maybe, back up Mr. Sykes on the condition of some of the land because I have been all through that country.

Senator ASELTINE: I think we should hear the people who are objecting to this.

The CHAIRMAN: There is this one witness, Mr. Sykes.

Senator ASELTINE: We are hearing the rebuttal before we get to the complaint.

The CHAIRMAN: That is true.

Mr. GORMAN: I think it might be useful to have a very general outline of the work Mr. Sykes has done in dealing with the land with regard to the proposed route.

The CHAIRMAN: Does the committee wish to hear Mr. Sykes?

Hon. SENATORS: Agreed.

Mr. J. R. W. Sykes, Assistant General Manager, Marathon Realty Ltd.: Mr. Chairman, honourable senators, I am Assistant General Manager of Marathon Realty Limited, whose head office is in Calgary. Our business is commercial, industrial and agricultural real estate development and investment. I have been responsible for the company's operations in western Canada for the past three years—that is, from the date of its inception. Prior to that I was supervisor of economic projects in Canadian Pacific's Department of Research in Montreal.

Senator CAMERON: Have you any actual experience in farming? Have you a degree in agriculture?

Mr. SYKES: No, sir, I have not a degree in agriculture, but I have been administering these farm lands—some 900,000 acres, and some 4,500 farms—for the past three years with a staff of qualified men, many of whom have a great deal of experience. Some of our field men have degrees in agriculture.

I have had to deal with the acquisition of the right-of-way for the Didsbury-Harmattan line. After consultation with the engineers in the field, and through negotiations with the farmers which went on over a period of many months, we settled on a compromise line that went some way towards satisfying the engineering requirements and, at the same time went as far as possible in minimizing necessary damage to farms.

At that point we started negotiating for options and dealing with the question of compensation. Compensation takes into account the fair market value of the land itself, the degree of damage created by severance or cutting of the farm by the line—there is a measure of inconvenience there—and any special damage such as damage to water supplies or trees, if there are any, and any other factors of particular interest to the land owner.

The status today is that out of 30 land owners involved 20 have come to an agreement with us. Of the remaining ten it appears that one does not like railways and will not have a railway at any price; one has been trying to sell his farm and insists that anyone who takes any land takes the whole farm; and eight want more money but have indicated no objection to the line crossing the land if their terms are met. Of those eight one has stated a price that is double the maximum paid any other land owner, and two others have said: "We will go along with our friend".

The town of Didsbury has written to me and also some honourable senators, I understand, stating that the council has resolved that it is 100 per cent in favour of this location. The Chamber of Commerce of Didsbury, which to some extent represents the interests of the general area and not just the town, has also gone on record as being 100 per cent in favour of this project.

In conclusion, honourable senators, I believe that from last August when we started to talk to farmers up to the present date we have done everything possible to minimize damage and to meet the objections of the farmers, and still provide for a feasible rail location. I am satisfied in my own mind that if this bill is passed we will not have to proceed to arbitration in respect of the majority of the ten owners who have not yet agreed on terms. My opinion is that the settlements that have been made are sufficiently generous having regard to recent arbitration awards that very few farmers would care to take their chance on arbitration.

Senator ASELTINE: How much are you paying per acre?

Mr. SYKES: Depending upon the degree of damage, between \$500 and \$1,000 per acre. The fair market value of the land—

Senator ASELTINE: How does that compare with assessed values?

Mr. SYKES: The assessed value is normally very much less than the fair market value.

Senator ASELTINE: I understand that. In our district it is a quarter of the fair market value.

Mr. SYKES: The assessed value in any case that I know of is \$25 or less per acre.

Senator HAIG: When you run across a section line are there crossings available to the farmer?

Mr. SYKES: You have only the section lines marked on your plan and not the quarter section lines. Where the line crosses a farm it may cross a

completely undistinguished portion of it so as far as the farmer is concerned. If the line goes through the centre of a square mile block, and if crossings are needed, then the railway has agreed to construct crossings where they are asked for. It has also agreed on some fencing if that is required. That is another of the aspects of compensation.

Senator ASELTINE: One of the objections to going east and west instead of north and south is that you would have a railway crossing every mile, whereas in the other direction there would be a crossing every two miles.

Mr. SYKES: I suppose that that is a valid objection in theory, sir. In practice, however, since many of these roads are not constructed it appears from a comparison of the actual crossings on the one route versus the other that that presents very little difference. I think I should refer that question to Mr. Cherrington who has actually examined each of the rail crossings.

Senator BROOKS: What is the average acreage that you are taking from individual farmers?

Mr. SYKES: It varies from one acre to 20 acres. The average might be seven acres. That is the area into which most of them fall.

Senator HAYS: How often will this railway line be used for the movement of sulphur?

Mr. SYKES: I should like to refer that question to Mr. Cherrington, if you do not mind, sir.

Senator FOURNIER (*Madawaska-Restigouche*): Will there be any highway crossings along the route?

Mr. SYKES: I believe so, but I would refer that question to Mr. Cherrington also. That is more of an operating problem.

Senator SMITH (*Queens-Shelburne*): I have one question to ask. You have said that you have agreements with 20 out of 30 land owners. Would you give me some idea as to the percentage of cost that you have allocated to the area of land damage in the adverse effect of breaking up any particular farm?

Mr. SYKES: There is no percentage, sir, that you could identify as such. Each case has been negotiated on its own merits. Each owner, of course, after we questioned him has consulted all of his neighbours to find out their position. I can read to you very quickly the per acre settlement for the 20 farmers. That might give you some idea.

Senator SMITH (*Queens-Shelburne*): No, that would not mean anything to me. Perhaps you could take a stab at it and say from the best of your knowledge what percentage of the cost of the land that you have already acquired would be in the area of land damage compensation.

Mr. SYKES: I can make an informed guess, if that is your wish, sir. I would say it is something like 70 per cent—perhaps a little better. It is a matter of curiosity to me that the land that has been damaged more seriously is that with which we have had the least difficulty. On some farms, because of sloughs and so on, it is impossible to avoid a severance, and yet these farms are owned in most cases by farmers with whom we have come to an agreement. Of the ten farmers who have not yet agreed eight have suffered virtually no severance at all, and two of them have relatively severe severance.

Senator PEARSON: What is the going or market price of land in the area now?

Mr. SYKES: As I think I mentioned, we are corporate farmers, and last summer we looked for a farm. We had some money to spend and we wanted to buy the finest farm we could find. We bought the old Olson place at Didsbury, and paid \$130 an acre for a total of \$80,000. Six weeks later we found that the railway wanted to go through it.

Senator HAIG: Did Marathon and the CPR come to a settlement that summer?

Mr. SYKES: As first they wanted to resist settlement, but the price we paid of \$130 per acre was considered to be a good price for a farm. They are asking prices up to \$150, but I know of none who have paid that price.

Senator BAIRD: What are the sizes of the farms?

Mr. SYKES: A section of 640 acres; half sections, in some cases.

Senator CAMERON: Is Marathon a wholly-owned subsidiary of CPR?

Mr. SYKES: Yes. Our head office is in Calgary, and we are expected to stand on our own feet.

The CHAIRMAN: Senator Gershaw asked if he could revert for a moment to Bill S-32. You wished to ask one question, did you not Senator Gershaw?

Senator GERSHAW: The people of Fox Valley and in the neighbouring towns produce a lot of cereals, and livestock and they ship their goods south and west, mostly to Medicine Hat, which is their natural market. They are apprehensive that if this road is built their business will all be diverted elsewhere, and they want some assurance that their business will not be injured by this particular branch line.

Mr. GORMAN: Perhaps Mr. Roberts is best qualified to deal with the question.

Mr. ROBERTS: It will still provide services as in the past, if that is what is concerning you, senator.

Senator McDONALD: But the proposed branch line extension, as I understand it, will only carry sodium sulphate.

Mr. ROBERTS: That is the express purpose of the construction.

Senator GERSHAW: That is the answer to the question I want. Thank you.

The CHAIRMAN: Any further questions?

Mr. GORMAN: Just to complete this part of the railway's presentation, there are two letters which have been received in support of the application, if I may read them. I am prepared to file the originals, if I have the approval of the committee.

Some Hon. SENATORS: Agreed.

Mr. GORMAN: The first letter is from the Town of Didsbury dated May 25, 1966. It is addressed to J. A. Wright, Q.C., Vice-President of Law, Windsor Station, Canadian Pacific Railway Limited, Montreal 3, Quebec, and reads as follows:

Dear Sir,

Re: Rail Line—Didsbury to Canadian
Superior Plant

With regard to the above mentioned, the Council of the Town of Didsbury wishes to state its position, herewith going on record as being 100 per cent in favour of the project.

The Council of the Town of Didsbury is in full support of the endeavour to construct a rail line from the town to the Canadian Superior Gas Plant and is prepared to assist in any way possible.

We are hoping very much that the branch rail line in question meets with your approval.

Yours truly,
Louis L. Damphouse,
Secretary Treasurer.

The second letter, dated May 25, 1966, is also addressed to J. A. Wright, and is from the District of Didsbury, Chamber of Commerce and reads as follows:

Dear Sir,

The Didsbury and District Chamber of Commerce wish to go on record as being unanimously in favour of the branch rail line which the CPR is building to the Canadian Superior Gas plant originating from Didsbury.

The members feel that it is the most logical and most economically feasible route, giving much less construction problem than other suggested routes.

We shall be very glad to do all in our power to support this route.

Yours very truly,
Didsbury and District Chamber
of Commerce
per Secretary G. C. Leeson

The CHAIRMAN: Does that complete your presentation?

Mr. GORMAN: Yes.

Senator PEARSON: Mr. Gorman, has Canadian Pacific Railway a vested interest in Canadian Superior?

Mr. GORMAN: I think Mr. Roberts might answer that question.

Mr. ROBERTS: I would prefer that Mr. Bohannan answer the question.

Mr. BOHANNAN: All I can say is that Canadian Superior is a dominion stock company and to my knowledge Canadian Pacific is not a stockholder, at least not a major stockholder, and does not in any way control the company.

The CHAIRMAN: Before we call upon the opponents, I think I should place on record two letters addressed to the committee by local residents. The first is dated May 20, 1966 and is from Madden, Alberta. It reads as follows:

Dear Sirs,

In regard to the proposed Didsbury Panther Harmattan CPR branch line, I urgently request that the committee recognize the importance of the CPR line between Crossfield and Cremona, both to me, as a farmer, and to the agricultural economy of this area.

If a charter is granted for the building of a CPR line between Didsbury and Harmattan, we earnestly implore that this line will in no way interfere with the already existing line between Crossfield and Cremona and that no abandonment of this line will be considered, now or at any future date.

Yours truly,
Leslie Godlonton
Madden, Alberta.

The second is dated May 21, 1966. It is from Cochrane, Alberta, and reads as follows:

Dear Sirs,

We certainly do not want the train to be discontinued from Crossfield to Cremona as it would make us haul our grain 18 miles to elevator in Cochrane. It just seems like they are trying to do away with the small farmer. But we do have to live too. And this would really make it bad

for us to remove that track. A person could make three or four trips to Dog Pound while making one to Cochrane. Hoping the little man will be heard in this deal. Thanking you.

Edward Bundt
Cochrane, Alberta, Canada

Well, the "little men" have been heard from and their representations are on the record.

The witness we have in opposition to this bill is Mr. W. J. Bagnall, representing the county of Mountain View, Alberta. Will you come forward please. It was you who supported this brief, was it not, Mr. Bagnall?

William J. Bagnall, Reeve, County of Mountain View, Alberta: Yes, sir.

The CHAIRMAN: Perhaps the best thing for you to do is to read your brief, and we can cross-question as we proceed. Would that be the best way, honourable senators? Then if that is satisfactory to you, Mr. Bagnall, please proceed.

Perhaps you should read the brief.

Mr. BAGNALL: Mr. Chairman, honourable senators, before proceeding with my brief I should like to say that the proposed railway line has no connection whatever with the Town of Didsbury and it starts a mile north of the town.

On behalf of the county council of the County of Mountain View, may I thank Senator Prowse for his very fair and able presentation of Bill S-34 on behalf of the railway company, and Senator Cameron for his remarks relative to the county's interest in this bill and the proposed Canadian Pacific Branch line.

In presenting to you the county's brief in connection with the railway company's application, the presentation has been divided into three parts. Part 'A' reflects the county's opposition to construction of the line from Didsbury to Harmattan. Part 'B' supports the county's proposal that his line should be a continuation of the existing line from Crossfield to Cremona, and Part 'C' is a historical background and conclusion.

PART 'A'

May I say at the outset that the county has no objection in principle to the construction of a rail line outlet from the Canadian Superior Plant at Harmattan, and realizes this necessity. The county acknowledges that the railway company has greatly improved the final plans for the line location over the original plans and that far less land severance has been created if the plans submitted to the county dated May 2, 1966, are strictly adhered to.

In spite of the fact that the CPR has improved the proposed line profile, there remains several very real objections to this route; these can be briefly outlined as follows:

1. *Land use:* The proposed route will most certainly traverse some of the most fertile land in the country, if not in the entire Province of Alberta.

The county zoning by-law prohibits the subdivision of arable land in order to conserve this vital national asset for its primary use—the production of crops.

If another developer were to attempt to subdivide farm land for a non-farm purpose he would be refused permission to do so by the county council.

This policy of conserving productive farm land is a sensible one and has proven satisfactory during the past five years of operation.

2. *Separation:* Because of the nature of the development it is unavoidable for the CPR with its spur, to effect separation of one part of a farm from the remainder. Apart from the added cost in perpetuity which will arise in farming such parcels, it is highly probable that these higher costs will be such as to cause many of these parcels to be disposed of as acreages. As the spur line will create a registered boundary it could well be argued that as no subdivision is occurring—it already having been affected through the registration of the right-of-way—the county council would have great difficulty in refusing such a change in use. As a result, far more land than that involved within the right-of-way would in perpetuity be lost to the production of crops. The remainder of the farm which at present is an economic unit—ratio of investment to production—could be so reduced by these subtractions and divisions as to be rendered uneconomic.

3. School bus crossings will be increased by approximately twelve additional crossings.

3a. At least four fly-overs will be required as this line will cross four district highways. If the charter is granted this provision must be written in.

4. Restricts northward the development of the Town of Didsbury. This does not seem to worry them too much.

5. The difficulty of farming parcels of land divided by a railway adds immeasurably to the overall damages and cost of operation, and cannot be compensated for by the cash settlement proposed by the CPR.

Part 'B'

Alternative route—Cremona-Harmattan via Little Red Deer River

A. We do not feel that the route from Cremona north-westwards has been fairly or completely analysed.

If such a route were practical, even if more expensive, it must be chosen if the concept of conserving arable land for production is to be continued as a valid policy. The nature of the land in this area is such that it is inferior because of its capabilities to bear crop to the preferred route—that is the route preferred by the CPR—and as a result it is very possible that no loss in productivity would ensue if the spur was so located.

B. The argument that the Crossfield-Cremona line is not able to support the proposed weights is one which, while it must be given consideration, should not be the determining factor. Although the cost of up-grading the present line has been estimated at \$500,000—this is the figure which the CPR originally gave to the County of Mountain View—it can well be argued that this is a cost which the CPR will have to meet anyway or else, because of it, abandon the line altogether. It is felt that the CPR should state their intentions on this point so that the present confusion could be avoided.

C. The fears expressed by some four hundred farmers and landowners in the Crossfield-Cremona area that if the new line is constructed it will result in the eventual abandonment of the Crossfield line by the CPR are, it is submitted, well founded. Should this line be abandoned at a later date, these farmers will be faced with lowered farm assessment values and an increase of at least 4c per bushel transportation costs on grain which will then have to be delivered to the main CPR line.

Part 'C'—Historical Background

1. The county council and indeed the farmers and ratepayers of this particular area which encompasses over one-half million acres of choice arable

land tributary to the Cremona-Crossfield line are convinced that when the Government of Sir John A. MacDonald wrote the original terms of reference into the land grant for the CPR in 1870, it took into consideration the unflattering, critical and adverse reports of Sir George Simpson, Captain John Palliser and Sir John Franklin.

2. It is submitted that these reports dealt particularly with that part of Canada which the Canadian Pacific Railway Company intended primarily to open up and to service with a railway system. The vast land grants and resources, exceeding twenty-five million acres, were the Government's method of underwriting and guaranteeing the solvency of the railway operation for all time. Surely, it is now contended the Government of Canada must reiterate these conditions and insist that the railway company live up to the original contract to operate and maintain an efficient railway system throughout the length and breadth of this country.

3. Speaking generally, the people of this country, and in particular those whom I have the honour to represent have every right to expect the government of today to insist that the tremendous profits realized by the CPR from their land grants must first of all be plowed back into the railway system rather than into new endeavours such as the construction of the new twenty million dollar Hotel Château Champlain in Montreal. The lucrative Canadian Pacific Gas and Oil Company Canadian Pacific's \$192 million investment fund would indicate that substantial reserves are available to operate a railway line to serve the people of Canada first, and still satisfy the insatiable appetites of the company's shareholders.

Conclusion

The county council respectfully requests that if in its wisdom Parliament decides to grant this application, that the following crucial clauses be written into the charter:

- (a) That the route will adhere strictly to that outlined in the plan dated 2 May, 1966.
- (b) That fly-overs be constructed at locations A, B, C, and D located on the map and crossing district market highways.
- (c) That the construction of this line shall in no way interfere with the continued maintenance and operation of the present Crossfield-Cremona line.
- (d) That assurance will be given by the Canadian Pacific Railway Co. that no abandonment of the existing Crossfield-Cremona line will be proposed and the continued economy of the area will thus be protected.

Gentlemen, if you turn to page 5, there is a short addendum I would like to read, if I may.

The CHAIRMAN: Go ahead.

Mr. BAGNALL: It is noted that the Canadian Pacific Railway Company has made no mention of the fact that this line will eventually be extended south-westerly from Harmattan to the vast sulphur deposits in the Panther River area.

When this extension is proceeded with, it is contended that the logical take-off for this extension will be from a point immediately north of Cremona. It should be noted that information relative to the Panther deposits was made initially by the railway company themselves, and was referred to briefly by Senator Cameron during his presentation, as will be found in *Hansard*, page 537, Volume 115, Number 33.

As appendices I have selected two letters which have been sent to the county and which are self-explanatory and which you may have read.

In addition to those letters which I selected as fairly representative letters, I have received all these letters from representatives of this area, supporting the county's position. If I may, I would like to table those letters at this time for your information.

The CHAIRMAN: How many of them are there?

Mr. BAGNALL: I have around 80, sir. I notice that, unfortunately, the Town of Didsbury have made some references in support of the company's application. The Town of Didsbury were asked by the CPR for support and they were told, the implication was made, that when this line is operating, industry would naturally follow the line and the Town of Didsbury would prosper. This, gentlemen, I submit is not a true statement. However, the council proposed to accept it. The key map for the Canadian Pacific railroad which was passed around for you to study is not very fair in that it does not indicate the actual location of Cremona, Didsbury, and the plant. Cremona is far better located than indicated on the map.

Senator BURCHILL: Does the county of Mountain View embrace the whole area?

Mr. BAGNALL: Yes, the county of Mountain View at the present time is in the process of constructing a district road or a bypass for the town of Didsbury for Canadian Superior Oil, Ltd. It is also true that the company pays considerable taxes to the County of Mountain View, something like \$158,000 a year. As a matter of fact the oil industry pays one-third of our taxes, so we are fortunate to live in this area. This is apart from the taxes paid by the Canadian Pacific Railway Company.

The CHAIRMAN: I think all senators have this brochure which was circulated and can see the map with Didsbury on it.

Senator PROWSE: The entire line is within the County of Mountain View. And at no place does it touch the town of Didsbury. Is Didsbury the county seat?

Mr. BAGNALL: Yes.

Senator ASELTINE: That is where all the municipal offices are?

Mr. BAGNALL: Yes.

Senator ASELTINE: These people who wrote the letters, are they affected in any way by the line crossing their land?

Mr. BAGNALL: Yes, sir.

Senator ASELTINE: Because we have had some evidence from the railway company that over half of those affected have agreed not only to the crossing, but to the price and to the damages and so forth.

Mr. BAGNALL: I think if the Canadian Pacific Railway Company will divulge the names of the people who signed options you will find that the same names appear as signatures on this objection.

Senator HAIG: Why would they make a settlement with the railway company and then sign objections?

Senator ASELTINE: Anybody who takes a petition around anywhere will find people to sign it.

Senator HAIG: We have also heard that the land in this new proposed subdivision is equal in value or approximately equal in value to the land involved in the proposal you make running to Cremona.

Mr. BAGNALL: No, sir, it is not the same. The land value from Cremona to Harmattan is only half the assessed value of the other. I have submitted tables

of the assessed costs. I do not know if it was made clear that Marathon Realty is a wholly-owned subsidiary of Canadian Pacific Railway Company.

Senator HAIG: They told us that, and I asked a question about when the Canadian Pacific Railway were interested in the land did Marathon make a settlement with the CPR, and if they did was it for the same value as in these.

Mr. BAGNALL: This is true to a point, but when Marathon Realty initiated the discussions with the farmers they did not tell the farmers this was for Canadian Pacific Railway Company and this would eventually be a railroad line. The implication made last February when Marathon Realty made their overtures was that they were just buying this land.

Senator HAIG: Are you indicating that if a company goes to a farmer to buy a certain piece of land that the farmer does not know there is going to be a railroad line constructed?

Mr. BAGNALL: In this case—in many cases, no. That is my information.

Senator HAYS: What would they think the purpose was?

Mr. BAGNALL: That it was just to purchase their farms. They bought six quarter-sections in the vicinity of the plant at \$130 an acre. This seemed to be another ploy to obtain control of the land without declaring its ultimate use.

Senator PROWSE: Is your farm in this area?

Mr. BAGNALL: My farm is a tributary to the Cremona-Crossfield line.

Senator PROWSE: It is on the line between Cremona and Harmattan?

Mr. BAGNALL: Yes.

Senator PROWSE: Would you sell your farm at the same price as other land?

Mr. BAGNALL: I have had offers for my land at about \$130 an acre, but this is tributary to the existing line from Crossfield to Cremona. If the line were continued from Cremona to Harmattan—it is further west and not as productive and not as valuable.

Senator HAYS: It is about two miles west; how far are you from Cremona?

Mr. BAGNALL: I am about eight miles southeast of Cremona.

Senator HAYS: This line will run parallel three miles west of where you are?

Mr. BAGNALL: Northwest.

Senator HAYS: Taking the north and south line, how far east of that line—extend the north-south line, and take it south to Cremona—

Mr. BAGNALL: Yes.

Senator HAYS: You are three miles east?

Mr. BAGNALL: Yes. It continues on northwest—it goes over to Cremona which is three miles west of me.

Senator HAYS: If this line went from Cremona to Harmattan, do you think the farmers would object in the same way?

Mr. BAGNALL: This proposal has been kicked around for some considerable time. The position of the county council has been well known since last February when we first were aware that the Canadian Pacific Railway were interested in this. We have received no objections whatever from the farmers in the Cremona area and I think these letters will substantiate that.

Senator HAYS: Maybe they would like to sell at \$500 or \$1,000 an acre.

Mr. BAGNALL: That is not altogether the case. You cannot relate everything to dollars and cents so far as these farmers are concerned all the time. They like their homes and this is a well built up, prosperous county, as you well know. They are not anxious to move out. As well as that the CPR are not buying

whole farms; they are buying small parcels. They are just going through the farms. I would object to them going through my farm because it would be a tremendous headache having a railway line going through the middle of your land.

Senator PROWSE: Isn't it true that of the 30 farms involved, 20 have already completed and signed options?

Mr. BAGNALL: The CPR have already said that.

Senator PROWSE: And another eight have agreed in principle, but they are arguing about the price.

Mr. BAGNALL: Well—

Senator PROWSE: And there are only two who say they don't want to sell at all. They say that no matter what the price is they don't want it.

Mr. BAGNALL: This is what Canadian Pacific implies.

Senator PROWSE: So that the others don't object to the railroad going through there. They will sell the land if they get the price?

Mr. BAGNALL: I think the feeling of the average farmer is that if the line has to go through and if he has to be stuck with the line then he is prepared to settle for a suitable price. But basically they do not want the line.

Senator PROWSE: None of them would have to relocate their homes as a result of the line?

Mr. BAGNALL: Not to my knowledge.

Senator PROWSE: It would not mean they would have to find new locations?

Mr. BAGNALL: No, not to my knowledge.

Senator McDONALD (*Moosomin*): You referred to fly-overs. I am not familiar with that term. What does that mean?

Mr. BAGNALL: That is an overpass.

Senator CROLL: If there are no more questions, I am prepared to move the bill.

The CHAIRMAN: I wanted to make one observation in connection with the conclusions of your brief on page 4. You say:

The county council respectfully requests that if in its wisdom Parliament decides to grant this application, that the following crucial clauses be written into the charter:

That is, into the bill.

(a) That the route will adhere strictly to that outlined in the plan dated May 2, 1966.

What is that plan?

Mr. BAGNALL: The one filed with the County Council.

The CHAIRMAN: I would like to ask our Law Clerk a question. Do we have any actual jurisdiction over the route once we have granted the right to build from one place to another?

The LAW CLERK: No, that is for the Board of Transport Commissioners.

The CHAIRMAN: I am just indicating to you, Mr. Bagnall, that in order to carry out the request in clause (a) you should make your representations to the Board of Transport Commissioners. I think the same applies with regard to clause (b), which reads:

(b) That fly-overs be constructed at locations A, B, C and D located on the map and crossing district market highways.

I do not think I have ever seen any railroad bill go through Parliament which states the fly-overs have to be at such-and-such a point. That, again, is a matter for the Board of Transport Commissioners.

The LAW CLERK: We indicate only the extremities and the approximate length of line.

The CHAIRMAN: In other words, your representations on fly-overs should be made to the Board of Transport Commissioners.

- (c) That the construction of this line shall in no way interfere with the continued maintenance and operation of the present Crossfield-Cremona line.

We cannot put that into the bill very well.

Senator CROLL: If they should decide to abandon, they have to go to the Board of Transport Commissioners.

The CHAIRMAN: Yes. Is there not some legislation about to be introduced in Parliament with respect to this whole abandonment question?

Senator CROLL: Yes, and even the abandonment of *The Canadian* too.

The CHAIRMAN: I just point this out to you, but I do not think we can put any of this into the bill. They are dealt with in other quarters, largely by the Commission.

- (d) That assurance will be given by the Canadian Pacific Railway Company that no abandonment of the existing Crossfield-Cremona line will be proposed and the continued economy of the area will thus be protected.

I do not think you can ask the Canadian Pacific Railway to declare forever they will operate that line. But, there again, if that line should be proposed to be abandoned by the CPR under any legislation I am perfectly certain that everybody who has any interest will have the right to come and appear before the Board of Transport Commissioners, or whoever it is. We could not put it into the legislation.

Mr. BAGNALL: I think the County Council's position is that we recognize the tremendous power this committee has and we did not want that overlooked in any way at all. We have the interests of the farmers and ratepayers to protect, and we would look to this committee to use their influence in that connection.

The CHAIRMAN: We are very glad to have had you appear before us. After all, we are the servants of the public, we have to hear what the public has to say about it, and we are very glad to have your representations.

Senator BURCHILL: Mr. Chairman, you say this is a matter quite properly for the Board of Transport Commissioners.

The CHAIRMAN: Yes.

Senator BURCHILL: What is the power of Parliament with respect to it?

The CHAIRMAN: We give the right to build a line from point "A" to point "B" for so many miles, but we do not specify the actual route and as to whether, for instance, there should be bridges or tunnels, or whatever it is. We do not have anything to do with that. Again, that is a matter for the Board of Transport Commissioners.

Senator PROWSE: In other words, we are dealing with the principle and not the detail.

The CHAIRMAN: Exactly.

Senator CROLL: I move adoption of the bill.

Senator ASELTINE: I would like to congratulate the County of Mountain View on its brochure. I have never seen anything to equal it. It is absolutely marvelous and I certainly think it must be a wonderful district.

The CHAIRMAN: It certainly looks that way.

Senator CAMERON: I would like to second what Senator Aseltine has said. I have not seen in Alberta any brochure or advertising literature to compare with

this. This indicates something of the morale of the people and their pride in their community.

While I am sure most of us are delighted with the economic development represented by this sulphur plant at Harmattan and other possible projects in the area, I am sure we will give every protection possible to these farming people who are anxious to protect their land.

To my knowledge, this is the first time a group of farmers have gone to this expense to express concern over land use, and this is a very healthy thing to happen in this country. I think Mr. Bagnall should be congratulated, along with his Council, for what they have done. I hope we will find a mutually satisfactory compromise to satisfy everyone concerned.

Senator ASELTIME: I also congratulate them for their fine brief.

The CHAIRMAN: Is the committee willing to consider the bill now?

Hon. SENATORS: Yes.

The CHAIRMAN: Section 1: "Line of Railway Authorized." Shall section 1 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 2: "Plans for Completion." Shall section 2 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall the Preamble carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall the Title carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall I report the bill without amendment?

Hon. SENATORS: Carried.

The CHAIRMAN: I think, honourable senators, we have already said enough to indicate to Mr. Bagnall how happy we are to have had him here.

The committee adjourned.

TWP. 16

IC RAILWAY COMPANY

NAT DIVISION

PROXIMATE LOCATION

OF

TWP. 15

LAKE BRANCH

FROM

VALLEY (N.E. 1/4 SEC 26, TWP 17, R 626, W. 3. M.)

TO

TWP. 16, RG. 25, W. 3. M.

JAN 22, 1966

OFFICE OF THE CHIEF ENGINEER, DEC 27, 1965

36484-2

I think that anybody who would not be satisfied with the results of the bill would not be satisfied with the results of any other bill. I think that anybody who would not be satisfied with the results of the bill would not be satisfied with the results of any other bill.

It is my belief that the bill will be passed. I think that anybody who would not be satisfied with the results of the bill would not be satisfied with the results of any other bill.

The bill is a good one. I think that anybody who would not be satisfied with the results of the bill would not be satisfied with the results of any other bill.

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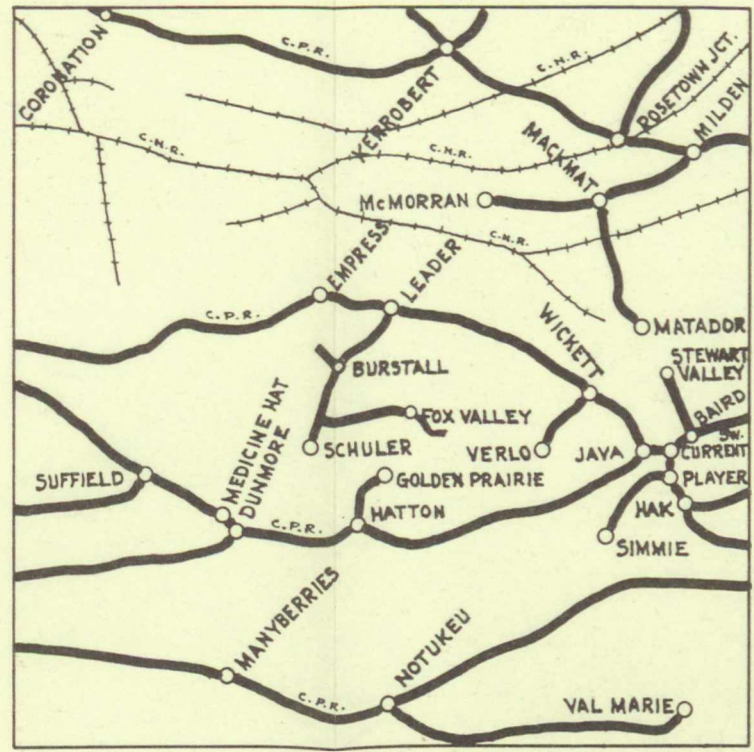
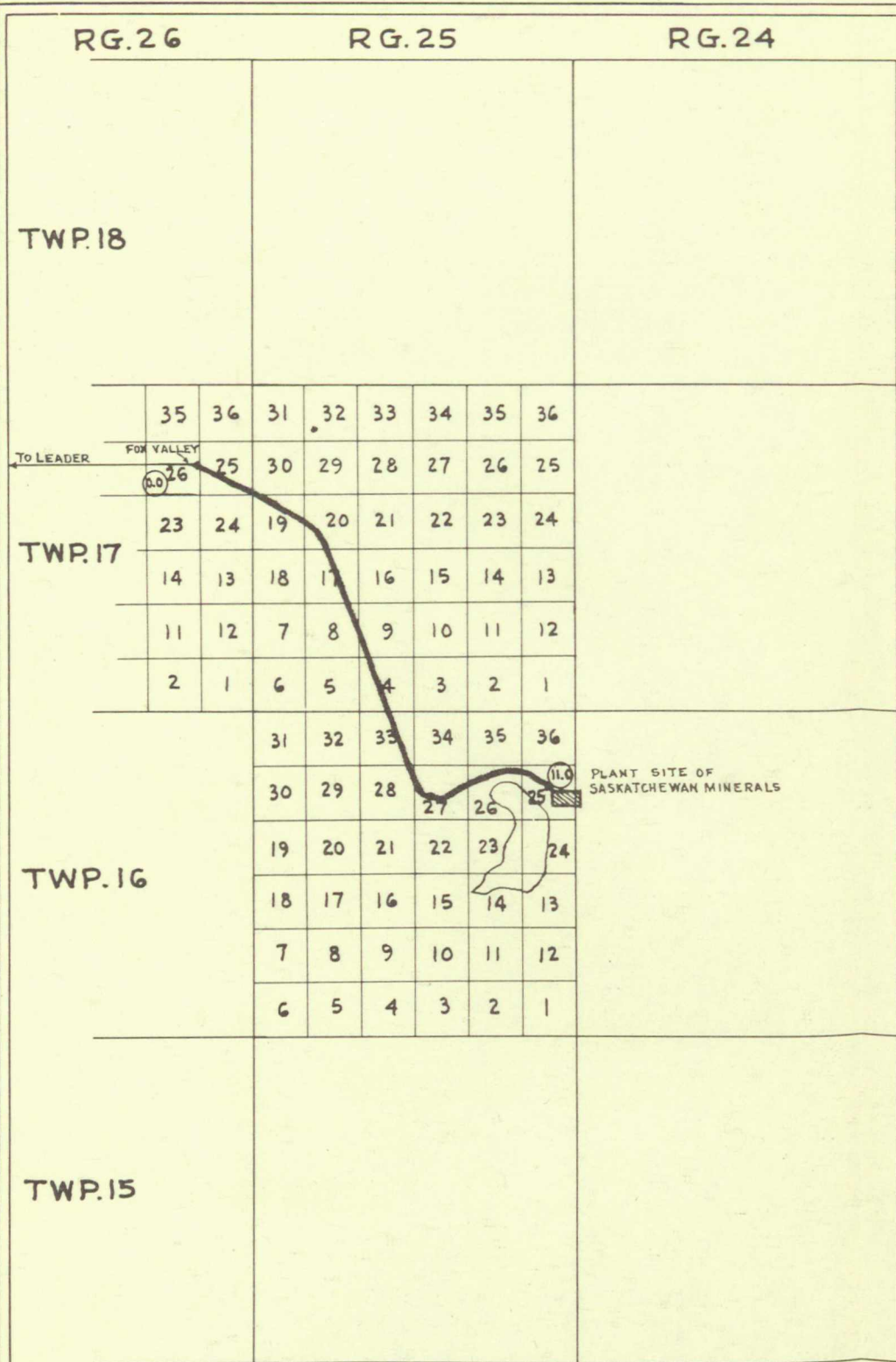
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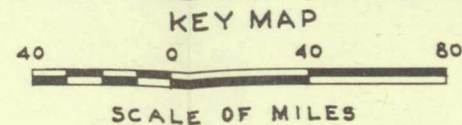
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FILED IN PLAN ROOM
 JAN 23 1966
 CHIEF ENGINEER'S OFFICE
 MONTREAL



CANADIAN PACIFIC RAILWAY COMPANY
 MEDICINE HAT DIVISION
 PLAN OF APPROXIMATE LOCATION
 OF
INGEBRIGHT LAKE BRANCH
 FROM
FOX VALLEY (N.E. 1/4 SEC. 26, TWP. 17, RG. 26, W. 3.M.)
 TO
SEC. 25, TWP. 16, RG. 25, W. 3.M.
 NEWLINE: — SCALE 1/2" = 1 MILE
 OFFICE OF THE CHIEF ENGINEER, JAN. 28, 1966
 DEC. 29, 1965

SCALE 1" = 1/4 MI

SEC. 28

FOX

INGEBRIGHT

PLAN OF AP

MEDICINE

CANADIAN PACIFIC

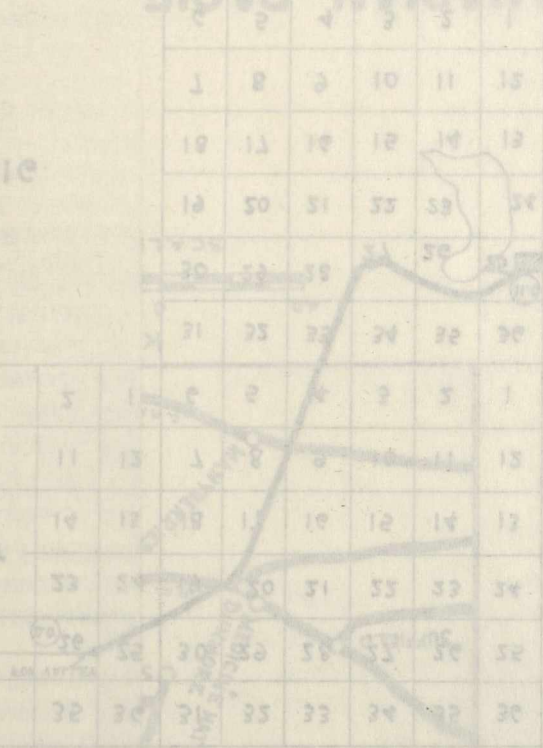
TWP 12

TWP 16

TWP 17

TWP 18

TO PEPPER

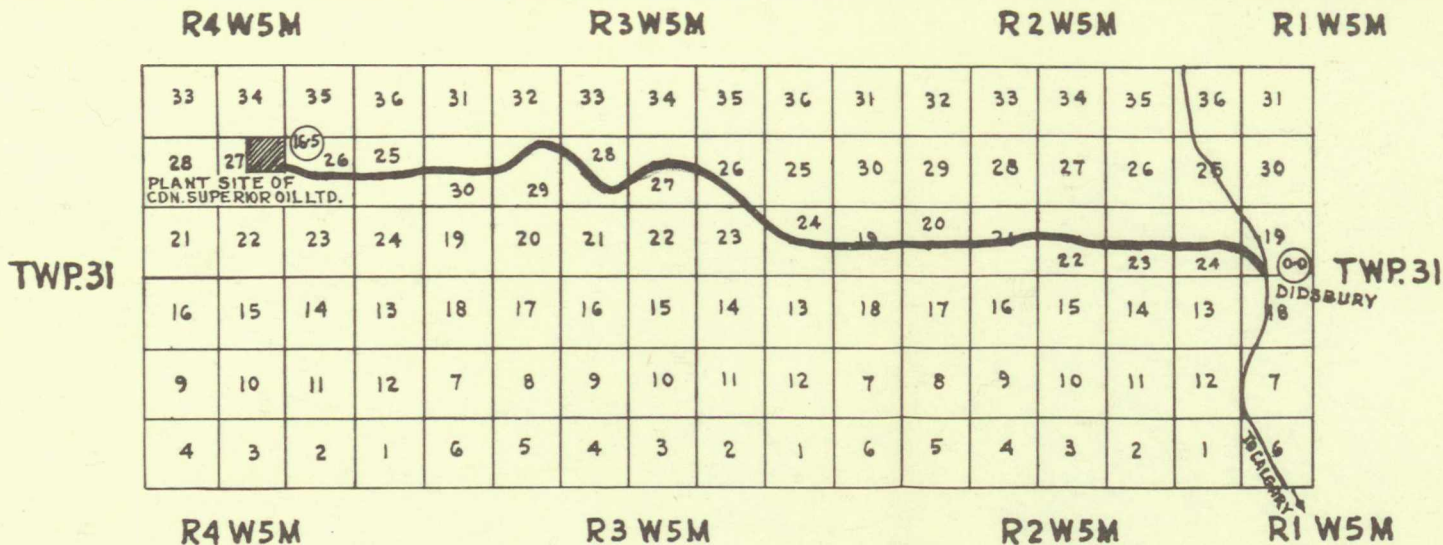


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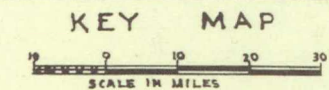
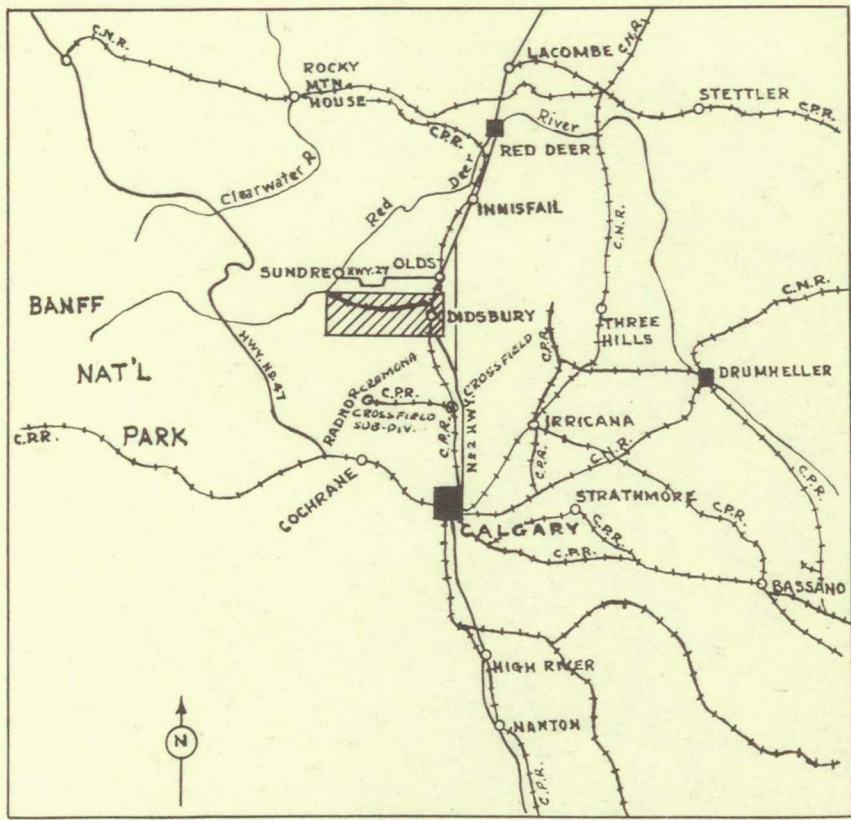
R. 2 E

R. 5 E

R. 8 E



FILED IN PLAN ROOM
 JUL 29 1965
 CHIEF ENGINEER'S OFFICE
 MONTREAL



CANADIAN PACIFIC RAILWAY COMPANY
 CALGARY DIVISION

PLAN OF APPROXIMATE LOCATION OF
 DIDSBURY WESTERLY BRANCH

FROM
 SEC.19, TWP.31, RGE.1, W 5THM.
 TO
 SEC.27, TWP.31, RGE.4, W 5THM.
 MILE 0.0 - 16.5
 ALBERTA

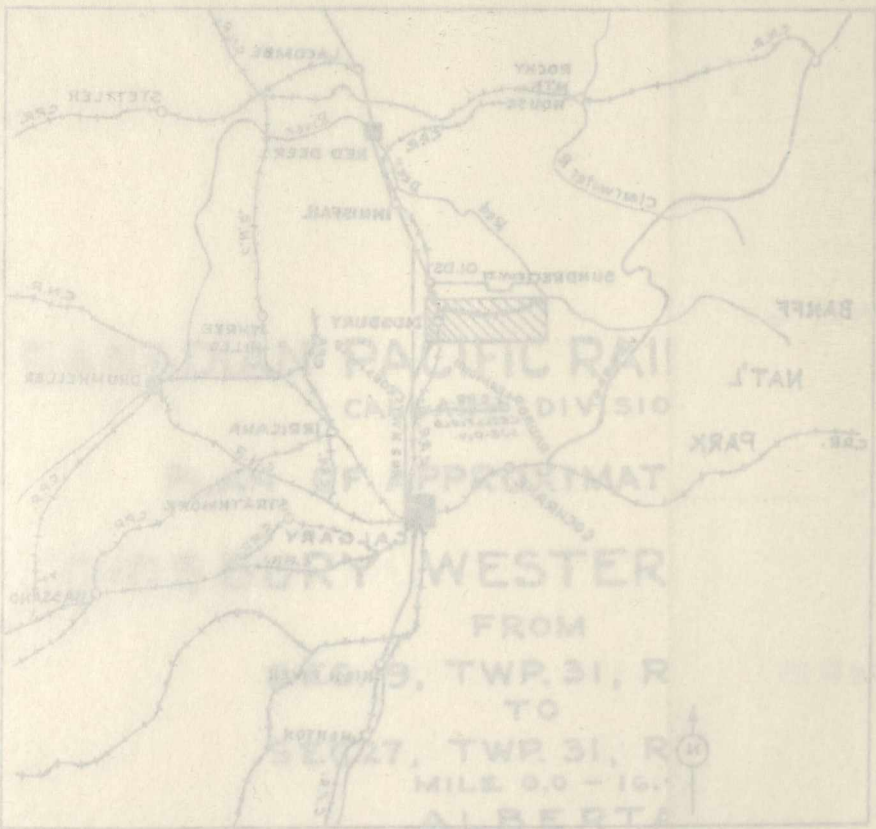
NEW LINE: ——— SCALE: 1/2" = 1 MILE
 OFFICE OF THE CHIEF ENGINEER
 JULY 6 1965
 MAY 5, 1966

R4W5M NEW 12 R3W5M

33	34	35	36	37	38	39	40	41	42	43	44	45	46	47
28	29	30	31	32	33	34	35	36	37	38	39	40	41	42
23	24	25	26	27	28	29	30	31	32	33	34	35	36	37
18	19	20	21	22	23	24	25	26	27	28	29	30	31	32
13	14	15	16	17	18	19	20	21	22	23	24	25	26	27
8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
3	4	5	6	7	8	9	10	11	12	13	14	15	16	17

R4W5M NEW 12 R3W5M

TWP. 31



KEY - MAP
 NEW 12
 R3W5M

APPENDIX C

Didsbury, Alberta, February 16, 1966.

To the Person or Persons whose responsibility it is to make the ultimate decision concerning the location of the railway which is to be constructed to serve the gas and sulphur processing plant of Canadian Superior at Harmattan in the County of Mountain View:

For the reasons outlined below we wholeheartedly support Mr. Bagnall in his contention that this railroad should not be built west of Didsbury as the CPR is currently proposing to do but rather that it should be built from Cremona north to the Plant.

1. The land west of Didsbury is high quality agricultural land and as all thinking and informed persons are aware, this type of land is becoming increasingly valuable for the production of food in this hungry world with its fast growing population. At the annual meeting of the Canadian Agricultural Chemicals Association at Banff last September former Agriculture Minister Harry Hays predicted that Canada would require another 40 million acres of land to meet the needs of our expanded population in the year 2000, and since we do not have this much land we will have to make better use of the land we have. In view of Mr. Hays' prediction and the estimates of many other persons who are in a position to know, it is obvious that the importance of conserving this most valuable resource cannot be overemphasized.

Unfortunately, every year a great many acres of food producing land are being damaged or taken completely out of production by industrial expansion, roads and the urban sprawl. Much good land in the west Didsbury area has already been taken or has suffered extensive damage in the drilling for oil, construction of pipelines and other operations of the oil industry. We realize that some land must be taken for such purposes but we also strongly feel that every effort should be made to avoid the unnecessary taking of or damage to good agricultural land.

The land west of Didsbury is rolling and so to obtain the desired grades the railroad will be very winding with the result that the acreage taken and/or adversely affected will be considerable. On the other hand, the route from Cremona is shorter (in a straight line the distance is about $9\frac{1}{2}$ miles as compared with $14\frac{1}{2}$ from Didsbury) and although this line too would be winding, unless special equipment were used to overcome the inclines, most of the country through which the railroad would pass is of less valuable agricultural type and so the damage would not be so extensive nor so serious.

2. Because of the pattern used for the laying out of roads in this country, a railway running from east to west would cross a road every mile while a railway running from north to south would cross a road every two miles. Considering this and the fact that the east-west Didsbury route is much longer than the north-south Cremona route, it can be seen that a line from Didsbury to the Plant would cross more than twice as many roads as would a line from Cremona.

It follows therefore that the proposed Didsbury railroad would create many more hazards to traffic, particularly to school buses which would have to cross the line numerous times a day. Naturally this greatly concerns all of us whose children must ride on these buses.

We trust that your most serious consideration will be given to these matters and that the decision made will be in accord with the best interests of this country and its people.

Respectfully yours,

Mrs. R. H. Ross,
Mrs. L. M. Nelson,
P. Eggins,
Sam Luft,
W. R. Wigley,
C. W. Eggins,
B. E. Brinson,
R. J. Nelson,
E. H. Braun,
Stan Litwiller,
J. M. Chandler,
Mrs. Eleanor Ross,
Joe H. Ross,

Mrs. Helen Chandler,
Mrs. W. J. McGregor,
Mrs. W. Johnke,
Mrs. W. A. Spooner,
W. A. Spooner,
Bob Ross,
Fred G. Johnke,
Mrs. E. Wick
Mrs. T. Romane,
Mrs. C. Stockburger,
M. A. Knights,
V. Johnson, (bus driver Didsbury-west)
Carroll Johnson.

children must ride on these buses. The line numerous times a day. Naturally this greatly concerns all of us whose more hazards to traffic, particularly to school buses which would have to cross If follows therefore that the proposed Didsbury railway would create many Cremons. the Plant would cross more than twice as many roads as would a line from than the north-south Cremons route, it can be seen that a line from Didsbury to Considering this and the fact that the east-west Didsbury route is much longer railway running from north to south would cross a road every two miles. railway running from east to west would cross a road every mile while a 2. Because of the pattern used for the laying out of roads in this country, a so the damage would not be so extensive nor so serious. through which the railroad would pass is of less valuable agricultural type and special equipment were used to overcome the inclines most of the country with 14 1/2 from Didsbury) and although this line too would be winding, unless Cremons is shorter (in a straight line the distance is about 2 1/2 miles as compared adversely affected will be considerable. On the other hand, the route from railroad will be very winding with the result that the acreage taken under The land west of Didsbury is rolling and so to obtain the desired grades the good agricultural land. every effort should be made to avoid the unnecessary taking of or damage to that some land must be taken for such purposes but we also strongly feel that construction of pipelines and other operations of the oil industry. We realize already been taken or has suffered extensive damage in the drilling for oil, roads and the urban sprawl. Much good land in the west Didsbury area has been damaged or taken completely out of production by industrial expansion. Unfortunately, every year a great many acres of food producing land are this most valuable resource cannot be overemphasized. who are in a position to know, it is obvious that the importance of conserving have in view of Mr. Hays' prediction and the estimates of many other persons we do not have this much land we will have to make better use of the land we land to meet the needs of our expanded population in the year 2000, and since Harry Hays predicted that Canada would require another 40 million acres of Chemicals Association. Carroll Johnson. V. Johnson, (bus driver Didsbury-west) M. A. Knights, Mrs. C. Stockburger, Mrs. T. Romane, Mrs. E. Wick Mrs. G. Johnke, Bob Ross, W. A. Spooner, Mrs. W. A. Spooner, Mrs. W. Johnke, Mrs. W. J. McGregor, Mrs. Helen Chandler,

Didsbury Alta. R. 1. Feb. 14, 1966.

Mr. William Bagnall,
Reeve of the County of Mountain View,
Didsbury.

Dear sir,

May I enter a protest on the proposed CPR spur line route from Didsbury west to the Canadian Superior plant? Our land will be affected if the plan is carried out.

I understand the train service is to be for the purpose of transporting sulphur and will not be a public utility yet on said proposed route much excellent farm land will be permanently taken out of production.

Beginning at the town of Didsbury the soil is no. 8, that is very good to excellent arable, according to a soil rating map of Rosebud and portion of Banff sheets put out by the University of Alberta at Edmonton. Running north a mile and turning west, which is where the proposed route is mapped I believe, the no. 8 soil continues in various areas, reduced to no. 7 and no. 6 in certain places, all good arable land, excepting coulees, which produce good pasture. The land hereabouts produces wonderful crops. I enclose two pictures taken on our place, one of greenfeed grown in 1964. The land had been farmed over 60 years and had never been fertilized. The other is of oats being harvested the same year which yielded 125 bushels an acre.

According to the soil map the land through which the present railroad runs from Crossfield to Cremona, already laid, owned and operated by the CPR is no. 7 soil most of the way. From Cremona north, if following the Little Red Deer River the roadbed would destroy a minimum of productive land. Far too much good soil has already been ruined for good in this area by roads, oilwell sites, power towers and pipelines. Considering the tremendously increasing population and the destruction of land through residential, commercial and industrial development food at this rate will soon become scarce. The land must be preserved if famine is not to result.

The argument the landman has used is that the route from Cremona presents too rough a terrain for railroad building. One wonders how the CPR managed to construct railroads through the Rocky Mountains.

From Cremona the route would be about five miles shorter than from Didsbury, why do they expect sacrifices of the farmers in order to save themselves trouble and expense in what is after all a commercial enterprise?

There is another factor not to be ignored. If the railroad comes north from Cremona road crossing will occur twice according to an estimate by one of our councillors, if from Didsbury crossings will occur once every mile excepting one. The extra time and inconvenience and danger of collision is considerable, especially in the case of transporting children to and from school in busses. It is possible bus drivers who have to cross the railroad so much oftener than they should may not be persuaded to do so at their present rate of pay.

To the landowner the factors of severance, reduction in means of livelihood, compulsion and other considerations cannot be financially paid for no matter what the company offers.

In consideration of the above facts I respectfully suggest the proposed route from Didsbury west be abandoned, and the Crossfield-Cremona line be extended to serve the CPR's purposes.

Yours truly,
Mrs. Lloyd Chandler
L. H. Chandler

Mr. William Baskin, 1110 West 1st Street, Calgary, Alberta, Canada, is the owner of the land in question. He is a resident of the County of Mountain View, Alberta.

Dear Sir,

May I enter a protest against the proposed CPR spur line route from Didsbury west to the Canadian Sugar plant? Our land will be affected if the line is carried out.

I understand the main purpose of the proposed line is to be for the purpose of transporting sulphur and will not be a public utility yet on said proposed route. The land is excellent farm land and will be permanently taken out of production. Beginning at the town of Didsbury, the soil is no. 8, that is very good to excellent silt loam, according to a soil survey map of Rosedale and portion of Didsbury sheets put out by the University of Alberta at Edmonton. The soil is a fine sand and loam which is what the proposed route is mapped. The soil continues in various areas, referred to as 7 and no. 8 in certain places. All good silt loam, excepting coarser, which produce good pasture. The land hereabouts produces wonderful crops. I enclose two pictures taken on our place, one of green peas grown in 1904. The land had been farmed over 80 years and had never been fertilized. The other is of oats being harvested the same year which yielded 125 bushels an acre.

According to the soil map the land through which the present railroad runs from Crossfield to Cremona, already laid, owned and operated by the CPR is no. 7 soil most of the way. From Cremona north, following the Little Red Deer River the roadbed would destroy a minimum of productive land. For no reason good soil has already been ruined for good in this area by roads, oil well sites, power towers and pipelines. Considering the tremendous increasing population and the destruction of land through residential, commercial and industrial development food at this rate will soon become scarce. The land must be preserved if famine is not to result.

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To the landowner the factors of severance, reduction in means of livelihood, congestion and other considerations cannot be financially paid for no matter what the company offers.

In consideration of the above facts I respectfully suggest the proposed route from Didsbury west be abandoned, and the Crossfield-Cremona line be extended to serve the CPR's purposes.

Yours truly,
Mrs. Lloyd Chandler
J. H. Chandler



First Session—Twenty-seventh Parliament
1966

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE
ON
TRANSPORT AND COMMUNICATIONS

The Honourable A. K. HUGESSEN, *Chairman*

No. 6

First Proceedings on the Bill

S-35, "An Act respecting the prevention of employment injury in federal works, undertakings and businesses."

WEDNESDAY, JUNE 15, 1966

WITNESSES:

The Honourable John R. Nicholson, Minister of Labour; Mr. W. G. McGregor, Vice-Chairman, National Legislative Committee, Brotherhood of Railroad Trainmen; Mr. Reuben Spector, Q.C., Canadian Coordinating Committee of Teamsters for Canada; Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch, Department of Labour; Mr. W. B. Davis, Solicitor, Department of Labour; Mr. Arthur Gibbons, Brotherhood of Locomotive Firemen and Enginemen.

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



First Session—Twenty-seventh Parliament
1966

THE STANDING COMMITTEE
ON
TRANSPORT AND COMMUNICATIONS

The Honourable Adrian K. Hugessen, *Chairman*

The Honourable Senators

- | | |
|--|------------------------------------|
| Aird, | Lefrançois, |
| Aseltine, | Macdonald (<i>Brantford</i>), |
| Baird, | McCutcheon, |
| Beaubien (<i>Provencher</i>), | McDonald, |
| Bourget, | McElman, |
| Burchill, | McGrand, |
| Connolly (<i>Halifax North</i>), | McKeen, |
| Croll, | McLean, |
| Davey, | Méthot, |
| Dessureault, | Molson, |
| Dupuis, | Paterson, |
| Farris, | Pearson, |
| Fournier (<i>Madawaska-Restigouche</i>), | Phillips, |
| Gélinas, | Power, |
| Gershaw, | Quart, |
| Gouin, | Rattenbury, |
| Haig, | Reid, |
| Hayden, | Roebuck, |
| Hays, | Smith (<i>Queens-Shelburne</i>), |
| Hollett, | Thorvaldson, |
| Hugessen, | Vien, |
| Isnor, | Welch, |
| Kinley, | Willis—(47). |
| Lang, | |

Ex officio members: Brooks and Connolly (*Ottawa West*).

(Quorum 9)

The Honourable John R. Nicholson, Minister of Labour; Mr. W. G. McGregor, Vice-Chairman, National Legislative Committee, Brotherhood of Railroad Trainmen; Mr. Reuben Spector, O.C., Canadian Co-ordinating Committee of Testameters for Canada; Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch, Department of Labour; Mr. W. B. Davis, Solicitor, Department of Labour; Mr. Arthur Gibbons, Brotherhood of Locomotive Firemen and Engineers.

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Tuesday, June 7, 1966:

"The Honourable Senator Rœbuck moved, seconded by the Honourable Senator Haig, that the report be taken into consideration at the next sitting of the Senate.

After debate, and—

The question being put on the motion it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Croll moved, seconded by the Honourable Senator Benidickson, P.C., that the Bill be referred to the Standing Committee on Transport and Communications.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative."

J. F. MacNEILL,
Clerk of the Senate.

The following were heard:

The Honourable John A. McLaughlin, Minister of Labour,

Mr. W. G. McGee, Vice-Chairman, National Legislative Committee,
Brotherhood of Railroad Employees,

Mr. Reuben Specter, Q.C., Canadian Co-ordinating Committee of Transport
for Canada,

Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch,
Department of Labour,

Mr. W. B. Davis, Solicitor, Department of Labour,

Mr. Arthur Gibbons, Brotherhood of Locomotive Firemen and Engineers.

Further consideration of the Bill was postponed.

At 1:55 p.m. the Committee adjourned to the call of the Chairman.

Attest,

Patrick J. Service,
Clerk of the Committee.

(Clause 3)

In office members: Brooks and Connolly (Ontario West).

Wells—(47)

- Wells
- Law
- Lawton
- Lawton (Queens-Sheldone)
- Lawton
- Lawton
- Lawton

Clerk of the Senate
T. F. McNEILY

Resolved in the affirmative
The question being put on the vote—
Ayes, 48

TRANSPORT AND COMMUNICATIONS

The Honorable Senator, Mr. Stoll, moved, seconded by the Honorable Senator
Benjamin, P.C., that the Bill be referred to the Standing Committee on
The Honorable Senator, Mr. Stoll, moved, seconded by the Honorable Senator
The Bill was then read the second time.
Resolved in the affirmative
The question being put on the vote—
Ayes, 48

NO

Extract from the Minutes of the Proceedings of the Senate, Tuesday, June
The Honorable Senator, Mr. Stoll, moved, seconded by the Honorable Senator
The Honorable Senator, Mr. Stoll, moved, seconded by the Honorable Senator

ORDER OF REFERENCE

MINUTES OF PROCEEDINGS

WEDNESDAY, June 15, 1966.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 11.00 a.m.

Present: The Honourable Senators Hugessen (*Chairman*), Aird, Beaubien (*Provencher*), Bourget, Connolly (*Halifax North*), Dessureault, Fournier (*Madawaska-Restigouche*), Gershaw, Hays, Hollett, Isnor, Kinley, Lang, Lefrançois, MacDonald (*Brantford*), McCutcheon, McElmon, McGrand, Paterson, Rattenbury, Roebuck.—(21)

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

On motion of the Honourable Senator Kinley, it was resolved to report recommending that authority be granted for the printing of 800 copies in English and 300 copies in French of the proceedings on the said Bill.

Bill S-35 "An Act respecting the prevention of employment injury in federal works, undertakings and businesses" was read and considered.

The following were heard:

The Honourable John R. Nicholson, Minister of Labour,

Mr. W. G. McGregor, Vice-Chairman, National Legislative Committee, Brotherhood of Railroad Trainman,

Mr. Reuben Spector, Q.C., Canadian Co-ordinating Committee of Teamsters for Canada,

Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch, Department of Labour,

Mr. W. B. Davis, Solicitor, Department of Labour,

Mr. Arthur Gibbons, Brotherhood of Locomotive Firemen and Enginemen.

Further consideration of the Bill was postponed.

At 1.05 p.m. the Committee adjourned to the call of the Chairman.

Attest.

Patrick J. Savoie,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

Wednesday, June 15, 1966

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 11:00 a.m.

Present: The Honourable Senators Huggson (Chairman), Aird, Beaudin (Proseur), Bourget, Connolly (Halter North), Desautels, Fournier (Madawaska-Restigouche), Gershaw, Hays, Hollett, Lanoie, Kinley, Lang, LeFrançois, MacDonald (Barrford), McArthur, McLellan, McManis, Paterson, Rattenbury, Roebuck—(21)

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

On motion of the Honourable Senator Kinley, it was resolved to report recommending that authority be granted for the printing of 500 copies in English and 300 copies in French of the proceedings on the said Bill.

Bill S-35 "An Act respecting the prevention of employment injury in federal works, undertakings and businesses" was read and considered.

The following were heard:

The Honourable John R. Nicholson, Minister of Labour,

Mr. W. G. McGregor, Vice-Chairman, National Legislative Committee, Brotherhood of Railroad Trainmen,

Mr. Reuben Spector, Q.C., Canadian Co-ordinating Committee of Testators for Canada,

Mr. J. H. Curtis, Director, Accident Prevention and Compensation Branch, Department of Labour,

Mr. W. R. Davis, Solicitor, Department of Labour,

Mr. Arthur Gibbons, Brotherhood of Locomotive Firemen and Enginemen.

Further consideration of the Bill was postponed.

At 1:05 p.m. the Committee adjourned to the call of the Chairman.

Attest:

Patrick J. Savoie
Clerk of the Committee.

THE SENATE

**THE STANDING COMMITTEE ON
TRANSPORT AND COMMUNICATIONS**

EVIDENCE

OTTAWA, Wednesday, June 15, 1966.

The Standing Committee on Transport and Communications to which was referred Bill S-35, respecting the prevention of employment injury in federal works, undertakings and businesses, met this day at 11 a.m. to give consideration to the bill.

Senator A. K. HUGESSEN in the Chair.

The CHAIRMAN: Honourable senators, it is 11 o'clock and I see a quorum. I will ask the committee to come to order.

We have for consideration this morning Bill S-35, briefly known as the Canada Labour (Safety) Code. This is an important public measure originating in the Senate, and I would ask for the usual resolution authorizing the reporting of our proceedings and the printing thereof.

The committee agreed that a verbatim report be made of the committee's proceedings on the bill.

The committee agreed to report recommending authority be granted for the printing of 800 copies in English and 300 copies in French of the committee's proceedings on the bill.

The CHAIRMAN: Gentlemen, before we indicate who the witnesses are to be, I wish to inform you that I have received some communications in connection with this bill which I think I should communicate to the Senate. I received a letter on June 9th from the Canadian Trucking Associations Inc., signed by Mr. John Magee, General Manager. He said the Canadian Trucking Associations might wish to submit a brief but that they had not had time to prepare one and he wanted to know whether we would be willing to receive one. I communicated with Mr. Magee and I have a further letter from him, dated yesterday, which I shall read to the committee.

Canadian Trucking Associations Inc. has carefully considered all of the provisions of Bill S-35 and in regard to our letter to you of June 9, and your notification today by telephone of hearings of the Senate Committee on Transport and Communications commencing tomorrow at 11:00 a.m., I wish to state that the Associations will not be making a submission.

Canadian Trucking Associations has at all times supported the cause of safe operation by the trucking industry. We believe that the industry has achieved a safety record which, though not perfect, will stand comparison with the record of the trucking industry anywhere in the world.

We support any legislation that will assist in the attainment of maximum safety within the industry to the extent that such legislation is

soundly conceived, practical in regard to implementation, and does not duplicate existing safety regulation applied to federal motor carrier undertakings by some provincial governments.

Yours sincerely,

John Magee,
General Manager.

Is Mr. Magee here by any chance?

Senator ROEBUCK: Or Mr. J. O. Goodman?

The CHAIRMAN: The other communication I have received is from the Canadian Labour Congress; it is a letter dated yesterday and signed by Mr. Claude Jodoin, and he says:

Our Mr. Hepworth, Assistance Director of Legislation, was in touch with you this morning regarding the Committee hearings on Bill S-35. We are happy to learn that there is a possibility of making representations a bit later, as we have been unable to make suitable preparations up to now.

The Congress would welcome an opportunity to present a brief submission if there are further hearings of your Committee, or alternatively, to send to you in writing our suggestions with respect to this exceedingly important Bill, to become known as the Canada Labour (Safety) Code.

Looking forward to hearing from you and with best wishes.

Yours sincerely,

Claude Jodoin.

That means we are likely to have a submission from the Canadian Labour Congress which we will have to consider at a further meeting.

In the meantime, I am advised that the witnesses before us this morning are to be the Honourable John R. Nicholson, Minister of Labour, who is not here yet; Mr. Bryce Mackasey, Parliamentary Secretary to the Minister of Labour; Mr. J. H. Currie, Director of the Accident Prevention and Compensation Branch; Mr. W. B. Davis, Departmental Solicitor; Mr. J. O. Goodman, The Automotive Transport Association of Ontario; Mr. J. F. Walter, the Brotherhood of Locomotive Engineers; Mr. Arthur Gibbons, the Brotherhood of Locomotive Firemen and Enginemen, who has another meeting and is expected to be here at about half-past 11, and I understand that he has a brief to submit to us; Mr. W. G. McGregor, the Brotherhood of Railroad Trainmen, who has a brief; Mr. Reuben Spector, Q.C., the Canadian Co-ordinating Committee of Teamsters for Canada; Mr. K. McDougall, Executive Member of the Canadian Co-ordinating Committee of Teamsters for Canada.

Senator ROEBUCK: Mr. Jack Walter, of the Brotherhood of Locomotive Engineers, and Mr. W. G. McGregor, of the Brotherhood of Railroad Trainmen, are here. They have a brief and I think would be prepared to submit it at your convenience. In addition to Mr. Arthur Gibbons, of the Brotherhood of Locomotive Firemen and Enginemen, whom you have mentioned as coming later, there is also Mr. J. A. Huneault, of the Brotherhood of Maintenance and Way Engineers, who will be here with Mr. Gibbons at a later hour. As I say, Mr. Walter and Mr. McGregor are prepared to proceed at your convenience.

The CHAIRMAN: I would assume what we had better do is, first of all, to hear the proponents of the bill, the minister and parliamentary secretary, and then go on with such briefs from other people as may be available, knowing

that we cannot proceed with the detailed consideration of the bill until we have received these briefs and that we shall have to have another meeting anyway for that purpose. Does that meet with the approval of the committee?

Hon. SENATORS: Agreed.

The CHAIRMAN: Neither Mr. Nicholson nor Mr. Mackasey is here. Pending their arrival, or the arrival of one of them, perhaps we should hear the briefs people are ready to submit to us to start with.

We have here—and I think it has been circulated to the members—a brief prepared by the Canadian Railway Labour Executives' Association. Shall we hear them to start off with?—unless there is anybody, other than the minister or his parliamentary secretary, who is willing to explain the bill.

Senator ISNOR: Mr. Chairman, it is only fair to point out that the minister has another very important appointment this morning at 11 o'clock, at which he might be called upon to make a report with regard to the recent settlement of the strike. I think we should know that and bear it in mind.

Senator McCUTCHEON: I think we should have the minister and parliamentary secretary here.

The CHAIRMAN: To start with?

Senator McCUTCHEON: I would prefer that, to start with. If the minister is tied up we might sit later today, or tomorrow.

The CHAIRMAN: The only trouble about sitting later today is that there is a meeting of the Standing Committee on Banking and Commerce set for 2 o'clock. I understand the sitting of the Senate is not going to be very long this afternoon. We might perhaps adjourn until after the Senate rises this afternoon.

Senator McCUTCHEON: I think that would be most satisfactory. Surely, we want to hear what the minister has to say as to the necessity of the bill before we hear these briefs.

The CHAIRMAN: That is the usual procedure, I must say.

Senator McCUTCHEON: I move we adjourn now, to reconvene immediately following the adjournment of the Senate this afternoon.

The CHAIRMAN: Does that meet with the approval of the committee?

Senator ISNOR: It seems unfair to those who have come here.

Senator ROEBUCK: Decidedly unfair. It may be they would like to hear what the minister has to say. What do you have to say to that, Mr. McGregor? Would you like to present your brief now, or would you rather wait until you have heard what the minister has to say about it?

Mr. W. G. McGregor, Brotherhood of Railroad Trainmen: At the discretion of the committee, it might be well to hear the minister explain the bill to honourable senators.

Senator ROEBUCK: If they agree there is no unfairness about it. That is all right, is it, Mr. Walter?

Mr. J. F. Walter, Brotherhood of Locomotive Engineers: Yes, that will be satisfactory.

Mr. Reuben Spector, Q.C., Canadian Co-ordinating Committee of Teamsters for Canada: As far as I am concerned, the bill is very clear. I am not acquainted with your procedures, but I am really ignorant of what the honourable minister might say. As far as we are concerned, I have several points to clarify in the bill with regard to land transportation, and if you would care to hear me I would explain it right now. We are very pleased with the bill and have advocated a

safety bill for about six years. A brief was presented to the Minister of Transport and the Minister of Labour by our committee, and we are pleased it has now come to fruition. In so far as the bill is concerned, on the question of definitions, if I might be permitted I would proceed to explain.

The CHAIRMAN: I think we will have to decide what our procedure is to be. I have a motion that we adjourn until the Senate rises this afternoon.

Senator ISNOR: Have you sent out to see whether the minister is available?

The CHAIRMAN: Yes.

Senator ISNOR: Then why not hold up the motion until we know?

The CHAIRMAN: An attempt is being made to locate Mr. Mackasey, the parliamentary secretary. Shall we adjourn for half an hour, or do you wish to proceed in the meantime with any other recommendations?

Senator ROEBUCK: Why not hear the person who is ready here to give his view? Once he has given us that, he is all through. Why should not we hear him?

Senator McCUTCHEON: Perhaps the minister and the parliamentary secretary would like to hear him, if he is going to advocate changes in the bill.

The CHAIRMAN: We can adjourn until after the Senate rises this afternoon, or go ahead for the moment with the witnesses ready to make representations.

Senator ROEBUCK: Or we could adjourn for half an hour.

Senator McCUTCHEON: We could adjourn until a quarter to 12.

The CHAIRMAN: It is moved that we adjourn until a quarter to 12.

Hon. SENATORS: Agreed.

The CHAIRMAN: Thank you, gentlemen.

(Short adjournment.)

The CHAIRMAN: The minister is here now, gentlemen. I think we should send a messenger to the members who left with a view to coming back at a quarter to 12. Senator McCutcheon, just after you left the Minister turned up, but we decided not to proceed until you returned.

Senator McCUTCHEON: Thank you very much, Mr. Chairman.

The CHAIRMAN: I will ask the Minister, the Honourable John R. Nicholson, to give us a short explanation of the bill.

Hon. John R. Nicholson, Minister of Labour: Honourable senators, I want, first of all, to apologize for being a little late. There was a very important meeting of a representative group of cabinet ministers with representatives of the railway brotherhoods and the Canadian Congress of Labour who came here from several parts of Canada to discuss another matter. It was anticipated that we would complete our discussions before 11 o'clock, and we finished at exactly eleven minutes after 11. However, we could not let them disperse, after their having come these distances, without having the last few words with them. I apologize most sincerely for the delay.

Perhaps a few words about the history of this bill would be helpful. Last year when the Canada Labour (Standards) Code was before the House of Commons the Government indicated its intention of putting forward a companion measure, which would be designed to protect the safety and well being of workers during the course of employment in federal works, undertakings and businesses. The general purpose of the proposed legislation, as you will see from the bill, is to require industries under federal jurisdiction to observe minimum occupational safety standards. The bill, if it carries your judgment and that of the other house will vest in the Department of Labour responsibility for the

development of certain safety standards, and for regulation and inspection of places of work that come within federal jurisdiction—that is, in so far as the safety and health of the employees are concerned.

It may seem strange to some people—and, frankly, it was strange to me when I became the Minister of Labour—to learn that while there is important federal legislation in certain fields there is no federal legislation of general application directed towards the prevention of employment accidents and the elimination of hazards in work places coming within federal jurisdiction. There is no general legislation of any kind in that respect.

There are certain industries that come within federal control such as the railways, shipping, air transport and the Harbour Board docks, in which occupational safety and the safety of the public are regulated. For instance, there are regulations that one sees posted in almost every railway car having to do with the safety of the public. Such regulations are there with the Board of Transport Commissioners keeping an eye on them in the background. But, while there are some industries that are under such control and in respect to which, in a few instances, safety is covered by some general statutes, there is this great gap which my predecessor, Mr. MacEachen, gave an assurance in the House of Commons last year would be filled by an act based on a bill such as this.

In the absence of federal controls some provincial safety regulations have been applied to federal establishments with varying successes. For instance, elevators in post offices and other public buildings are inspected by provincial inspectors.

Senator McCUTCHEON: I suggest that they are in the banks too.

Hon. Mr. NICHOLSON: That is correct; But a bank is subject to the general laws of the provinces, and even in the absence of federal legislation there is some protection in that field. A federal safety act is needed, in my opinion, and in the opinion of the Government, to clarify this situation, which, to say the least, is far from satisfactory.

I might say that the Department of Transport, the Department of National Health and Welfare, and the National Energy Board are now administering acts under which operations in certain industries are controlled and regulated, and nothing in this bill S-35 will limit or interfere with the responsibilities that the Department of Transport, the Board of Transport Commissioners, or the National Energy Board and these other organizations now have.

There is one section of the act which I hope we shall be discussing before very long, which makes it clear that the application of this particular bill will be subject to any other act of Parliament.

I might say that the Department of Transport, which has had a long experience in the field of railway administration and has also been in the picture in the case of the airlines since interprovincial and international airlines came into the picture, feels that it is qualified to do the jobs in its respective fields, and the section in the act to which I have referred is intended merely to complement the other legislation in the fields where the Government is satisfied with the agencies that are doing the job today.

Because of the very close relationship to other federal departments, and because of the close association, to which Senator McCutcheon has referred, in working with the provincial governments and other federal Government departments in the field of elevator inspection, and things like that, it is intended, if this measure becomes law, that there will be continuous consultation and exchange of ideas and experience among the various authorities.

The proposed safety legislation would have application to the operation of works undertaken and businesses within the legislative authority of Parliament, and more specifically to the same range of industries which come within the scope of the Labour Standards Code. It is complementary legislation to the Labour Standards Code that was passed last year.

The legislation would also apply to several crown companies that are engaged in service operations, in production and trade, and in commercial enterprises. I am thinking of Polymer Corporation, the company I was formerly with; Eldorado Refinery; St. Lawrence Seaway Authority; Air Canada, and the Canadian Broadcasting Corporation.

Senator McCUTCHEON: Air Canada is accepted as a novice, Mr. Minister.

Hon. Mr. NICHOLSON: Well, we may be doing some work when we move into the field. A provision is contained in the bill which will make it possible for the Department of Labour to enter into agreements with provincial authorities whereby the safety services of the provinces could be utilized in performing this field of work.

We do not want any duplication. Along with my deputy minister and other senior officials of my department, I discussed this situation in depth with the ministers of labour of Ontario, Quebec, British Columbia and Manitoba. Prior to that my deputy minister had had consultations with the other six provinces, also in depth. We invited their suggestions as to what might be incorporated in this bill. We also asked at least the four ministers of labour representing the four governments to whom I spoke, if through their workmen compensation boards, or through other provincial organizations, they would undertake inspection services in order to avoid duplication. They all agreed to cooperate fully in this field. Several of the provincial governments have sent in constructive suggestions to be incorporated in regulations that might be passed under this act.

The CHAIRMAN: In which part of the bill is this provision for consultation with the provinces, Mr. Minister?

Hon. Mr. NICHOLSON: I think sections 10, 11 and 12 are the important ones. Section 10 says:

The Minister may designate any person as a safety officer under this Act and may designate regional safety officers for the purposes of this act.

Section 11 is more particularly applicable:

The Minister may, with the approval of the Governor in Council, enter into an agreement with any province or any provincial body specifying the terms and conditions under which a person employed by that province or provincial body—

That would include a workmen's compensation board or similar organization.

—may act as a safety officer for the purposes of this Act.

Then there are further provisions for joint research and investigation into accidents, and collaboration with provincial governments and other agencies.

The CHAIRMAN: Thank you.

Hon. Mr. NICHOLSON: I may say that the majority, if not all, of the provinces have urged the enactment of this legislation by the federal Government. They feel there is a gap and they would like to see the gap filled and have assured us of their co-operation.

In the absence of this kind of legislation, there are serious questions of the extent to which federal enterprises have to submit to provincial regulations, serious questions as to whether they could move on to a dock or to an operation like Polymer, or something like that, or like Eldorado Mining and Refining, which operates here in the Province of Ontario, its Port Hope operations.

Senator McCUTCHEON: In practice, they have done this kind of thing, have they not?

Hon. Mr. NICHOLSON: Yes, they have.

Senator McCUTCHEON: They have the legal right.

Hon. Mr. NICHOLSON: Yes, they have. I might say that, according to my information, it has been amply demonstrated in Canada and in other countries that the control and the reduction of accidents in a nation which is a federation, can only be effectively carried out by concerted action and by one body that has to move in and coordinate in the broad field.

While the immediate problem is the regulation of work places, that is, regulation in accordance with the best standards, there is the longer range objectivity that has impressed me, that is, the development of consistent standards that would apply right across Canada, so that you would not have one province with legislation that is not comparable with the other.

I am sure you can see that the better provisions of all the acts—and here I refer more particularly to the acts of the Provinces of Ontario and Quebec, because they are the two largest provinces—have been incorporated into this legislation. We have invited, as I have said, the provincial governments to criticize or make suggestions for legislation before the actual bill was put in its present form.

I am very hopeful, Mr. Chairman, that with the co-operation of the provinces and the accident prevention associations, as well as the co-operation of employers and employees, we can establish a very much safer environment for workers in Canada than we have today, if this bill is accepted.

Mr. Chairman, I have here with me today Mr. Currie, who has been identified with the work on this bill for some time; and Mr. Davis of our legal staff, if you have any specific questions you would like to put, either of a general nature or on specific clauses of the bill.

Senator McCUTCHEON: I am very glad that we waited until the minister could be here and could give us the statement that he has given. He has reassured me considerably, in his reference to working with the various departments of labour and provincial bodies such as workmen's compensation bodies.

One of the matters which really concerned me about the bill was the possibility of unnecessary duplication of staff and inspection services as a result of this bill. I wonder if the minister would go so far as to say that, in addition to the very laudable objectives that he sees in the bill, another object would be to keep the federal personnel down to an absolute minimum?

Hon. Mr. NICHOLSON: To a minimum, consistent with efficient operation—I would be glad to give you that assurance. I think that, even though we are one nation in federation, conditions are different in different parts of Canada, in regard to weather conditions, for instance.

Living in balmy British Columbia, and especially in the balmy part of British Columbia, I know conditions are different, in that sense, even in one province. There are parts where you get 40 degrees below zero temperatures and where that is not uncommon. There are icy conditions and snow which affect safety, that can better be handled by provincial organizations than by a federal organization.

Senator McCUTCHEON: The minister mentioned a gap. Airlines, by and large, are being exempted, and also shipping.

As to the application of the act to banks, I think it probably may now return to the various provinces. Whether they are legally required to or not is not the point that I am trying to make. Would the minister indicate how many people are concerned and what is the extent of the gap, after we eliminate those?

Hon. Mr. NICHOLSON: Mr. Currie may wish to supplement what I have to say, as he has dealt with this point and I may ask him to reply in part.

I would not anticipate too much interference, if any, in the case of the operation of bank buildings and their other properties. Where I do share some concern—and I am pleased to see some of the representatives of the railway brotherhoods and unions here this morning—is in the legislation and the regulations we have dealing with safety on the railways. These came into being more to protect passengers on railways, people using the services, than for the employees themselves.

While there is provision for protection in the operation of the trains and the movement of freight cars, there is not the same protection in the roundhouses and in the workshops, and other areas of that kind.

Senator ROEBUCK: And the bunkhouses.

Hon. Mr. NICHOLSON: There is a distinct gap. That is one gap that I am not familiar with.

Senator McCUTCHEON: A gap that can be filled by the Minister of Transport.

Hon. Mr. NICHOLSON: It can be.

Senator HOLLETT: What is the exception in section 3(3)? It says:

(3) Notwithstanding subsections (1) and (2) ...

You will notice that, in subsections (1) and (2) in subsection (1)(b) it says:

any railway, canal, telegraph or other work or undertaking...

(c) any line of steam...

(e) any aerodrome, aircraft or line of air transportation...

These are all under the act. But then, subsection (3) says:

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.

I wonder why there is that exemption.

Hon. Mr. NICHOLSON: I would be glad to supplement what I have said on that score.

“Notwithstanding subsections (1) and (2)”, which lists the field of federal jurisdiction. And “except as the Governor in Council may by order otherwise provide...”.

Let us assume that the Department of Transport have legislation with regard to certain aspects of safety, in certain activities, and this bill comes in, and the Department of Labour moves in, in other fields; we want to assure sufficient flexibility.

This clause was worked out jointly, primarily with the Department of Transport. They were in, with their experts and legal advisers, the same as my department.

It was agreed that there should be an overriding authority, that you could not have one minister trying to assert his position in favour of another. We felt we should leave an overriding power in the cabinet and put that right in the act. That is the reason for the peculiar wording of that section.

Senator HOLLETT: In other words, the employees on trains and so on are taken care of by the Department of Transport, with similar legislation?

Hon. Mr. NICHOLSON: In some instances. But, as I have told you, the running trades, protection for the engineers and some others, is there, but there is no protection for others, but there still is a gap.

Senator HOLLETT: There is a gap there?

Hon. Mr. NICHOLSON: There is a gap there. We want to make sure that it is filled and if it is not filled up by the Department of Transport it can be filled by us, under the act.

Senator McCUTCHEON: That will leave the Cabinet free to decide?

Senator ROEBUCK: Could not that be decided now, as to where the jurisdiction lies, instead of having the buck passed from one to the other?

Hon. Mr. NICHOLSON: The Department of Labour is not free to move until we have this legislation. We think that this legislation will fill part of the gap that now exists. It may not be as wide as we think, but we want the present transport regulations to continue until the two departments have worked out, after this legislation is passed, the best way to handle the situation.

Senator ROEBUCK: Can it not be done before the bill is passed, so that we would know where we are and which department to go to for the filling of the gap?

Senator HOLLETT: Could we not eliminate subsection (3) altogether?

Hon. Mr. NICHOLSON: You would do that only with strenuous protest from the Department of Transport, who feel that they have a background of experience in this field and that there should be no modification of this, at least before full and detailed discussion with them.

Senator McCUTCHEON: I take it you were sympathetic to that view?

Hon. Mr. NICHOLSON: To which view?

Senator McCUTCHEON: That of the Department of Transport?

Hon. Mr. NICHOLSON: Yes, after detailed discussion, I was. It was after discussion that we put this section in, and I felt that, under the circumstances that now exist, this section makes sense.

Senator HOLLETT: Surely, if it comes under the Department of Transport, it does not come under the Department of Labour, under that subsection?

Hon. Mr. NICHOLSON: On the other hand, certain responsibility rests with the employers and employees here, and the employer is basically the Department of Transport. It applies in the same way in connection with the public service. The Treasury Board has certain responsibilities for working conditions in the public service; they represent the employer; they pay the bill; they are the agents of the people of Canada, and they have a responsibility by statute in this field. You have an agency of government that occupies the position of an employer, and the Department of Transport is in a somewhat similar position to the Treasury Board. I think certain working conditions must be established by the employer rather than through legislation itself.

Senator HOLLETT: Could we know what legislation there is applying to the Department of Transport and which takes care of these men?

Senator ROEBUCK: Section 270.

Hon. Mr. NICHOLSON: I will ask Mr. Currie to give you that information.

Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch, Department of Labour: The most notable is the Railway Act, section 290, which gives the Board of Transport Commissioners the power to make very extensive regulations dealing with all aspects of the operation of railways. It is particularly to be found in section 290, subsection 1, paragraph (1). It is prefaced "The Board of Transport Commissioners may make regulations—

(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 phrase "the comfort of the public, and of the employees" would seem to cover quite wide grounds.

Senator HOLLETT: That says they may make them, but it does not say they have to be made?

Mr. CURRIE: Very extensive regulations have already been passed.

Hon. Mr. NICHOLSON: If you travel on any train you will probably find excerpts from the regulations of the transport commission posted up there.

Senator ROEBUCK: I pointed out in the Senate when this bill was under discussion there that there are tin pails of drinking water on the diesels, with a common tin cup which also forms the top of the pail on the diesels of the C.P.R. all over Canada. And later these men will be able to relate instances of the ill effects of this arrangement. I also pointed out, and this you will also get in greater detail from the men themselves later, how the Board of Railway Commissioners stated that when the men signed off at the turnaround terminals the jurisdiction of the railroad board ended because they were no longer on the trains and so they would make no provision with regard to bunkhouses.

Hon. Mr. NICHOLSON: That is one reason why we are bringing in this legislation. Speaking of the drinking water situation brings to my mind some of the discussions we have had in the last week in a matter of national importance which I think will be brought to a happy conclusion this afternoon. The same question was raised there. That was a question of health and came under the Department of National Health and Welfare rather than safety. I agree, of course, it should be there.

Senator ROEBUCK: But the department of health will not accept its responsibility. In addition to that you have three departments involved now—Labour, Transport, and Health. And they are all passing the buck from one to the other.

Hon. Mr. NICHOLSON: With this legislation we will not be able to pass the buck any longer.

Senator ROEBUCK: I hope it will be modified so that you can accept the responsibility.

Hon. Mr. NICHOLSON: One thing I have learned is that you can cover such a point by having it put into a collective agreement.

Senator ROEBUCK: I have sat on meetings dealing with collective agreements.

Hon. Mr. NICHOLSON: Of course it should not be necessary to put it into collective agreements.

Senator ROEBUCK: It should not be. We have tried to get it into railroad collective agreements for the last 20 years—unsuccessfully, I would add. What we need on the railroads is a proper regulation as contemplated in this bill where we don't leave it to the men to protest and finally bargain about something that is unsanitary to a degree, but which an inspector who looks at it can find out to be unsanitary and have it altered. He can have it corrected right on the spot. The C.N.R. has provided its diesels with a proper drinking arrangement but the C.P.R. just won't do it.

Mr. CURRIE: Mr. Chairman, I think the content of subclause 3 of clause 3, as the minister has explained, is wide enough to permit an application of the regulations if the Governor in Council so orders in the area covered by the Railroad Act, the Canada Shipping Act, and the Aeronautics Act. If the possibilities under these acts are fully explored and if some action still is not possible, then this clause would become operative and the regulations could be issued to correct the situation.

Senator ROEBUCK: The reason we—I say “we” because I have been so close to this for so many years—perhaps I should not say “we”—but it seems to put a burden on the representatives of the railroad men. After the bill is passed and a provision is made for civil servants and a great many others then, the companies—the crown companies and all the rest will take care of the situation, and I presume the department will appoint inspectors to see that everything is right. I hope after all that the railroad men will not have to go to one of other of the departments to argue their case for mere sanitation. The railroad men would like to have this thing in somebody’s hands right now, and preferably in the hands of the Labour department, because we have been trying to get it from Transport and Health for a long time. We have been seeking this for 20 years and we have not succeeded yet.

Hon. Mr. NICHOLSON: Transport feel their wide experience in this field should be and can be put to effective use. There is some jurisprudence—

Senator ROEBUCK: That is all right for the running of a railroad. They have much experience there, but the health of the men and women on our railroads is as important as it is on the road or any place else.

Hon. Mr. NICHOLSON: On the other hand there are some regulations and there is a system of jurisprudence in the Board of Transport Commissioners that they are anxious to retain but at the same time we are taking authority in this bill. This wording was carefully worked out after weeks of discussion in which we had the Department of Justice and the two other departments working on it to make sure that there was no gap, and the responsibility is now in the hands not of the Board of Transport Commissioners but in the hands of executive government.

Senator ROEBUCK: That is better. You must remember that when we had a conference of that kind, it was a contest of departments for administrative power. They are always fighting with each other—not the ministers, but the departments generally who wish to protect their own authority from encroachment by other departments.

Hon. Mr. NICHOLSON: Here there is a responsibility which would be delegated by Parliament to the Governor in Council.

Senator ISNOR: Mr. Chairman, you read a letter from the Canadian Trucking Association Incorporated this morning. The wording of the title of this bill, “An Act respecting the prevention of employment injury in federal works, undertakings and businesses.” The question arises as to whether the act applies to privately-owned air companies, steamship companies and to the C.P.R., as mentioned by Senator Roebuck. Is it an overall coverage?

Hon. Mr. NICHOLSON: If you had an air line that operated exclusively within a province, they might be able to make out a case. However, that is not a good example because the federal Government has an overriding responsibility in air. Perhaps the truckers are a better example. Yes, the truckers perhaps are the best example. We have trucks that operate exclusively within a province and we have other trucking companies—the great majority, I think, of the larger companies, who operate interprovincially and internationally, and to the extent the operations are interprovincial or international the federal Government has jurisdiction over such truckers. We had that situation in the truckers’ strike in Ontario. Two governments were involved, and we agreed on the appointment of a single conciliator. It was done jointly.

Senator HOLLETT: Why have clause 3(b), (c), (d), (e)?

Hon. Mr. NICHOLSON: If we did not have 3(b), (c), (d), (e), then it would not be possible for the Governor in Council to operate. If there were the gaps that we speak of and Transport had not moved in, it would not be possible for us to operate if we did not have them.

Senator ROEBUCK: I can quite understand shipping is another big subject, and at the moment I am not familiar with it, but you are.

Hon. Mr. NICHOLSON: Yes, to some extent.

Senator ROEBUCK: Why could not we have railroad trains put in along with (b), (c), (d), (e) and (f)—radio broadcasting stations, aerodromes and so on?

Hon. Mr. NICHOLSON: I think, with all due respect, we have. In (b) you have:

any railway, canal, telegraph or other work or undertaking—
But you notice the limitation. This was done deliberately in subsection (3), the wording of (3). There are regulations governing the operation of trains that are now in existence. There are no safety regulations with regard to the round-houses, workshops and things of that kind. We can automatically move in without delay. The Department of Labour can move in in that situation unless the Governor in Council wanted to obstruct us. We could not do it with the running services, but we can do it, say, in the one you mentioned, the drinking cups in workshops, and so on.

Senator ROEBUCK: Could you do it on the diesels?

Hon. Mr. NICHOLSON: We can do it on any train. A diesel is still an engine; it is a train or part of a train. The diesel engine is a train, in my opinion.

Senator ROEBUCK: Well perhaps notwithstanding section 3 (3) that says it shall not apply to trains, something up further in the act would permit you to correct that?

Hon. Mr. NICHOLSON: It does, yes, in paragraph (b).

Senator ROEBUCK: Paragraph (b):

any railway, canal, telegraph or other work or undertaking connecting a province with any other—

Hon. Mr. NICHOLSON: We can take care of the roundhouse situation and train crews under 3(1) (b), if this bill is passed.

Senator McCUTCHEON: And drinking cups on diesel engines, if the Governor in Council accepts it?

Senator ROEBUCK: Yes, but can you go ahead without that special authorization of the Governor in Council?

Senator HOLLETT: Why wait for the Governor in Council to make it law?

Hon. Mr. NICHOLSON: For the reason that the Board of Transport Commissioners feel they have a broader background of experience in this field than the Department of Labour.

Senator HOLLETT: I do not agree with that.

Senator ROEBUCK: Nor do I agree with that. I do not bow down and worship the Board of Transport Commissioners.

Hon. Mr. NICHOLSON: That is the position that, after very serious consideration, my departmental officials and I were prepared to accept.

Senator McCUTCHEON: And that is the position of the Government?

Hon. Mr. NICHOLSON: Yes, that is the position of the Government.

The CHAIRMAN: May I ask another question in connection with clause 3? In clause 3(1)(i) it provides that this bill applies to:

any work, undertaking or business outside the exclusive legislative authority of provincial legislatures.

Hon. Mr. NICHOLSON: Yes.

The CHAIRMAN: That is very broad. I was thinking, say, of the pulp and paper industry, which is outside the exclusive jurisdiction of the provincial legislatures. I suppose that each province in which that business is carried on could have exclusive regulations. How would you interpret that? Suppose the province, say, of Quebec has one set of safety regulations for the pulp and paper industry and the Province of Ontario has another, could you, by an possibility, reach the point where the Province of Quebec had one set of regulations and you had another set?

Hon. Mr. NICHOLSON: I am not an expert in constitutional law. I used to have some knowledge of it some years ago, but I would rather not give a legal opinion today. But certainly the operation of that industry is normally within the jurisdiction of the province.

The CHAIRMAN: It is not within the exclusive legislative authority.

Hon. Mr. NICHOLSON: In what way would you anticipate in the field of safety, the federal Government could intervene in the operation of the pulp and paper industry?

The CHAIRMAN: You have given yourselves the right under paragraph (i).

Senator ROEBUCK: What section is that, Mr. Chairman?

The CHAIRMAN: Section 3(1)(i).

Hon. Mr. NICHOLSON: We are given the right to it in the case of any work or undertaking outside the exclusive legislative authority of the provinces.

The CHAIRMAN: That includes that industry, it seems to me.

Hon. Mr. NICHOLSON: No, because the operation of the pulp mills and safety therein are surely within the exclusive legislative responsibility of the provincial legislature. That is not a considered opinion, but—

The CHAIRMAN: What does our Law Clerk say about that?

Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel, the Senate: I think it would take a reference to the Supreme Court to answer that question.

Hon. Mr. NICHOLSON: I know from my own association with the forest industry, both as a young man and as an older man, that these matters are deemed to come within the authority of the provincial legislatures, and not the federal. Think of some of the difficulties the Government had in bringing the federal Department of Forestry into being. It had to limit its activities virtually to research because the actual management and growing of trees and everything else is a provincial responsibility.

Senator McCUTCHEON: Research in crown lands.

Hon. Mr. NICHOLSON: Yes.

Senator ROEBUCK: I do not think there is much doubt about it that it is provincial.

Hon. Mr. NICHOLSON: Polymer Corporation, on the other hand, would be one of those. It is a federal undertaking making synthetic rubber and chemicals.

Senator HOLLETT: All crown corporations?

Hon. Mr. NICHOLSON: Yes, all crown corporations would come within this bill, other than Air Canada, the Canadian National, and certain transportation activities.

The CHAIRMAN: I think under (i) almost any industry—take the steel industry.

Hon. Mr. NICHOLSON: With all due respect, the steel industry, again, is provincial in scope and not federal.

The CHAIRMAN: But it is not within the exclusive legislative authority of the provincial legislature, and the Steel Company is carrying on business throughout Canada in various provinces.

Hon. Mr. NICHOLSON: In each case they are within the jurisdiction of the particular province. Take the Aluminum Company. The operations of the Aluminum Company in British Columbia under the Factories Act of that province come within the legislative jurisdiction of the Province of British Columbia. The Aluminum Company of Quebec comes within the legislative jurisdiction of the Province of Quebec.

Senator ROEBUCK: They may do business in various provinces, but they do not connect one province with another province, to quote the British North America Act.

Hon. Mr. NICHOLSON: That is quite correct.

Senator KINLEY: Unless they have a federal contract.

Hon. Mr. NICHOLSON: Even then you are bound by the provincial laws with regard to safety.

The LAW CLERK: It is intended to be a catch-all provision and to concede to the provinces the jurisdiction they now have, which is well recognized. I do not think the courts will have any more difficulty in interpreting this provision than they have had and will continue to have in interpreting the Canadian Constitution as a whole, and they have had great difficulty. The competing sovereignties inherent in our system present problems which require a definitive opinion from the Supreme Court, and I am not capable of providing it.

Hon. Mr. NICHOLSON: There were one or two provinces with whom we have had discussions, who insisted that such a provision be put into this act. They were not going to take any chance on the federal Government invading their jurisdiction and I think they were quite right in taking that stand. I had no hesitation in giving them that assurance.

The LAW CLERK: The difficulty is with the word "exclusive," but that is in the B.N.A. Act and we are going to have to live with that language for some considerable time, despite the competing sovereignties. I will repeat what I said before: I do not think the courts would have any more difficulty with this particular provision than they have with the Constitution as a whole.

The CHAIRMAN: The answer to my question, Mr. Minister, is that you do not intend to interfere with the present provincial rules with regard to safety in the pulp and paper industry?

Hon. Mr. NICHOLSON: That is right, and neither do we in any other business or manufacturing operation of that kind. We gave that assurance to the provinces.

The CHAIRMAN: That clears my mind, because it is a very broad principle.

Hon. Mr. NICHOLSON: In principle it is no different from those in the British North America Act, as Senator Roebuck has pointed out.

The CHAIRMAN: Are there any further questions of the minister?

Senator KINLEY: I should like to say that the penalties seem to be very severe. I am referring to clause 20. There does not seem to be any appeal.

Hon. Mr. NICHOLSON: There would be an appeal under the Summary Convictions Act.

Senator KINLEY: Would there be?

Hon. Mr. NICHOLSON: Yes, automatically, I believe. With all due respect, senator, I would not say that these penalties are severe. If anything, you might say that they are reasonable. If an employer is guilty of lack of care, and does

not live up to the provisions of the act and the regulations that are passed under it, and death results, the penalty still is imprisonment for one year, or a fine of \$5,000—

Senator ROEBUCK: Would you not always give warning? If you discovered something wrong at, say, a well and you told the employer to seal the top of the well and he refused to do it thus endangering the health of a very large number of employees, why should he not be punished?

Hon. Mr. NICHOLSON: That is right, and, I point out, this is the maximum penalty, and the magistrate has a discretion.

Senator KINLEY: The maximum is set for the person who can afford to pay. There might be many people in small businesses who are ignorant of the regulations, and the magistrate might say—well, do you say the magistrate will take all these things into consideration?

Hon. Mr. NICHOLSON: Yes, in the same manner as he would with respect to any other breach of the law. This is no different from any other federal statute in that respect, except that in the Criminal Code for offences that are not as serious as these perhaps, as serious as offences under this draft legislation often the penalties are much more severe.

Senator KINLEY: For those who can afford to pay.

Hon. Mr. NICHOLSON: Not only for those who can afford to pay.

Senator KINLEY: But a lawyer in a police court would likely tell the magistrate that in the discussion in the House of Commons on this bill it was disclosed that this was the maximum penalty and that the magistrate should use his judgment.

Hon. Mr. NICHOLSON: The magistrate would know that anyway, senator, with all due respect.

Senator McCUTCHEON: If he cannot afford to pay he has the option of going to jail.

Senator KINLEY: Yes, that is right.

Senator ROEBUCK: The appeal would be a trial *de novo* before a county court judge.

Hon. Mr. NICHOLSON: Yes. I think this is a very reasonable penalty. I did give serious consideration to possibility of suggesting even higher penalties.

Senator KINLEY: It is rather restricted. Clause 20 reads:

(1) An employer or any person in charge of the operation of any federal work, undertaking or business who

(c) discharges or threatens to discharge or otherwise discriminates against a person because that person

(i) has testified or is about to testify in any proceeding or inquiry had or taken under this Act, or

(ii) has given any information to the Minister—

If a foreman, for instance, does something that he does not know he should do then he is liable to the same penalty of a fine not exceeding \$5,000 or imprisonment, and in subsection (3) it is provided that he may be tried summarily.

Hon. Mr. NICHOLSON: Well, senator, I do not think you would suggest that we should pass legislation of this kind and then not protect an employee, whether he be a foreman or anyone else, who informs the minister of what he considers or thinks is an infraction of the regulations or law.

Senator KINLEY: But when you get down to working with the men who are doing the job—and I have had some experience of this—you find that they say things they do not mean, and they can make trouble. I hate to see the penalty—

Hon. Mr. NICHOLSON: That is a matter entirely within the discretion of the magistrate.

Senator KINLEY: I am glad to hear that.

The CHAIRMAN: Are there any further questions of the minister?

Senator ISNOR: Mr. Minister, you consulted various departments in regard to the provisions of this bill. I do not know what good purpose could be served by it, but I am wondering if the accident insurance companies have made any representations to you. Perhaps Mr. Currie could answer that question.

Mr. CURRIE: No representations were made, sir.

Senator ISNOR: In every airport one sees posters about taking out insurance, and so on.

Hon. Mr. NICHOLSON: Senator Isnor, in our discussions with the provincial governments—and I participated in the discussions with four provincial governments myself—we asked them to pass on any suggestions they had received from any source, and I am sure if they had received any from the insurance companies we would have got them.

Senator McCUTCHEON: If these provisions are too stringent they might put the insurance companies out of business.

Hon. Mr. NICHOLSON: Or their profits might increase.

Senator ROEBUCK: Before the minister leaves I should like to express, on behalf of myself and of everybody here, our appreciation of his attendance and the very satisfactory discussion we have had of this bill. I would like him to hear what the labour representatives have to say, but if he cannot remain then I hope his officers will.

Hon. Mr. NICHOLSON: They will, and, frankly, I would be interested to hear them for as long as I can stay I shall stay for a short while I see one or two of my friends from the railway brotherhoods here and I would like to hear their comments.

Senator ROEBUCK: Yes, and they have prepared a brief. They know what they are talking about.

Hon. Mr. NICHOLSON: I have found out that they usually do.

The CHAIRMAN: Thank you, Mr. Minister.

Hon. Mr. NICHOLSON: Thank you, gentlemen.

The CHAIRMAN: How shall we proceed with the—

Senator ROEBUCK: Let us hear from Mr. Walter and Mr. McGregor now, while the minister is here.

The CHAIRMAN: Mr. Spector has a question he wanted to ask the minister.

Mr. SPECTOR: Yes, if I may be permitted, Mr. Chairman.

The CHAIRMAN: You are representing the Canadian Co-ordinating Committee of the Teamsters of Canada?

Mr. SPECTOR: That is right, and Mr. K. McDougall is with me. I am the attorney, and Mr. McDougall is on the executive committee. In order to clarify this so that there will be no confusion in the future I will say, while the hon. the minister is here, that we take it for granted that trucking is included in the bill.

Hon. Mr. NICHOLSON: To the extent that the operations are interprovincial or international, that is correct.

Mr. SPECTOR: In order that there be no confusion in the future in respect to some lawyer taking a case to the Supreme Court and arguing that the act does

not include trucking, may I be permitted to suggest that clause 3(1) on page 2 be amended by inserting after paragraph (b) as paragraph (c) the words:

any land transport operation connecting a province with any other or others of the provinces, or extending beyond the limits of a province.

That is in conformity with the wording that is found in paragraph (c) which reads:

any line of steam or other ships connecting a province with any other or others of the provinces, or extending beyond the limits of a province.

My suggestion is that you have a specific paragraph covering any land transport operation.

Hon. Mr. NICHOLSON: Between provinces?

Mr. SPECTOR: Yes, or extending beyond the limits of a province. It would then apply to a land transport operation between Canada and any part of the United States.

Senator ROEBUCK: Why not insert those words in paragraph (b) after the word "railway"? If you insert "transport" after the word railway", you would have it, would you not?

Mr. SPECTOR: We could have it so that (b) reads:

Any railway, land transport operation, canal, telegraph or other work or undertaking—

I will agree whichever phraseology the law officers wish.

Hon. Mr. NICHOLSON: If it is going to be inserted then I think it might be better if it were inserted as part of paragraph (b), as Senator Roebuck suggested.

Mr. SPECTOR: I thought of that as a second alternative. I have it here in my notes. I would ask that you amend paragraph (b) so that it reads:

Any railway, land transport operation, canal, telegraph or other work or undertaking—

Is that in accordance with the legal opinion?

Mr. DAVIS: Are you asking us to agree right now? You are before a committee of the Senate.

Mr. SPECTOR: This is my suggestion to the committee.

The CHAIRMAN: Are there any other suggestions?

Mr. SPECTOR: Yes, sir.

Senator ROEBUCK: Would you give me that phrase again?

Mr. SPECTOR: I suggest that paragraph (b) read:

any land transport operation connecting a province with any other—

Senator ROEBUCK: That is in there already. What you are suggesting is that after the word "railway" in paragraph (b) there be inserted the words "land transport operation"?

Mr. SPECTOR: That is correct.

The next thing, Mr. Chairman, is with respect to clause 7 on page 3. In the seventh line we have the words "plants, machinery, equipment" et cetera. I suggest that after the word "equipment" there should be inserted the word "vehicles".

The CHAIRMAN: Would you give us the line? Is it not line 37 to which you are referring?

Mr. SPECTOR: In section 7(1) on the seventh line, after the word "equipment" insert the word "vehicles". After subparagraph (i), may we be permitted to suggest that we insert the following subparagraphs. This would then read:

(j) respecting the mechanical safety of any vehicles and equipment used in any land transport operation or undertaking.

And the next subparagraph should read:

(k) respecting working conditions in so far as they affect the safety of the public in general and employees in particular.

Senator HOLLETT: Why "in particular"?

Mr. SPECTOR: It is only a suggestion.

Senator HOLLETT: Is not the word "employees" sufficient?

Mr. SPECTOR: What we have in mind, senator, is this: A recognized trucking firm will have employees who will fall under the Labour Standards Code. Perhaps they have a business where they want a 40-hour work week, and the east coast wants less than that. That will be decided by the Department of Labour. There may be a situation where it is known that an independent trucker is not affiliated with any company, who owns his own truck. It was known in a certain specific case that a trucker entered his truck in Halifax and drove 11 days and 11 nights to Vancouver. He took bendrezine pills, and ended up by killing people on the highway. We feel the public should be protected against any act of that nature in the future, and we have authority to enact this legislation. That was why we spoke of "public in general" and "employees in particular".

Later when we come to the regulations stage, we will suggest to the honourable minister a provision to govern the following situation. It is well known in the trucking industry that where there is something wrong mechanically with the truck, the employee returns to his company and finds that his pay is gone and he has lost his job. He is afraid to report to certain companies and keeps on driving that truck until he kills himself or somebody else. That is something we wish to avoid and which we shall stress when we come to the regulations, and I thought if we had the verbiage "public in general" and "employees in particular" it would be something worthy of consideration.

Senator HOLLETT: You explained it very well.

Senator ROEBUCK: The trouble with your phraseology is that "public in general" does not mean a specific person in the public.

Mr. SPECTOR: I do not follow that.

Senator ROEBUCK: That is an interpretation which a court may very well apply today. You are better off without your adjectives and by simply leaving it as "public" and "employees".

Mr. SPECTOR: All right.

The CHAIRMAN: Have you other suggestions?

Mr. SPECTOR: Yes.

The CHAIRMAN: With respect to all these suggestions Mr. Spector is making, I do not think it is fair to expect the department to accept or reject them right away. I think if he proposes them, and then Mr. Davis, the Departmental Solicitor, looks at them and later states to what extent he approves of them, it would be better. In the meantime, go ahead with any other suggestions.

Mr. SPECTOR: The last would be to correct section 17 by inserting the word "vehicle". Having already inserted the word "vehicle" in section 7, it would be necessary to include the word "vehicle" wherever else it occurs. For example, in section 17 the word "vehicle" should be included throughout.

The Law CLERK: I suggest that the word "thing" in the second line of section 17(1) should include the word "vehicle".

Mr. SPECTOR: With due respect, some courts have not been very clear about it. I practiced law for 35 years, and I felt it advisable to put the word "vehicle" in here to avoid misunderstanding. It is only a suggestion from experience.

Senator ROEBUCK: And you are right on the principle of *ejusdem generis*. You cannot read "vehicle" into that clause.

Senator LANG: Respecting your first suggestion of "land transport operation," that is a broad term. Could you not use the word "vehicle or truck"?

Mr. SPECTOR: We could. However, we used the words "land transport" instead of "vehicle," because you can have a piggy-back sometimes and a trailer.

Hon. Mr. NICHOLSON: If it comes within the scope of the Labour Standards Code the intention is to see that it comes within the scope of this act.

Mr. SPECTOR: Of course, these are only suggestions.

The CHAIRMAN: I suggest that the department be given an opportunity to consider them.

Mr. SPECTOR: Thank you very much for permitting me to make these suggestions.

Senator KINLEY: I think that an earlier suggested amendment of yours was to include the words "any method of transportation". That seems to me to be pretty comprehensive.

Mr. SPECTOR: "Any land transport operation or undertaking". A bicycle, for instance, would not connect from one province to another.

Senator KINLEY: It could ride into the other province.

Mr. SPECTOR: It may be that you should suggest that the bicycle have both front and rear lights, and a bell.

Senator KINLEY: I do not want you truckers to have an advantage over the little independent man who does trucking.

Mr. SPECTOR: We have no desire to do so.

Senator KINLEY: I am afraid you are looking after the interests of your truckers.

Mr. SPECTOR: We have no desire to have an advantage over anybody else. Our motive here and my attendance here this morning is because we believe in and are deeply appreciative of this proposed legislation. We want to make sure that it covers the trucking industry. I would not want you or anybody else to think for one minute that there is any selfish interest we are serving here. We have no intention to drive out the independent trucker unless he does harm to the public. We are interested in the public, and that is why I am here this morning.

Senator KINLEY: I have had some experience and I am sure that your truckers do as many other truckers do, travel all night, eat a little lunch in the truck, and they are liable to be a menace on the road because of what is expected of them. This is true of all truckers. The little fellow should also be protected.

Mr. SPECTOR: We would like that to be so. Mr. Huneault is one of the executive members, and he is fully familiar with that aspect of it. But I know they would like to drive more than 40 hours a week. Today with the new labour code they cannot do so in certain sections of the country. Am I correct, Mr. Minister? This is one of the big headaches. We want the rank and file to get a good salary, and we feel that 40 hours a week is enough.

Senator KINLEY: Has that part in the Labour Standards Code with regard to truckers been invoked yet? It was said there would be some difficulty for them to apply it.

Hon. Mr. NICHOLSON: Well, let us take care of the other legislation that has been passed.

Senator KINLEY: But has it been put before us?

Hon. Mr. NICHOLSON: It is one of the factors that the minister should consider in deciding the extent to which permits will be given to trucking companies to operate beyond the 40-hour period.

Mr. DAVIS: It seems to me that what this gentleman is proposing in section 3 (1) is against all the legislation we have had for years. These are the things we have covered. We borrowed this wording from the B.N.A. Act.

The CHAIRMAN: I rather favour using the wording "land transport operation" in paragraph (b), because that would include pipe lines, which you want to include.

Tomorrow we have to deal with a bill which proposes to incorporate a pipe line to send solids from one province to another.

Hon. Mr. NICHOLSON: I should like to make just an observation. I am sure that if the Canadian Trucking Associations Incorporated or any other organization have any ideas, we would welcome them, if they are constructive. We try also to co-operate with the advisers of your committee, to incorporate amendments in the bill. I would like to point out, however, that the object of this bill, which is sponsored by the Minister of Labour, is to prevent injury to employees. It is not the general public, for whom safety legislation is provided by the Criminal Code of something like that. We are here to protect the employees. That is the purpose of this legislation.

Senator McCUTCHEON: Interprovincial trucking is covered by this legislation, without adding any words.

Hon. Mr. NICHOLSON: We think it is, but if there is any doubt about it we would be glad to consider the suggestion.

Mr. SPECTOR: If I were to have said at the beginning that all we are doing is appearing here this morning just merely to protect the truckers, I would not have been rendering full service as a Canadian. We are interested in protecting the public in general and the truckers in particular. That is what I even suggested as one of my amendments. I repeat that. If you have other legislation to protect the public, we are then interested in protecting the employees and the truck drivers.

Hon. Mr. NICHOLSON: That is the purpose of this legislation, protection of employees.

Mr. SPECTOR: I may say, Mr. Chairman, in so far as the legal counsel of the department is concerned, I might refer him to the Privy Council decision in *Attorney General for Ontario v. Winner*, where it was decided that trucking comes under federal jurisdiction.

Mr. DAVIS: That is what I was trying to indicate. This legal decision is being attacked now before the Supreme Court, on appeal from the Attorney General of the Province of Manitoba. Consequently, I did not want there to be any confusion in the future.

Senator ISNOR: Mr. Chairman, have you put on record whom this witness is representing?

Mr. SPECTOR: The Canadian Co-ordinating Committee of Teamsters for Canada.

The CHAIRMAN: What relation has that to the Canadian Trucking Associations?

Mr. SPECTOR: None whatsoever. The Canadian Trucking Associations are owners. We are the employees.

Senator ISNOR: We have been talking all along about the trucking firm.

Mr. SPECTOR: It has reached the situation where the employees are concerned with the carrying on of the undertaking, even if we do not own it.

Senator ROEBUCK: That is New Brunswick?

Mr. SPECTOR: Yes.

The CHAIRMAN: We have another brief, from the Canadian Railway Labour Executives' Association. Would you like to hear that now? We will have at least one more meeting but these gentlemen are here and I should not like to disappoint them.

Senator ROEBUCK: What about the other people that I mentioned? Is there not some priority in that suggestion, at all events? Mr. McGregor and Mr. Walter are here and what they have to say deals exactly with what we have been discussing. I do not know what the other gentlemen are going to bring forward.

The CHAIRMAN: These are the Brotherhood of Locomotive Engineers and the Brotherhood of Railroad Trainmen?

Senator ROEBUCK: Yes. It is with regard to these diesels and bunkhouses. It is right along what we have been discussing. While the minister is here, I would like to hear from these witnesses on this point.

The CHAIRMAN: Does the committee wish to hear from Mr. Walter and Mr. McGregor? I understand now that there is only one brief and that Mr. McGregor will present it. Does the committee wish to hear him?

Hon. SENATORS: Agreed.

Mr. W. G. McGregor, Canadian Representative, Brotherhood of Railroad Trainmen: Mr. Chairman, honourable senators, Mr. Minister: On behalf of my colleagues in the Brotherhood of Railroad Trainmen, and on behalf of the Canadian Railway Labour Executives' Association, I wish to present this brief. First, I should like to point out that the railway workers are interested in safety on the job as well as off the job, even in so far as children's playgrounds are concerned. Safety is everybody's business.

We appreciate, Mr. Minister, the opportunity we have had of having heard your explanation of the bill. With permission I will now present the brief.

Honourable senators, on behalf of the Canadian Railway Labour Executives' Association, an Association which represents practically all railway employees in Canada, we wish to express our appreciation for the opportunity to appear before your committee for the purpose of setting out our views relative to the subject matter of Bill S-35, an act respecting the prevention of employment injury in federal works, undertakings and businesses.

We are of the opinion that the bill is intended to close gaps in existing legislation in so far as safety is concerned, and in this respect we endorse the intent and the comprehensive coverage contained in it.

However, there is one aspect of the bill that gives us cause for concern, and that aspect concerns itself with what may be best termed, health and sanitation of railway employees.

It is necessary to review our efforts to obtain reasonable sanitation standards for railway workers in Canada.

In August, 1909, the Brotherhood of Locomotive Engineers made application to the Railway Commission for "suitable quarters for firemen and engineers at divisional and terminal points", which case was heard by the commission on November 4, 1910.

The judgment contained in Canadian Railway Cases, Volume XI, 1911, pages 336-37-38, 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 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.

Our records indicate that representation was made to the Departments of Health and Welfare at both the federal and provincial level, in an effort to determine who had jurisdiction in the matter.

On April 30, 1949, the following letter was received from the Minister of National Health and Welfare, at that time, the Honourable Paul Martin:

Mr. J. B. Ward,
Assistant Grand Chief Engineer,
Brotherhood of Locomotive Engineers,
502-3 Plaza Building,
Ottawa, Ontario, Canada.

Dear Mr. Ward:—

Last year we had correspondence regarding the authority of Provinces to direct Federal chartered railways to comply with Provincial regulation regarding health and sanitation located on the property of such railways.

On August 18, 1948, I wrote to you expressing regret that I was unable to give you a final answer.

We have since been advised that this Department has authority with regard to health and sanitation in buildings on the property of international or interprovincial railway companies. However, the Provinces have also a right to require cleanliness on such properties if a public nuisance exists as a result of failure to maintain them in satisfactory condition.

I hope that this information answers the questions which you had in mind.

Yours sincerely,

(Sgd.) Paul Martin.

In 1951, the Department of National Health and Welfare issued a set of bunkroom standards entitled "Railway Sanitation—Sanitary Requirements for Bunkrooms".

Improvements were obtained in many cases of alleged unsanitary bunkrooms by referring such cases to the Department of National Health and Welfare.

However, the standards referred to did not have regulatory authority and therefore could not be enforced.

With the advent of diesel power on Canadian railways, our records show that representation was made to the Board of Transport Commissioners in 1955

and 1956, requesting that the board, under the authority of section 290 of the Railway Act, issue a general order that would require the installation and maintenance of toilets on diesel locomotives.

The board advised that in its opinion it did not have jurisdiction over a matter of this kind.

On May 1, 1958, we presented a brief to the federal cabinet and among other matters we dealt with health and sanitation, railway employees. Since that date in our annual submissions to the Government we have urged that the Government provide for the health and comfort of railway employees by requiring that toilet facilities be provided and maintained in a sanitary condition for towermen, crossing watchmen, enginemen on all types of Diesel locomotives, all yard service employees, trainmen when occupying cabooses, and in all boarding cars, railway shops and resthouses at terminals. Further, that drinking water facilities, sleeping accommodation and eating facilities be provided and maintained in a sanitary condition.

On February 19, 1963, the then Minister of National Health and Welfare, the Honourable J. Waldo Monteith, sent us a draft copy of a national sanitary code applicable to railways. After a series of meetings with officials of the department, which extended into 1965, we were given copies on June 1, 1966, of the approved Sanitary Code.

The covering letter, over the signature of Mr. W. R. Edmonds, Chief, Public Health Engineering Division, Department of National Health and Welfare, advised that the code had been developed after consultation with provincial health authorities, the Railway Association of Canada, the Railway Brotherhoods and other interested agencies. He goes on to say that he trusts that we will find it acceptable and that these "guide-lines" will be implemented to the fullest extent possible.

In other words, the department has put a great deal of time and effort into the preparation of a Sanitary Code, that is very comprehensive, was produced by authority of the Minister, the Honourable Allan J. MacEachen, but is without regulatory authority, and is for use only as guide-lines.

We have repeatedly expressed the view that guide-lines as such will serve no useful purpose. Rather, there must be regulatory authority covering such matters.

On May 24, 1966, Bill S-35 was introduced in the Senate and we respectfully refer you to two particular parts of the bill, having in mind that Section 3(1)(b) brings railways under federal jurisdiction, within the jurisdiction of the bill.

Section 7(d) Regulations—stipulates that regulations may be made—"respecting the provision and maintenance of potable water supplies and of sanitary and other facilities for the well-being of employees".

However, Section 3(3) of the act 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.”

We understand that those who drafted the bill are of the opinion that health and sanitation, as it applies to railway employees comes under the jurisdiction of the Department of Transport, (The Board of Transport Commissioners for Canada). However, as we have pointed out, the Department of National Health and Welfare has advised us that it has jurisdiction, but evidently the department will not go beyond establishing guide-lines. Now we find that Bill S-35 claims jurisdiction in this matter, comes under the Minister of Labour. However, the bill qualifies the jurisdiction by excluding the operation of trains unless otherwise provided by order of the Governor-in-Council.

We are compelled to observe that in a matter of such importance as health and sanitation, it is inconceivable that such confusion should prevail, while railway employees are, in all due respect, treated as less deserving of being assured reasonable standards than is afforded other citizens of Canada.

We respectfully request that you amend Bill S-35 in such a manner so as to provide by law sanitary standards for railway employees.

If I might, Mr. Chairman, I would like to make one short remark. In so far as the discussion this morning dealt with the matter of safety, our brief has tried to point out the problem of sanitation. However I would like to quote an extract from a speech made by Mr. R. M. MacDonald, Director of Operations, Board of Transport Commissioners, when he addressed the joint meeting of the Air Brake Association in Chicago, Illinois, September 15, 1958. It deals first of all with regulations, and I quote:

The public safety in operation of railway is a primary concern of the Board. It is authorized to make orders and regulations touching on virtually every aspect of railway operation. There are many sections of the Canadian Railway Act which cover these general powers. Possibly the most comprehensive is section 290. This section authorizes the Board, among other things, to make Orders and Regulations:

- 1 Limiting the rate of speed at which railway trains are to be operated in any City, Town or Village.
- 2 Limiting the use of the statutory warning signal within urban municipalities.
- 3 Requiring proper shelter to be provided for railway employees on duty.
- 4 Prescribing the use of fire prevention appliances.
- 5 Limiting the length of sections.
- 6 Designating the number of men to be employed upon trains.
- 7 Regulating the hours of duty of employees involved in train operation.
- 8 Providing that a specified kind of fuel or a specified kind of power or method of propulsion shall be used on locomotives, and,
- 9 Generally providing for the protection of property and the protection, safety, accommodation and comfort of the public and of railway employees.

It is significant, however, that no general regulations have been adopted with respect to several of these requirements. For instance, there are no general regulations limiting the rate of speed of trains, providing shelter for railway employees, limiting the length of sections, designating the consist of crews and neither has a Canadian Hours of Service regulation been adopted.

The Board of Transport Commissioners on safety applies rule General 102, now General 010, applying to safety appliances on rolling stock, but as far as regulations for sanitation are concerned there has been no general order issued to my understanding and knowledge.

Senator BOURGET: In your brief you mentioned a sanitary standard. Have you a specific request to make as to how the bill should be amended?

Mr. MCGREGOR: No, senator, we left this to those who are more capable of drafting legal language.

Senator ROEBUCK: You are asking that the railrood employees be brought under this bill like all the rest.

Mr. MCGREGOR: For sanitation and safety purposes.

Senator LANG: Have the railroads disregarded it, or could you not request this under collective bargaining?

Mr. MCGREGOR: This has been a matter of collective bargaining over a period of years. There have been some improvements, but we have been unsuccessful in having these sanitary facilities provided through collective bargaining procedures. As mentioned in the brief it has been presented to the cabinet and the Government on various occasions over many, many years.

The CHAIRMAN: Are there any further questions?

Mr. MCGREGOR: My colleagues, Mr. Gibbons and Mr. Walter, are here, if there are any matters they could assist with in answering any questions.

The CHAIRMAN: Do you have anything further to add to what Mr. McGregor has said, Mr. Gibbons or Mr. Walter?

Mr. WALTER: I think, Mr. Chairman, that Mr. McGregor has covered our observations on the bill fully.

Mr. Arthur Gibbons, Brotherhood of Locomotive Firemen and Enginemen: If I may, Mr. Chairman, I would like to refer to the Sanitary Code which is indeed comprehensive. There are some 108 pages, but they do not have regulatory authority. They merely serve as guidelines.

I think in order to point out what our main concern is with respect to the necessity of regulatory authority in the field of health and sanitation, if I may read you a letter arising out of drinking water facilities on the Canadian Pacific Railway on diesel locomotives that Senator Roebuck referred to, it will present an example of the problem.

An incident has arisen here in the London Division that shows the necessity of more sanitary drinking water facilities on our diesels.

In December, Brother O. L. Maxwell underwent a medical examination, and it was found he had an advanced case of tuberculosis. He has been hospitalized, under strict isolation, and has been given only a 50-50 chance of recovery.

The Board of Health Authorities have directed all employees who have had any contact with Brother Maxwell (and it could not be any closer than using the same water pail) to have X-Rays and skin tests made for their own protection. This involves the majority of the running trades here in London, as well as those using the bunkhouses in Windsor. Having electric water coolers and using paper cups would certainly minimize anyone's chances of infection, and considering the circumstances mentioned above it seems most necessary.

As we pointed out in the brief, we have for years brought such matters to the attention of the Department of National Health and Welfare because they told us in 1948 they had jurisdiction in this field. I then took it up with Mr. Edmonds, who is Chief of the Public Health Engineering Division of the Department of National Health and Welfare. I wrote to him in February and sent a tracer later on, and on May 31 I received this letter:

I have for acknowledgment your letter of May 27 concerning the alleged use of a common drinking receptacle in an instance where an employee, after a medical examination, was reported to be in an advanced stage of tuberculosis. The use of a common drinking receptacle is contrary to the requirements under several sections of the Sanitary Code.

For example, on Page 108 under the section "Water Supply Facilities on Diesel Engines", it states: "Where water coolers are used for storage of drinking water, they shall be maintained in a sanitary condition at all

times and shall be so designed and constructed that the water cooled for drinking purposes shall be chilled in such a manner that the ice or refrigerant cannot come in contact with the water.

The cooler shall have a tight fitting cover and a tap dispenser which is protected against outside contamination.

A supply of single service cups shall be available at all water coolers or chilled water faucets.

The use of a common drinking cup shall be prohibited."

This incident certainly emphasizes the need for the company to provide adequate and safe drinking water facilities where potable water is made available for employees on railway property. There are other reasons which make the use of common drinking cups an unsafe practice from a public health viewpoint.

We intend to bring this matter to the attention of the Chief of Medical Services for the Canadian Pacific Railways and to ascertain what action he proposes to take to comply with our request to rectify this lack of compliance with the Sanitary Code.

But, as we pointed out, we are on our hands and knees begging somebody to give us relief from unsanitary conditions. The question has been asked why we could not obtain them through collective bargaining. Several agreements contain provisions for bunkhouses, but how do you legislate health and sanitation standards in bunkhouses for toilets and drinking water through collective agreements? I say this can only be done through legislation. We find ourselves in this difficult position of having another minister, with all due respect, to try and seek satisfaction from as to our most undesirable conditions that could possibly prevail in this day and age, in all due respect.

We have many other examples of bunkhouse conditions. The CPR locomotive leaving Montreal in passenger service goes right through to Vancouver. There are no toilet facilities and no cleansing of the common bucket, and the receptacle is very small with a lid on and a handle, and that is the common drinking receptacle.

Senator ROEBUCK: Is there a toilet?

Mr. GIBBONS: There is no toilet on any of these diesels. Well, I should not say this. There are some experimental ones on some. But we say, with all due respect, the time has come when one more department should not have authority to make regulations, but we want somebody to accept the responsibility and make the regulations that would govern this.

Hon. Mr. NICHOLSON: You are not suggesting, I am sure, Mr. Gibbons, that the bill that is now before this committee of the Senate, which has to do with safety in employment, is not a proper responsibility of the Department of Labour. The bill which is now before the Senate deals mainly with employment injuries. That is the purpose of this bill. Are you suggesting that that responsibility should be in the hands of another department of Government?

Mr. GIBBONS: No, we are very specifically making this point in our brief. I think it is No. 7, section 7(d) which refers specifically to potable water supplies and sanitary and other facilities for the well-being of employees. But on that subject the Board of Transport Commissioners, as has been pointed out by Brother McGregor, have not accepted responsibility. We have documentary proof they do not think the obligation of having toilets on diesel locomotives comes under their jurisdiction. They say, "We have no jurisdiction whatever over the bunkhouses because the employee is off duty." So where does the authority lie?

We went to the Department of National Health and Welfare on the particular matter of health and sanitation. They assumed authority and so told

us they had after consultation with the provincial governments. Then they went ahead and prepared a very comprehensive sanitary code of recommended requirements for common carriers, construction camps and eating establishments under the federal jurisdiction; but it has no regulatory authority and is not worth the paper it is written on, unless the employer can be compelled to comply with these standards.

Bill S-35, as it applies to these two specific points, gives the Governor in Council the authority to make regulations. We do not think that is essential. We want regulations stipulated.

Senator ROEBUCK: You want that authority in the hands of the Department of Labour under this bill?

Mr. GIBBONS: If it is the decision of the Government that such a matter comes under the Department of Labour, we say: Don't just wait for the permission of the Governor in Council. Make it law and include it, so it is a law on those two aspects. When we talk of safety in general we are discussing a very complex field, and I am sure Mr. Curry is familiar with this. For instance, under Workmen's Compensation, although we work under national carriers on the Canadian National and Canadian Pacific, we come under the Compensation Acts of the respective provinces wherein we reside, so the Department of Transport has nothing to do with that. Those who drafted the bill—and I think the minister referred to consultation with the Department of Transport—assume a great deal of authority. We say, with all due respect, if they have it, they have never accepted it.

The CHAIRMAN: I think we should have the views of the Department of Transport on that point. Mr. Fortier is here and it is five minutes past one, and we will have to have one or more further meetings. Unless there are any further questions to ask these witnesses, I think perhaps we should adjourn and ask Mr. Fortier, perhaps at our next meeting, to give us his views, first of all, on the jurisdiction of his department with respect to these health and sanitary matters and, secondly, why have they not carried them out.

Is there anyone else here who wishes to make representations who would not be available again? Shall we adjourn at the pleasure of the Chair?

Senator ROEBUCK: Can we not set a time for our reassembly?

The CHAIRMAN: That is what I was asking. Is there anybody here who wishes to make representations today?

Senator ROEBUCK: We have not the time now, but cannot we settle when we shall reassemble so that anybody here will know when to come?

The CHAIRMAN: The only thing I am thinking of is the brief we are going to receive from the Canadian Labour Congress.

Hon. Mr. NICHOLSON: Is that on this particular bill, Mr. Chairman?

The CHAIRMAN: Yes, Mr. Jodoin has said that the Canadian Labour Congress wishes to make representations. Does the committee wish to settle the time of the next meeting?

Senator LANG: I would suggest that it be at the call of the Chair, Mr. Chairman.

Hon. SENATORS: Agreed.

Senator KINLEY: I point out, Mr. Chairman, that there is a committee meeting at 2 o'clock.

The CHAIRMAN: Yes, the Standing Committee on Banking and Commerce has a meeting at 2 o'clock. The meeting is adjourned to the call of the Chair.

The committee adjourned.

as they had after consultation with the provincial governments. Then they went ahead and prepared a very comprehensive statutory code of recommended requirements for common carrier construction camps and other establishments under the federal jurisdiction; but it has no regulatory authority and is not worth the paper it is written on unless the employer can be compelled to comply with these standards.

Bill S-35, as it applies to these two specific points, gives the Governor in Council the authority to make regulations. We do not think that is essential. We want regulations stipulated.

Senator ROZUCK: You want that authority in the hands of the Department of Labour under this bill?

Mr. CHAMBERLAIN: It is the decision of the Government that such a matter comes under the Department of Labour, we say "don't just wait for the permission of the Governor in Council. Make a law and include it, so it is a law on those two aspects. When we talk of safety in general we are discussing a very complex field and I am sure Mr. Curry is familiar with this. For instance, under Workmen's Compensation, although we work under national systems on the Canadian National and Canadian Pacific, we come under the Compensation Act of the respective provinces, wherein we reside in the Department of Transport has nothing to do with that. Those who drafted the bill—and I think the minister referred to consultation with the Department of Transport—examined the bill and they say with all due respect, if they have it they have accepted the law and it is not a matter of the Department of Transport on this point. Mr. Curry is here and it is his minister's job and we will have to have one or more further meetings. Unless there are any further questions to ask these witnesses, I think perhaps we should adjourn and adjourn perhaps to our next meeting to give us his view first of all on the jurisdiction of this department with respect to these health and safety matters and, secondly, why have they not carried them out? I think on the whole, these aspects are here who wishes to make representations who would not be available again? Shall we adjourn at the pleasure of the Chair?

Senator ROZUCK: Can we not set a time for our next meeting?

Mr. CHAMBERLAIN: That is what I was asking. Is there anybody here who wishes to make representations today?

Senator ROZUCK: We have not the time now, but cannot we settle when we shall meet again? The only thing anybody has will have a time to come?

The CHAIRMAN: The only thing I am thinking of is the bill we are going to pass from the Canadian Labour Congress, is not that correct, Mr. Curry?

Mr. CHAMBERLAIN: Is that on this particular bill, Mr. Curry?

The CHAIRMAN: Yes, Mr. Jobin has said that the Canadian Labour Congress wishes to make representations. Does the committee wish to settle the time of the next meeting?

Senator JAMES: I would suggest that it be at the call of the Chair, Mr. Curry.

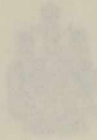
Chairman: I will suggest that it be at the call of the Chair, Mr. Curry.

Hon. SENATOR: A speech.

Senator JAMES: I point out, Mr. Chairman, that there is a committee meeting at 2 o'clock. We will suspend business for a moment and adjourn at 2 o'clock.

The CHAIRMAN: Yes, the Standing Committee on Banking and Commerce has a meeting at 2 o'clock. The meeting is adjourned to the call of the Chair.

The committee adjourned.



First Session—Twenty-seventh Parliament

1965

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE ON
TRANSPORT AND COMMUNICATIONS

The Honourable A. K. HUGESSEN, *Chairman*

No. 1

Complete Proceedings on the bill S-26, entitled: "An Act to incorporate Commercial Solid Pipe Ltd. Company"

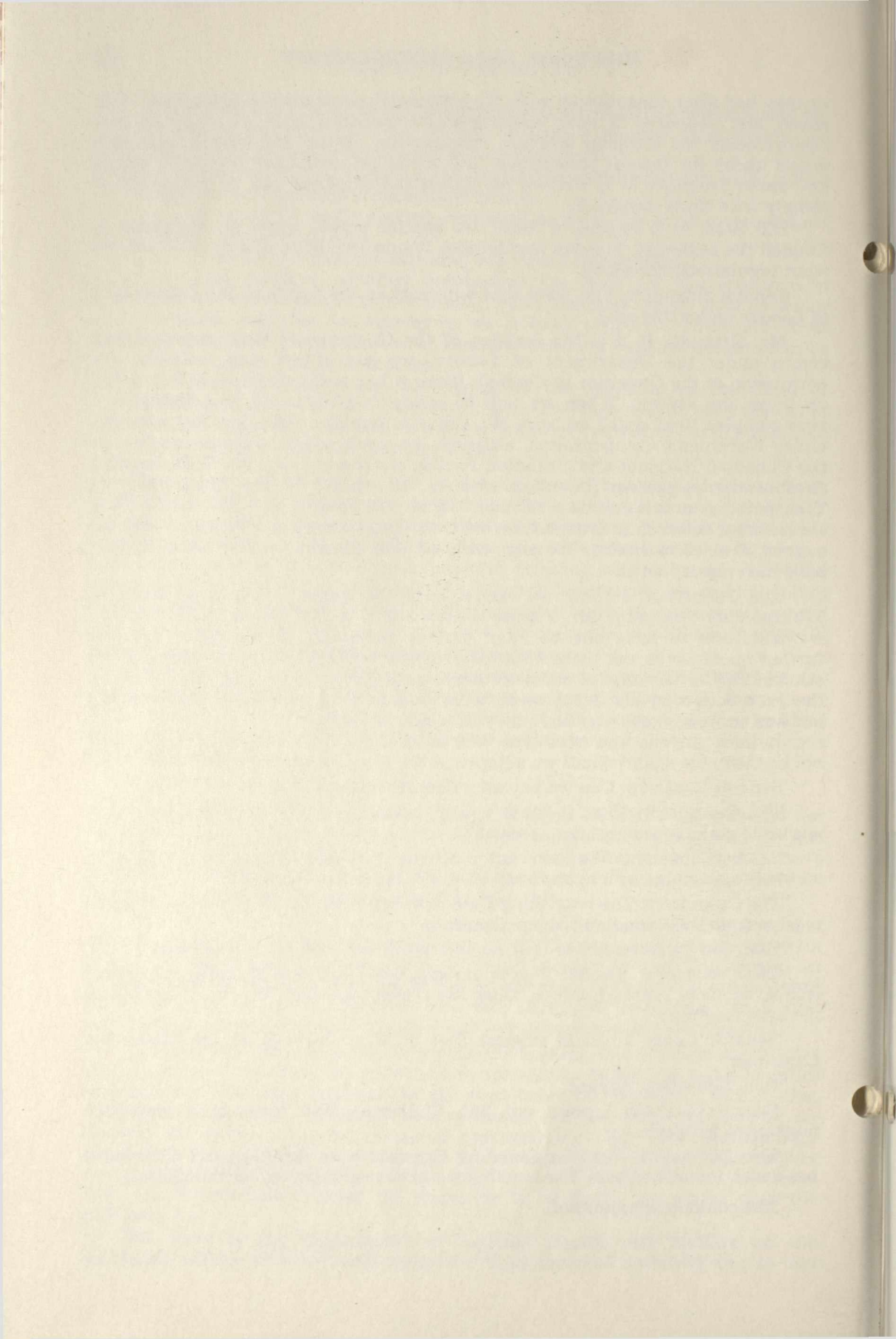
THURSDAY, JUNE 16, 1965

WITNESSES:

Mr. J. J. Urie, Q.C., Counsel and Parliamentary Agent; Mr. R. P. Ritchie, Vice-President, Transportation and Supplies, Shell Canada Ltd.; Mr. F. H. J. Lamar, Counsel, National Energy Board.

REPORTS OF THE COMMITTEE

ROBERT BRIDGEMAN, P.E.S.O.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, ONT.





First Session—Twenty-seventh Parliament
1966

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE ON
TRANSPORT AND COMMUNICATIONS

The Honourable A. K. HUGESSEN, *Chairman*

No. 7

Complete Proceedings on the Bill S-36, intituled: "An Act to
incorporate Commercial Solids Pipe Line Company"

THURSDAY, JUNE 16, 1966

WITNESSES:

Mr. J. J. Urie, Q.C., Counsel and Parliamentary Agent; Mr. R. P. Ritchie,
Vice-President, Transportation and Supplies, Shell Canada Ltd.; Mr.
F. H. J. Lamar, Counsel, National Energy Board.

REPORTS OF THE COMMITTEE

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



First Session—Twenty-seventh Parliament

1956

THE SENATE OF CANADA

THE STANDING COMMITTEE
ON
TRANSPORT AND COMMUNICATIONS

The Honourable Adrian K. Hugessen, *Chairman*

The Honourable Senators

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|--|------------------------------------|
| Aird, | Lefrançois, |
| Aseltine, | Macdonald (<i>Brantford</i>), |
| Baird, | McCutcheon, |
| Beaubien (<i>Provencher</i>), | McDonald, |
| Bourget, | McElman, |
| Burchill, | McGrand, |
| Connolly (<i>Halifax North</i>), | McKeen, |
| Croll, | McLean, |
| Davey, | Méthot, |
| Dessureault, | Molson, |
| Dupuis, | Paterson, |
| Farris, | Pearson, |
| Fournier (<i>Madawaska-Restigouche</i>), | Phillips, |
| Gélinas, | Power, |
| Gershaw, | Quart, |
| Gouin, | Rattenbury, |
| Haig, | Reid, |
| Hayden, | Roebuck, |
| Hays, | Smith (<i>Queens-Shelburne</i>), |
| Hollett, | Thorvaldson, |
| Hugessen, | Vien, |
| Isnor, | Welch, |
| Kinley, | Willis—(47). |
| Lang, | |

Ex officio members: Brooks and Connolly (*Ottawa West*).
(Quorum 9)

REPORTS OF THE COMMITTEE

MINUTES ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Tuesday, May 31st, 1966:

"Pursuant to the Order of the Day, the Honourable Senator McDonald moved, seconded by the Honourable Senator MacKenzie, that the Bill S-36, intituled: "An Act to incorporate Commercial Solids Pipe Line Company", be read the second time.

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

The Bill was then read the second time.

The Honourable Senator McDonald moved, seconded by the Honourable Senator MacKenzie, that the Bill be referred to the Standing Committee on Transport and Communications.

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

J. F. MacNEILL,
Clerk of the Senate.

Page 3: Strike out clause 7 and substitute the following: H. F. MacNeill, Clerk of the Senate. The provisions of subsections (7), (8), (9), (10), (11), (12) and (13) of section 15, and subsection (2) of section 14, and subsections (1) of section 16, and subsection (1) of section 17, and sections 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60 and 61 and paragraphs (a) and (b) of subsection (1) of section 102, section 103, section 104, section 105, section 106, and sections 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

Attest, the Clerk of the Senate, to the call of the Chairman.

Attest.

JOHN A. KINGS,
Assistant Chief Clerk of Committee.

REPORT OF THE COMMITTEE

THURSDAY, June 16th, 1966.

The Standing Committee on Transport and Communications to which was referred the Bill S-36, intituled: "An Act to incorporate Commercial Solids Pipe Line Company", reports as follows:

Your Committee recommends that authority be granted for the printing of 800 copies in English and 300 copies in French of its proceedings on the said Bill.

All which is respectfully submitted.

A. K. HUGESSEN,
Chairman.

THURSDAY, June 16, 1966.

The Standing Committee on Transport and Communications to which was referred the Bill S-36, intituled: "An Act to incorporate Commercial Solids Pipe Line Company", has in obedience to the order of reference of May 31st, 1966, examined the said Bill and now reports the same with the following amendment:

Page 3: Strike out clause 7 and substitute the following:

"7. The provisions of subsections (7), (8), (9), (10), (10a), (11), (12) and (13) of section 12, and subsection (2) of section 14, and sections 15 and 19, and subsection (1) of section 20, and subsection (2) of section 22, and sections 35, 36, 37, 39, 40, 62, 63, 64, 65, 83(3), 84, 87, 91 and 94 and paragraphs (a) and (b) of subsection (1) of section 103, section 105, and subsection 6 of section 108, and sections 110, 130, 134, 135, 136 and 137 of Part I of the *Canada Corporations Act* apply to the Company: Provided that wherever in the said sections and subsections the words "letters patent" or "supplementary letters patent" appear, the words "Special Act" shall be substituted therefor."

All which is respectfully submitted.

A. K. HUGESSEN,
Chairman.

MINUTES OF PROCEEDINGS

THURSDAY, June 16, 1966.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10 a.m.

Present: The Honourable Senators Hugessen (*Chairman*), Aseltine, Bourget, Connolly (*Halifax North*), Croll, Fournier (*Madawaska-Restigouche*), Gershaw, Haig, Hollett, Lang, McCutcheon, McElman, McLean and Pearson.

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

Bill S-36, "An Act to incorporate Commercial Solids Pipe Line Company", was read and considered.

On motion of the Hon. Senator Croll it was resolved to report recommending that authority be granted for the printing of 800 copies in English and 300 copies in French of the proceedings on the said Bill.

The following were heard:

Mr. J. J. Urie, Q.C., Counsel and Parliamentary Agent.

Mr. R. P. Ritchie, Vice-President, Transportation and Supplies, Shell Canada Ltd.

Mr. F. H. J. Lamar, Counsel, National Energy Board.

On motion of the Hon. Senator Croll it was resolved to report the Bill with the following amendment:

Page 3: Strike out clause 7 and substitute the following:

"7. The provisions of subsections (7), (8), (9), (10), (10a), (11), (12) and (13) of section 12, and subsection (2) of section 14, and sections 15 and 19, and subsection (1) of section 20, and subsection (2) of section 22, and sections 35, 36, 37, 39, 40, 62, 63, 64, 65, 83(3), 84, 87, 91 and 94, and paragraphs (a) and (b) of subsection (1) of section 103, section 105, and subsection (6) of section 108, and sections 110, 130, 134, 135, 136 and 137 of Part I of the *Canada Corporations Act* apply to the Company: Provided that wherever in the said sections and subsections the words "letters patent" or "supplementary letters patent" appear, the words "Special Act" shall be substituted therefor."

At 11 a.m. the Committee adjourned to the call of the Chairman.

Attest.

JOHN A. HINDS,
Assistant Chief Clerk of Committees.

THE SENATE

THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Thursday, June 16, 1966.

The Standing Committee on Transport and Communications, to which was referred Bill S-36, to incorporate Commercial Solids Pipe Line Company, met this day at 10 a.m. to give consideration to the bill.

Senator A. K. Hugessen in the Chair.

The CHAIRMAN: Honourable senators, it is 10.00 o'clock and I see a quorum. We have to consider this morning Bill S-36, an act to incorporate Commercial Solids Pipe Line Company. This is rather an unusual bill and I think we should have the usual recommendation for preparation and printing of our proceedings.

The committee agreed that a verbatim report be made of the committee's proceedings on the bill.

The committee agreed to report recommending authority be granted for the printing of 800 copies in English and 300 copies in French of the committee's proceedings on the bill.

The CHAIRMAN: I have a report from our Law Clerk and Parliamentary Counsel, addressed to myself, stating:

In my opinion this bill is in proper legal form and I have no suggestions to offer for its amendment.

Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel: Mr. Chairman, that statement is subject to one amendment to be proposed.

The CHAIRMAN: Apparently, there is one amendment to be made later on to one of the sections. That will be explained when we come to it.

The bill was presented in the Senate by Senator A. H. McDonald, but he is not here to speak further to it.

The sponsors of the bill who are here this morning are Mr. R. P. Ritchie, Vice-President of Shell of Canada Limited; Mr. J. E. Hughes, Q.C., General Counsel for Shell Canada Limited; Mr. J. E. Mimms, Manager of Pipe Lines, Shell Canada Limited; Mr. P. J. Ritchie, Solicitor, of Shell Canada Limited, and Mr. J. J. Urie, Q.C. their counsel in Ottawa.

I understand that for the sponsors Mr. Urie proposes to lead off, if that meets with the approval of the committee.

Mr. J. J. Urie, Q.C., Counsel, Shell Canada Limited: Mr. Chairman and honourable senators, this is an application to incorporate a company to be known as Commercial Solids Pipe Line Company. The Bill S-36 which you have before you is in the usual form for a pipe line company. There are a number of precedents which have been enacted by Parliament, and this bill is in exactly the same form.

Senator PEARSON: How many pipe line companies are there now in Canada?

Mr. URIE: This pipe line company, I am about to say, is unique, in the sense that it is not primarily for the carriage of hydrocarbons, petroleum, natural gas,

liquid gas, and so on, but for the transportation of solids such as sulphur, potash and wood chips.

It may well be that the most convenient vehicle for the carriage of the solids through the pipe line will be a hydrocarbon petroleum oil, liquefied gas or something of that nature. It is for this reason that it is necessary to apply to Parliament for a special act to incorporate the company.

As you know, under the National Emergency Board Act, a pipe line company which makes use of hydrocarbon must obtain a certificate of convenience from the National Energy Board before it can proceed, and it must be incorporated by special act.

The four applicants are all senior executives of Shell Canada Limited, which will be the major shareholder in the company.

Just very briefly, Canada is emerging as rather a world leader in technology of solids pipe lines, which is a relevantly new development. A great deal of research has been done on it in this country. As far as we know, this is the first time that a company has been incorporated to put this research into practical use in the future.

Senator CROLL: In the United States?

Mr. URIE: In Canada.

Senator CROLL: Have there been many of these in the United States?

Mr. URIE: A few. Mr. Robert P. Ritchie, Vice President of Transportation and Supplies, Shell Canada Limited, will go into this topic in much greater detail in a few moments. From the point of view of the company and from the point of view of Canada we feel it is important that a company of this kind be started. I think it can be demonstrated that a lot of the natural resources of Canada which are at present economically inaccessible can be unlocked for development in a way which is not possible under present methods of transportation.

I wonder, Mr. Chairman, if I might call upon Mr. Ritchie now.

Senator FOURNIER (*Madawaska-Restigouche*): Can you tell us if this bill is to authorize the construction of only one pipe line or several?

Mr. URIE: At the moment, senator,—and Mr. Ritchie will go into the details—the object is to spend a considerable amount of money in research, in the neighbourhood of \$1,300,000, to determine the feasibility of a solids pipe line being used in Canada. If that research develops in the way we anticipate, the pipe line will be built. Mr. Ritchie will tell you precisely what there is in mind in that respect.

The CHAIRMAN: We usually like to know where it is proposed to start building the pipe line.

Mr. URIE: I understand that, sir.

The CHAIRMAN: Mr. Ritchie, perhaps you can answer that question?

Mr. URIE: Yes. He has a map.

The CHAIRMAN: Would you just answer the question, for the moment, Mr. Ritchie, as to where the line is to be built.

Senator Fournier (*Madawaska-Restigouche*): I want to know whether this bill includes the building of one pipe line or several. Is this for a specific line or for more than one?

The CHAIRMAN: It is in the general form of bills of this kind, Senator Fournier. It does not specify one line.

Senator FOURNIER (*Madawawka-Restigouche*): This is why I asked the question. In the case of previous bills, if I recall, there was a location from one point to another.

The CHAIRMAN: No, Senator, not in the bill. That was in the case of railways.

Mr. R. P. Ritchie, Vice President, Shell Canada Limited: Mr. Chairman, honourable senators, I would be very happy to answer any questions. Actually, in an effort to expedite this for you and give you some background, I have prepared a brief which you have before you. With your permission, if we could go through this brief quickly, it would answer a lot of the questions which may come up. After that, I would be very happy to answer any questions.

The CHAIRMAN: This is your brief?

Mr. RITCHIE: I have put this down so that you would have something already in hand. It gives some background and will be helpful for you.

The CHAIRMAN: Perhaps this would be the best way to proceed.

Mr. RITCHIE: Mr. Chairman and honourable senators, as Mr. Urie has just explained to you this is an application for a special act to incorporate a company devoted to the transportation of solids by pipeline.

The pipelining of solids is not a new concept. The first commercial pipeline for transportation of solids was built in England in 1914 to move coal in water from the docks to a power plant less than 2,000 feet away. Short lines to move coal mine sludge were built in the United States as early as the 1920s. A fifteen-mile line to move 500,000 tons a year of salt in a saturated brine was built in Louisiana in the 1930s. Since then there have been some longer lines, notably the 108-mile pipeline between Georgetown and Cleveland to carry coal in water. There is also a 72-mile gilsonite line between Bonanza, Utah, and Grand Junction, Colorado.

With few exceptions, most pipelines transporting solids today suspend finely ground particles in a liquid, the mixture being called a slurry. This slurry can be handled in somewhat the same way as other liquids. Another possible method is called capsule pipelining. This involves casing the solids in either rigid or flexible containers which are moved through the pipeline. In this field probably the most advanced research in the world has been carried out by the Alberta Research Council. The capsule method has not, however, yet been developed to the point where it may be used commercially for long distances. An association known as the Solids Pipe Line Research and Development Association has now been formed in Canada to further this research. Another active group is the Pulp and Paper Research Institute of Canada which has pioneered the pipelining of wood chips. The University of Saskatchewan and the Saskatchewan Research Council are working on the pipelining of potash slurries.

In summary, a number of short solids pipelines have been proven and are in operation today and many research groups and private company laboratories, both in Canada and elsewhere, are working on the technology required for pipelining a variety of commodities over long distances. It is appropriate that this effort continue and even increase and that Canada be a world leader in this technology, because no other nation has such great mineral resources located far from either tidewater or consuming markets.

There is therefore a wide potential for a company in Canada devoted to transporting solids by pipeline. We believe that, if the application is granted Commercial Solids Pipe Line Company will be instrumental in constructing in Canada solids pipelines of a much greater length and capacity than have ever been constructed anywhere else in the world.

So far I have dealt with the pipelining of solids and the objects of Commercial Solids Pipe Line Company in a general way. I now wish to describe to you *one* particular project that is being planned for the proposed company. This is the construction of a pipeline for the transportation of sulphur in slurry form from the producing plants in Alberta to the Canadian west coast.

The world demand for sulphur has increased at a rate of more than 6% annually during the past three years. In 1965, the free world produced 22.4 million tons and consumed over 23.3 million tons of this commodity. The 1970 free world production of sulphur is estimated at 31 million tons.

Concurrently with the expansion of the world markets for sulphur, the production in the Province of Alberta has increased at an enormous rate. Shell Canada Limited is the largest producer of sulphur in Canada. From the time that Shell Canada Limited started the first sulphur production from natural gas in Canada at Jumping Pound near Calgary in 1952 (producing the total output of Alberta from natural gas at that time of approximately 10 thousand tons annually) the production of sulphur in Alberta has increased to-day to more than 1½ million tons a year. Since 1952 many new plants have been constructed and others will be built in the future. It is anticipated that by 1970 the production in Alberta will have increased to approximately 3.2 million tons a year.

Sulphur is one of the earliest elements used by man. The first-known uses were medicinal. Later however, its value as an ingredient of gunpowder provided the real impetus to establish the sulphur industry. Today sulphur is used principally in the fertilizer and chemical industries but also finds use in the pulp and paper, iron and steel, rayon and film and the petroleum industries.

As sulphur has not so far been transported in solid form by pipeline on a commercial scale, research still has to be done before we can be certain that this 750 mile pipeline from Alberta to the west coast is feasible. Since to a large extent the exact location of the route will be dependent on the outcome of the research and development program which is presently taking place and which will continue after incorporation of this company no specific route can be designated at this time. Our confidence, however, can be measured by the large sums of money we have already spent, and will spend in the next two years if this Bill is passed, in developing this research to maturity.

The advantage to Canada of a pipeline that would transport this sulphur to the nearest port at a steady and economical rate is readily apparent. Such a line would be the first of its kind in the world, thus putting Canada well in the lead in the pipelining of solids.

The transportation of sulphur by rail, the present method used to convey this product from Alberta to the coast, is costly and the availability of suitable rail cars to handle this movement is a continuous problem. These costs have recently increased to the extent that Shell will pay approximately 3.1 million dollars in 1966 for transportation and handling between these points. We anticipate the industry will spend 21 million dollars in freight and handling charges for offshore movements in 1970 based on present day arrangements. It is expected that the sulphur pipeline would reduce these costs, not only to Shell but also to other Alberta producers utilizing this pipeline, by approximately one-third. The pipeline will be available on mutually acceptable terms to all producers in Alberta who can conveniently tie in with the line. For those using the line participation in the equity of the company would also be available. The resultant savings and stability of transport cost would help appreciably to improve the competitiveness of Canadian producers in supplying world markets and would aid in the negotiation of long-term contracts for sulphur sales without fear of spontaneous and non-controllable freight increases.

The sulphur pipeline project which we have under study envisages a 12-inch main line with smaller diameter feeder lines. It will likely originate near the city of Calgary, around which a gathering system would be built to tie in plants in the immediate area. The main line would go south in order to pick up throughout at Southern Alberta plants including Shell's large Waterton plant. The line would then enter the mountains at the Crowsnest Pass and go west until it reached the coast in the Vancouver area. A preliminary survey has been

made of the approximate route of the sulphur line and this is shown on this sketch which I have with me. For reasons already given, there is necessarily nothing final yet concerning the route of the pipeline.

The cost of the line is estimated at fifty million dollars, and we would expect this project to be financed as to 25 per cent by equity capital and as to the remainder by bonds, debentures or other form of borrowing. The authorized capital of Commercial Solids Pipe Line Company for which we have applied is \$100,000,000. This means that if the sulphur pipeline is built with 25 per cent equity financing, there will be ample capitalization remaining for several other solids pipelines in Canada of a like magnitude.

With regard to Shell Canada Limited, which will be the principal shareholder of the new company, I have a chart showing how it is owned. Shell Canada Limited is incorporated as a Federal Company. 17.5 per cent of the voting power is in the hands of the public, and these shares are traded on Stock Exchanges in Canada. The remaining 82.5 per cent is held by another Canadian company called Shell Investments Limited also with head office in Toronto. Shell Investments is in turn wholly-owned by a Netherlands company situated at The Hague, and finally the ownership of that company is divided as to 60 per cent in the hands of The Royal Dutch Petroleum Company at The Hague, and as to 40 per cent in the hands of The Shell Transport and Trading Company in London, England.

We are committing in excess of one million dollars to slurry pipeline studies generally, of which \$650,000 is directed to this sulphur effort. We are also confident that Canada can and should become the world leader in commercially adapting this technology to reduce overland transport costs for many other solid commodities including potash, wood chips, coal and iron ore and thus benefit our entire economy. The full weight of the technical ability of the Shell Group is behind our application and we assure you that our efforts will be unstinting in forwarding the commercial adaptation of this technology.

The CHAIRMAN: Thank you, Mr. Ritchie. Any questions?

Senator BOURGET: Where are those researches being made? In Alberta?

Mr. RITCHIE: There is research on capsule pipe lines being done in Alberta, and I referred to the Alberta Solids Pipe Line Research and Development Association which is going to put a substantial effort into capsule pipelining. This is one in which we are participating, and this is using the personnel and facilities of the Alberta Research Council. But capsule pipelining really is not what we emphasize for this line. This is a slurry line. There has been a tremendous amount of research done, and we anticipate much more. If you would like a little background on the research, I would be glad to give it to you.

Senator GERSHAW: Are you convinced that there is sufficient sulphur to justify the expenditure of so much money on a pipe line of this size?

Mr. RITCHIE: There is no question about the amount of sulphur and reserves. As a matter of fact this is the same as the oil in the tar sands. There are tremendous amounts of reserves of hydrocarbons in the tar sands, just as there are very great reserves of deposits of sulphur. There is a tremendous amount there. Disregarding that entirely, I indicated that while production is now 1½ million tons going up to 3½ million by 1970, we anticipate the export at that time will be 1½ million tons. This is a substantial figure, and will justify the 12-inch pipe line. On this basis our economics have been determined.

Senator BOURGET: What is the total consumption in Canada of sulphur today? Have you any figures on that?

Mr. RITCHIE: The consumption in 1965 was slightly ahead of production, and that meant that some of the stockpile had to be used up. This happened in Canada too and it was because of this that the market for sulphur improved

substantially. We are producing a total of about $1\frac{1}{2}$ million tons and our sales are equivalent to production.

Senator BOURGET: As I understand it the pipe line will be used for carrying sulphur for export outside of Canada. I was trying to find out if our local production will meet the demands here in Canada.

Mr. RITCHIE: By 1970, when we get the volume of export up to $1\frac{1}{2}$ million tons, our estimate of the total production in Canada will be $3\frac{1}{2}$ million tons. The other two million tons will be for local consumption and export to the United States. The export market we talk about here is mainly for sulphur taken on board ship and exported, for example, to Japan and the Orient, Australia and other places. There is a very substantial market there. We in Canada are now No. 2 in sulphur production, but barely No. 2. The United States is ahead of us and they are the leading producer. The other two that are neck and neck, if I may use the vernacular, are Mexico and France. The production of sulphur in the United States, Mexico and France is all tidewater. We are in the situation that the freight cost of handling from Alberta is \$13 a ton. This is a hindrance to Canada's being competitive in world markets. The reason for the pipe line is to make our production of sulphur more competitive.

Senator CROLL: What do you think the cost will amount to when you get the pipe line?

Mr. RITCHIE: We think the cost will go down by one-third.

Senator CROLL: When you speak of the 12-inch pipe line, I visualize something that is 12 inches across.

Mr. RITCHIE: Twelve inches in diameter.

Senator CROLL: What is the circumference?

Mr. RITCHIE: Well, the circumference will be 3.14.

Senator HOLLETT: If we pass this bill, will we not be depriving Canadian railways of \$3.6 million?

Mr. RITCHIE: There is no question that any sulphur moved by pipe line will not be moved by rail. It is a question of being competitive for the good of Canadian industry. Whether the system is changed and another form of transport developed, you would have to determine that.

The CHAIRMAN: Let me put it another way. If we grant you this charter, then Shell Canada will have a very valuable weapon against the railways to try to get them to reduce their freight rates, will it not?

Mr. RITCHIE: Yes, you could put it that way. We think the pipe lines and the railways will not be competitive. Let me give you some of the general background of pipelining versus rail transport. Liquid pipe lines generally can move at about two mills per ton mile, and I am talking about the United States practice, and the average competitive freight rate of unit trains and competitive freight costs for the railroads is about one cent per ton mile. It is quite a difference, between two-tenths and one cent. We are not suggesting you can move slurries as cheaply as you can move plain liquids. If you double this you are in the region of having four-tenths against one cent. We have doubts that the railroads can be competitive.

Senator HOLLETT: The pipe you intend to use, will that be produced or manufactured in Canada?

Mr. RITCHIE: It should be. Our normal procedure is to buy anything in Canada that we can. Twelve-inch pipe is readily available.

Senator LANG: You mentioned in your brief the Consolidated line in Cleveland, and I believe that line is not operating now, that the railways undercut their prices.

Mr. RITCHIE: I think there is an answer to that. There was no question that the Consolidated coal pipe line was a going concern. The technology was moving and moving quite satisfactorily and at a reasonable rate. But Consolidated had more than the one movement to Cleveland. The railroads said "If you will discontinue this, we will be competitive in three different areas." They gave them such a good deal on two different movements, on which they did not have a pipe line, to be competitive, that they could not afford not to shut the pipe line down. This is not to say that on movement to Cleveland the railways would have been willing to be competitive on that alone. There are a lot of people who feel that Consolidated shut down the pipe line and there must be something wrong, but this is far from the truth.

Senator LANG: It might confer far greater benefit on other users of common carriers.

Senator GERSHAW: Could a pipe line be carried along the railway line from Alberta or from the Pacific coast?

Mr. RITCHIE: This would be possible, but the tentative route that we envisage would not be the most direct route; and the most economical would not be along the CPR. Looking at this map you will recognize Alberta and British Columbia. There are in existence seven sulphur plants in this region near Calgary. Of these seven sulphur plants, Shell has approximately 40 per cent of the production at the present time. It is envisaged that these plants will be tied up by feeder lines.

Senator PEARSON: Does COMINCO produce sulphur there?

Mr. RITCHIE: Yes, I believe so.

Senator PEARSON: Will they be transporting by rail and not through your pipe line?

Mr. RITCHIE: I would think they would. It is envisaged that these seven plants would be tied in with feeder lines to the main or branch line, and the movement would go generally as is shown here. We have done enough engineering on site to know that there is engineering feasibility of putting it on this route.

The CHAIRMAN: Are you satisfied generally as to the proposed route, and so on?

Senator FOURNIER (*Madawaska-Restigouche*): I would like you to tell us, roughly, how much per hour or per day this pipe line will move?

Mr. RITCHIE: We envisage starting by moving about 1.5 million tons. This is our assessment of the volume for export. We would anticipate that the other producers would economically come along in that pipe line. On that basis, you take 1.5 million and divide it by days or hours in the year and this will give the rate.

Senator FOURNIER (*Madawaska-Restigouche*): Is that the capacity of the pipe?

Mr. RITCHIE: No. This would be from the pumps in the initial operation. The actual capacity would be substantially more.

The CHAIRMAN: You were talking about slurry. What would you put with the stuff to make the slurry? Is it mixed with some liquid?

Mr. RITCHIE: This is part of the research that we have to determine. We know that sulphur can be moved in hydrocarbons and oil. We know that it can be moved in slurry form in water. What we are not sure of is what fluid would maximize and provide for the best medium. In addition, a good deal of the research is to determine, having satisfied ourselves on the best medium, as to the *modus operandi* of reconstituting the material at the other end.

The CHAIRMAN: Taking the water out of it.

Mr. RITCHIE: Taking it out of the water or out of the hydrocarbon, if it moves by hydrocarbons. If this is crude oil, the crude oil would not have to be contaminated with the sulphur and the sulphur would not have to be contaminated with the crude oil.

Senator CROLL: If you started out with plants in Calgary, six or seven of them, what physical requirements are necessary at the other end of the line?

Mr. RITCHIE: This is part of the reconstitution. You would have to have some kind of plant structure to take the sulphur out of the carrying medium. Then the other physical facility, of course, is the equipment to put it on board ship, because this is the way it goes overseas.

Senator PEARSON: Do they not have too much sulphur in the oil at Wainwright? Is that what causes it to be a low-grade oil?

Mr. RITCHIE: When you say "low-grade oil," senator, I presume you are talking about the price of the commodity per barrel against some other oil.

Senator PEARSON: Yes.

Mr. RITCHIE: I think that sulphur is one of the factors, also the gravity of the oil. This is a heavy oil and because it is a heavy oil it takes more refining facilities to produce the products, and because of this it has a lower value.

Senator PEARSON: Can you tell me how far advanced you have gone in using slurry and potash now?

Mr. RITCHIE: A lot of work has been done on this. We ourselves have done considerable work in the movement of potash in slurry form. We are sure that it is only a matter of time until the potash will be moved this way.

There is an area here where the railways may be more competitive on the movement of potash than of sulphur, because the big market for potash for the Saskatchewan producer at the present time is down into the mid-west and it is not just the one farmer who gets it. After it gets down there, it has to be spread around. Therefore, if you take a pipe line and move the potash to a single point, you still have to move it by rail or truck or over a vast distribution system, as against the distribution by rail from the beginning. Therefore, the rail has a bit of an edge. However I would look to the not too distant future when potash will be moved by pipe line out of Saskatchewan.

Senator McELMAN: This is a whole concept of conservation in Canada. The brief indicates that it will be a custom pipeline, I believe, in that several producers contemplate using it, at the outset, at least. This opens up competition. Would this be subject to the existing legislation on rate structure? Would the rate structure for the transportation of the product of others be within control, subject to federal statute and supervision?

The CHAIRMAN: On that subject, I am told by our counsel that there is some question as to whether the National Energy Board Act applies to the transport of solids. Senators will remember that in all these bills that we have passed over these years, it has always been under the control of the National Energy Board as to where they build the pipeline and what the conditions should be and so on. I assume that the National Energy Board has control over the rates that they charge.

I think it would be interesting to hear from Mr. Lamar, counsel for the National Energy Board, who I understand is here. I wonder whether he thinks that the National Energy Board would have the right to control this company and fix its rates, and so on.

Senator McELMAN: It is the rate structure that I am interested in.

Mr. F. H. J. Lamar, Counsel, National Energy Board: Mr. Chairman, and honourable senators, at the present time—and I emphasize the word "present"—the national Energy Board Act does not encompass pipe lines whose main

function is to transport general commodities other than gas or oil. We do have jurisdiction over the rates of the pipe lines which we do regulate, namely, oil and gas pipe lines. If the National Energy Board were to assert control or regulatory authority over solids or commodity pipe lines, this would include control over the transmission rates charged by them.

The CHAIRMAN: And over who would have the right to use the pipe line, and so on?

Mr. LAMAR: Yes.

Senator McCutcheon: You say "If the National Energy Board were to assert control". Have you control, without further legislation?

Mr. LAMAR: No, sir.

The CHAIRMAN: You feel your act would need to be amended to bring this particular pipe line under the jurisdiction of the board?

Mr. LAMAR: Yes, I do.

Senator McCutcheon: Would you have control if the medium in which the sulphur was moved was a hydrocarbon?

Mr. LAMAR: Not solely by that fact, sir. My opinion on that point is that, if the true function of the line is to transmit a substance other than a hydrocarbon substance, the fact that hydrocarbon was used as a transmitting medium would not of itself give the National Energy Board jurisdiction.

Senator McCutcheon: Certainly, if you move wood chips in water you would have no jurisdiction.

Mr. LAMAR: No, sir. There would not.

The CHAIRMAN: You do not need to answer this question. Perhaps it is a little unfair. Is your department aware of this bill and are you proposing or suggesting to amend the bill, too, so that the board would have jurisdiction?

Mr. LAMAR: No, that is not our intention, Mr. Chairman. We are aware of it and were aware of it before the committee's meeting and we take no position in respect of this bill along the lines you have suggested.

The CHAIRMAN: So what we would really be doing, if we passed this bill, is to allow this pipe line without any regulation of any kind?

Mr. LAMAR: At the present time in these areas that is the situation.

Senator McCutcheon: What about a little unregulated competition, which would be a good thing in this country?

The CHAIRMAN: Does anyone else wish to ask Mr. Lamar any questions? I think he has expressed the view perfectly clearly of the present legal situation, that the National Energy Board would have no control over this pipe line if we authorize it. Are there any more questions? I think we should keep that clear in our minds, in view of the questions which have been asked. If there are no questions, thank you, Mr. Lamar. Mr. Ritchie will go ahead now.

Mr. RITCHIE: Mr. Chairman, may I make a statement? I feel that, whether there would be any control or not, it would be prudent for Shell Canada, and we would anticipate operating just as if the National Energy Board did have control over us.

The CHAIRMAN: To the pure all things are pure.

Mr. RITCHIE: We would think that if we did otherwise and if there was some room for complain, it would not take long to raise the necessary legislation, in any event; so we would anticipate operating in the normal framework.

Senator CROLL: Mr. Lamar, is your minister, Mr. Pépin, aware of this bill and the fact that this is unregulated at the moment?

Mr. LAMAR: Yes, he is aware of that fact.

Mr. RITCHIE: Mr. Chairman, I would like to make one other statement on what we are proposing here. We have spent a lot of money on research and we are proposing to spend a substantial amount more on research. We are doing this and asking at this time for a bill to incorporate Solids Pipe Line Company Limited because we could ill afford to spend this kind of money on research and find if we were successful that we were unable to build the line we are going to. Whether the National Energy Board, if we use hydrocarbons have the right under their act to regulate this line or not—that is something I am not aware of at the moment. I think Mr. Urie said at the beginning if the slurries did not contemplate the use of hydrocarbons, and if hydrocarbons were not being used we would not be troubling you today. In those circumstances we would not need a special act. It is only because we contemplate using hydrocarbons that we need a special act. And if we use hydrocarbons, then it comes under the National Energy Board. That is why we are here. Despite what Mr. Lamar said, I would feel uneasy at spending this kind of money unless we had a special act company and the right to build a pipe line.

Senator CROLL: I gather you will not feel disappointed or let down if at some future date there is amending legislation to the energy act—I don't know when it will be—which will cover this?

Mr. RITCHIE: I have already said that we would be operating as if they had the right to look over our shoulder in any event. To answer your question directly, we would not be upset.

The CHAIRMAN: I think the position is clear to the committee now. Any further questions of Mr. Ritchie? He is a very helpful witness.

Mr. URIE: One thing I forgot. I think I was a little delinquent earlier in introducing Mr. Ritchie in that I did not give you his background. He is Vice-President of Transportation and Supplies for Shell Canada. He is a Canadian, and a graduate of the University of Toronto and of the University of Western Ontario. He has been with Shell Canada since his graduation in 1934, and I think his dissertation here today has amply proven his experience.

The CHAIRMAN: Have the promoters any other witnesses they wish to bring forward?

Mr. URIE: No, sir. We have the other gentlemen here, but it is not necessary to call them. They are here to deal with the more precise technical phases and to answer questions on that if necessary.

The CHAIRMAN: Is the committee satisfied with the general purposes of the bill?

Senator CROLL: I will move the bill.

The CHAIRMAN: There is a technical amendment.

Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel, The Senate: I have nothing to add except that it is interesting to note that recently I read where a technical engineer somewhere in the west said that there is in contemplation a people's pipe line. He mentioned that at some time it might be possible to transport people.

The CHAIRMAN: I suppose honourable senators may anticipate being transported by pipe line to our own homes in Ottawa—in slurry form. What slurry is to be used I will leave to your imagination.

Senator McCUTCHEON: Alcohol.

The CHAIRMAN: Taking the bill section by section, shall section 2 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 2, subsection (2), "Proviso". Shall subsection (2) carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 3, "Capital stock". Shall section 3 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 4, "Head office and other offices". Shall section 4 carry?

Hon. SENATORS: Carried,

The CHAIRMAN: Section 5—this section says:

The Company shall have all the powers, privileges and immunities conferred by, and be subject to all the limitations, liabilities and provisions of the National Energy Board Act, and any other general legislation relating to pipe lines enacted by Parliament.

The effect of that will be to bring it within the control of the National Energy Board in spite of the situation as Mr. Lamar has discussed it.

The LAW CLERK: It might be just as well in the circumstances. What has happened is that the powers conferred on pipe line companies have outstripped the definition contained in the National Energy Board Act. Perhaps it should read, "The Company shall be subject to any general legislation in relation to pipe lines enacted by Parliament." I am thinking of any particular legislation which might enlarge the definition. I am just throwing this out from the top of my head.

The CHAIRMAN: I think our Law Clerk should think it over and we can come back to section 5.

Section 6—"Power to construct and operate pipe lines." Shall section 6 (a) carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall section 6 (b) carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall section 6 (c), "Ancillary powers" carry?

Hon. SENATORS: Carried.

The CHAIRMAN: I understand there is a technical amendment to section 7, about which I will ask our Law Clerk to say a few words.

The LAW CLERK: I have proposed the amendment. Perhaps Mr. Urie would care to discuss it.

Mr. URIE: At the time the draft bill was originally submitted to the legislative clerk it was in the exact form in which it is today except he added paragraph (3) of clause 4 to it. We have no objection to that, but by so doing the necessity for including subsections (3) and (4) of section 21, as referred to in clause 7 was obviated. Therefore, unfortunately we all missed it and we are now suggesting that the words in the fourth line of clause 7, "subsections (3) and (4) of section 21, and—", be deleted. And with reference to section 22 which is there referred to; the only applicable provision of section 22 which is needed is subsection (2) so that the section would now read as follows: "The provisions of subsections (7), (8), (9), (10), (10a), (11), (12) ad (13) of section 12, and subsection (2) of section 14, and section 15 and section 19, and subsection 1 of section 20, and sections 22, 35, 36, 37, 39, 40, 62, 63, 64—", and so on. It would be identical from there on.

Senator LANG: What are all these sections about?

Mr. URIE: These are various sections of the National Energy Board Act which are useful for any corporation not included in Part III of the act which deals with special act companies. My clients feel that the adoption of this section and the powers given to them are advantageous. By the same token

under section 8 you will see certain sections under Part III have been excluded as we are empowered to do.

The CHAIRMAN: Mr. Hopkins, have you checked these?

The LAW CLERK: Yes.

The CHAIRMAN: And you are agreeable to the amendments to section 7?

Will somebody move it?

Senator CROLL: I will move it.

The CHAIRMAN: I don't know that I need read it. Shall section 7 as amended carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 8—shall section 8 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall section 9 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall section 10 carry? This deals with a 10 per cent limit which is fairly usual, I think. Shall section 10 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: We are left now with section 5. If we leave out section 5 would that not bring the company automatically under the National Energy Board Act and the requirements which follow?

The LAW CLERK: In view of what Mr. Lamar said, that it is possible that this type of pipe line doesn't come under the National Energy Board Act, and in view of the possibility there may be general legislation at a later date, my suggestion is that we strike out clause 5. If it does not apply we are only creating imaginary or perhaps real problems. May I suggest that we strike out clause 5 and renumber the others.

Senator CROLL: You are playing on dangerous ground here. Mr. Lamar thinks we are not governed by this. On the other hand we have an act which deals with these subject matters and whether we are governed on them doesn't really mean much difference at the moment. We can correct it if in the opinion of the Minister of Justice it should be amended. Also in the other place if they don't feel it is right they can amend it.

The CHAIRMAN: I feel the same way. It gives the impression that this Parliament wishes this company to be governed by regulations, and even if it wasn't it is our desire that it should be. I understand from the promoters that they expect to be covered anyway and have no objection.

Senator CROLL: I think this bill will raise considerable opposition in the house if we strike out clause 5. It is unnecessary. From what we have heard it would cover the situation if we leave it to be corrected by the Government.

The CHAIRMAN: And if the committee gives instructions to Mr. Lamar to communicate to his minister the proceedings this morning he can consider whether he should not amend his own bill. I would be in favour of leaving clause 5 in.

Senator LANG: It is brought to my attention that it was mentioned in the Speech from the Throne that the National Energy Board Act was to be amended to bring slurry lines under the jurisdiction of that board. It has not yet come forward, but it is the intention to bring it forward in the future.

Mr. URIE: I might say we are quite pleased to have it left in. In addition the powers which are granted to this pipe line as listed under clause 6 go far

beyond the transportation of only solids. It is anticipated to be only solids, but there may be others.

The CHAIRMAN: Shall section 5 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall the preamble carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall the title carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall I report the bill as amended?

Hon. SENATORS: Carried.

The committee adjourned.

OF THE
OF CANADA
OF THE
STANDING COMMITTEE ON
TRANSPORT AND COMMUNICATIONS

The Honourable A. K. HUGGESSEN, *Chairman*

No. 4

Complete Proceedings on the Bill C-210,
introduced:

"An Act respecting the construction by Canadian National Railway Company of a line of railway in the Province of Manitoba from the vicinity of Stall Lake on the Clovelly Lake Subdivision of Canadian National Railways in a northeasterly direction for a distance of approximately 12 miles to a point in the vicinity of Osborne Lake in The Pas Mining District of that Province, and of a line of railway in the Province of Saskatchewan from the vicinity of Weyboun on the Weyboun Subdivision of the said Railways in a northeasterly direction for a distance of approximately 16 miles to a point in the vicinity of Guernsey in the Regina Mining District of that Province."

WEDNESDAY, JUNE 29, 1966

WITNESSES:

Mr. Graham Macdougall, General Solicitor, C.N.R.; Mr. E. M. Ralston,
Mining Engineer, Assistant Chief of Development, C.N.R.

REPORTS OF THE COMMITTEE

before the responsibility of only solids is anticipated to be only solids, but there may be others.

The CHAIRMAN: Shall section 5 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall the preamble carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall the title carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall I report the bill as amended?

Hon. SENATORS: Carried.

The committee adjourned.

limit this and the other side of the coin. It is a two-edged sword.

5 notices that we will have a bill under the National Energy

that should be in fact, but Mr. Lamar said that it is possible that

Mr. Lamar here is talking on dangerous ground here. Mr. Lamar

that this bill gives the impression that it gives the impression

in the committee gives instructions to Mr. Lamar to

we in fact it is not possible to say that it is not possible to say

of a certain kind of bill as well as any other kind of bill.

of a certain kind of bill as well as any other kind of bill.



First Session—Twenty-seventh Parliament

1966

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE ON
TRANSPORT AND COMMUNICATIONS

The Honourable A. K. HUGESSEN, *Chairman*

No. 8

Complete Proceedings on the Bill C-210,
intituled:

“An Act respecting the construction by Canadian National Railway Company of a line of railway in the Province of Manitoba from the vicinity of Stall Lake on the Chisel Lake Subdivision of Canadian National Railways in a northeasterly direction for a distance of approximately 12 miles to a point in the vicinity of Osborne Lake in The Pas Mining District of that Province, and of a line of railway in the Province of Saskatchewan from the vicinity of Watrous on the Watrous Subdivision of the said Railways in a northeasterly direction for a distance of approximately 18 miles to a point in the vicinity of Guernsey in the Regina Mining District of that Province.”

WEDNESDAY, JUNE 29, 1966

WITNESSES:

Mr. Graham Macdougall, General Solicitor, C.N.R.; Mr. K. M. Ralston,
Mining Engineer, Assistant Chief of Development, C.N.R.

REPORTS OF THE COMMITTEE

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



First Session—Twenty-seventh Parliament
1988

THE SENATE OF CANADA

PROCEEDINGS

OF THE

THE STANDING COMMITTEE

ON

TRANSPORT AND COMMUNICATIONS

The Honourable Adrian K. Hugessen, *Chairman*

The Honourable Senators

- | | |
|--|------------------------------------|
| Aird, | Lefrançois, |
| Aseltine, | Macdonald (<i>Brantford</i>), |
| Baird, | McCutcheon, |
| Beaubien (<i>Provencher</i>), | McDonald, |
| Bourget, | McElman, |
| Burchill, | McGrand, |
| Connolly (<i>Halifax North</i>), | McKeen, |
| Croll, | McLean, |
| Davey, | Méthot, |
| Dessureault, | Molson, |
| Dupuis, | Paterson, |
| Farris, | Pearson, |
| Fournier (<i>Madawaska-Restigouche</i>), | Phillips, |
| Gélinas, | Power, |
| Gershaw, | Quart, |
| Gouin, | Rattenbury, |
| Haig, | Reid, |
| Hayden, | Roebuck, |
| Hays, | Smith (<i>Queens-Shelburne</i>), |
| Hollett, | Thorvaldson, |
| Hugessen, | Vien, |
| Isnor, | Welch, |
| Kinley, | Willis—(47). |
| Lang, | |

Ex officio members: Brooks and Connolly (*Ottawa West*).

(Quorum 9)

REPORTS OF THE COMMITTEE

MINUTES OF PROCEEDINGS
ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Tuesday, June 28, 1966:

"Pursuant to the Order of the Day, the Honourable Senator McDonald moved, seconded by the Honourable Senator Baird, that the Bill C-210, intituled: "An Act respecting the construction by Canadian National Railway Company of a line of railway in the Province of Manitoba from the vicinity of Stall Lake on the Chisel Lake Subdivision of Canadian National Railways in a northeasterly direction for a distance of approximately 12 miles to a point in the vicinity of Osborne Lake in The Pas Mining District of that Province, and of a line of railway in the Province of Saskatchewan from the vicinity of Watrous on the Watrous Subdivision of the said Railways in a northeasterly direction for a distance of approximately 18 miles to a point in the vicinity of Guernsey in the Regina Mining District of that Province", be read the second time.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator McDonald moved, seconded by the Honourable Senator Baird, that the Bill be referred to the Standing Committee on Transport and Communications.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative."

The following were heard:

Mr. Graham Macdonald—General Solicitor, CNR

Mr. K. M. Nabston—Mining Engineer, Assistant Chief of Development, CNR

On motion of the Honourable Senator Aschize, it was resolved to report the Bill without amendment.

At 2:15 p.m. the Committee adjourned to the call of the Chairman.

Attest:

J. F. MacNEILL,

Clerk of the Senate.

John A. Hinds,
Assistant Chief Clerk of Committee.

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Tuesday, June 28, 1888:

"Pursuant to the Order of the Day, the Honourable Senator McDonald moved, seconded by the Honourable Senator Baird, that the Bill C-210, entitled: 'An Act respecting the construction by Canadian National Railway Company of a line of railway in the Province of Manitoba from the vicinity of St. John's Lake on the Chisel Lake Subdivision of Canadian National Railway in a northerly direction for a distance of approximately 12 miles to a point in the vicinity of Osborne Lake in The Pas Mining District of that Province, and of a line of railway in the Province of Saskatchewan from the vicinity of Watson on the Watson Subdivision of the said Railway in a northerly direction for a distance of approximately 18 miles to a point in the vicinity of Germany in Regina Mining District of that Province' be read the second time.

After debate, and—
The question being put on the motion, it was—
Resolved in the affirmative.
The Bill was then read the second time.

The Honourable Senator McDonald moved, seconded by the Honourable Senator Baird, that the Bill be referred to the Standing Committee on Transport and Communications.

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

- J. E. MacNeill, Clerk of the Senate
- [Faint names of Senators]

- Phillips
- Pearson
- Power
- Quart
- Rattenbury
- Reid
- Rorlock
- Smith (Quebec-Sherburne)
- Theraval
- Vien
- Welch
- Wills—(47)

(West Canada) (Ontario) (Quebec)

WEDNESDAY, June 29, 1966

MINUTES OF PROCEEDINGS

WEDNESDAY, June 29, 1966.

Pursuant to adjournement and notice the Standing Committee on Transport and Communications met this day at 8:00 p.m.

Present: The Honourable Senators Hugessen (*Chairman*), Aseltine, Baird, Beaubien (*Provencher*), Connolly (*Halifax North*) Dessureault, Gouin, Hollett, Kinley, McDonald, McElman, Power, Quart, Roebuck, Smith (*Queens-Shelburne*), Welch.

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

Bill C-210

"An Act respecting the construction by Canadian National Railway Company of a line of railway in the Province of Manitoba from the vicinity of Stall Lake on the Chisel Lake Subdivision of Canadian National Railways in a northeasterly direction for a distance of approximately 12 miles to a point in the vicinity of Osborne Lake in The Pas Mining District of that Province, and of a line of railway in the Province of Saskatchewan from the vicinity of Watrous on the Watrous Subdivision of the said Railways in a northeasterly direction for a distance of approximately 18 miles to a point in the vicinity of Guernsey in the Regina Mining District of that Province,"

was read and considered.

On motion of the Honourable Senator Aseltine, it was resolved to report recommending that authority be granted for the printing of 800 copies in English and 300 copies in French of the proceedings on the said Bill.

The following were heard:

Mr. Graham Macdougall—General Solicitor, CNR

Mr. K. M. Ralston—Mining Engineer, Assistant Chief of Development, CNR.

On motion of the Honourable Senator Aseltine, it was resolved to report the Bill without amendment.

At 9:15 p.m. the Committee adjourned to the call of the Chairman.

Attest.

John A. Hinds,
Assistant Chief Clerk of Committees.

REPORT OF THE COMMITTEE

WEDNESDAY, June 29, 1966.

The Standing Committee on Transport and Communications to which was referred the Bill C-210, intituled: "An Act respecting the construction by Canadian National Railway Company of a line of railway in the Province of Manitoba from the vicinity of Stall Lake on the Chisel Lake Subdivision of Canadian National Railways in a northeasterly direction for a distance of approximately 12 miles to a point in the vicinity of Osborne Lake in The Pas Mining District of that Province, and of a line of railway in the Province of Saskatchewan from the vicinity of Watrous on the Watrous Subdivision of the said Railways in a northeasterly direction for a distance of approximately 18 miles to a point in the vicinity of Guernsey in the Regina Mining District of that Province", reports as follows:

Your Committee recommends that authority be granted for the printing of 800 copies in English and 300 copies in French of its proceedings on the said Bill.

All which is respectfully submitted.

A. K. HUGESSEN,
Chairman.

REPORT OF THE COMMITTEE

WEDNESDAY, June 29, 1966.

The Standing Committee on Transport and Communications to which was referred the Bill C-210, intituled: "An Act respecting the construction by Canadian National Railway Company of a line of railway in the Province of Manitoba from the vicinity of Stall Lake on the Chisel Lake Subdivision of Canadian National Railways in a northeasterly direction for a distance of approximately 12 miles to a point in the vicinity of Osborne Lake in The Pas Mining District of that Province, and of a line of railway in the Province of Saskatchewan from the vicinity of Watrous on the Watrous Subdivision of the said Railways in a northeasterly direction for a distance of approximately 18 miles to a point in the vicinity of Guernsey in the Regina Mining District of that Province", has in obedience to the order of reference of June 28, 1966, examined the said Bill and now reports the same without any amendment.

All which is respectfully submitted.

A. K. HUGESSEN,
Chairman.

THE SENATE

THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Wednesday, June 29, 1966.

The Standing Committee on Transport and Communications to which was referred Bill C-210, respecting the construction by Canadian National Railway Company of a line of railway in the Province of Manitoba from the vicinity of Stall Lake on the Chisel Lake Subdivision of Canadian National Railways in a northeasterly direction for a distance of approximately 12 miles to a point in the vicinity of Osborne Lake in The Pas Mining District of that Province, and of a line of railway in the Province of Saskatchewan from the vicinity of Watrous on the Watrous Subdivision of the said Railways in a northeasterly direction for a distance of approximately 18 miles to a point in the vicinity of Guernsey in the Regina Mining District of that Province met this day at 8 p.m. to give consideration to the bill.

Senator A. K. HUGESSEN in the Chair.

The Chairman: Honourable senators, it is 8 o'clock and I see a quorum. I will ask the committee to come to order.

I would ask for the usual resolution authorizing the reporting of our proceedings and the printing thereof.

The committee agreed that a verbatim report be made of the committee's proceedings on the bill.

The committee agreed to report recommending authority be granted for the printing of 800 copies in English and 300 copies in French of the committee's proceedings on the bill.

The CHAIRMAN: As honourable senators will remember from the explanation, there are two branch lines covered by Bill C-210, one in Manitoba and the other in Saskatchewan. It was Senator McDonald who introduced the bill. Have you anything you wish to add, senator, before we proceed?

Senator McDONALD: No.

The CHAIRMAN: You gave us a very clear and full explanation of the bill in the Senate. The witnesses to appear before us are Mr. Graham Macdougall, General Solicitor of the CNR, whom we have had before; Mr. K. M. Ralston, Mining Engineer, Assistant Chief of Development, CNR, and Mr. Jacques Fortier, Counsel, Department of Transport.

I suggest that we take first one branch and then the other. Mr. Macdougall will deal with the Manitoba line first.

Mr. Law Clerk, I have not got a formal report from you.

Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel, the Senate: Mr. Chairman, I never report on public bills. This is a public bill. I report only on private bills, such as CPR bills.

Mr. Graham Macdougall, General Solicitor, Canadian National Railways:

Mr. Chairman and honourable senators, may I say, first of all, that in addition to Mr. Ralston, our Mining Engineer and myself here this evening, we have Mr. Maurice Archer, Vice-President of Research and Development of Canadian National railways, to assist the committee if assistance is required.

Gentlemen, you have heard, I know, some details about the construction of the first branch line, which is that running between Stall Lake and Osborne Lake. I have brought this little map which makes it clear. You will see on the map the Hudson Bay Railway running to Churchill, and from Flin Flon Junction the Sheradon link railway line which was built in 1963. That line from Object Lake to Chisel Lake is part of what is known as the Chisel Lake Subdivision. It was built in 1960 and was 51 miles long. In 1964 it was extended for a further eight miles, from Chisel Lake to Stall Lake, to serve the mine of the Hudson Bay Mining and Smelting Company, which is mining this area.

The request for authority before you this evening is to extend that line still farther, an additional 12 miles, from Stall Lake to Osborne Lake, where a new mine of the Hudson Bay Mining and Smelting Company is now being opened up for the production of lead and zinc, copper and zinc concentrates. This extension from Stall Lake to Osborne Lake has been put in the bill in the usual form for branch line authorization. There is nothing strange about the bill. It is in the same form as earlier bills.

The cost of the line is an estimated \$1.6 million, which amounts to approximately \$133,000 per mile—about the average for construction work in the area.

The CHAIRMAN: It is a pretty rough area?

Mr. MACDOUGAL: Yes, it is fairly rough. As you can see from the map, there are many lakes and it is fairly rough.

The bill provides for the usual financial arrangements, whereby funds can be borrowed and financed for the construction. But, as has been the practice in the last few years, Canadian National proposes to use the authority it has to use moneys normally generated for capital purposes in the company, for this type of construction. Therefore, we do not intend to use the borrowing powers but we will construct this under the normal capital and subgenerated funds.

The Hudson Bay Mining and Smelting Company have spent approximately \$3.5 million in this area for the development of the mine. The shaft has been sunk and they are on the way to opening it up. They are looking for the line to be coming into service by the end of 1967, so they are anxious to start as soon as we can get it under way. The plan is to start producing early in 1968. The expectation is that they will have approximately 270,000 tons of ore to ship from this mine when it gets into production; and that ore will, as does the rest of the ore from other mines at this stage, go over Canadian National to Flin Flon for smelting. The reserves in this area are quite substantial, so it looks as if they will have a good operating mine for quite a number of years to come.

Senator ASELTINE: Are there any highways in that area?

Mr. MACDOUGAL: Not in that territory.

Senator ASELTINE: Between Object Lake and Chiesel Lake?

Mr. MACDOUGAL: I do not think there is anything in the way of a highway there. There is a highway under construction in that area. There are some in the area of Snow Lake and Chisel Lake but I do not think there is anything connecting to the Flin Flon area.

We have made the usual arrangements with the Hudson Bay Mining and Smelting Company for the export of the output, an arrangement we have made

with them whereby we obtain a guarantee of traffic from them. We think the basis of it will provide a fully satisfactory commercial enterprise, not only for them but for C.N. We are satisfied to go ahead on that basis with them. The plan itself will probably provide work for about 100 men in the area when it gets into production.

That, honourable senators, is the sort of outline of the arrangements we have and we are seeking your authority to construct that 12-mile branch line.

The CHAIRMAN: How much of that cash do you expect to generate year by year on that branch line? Will that pay off the cost, in a reasonable time?

Mr. MACDOUGAL: That is our anticipation, senator. It is the same as we do in the case of all branch lines constructed in recent years. We have worked out a traffic guarantee with the industry concerned. In all of them that we have presently operating, and there are quite a number, each one of them is producing a satisfactory return in overheads and expense, and profit. Therefore, we are quite satisfied that the others with which we have worked out this arrangement, and this one looks as it will be equally satisfactory.

Senator HOLLETT: How many new miners will there be in that area?

Mr. MACDOUGAL: The company estimates that there will be employment for an additional 100 men.

Senator CONNOLLY (*Halifax North*): There is quite a difference in the topography of the country and, consequently, in the cost per mile in the case of these two lines.

Mr. MACDOUGAL: Yes. The second branch line is being built across the prairie whereas this line is being built up through rock and bush country, with a lot of water, and there is a difference in the cost arising from these factors.

The CHAIRMAN: Are there any further questions to Mr. Macdougall on this particular line?

Do you wish to add anything, Mr. Archer?

Mr. Maurice Archer, Vice-President Research and Development, Canadian National Railways: I think it has been fairly well covered, Mr. Chairman and I do not wish to add anything.

The CHAIRMAN: Very well. Shall we proceed to the Manitoba line?

Mr. MACDOUGAL: In the case of the Manitoba line we have a potash development. As you know, this is in Saskatchewan. Saskatchewan has quite a marked development of potash industry in recent years and this is another development of that kind. The development is owned by Alwinal Potash Company, whose mine site is located at Guernsey.

It is proposed that we will build to this mine a railway line approximately 18 miles in length. The cost of this line, being built across the prairie, without any particular difficulties, is approximately \$100,000 a mile, or \$1.8 million over the whole line.

This plant expects to produce approximately one million tons of potash a year, which will be sold, some in the Great Lakes area, some in northeastern United States, and some exported by the Pacific ports to Pacific Asian countries.

The potash business, as you know, is highly competitive in Saskatchewan. These companies are very anxious to have a good rail service, particularly to get a good supply of cars and they are anxious to have this line put in just as soon as we can build it.

I am told that the traffic volume that will come out of here is fairly substantial, being one million tons.

Just how much we will get of that, of course, depends upon the competitive features that are involved; but presuming that we get 50 per cent—and I do not know that we will—it would add approximately \$4.5 million to our revenue.

Again we have obtained a traffic guarantee from this company, on the usual basis, the same as other producers in the area. This will produce for us a fully viable satisfactory commercial arrangement. We are quite happy to go ahead on that basis with this company.

Senator BAIRD: Who will be your competitors there?

Mr. MACDOUGAL: For traffic?

Senator BAIRD: Yes.

Mr. MACDOUGAL: The Canadian Pacific. In most of these areas, both companies are in. In this case, the C.P. is already into that plant and the potash company has come to us and asked for our line. In nearly all these developments that is what happens. Both companies are serving and the developers themselves seek that, because naturally it gives them a much better position for car supplies, which is one of the prime requirements.

The CHAIRMAN: I think we have had that on several occasions in connection with potash lines in Saskatchewan. You have to be quite sure of your supply of cars.

Mr. MACDOUGAL: We would like to have it all to ourselves and they would like to have it all to themselves.

The CHAIRMAN: I thought the sponsor told us yesterday that this company had agreed to give you 50 per cent.

Mr. MACDOUGAL: No, we have a traffic guarantee with them which will produce a good substantial proportion of their traffic, but it would not be correct to say that there was a guarantee of 50 per cent. Nevertheless we hope that we will get more.

The CHAIRMAN: Whatever they have guaranteed you are satisfied with?

Mr. MACDOUGAL: Yes. It is good business not only for the company but for the railroad.

Senator KINLEY: What is that city there?

Mr. MACDOUGAL: Saskatoon. The line actually comes off at Watrous and the Canadian Pacific Railway is above it up here. And this is the Canadian National line through Humboldt.

The CHAIRMAN: And then is there a line also from Watrous through to Prince Albert?

Mr. MACDOUGAL: This is the line right there. One goes here from west over to Watrous and Young and runs up north that way. It is a branch line.

The CHAIRMAN: You cannot use that line to get in the way you want to go?

Mr. MACDOUGAL: No, it is that much farther away. It is easier to go in directly across the prairie than it is to come in this way.

Senator McDONALD: What is the capacity in tons of the cars you use for moving potash in bulk?

Mr. MACDOUGAL: Ninety tons. This car is used a great deal because not only is it covered but it is a bigger car. We are under pressure for more, but they cost money to build. We are trying to do our best. They are a good type of car for a lot of other things too.

Senator ASELTINE: We were down around Saskatoon on Monday and we passed a potash train about a mile long. I wonder if you have the necessary equipment to haul the potash when you do get it to the railroads?

Mr. MACDOUGAL: Yes, we have the equipment. We are building more of this type of car. We have a lot of them in service at the moment. Most of the potash when you are moving it in bulk loads goes in solid trainloads.

The CHAIRMAN: Somebody told us three or four years ago—maybe it was yourself—that you had to lease a number of cars from companies in the United States.

Mr. MACDOUGAL: Yes, and sometimes the industry itself will lease cars from United States companies. Generally speaking there is enough equipment to do the job, and there is always competition to do the job. Potash is a seasonal thing and there comes a time when everybody wants the cars at the same time and you can have difficulty in getting the supply you want.

Senator ASELTINE: Is any of it used in Saskatchewan?

Mr. MACDOUGAL: I am not sure.

Mr. K. M. Ralston, Mining Engineer, Assistant Chief of Development, Canadian National Railways: This potash is not used in Saskatchewan.

Senator ASELTINE: This will be mainly for export.

Mr. MACDOUGAL: Yes.

Mr. McDONALD: The bulk of this product will be moved from this point in bulk?

Mr. MACDOUGAL: It will be moved from there for export, some to the northeastern United States, and some to the Great Lakes area, and some to Ontario.

The CHAIRMAN: Is the committee satisfied? Shall I report the bill?

Senator HOLLETT: May I ask one question? Do you stockpile any of that? Do you keep any of it for use in parts of Canada?

Mr. MACDOUGAL: We don't stockpile it, but the industry sometimes does so.

Senator SMITH: (*Queens-Shelburne*): Does it have to be covered when it is stockpiled?

Mr. MACDOUGAL: I think it is preferable to have it covered when stockpiled.

Senator McDONALD: They have large domed silos for storing it, and they are constructed so that they are well supported on a cement foundation and they are protected from the weather. There are five of these domes.

Senator ROEBUCK: How is it mined?

Senator McDONALD: It is muck-mined with the exception of one area just west of Regina where it is solution-mined.

Senator HOLLETT: Is it treated before it is shipped?

Mr. RALSTON: The ore is taken from the mine and it is refined. In every case the potash crude ore is treated at the mine and in the process of drying the crude ore is made into a concentrate, and it is the concentrate that is shipped and is the marketable commodity.

Senator McDONALD: Would it be true to say that when the product leaves the mine site it is completely refined, and that there is no further processing, or in some instances are there other fertilizers blended to give a complete fertilizer?

Mr. RALSTON: Yes, that is true. It is mixed with nitrogen and phosphorous, and you will sometimes see on bags of fertilizers certain numbers such as 13 or 20 and this indicates the proportion of potash, nitrogen and phosphorous. It is those that constitute the fertilizer and it is those which are absolutely necessary.

Senator ROEBUCK: Do you get it in veins like minerals or is it in one big deposit?

Mr. RALSTON: It is rather like a coal deposit. In Saskatchewan there is a huge tabular deposit, a stratum which is mixed and lies between deposits of salt. In most cases it varies from 8 to 13 or 14 feet in thickness.

The CHAIRMAN: Is the committee ready to consider the bill?

Senator WELCH: Could I ask a question? When the potash comes out of the mine is it ready to blend with other fertilizers or does it have to be processed in some way?

The CHAIRMAN: The witness said a few moments ago that it had to be processed at the mine to a certain extent.

Mr. RALSTON: When it comes out of the process it is finally blended.

The CHAIRMAN: Shall I report the bill? Shall section 1 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall section 2 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall section 3 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall section 4 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall section 5 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall section 6 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall section 7 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall section 8 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall section 9 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall the schedule carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall the preamble carry?

Hon. SENATORS: Carried.

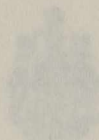
The CHAIRMAN: Shall the title carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall I report the bill without amendment?

Hon. SENATORS: Agreed.

The committee concluded its consideration of the bill.



First Session—Twenty-seventh Parliament
1906

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING COMMITTEE

ON

TRANSPORT AND COMMUNICATIONS

The Honourable A. E. McLELLAN, Chairman

REPORT

ON

THE

Second and First Readings on the Bill S. 14,

intituled

"An Act respecting the protection of employment injury in inland
works, transportation and telegraphy".

PRESENTED

WEDNESDAY, JUNE 20, 1906

BY

WITNESSES:

The Honourable John E. Nicholson, Minister of Labour; Mr. W. G. McGregor, Vice-Chairman, National Legislative Committee, Brotherhood of Railroad Trainmen; Mr. Jacques Farler, C.C., Counsel, Dept. of Transport; Mr. J. H. Gavin, Director, Accident Prevention and Compensation Branch, Dept. of Labour.

PRINTED

REPORTS OF THE COMMITTEE

ROGER BROWN, PRINTER
QUEBEC PRINTER AND BINDER AND CONTROLLER OF STATIONERY
QUEBEC, 1906

MR. BELLAMY: Yes, that is true. It is mixed with nitrogen and phosphorus, and you will remember we on bags of fertilizer certain members such as 12 or 15 or 20 lbs. follows the purposes of potash, nitrogen and phosphorus. It is that you will make the fertilizer and it is those which are absolutely necessary.

MR. BELLAMY: Do you get it in veins like minerals or is it in one big deposit?

MR. BELLAMY: It is rather like a coal deposit. In Saskatchewan there is a large potash deposit, a stratum which is mixed and lies between deposits of salt. It is a stratum which varies from 8 to 12 or 14 feet in thickness.

THE CHAIRMAN: Is the committee ready to consider the bill?

MR. BELLAMY: Which? Could I ask a question? When the potash comes out of the mine is it ready to blend with other fertilizers or does it have to be processed in some way?

THE CHAIRMAN: The witness said a few moments ago that it had to be processed at the mine to a certain extent.

MR. BELLAMY: When it comes out of the process it is finally blended.

THE CHAIRMAN: Shall I report the bill? Shall section 1 carry?

MR. SENATORS: Carried.

THE CHAIRMAN: Shall section 2 carry?

MR. SENATORS: Carried.

THE CHAIRMAN: Shall section 3 carry?

MR. SENATORS: Carried.

THE CHAIRMAN: Shall section 4 carry?

MR. SENATORS: Carried.

THE CHAIRMAN: Shall section 5 carry?

MR. SENATORS: Carried.

THE CHAIRMAN: Shall section 6 carry?

MR. SENATORS: Carried.

THE CHAIRMAN: Shall section 7 carry?

MR. SENATORS: Carried.

THE CHAIRMAN: Shall section 8 carry?

MR. SENATORS: Carried.

THE CHAIRMAN: Shall section 9 carry?

MR. SENATORS: Carried.

THE CHAIRMAN: Shall the schedule carry?

MR. SENATORS: Carried.

THE CHAIRMAN: Shall the preamble carry?

MR. SENATORS: Carried.

THE CHAIRMAN: Shall the title carry?

MR. SENATORS: Carried.

THE CHAIRMAN: Shall I report the bill without amendment?

MR. SENATORS: Agreed.

THE CHAIRMAN: The committee concluded its consideration of the bill.



First Session—Twenty-seventh Parliament

1966

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE
ON
TRANSPORT AND COMMUNICATIONS

The Honourable A. K. HUGESSEN, *Chairman*

No. 9

Second and Final Proceedings on the Bill S-35,

intituled:

“An Act respecting the prevention of employment injury in federal works, undertakings and businesses”.

WEDNESDAY, JUNE 29, 1966

WITNESSES:

The Honourable John R. Nicholson, Minister of Labour; Mr. W. G. McGregor, Vice-Chairman, National Legislative Committee, Brotherhood of Railroad Trainmen; Mr. Jacques Fortier, Q.C., Counsel, Dept. of Transport; Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch, Dept. of Labour.

REPORTS OF THE COMMITTEE

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

THE STANDING COMMITTEE

ON

TRANSPORT AND COMMUNICATIONS

The Honourable Adrian K. Hugessen, *Chairman*

The Honourable Senators

Aird,	Lefrançois,
Aseltine,	Macdonald (<i>Brantford</i>),
Baird,	McCutcheon,
Beaubien (<i>Provencher</i>),	McDonald,
Bourget,	McElman,
Burchill,	McGrand,
Connolly (<i>Halifax North</i>),	McKeen,
Croll,	McLean,
Davey,	Méthot,
Dessureault,	Molson,
Dupuis,	Paterson,
Farris,	Pearson,
Fournier (<i>Madawaska-Restigouche</i>),	Phillips,
Gélinas,	Power,
Gershaw,	Quart,
Gouin,	Rattenbury,
Haig,	Reid,
Hayden,	Roebuck,
Hays,	Smith (<i>Queens-Shelburne</i>),
Hollett,	Thorvaldson,
Hugessen,	Vien,
Isnor,	Welch,
Kinley,	Willis—(47).
Lang,	

Ex officio members: Brooks and Connolly (*Ottawa West*).

(Quorum 9)

REPORTS OF THE COMMITTEE

MINUTES
ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Tuesday, June 7, 1966:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Croll, seconded by the Honourable Senator Benidickson, P.C., for second reading of the Bill S-35, intituled: "An Act respecting the prevention of employment injury in federal works, undertakings and businesses".

After debate, and—

The question being put on the motion it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Croll moved, seconded by the Honourable Senator Benidickson, P.C., that the Bill be referred to the Standing Committee on Transport and Communications.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative."

J. F. MacNEILL,
Clerk of the Senate.

After discussion, it was resolved to report the Bill with the following amendments:

"1. Page 3, line 97: After "equipment" insert "vehicles."

"2. Page 4, line 20: After "or" insert "and dispose".

"3. Page 5, line 33: After "or" insert "or to be carried on".

"4. Page 4: Immediately after paragraph (i) insert the following as new paragraph (j):

"(j) prescribing mechanical standards for vehicles and equipment."

"5. Page 4: Lines 3-4: Re-title present paragraphs (i) to (p) as paragraphs (k) to (v) respectively."

At 9:15 p.m. the Committee adjourned to the call of the Chairman.

Attest:

John A. Hinds,
Assistant Chief Clerk of Committee.

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Tuesday, June 7, 1966:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Croft, seconded by the Honourable Senator Benidickson, P.C., for second reading of the Bill S-32, intitled: 'An Act respecting the prevention of employment injury in federal works, undertakings and businesses'."

After debate, and the question being put on the motion, it was resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Croft moved, seconded by the Honourable Senator Benidickson, P.C., that the Bill be referred to the Standing Committee on Transport and Communications.

After debate, and the question being put on the motion, it was resolved in the affirmative.

J. E. MacNeill,
Clerk of the Senate.

- McNeil
- Patenaud
- Phillis
- Power
- Quart
- Rattenbury
- Reid
- Reebuck
- Smith (Queens-Shelburne)
- Thorvaldson
- Vien
- Weich
- Wilms (47)

Ex officio members: Brack and Connolly (Ottawa West).

(2 minutes)

MINUTES OF PROCEEDINGS

WEDNESDAY, June 29th, 1966.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 8:00 p.m.

Present: The Honourable Senators Hugessen (*Chairman*), Aseltine, Baird, Beaubien (*Provencher*), Connolly (*Halifax North*), Dessureault, Gouin, Hollett, Kinley, McDonald, McElman, Power, Quart, Roebuck, Smith (*Queens-Shelburne*), Welch.

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

Consideration of Bill S-35 "An Act respecting the prevention of employment injury in federal works, undertakings and businesses" was resumed.

The following were heard:

The Honourable John R. Nicholson, Minister of Labour.

Mr. W. G. McGregor, Vice-Chairman, National Legislative Committee, Brotherhood of Railroad Trainmen.

Mr. Jacques Fortier, Q. C., Counsel, Department of Transport.

Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch, Department of Labour.

After discussion, it was resolved to report the Bill with the following amendments:

"1. Page 3, line 37: After "equipment," insert "vehicles,".

"2. Page 4, line 20: After "use" insert "and disposal".

"3. Page 5, line 35: After "on" insert "or to be carried on".

"4. Page 4: Immediately after paragraph (i) insert the following as new paragraph (j):

"(j) prescribing mechanical standards for vehicles and equipment;".

"5. Pages 4 and 5; Reletter present paragraphs (j) to (p) as paragraphs (k) to (q) respectively."

At 9:15 p.m. the Committee adjourned to the call of the Chairman.

Attest.

John A. Hinds,
Assistant Chief Clerk of Committees.

REPORT OF THE COMMITTEE

WEDNESDAY, June 15th, 1966.

The Standing Committee on Transport and Communications to which was referred the Bill S-35, intituled: "An Act respecting the prevention of employment injury in federal works, undertakings and businesses", reports as follows:

Your Committee recommends that authority be granted for the printing of 800 copies in English and 300 copies in French of its proceedings on the said Bill.

All which is respectfully submitted.

A. K. HUGESSEN,

Chairman.

REPORT OF THE COMMITTEE

WEDNESDAY, June 29th, 1966.

The Standing Committee on Transport and Communications to which was referred the Bill S-35, intituled: "An Act respecting the prevention of employment injury in federal works, undertakings and businesses", has in obedience to the order of reference of June 7th, 1966, examined the said Bill and now reports the same with the following amendments:

1. Page 3, line 37: After "equipment", insert "vehicles,".
2. Page 4, line 20: After "use" insert "and disposal".
3. Page 4, line 35: After "on" insert "or to be carried on".
4. Page 4: Immediately after paragraph (i) insert the following as new paragraph (j):

"(j) prescribing mechanical standards for vehicles and equipment;"

5. Pages 4 and 5: Reletter present paragraphs (j) to (p) as paragraphs (k) to (q) respectively.

All which is respectfully submitted.

A. K. HUGESSEN,

Chairman.

THE SENATE

THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Wednesday, June 29, 1966.

The Standing Committee on Transport and Communications to which was referred Bill S-35, respecting the prevention of employment injury in federal works, undertakings and businesses, met this day at 8.30 p.m. to give further consideration to the bill.

Senator A. K. HUGESSEN in the Chair.

The CHAIRMAN: Gentlemen, we now have to reconsider Bill S-35, the Canada Labour (Safety) Code. I understand that the Minister is to be here, though he is not here at the moment.

You will recall, honourable senators, that I indicated to you at our last meeting that one or two people wished to submit briefs in connection with this bill, and that The Canadian Labour Congress had expressed a desire to submit a brief. I have been in touch with them, and I have a letter from them dated today, signed by Mr. Donald MacDonald, Secretary-Treasurer of The Canadian Labour Congress.

I think I should read this letter to the committee:

Dear Senator Hugessen,

On June 14, 1966, the President of the Canadian Labour Congress, Mr. Claude Jodoin, wrote to you in respect of Bill S-35, which is to be known as the Canada Labour (Safety) Code. At the time that Mr. Jodoin wrote it appeared probable that we would be able to overcome some of our difficulties in relation to preparation of a submission but we have not been successful in this respect.

In our view, this is a most important piece of legislation and we are most anxious to give it the thorough study and consideration it deserves. We have been in touch with a number of our affiliated organizations which were presumed to have a major concern with the subject of the bill and they have expressed interest in providing material for any submission we may make and, as well, being present at further hearings of the committee. One of these organizations is the Canadian Air Line Flight Attendants' Association which has some rather special problems in this field.

The purpose of my letter is to respectfully request your committee to give consideration to the possibility of further hearings on Bill S-35, even if this means that such hearings take place when Parliament reconvenes after the announced summer recess. The co-operation of your committee would be very much appreciated by us and, I am sure, by other organizations which may not yet have had an opportunity to fully study the bill and its implications. We understand, of course, that another opportunity may present itself when the House of Commons gives consideration to the legislation.

Our Mr. Hepworth has told me of the courtesy and co-operation he has enjoyed in discussing this matter with you and we would like the committee to know that we appreciate this very much.

Yours sincerely, (signed) Donald MacDonald, Secretary-Treasurer.

I spoke two or three times to Mr. Hepworth after our last meeting. I explained to him that we were hoping to go ahead with this bill, and that, as this is a bill which originated in the Senate, if we were to pass it without any representations, this would not mean that they would be denied the opportunity to make representations when they go before the House of Commons.

I suppose it is up to the committee to decide whether they wish to consider the suggestion that we hold this bill over.

Senator ASELTINE: Does that letter not say they would be satisfied with that?

Mr. CHAIRMAN: With what?

Senator ASELTINE: With making their representations to the House of Commons.

The CHAIRMAN: This simply says, "we understand, of course, that another opportunity may present itself when the House of Commons gives consideration to the legislation." I do not know, honourable senators, but I think we have to have some sort of time limit that we can agree to. This bill was, after all, presented on the 24th day of May.

If honourable senators agree, we might take the view that we have given as much time as we can to representatives, and that if they want to make any further representations they should make them to the House of Commons. Is that the view of the Committee with regard to this particular request?

Hon. SENATORS: Agreed.

The CHAIRMAN: I am told that there is somebody else who wishes to make a representation now. Is there anybody here who wishes to make a representation to us in respect of this bill?

Senator ROEBUCK: I see Mr. McGregor, here, whom we have already heard. He had some objections to the bill as it now stands. Mr. McGregor, have you something to say to us?

Mr. W. G. McGregor, Vice-Chairman, National Legislative Committee, Brotherhood of Railroad Trainmen: Mr. Chairman, honourable senators, I was just holding a hearing brief this evening, and I cannot speak on behalf of the Canadian Labour Congress to the letter you read. However, the question which arises in my mind is: after the bill has been through your committee here in the Senate, is there any guarantee that the bill would go to a committee in the other place where representations could be made? I do not know, but this is the only question which arises in my mind.

The CHAIRMAN: That is perfectly true, Mr. McGregor. We cannot legislate what the House of Commons will do, and it is conceivable that the House of Commons might want to go through this bill in Committee of the Whole. However, I think, if you or any other reputable organization told the members of the House of Commons that you wanted to make representations, I think you would be almost sure to get a favourable reply and they would refer it to a committee where you could make your representations.

Senator ASELTINE: I wonder if the Minister might give a guarantee.

The CHAIRMAN: I understand that the Minister is here now. What do you feel about that, Mr. Minister?

The Honourable John R. Nicholson, Minister of Labour: Mr. Chairman, honourable senators, one reason we sent this bill here a little over a month ago was to afford organizations the full opportunity to be heard. We are anxious to get this through. We could have taken it before the Commons Labour Committee, but we are anxious to have it implemented because an assurance was given by my predecessor last year that this bill would be introduced and put through as quickly as possible. I thought the representations made by the truckers here the last time I appeared before the committee were excellent. Some constructive suggestions were made and we are prepared to accept them. Also, I think the comments which were made by the Railway Brotherhood were very helpful because, even though they may necessitate amendments to the bill, at least the views of the organization and the comments of this committee were very helpful, because there will be opportunity, if this bill is passed by Parliament, for the Department of Labour to initiate proceedings before the Cabinet, if the Department of Transport does not do it, to implement the suggestions which have been made by the Railway Brotherhood organizations.

So far as the C.L.C. are concerned, I do not know. As far as my department is concerned, we have had no specific representations from them, except through the railway organizations which are one of their affiliated bodies.

Not knowing how long the House of Commons may be sitting—whether it is going to be two days or six days,—I would not want to give an undertaking that it would be referred to a committee, in view of the time that has elapsed and the opportunities which have been given to people who are interested in making representations.

The CHAIRMAN: Might I ask you this question? Perhaps it is a little unfair a question, Mr. Minister: would you object to acceding to the request of the Canadian Labour Congress and holding over discussion until the fall?

Hon. Mr. NICHOLSON: Until the fall? Yes, I would. I think this bill should be passed; I had hoped it would be passed by Parliament before this, because it is legislation that, in the opinion of my department, is overdue. It is legislation with respect to which the Government gave consideration a year ago. We feel the bill would have been introduced or brought before both Houses of Parliament last fall, if it had not been for the election. We would prefer not to defer it at this time.

Senator POWER: May I ask the minister this: if we were to pass this bill tonight, is there a prospect of its getting through the Commons in the next two days? Or will it be delayed anyway?

Hon. Mr. NICHOLSON: I think not, senator. There is a chance of getting it through the House of Commons tomorrow or Monday.

The CHAIRMAN: We appreciate the view of the minister, which I think is rather more or less the view the committee has expressed, that we do not want to wait any further.

Senator ROEBUCK: It is a good bill, senator, and we ought to facilitate it.

The CHAIRMAN: I understood that somebody else wished to make representations about this bill? It was indicated to me that Mr. Magee of the Canadian Trucking Associations Inc. was going to appear tonight.

Hon. Mr. NICHOLSON: Mr. Chairman if I might speak on that, I mentioned earlier some suggestions which were made by the truckers at the last meeting of this committee. Officials of my department and our legal adviser have been in touch with the Department of Justice and I think all of the suggestions, though we feel they may not be essential, are certainly helpful to remove any doubt or any ambiguity, and we would be prepared to accept such suggestions. We have actually had the departmental officials working, I think with your legal adviser, and the Justice Department, to incorporate the amendment in the bill.

The CHAIRMAN: Before we proceed further, I gather that there is nobody who wishes to make further representations. Before we start on the subject of the bill, we have Mr. Fortier here, legal counsel for the Department of Transport. You will remember that a number of representations were made to us at the last meeting about various conditions for the trainmen, pure water conditions and sanitation. It seems to me that the trouble was that the railwaymen did not feel that anybody had a right to deal with this question.

Senator ROEBUCK: They were passing the buck from one department to another.

The CHAIRMAN: What have you to say on that, Mr. Fortier?

Mr. Jacques Fortier, Q.C., Counsel, Department of Transport: Mr. Chairman and honourable senators, at the last meeting of your committee on June 15, in respect of this Bill S-35, you asked that the committee be advised on the jurisdiction of the Department of Transport with respect to the provisions of potable water and sanitary provisions and sanitary facilities for railway employees while on duty on trains.

The Minister of Transport is charged with the administration of the Railway Act. However, the Board of Transport Commissioners, which was established under the authority of the Railway Act, constitutes a court of record and therefore the jurisdiction of the minister in respect of orders and regulations made by the board would not extend to them.

The section of the Railway Act which is under discussion, section 290, authorizes the board to make orders and regulations in respect of these items of sanitary provisions on trains, and that would be one section of the act in respect of which the Minister of Transport will not exercise any jurisdiction over the board.

Senator ROEBUCK: If the board says it has not jurisdiction, then who has?

Mr. FORTIER: I was coming to that, Senator Roebuck. In May of this year, Mr. Walter of the Brotherhood of Locomotive Engineers, wrote to the Minister of Labour in respect of this very question, and the Minister of Labour referred the matter to the Minister of Transport, who in turn asked the Chief Commissioner of the Board of Transport Commissioners for his comments. With your permission, Mr. Chairman, I would like to read to the committee the reply that I received from the Chief Commissioner. The letter is addressed to the Deputy Minister of Transport and is dated June 13. It states:

My connection with the question of toilet facilities on trains goes back to 1956, when the National Legislative Committee of the International Railway Brotherhoods requested the board to set down for formal hearing the necessity and desirability of toilet facilities being supplied in the cabs of diesel locomotives. This was followed by informal discussion between me, Commissioner Chase and the Brotherhood officers. I suggested that a simple way to obtain a decision as to the board's jurisdiction would be for the Brotherhoods to make a request for an order in a specific situation as a test case and, if the board ruled that it had jurisdiction, the wider inquiry could go on from there. The Brotherhood officers intimated that they might have recourse to federal and provincial sanitation legislation. They did not pursue the matter with the board.

As to jurisdiction, Mr. Varcoe, Deputy Minister of Justice, gave an opinion to the Department of National Health and Welfare in 1948, from which I quote:

"With reference to your third question, I may say that I am of the opinion that the Department of National Health and Welfare Act confers the necessary authority to make regulations with respect to

sanitation and cleanliness on the railroad properties referred to, as long as it be understood that this relates only to properties which are operated as an integral part of the railway operations of carriers engaged in international and interprovincial traffic. I might also direct your attention to Section 287 (now 290) of the Railway Act (R.S.C. 1927, Chapter 170) wherein the Board of Transport Commissioners is authorized to make regulations providing for the protection of property and the protection, safety, accommodation and comfort of the public in running and operating of trains. I suggest that regulations of the nature referred to above confined to railway stations might be justified on the ground that they constitute protection, safety and comfort of the public."

In 1961, the sessional committee on Railways, Air Lines and Shipping, in its *Minutes of Proceedings* No. 8, recommended:

"That the Department of National Health and Welfare in consultation with the provincial health authorities, study the question with a view to setting up a standard sanitary code for all railways in Canada and their employees."

Throughout 1962 there was extensive correspondence between National Health and welfare and the Brotherhoods and the railways. Then, in 1963, the Minister of National Health and Welfare suggested an interdepartmental committee. I offered to have a representative of the board on the committee, but we had no further request for attendance or participation in consideration of the matter.

The question whether the board has power under section 290(1) (L) of the Railway Act to order toilet and other sanitary facilities is arguable. I think that a generous interpretation would give such power. In view of the cost of such facilities, the railways might dispute the board's power. There are also engineering and mechanical problems, modification of older diesel units, design of future units, etc.

Having regard to the part that National Health and Welfare and Labour have played in the subject matter, an interdepartmental committee might be set up. I doubt that this would resolve the matter. *If the Brotherhoods wish the Board to hold an enquiry, we are quite willing to do so.* If the railways questioned the Board's jurisdiction, the Board would have to rule in this respect, after hearing the parties.

Senator ROEBUCK: He mentions depôts, stations, as being affected by section 290. Would the same logic apply also to bunkhouses?

Mr. FORTIER: I would imagine so, senator. But, Mr. Chairman, you will recall that at the meeting of June 15, Mr. McGregor of the Brotherhood of Railway Trainmen, presented a brief which contains, amongst other statements, these two:

- (1) That the Board of Transport Commissioners, in a judgment reported in Canadian Railway Cases, volume XI, 1911, ruled that section 30 of the then Railway Act—which is now section 290—which gives the board authority to make orders and regulations requiring proper shelter to be provided for all railway employees "on duty", and further that when these men are in at divisional points they are not "on duty".
- (2) That in 1955 and 1956 the Board of Transport Commissioners was requested to regulate, under authority of section 90 of the Railway Act, for the provision of toilets on diesel engines, when the board advised that it had no jurisdiction in the matter.

These items are referred to in this letter from the Chief Commissioner and he has this to say:

In the course of the debate, Senator Roebuck referred (Senate Debates, June 2, p. 642) to a 1910 decision of the board which held that it had no power to order railways to provide shelter for their employees when they were not on duty (11 C.R.C. 336). That decision is of little significance in the present instance, but the senator read it with section 290 (1) (L) of the Railway Act, which is as follows:

“(1) The board may make orders and regulations . . .

(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 Chief Commissioner goes on to say that Senator Roebuck appeared to treat the decision as a ruling by the board that its powers re safety and comfort of the employees did not include sanitation.

This does not appear to be the effect of the ruling in 1910. Then he goes on to say what I have already told you about in connection with the board going back to 1956. I would suggest, Mr. Chairman, that in view of the opinion given by the Chief Commissioner that his decision would meet the objections of the brotherhood with regard to this Bill S-35 seeing that the board is prepared to entertain a petition from the brotherhoods for regulating and making orders in this matter.

The CHAIRMAN: I think that would clear the air so far as the Brotherhood is concerned.

Senator ROEBUCK: Let us see what Mr. McGregor has to say about it. This is new. Maybe we should be prepared too hear further on this.

The CHAIRMAN: The commissioner invites the railway workers to make an application to him.

Mr. MCGREGOR: Mr. Chairman and honourable senators, this situation involves going back again over the grounds that my predecessors have been covering for some 20 years to have some regulatory authority improve the sanitary conditions for railroad workers. There is no doubt that a decision to be rendered by the board will be acceptable but I take it that the regulatory authority could be included in this bill so as to embody the recommended standards of the Department of National Health and Welfare. The departments have been studying this question for some 10 years or more. I would be prepared to accept the position of the regulatory authority and the respective authorities that are going to deal with this question. I understand from the correspondence that was read by Mr. Fortier that it is now the Department of Transport that will appear. The Minister of Transport over the years stated they had no authority and this was when the former Minister of National Health and Welfare, the Hon. Paul Martin declared they had the authority.

Senator ROEBUCK: The witness says they have no authority over those things upon which the board rules. But it has authority—

Senator HOLLETT: Doesn't section 8 take care of the whole problem?

The Minister may establish consultative and advisory committees on which employers and employees are represented to advise the Minister on any matters arising in relation to the administration of this Act, to assist in the establishment of reasonable standards of safety and to recommend regulations respecting safe employment practices, procedures and techniques.

Wouldn't that cover the whole problem?

The CHAIRMAN: Except that subsection (3) of section 3 of the bill says that this act does not apply in connection with the operation of ships, trains or aircraft. I suggest, Mr. McGregor, that in view of the attitude which the Chairman of the Board of Transport Commissioners takes, the Board of Transport Commissioners has the right to study and to deal with these problems and that they would be willing to deal with any application you might make to them on that basis. That would be the basis for you to proceed on.

Mr. MCGREGOR: To test section 290 of the Railway Act.

Senator HOLLETT: Can you tell us why subsection (3) of section 3 is there? Why does it make an exception of the operation of ships, trains and aircraft?

The CHAIRMAN: The minister gave a long explanation of that the last time he was here. Perhaps he would repeat it again.

Hon. Mr. NICHOLSON: I will try not to be too lengthy this time. There are or there have been for many years regulations passed by the Board of Transport Commissioners and a lot of agencies associated with the Department of Transport that have had to deal with ships, trains and aircraft. That is the one field in which there has been some safety legislation. The Department of Transport had this experience and they want to continue to do that work. We want to cover the general field not already covered by legislation. As a result of discussions with the Department of Transport, the minister and deputy minister and other officials agreed that they would be allowed to continue their work in the fields in which they had been working for several decades, and if there should be any conflict, the Governor in Council would deal with it, and if action was not being taken any minister or any member of the cabinet would be in a position to initiate proceedings under subsection (3).

Senator HOLLETT: I think I remember it now.

Hon. Mr. NICHOLSON: In looking at my notes I referred to the representations being made by the Teamsters that were most constructive and helpful. I should have said that they were made by Mr. Spector on behalf of the Teamsters, and Mr. Magee, the representative of the Canadian Trucking Associations Inc. was advised of this meeting tonight. He was told he would have an opportunity to present his views if he wanted to.

The CHAIRMAN: That is perhaps the next thing the committee should deal with now. You will remember Mr. Spector made several suggestions for changes in the wording of certain sections of the bill, and that the minister was kind enough to say he would look at them and let us know at the next meeting whether or not they were of any value. I understand there are some suggestions for changes in certain sections. Perhaps we might deal with those now.

Hon. Mr. NICHOLSON: Mr. Currie of the Department of Labour has been working closely with the Department of Justice on the suggestions put forward by Mr. Spector. One of them may not be necessary but to remove any doubt or ambiguity the department would be quite prepared to accede to four changes. Mr. Currie will deal with those. I think a memorandum on the subject has been given to your legal adviser.

The CHAIRMAN: May we deal with these one by one? The first one appears on page 2, paragraph (b) which starts:

(b) any railway, canal, telegraph or other work or undertaking connecting a province with any other or others of the provinces,—

Mr. Spector suggested that after the word "railway" we should add the words "land transport operation". What do you have to say on that, Mr. Currie?

Mr. J. H. Currie, Director, Accident Prevention and Compensation Branch, Department of Labour: This is one of the extremely complex legal problems

involving the Constitution. Mr. Davis, our Departmental Solicitor, examined this question at some length and produced a memorandum, and I would like to quote the concluding two paragraphs of Mr. Davis' treatment of the suggestion that we have to present the thing to the committee in the sense of our department's understanding of it. The first paragraph reads:

To introduce new words to clarify a field of jurisdiction that is acknowledged and has jurisprudence to support it would be inviting further litigation as to the meaning or meanings of the new words.

I think we observed at the last meeting of the committee that the present phrasing is taken from the BNA Act and is found elsewhere in several statutes of the Department of Labour. Some of them are listed in clause 30 of the present bill before you, with which we hoped this bill would eventually be coordinated in the Labour Code. It would seem quite inconsistent to introduce any new wording here.

Mr. Davis concludes in this way:

At the same time, the reasonably consistent pattern over the years describing jurisdiction in the Labour Statutes, a pattern which has been found to be *intra vires*, would be departed from, and possibly lead to further litigation as to the meaning of the new words that are introduced.

In short, the department feels with respect to this long established construction that it cannot accept the suggestion that it be amended in any respect. There is no question as to the jurisdiction of the federal Government.

The CHAIRMAN: I think all senators will remember that our own Law Clerk expressed the same views.

The LAW CLERK: I still agree with that.

Hon. Sen. POWER: Does that rule the truckers out?

The LAW CLERK: No, not at all. It includes them by virtue of a judgment of the Judicial Committee of the Privy Council. This is in the language of the BNA Act. Interprovincial or intra-provincial truckers have been held to be within it.

The CHAIRMAN: Any work connecting one province with any other province—

Hon. Sen. ROEBUCK: That is fine, but it does not express that. It is not the act that the cases have ruled on. It is another act that the cases have ruled on to which you are referring. Here we are passing a new act with the old act in view and with the cases in mind and leaving the truckers out.

The LAW CLERK: No, if I may say so, Senator Roebuck. The *Winner* Case, it is true, involved a discussion of certain legislation, but the judgment was based upon the Constitution, the language in the British North America Act, and concluded that trucking operations interprovincial fall within the language of the BNA Act, which this act reproduces. Am I not right in that?

Mr. CURRIE: Yes, perfectly right.

Hon. Mr. NICHOLSON: I was just going to say, Mr. Chairman, that in the consideration we gave to it, if you look at the wording of subsection (b), page 2,—“any railway, canal, telegraph or other work or undertaking connecting a province with any other or others of the provinces, or extending beyond the limits of a province,”—a highway is an undertaking or a work which connects one province with another.

The LAW CLERK: And it was so held by the Privy Council.

Hon. Mr. NICHOLSON: I think that would properly answer Senator Roebuck.

Hon. Sen. ROEBUCK: I withdraw my objection.

The CHAIRMAN: I think the committee would agree that we will not accept this suggestion as regards paragraph (b) on page 2.

Now, the second suggestion he made was on page 3, paragraph No. 7, subsection (1) in line 37. He suggested in the line "use of plants, machinery, equipment, materials buildings," that we include after the word "equipment" the word "vehicles."

The LAW CLERK: That is acceptable to the minister, I believe.

Hon. Mr. NICHOLSON: It is quite acceptable. If there is any ambiguity, that amendment is acceptable.

Mr. CHAIRMAN: Will somebody move that?

Hon. Sen. POWER: What words are to be added?

The CHAIRMAN: In Section 7, subsection (1), page 3, line 37, after the word "equipment", add the word "vehicles." That was suggested by Mr. Spector and is acceptable to the minister.

Hon. Sen. POWER: After the word "equipment" put the word "vehicles,"? It does not add anything.

The LAW CLERK: That was my opinion, but no harm is done if they want it.

Hon. Sen. POWER: No harm is done, but it does not add anything.

Hon. Mr. NICHOLSON: As I said earlier, senator, we do not think it is strictly necessary, but if anybody thinks there is an ambiguity we have no objection to the word going in.

Senator POWER: If it pleases them.

The CHAIRMAN: What do the committee feel about that? Shall we accept that amendment?

Hon. SENATORS: Agreed.

The CHAIRMAN: "Vehicles," goes in on line 37, then.

There have been drawn to my attention one or two amendments which I believe were suggested by the Department of Labour for Ontario, and which I understand the federal minister agrees to. I would refer you to paragraph (f), on page 4, which reads: "respecting the handling, transportation, storage and use of substances or devices dangerous to the safety or health of employees." There is a suggestion that after the word "use" should be inserted the words "and disposal" so that it would read "respecting the handling, transportation, storage, use and disposal of substances or devices dangerous to the safety or health of employees;" I think that is a valuable suggestion.

Hon. Mr. NICHOLSON: It is a good suggestion, Mr. Chairman, and since, as I mentioned at the earlier meeting of the committee, we have requested and were sure of the cooperation of the provincial governments in endorsing this, we welcome any suggestions they have for changes of this nature. They will be doing the inspection work.

The CHAIRMAN: Does the committee agree to that amendment?

Hon. SENATORS: Agreed.

The CHAIRMAN: Now, you will remember that Mr. Spector suggested two new paragraphs after paragraph (i). His first paragraph was a new paragraph (j), "respecting the mechanical safety of any vehicles and equipment used in any land transportation or undertaking." What were your views on that, Mr. Minister?

Hon. Mr. NICHOLSON: Mr. Chairman, on that, after discussions between my officers and the draftsmen in the Department of Justice, we suggested that the present paragraph (j) be struck out and the following substituted:

respecting the furnishing of information to the Minister or safety officer as to the location of the work, undertaking or business, and the

nature of the operations carried on or to be carried on therein, and the nature and amount of the materials used or to be used in the operations

Again, that not only commends itself to my department, but commends itself to the Ontario Department of Labour.

The CHAIRMAN: That was not quite what I was getting at, but we might as well deal with the present (j) while we are about it.

Hon. Mr. NICHOLSON: I was doing them in order. Take out the original (j), substitute what I have just read, and then immediately after the present paragraph I think there will be some re-numbering involved. Put in the suggestion which was made by Mr. Spector as (k).

The CHAIRMAN: It would be (k), would it?

Hon. Mr. NICHOLSON: Yes, it would be re-numbered.

The CHAIRMAN: Honourable senators, the amendment proposed in paragraph (j), simply means that there is an amendment on line 35: "nature of the operations carried on or to be carried on."

Hon. Mr. NICHOLSON: That is the insert.

The CHAIRMAN: That is the insert and that sounds reasonable enough. That is submitted by the Ontario Department of Labour. Does that meet with the approval of the committee?

Hon. SENATORS: Agreed.

The CHAIRMAN: That is an amendment to line 35 on page 4.

Now, your suggestion is that the new paragraph submitted by Mr. Spector would be the new (k). That would be the one I read, would it?

The LAW CLERK: "Prescribing mechanical standards for vehicles and equipment."

Senator ROEBUCK: Respecting the mechanical safety of any vehicles? How does it go?

The CHAIRMAN: You want a new (k), reading as follows:

prescribing mechanical standards for vehicles and equipment;

That would be the new (k).

Hon. Mr. NICHOLSON: That was Mr. Spector's suggestion at the last meeting of the committee.

The LAW CLERK: Then you would re-letter the subsequent paragraphs accordingly?

Hon. Mr. NICHOLSON: That is correct.

The CHAIRMAN: Very well. The committee understands that. We have a new paragraph (k): "prescribing mechanical standards for vehicles and equipment;". That in some respects meets Mr. Spector's suggestion.

Senator HOLLETT: "Respecting the reporting and investigation of accidents and dangerous occurrences." Was that cut out altogether?

Hon. Mr. NICHOLSON: No, that comes later.

The CHAIRMAN: Does the committee agree with that?

Hon. SENATORS: Agreed.

The CHAIRMAN: Another suggested amendment was: "respecting working conditions in so far as they affect the safety of the public in general and employees in particular."

What is your view on that? That was a new suggestion by Mr. Spector.

The LAW CLERK: With regard to that, we felt it was not very appropriate.

In the first place, the measure is not directed towards the prevention of accidents but to the safety of the public in general. This is general in many

other statutes. Secondly, the whole substance of this measure, and the whole purpose of it, is to establish safe working conditions.

On these grounds, this incidental subparagraph would be redundant, because the whole measure deals with safe working conditions. Therefore, with respect, we suggest that this be rejected.

Senator ROEBUCK: I pointed out the weakness of that section when he was referring to the public in general, rather than to the public. There is a grave distinction between the public in general and the public or certain individuals in the public.

His next step was the men in particular, instead of just the men. So the draftsmanship of the proposal was very bad.

The CHAIRMAN: I take it the committee agrees that we reject that proposal?

Hon. SENATORS: Agreed.

The CHAIRMAN: The only other suggestion that Mr. Spector made appears on page 8, under the heading of special safety measures, subparagraph (1) where a safety officer considers that "any place, matter or thing", and so on. He suggested that the word "vehicle" should be added after the word "matter", so that it would read:

Any place, matter, vehicle or thing.

It seemed to me that that may be a little redundant. After all, a vehicle is certainly a thing, is it not?

Hon. Mr. NICHOLSON: I think that was pointed out by one of the senators.

The LAW CLERK: I believe I pointed it out. Senator Roebuck suggested that the *ejusdem generis* rule might make it dangerous, but I do not think there is likely to be any more difficulty. The three things are completely unrelated, and if a vehicle is not a "thing" I do not know what it is.

The CHAIRMAN: I take it we agree that we discard that suggestion?

Hon. SENATORS: Agreed.

The CHAIRMAN: Are there any other amendments that the minister or the department would like to suggest or desire to put into the bill? If not, we might consider it section by section, unless there is any further discussion.

Senator ROEBUCK: I would like to make one comment. I was the one who first attacked this measure in the Senate, as you may remember. I think what I said on that occasion was perfectly sound, but a good deal has happened since that time. We have had representations from three of the leading representatives of the Brotherhood. The minister has been here. He has given us an assurance that, if the evils complained of are not corrected, this bill gives his department power to act. I think we have got a fair assurance from him that the department will act. Therefore while the objections, as I say, were sound, and the grounds upon which they were built are still there, I think that if this bill is passed—and it is a good bill in general—the matters complained of will be looked after in a reasonable time. Therefore, I am prepared to vote for the measure.

The CHAIRMAN: I suppose I should go through the form of putting the bill section by section.

Section 1, short title. Shall section 1 carry?

Hon. SENATORS: Agreed.

The CHAIRMAN: Section 2, interpretation. Shall section 2 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 3, application. Shall section 3 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 3(a), 1, 2 and 3. Shall section 3 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 4, duty of employer. Shall section 4 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 5, duty of employee. Shall section 5 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 6, saving. Shall section 6 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: There is an amendment to section 7, by the addition of the word "vehicle," and it is further amended by the changes in the present paragraphs (f) and (k). Shall section 7, as amended, carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 8, special committee. Shall section 8 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 9, inquiries. Shall section 9 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 10, safety officers. Shall section 10 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 11, agreements respecting use of provincial employees as safety officers. Shall section 11 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: You will be using that a great deal, I imagine, Mr. Minister. Section 12, research into accident prevention. Shall section 12 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 13, employment safety programs. Shall section 13 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 14, duties of safety officers. Shall section 14 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 15, obstruction of safety officer. Shall section 15 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 16, safety officer's evidence in civil suits. Shall section 16 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 17, imminent danger. Shall section 17 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 18, reference to magistrate. Shall section 18 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 19, directions arising out of inspection. Shall section 19 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 20, offences. Shall section 20 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 21, offences by employees. Shall section 21 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 22, other offences. Shall section 22 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 23, evidence of direction. Shall section 23 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 24, time limit. Shall section 24 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 25, trial of offences. Shall section 25 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 26, information. Shall section 26 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 27, offences by responsible employees. Shall section 27 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 28, injunction proceedings. Shall section 28 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 29, notice to furnish information, and proof of failure to supply information. Shall section 29 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 30, Statute Revision Commission to Consolidate Labour Statutes. Shall section 30 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 31, coming into force. Shall section 31 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall the preamble carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall I report the bill, as amended, to the Senate?

Hon. SENATORS: Agreed.

The CHAIRMAN: I am very much obliged to honourable senators for sitting through a long hot evening and doing such excellent work in getting this bill through.

The committee adjourned.

First Proceedings on the Bill S-14,

intituled:

"An Act to amend an Act to incorporate the Richelieu Bridge Company".

WEDNESDAY, DECEMBER 14, 1966

WITNESSES:

*Department of Public Works: Lucien Lalonde, Deputy Minister;
P. Sorokan, Chief, Legal Services.*



First Session—Twenty-seventh Parliament

1966

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE
ON
TRANSPORT AND COMMUNICATIONS

—————
The Honourable A. K. HUGESSEN, *Chairman*

—————
No. 10
—————

First Proceedings on the Bill S-44,

intituled:

“An Act to amend an Act to incorporate the Richelieu Bridge Company”.

—————
WEDNESDAY, DECEMBER 14, 1966

—————
WITNESSES:

Department of Public Works: Lucien Lalonde, Deputy Minister;
P. Sorokan, Chief, Legal Services.

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



First Session—Twenty-seventh Parliament
1986

THE STANDING COMMITTEE
ON

TRANSPORT AND COMMUNICATIONS

The Honourable Adrian K. Hugessen, *Chairman*

The Honourable Senators

- | | |
|--|------------------------------------|
| Aird, | Lefrançois, |
| Aseltine, | Macdonald (<i>Brantford</i>), |
| Baird, | McCutcheon, |
| Beaubien (<i>Provencher</i>), | McDonald, |
| Bourget, | McElman, |
| Burchill, | McGrand, |
| Connolly (<i>Halifax North</i>), | McKeen, |
| Croll, | McLean, |
| Davey, | Méthot, |
| Dessureault, | Molson, |
| Dupuis, | Paterson, |
| Farris, | Pearson, |
| Fournier (<i>Madawaska-Restigouche</i>), | Phillips, |
| Gélinas, | Power, |
| Gershaw, | Quart, |
| Gouin, | Rattenbury, |
| Haig, | Reid, |
| Hayden, | Roebuck, |
| Hays, | Smith (<i>Queens-Shelburne</i>), |
| Hollett, | Thorvaldson, |
| Hugessen, | Vien, |
| Isnor, | Welch, |
| Kinley, | Willis—(47). |
| Lang, | |

Ex officio members; Brooks and Connolly (Ottawa West).

(Quorum 9)

Department of Public Works: Lucien Lalonde, Deputy Minister;
P. Sorokan, Chief, Legal Services.

MINUTES OF PROCEEDINGS

Wednesday, December 14th, 1966.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met.

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Tuesday, November 8, 1966:

"Pursuant to the Order of the Day, the Honourable Senator Deschatelets, P.C., moved, seconded by the Honourable Senator Connolly, P.C., that the Bill S-44, intituled: "An Act to amend an Act to incorporate the Richelieu Bridge Company", be read the second time.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Deschatelets, P.C., moved, seconded by the Honourable Senator Connolly, P.C., that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative."

The Honourable Senator Deschatelets informed that J. F. MACNEILL, counsel for the Company did not wish to appear before the Committee and wished to register a protest against the proposed legislation.

J. F. MACNEILL,
Clerk of the Senate.

The Honourable Senator Flynn informed the Committee that the Deputy Minister of Justice of the province of Quebec was not available at this time.

On Motion of the Honourable Senator Smith (Queens-Shelburne) it was Resolved that further consideration of the said Bill be deferred until an opinion was received from the Department of Justice.

At 10.45 a.m. the Committee adjourned to the call of the Chairman.

Attest.

Frank A. Jackson,
Clerk of the Committee.

ORDER OF BUSINESS

Extract from the Minutes of the Proceedings of the Senate, Tuesday, November 8, 1966:

Pursuant to the Order of the Day, the Honourable Senator Deschamps, P.C., moved, seconded by the Honourable Senator Connolly, P.C., that the Bill S-44, entitled: "An Act to amend the Act to incorporate the Richelieu-Bridge Company," be read the second time.

After debate and—
The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Deschamps, P.C., moved, seconded by the Honourable Senator Connolly, P.C., that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative.

Patenaude,

Pearson,

Phillips,

Power,

Quart,

Rattenbury,

Roid,

Roebuck,

Smith (Queens-Sheburne),

Thorvaldson,

Wien,

Welch,

Willis—(47).

Clark of the Senate

J. F. MacNEILL

Class of the Senate

Brooks and Connolly (Ottawa West).

(Quorum 3)

MINUTES OF PROCEEDINGS

WEDNESDAY, December 14th, 1966.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10.00 a.m.

Present: The Honourable Senators Hugessen (*Chairman*), Aseltine, Burchill, Fournier (*Madawaska-Restigouche*), Gershaw, Gouin, Hays, Isnor, Kinley, Lefrancois, McCutcheon, McDonald, McElman, Methot, Paterson, Pearson, Rattenbury, Smith (*Queens-Shelburne*), and Welch. (19)

In attendance: R. J. Batt, Assistant Law Clerk and Parliamentary Counsel and Chief, Senate Committees Branch.

On Motion of the Honourable Senator McCutcheon it was *Resolved* to report recommending that authority be granted for the printing of 800 copies in English and 300 copies in French of the proceedings of the Committee on Bill S-44.

Bill S-44, "An Act to amend an Act to incorporate the Richelieu Bridge Company", was read and considered.

The following witnesses were heard:

Department of Public Works:

Lucien Lalonde, Deputy Minister.

P. Sorokan, Chief, Legal Services.

The Honourable Senator Deschatelets informed the Committee that counsel for the Company did not wish to appear before the Committee, but wished to register a protest against the proposed legislation.

The Honourable Senator Flynn informed the Committee that the Deputy Minister of Justice of the province of Quebec was not available at this time.

On Motion of the Honourable Senator Smith (*Queens-Shelburne*) it was *Resolved* that further consideration of the said Bill be deferred until an opinion was received from the Department of Justice.

At 10.45 a.m. the Committee adjourned to the call of the Chairman.

Attest.

Frank A. Jackson,
Clerk of the Committee.

Clerk of the Committee:
FRANK A. ZOSKOW

WITNES:

At 10:42 a.m. the Committee adjourned to the call of the Speaker
was received from the Department of Justice
Resolved that further consideration of the said Bill be deferred until an opinion
On Motion of the Honorable Senator Smith (Gusens-Zydrinaite) it was
Minister of Justice of the province of Quebec was not available at this time.

The Honorable Senator Ryan informed the Committee that the Deputy
register a protest against the proposed legislation.

for the Company did not wish to appear before the Committee, but wished to
The Honorable Senator Deschamps informed the Committee that counsel

B. Sokolov, Chief Legal Services

Lucien Gagnon, Deputy Minister

Department of Public Works.

The following witnesses were present:

Company, was read and considered.

Bill S-44 "An Act to amend an Act to incorporate the Bishops Bridge
and 300 copies in French of the proceedings of the Committee on Bill S-44
recommending that authority be granted for the printing of 800 copies in English.

On Motion of the Honorable Senator McClellan it was Resolved to report
and Chief Senate Committee Branch.

In attendance: H. T. Bell, Assistant Law Clerk and Parliamentary Counsel
temporarily, Smith (Gusens-Zydrinaite), and Welch (18)

Gratensons, McClellan, McDonald, McElman, Nelson, Peterson, Poutanen, Ren-
son, Rouleau (Medvedzka-Deschamps), Seligson, Smith, Hays, Hays, King, L.

Present: The Honorable Senators Hildebrand (Suderman), Asselin, Bina-
and Communications met this day at 10:00 a.m.

Parliament to adjournment and notice the Standing Committee on Transport

Дзвізгвал, December 14th, 1988

MINUTES OF PROCEEDINGS

THE SENATE

THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Wednesday, December 14, 1966.

The Standing Committee on Transport and Communications, to which was referred Bill S-44, to amend an act to incorporate the Richelieu Bridge Company, met this day at 10.00 a.m. to give consideration to the bill.

Senator A. K. Hugessen in the Chair.

The CHAIRMAN: Honourable senators, it is 10.00 o'clock, and we have a quorum.

The committee agreed that a verbatim report be made of the committee's proceedings on the bill.

The committee agreed to report recommending authority be granted for the printing of 800 copies in English and 300 copies in French of the committee's proceedings on the bill.

The CHAIRMAN: The committee is called upon to study Bill S-44, to amend an act to incorporate Richelieu Bridge Company. This is quite an unusual bill, and I think the committee will require a good deal of explanation before it reports it.

It will be recalled from the speech of Senator Deschatelets when he introduced the bill on second reading that the Richelieu Bridge Company was incorporated by a special Act passed by Parliament in 1882, with the power to build a bridge across the Richelieu river near the United States border, the act providing that nobody else shall be entitled to build a bridge within three miles one way or the other, it being a toll bridge.

The Act of 1882 also provided that the bridge should be a work for the general advantage of Canada, thereby falling into federal jurisdiction. That is authorized by the British North America Act.

As you will see, the sole purpose of the bill now before us, is to take out this declaration in the Act of 1882 to the effect that this bridge is a work for the general advantage of Canada.

Senator KINLEY: What is the reason for taking it out?

The CHAIRMAN: That is what I am about to explain. We were told in the explanation on second reading that it is the desire of the Government of the Province of Quebec to build a new toll-free bridge at the same site. The present bridge is an old wooden bridge and is a toll bridge. For some reason or other, which so far I have not been able to explain, the Quebec Government feels it cannot build a new bridge unless this provision of the old Act of 1882 is taken out. Personally I do not know why that should be, but no doubt we shall hear an explanation. Apparently the Quebec Government wishes to build a new bridge and feels it cannot build it unless the declaration in the old Act that the existing bridge is for the general advantage of Canada is taken out.

Senator KINLEY: Is the river navigable at that point?

The CHAIRMAN: The Richelieu River is a navigable river at that point, and any bridge would have to be approved by the Department of Public Works under the Navigable Waters Protection Act.

Senator KINLEY: Would this change liquidate the company of the old bridge?

The CHAIRMAN: That I do not know. As the Province of Quebec is interested in this legislation they have been kept advised of the proceedings of the committee and of this present meeting, and I understand one of the witnesses is to be Mr. L. Lalonde of the Department of Public Works.

Now, to answer your question, senator, the present company is, of course, interested, or was interested, in this bill. It is a private company owned by shareholders. I have had some correspondence with their solicitor, Mr. Stein, of Quebec, and he has been notified of this meeting. I do not think Mr. Stein is here, and I do not know whether anyone is here representing the Richelieu Bridge Company. Anyway, you will be satisfied that they have been advised of this meeting.

Senator BURCHILL: Is Mr. Stein the president?

The CHAIRMAN: No. Mr. Stein is the lawyer representing the Richelieu Bridge Company.

Senator PEARSON: If the charter of this company is cancelled by the federal Government, does this involve a question of indemnity to this company from the federal Government for loss of their revenue?

The CHAIRMAN: This bill does not cancel the charter, it simply takes out from the Act section 18 which says that the bridge is a work for the general advantage of Canada.

Senator BENIDICKSON: Mr. Chairman, is it not usual in the preparation of a bill, particularly in the explanatory note, to quote verbatim the section to be repealed?

The CHAIRMAN: Reading over the explanatory note, I thought it was extremely unsatisfactory; it does not explain the matter at all. I think you are right, senator, that that is the usual provision.

I have a copy of the Act of 1882 before me; it is chapter 91 of the Statutes of 1882, and it proceeds to incorporate certain people and give the general authority to build the bridge, and so on. Section 18, which is the last section but one, states:

The bridge of the Richelieu Bridge Company hereby incorporated is declared to be a work for the general advantage of Canada.

The only effect so far as your question is concerned, senator, whether this bill passes or not, would be that if the Province of Quebec builds a bridge beside it, no doubt it will detract very greatly from its revenues, because it is a toll bridge. I suppose you might say it destroys the existence of the company, but the bill does not say anything of that kind.

Now, whether or not the Richelieu Bridge Company has made an agreement with the Province of Quebec as to indemnification, or anything of that kind, I have no knowledge. I think the principal thing we should concern ourselves with at the moment is why it is necessary to repeal section 18 of the present Act, and why the Province of Quebec feels it is necessary. I am not satisfied on that point yet.

Senator PEARSON: I am not satisfied with the bill at all.

The CHAIRMAN: Well, I think we should have a very careful inquiry.

Senator PEARSON: I think so, too.

Senator KINLEY: Is it a Government bill?

The CHAIRMAN: It is a Government bill.

Senator KINLEY: Should we not have the departmental representative here?

The CHAIRMAN: We have Mr. P. Sorokan, Chief of the Legal Services of the Department of Public Works. Perhaps he would be able to explain these mysteries to us. I suggest that we get the story from him, and then we can proceed with other witnesses.

Mr. Lucien Lalonde, Deputy Minister of Public Works: Mr. Chairman, I had not intended to make a statement, but having heard some of the questions asked by some of the honourable senators I think I may dispose of one item fairly quickly.

In the charter which was given to the Richelieu Bridge Company, section 12 prohibits the construction or operation by any person or company other than the company incorporated by the Act of any bridge or any other means of transportation across the river within a distance of three miles on each side. That I think is the crux.

Senator PEARSON: Does that still stand?

Mr. LALONDE: That still stands as long as that charter is an exclusive one under the jurisdiction of the federal Government.

The CHAIRMAN: Why?

Mr. LALONDE: Because it is a prohibition that has to be enforced even though the province may not accept it because it is the government having a higher jurisdiction. This is the interpretation that has been given to us, anyway. I can assure you there have been quite a number of legal opinions sought in connection with this.

The province came to the minister saying that they intended to build a bridge across that river within the provincial jurisdiction.

Senator BENEDICKSON: Whether we do any amending or not?

Mr. LALONDE: No. They intended to build a bridge. Then the question came up where the bridge would be built, and that prohibition immediately placed the bridge outside the area that could be of service to the main populated areas in this sector across this river.

Senator RATTENBURY: Is the bridge under discussion still in use?

Mr. LALONDE: Yes. It is still operative as a toll bridge.

Senator RATTENBURY: A toll bridge?

Mr. LALONDE: It is a wooden bridge, but it is still operative as a toll bridge. Of course, it is none of our business whether or not the province intends to charge tolls. I doubt if they will. This is not the sort of thing we do any more. We would look for a way out of this dilemma without revoking the charter of the company. We were told that since it is really obsolete or archaic to say that intraprovincial bridges still remain within the jurisdiction of the federal Government, in any province, we should try to find a way, with the representatives of the Department of Justice, of getting around the difficulty without revoking the charter.

This cancellation or repeal of Section 18, which declared it to be a bridge under the higher jurisdiction, we are told, will simply mean that the company continues to operate, but the province would now have some jurisdiction and because of the provincial jurisdiction, it eliminates the effect of that prohibition of three miles on each side of the bridge for the construction of a non-toll bridge.

Rightly or wrongly, we thought this was the best solution to a difficult jurisdictional problem. It is as simple as that.

Senator BURCHILL: Would it not be better if you had an agreement with the bridge company?

Mr. LALONDE: They will not agree to this because, as someone pointed out, if another person builds a bridge they may have a loss of revenue—but they could go to the provincial Government for compensation.

Senator BURCHILL: The federal Government may have a loss.

Mr. LALONDE: We may, but we do not think we are going to lose on it. It was the federal government that granted the charter and it can revoke all or any part of it at any time. Whether this is the kind of charter we would grant at this time is very debatable. I do not think we would.

Senator KINLEY: Is there any international aspect of this bridge? Is it on the road from the United States to Quebec?

Mr. LALONDE: It is a very small bridge between two villages. It is not on the main road, if that is what you mean?

Senator KINLEY: Yes.

Mr. LALONDE: No, it is not.

Senator GOUIN: Section 18 must have been put there for the purposes of giving jurisdiction.

Mr. LALONDE: In 1882, yes, sir.

Senator GOUIN: But it did give jurisdiction. Under the jurisdiction then given, the Province of Quebec would be all right in building a bridge.

Mr. LALONDE: Yes, only that they would have to come to the department to secure permission to put a bridge of a certain height over a navigable river. That they would have to do, but that is only so that they would not prevent navigation on that river.

The CHAIRMAN: Mr. Lalonde, may I summarize your evidence so far? You have said that, under the Act passed by this Parliament in 1882, this company has the exclusive right to build a bridge at this point, that nobody can build within three miles of it, and that it is declared to be a work for the general advantage of Canada. What you are telling us is that if we, in this bill, annul that section about the work being for the general advantage of Canada, we are also, in effect, annulling the provision about the three miles. In other words, we are doing indirectly what we do not dare to do directly here by changing section 12?

Mr. LALONDE: No, Mr. Chairman, we are not cancelling the charter. All we are doing is bringing that company under provincial jurisdiction.

The CHAIRMAN: But you still have section 12 of the Act of 1882. What you are trying to do is to deprive this company of the right it was given by section 12, by cancelling section 18. You cannot get around that.

Mr. LALONDE: What we are doing, Mr. Chairman, is saying that this bridge now comes within the jurisdiction of the province in so far as the other sections of the Act of Incorporation are concerned.

The CHAIRMAN: And therefore section 12 will have no effect.

Mr. LALONDE: This will be up to the province to argue with the Richelieu Bridge Company, and whether they will go to court or not I do not know.

Senator KINLEY: How old is the bridge?

Mr. LALONDE: It was built in 1882. It was repaired from time to time but it is still the same bridge.

Senator KINLEY: That is a long time. There is that feature about it, that it may be impeding progress. They may need another one there now.

Mr. LALONDE: The province certainly feel they need a modern bridge.

Senator KINLEY: Can they not build one without affecting this company?

Mr. LALONDE: As long as there is federal jurisdiction, they could not build one within three miles.

Senator KINLEY: They could come here and get the authority to build one, to put a bridge across tidal water or navigable water. They can come in their own right and ask for that privilege, can they not, Mr. Chairman? Cannot the Province of Quebec come and ask the federal Government, in their own right, for the authority to build a bridge?

The CHAIRMAN: There is a legal question there, which has been subject to some discussion.

Section 12 of the present act says that, after the bridge is open to the public, "no person or company" other than this company, shall build a bridge within three miles.

The words "no person or company" does not include the Crown, under the Interpretation Act.

I have read or heard the opinion expressed that section 12 in its present form does not prevent the Province of Quebec from building a bridge whenever it likes, quite regardless of section 12 or section 18.

Senator KINLEY: It is open to a competitor to build a bridge without interfering with somebody else?

Senator DESCHATELETS: Under the Interpretation Act, acting as the Queen in right of the province, if they decided to build another bridge within, let us say, 300 feet of the actual bridge, nothing could prevent them from building the bridge.

The CHAIRMAN: That I gather was the legal opinion that somebody gave, senator.

Senator BENEDICKSON: What does the solicitor for the department say about that?

Mr. P. Sorokan, Chief, Legal Services, Department of Public Works: May I review the question?

Senator DESCHATELETS: Under the Interpretation Act, I believe that the province would have the right today to build a bridge within, let us say, 300 feet of the existing bridge, without asking Crown permission, under the Interpretation Act, because they are not bound by the prohibition preventing any "company or person".

Mr. SOROKAN: The point you have brought up was considered by the various legal personnel involved in the background to this legislation. There was some doubt among the various lawyers involved as to whether in fact your assertion would be a valid one. As a result, the course which was adopted was in fact decided upon as the one that would resolve any of the doubt.

The CHAIRMAN: You say there was some doubt. Did you get any opinions from the Department of Justice?

Mr. LALONDE: Mr. Sorokan is from the Department of Justice.

Mr. SOROKAN: Yes, I am.

The CHAIRMAN: Has the department given a written opinion on this?

Mr. SOROKAN: The deputy minister did not give any opinion, Mr. Chairman.

The CHAIRMAN: I said "the department".

Mr. SOROKAN: There was an opinion given.

The CHAIRMAN: A written opinion?

Mr. SOROKAN: It may not have been a written opinion, but the effect of it was that it was doubtful that the provisions of section 12 would apply to the Province of Quebec.

The CHAIRMAN: That is just what I have been saying. It was not a written opinion?

Mr. LALONDE: Yes.

The CHAIRMAN: I think you had better file it.

Senator GOUIN: But the Crown is not bound by that special privilege and therefore the Province of Quebec also could build a bridge.

The CHAIRMAN: That I think is the legal opinion, senator. I would be interested, if we have an opinion from the Department of Justice, that this section 12 does not apply to the Province of Quebec. If that is so, what is the use of the bill?

Senator BURCHILL: If that opinion were upheld, there would not be any need for any legislation, would there?

The CHAIRMAN: Quite.

Senator GOUIN: It seems to me that it would be a question of interpretation. The way to maintain the Act, as far as I can see, would be for the company to eventually take a lawsuit in order to have the point decided by the court, without just discussing it.

The CHAIRMAN: Yes.

Senator RATTENBURY: Mr. Chairman, is this a pretty profitable operation for the bridge company?

The CHAIRMAN: I gather that the bridge company earns a reasonable revenue each year. It might be interesting to senators to know what they charge for a toll bridge: "Foot passengers, each way, two cents; rider, with horse or mule, each way, 10 cents; loose animals per head, except sheep, pigs, and spring colts following the mare, each way, 10 cents..." and so on.

Senator RATTENBURY: Is that the original incorporation?

The CHAIRMAN: That is the original incorporation, yes. It goes on: "cart, carriage, wagon, buggy, sleigh, cutter or other vehicles drawn by one animal each way, 25 cents; cart, carriage, wagon, buggy, sleigh, cutter or other vehicle drawn by two animals each way, 35 cents..." I do not know whether that includes cars.

Senator BURCHILL: There were no cars at that time.

The CHAIRMAN: I am told that it was 50 cents per automobile.

Senator McDONALD: Do I understand that you had some correspondence from the Commissioner of the Richelieu Bridge Company?

The CHAIRMAN: Yes, he wrote to me to say that his firm might be interested in making representations here and would I let him know when we were meeting. I wrote him and told him when we were meeting, but then I had to adjourn the meeting and I advised him of the present meeting.

Senator McDONALD: You have had no reply from him since?

The CHAIRMAN: No, I have had no further news. Whether that now means that the company is disinterested or that it has reached a settlement with the province, I have no means of knowing.

Senator McDONALD: It seems rather strange that their solicitor is not here. I wonder if there is some reason for his absence? Perhaps the gentleman tried to be here this morning but was not able to be here.

The CHAIRMAN: We sent him a letter on the 9th of this month advising him of the meeting today; we also sent him a telegram on the 12th telling him that it was being held today. There was no reply to either communication.

Senator KINLEY: Do they maintain a customs office at the entrance to this bridge? Is there a customs office there?

Senator FOURNIER (*Madawaska-Restigouche*): It is not an international bridge.

Senator KINLEY: I know, but it may be a convenient entrance to Canada from the United States.

The CHAIRMAN: At any rate, Mr. Lalonde, you are going to let us have this opinion, are you? You say you have a written opinion. I think the committee should see it.

Mr. LALONDE: This is what I am trying to verify. I thought there was a legal opinion because of a letter I received from Mr. Williams, but he is not a lawyer and he was just reporting on a verbal opinion. I have not found it yet.

The CHAIRMAN: I should perhaps add at this point that, right along, we have notified the various departments in the Province of Quebec of these hearings. Senator Deschatelets did that, I think. We certainly advised the Province of Quebec of the hearing today, but I do not know if there is anybody here representing the Province of Quebec.

Senator FLYNN: Mr. Chairman, by chance yesterday I saw the Deputy Minister of Justice of Quebec and he told me that the Honourable Paul Martineau was to be present at this hearing, concerning this bill, and that he had some representations to make. However, he mentioned Thursday as being the day of the meeting, and not today, so I do not know if it is by accident that he is not here now.

Mr. LALONDE: I have two memoranda on file, both of which refer to some discussions with the representatives of the Department of Justice, but I have no written opinions, sir.

Senator ASELTINE: Mr. Chairman, if the Province of Quebec attempted to buy this bridge, would there be any arbitration by which they could do so?

The CHAIRMAN: I have no information on that, and the trouble is that this morning we have neither a representative of the Province of Quebec nor a representative of the bridge company here.

Senator McCUTCHEON: Why deal with it, if they are not here? The letter went out on the 9th and the wire went on the 12th and today is only the 14th. It does not give them very much time to hear from us—what with the Christmas mail rush!

Senator BENEDICKSON: Would it be possible for Senator Flynn to phone the Deputy Minister of Justice of Quebec?

Senator FLYNN: That is what I thought of doing, and, if it is the wish of the committee, I will try to do that.

The CHAIRMAN: The notice was sent to the Minister of Justice and to the Minister of Public Works in Quebec. Both a memorandum and a wire were sent.

Senator FLYNN: When were they sent?

The CHAIRMAN: The letter was sent on the 9th and the wire on the 12th.

Senator McCUTCHEON: There could be a disruption in the mail service, you know, at this time.

Senator FLYNN: In any event, yesterday the Deputy Minister of Justice of Quebec mentioned that the hearing would be on Thursday, not today.

The CHAIRMAN: Well, I think we would be very grateful to Senator Flynn, if he would telephone them.

Senator BENEDICKSON: Mr. Martineau is practising in Hull, so he could probably be reached very quickly.

Senator RATTENBURY: While doing that, why not phone the lawyer from the company to see if he is also confused as to the date of the hearing.

The CHAIRMAN: Mr. Stein? Yes, that would be a good idea.

Senator DESCHATELETS: I might inquire about Mr. Stein, Mr. Chairman.

The CHAIRMAN: Yes, because I have not heard from him since his original letter. Thank you very much. In the meantime, gentlemen, while this legal question is outstanding, I think we should get a proper legal opinion, yes or no,

from the Department of Justice as to whether the present bill prevents the Province of Quebec from building a bridge, if it wants to, because that will have some effect on the question of whether we should go ahead.

Senator McCUTCHEON: Mr. Chairman, one point is whether it prevents the Province of Quebec from building another bridge, but the other question, surely, is whether it would prevent the Province of Quebec from expropriating the present company's property. It seems to me that this is no longer a work for the general advantage of Canada. The Province of Quebec, if it desired—and I do not know whether it does—could build a bridge at the same point by expropriating the present structure.

The CHAIRMAN: I have not heard any suggestion of that.

Senator McCUTCHEON: I merely raise the point to show that there are two aspects to the question.

The CHAIRMAN: That would be a question of Quebec law, of course. The Department of Justice could not properly handle that.

Senator McCUTCHEON: I am saying that, if it is returned, if we back out of saying that this is work for the general advantage of Canada, then, surely, the Province of Quebec would be the body that could expropriate.

The CHAIRMAN: Oh, yes, I see your point. Perhaps we should say that we want the opinion from the Department of Justice on two points. First of all, does the present Act with this prohibition prevent the Province of Quebec from building a second bridge if it wants to and, secondly, what will be the legal effect of our passing this bill striking out the declaration that it is a work for the general advantage of Canada? What would be the legal effect? What would be the legal position of the company, if we passed such a bill? We need information on both those points before we can deal intelligently with this point.

Senator KINLEY: Does the bridge company know about this bill?

The CHAIRMAN: Oh, yes. They were advised by letter on the 9th and by telegram on the 12th.

Senator McCUTCHEON: And their solicitor wrote to the chairman earlier, saying that he might want to make some representations.

The CHAIRMAN: I am not particularly concerned about the solicitor for the bridge company, because he did indicate that they were negotiating with the province. It may be that they have reached a settlement. However, I have not heard from him since the middle of November.

Senator McCUTCHEON: If everybody is agreed, we should be able to settle this very quickly.

Senator SMITH (*Queens-Shelburne*): Not being a lawyer, perhaps I should not get into too much discussion on it but I think we should get an opinion from the Department of Justice on this point. We could adjourn this meeting now, and when we meet again we will have those opinions and will be better informed as to whether or not the injured party, if any, is interested in appearing before us along with the representative of the Department of Justice of the Province of Quebec. If you and the committee feel, Mr. Chairman, that this is the course we should follow, I will move that the committee adjourn its consideration of the bill now.

The CHAIRMAN: Not just yet. Now, you gentlemen know what we want?

Mr. SOROKAN: In my notes I have, "Does the present Act prevent the Province of Quebec from building a new bridge within the three-mile limit on each side?"

The CHAIRMAN: Yes, it must be within the limitation of the bill.

Mr. SOROKAN: "And what would be the legal effect of the repeal of Section 18?" And in particular you were concerned about the province's right to deal with the company if we repeal section 18.

Senator HAYS: I think Senator McCutcheon's question was whether Quebec can do this, and whether the Justice Department of Canada can deal with it. Can they expropriate this bridge.

The CHAIRMAN: I am afraid I don't know. I could not say offhand.

Senator HAYS: If they have the power to do this sort of thing, then it seems to me they are passing the buck a bit.

The CHAIRMAN: I don't think they have the power under section 18. They could not expropriate a work done by the Government of Canada.

Senator BURCHILL: Before we vote on that, should we not wait for Senator Flynn and Senator Deschatelets to come back?

Senator McCUTCHEON: I make a different motion, that is that we adjourn during pleasure.

The CHAIRMAN: With the understanding that we do not meet again until we have an opinion from the Department of Justice on these points.

Senator McCUTCHEON: Mr. Martineau might come this afternoon and say that the province has reached an agreement, and everybody is happy.

Senator DESCHATELETS: I have just been in touch with the lawyer. He tells me he sent a letter to you, Mr. Chairman, the day before yesterday saying that they had decided not to make any representations and leaving the committee to handle the matter.

But they reiterate their objections to the passing of this legislation.

The CHAIRMAN: I object to anybody doing that without paying a lawyer to come up and say so.

Senator DESCHATELETS: Mr. Flynn is now in communication with the Deputy Minister of Justice in Quebec and he will return here in a few minutes.

Senator KINLEY: This bridge is 84 years old.

Senator PEARSON: Could we declare the existing bridge as an antique piece for centennial purposes?

Senator FLYNN: I could not reach Mr. Martineau because he left for Quebec City this morning. I tried to speak to the Deputy Minister of Justice in Quebec, and he is not in his office at the moment. I left a message for him to call us back. I was told that he would be back about eleven-thirty. I might suggest that the Committee adjourn now until two o'clock.

The CHAIRMAN: There was an earlier motion to adjourn *pro tem* pending receiving an opinion from the Department of Justice, and then we can meet again and give notice to these people. You have heard the motion to adjourn *pro tem*. I think before we meet again I should have mimeographed copies of the opinion from the Department of Justice sent to honourable senators so that they can read it before we reassemble.

Senator McELMAN: Before we do meet again perhaps there is another point which we should look at. Since the company which built the bridge was incorporated under a federal Act of Parliament, and the Crown in Canada has the responsibility in it, perhaps it would now be inclined to use its power of expropriation and turn it over to the province.

Senator PEARSON: Compensation would have to be paid.

Senator McELMAN: They erected it originally.

The CHAIRMAN: All I can say about that is that that would mean negotiations between the federal and provincial governments, and I have heard no word of any such negotiations or of that approach being adopted. Have you?

Mr. LALONDE: No, sir. There has been no negotiations with the company, and we have taken, rightly or wrongly, the attitude that the charter was granted in 1882 when times were very different from what they are now. They have not lost money on the bridge, and there was no obligation on the federal Government to continue the charter. They are not prepared to put more money into this bridge at this time. They have had the monopoly for so many years that there was no prejudice to them except loss of future profits, possibly.

Senator ISNOR: Mr. Chairman, I was wondering about section 12. Where it refers to traffic, would that cover modern traffic, and, if so, who has the authority to say whether the bridge is fit for traffic?

The CHAIRMAN: Has that question been raised, Mr. Lalonde?

Mr. LALONDE: Mr. Chairman, in 1963 the department received some queries as to whether the bridge was structurally sound, so we had an engineer carry out an inspection, but only in so far as it was sound the way it was built.

The report we made to the Board of Transport Commissioners was that we had reached the conclusion the bridge was structurally sound and capable of carrying the posted maximum load of 18,000 pounds; that is, nine tons.

Senator ISNOR: That was three years ago.

Mr. LALONDE: Yes, that was three years ago.

Senator ISNOR: How is it today?

Mr. LALONDE: We do not know.

The CHAIRMAN: We have a motion to adjourn until the call of the chair, when we receive the Department of Justice's opinion, for which we have asked.

Hon. SENATORS: Agreed.

The CHAIRMAN: Thank you, honourable senators.

The committee adjourned.



First Session—Twenty-seventh Parliament

1966-67

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE
ON
TRANSPORT AND COMMUNICATIONS

The Honourable **SALTER A. HAYDEN**, *Acting Chairman*

No. 11

Complete Proceedings on the Bill C-231,

intituled:

“An Act to define and implement a national transportation policy for Canada, and to amend the Railway Act and other Acts in consequence thereof and to enact other consequential provisions”.

TUESDAY, FEBRUARY 7, 1967

WEDNESDAY, FEBRUARY 8, 1967

WITNESSES:

Department of Transport: The Honourable J. W. Pickersgill, Minister; J. R. Baldwin, Deputy Minister; R. R. Cope, Director, Transport Policy and Research; H. B. Neilly, Chief Economist, Railway and Highway Division, and Jacques Fortier, Q.C., Counsel.

Province of Alberta: J. J. Frawley, Q.C., Special Counsel.

REPORT OF THE COMMITTEE

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967

THE STANDING COMMITTEE
ON
TRANSPORT AND COMMUNICATIONS

The Honourable Salter A. Hayden, *Acting Chairman*

The Honourable Senators

Aird,	Lefrançois,
Aseltine,	Leonard,
Baird,	Macdonald (<i>Brantford</i>),
Beaubien (<i>Provencher</i>),	McCutcheon,
Bourget,	McDonald,
Burchill,	McElman,
Connolly (<i>Halifax North</i>),	McGrand,
Croll,	McLean,
Davey,	Méthot,
Dessureault,	Molson,
Dupuis,	Paterson,
Farris,	Pearson,
Fournier (<i>Madawaska-Restigouche</i>),	Phillips,
Gélinas,	Power,
Gershaw,	Quart,
Gouin,	Rattenbury,
Haig,	Reid,
Hayden,	Roebuck,
Hays,	Smith (<i>Queens-Shelburne</i>),
Hollett,	Thorvaldson,
Isnor,	Vien,
Kinley,	Welch,
Lang,	Willis—(46).

Ex officio members: Brooks and Connolly (*Ottawa West*).

(Quorum 9)

WITNESSES:

Department of Transport: The Honourable J. W. Picketts, Minister;
J. R. Baldwin, Deputy Minister; R. R. Cope, Director, Transport
Policy and Research; H. B. Neilly, Chief Economist, Railway and
Highway Division, and Jacques Fortier, Q.C., Counsel.
Province of Alberta: J. J. Frawley, Q.C., Special Counsel.

REPORT OF THE COMMITTEE

ROGER DURHAM, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967

MINUTE PROCEEDINGS
ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Friday, February 3, 1967:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Deschatelets, P.C., seconded by the Honourable Senator Connolly, P.C., for the second reading of the Bill C-231, intituled: "An Act to define and implement a national transportation policy for Canada, to amend the Railway Act and other Acts in consequence thereof and to enact other consequential provisions".

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Deschatelets, P.C., moved, seconded by the Honourable Senator Connolly, P.C., that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative."

J. F. MACNEILL,
Clerk of the Senate.

Bill C-231, "An Act to define and implement a national transportation policy for Canada, and to amend the Railway Act and other Acts in consequence thereof and to enact other consequential provisions," was read and considered, clause by clause.

The following witnesses were heard:

Department of Transport:

The Honourable J. W. Pickersgill, Minister.

J. R. Baldwin, Deputy Minister.

R. R. Cope, Director, Transport Policy and Research.

H. E. Nelly, Chief Economist, Railway and Highway Division.

Jacques Fortier, Q.C., Counsel.

At 1 p.m. the Committee adjourned.

At 3.40 p.m. the Committee resumed consideration of Bill C-231.

Present: The Honourable Senators Hayden (Acting Chairman), Asseline, Baird, Beaubien (Provencher), Davey, Fournier (Madame-Resigonche), Gouin, Hollett, Imer, Kinley, Lang, Lefrançois, Leonard, McCuischeon, McDonald, Pearson, Philips, Power, Quart, Smith (Queens-Shelburne), Thorvaldson and Welch. (12)

Attendance: E. R. Hopkins, Law Clerk and Parliamentary Counsel.

Mr. Baldwin was further heard in explanation of Bill C-231.

At 5.50 p.m. the Committee adjourned until Wednesday, February 8th, at 10.00 a.m. in Room 356-S.

ORDER OF BUSINESS

Extract from the Minutes of the Proceedings of the Senate, Friday, February 3, 1927.

Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Deschamps, P.C., seconded by the Honourable Senator Connolly, P.C., for the second reading of the Bill C-231, intitled: "An Act to define and implement a national transportation policy for Canada, to amend the Railway Act and other Acts in consequence thereof and to enact other consequential provisions."

After debate, the motion was adopted. The question being put on the motion, it was—Resolved in the affirmative. The Bill was then read the second time. The Honourable Senator Deschamps, P.C., moved, seconded by the Honourable Senator Connolly, P.C., that the Bill be referred to the

Standing Committee on Transport and Communications. The question being put on the motion, it was—Resolved in the affirmative.

- | | |
|---------------------|--------------------------|
| J. F. MACFARLANE | Power |
| Clark of the Senate | Phillips |
| Gibson | Power |
| Greenlaw | Quirt |
| Gouin | Rattenbury |
| Haig | Held |
| Hayden | Rosbuck |
| Hays | Smith (Queens-Shelburne) |
| Hullett | Thorvaldson |
| Inch | Vien |
| Klaxey | Wagh |
| Lang | Willis—(46) |

Ex officio members: Brooks and Connolly (Ontario West).

(Question 9)

MINUTES OF PROCEEDINGS

TUESDAY, February 7th, 1967.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10.00 a.m.

In the absence of a Chairman, and on motion of the Honourable Senator Beaubien (*Provencher*), the Honourable Senator Hayden was elected *Acting Chairman*.

Present: The Honourable Senators Hayden (*Acting Chairman*), Aseltine, Beaubien (*Provencher*), Brooks, Burchill, Connolly (*Ottawa West*), Gelinass, Gershaw, Gouin, Haig, Hollett, Isnor, Kinley, Lefrancois, Leonard, McDonald, Paterson, Pearson, Phillips, Power, Smith (*Queens-Shelburne*), Thorvaldson and Welch. (23).

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

On Motion of the Honourable Senator Aseltine it was *Resolved* to report recommending that authority be granted for the printing of 800 copies in English and 300 copies in French of the proceedings of the Committee on Bill C-231.

Bill C-231, "An Act to define and implement a national transportation policy for Canada, and to amend the Railway Act and other Acts in consequence thereof and to enact other consequential provisions," was read and considered, clause by clause.

The following witnesses were heard:

Department of Transport:

The Honourable J. W. Pickersgill, Minister.

J. R. Baldwin, Deputy Minister.

R. R. Cope, Director, Transport Policy and Research.

H. B. Neilly, Chief Economist, Railway and Highway Division.

Jacques Fortier, Q.C., Counsel.

At 1 p.m. the Committee adjourned.

At 3.40 p.m. the Committee resumed consideration of Bill C-231.

Present: The Honourable Senators Hayden (*Acting Chairman*), Aseltine, Baird, Beaubien (*Provencher*), Davey, Fournier (*Madawaska-Restigouche*), Gouin, Hollett, Isnor, Kinley, Lang, Lefrancois, Leonard, McCutcheon, McDonald, Pearson, Phillips, Power, Quart, Smith (*Queens-Shelburne*), Thorvaldson and Welch. (22)

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

Mr. Baldwin was further heard in explanation of Bill C-231.

At 5.50 p.m. the Committee adjourned until Wednesday, February 8th, at 10.00 a.m. in Room 256-S.

WEDNESDAY, February 8th, 1967.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10.00 a.m.

Present: The Honourable Senators Hayden (*Acting Chairman*), Aseltine, Baird, Beaubien (*Provencher*), Bourget, Brooks, Connolly (*Ottawa West*), Croll, Fournier (*Madawaska-Restigouche*), Gelinas, Gershaw, Gouin, Hays, Hollett, Isnor, Kinley, Lefrancois, Leonard, McDonald, Pearson, Phillips, Smith (*Queens-Shelburne*), Thorvaldson and Willis. (24).

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

Bill C-231 was further considered.

The following witnesses were heard:

Province of Alberta:

J. J. Frawley, Q.C., Special Counsel.

Department of Transport:

J. R. Baldwin, Deputy Minister.

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

At 12.15 p.m. the Committee adjourned to the call of the Chair.

Attest.

Frank A. Jackson,
Clerk of the Committee.

The following witnesses were heard:
Department of Transport:
The Honourable J. W. Pickersgill, Minister.
J. R. Baldwin, Deputy Minister.
R. R. Cope, Director, Transport Policy and Research.
H. B. Neilly, Chief Economist, Railway and Highway Division.
Jacques Fortier, Q.C., Counsel.
At 1 p.m. the Committee adjourned.
At 2.40 p.m. the Committee resumed consideration of Bill C-231.
Present: The Honourable Senators Hayden (*Acting Chairman*), Aseltine, Baird, Beaubien (*Provencher*), Davey, Fournier (*Madawaska-Restigouche*), Gouin, Hollett, Isnor, Kinley, Lang, Lefrancois, Leonard, McDonald, McDonald, Pearson, Phillips, Power, Quarr, Smith (*Queens-Shelburne*), Thorvaldson and Welch. (23)

In attendance: E. R. Hopkins, Law Clerk and Parliamentary Counsel.
Mr. Baldwin was further heard in explanation of Bill C-231.

At 5.50 p.m. the Committee adjourned until Wednesday, February 8th, at 10.00 a.m. in Room 258-S.

REPORT OF THE COMMITTEE

WEDNESDAY, February 8th, 1967.

The Standing Committee on Transport and Communications to which was referred the Bill C-231, intituled: "An Act to define and implement a national transportation policy for Canada, to amend the Railway Act and other Acts in consequence thereof and to enact other consequential provisions", has in obedience to the order of reference of February 3rd, 1967, examined the said Bill and now reports the same without amendment.

All which is respectfully submitted.

SALTER A. HAYDEN,
Acting Chairman.

The Standing Committee on Transport, Trade and Commerce, in its report of 1967, recommended that the Government should consider the possibility of establishing a new department to deal with the problems of the transport industry. This recommendation was based on the fact that the transport industry is a major sector of the economy and its development is essential for the growth of the country. The committee also recommended that the Government should consider the possibility of establishing a new department to deal with the problems of the transport industry.

Frank A. Jackson,
Clerk of the Committee.

At 12:15 p.m. the Committee adjourned to the call of the Chair.

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

A. R. Paterson, Deputy Minister.

NEALAN A. KELLY,
Clerk of the Committee.

Edmund Byrne, Minister of Transport, Trade and Commerce.

The following members were present: Mr. Paterson, Deputy Minister; Mr. Kelly, Clerk of the Committee; Mr. Byrne, Minister of Transport, Trade and Commerce; Mr. Jackson, Clerk of the Committee; Mr. Paterson, Deputy Minister; Mr. Kelly, Clerk of the Committee; Mr. Byrne, Minister of Transport, Trade and Commerce; Mr. Jackson, Clerk of the Committee.

THE SENATE
THE STANDING COMMITTEE ON TRANSPORT AND
COMMUNICATIONS

EVIDENCE

OTTAWA, Tuesday, February 7, 1967.

The Standing Committee on Transport and Communications to which was referred Bill C-231, an Act to define and implement a national transportation policy for Canada, to amend the Railway Act and other acts in consequence thereof and to enact other consequential provisions, met this day at 10 a.m.

The ACTING CHAIRMAN (*Senator Salter A. Hayden*) in the Chair.

The ACTING CHAIRMAN: I call the meeting to order. We have Bill C-231 before us this morning, and we have a number of witnesses. The minister will be available when we send him a note, say, around 11 o'clock. I thought in the meantime we could go through Part I of the bill, which is really the organization part of it, and get that behind us in order to have less to talk about.

May I have the usual motion to print the proceedings in the usual number?

The committee agreed that a verbatim report be made of the committee's proceedings on the bill.

The committee agreed to report recommending authority be granted for the printing of 800 copies in English and 300 copies in French of the committee's proceedings on the bill.

The ACTING CHAIRMAN: The witnesses we have in addition to the minister, who will be here shortly, are Mr. J. R. Baldwin, Deputy Minister of Transport; Mr. R. R. Cope, Director of Transport Policy and Research, and Mr. J. Fortier, Director, Legal Services. Mr. Ryan is not here this morning, but Mr. H. B. Neilly, Chief Economist, Railway and Highway Division of the Transportation Policy Branch, is here.

Now, who will address himself to Part I of the bill, if we have any questions on it?

Mr. J. R. Baldwin, Deputy Minister of Transport: I will undertake to answer such questions with the assistance of Mr. Cope.

The ACTING CHAIRMAN: Let us start in with a clause-by-clause review of Part I. If you have any questions we have Mr. Baldwin and Mr. Cope here to deal with them.

The preliminary section, section 1, will stand for the moment until we get to the end of the bill. Let us start with Part I, section 2. Section 2, I take it, carries?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 3 is the interpretation section. Have we any questions on that, the definition of terms? There are only three or four; I would not think there would be any problems there.

Senator LEONARD: Senator Brooks asked a rather interesting question the other day concerning what kind of commodities would be carried in a "com-

modity pipeline". At the time I wondered if there would be any further amplification concerning the type of commodities when this bill was before the committee.

Mr. BALDWIN: It is a little hard to say at this stage, but there are quite a wide number of possibilities. The two main techniques that are now being developed are the carriage of materials in what might be called sludge, or something of that sort, or, alternatively, the development of capsules which could contain solids or series of solids to be moved through a pipeline.

There is a wide variety of the type of commodity which could be carried, such as wood chips and coal, in the first instance, and, if it is a capsule as in the second instance, almost anything that you like can be put in the capsule.

Senator BROOKS: Are they carrying wood pulp now in western Canada?

Mr. R. R. Cope, Director of Transportation Policy and Research: They have tried out wood chips in Marathon, where they have successfully experimented, and, currently they are trying it out in the State of Maine.

Senator BROOKS: Yes, I was interested in the State of Maine, in knowing whether there was a pipeline carrying wood pulp there.

Mr. BALDWIN: I do not believe there is.

Senator PEARSON: What size of pipeline would carry wood pulp?

Mr. COPE: Solid pipelines can come in a number of sizes. I think at the current time in the world there are something in excess of 75 pipelines being used for the carriage of commodities. So far as I can remember, these are four inches and up, but the common sizes are eight, 12 or 14 inches.

Senator PEARSON: They would carry the chips quite easily, then?

Mr. COPE: Oh, yes. This seems to be perhaps the most likely commercial type of development in the coming years. Both that and perhaps the movement of sulphur, if they get certain technical problems cleared away.

Senator BROOKS: In what form is sulphur being carried?

Mr. COPE: Well, Shell, as you know, is talking about transporting sulphur in crude oil.

Senator ISNOR: What is the most easterly point at which the pipelines are operated at the present time?

Mr. BALDWIN: You mean pipelines for solids?

Senator ISNOR: Yes.

Mr. BALDWIN: The one I know of is the one referred to by Mr. Cope, in the Maine area.

Mr. COPE: The only one I can remember in Canada is at Copper Cliff, Ontario, a line of about 20 miles that carries copper concentrates, I believe.

The ACTING CHAIRMAN: Any other questions?

Senator ISNOR: Is there a pipeline existing east of Ontario?

Mr. BALDWIN: In Canada?

Senator ISNOR: Yes.

Mr. BALDWIN: For solids?

Mr. COPE: I am not aware of any, but there may be a one mile line used for tailings in some kind of mining operation that would not be considered a large type of installation.

Mr. BALDWIN: I should mention that there is no common carrier pipeline.

The ACTING CHAIRMAN: Shall section 3 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 4 deals with the modes of transport which are enumerated in the section. Shall section 4 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 5 deals with the application of the Railway Act. Any questions? Shall section 5 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 6 provides for the constitution of the Canadian Transport Commission.

Senator BROOKS: I would assume, of course, that this commission should be set up geographically, that each section of Canada should be well represented. I am wondering just how the 17 members would be chosen.

Mr. BALDWIN: It would be a matter for the Governor in Council to determine, sir. There is nothing in the statute that requires specific geographic representation, but I would assume that this question would be very active in the mind of the Governor in Council in the appointments. Indeed, if you look at the existing membership of the existing boards that are to be absorbed into this commission you will find they represent most areas of Canada.

Senator BROOKS: Will these boards be composed sort of holus bolus?

Mr. BALDWIN: They are automatically transferred to the new commission, sir.

Senator PEARSON: And the staffs as well?

Mr. BALDWIN: And the staffs as well.

Senator ISNOR: As commissioners?

Mr. BALDWIN: Yes, as commissioners.

The ACTING CHAIRMAN: That is why they number 17.

Senator ISNOR: That is the total number now.

Mr. BALDWIN: The total authorized number on boards being absorbed at the present time is, I believe, 13.

Senator DESCHATELETS: So there might be four or five vacancies to be filled.

Mr. BALDWIN: I think there are four new positions and two or three existing vacancies to be filled.

Senator LEONARD: Perhaps when the minister comes that would be a good question to ask him.

The ACTING CHAIRMAN: Shall section 6 stand?

Senator LEONARD: Stand.

The ACTING CHAIRMAN: Section 7 is just the allocation of positions on the commission.

Senator PEARSON: What about the minister?

Mr. BALDWIN: By Governor in Council.

Senator BROOKS: The qualification for one of the vice presidents is that he should be a barrister, is that correct?

The ACTING CHAIRMAN: That is right.

Senator BROOKS: What are the qualifications for this expert on review and research and so on? I think he should be a man of very high qualifications.

Mr. BALDWIN: I think it would be the intention to look for someone with very high qualifications in that field of transportation, in research in particular, one with both experience and competence.

Senator BROOKS: We have such men now on the three boards mentioned, have we not?

Mr. BALDWIN: This would not be for me to comment on, sir.

Senator BROOKS: It is a very important point. Perhaps the minister will comment on that when he comes.

The ACTING CHAIRMAN: Section 8 is Prohibited Interests. Shall section 8 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 9 deals with staff.

Senator McDONALD: Does section 9 refer to professional staff?

Mr. BALDWIN: Each of them is set up with a type of staff that you would expect in a transportation regulatory entity. There is a rate costing staff, a research staff, a legal staff, a licensing staff. These generally speaking would be the main divisions you would find I think in the Air Transport Board or the Board of Transport Commissioners.

The ACTING CHAIRMAN: Section 9 deals with the secretary. Shall section 9 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 10, the duties of the secretary. Shall section 10 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 11 provides for the staff of the commission. Shall section 11 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 12 provides that the offices shall be in Ottawa and elsewhere. Shall section 12 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 13 provides for the very necessary commodity salaries. Shall section 13 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 14, the powers and duties of the commission. Any questions?

Senator ISNOR: I wonder if Mr. Baldwin will comment on sections 8 and 14 combined. How are you going to find the qualified men to fill those positions, who have had training in the various interests as outlined in section 8.

The ACTING CHAIRMAN: Not section 8, which deals with prohibited interests.

Senator ISNOR: But I mean qualified for all types of positions.

Mr. BALDWIN: They can dispose of their interests, I suppose, but there is a problem concerned there. However, in legislation of this sort you will find something similar to this for example, in the Railway Act with regard to the Board of Transport Commissioners. I think it is a proper provision, and I do not think it is an impediment to finding men of adequate qualifications to serve on the commission.

The ACTING CHAIRMAN: Any questions on section 14, Senator Isnor?

Senator ISNOR: No.

Senator BROOKS: These men to be appointed are getting certain rates of salaries. Is it the intention that their salaries be increased?

Mr. BALDWIN: The salaries are set by the Governor in Council and presumably would be dealt with in the procedure that is now followed in dealing with all orders in council related to salaries, namely, the Government reviews these from time to time and makes appropriate adjustments at regular intervals.

Senator LEONARD: Are all these commissioners on a whole time basis?

Mr. BALDWIN: Yes, sir.

The ACTING CHAIRMAN: Any further questions? Shall section 14 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 15, duties of the commission.

Senator PHILLIPS: I have a number of questions, Mr. Chairman, which I think should be directed to the minister.

The ACTING CHAIRMAN: Shall section 15 stand?

Senator ARGUE: Mr. Chairman, I wonder if it would be possible under this section for the commission to inquire into the matter which Senator McDonald raised in the chamber the other day, namely, the efficiency of the elevator handling facilities along the way? Is that sufficiently associated with the railroad for an inquiry to be made?

Mr. BALDWIN: Yes, I would consider it as part of a transportation system, and my interpretation would be that the answer would be yes.

Senator ARGUE: You would not know whether there is any thinking that such an inquiry, study, might be made soon?

Mr. BALDWIN: I could not say soon, in answer to your question. This would be a matter for the commission. But in our preliminary review when we were building up the existing research branch this was one of the items we had listed as meriting attention.

Senator BROOKS: But as I understood Senator McDonald's answer the other day these elevators are outside transportation altogether and are something separate and apart. Now, under this bill on transportation does this review board of research have the right to investigate the elevators and say to the companies, "You have to change your elevators"?

Mr. BALDWIN: It would not have the right to order the elevator companies to do this or that. Its involvement in the elevators, as I see it, would stem from the fact that it would start looking at the railways; and the efficiency of the railways in a given situation may depend upon loading and handling facilities available.

Senator PEARSON: In other words look to the efficiency of the elevators to see how efficient the railways are?

Mr. BALDWIN: You cannot apply a hard and fast rule to that sort of thing.

Senator ISNOR: Would you care to comment on section 15(d), particularly with relation to control over rates and tariffs? I have in mind Newfoundland the Maritimes. In the Atlantic region there is not the same competition by truck that they have in central Canada. What would be the control with regard to fixing rates in those regions?

Mr. BALDWIN: With regard to trucking, of course, nothing at the present time, because as will be indicated when we come to Part III on roads, I believe, this is not something which the federal Government has as yet intervened in, and no decision has as yet been taken as to when it would intervene in this field. This is a mandatory clause to make it clear that the commission would be in a position to exercise control over rates in a specific case where required as a result of governmental or parliamentary action not otherwise covered in the present statute.

Senator ISNOR: Let us forget trucking for a moment, and deal with two different lines of railway, namely, the C.N.R. and the C.P.R. You have competition there, and there is no question, you can compare the rates and make a decision. But in the other regions of Canada there is no competition by one railway against the other.

The ACTING CHAIRMAN: Senator, this really comes under Part V. However, we can go ahead with it now, if you wish.

Senator ISNOR: Well, it is a question of how you are going to control competition.

Mr. BALDWIN: Well, the basic philosophy with regard to railway rates comes under Part V, and the basic philosophy is that a competitive relationship should be the governing feature with respect to rates, and, therefore, you do not need rate control. A competitive relationship is defined not just as the existence of some other mode of transport, but alongside that it has to be an effective competitor. In other words, it must be able to cater to the same type of goods, and a type of goods that needs to be moved. The philosophy with respect to the control and regulation of rates in Part V is that competition is the most effective means of establishing the best rate for the shipper. I repeat the fact that effective competition means that the competitor must not just have a line of trucks or ships alongside the railway but he must actually be able to compete with the railway and carry the types of goods in question.

Where no effective competition exists then there are provisions for both a maximum rate which can be applied for, or for appeal in case the rate that is set, whether the maximum rate or any other rate, is considered ineffective. If the appeal is upheld then the new commission will have to compare the rates, and set a new rate. There is under all this a floor which requires that all rates be compensatory.

Senator ISNOR: I will ask this question when we come to deal with Part V, but I am concerned about that particular angle. As I stated, in business you have an opportunity of comparing the prices of your competitors. You are guided somewhat by their method of doing business, and you price your lines accordingly. I think in the Maritimes where we have no competition from a second line it is going to be more difficult for you to fix a rate.

Mr. BALDWIN: There is a formula for the establishment of a maximum rate, and this again you will find when we come to the appropriate clauses in Part V.

Senator ISNOR: Then, I will leave that.

The ACTING CHAIRMAN: Senator, we are standing this section for comment by the minister.

Senator HOLLETT: May I ask one question with respect to subsection (1)(a) which provides that the commission shall inquire into and report to the minister upon measures to assist in a sound economic development of the various modes of transport over which Parliament has jurisdiction. In reference to Newfoundland can you tell me if any report has been made with regard to the unsound economic condition of the Newfoundland Railways, and if any attempt is being made to build a wide track railway? Do you know anything about that?

Mr. BALDWIN: The wide-track railway has not been looked at for some time. It was looked at some years ago. The most effective look that we hope will be taken at the Newfoundland transportation problems will arise (a) from the section of Newfoundland which will be coming out in the Atlantic Transportation studies—the broad special study now under way—and (b) the work of the royal commission in Newfoundland itself that has been set up by the provincial government to look at transportation.

Senator HOLLETT: In other words, there is a hope?

Mr. BALDWIN: There is some work under way.

Senator BROOKS: As a matter of fact, I was going to wait until Part V came up, but the Atlantic provinces will not know until two years' time, after this investigation is over, just what consideration they are going to get in the matter of transportation rates?

Mr. BALDWIN: I would hope they would know much sooner than that because these studies are very far advanced.

Senator Brooks: They will not know until the studies are complete.

Mr. BALDWIN: But they are due to be completed in the next few weeks.

Senator SMITH (*Queens-Shelburne*): Are these studies which have been going on for some time being made by personnel of the Department of Transport?

Mr. BALDWIN: No, they are being made by consultants employed jointly by the Department of Transport and the Atlantic Development Board for this purpose.

Senator BROOKS: What are their terms of reference?

Mr. BALDWIN: To look at the broad transportation system of the four Atlantic provinces.

Senator BROOKS: What do you mean by "broad"?

Mr. BALDWIN: The fact that the report contains 14 different and substantial sections will mean that it covers quite a large area.

Senator BROOKS: It will need to.

Mr. BALDWIN: Yes.

Senator DESCHATELETS: There was one question that was raised in the Senate and which might be left for the minister. Supposing the report is not ready before the freeze expires, will the freeze then be extended? That was one question that was asked.

Mr. BALDWIN: That will be a question that would be better answered by the minister when he comes.

The ACTING CHAIRMAN: We are standing Section 15. Let us move on to section 16, the definition of "carrier" and the expression "public interest". Are there any questions on that?

Mr. BALDWIN: This is basically the broad appeal clause.

The ACTING CHAIRMAN: As Mr. Baldwin says, this is really the broad appeal clause. Are there any questions?

Senator BROOKS: This has to do with parity, has it not?

Mr. BALDWIN: It covers rates generally. Any aspect of rates would be covered by this.

Senator BROOKS: Would you explain the situation with reference to the Atlantic ports and the American ports, for instance, so far as parity is concerned?

Mr. BALDWIN: There is a provision within Part V that specifically preserves the existing statutory position in this regard.

Senator BROOKS: Then, I will leave that.

The Acting CHAIRMAN: Does section 16 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 17. This provides for the different committees of the commission. I take it that the members of these various commissions who become members of the commission that is set up here will be on these different committees on which they have worked?

Mr. BALDWIN: Yes.

The Acting CHAIRMAN: Are there any questions in respect of section 17?

Senator THORVALDSON: Yes, Mr. Chairman. I would like Mr. Baldwin to tell us how much study has been made by the Department of interprovincial motor vehicle transport. Might I ask also if it is the intention of the department to assume jurisdiction over this mode of transport?

Mr. BALDWIN: Well, I assume you are referring to the economic regulation of the commercial activities rather than automotive safety?

Senator THORVALDSON: Yes, I am referring to commercial traffic carried interprovincially by buses and trucks.

Mr. BALDWIN: Resulting from representations received from certain provincial governments and from the Canadian Trucking Associations, departmental officials have had a series of informal discussions with several of the provinces. We have not completed the plan to consult informally with every province in regard to these matters largely because the officials who were concerned with that were also concerned with this bill, which has taken up quite a lot of time since September, as you know. The plan is to complete this series of consultations before making any report or recommendation to the Government regarding the role of the federal Government in that economic regulatory field. However, provision is made in Part III for a role in this field to be played by the Government, largely because of a series of lacunae or gaps which have appeared in the existing situation under the existing federal Motor Vehicles Transport Act which delegates the responsibility to the provinces. About all I can say is that the minister has on several occasions in the house committee and in the committee of the whole in the House of Commons, indicated that Part III is there as a standby Part for possible use. Something undoubtedly is going to have to be done to close some of the existing gaps in legislation, and to achieve a more national position, but nothing will be done without full consultation with the provincial governments concerned. In any case, the plan would be to make attempts to see if anything at all should be done—I am not saying “would be done” but “should be done”—to make as much possible use of the existing provincial entities which already have experience and competence in this field. Does that help you?

Senator THORVALDSON: Yes, thank you very much. I would ask one more question in regard to that. You made a statement that rather surprised me. You said “if the Government decides anything should be done”. I had taken it for granted that the federal Government would assume jurisdiction in due course. I was going to ask you if you could give any indication as to when that might happen. Would that be a matter of months or years?

Mr. BALDWIN: It is a rather complicated matter, sir. We must complete the consultations with the provinces and report to the Government, which will have to take a policy decision on that. I would hate to prophesy, but it will not happen over night. It is too complicated for that.

Senator BROOKS: Perhaps I might ask this question, Mr. Baldwin. In the matter of competition between the trucks and the railways we know that the railways have to build their lines and, of course, that is part of the big cost. As far as trucks are concerned they use the roads of the different provinces. How do they determine their share of road costs as compared to determining the cost to the railways of building their lines? How is that worked out?

Mr. BALDWIN: Well, there are charges imposed by the provincial governments, of course, which are responsible for providing the roads. There is considerable argument, varying from province to province, and from economy to economy, as to whether the present scale of charges in effect do recover the costs. I may say that under clause 15, which was studied, you will find a couple of subsections referring to the importance of this very problem that you have mentioned as being one of the major research tasks which I think the new commission will have to look at, the basic cost-revenue relationship across all transport. The reason is that we do not know enough about this, but we suspect there may be imbalance between them in this regard.

Senator BROOKS: We know of the competition that has existed in Ontario between road transport and the railways. How does it work out there?

Mr. BALDWIN: The competitive relationship there is very keen, but I would not want to make any comment without more information as to whether the charges that the Ontario Government levies on the truckers means that they are paying a fair share of transport expenditures.

Senator ISNOR: Mr. Baldwin, you mentioned a moment ago that certain provinces had already been consulted. Will you tell us which provinces have been consulted?

Mr. BALDWIN: Mr. Cope, you could perhaps mention them. We have had to postpone some of the discussion because of the consideration of the bill.

Mr. COPE: We have completed discussions with the provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Nova Scotia, and Newfoundland.

Senator LEFRANCOIS: Sir, is it not a fact that before the introduction of the measure, the provinces were made aware of the various topics in the legislation and they were invited to present briefs? Am I right in assuming that eight out of the ten provinces have presented some briefs or have made representations? I would like to know what two provinces did not.

Mr. BALDWIN: You refer to briefs submitted to the Standing Committee on Transport and Communications of the House of Commons?

Senator LEFRANCOIS: Yes.

Mr. BALDWIN: The two provinces were Ontario and Quebec; the others did not in every case submit briefs directly. The Atlantic provinces came in with a joint brief under the Maritime Transportation Commission.

Senator McDONALD: In answer to an earlier question, Mr. Baldwin, you said that the provinces levied certain charges on trucking firms. Were you referring to licence fees and gasoline taxes?

Mr. BALDWIN: Yes.

Senator THORVALDSON: Mr. Baldwin, in regard to section 17(3), relating to the National Energy Board Act, I wonder if you would give a brief resume as to the powers of the National Energy Board and whether they will extend at all to what you referred to as commodity pipelines.

Mr. BALDWIN: Speaking briefly without reference to an extensive series of subsections, the plan would be that where technical or safety standards are involved it would not be intended that the new commission would attempt to get into this field. The National Energy Board has already dealt with technical and safety standards, and the new commission would be expected to rely on them for this type of operation regardless of the nature of the pipeline.

If the pipeline carries commodities that have no relationship to hydrocarbons—which, in the simplest form, are oil and gas—it will be solely under the jurisdiction of the new commission from the point of view of licensing and economic regulation. If it carries only oil and gas it will be solely under the jurisdiction of the existing National Energy Board. However, if they happen to be what are called combined pipelines, designed to carry both oil and gas and commodities other than those, provision is made for consultation between the two agencies, the National Energy Board and the new commission. There will be joint procedures, joint hearings, and a joint report to the Governor in Council, which will make any final decision.

Senator THORVALDSON: Is there any commodity pipeline in existence in Canada now?

Mr. BALDWIN: On an interprovincial basis, I do not think so.

Mr. COPE: I think there are six commodity pipelines in Canada, but the longest is some 22 miles in length. It is in Alberta. I believe there is an 18-mile commodity pipeline in Ontario, running from Creighton Mine to Copper Cliff.

Senator THORVALDSON: Generally, what commodities would they carry?

Mr. COPE: The one in Ontario carries copper concentrates or something of that nature, and in Alberta the commodity pipeline carries hydrogen sulphide, which is carried in a natural gas medium.

The CHAIRMAN: Shall section 17 carry?

Senator McDONALD: Mr. Baldwin, can you visualize the Motor Vehicle Transport Committee being charged with the responsibility of issuing licenses for certain interprovincial or across-the-nation trucking routes?

Mr. BALDWIN: Yes, if Part III is brought in by the Governor in Council. It sets up economic procedures which could be applied to interprovincial and international trucking.

Senator McDONALD: Would they be licensed with a federal licence as such?

Mr. BALDWIN: This is a detail which would have to be left to the Motor Vehicle-Transport Committee and the new commission to develop, if Part III is proclaimed. It would have to be worked out in close co-operation with provincial entities in order to avoid conflict.

The ACTING CHAIRMAN: Shall section 17 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 18, which is the provision for appeal. Shall this section carry?

Senator LEONARD: Is this similar to the present provision where the appeal lies to the minister from a decision with respect to an application for a licence?

Mr. BALDWIN: The principles in this section were lifted from the Aeronautics Act. Basically they are the principles established originally in the Aeronautics Act, and revised and approved by Parliament last spring.

Senator LEONARD: What is the present situation before this bill comes into operation with respect to a licence under the Transport Act to engage in transport by water?

Mr. BALDWIN: I do not think there is one. Mr. Fortier, the counsel for our department, has just informed me that the appeal to the Governor in Council under the provision of the Transport Act remains effective. It is not touched.

The ACTING CHAIRMAN: Are there any other questions with respect to section 18?

Senator LEONARD: Section 18(1) seems to indicate that the appeal is to the minister under the Transport Act.

Mr. BALDWIN: This is only in regard to the issuance of licenses. We found in an earlier draft of the bill where we tried to absorb as much as possible of existing statutes and not bring in anything new, that in the end result we came out with widely different types of appeals, depending on the mode of transport. This is an attempt to provide uniformity across the board for any appeal with respect to any mode of transport if it happens to relate to the function of licensing, so that there is no discrimination between modes of transport.

Senator THORVALDSON: Does this change the present law or does an appeal exist at the present time to the minister in regard to these licensing provisions?

Mr. BALDWIN: It now exists, Senator Thorvaldson, in regard to the Aeronautics Act. It does not exist in regard to motor vehicle undertakings. It is new with regard to the Transport Act, but we have not touched the appeal to the Governor in Council under the Transport Act. It would be new with regard to commodity pipe lines because again this is a new field of activity.

Senator PHILLIPS: Section 18(2) refers to cancellation of licenses. For what reasons would a licence be cancelled?

Mr. BALDWIN: I would have to think in terms of actual experience in the aviation field. One would be failure to carry out the service authorized. Another would be service that was not in accordance with the licence issued. A violation of board regulations in all these things would lead to cancellation. Normally the procedure followed by the Air Transport Board has been to give a "show of cause" and to use the suspension procedure if at all possible, cancellation being a last resort.

The ACTING CHAIRMAN: Shall section 18 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 19 deals with the matter of regulations. Shall section 19 carry?

Senator LEONARD: Where is the publicity with respect to these rules and regulations?

Mr. BALDWIN: They would be gazetted.

Senator THORVALDSON: Is there a provision for this?

Mr. BALDWIN: This is in the Regulations Act as applying to all regulations made.

The ACTING CHAIRMAN: Shall section 19 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 20, dealing with the question of acquisition or takeover. Are there any questions?

Senator THORVALDSON: Takeover by whom?

Mr. BALDWIN: By another mode of transport.

Senator HOLLETT: Is "pipeline" defined in this act?

Mr. BALDWIN: Yes.

Senator HOLLETT: Does it include the transport of electric power?

Mr. BALDWIN: No.

Senator PEARSON: No withholding company, as such, can acquire a transportation system, can it?

Mr. BALDWIN: Yes. I believe there are some now that operate in the transport field. They are not broad holding companies of other activities, but there are cases where one or two transport companies are owned by a single holding company.

The ACTING CHAIRMAN: The operating companies in those cases would be subsidiaries of the holding company.

Mr. BALDWIN: That is correct.

Senator PEARSON: The holding company, then, would be the licensee?

Mr. BALDWIN: No, normally the operating company would be the licensee.

The ACTING CHAIRMAN: I notice the language here, Senator Pearson, that "a railway company, commodity pipeline company, company engaged in water transportation, or person operating a motor vehicle undertaking or...carrier" rather points to the fact that the company which is going to be engaged in the acquisition would have to be an operating company rather than a holding company.

Mr. BALDWIN: This is true, but the phraseology also includes the words "directly or indirectly."

Senator PEARSON: I do not know—

The ACTING CHAIRMAN: Yes, they have the words "directly or indirectly" there. I would think, if you have a holding company with a series of operating companies, the combination of the two of them would qualify for further acquisitions.

Mr. BALDWIN: It would bring them under the purview of this clause.

The ACTING CHAIRMAN: Yes, under section 20. Are there any questions on section 20?

Senator THORVALDSON: I notice in subsection (3) the words:

Any person affected by a proposed acquisition referred to in subsection (1) or any association or other body representing carriers or transportation undertakings affected by such acquisitions may...object...

and so on. Is that not pretty wide, or is that that standard language in regard to these things?

Mr. BALDWIN: It is pretty wide, but we did not feel we should restrict the right to have the question brought before the commission. The commission has the discretion to decide whether a *prima facie* case has been made or whether the question should be gone into more deeply.

Senator THORVALDSON: Well, a person could object to any acquisition.

Mr. BALDWIN: He has to demonstrate that he has been affected by the proposed acquisition.

Senator THORVALDSON: At any rate, he would have an argument.

The ACTING CHAIRMAN: He might have his half hour before the Board, if he were a crank.

Shall section 20 carry?

Senator BURCHILL: Is there any appeal from the decision of the commission?

Mr. BALDWIN: Well, yes, there are several appeal clauses. Clause 18, for example, is one.

Senator BURCHILL: I mean in this particular section, where an objection has been made.

Mr. BALDWIN: Yes, I would think that this would fall under the general appeal to the Governor in Council which remains in the basic Railway Act.

The ACTING CHAIRMAN: Is section 20 carried?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 21 deals with the annual report to the Governor in Council.

Senator BROOKS: I wonder if Mr. Baldwin will explain that section?

The ACTING CHAIRMAN: Section 21?

Senator BROOKS: Yes.

Mr. BALDWIN: Sir, this is a provision to ensure that the commission will, annually, within a specified time, make public in effect what it has been doing during the previous year so that there can be appropriate examination by Parliamentary committee, in whatever manner may be required, and so that the public will also know what has been going on. It is as simple as that.

The ACTING CHAIRMAN: Section 21?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Now, we come to Part II. I am sending a note to the minister. He should be here within the next ten minutes. In the meantime, we should be able to carry on with Part II. It does not seem to be very heavy. It deals with commodity pipelines.

Dealing with section 22, are there any questions? This is a definition section.

Senator BROOKS: Are "combined pipelines" different in character from "commodity pipelines"? We all realize that gas, for example, could not be carried by anything other than a pipeline; but would that apply to oil as well?

The ACTING CHAIRMAN: A "combined pipeline" is defined as a commodity pipeline through which oil and gas, or either, can be moved. So a combined pipeline is a commodity pipeline.

Senator BROOKS: And if oil is being moved by it, then, it comes under "commodity pipeline," too?

Mr. BALDWIN: No, if it was moving only oil, it would come under the National Energy Board, as at present.

Senator BROOKS: That, of course, is in competition with the railways as well?

Mr. BALDWIN: It could be.

Senator BROOKS: I was wondering why the exception was made.

Mr. BALDWIN: I think the answer is that the National Energy Board is functioning at the present time, and it is not desired to intervene in its present workings.

Senator BROOKS: It is functioning satisfactorily at present?

Mr. BALDWIN: Yes.

The ACTING CHAIRMAN: Are there any other questions on section 22?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 23.

Senator BURCHILL: Pardon me, but what does subsection (1) of section 23 mean?

No person, other than a company, shall construct or operate a commodity pipeline to which this Act applies.

What does that mean?

Mr. BALDWIN: This is to ensure—as I understand it, Mr. Fortier—that the licencee must have a charter from Parliament. Is this not correct?

Mr. COPE: It refers back to the top of the page.

Mr. BALDWIN: Yes, it refers to the top of page 15, to the words “named in an Act of the Parliament of Canada.”

The ACTING CHAIRMAN: Well, that is in the definition of “company”, yes.

Mr. BALDWIN: Yes.

The ACTING CHAIRMAN: Are there any questions on section 23?

Senator ISNOR: Senator Burchill, you are questioning the two words “no person”?

Senator BURCHILL: It says “no person, other than a company.” I was wondering if a pipeline company means a person.

Mr. COPE: It is a specific kind of person.

Mr. BURCHILL: It takes a lawyer to understand that.

The ACTING CHAIRMAN: Well, no matter what you might say, you need lawyers nowadays. Is section 23 carried?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 24 deals with operation of lines.

Senator PEARSON: A company could not build a pipeline before it was a certified company, could it?

Mr. BALDWIN: No.

Senator PEARSON: Then, why have that first subsection, “no company shall operate a commodity pipeline unless there is a certificate in force with respect to that pipeline”? They cannot operate the pipeline unless they build it.

Mr. BALDWIN: This is to provide for "grandfather rights" in case any commodity pipeline is in existence at the time this Part is proclaimed. In other words, you cannot put a company out of business that happens to be in existence when you bring a new system of regulations into effect.

The ACTING CHAIRMAN: Is the section carried?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 25 deals with the issuance of certificates. This is really the basis on which they must look at these applications.

Mr. BALDWIN: That is correct, sir.

The ACTING CHAIRMAN: It is the basis for issuing the certificates. Are there any questions?

Senator THORVALDSON: Does that mean that the new commission will have to issue a certificate for every line that operates now?

Mr. BALDWIN: Only if it is interprovincial or international in character, and at the present time there just do not happen to be any of these. Whether there might be one in existence by the time Part II is proclaimed, I do not know. We only know of one under consideration at the present time, and that is a combined pipeline.

Senator KINLEY: Will pipeline companies have to come to Parliament?

Mr. BALDWIN: A pipeline company will have to come to Parliament before it goes to the commission.

Senator KINLEY: The commission cannot grant the franchise?

The ACTING CHAIRMAN: It would have to come to Parliament first. Is 25 carried?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 26 is on tolls and tariffs.

Senator PEARSON: These tolls and tariffs are all in existence at the present time?

Mr. BALDWIN: Yes.

Senator PEARSON: A new group will carry on under the present schedule?

Mr. BALDWIN: In so far as pipelines that might now be in existence under the jurisdiction of the Energy Board, yes.

Senator BURCHILL: Pardon me, but on section 26, in the case of a company operating a commodity pipeline, I have in mind blowing chips a distance of some miles to a plant where it might all be within the operations of the same company, would they be obliged to get a rate from the commission?

Mr. BALDWIN: They could be exempted, if it was a purely internal company operation. The purpose basically in the legislation is to deal with the so-called "common carrier" pipeline that offers service to the general public, not just doing the business of the owner company.

The ACTING CHAIRMAN: I think the test is public interest.

Mr. BALDWIN: That is correct, sir.

Senator THORVALDSON: I have one other question. Subsection 2 of section 26 says:

- (2) a company operating a combined pipeline shall not charge tolls except tolls specified in a tariff that has been approved by and filed with both the Commission and the National Energy Board and is in effect.

Now, that seems to tie up both of them in this question of tolls. What is the reason for that?

Mr. BALDWIN: This again is to permit tolls dealing with oil and gas to remain within the jurisdiction of the National Energy Board.

The ACTING CHAIRMAN: Is section 26 carried?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 27. Now, we come to the application of the National Energy Board Act. Would you care to anticipate and say something on that, Mr. Baldwin?

Mr. COPE: I think I will speak on this one. This is just to say that the commission has certain powers that the National Energy Board has, which are specified in the National Energy Board Act, without the necessity of repeating them here in order to give the commission the same kind of powers.

Senator PEARSON: The National Energy Board came into effect when?

The ACTING CHAIRMAN: I think it was 1959 or thereabouts.

Mr. BALDWIN: About that time, yes.

Senator HOLLETT: Has the National Energy Board control over the transmission of electrical power?

Mr. BALDWIN: No, sir.

Senator HOLLETT: Well, who has control over it?

Mr. BALDWIN: The control of electrical power would be a provincial problem.

Mr. J. Fortier, Director, Legal Services, Department of Transport: The National Energy Board Act applies exclusively to the transport of hydrocarbons. The other matter comes under provincial legislation.

The ACTING CHAIRMAN: Who deals with licences to export power?

Mr. BALDWIN: The Minister of Energy and Resources would be the minister, but I am not sure of the statute, sir.

The ACTING CHAIRMAN: I had an idea that it was under the same act, the National Energy Board Act.

Mr. COPE: That act was enacted in July, 1959.

Mr. BALKWIN: I am sorry, sir. You are correct. The Energy Board also deals with the export of power, as the chairman said.

The ACTING CHAIRMAN: Shall this section carry, or are there any other questions?

Senator PEARSON: Subsection (1) states:

The commission has and shall exercise in respect of a commodity pipeline company and its works and undertakings the like jurisdiction, duties and powers as are vested in or exercisable by the National Energy Board under Parts III and V of the National Energy Board Act—
etcetera—

Mr. BALDWIN: This is really to avoid repeating in this bill a miscellaneous series of clauses in the National Energy Board Act which give powers to the board in regard to procedures. This is only to give the new commission similar powers to those the Energy Board now has without redefining them in great detail in the present act.

Senator THORVALDSON: In other words, the procedural problems in regard to commodity pipelines are identical with those of others?

Mr. BALDWIN: That is correct, sir.

The Acting CHAIRMAN: There is no possible way in which there might be conflict as between the exercise of those powers by the National Energy Board and the commission?

Mr. BALDWIN: We do not believe so. These clauses were prepared after close consultation with the department and the National Energy Board to avoid that possibility.

The Acting CHAIRMAN: I mean, the areas of authority—

Mr. BALDWIN: Have been defined with this in mind.

The Acting CHAIRMAN: Shall section 27 carry?

Hon. SENATORS: Carried.

The Acting CHAIRMAN: For the purposes of the record may I announce that the Honourable Mr. Pickersgill, the Minister of Transport, has now arrived. Mr. Minister, we stood two sections for comment by you, and before we expose you generally to questions, I wonder if you would address yourself to those sections.

Mr. BALDWIN: Sections 1, 6 and 15.

The Acting CHAIRMAN: Section 1 is the question of policy.

The Honourable John W. Pickersgill, Minister of Transport: Mr. Chairman and honourable senators: I am really fairly well at home in the House of Commons but I always approach a Senate committee with the greatest trepidation, because I know that while senators are never rude—and that cannot always be said for members in our House, including me—they are often very penetrating, and for that reason I will speak with a good deal of hesitation this morning.

I do think that the essence of the legislation is to be found in clause 1. Perhaps I should say in that context, sir, just one word, if this will not go into too broad a field, about the evolution of the bill.

It was originally intended by the present Government—and I should not interpret the minds of the previous administration, but I think evidence in the file suggested it was also their intention—to introduce some very substantial amendments to the Railway Act based upon the report of the MacPherson Commission. In fact, in 1964 I did introduce in our House a bill which was subsequently killed by one of our colleagues so that the subject matter could go to a committee, where there was a very extensive consideration of it. Meanwhile, a lot of consideration had been given in our department and elsewhere and by certain of the ministers to the whole approach to this problem. I came to the conclusion as a result of all these discussions, and got my colleagues in the Cabinet to go along with me, that we should make a much more radical approach to this whole problem. It was evident that so long as we had the great disparities of geography and wealth in this country we were bound to have to spend a lot of the taxpayers' money providing transport and, that it was very important that that burden upon the whole community should be kept to a minimum. The conclusion was that the only likelihood of keeping it to a minimum was to have all forms of transport under the purview of a body which would at any rate advise the Government as to these public expenditures; that so long as you have the Air Transport Board dealing with one mode of transportation and the Board of Transportation Commissioners another, and really very little regulation or consideration of Maritime transport in relation to the other forms, and some subsidies in the Maritime transport field that were perhaps more historic than economic, there was bound to be a lack of co-ordination and probably therefore a waste of public funds and less efficient transport than would be provided if there was somebody that looked at all these things together. We concluded that what was really essential if we were to carry out the recommendations of the MacPherson Commission was that there should be some integration and co-ordination of these activities; that in order to give to any body that should be entrusted with this function—and it was decided that we would suggest to Parliament that such a body be created and called the Canadian Transportation Commission—it was essential that one or two basic principles be

laid down as—if I may use a word I find rather distasteful but that is convenient—guidelines for the transport commission.

The ACTING CHAIRMAN: I wonder what they did before that word came along?

Hon. Mr. PICKERSGILL: I think we used to call them by a Latin word "criteria," but I had a terrible experience in the House of Commons trying to define another Latin word for one of our most learned members who was a Ph.D., which I am not, and I would hesitate even more to use Latin words than English words. Guidelines and criteria seem to me to be pretty much alike, except that guidelines are English—and I do not know what the French translation of that is. Perhaps Senator Deschatelets can help me.

Senator DESCHATELETS: Garanties.

Hon. Mr. PICKERSGILL: Well, I do not want to get into the bicultural field, senator.

The ACTING CHAIRMAN: No; that is not before us.

Hon. Mr. PICKERSGILL: But I think that we have tried in clause 1 to set out three basic principles or guidelines which seemed to us to be most likely to ensure the best kind of results, if they could be followed, for the national economy.

The first of them (a) in clause 1 is taken directly from—I do not say the words, but the ideas—the MacPherson Report, that is, the notion that the maximum competition should be allowed in the field of transport between various modes of transport, consistent with certain basic protections for the public interest.

The second, (b) is that each mode of transportation should be expected to pay a fair proportion of the real costs of the resources, facilities and services provided that mode of transport, at public expense. Those will always be a subject of controversy and probably of quite bitter controversy.

I think honourable senators know that it does happen that one area of transport is excluded from this bill entirely, and that is the St. Lawrence Seaway. I think therefore that it is a useful example. I think there is a very sharp difference of opinion in the country as to whether the users or the taxpayers should pay for the St. Lawrence Seaway. I do not want to lead honourable senators into that area because it is strictly extraneous to the bill, but it is a very neat illustration of the point here.

Senator ISNOR: But the basis of this bill is that the users pay.

Hon. Mr. PICKERSGILL: It is the basis of the bill that the users pay wherever possible without extinguishing business that is essential to the national interest, or without extinguishing services to the population that are essential to the national interest.

The ACTING CHAIRMAN: Unless they are directed to provide a service?

Hon. Mr. PICKERSGILL: That is right.

Senator KINLEY: What do the Americans do in regard to the Seaway.

Hon. Mr. PICKERSGILL: We have an agreement with the Americans, and, of course, the agreement really carries out what I regard as the intent of our legislation. There is also a great controversy going on there. But, I do not think we ought to get into the Seaway, Senator Kinley, because that is strictly excluded from this bill. I picked it as the neatest illustration I could think of quickly. You can understand, Mr. Chairman, that I am thinking of a problem I am going to have to face.

Senator BROOKS: In other words, you mean that the commission will have no authority over the Seaway?

Hon. Mr. PICKERSGILL: No, it will have no authority over the Seaway. There is no reason, of course, intrinsically why it should not, but it seemed very cumbersome. The Seaway is an international waterway, and it is because of the relations between the two commissions that it seemed there would be needless duplication if it did.

Senator BROOKS: It will remain a government responsibility?

Hon. Mr. PICKERSGILL: Yes, essentially, because the Seaway Authority makes its report to the Government, and in the final analysis the government has to decide whether it is carrying out the intent of Parliament. I have my own ideas of what the intent—

Senator BROOKS: Of course, the ices floes are taking it over now.

Hon. Mr. PICKERSGILL: The Seaway?

Senator BROOKS: Not the Seaway, but the St. Lawrence.

Hon. Mr. PICKERSGILL: The St. Lawrence Ship Channel is a different matter entirely. It is just as much under this bill as any other part of our transportation system. In fact, the Seaway is the only thing I can think of in the field of transport under federal jurisdiction that is not comprehended in this bill. I cannot recall of any other exclusion.

Senator ISNOR: What about trucking in the various provinces. Why would not this bill include the St. Lawrence Seaway?

Hon. Mr. PICKERSGILL: Well, it just seemed to me that Parliament has laid down a law that I think is very clear. I am not going to interpret it because I think, sir, it is beyond the scope of this bill, but I think the law under which the St. Lawrence Seaway was built is very clear. I think it gives a very clear direction to the Government of Canada, and I think that that direction was properly carried out in the agreement made with the United States. I feel I am bound as the minister answerable for the Seaway to carry out the will of Parliament until Parliament decides something different. I could not see that it would do anything but complicate things if it was brought within the purview of this bill.

The ACTING CHAIRMAN: In any event, it is not a subject matter before us.

Hon. Mr. PICKERSGILL: That is right.

The ACTING CHAIRMAN: So, let us get on.

Hon. Mr. PICKERSGILL: I am a little sorry that I used that illustration.

Senator HOLLETT: Mr. Chairman, before we leave that I would like to raise a question that I have already raised very briefly. Subsection (1) (d) reads:

each mode of transport so far as practicable carries traffic to or from any point in Canada under tolls and conditions that do not constitute—

et cetera. I would like to ask the Honourable Mr. Pickersgill if he has made a trip on the Newfoundland railway lately.

Hon. Mr. PICKERSGILL: Not lately.

Senator HOLLETT: I was wondering if there was a possibility that the reconstruction of that railway comes under this bill.

Hon. Mr. PICKERSGILL: No, the position with respect to the Newfoundland railway is that it was entrusted at Confederation to the Canadian National Railways, and they make the decision, subject, of course, to getting the necessary capital for carrying it out—

Senator HOLLETT: With the consent of the Government.

Hon. Mr. PICKERSGILL: I beg your pardon?

Senator HOLLETT: With the consent of the Government?

Hon. Mr. PICKERSGILL: Well, they have to get their capital.

Senator HOLLETT: Surely.

Hon. Mr. PICKERSGILL: Their duty is to make that railway as efficient as possible within the scope of the railway itself. It is not a notorious moneymaker for the Canadian National, but a tremendous amount of capital has been poured into it since Confederation, and it is, I think considering what it is asked to undertake, a relatively efficient railway.

Senator PHILLIPS: Mr. Chairman, I have several questions to direct to the minister. I am wondering if he would like to complete his statement first.

The ACTING CHAIRMAN: The minister is addressing himself to what is inherent in Section 1.

Hon. Mr. PICKERSGILL: If I may turn to the third principle, it is that each mode of transport so far as practicable should receive compensation for the resources, facilities and services that it is required to provide as an imposed public duty.

Now, this has been done, of course, in the case of subsidies for Maritime services of one kind and another ever since Confederation. It has been done almost not at all so far as air services are concerned, and it has not been done in any kind of a systematic way so far as the railways are concerned. This was another of the basic recommendations of the MacPherson Commission, namely, that one shipper should not be expected to pay for the losses incurred in carrying some other form of traffic. And if traffic was required to be carried at a loss on the railways that loss should be assessed properly and then borne by the whole community and not by another group of shippers.

Now, this is one of the basic principles on which the greater part of the bill relating to railways is founded. It is a concept which I believe will have very fruitful results. I think it is very desirable for us to know what the real consequences are of the various forms of activity carried on by these various carriers, to find out whether there are really losses in certain areas, and whether the losses are commensurate, if I may put it in that way, with the benefits to the community. If they are not I think we should get rid of the service. If the service is really essential then it seems to me that the community should pay for it, and not some other group of shippers.

Senator ISNR: What do you mean by "community" in that context?

Hon. Mr. PICKERSGILL: I mean the Treasury of Canada. Then, paragraph (d) was added to the bill in the House of Commons—not even in the committee of the whole house but in the House itself—as a result of the very extensive debate that took place on clause 16. It really does complement a certain provision that we made in clause 16. I think it would be preferable to consider it in relation to clause 16 than on its own account.

It really is not a basic principle so much as an attempt to cover certain historic attitudes, or historic positions that we have taken with respect to transport in this country, with respect to both the relationship of rates to be charged one shipper as compared with another and the desirability of providing for the freest exchange of goods between one part of the country and another, and for the promotion of export trade which is so vital to our whole economy. I think that that perhaps is all I really have to say on clause 1.

The ACTING CHAIRMAN: Now, in respect of section 6, I think there are going to be some questions in connection with any plan in relation to the commission. Is that the purpose for which we are standing this?

Mr. BALDWIN: The distribution.

The ACTING CHAIRMAN: The distribution of the membership geographically, or something like that.

Hon. Mr. PICKERSGILL: I was wondering, Mr. Chairman, if there were any questions on Clause 1.

Senator SMITH (*Queens-Shelburne*): Yes, Mr. Chairman. What was the purpose of adding subclause (d)(ii) to clause 1 when the bill already contained the exact wording in clause 16(3)(a)(ii)? You have those words already on page 10 of the bill, and then we see them again in the general statement of purpose.

Hon. Mr. PICKERSGILL: This is a field in which I move only with reluctance because I am not a lawyer. Mr. Baldwin—not the Deputy Minister, but the member for Peace River—is a quite distinguished lawyer, in my humble opinion, and he raised a question about clause 16. He raised it before Christmas, and it troubled me a good deal. It was that it was one thing to establish a *prima facie* case and another thing to prove your case after the court had agreed to hear you, and that while we said if you establish a *prima facie* case there were conditions laid down which would show prejudice to the public interest, it was going to be very hard to determine what “public interest” really meant in establishing the *prima facie* case. Therefore, these expressions were put into clause 1 so that they would constitute a part, and only a part, of the definition of “public interest” which a shipper could allege in order to get a hearing.

Senator SMITH (*Queens-Shelburne*): Mr. Minister is section 1 (d) (ii) the policy statement on which we in the Atlantic region hang our hats to be assured that in the future we shall get what can generally be considered to be fair treatment in freight rates, and also in port activities?

Hon. Mr. PICKERSGILL: Yes, generally. In addition to that, clause 59 of the bill deals more specifically with this and perhaps I could speak to it when it comes before the committee.

Senator SMITH (*Queens-Shelburne*): But this is a statement of policy under which we hope we will not be injured and that our transportation difficulties will be overcome in the future.

Hon. Mr. PICKERSGILL: That is right.

Senator BROOKS: We have hopes but no assurance.

Hon. Mr. PICKERSGILL: Senator Brooks, the way I would put it is that they are the most ironclad assurances that can possibly be given of everything that now exists in the law. But, as you know, the MacPherson Commission decided to make its report without dealing with the particular problems of the Atlantic provinces, and without dealing with the effectiveness of the Maritime Freight Rates Assistance Act. They suggested that this should be the subject of a future inquiry. That inquiry is going on now, and, in fact, is very nearly completed. I am advised that we will have the reports of these consultants sometime in the next month or so. I explained in the House of Commons that we would try to deal with these things as fast as possible so that we could go on and provide more than hopes, additional advantages for the Atlantic provinces.

Senator BROOKS: Would that mean further amendments to the act?

Hon. Mr. PICKERSGILL: It might be by way of amendments to this act or to the Maritime Freight rates Assistance Act. It might not be, of course, by way of amendments to any act. It might be in the form of positive—

The ACTING CHAIRMAN: Legislation.

Hon. Mr. PICKERSGILL:—positive legislation in a new field altogether.

Senator BROOKS: Along the lines of the Maritime Freight Rates Act?

Hon. Mr. PICKERSGILL: You know that in the highway field the present Government has already secured from Parliament a vote of \$40 million to assist the highways in the Atlantic provinces. This has been done in the last four years, apart from the Trans-Canada Highway work, and that money is going to be spent. Now, I do not think it will do the job but—

Hon. Mr. BROOKS: Possibly we could get the Corridor Road.

Hon. Mr. PICKERSGILL: I am even more concerned in the building of roads in Canada than in the United States, including that great part of the Atlantic provinces which is bigger than all the rest put together, and I refer to Labrador.

Senator BROOKS: There is a road through British Columbia which connects one part of the United States with another.

Senator PHILLIPS: The minister has stated that the St. Lawrence Seaway is the only transport system not covered by this legislation. What is the situation with respect to what we used to call the Northumberland Causeway and which the minister, without the benefit of Latin, has called the "Northumberland Cross"?

Hon. Mr. PICKERSGILL: The rates which would be charged on the causeway, just as the rates which are now charged on the ferries, would be subject to the overall jurisdiction of the commission, as I interpret the law.

Senator THORVALDSON: I notice, Mr. Minister, that you did not attempt to explain the meaning of section 1(d) (i) and (ii). I was going to ask you whether it was a fair comment to make that there is no purpose in trying to explain the unexplainable? I find it very difficult to know what those sections mean.

Hon. Mr. PICKERSGILL: Well, I think I will let Senator Thorvaldson be the Delphic oracle, and I will not try to emulate him.

The ACTING CHAIRMAN: It strikes me that section 1(d) is part of a broad declaration of policy. There is no statutory authority in section 1. Section 1(d) is part of a broad declaration of policy. The statutory authority for what is in section 1(d) is to be found in section 16. That is where you get rights.

Hon. Mr. PICKERSGILL: That is right.

Senator KINLEY: Section 1(d)(ii) reads:

An undue obstacle to the interchange of commodities between points in Canada or unreasonable discouragement to the development of primary or secondary industries or to export trade in or from any region of Canada or to the movement of commodities through Canadian ports;

Does this bill restrict what I have read to transportation only, or does it take a wider view?

Hon. Mr. PICKERSGILL: I do not think it would be proper for the Minister of Transport to endeavour to usurp the functions of the Minister of Finance in advising the Government as to what tariffs there should be.

Senator KINLEY: I think this could be developed.

Hon. Mr. PICKERSGILL: Perhaps you should address your remarks to Mr. Sharp.

The ACTING CHAIRMAN: Well, one minister at a time. Now, there were some questions on section 6.

Senator ARGUE: I wonder if I could ask a general question on section 1. As I read the bill there is no provision in it for an advisory council.

Hon. Mr. PICKERSGILL: The deputy minister, Mr. Baldwin, reminds me that while there is no provision in the bill itself, the powers of the commission would appear to be wide enough to give them the right to set one up, or several if they wish to do so.

The ACTING CHAIRMAN: If you look at section 15 (4) on page 9 of the bill, under the marginal note "Consultation," you will see that there is authority for doing that sort of thing.

Senator ARGUE: As I understand it, there was a recommendation in the MacPherson Commission Report for the setting up of a formal advisory council. This was requested by some farm organizations, at least on the Prairies, who felt that the regional interests, both on the Prairies and in the Maritimes, should be

represented in an advisory capacity to this very important body of experts who will constitute the commission. I am just wondering why this was not followed?

Hon. Mr. PICKERSGILL: I do not think it was followed because it was felt that we should set up the commission first and have a little experience of its operations to see what would be the right kind of scope. The MacPherson Report did not envisage a commission of this kind. I must say, speaking for myself, there will be formidable problems in acquiring personnel for the commission. Then, in addition, there will be the problem of finding the right kind of personnel for an advisory council. I think this is something that should be tackled in two stages rather than all at once.

Senator BROOKS: I understand that when the commission is set up it will have on it personnel who are presently serving on the Air Transport Board, and so on. As these boards are presently constituted, are the various geographic sections of Canada well represented, and in the sense that they are going to be taken on in the new commission?

Hon. Mr. PICKERSGILL: I have not gone over their personnel because I knew they could not be changed anyway. I have not gone over them carefully to look at them from that point of view. However, from my knowledge of them, and without setting all their names down and their birthplaces and where they lived most of their lives, I do not think there is any region of the country which is not represented among the existing personnel, and certainly I would do that particular exercise before deciding what names I should suggest to my colleagues for additional members.

Senators BROOKS: Do you expect to get research personnel as well from the existing boards?

Hon. Mr. PICKERSGILL: I am sure that some of the employees of the boards would be on the research side, but I would doubt whether any of the present commissioners would be likely to be on the research side, although they might.

Senator PHILLIPS: What would you consider to be the necessary qualifications for the office of vice-president in charge of research?

Hon. Mr. PICKERSGILL: I would think he ought to be someone who had quite a long experience in the field of transport research, and that he ought to have had some academic training in that field as well.

Senator ISNOR: You have three or four appointments to make, have you not? There are 17 in the commission and there are 13 members now.

Mr. BALDWIN: There are 13 members. There are some vacancies, however.

Hon. Mr. PICKERSGILL: Mr. Baldwin says there are some vacancies.

The ACTING CHAIRMAN: All 13 positions are not represented by incumbents in office.

Hon. Mr. PICKERSGILL: There is only one member of the Maritime Commission, you see. There is only one full-time salaried member at the present time. There are one or two civil servants who are acting *ad hoc* as members of that commission, but they would not necessarily be on the new commission.

Senator ISNOR: Mr. Minister, I questioned your Deputy Minister, Mr. Baldwin, concerning section 8. Is there any doubt in your mind as to procuring the necessary men who are not in some way or other connected with the various enterprises?

Hon. Mr. PICKERSGILL: I think myself that there is always a problem, I quite grant you. I remember that we had the same problem, and there was quite a lot of discussion about it in the House of Commons in 1959, when the Broadcasting Act was enacted. The problem was whether the act was not really making sure that nobody who really knew anything about the subject could be appointed.

Senator ISNOR: Right.

Hon. Mr. PICKERSGILL: As against that I think we have to take what in our society, and at any rate in the federal field, is generally being accepted as a sound proposition that no one having a personal interest in the work of the commission would be a suitable person to be a member. But that does not mean, Senator Isnor, that they could not divest themselves of their interest, and that perhaps, if they declared their interest, there might be some possibility of arranging that in an orderly fashion.

Senator ISNOR: It would be the same principle as applies to the minister himself.

Senator THORVALDSON: Mr. Chairman, I was wondering if the minister had concluded his general statement? If not, perhaps we could let him continue without any further questions.

The ACTING CHAIRMAN: I think we had gone on to section 6. We had dealt with section 1, which is a statement of policy. Section 6 we stood, because some of the senators wanted to ask questions and that is what is being done now.

Hon. Mr. PICKERSGILL: Yes. I had no general statement to make on section 6. I was just attempting to answer questions.

Senator PHILLIPS: I am a bit concerned about the relationship of the commission to Parliament. Briefly, I have always considered questions on C.B.C. to be rather ineffectual in Parliament, because the minister in charge says that she will refer the questions to the C.B.C. What would be the policy in this regard when a question is brought up in Parliament? I do not think the present minister would resort to this, but I can see the possibility of future ministers of transport taking this means to evade answering questions on transportation policy.

Hon. Mr. PICKERSGILL: I do not think I ever consciously evaded answering a question.

Senator PHILLIPS: That is why I made the exception.

Hon. Mr. PICKERSGILL: I have quite often declined to answer questions about things that were not my business, which I think is a very proper principle for anybody to hold in whatever sphere of life he is.

In so far as the commission is a court, just as the Board of Transport Commissioners and the Air Transport Board are courts, I think it would be wholly improper for a minister to answer any questions about their operations at all, except a question asking whether a hearing is going to be held on a certain date. I do not think one could properly take exception to that question, although I think it is rather a waste of time for the House of Commons or the Senate to ask that question. It is not improper for the minister to know that there is going to be a hearing on such and such a date, but if questions are going to be asked about how the commission is carrying out its judicial functions, it would be just as improper for the Minister of Transport to answer those questions as for the Minister of Justice to answer questions on what the Supreme Court is doing.

If you look at the other side of the commission, it will have research activities for which Parliament will be paying a certain amount of money every year. This is a very proper subject for Parliamentary inquiry and I think that a minister would be prepared to answer questions in this field, though I do not expect any minister would be capable of answering them without advice. Certainly I would not be, because I would not want to substitute myself for the people doing the research. I definitely think that this field is a very proper field for inquiry.

Senator BROOKS: How about the matter of freight rates? That of course will be the big bugbear as far as everybody is concerned.

Hon. Mr. PICKERSGILL: No minister should answer questions about that subject while it is under adjudication. I am sure you would agree with that, Senator Brooks. Then, particularly as the minister is a member of the Cabinet

which can hear appeals in these matters, that creates a double reason why it would be wholly improper for a minister to answer any questions about these things until the Governor in Council, if it comes to the Governor in Council, has reached a determination. Then, of course, as the minister he is responsible to the House of Commons and it would be very improper if he did not answer questions.

Senator BROOKS: According to that statement, then, the research branch of the commission will determine whether an objection on freight rates in a certain part of the country is unfair.

Hon. Mr. PICKERSGILL: The research side will have nothing to do with the determination of freight rates. That will be entirely on the regulatory side.

Senator BROOKS: Will not freight rates be based on some of the information gained through research?

Hon. Mr. PICKERSGILL: It might be that the commissioners would ask the research people to find them the answers to certain stated questions. But it was emphasized in our special committee in the House of Commons by representatives of the railways and by other interested parties on the other side that they did not think the research people should be mixed up in any way with the regulatory side. I quite agree with that view.

On the regulatory side you have a court and it has to behave like a court, but that does not mean that they should not have access to factual information in order to make their determinations. But I do not think they should attempt to transfer the problem to the research side.

After all, these regulatory problems have to be settled on the basis, I would guess, of the facts as they are now, and the research people are mostly going to be concerned not with what the situation is now but with what can be done to improve transport and develop it for the future.

The ACTING CHAIRMAN: Are there any other questions?

Senator BROOKS: Any redress, then, would have to come on appeal through the courts, so called?

Hon. Mr. PICKERSGILL: There is an appeal. You see, it is a rather complicated system of reviews and appeals, but the basic appeals are the same as they are in the law now. There is an appeal to the Governor in Council on matters of fact, and to the courts on matters of law.

Senator DESCHATELETS: For example, you have the Railway Act.

Hon. Mr. PICKERSGILL: Yes.

The ACTING CHAIRMAN: Shall section 6 now carry? We have covered 6.

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: We stood section 15. We have been listening to the minister and he has been dealing with various parts of section 15 having to do with the duties of the commission.

Senator PHILLIPS: The minister stated that the Northumberland crossing will be included under the bill. I wondered if under section 15 he could give me some idea of what the policy will be in establishing rates.

Hon. Mr. PICKERSGILL: Well, that is what we call in the House of Commons, Senator Phillips, a hypothetical question.

Senator PHILLIPS: It is not hypothetical; it is very important.

Hon. Mr. PICKERSGILL: Really, you know, I feel very young and strong, but I have some doubt whether I will be the Minister of Transport who has to deal with that problem.

The ACTING CHAIRMAN: Are there any other questions?

Senator PHILLIPS: I would like to have some rough outline of what would be followed, rather than just saying it will be left to a new minister of transport. I might not have the same faith in the new minister as I have in the present one.

Hon. Mr. PICKERSGILL: The plain fact is that the crossing has not been built yet. There will be at least one Parliament elected before it can possibly be built, and it is quite conceivable that there will have to be special legislation dealing with this matter and, quite honestly, I just do not know what the people who will have to deal with this problem will have to do. Although the job is being done by the Minister of Public Works, I am mainly concerned with seeing that it is built, and built as quickly as possible, because I recommended this project very strongly to my colleagues in the Government. I believe it was a cheaper and much more effective way of providing transportation to Prince Edward Island than by building more and more ships that still could never carry all the traffic.

But as to what regime there will be when the causeway is completed, the present Government has not addressed itself up to now to that question and, therefore, there is no answer I can give.

Senator DESCHATELETS: Mr. Minister, if the rates that are going to be set some day are found to be detrimental to the Atlantic provinces, then an appeal could be entered at any time?

Hon. Mr. PICKERSGILL: Oh, yes. I think I can go so far as to say it is assumed that there will be some tolls on the causeway. It will not be free. I think everybody has assumed that, although I am not absolutely sure that any government has ever stated it categorically.

Senator PHILLIPS: It has been a subject which has been avoided. I will agree with you there.

Hon. Mr. PICKERSGILL: I think the assumption has always been that there would be.

The ACTING CHAIRMAN: Any other questions on section 15?

Senator ISNOR: Yes. Mr. Minister, you were good enough to deal with paragraph (d) of section 15. I was concerned about the control over rates and tariffs, particularly in the Maritimes where we do not have the same competition between trucking and rail rates. Would you care to give us your views, to comment on that section?

Hon. Mr. PICKERSGILL: Without looking at the specific sections with regard to rates in the Railway Act, I am not sure that it would be easy for me to make any very intelligent comment on the basis of this particular clause, Senator Isnor.

Senator ISNOR: Coming from the Maritime provinces I am concerned with the rates that will go into effect in Ontario and Quebec. There will be real competition between trucking and the railways—I say “railways” because I refer to the two of them.

Hon. Mr. PICKERSGILL: You understand, of course, senator, that under this bill as it is now before you the freeze on rates put on in 1959 is going to be continued for two years.

Senator ISNOR: Yes.

Hon. Mr. PICKERSGILL: And during that time it is anticipated that as a result of these Atlantic studies other measures will be recommended to Parliament to deal with this subject, and it was felt that without the kind of advice in other fields that was given by the MacPherson Commission it would not be possible to legislate at this time about this matter. The only area in which the freeze is not carried on is in this less-than-carload lot and express business. I was convinced, and succeeded in convincing the House of Commons, that it was on balance better for the Atlantic provinces to have those rates free from control except for minimum and maximum, and to get the advantages of the more modern methods

and greater speed and so on, and the incentives to improve, than to freeze the rates which would apply to less-than-carload lots and would not apply to express, and would probably decelerate instead of accelerate the improvements and service. Speaking as someone who has spent a lot of time in Newfoundland, I know that many people have spent vast sums shipping goods by air freight because the other service is not good enough, and it was represented to us that it was apt to be improved if it was free from control. But apart from that, the situation in respect to these rates is not going to change at all for two years unless Parliament decides to change it.

Senator ISNOR: You speak of the freeze on freight rates. There has been a very marked increase in express charges from Central Canada to the Maritimes.

Hon. Mr. PICKERSGILL: The express rates were never frozen, of course.

The ACTING CHAIRMAN: Senator Phillips?

Senator PHILLIPS: Section 15(g) speaks of "desirable financial returns." Could someone give me an indication of what the Government considers a desirable financial return on its investment in equipment?

Hon. Mr. PICKERSGILL: I think this refers only to federal investment; it does not refer to the return of any carrier who provides his own equipment.

Senator PHILLIPS: I know, but what does the federal Government consider a desirable financial return?

Hon. Mr. PICKERSGILL: I think the federal Government has never made a determination of that. This bill specifically says it shall be the duty of the commission to do so, and I do not think that it means desirable financial return in all the varying circumstances that might arise. Each case would have to be looked at by the commission on its individual merits.

The ACTING CHAIRMAN: Any other questions, on section 15?

Senator BROOKS: Yes, I have a question. You say that the rates in the Atlantic provinces are under freeze for the next two years possibly; and the rest of Canada will have more or less a compensatory rate. Would the compensatory rates apply automatically to the Atlantic provinces after those two years?

Hon. Mr. PICKERSGILL: Not in all cases. Perhaps when we come to clause 59 we could discuss that, because I think it is much more relevant.

Senator BROOKS: As you know, that is what is worrying the people in the Atlantic provinces at the present time.

Hon. Mr. PICKERSGILL: Yes.

The ACTING CHAIRMAN: Senator Argue?

Senator ARGUE: I wonder if the minister would have any idea, and I could understand it if he has not, whether at an early date a special advisory committee would be set up on which there would be representation from the Maritimes and the Prairies?

Hon. Mr. PICKERSGILL: This is pretty likely, but I would think that the commission would want to have at least six months to shake down and see what things were apt to come before it, before they would know about these other matters. My own feeling is that a national advisory committee is not going to be really meaningful. I think regional advisory committees could deal with important regional problems, and perhaps advisory committees to deal with specific commodities—and there is one that Senator Argue will think of right away—are much more likely to be helpful than some broad body which would be really just an attempt to provide a feeble mirror of Parliament. I would rather have Parliament than a mirror of Parliament.

Senator KINLEY: I think the members of Parliament would be a pretty good example.

Hon. Mr. PICKERSGILL: Yes, exactly.

Senator ARGUE: Assuming the minister is correct that such committees would be set up perhaps within a six-month period, would he envisage that a committee, shall we say from the Prairie provinces, would be set up and functioning before any particular move or rapid move were made with relation to rail line abandonment? The minister will appreciate that this is a very controversial and important question.

Hon. Mr. PICKERSGILL: I appreciate that it is a controversial question and that if we are to get any advantage whatsoever from the legislation some of these things which have been frozen now for years have got to be dealt with. I gave an assurance in the Commons, and I think I should repeat it here since Senator Argue has brought it up at this point, that I would cause in one way or another, either through an order in council—I have the authority of my colleagues to say this—or a directive to the Board of Transport Commissioners, that they were to use the new procedures in considering any abandonments, even though the commission might not be established and the Board of Transport Commissioners might be dealing with these applications.

I said I did not think it was fair to ask the railways to start all over again and re-apply, with all the consequent delays, but that the hearings should be under the new procedures, not under the old. I think this is the way we would have to proceed, and it would be very undesirable to try at this stage to have still another delaying action; apart, of course, from the fact that this map is going to be passed by order in council, if that is the right instrument. However, the necessary legal step is going to be taken as soon as this bill passes to freeze all these lines in western Canada that are in orange on the map until January 1975, which is a pretty substantial guarantee. It seems to have been received pretty well in western Canada.

Senator ARGUE: Which then means, Mr. Chairman, that the railways will be proceeding as quickly as they are able to towards the abandonment of some or all of the lines?

Hon. Mr. PICKERSGILL: Yes, but I think the railways are going to be smart enough to take the obvious candidates in respect of which there will be relatively little argument first.

Senator ARGUE: Some of which they have already mentioned.

Hon. Mr. PICKERSGILL: Yes, but they will have to go through a rationalizing procedure. Some of them, of course, cannot be rationalized because they are stub ends. There is nothing to rationalize them with. If you look at the map you will see that there are other lines nearby, and I am sure there is going to be a lot of argument as to which lines should go before this is settled.

The ACTING CHAIRMAN: Shall Section 15 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: We had got as far as Section 28 on page 18 when the minister came in. Section 28 simply provides an exemption under this Part II, exempting a commodity pipeline from all or any of the provisions of this act. Shall Section 28 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: We come now to Part III. What is the wish of the committee, that we carry on from here section by section, reviewing each one with the minister, or do the members of the committee have questions which touch on any part of the bill from Part III on? If so, perhaps we should put those questions to the minister now, after which we can dispense with his services. In which way does the committee prefer to deal with it?

Senator SMITH (*Queens-Shelburne*): I think the latter way, Mr. Chairman.

The ACTING CHAIRMAN: Then, you are free game for questions on any part of the bill starting with Part III, Mr. Minister.

Hon. Mr. PICKERSGILL: Very well.

Senator ARGUE: With respect to this section dealing with rail line abandonment, after an investigation has been proceeded with as provided for on page 46 will the residents or organizations that are being affected have an opportunity to appear—I may not be asking this question correctly—before the commission makes the decision that in its view a line is losing money for the railway?

Hon. Mr. PICKERSGILL: Yes.

The ACTING CHAIRMAN: Are there any other questions on any parts of the bill? Section 59 has been mentioned here from time to time.

Senator PHILLIPS: I have a question with respect to Section 336(3) on page 47 which deals with the determination of variable cost, and also in respect of the costs of capital in paragraph (b). As I mentioned in my remarks, in reading the reports of the committee of the House of Commons and so on, you can come up with three figures. Does the minister have any preference as between the 11.4 per cent as claimed by the C.N.R. or the 5 per cent as recommended by the Transport Commission, or the 3.84 per cent as recommended by the MacPherson Commission? In other words, could we have some illustration of the cost of capital?

Hon. Mr. PICKERSGILL: Well, this is a subject on which my opinion, if I had one, would, I think, be quite worthless, because it requires a degree of expertise which I have never pretended to possess, and, to be quite honest, I hope I never have to possess. I do not think that anybody would value my opinion on it at all.

There was one other question that came up in the House of Commons and on which I thought there seemed to be a singular amount of misunderstanding and confusion, and that was the attribution of costs of capital as between variable costs and fixed costs. It seems to me that that is not at all a difficult idea to get through your head. I put it rather graphically, I thought, in the House when I said the capital cost on a freight car would be a variable cost, but the cost of a steel rail would be a fixed cost, and that in determining variable costs you could allow for the depreciation of the car, but not for the depreciation of the track. But, that is just giving it graphically. When you come to determine these things and put them through computers, and so on, I do not think my opinion would be worth anything.

Senator PHILLIPS: The commission will determine this point. Will they conduct any hearings, and so on?

Hon. Mr. PICKERSGILL: Yes, in determining the criteria for assessing costs there are to be public hearings. That is quite definitely provided for in the bill, and was insisted upon by many witnesses.

The ACTING CHAIRMAN: I think this is on pages 59 and 60.

Hon. Mr. PICKERSGILL: Yes.

The ACTING CHAIRMAN: Are there any other questions?

Senator SMITH (*Queens-Shelburne*): I have a question on Section 59. Is this a section which has a relation to any legislation which may result after the studies on the situation in the Atlantic provinces have been thoroughly gone into, and recommendations made to the Government? Any legislation which follows that would be put into effect, and rates enforced or behaviour enforced on the railway companies by the use of section 59? Is that a correct summary of that?

Hon. Mr. PICKERSGILL: No, I think the way I would put it is this, Senator Smith. Section 59 is designed to maintain every statutory rate or obligation, such as the routing of traffic, that now exists in any law.

We were told that there were about 1,200 acts of Parliament passed since Confederation having to do with railways, and we suppose that at least 1,150 of them would have no relevance, but any one of the other 50 might. I might have

picked any other figures so far as that goes. Nobody has yet searched through all of them. We are having a very exhaustive search made in the Department of Justice to see, but we thought we should put in this bill now an absolute safeguard in respect to every one of them so that there would be no doubt that the law that now exists with regard to rates to the Atlantic ports, and with regard to the routing of traffic to the Atlantic ports, was protected.

Senator SMITH (*Queen-Shelburne*): But this does not seem to apply to any new law that Parliament may pass in the future to impose an obligation—

Hon. Mr. PICKERSGILL: Well, these obligations would continue until Parliament amended them.

Senator SMITH (*Queens-Shelburne*): That is what I meant.

Hon. Mr. PICKERSGILL: Unless Parliament saw fit to alter any of the existing obligations, they are enshrined in the statute once it becomes law.

Senator ISNOR: Mr. Minister, I had a few remarks to make on Friday afternoon in connection with this bill, and I was wondering if you could help me out a little in regard to the terms of the agreement in respect of the flour contract with Russia. I have two questions. One is as to whether there is any provision in the bill respecting the shipment of grains through our Canadian ports, and, if so, why is Halifax being neglected 100 per cent with all of the shipments going through another—and the finest—port on the Atlantic coast?

Hon. Mr. PICKERSGILL: You mean Saint John, to put it bluntly?

Senator ISNOR: Yes.

Hon. Mr. PICKERSGILL: Well—

Senator ISNOR: My second point is to emphasize the need for making provision that all shipments on contracts entered into by the Government and various countries go through Canadian ports, instead of making use of any American ports.

Hon. Mr. PICKERSGILL: Yes. I think you should summon Mr. Winters to one of your committee hearings and put that question to him, because as Minister of Transport I do not make these contracts with other countries. Should we put it in the law that the Government—I do not think it ought to be in the transport bill but in some other law—cannot make a contract with any foreign country to ship anything out of Canada except through Canadian ports? Would that include airports? That question just leapt to my mind. But, this is a very big question, and I think it far transcends anything in this bill, and I just could not answer it.

As for the other question, Senator Isnor, I do not think Parliament—I have not done any research into this subject myself, but the impression I have is that we have never had any Parliament since Confederation that was willing knowingly to discriminate between the port of Halifax and the port of Saint John, and I would very much doubt the capacity of any government to get legislation through Parliament that attempted to do that knowingly. At any rate, I would not like to try.

Senator McDONALD: Doesn't the customer specify the port.

Hon. Mr. PICKERSGILL: That depends on whether the customer is going to go and pick the goods up, I suppose. If he is going to pick them up in his ship, then, I suppose if you want to sell them you may have to accept his terms. It just depends on whether you have a seller's or buyer's market.

Senator BROOKS: How do the rates for flour compare, say, between Portland, Maine, and Saint John New Brunswick, and Halifax Nova Scotia?

Hon. Mr. PICKERSGILL: There are many members of the press here so I will not use the verb I was thinking of using, but I did succeed in getting my colleagues to agree about a year ago to subsidize the reduction in the so-called

At and East rates, which are really of interest only to Saint John and Halifax. Perhaps I should explain this carefully because this is a little complicated. The Board of Transport Commissioners said that these rates should be increased. The Government set aside that increase by order in council. That meant the rates were less than the rates that the board considered right. I persuaded Mr. Sharp and my other colleagues to subsidize those rates and to keep them at that level. Therefore, I would think that they would certainly be below the rate to Portland, which we are not subsidizing.

Senator BROOKS: Have you any knowledge of the amount of shipping in those different ports?

Hon. Mr. PICKERSGILL: Subject to correction, I do not think any grain or flour goes through Portland at all. I am practically certain of that, because there are so many advantages, including lower rates, at Halifax and Saint John. Then it was represented to us that we had frozen the freight rates on grain and subsidized them but that we had done nothing adequate about flour, and one amendment was made in the Standing Committee of the House of Commons, and a further amendment was made, after representations were received from the millers, in the committee stage in the House itself. This was to make quite sure that we were giving as much support to the export of flour, through subsidy, as we were to the export of grain, for it is obvious we would prefer to export flour than grain if we could. That position has been safeguarded, because that subsidy is continued in this bill.

Senator PHILLIPS: I should like to ask a question based on Professor Borts' testimony in the House of Commons committee. I was very impressed with what he said. He talked of a figure of 150 per cent over the variable costs, which he maintains was too high, and he applied that to a 30,000 carload, and he pointed out that on a heavier carload the figure is really higher than 150 per cent.

Hon. Mr. PICKERSGILL: That is quite correct. It was an interesting exercise, I thought, and a highly theoretical one. I did not think it had much relevance to any of the realities of traffic, because the maximum rate formula was never designed to provide any protection for the shippers of heavy-weighted bulk commodities. That protection is provided in the bill in Clause 16 in an entirely, and, I think, much more satisfactory way. But Professor Borts did do something I was not able to do. He established that the maximum rate formula would, in fact, according to this figures, afford some protection to smaller shippers, the kind of small shippers we really felt needed protection. He showed that the 150 per cent of the variable cost was less than some of the rates now being charged in some of these cases. Therefore, I think by inference he suggested something that no one else had, and I do not think the people who employed him thought he would suggest, namely, that the maximum rate formula would be some protection to small shippers. I hope it is.

Senator PHILLIPS: But applied to a potato shipment, the maximum percentage increase would be around 225 per cent.

Hon. Mr. PICKERSGILL: If any potato shipper ever used the maximum rate formula; but no one ever will.

Senator PHILLIPS: What I am afraid of is that when the railways start negotiating with these shippers they will do so at the maximum figure, and it is going to take a great deal of effort in a number of cases to get the rates below the maximum.

Hon. Mr. PICKERSGILL: I would think that that is an unduly pessimistic assessment of what is likely to happen.

Mr. COPE: If the railways wanted to do this they could do it now. There is nothing to stop them from establishing a maximum rate on these potatoes right now, but the potato shippers are pretty able bargainers and secured agreed charges much below the maximum now charged by law.

Hon. Mr. PICKERSGILL: Mr. Cope has made a point which a lot of us found hard to understand, because to re-orientate your thinking from a regulatory system to a competitive system takes a lot of doing. Many of us have forgotten that very few, one or two per cent of the shippers, use the present maximum rates. That means that practically all the shippers have already made better bargains for themselves than the maximum rates. But I thought the maximum rate still ought to be there. It is a little like capital punishment; it is hoped to be a kind of deterrent but one that is not going to be much used.

The ACTING CHAIRMAN: In the sense of neither one being used.

Hon. Mr. PICKERSGILL: Well, murder is still a crime in Iceland, and the last time I checked there I found there has not been a murder in Iceland for a century and a half. But they did not repeal the law.

The ACTING CHAIRMAN: We might as well not have it here. We do not pay any attention to the penalty.

Senator PHILLIPS: I agree with the minister in that I hope the maximum rate does not become capital punishment.

Senator WELCH: I would like to ask a question with regard to this plan that has been circulated. It is entitled, "Plan of Prairie Rail Network Guaranteed to January 1, 1975." I presume these lines are guaranteed not to be abandoned?

Hon. Mr. PICKERSGILL: That is right, all these coloured ones.

Senator WELCH: Does this guarantee also apply to the Atlantic provinces?

Hon. Mr. PICKERSGILL: There is no other part of the country where any line is guaranteed.

Senator WELCH: We have a line running through the Annapolis Valley from Yarmouth to Halifax which has been taken off umpteen times. I suppose we have no guarantee on that one?

Hon. Mr. PICKERSGILL: No. I think it was felt that the people in the Annapolis Valley, even in the one hundred years since Confederation, have been effective enough in acting as spokesmen for their own interests that there has been no need for a statutory guarantee.

Senator PHILLIPS: Surely you are not suggesting that the western people have not been effective too?

Hon. Mr. PICKERSGILL: Well, the situation is rather different, of course, because it has a relationship in the western provinces solely to the gathering system for grain, and there are many of these lines that the railways alleged were losing money. I suppose there is a presumption that they were, because if they were making money I cannot think why the railways would want to get rid of them. But the grain growers and the people in the grain trade said they were essential for the moving of this crop, and it was suggested that these lines, if they were to be retained, should have their losses met by the Government. That principle was accepted in this bill, and in the case of these lines what it means is that if the railways can prove that they are losing money on any of these orange lines they will be entitled automatically to a subsidy. Mind you, they will not get that and the transitional subsidy at the same time.

Senator WELCH: This line I spoke of, the Dominion Atlantic Railway, owned by the CPR lost money for years. Then under new management it made a profit of \$300,000, and now it is going back again. With a small subsidy it would be able to remain active there.

Hon. Mr. PICKERSGILL: Of course, it cannot be abandoned unless all the procedures in the new law are followed, and certainly people will be able to make representations. All considerations required in the new law will have to be taken into account. If the CPR or the Dominion Atlantic Railway could prove it was losing money but the commission decided it was an economic necessity to

have it there in the national or regional interest, the loss would have to be made up.

Senator LEFRANCOIS: And there would be a public hearing.

Hon. Mr. PICKERSGILL: Oh, yes.

Senator ARGUE: I wonder if I could ask the minister what his definition of "uneconomic" is and how that might be summarized if it is not just the loss of money on a particular branch line.

Hon. Mr. PICKERSGILL: Well, we had quite an interesting debate in the House of Commons. You might like to look at the *Hansard*. Mr. Schreyer, the member from Springfield, had some quite interesting things to say. He wanted us to go back to say that there must be a "loss", instead of that it was "uneconomic". I do not think the difference is very great.

In 1964, when we had a "loss", all of the prairie governments, particularly that of Saskatchewan, asked us to substitute "uneconomic". We substituted it in the new bill and then they all came back and asked if we would go back. Well, I decided that this "he loves me, he loves me not" attitude could not go on forever. We had to stop somewhere. But I do not think it really matters very much, except that I had the view that, if anything, a railway might be losing money but the lines might still be economic when the whole economy is taken into account.

Senator ARGUE: Mr. Chairman, I certainly have no objection myself. I am all in favour of it and I certainly compliment the minister on the work he did in the House and on his ability to get such a complicated bill through in such a relatively short time. I certainly agree that what we want as a nation is an economic type of overall transport policy divided amongst its segments. But my question about the particular railway situation of railway line abandonment might be put like this: Will consideration be given by the commission to the additional cost that will incur to the farmers concerned with the abandonment of a line?

In other words, will the farmers' additional expenses for local trucking facilities be given equal weight with the trucking facilities operated by larger firms? Because I see that perhaps the railways can prove a loss and, certainly, if the main commodity they haul is grain, they probably have no trouble proving a loss at all, unless you say that all of the rail revenues on grain are attributable to the branch line alone. But if you can weigh against the money lost to the railway operating a line the actual additional money it costs the farmers to haul their grain a longer distance, then that is a very important point.

Hon. Mr. PICKERSGILL: The commission is specifically instructed to take that into account. Not only are they instructed to take into account the loss to the farmers, but also the loss to the villages along the line.

Senator PEARSON: What about the personnel of the railroads of the abandoned line

Hon. Mr. PICKERSGILL: That is definitely excluded.

Senator PEARSON: Excluded?

Hon. Mr. PICKERSGILL: Yes, because it is covered in other legislation. As a matter of fact, the best advice we were able to get, and this is one reason why it is excluded, is that most of these things are covered by collective agreements, and it is not thought, except in very rare cases, that it is going to involve any loss of employment. It may just mean that the employment will be somewhere else on the system instead of on the abandoned line.

The ACTING CHAIRMAN: Senator Argue, the answer to the question you raised is on page 28 in subclause (e).

Senator ARGUE: It may be. I was thinking of the precise dollar loss or precise increase in dollar expense to the farmer.

The ACTING CHAIRMAN: That is part of the economic effects.

Senator ARGUE: Well, if it is that kind of a precise weighing of something in the balance, I can see that it is of very great importance. On the other hand, if it is just dealing with general economic effects, whether an area can survive without a railway line and so on, that is another matter.

The ACTING CHAIRMAN: I think a more general statement would be preferable to a precise wording of what is to be included. It gives the commission more flexibility. Are there any other questions?

Hon. Mr. PICKERSGILL: I think you have to read the whole thing, and take into account all these sections on page 28. The situation is thoroughly covered by all of them.

The ACTING CHAIRMAN: Are there any other questions for the minister?

Senator BURCHILL: Mr. Minister, there are no branch lines subsidized at the present time, are there?

Hon. Mr. PICKERSGILL: Not specifically, no. We are paying the railway \$100 million. But not for specific individual lines; not that I know anything about.

Senator LEONARD: Mr. Chairman, it might be as well to have on record a statement from the Minister of Transport as to the effect of the bill on the Crowsnest Pass rates.

Hon. Mr. PICKERSGILL: I think Senator Leonard is a friend. My view is that the Crowsnest Pass rates, and the related rates, are protected in this bill in such a fashion that those rates could not be changed without another Act of parliament. I say that so long as I am Minister of Transport—and I am authorized also to say that so long as the present Government is in office—no such legislation will be introduced into Parliament.

Senator McDONALD: Hear, hear.

Hon. Mr. PICKERSGILL: We were told in the House of Commons that these rates had almost a spiritual or theological significance. I do not go quite that far, but they are considered—

The ACTING CHAIRMAN: There are spirits to be got out of the grain, you know, Mr. Pickersgill.

Hon. Mr. PICKERSGILL: Yes, they are considered, however, to be almost a part of the Constitution of Canada.

Senator ASELTINE: They are sacrosanct.

Hon. Mr. PICKERSGILL: That is getting almost into the religious field again, but the senator speaks for that area. The only question, of course, that arises in this bill is whether or not these rates may be compensating the railways for what they are doing, and that question, of course, is entirely separate and is open to determination. But so far as the rates themselves are concerned, they cannot be changed at all unless there is another Act of Parliament.

Senator DESCHATELETS: Mr. Minister, under clause 15, the commission has the right to inquire into any studies and research into transport, including the rates of the Crowsnest Pass.

Hon. Mr. PICKERSGILL: Line 20 says "The Commission shall inquire into." It does not say that it may. Looking at subsection (e) it says that the commission shall:

- (e) inquire into and report to the Minister upon possible financial measures required for direct assistance to any mode of transport and the method of administration of any measures that may be approved.

Mr. Lewis and Mr. Scheyer both argued in the House of Commons—and they are both members of the Bar—that the meaning was that the commission not only had the power but the duty to inquire into whether any imposition was put on

the railways by law for which they were not compensated, and, if so, what compensation they should get.

The ACTING CHAIRMAN: Are there any other questions of the minister? Then I will say thank you very much, Mr. Minister. We appreciate the information you have given us and we will now push ahead with our consideration of the bill. If we run into trouble we will send an SOS to you.

Hon. Mr. PICKERSGILL: Thank you very much, senators. I appreciate very much your kindness.

The ACTING CHAIRMAN: Thank you. I was wondering what time the committee would like to adjourn? We had got down to Part III. Shall we do Part III and then adjourn until the Senate rises this afternoon?

Senator LEONARD: Is it Part III that does not come into effect at the present time?

Mr. BALDWIN: No part of the act comes into effect unless proclaimed specifically by the Governor in Council, and he has authority to proclaim various sections at various times.

Senator LEONARD: You are also holding back Part III because of your discussions with the provinces.

Mr. BALDWIN: That is correct, sir.

The ACTING CHAIRMAN: Would you like to go through Part III now? It deals with extraprovincial motor vehicle transport. Section 29 deals with the application of the Part. Again there are things to be done before this Part becomes effective.

Senator PHILLIPS: Are we meeting again at 2.30, as the notice said?

The ACTING CHAIRMAN: No. When the notice went out it was thought that the Senate was going to sit this evening, but I understand the Senate is going to sit at three o'clock. It will not be sitting for very long. It will adjourn so that we can re-assemble to go on with our consideration of the bill. So, when we adjourn, we will be coming back here as soon as the Senate rises this afternoon.

Now, I take it that section 29 carries?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 30 is a saving clause.

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 31 deals with the questions of licences. Are there any questions on that?

Senator PEARSON: What arrangements have been made with the provinces concerning licences?

Mr. BALDWIN: No specific arrangements have been made. Discussions have only been preliminary to a broader meeting that we will have to have with the provinces at some stage.

Senator PEARSON: The whole question of highway maintenance has to come under consideration yet, does it not?

Mr. BALDWIN: Highway maintenance would be a separate issue. It does not come under this bill. It is a provincial responsibility now, sir.

Senator PEARSON: You will have to have a conference before you can license something to travel over the provincial highways.

Mr. BALDWIN: There would have to be an agreement, certainly, between the federal and provincial licensing boards.

The ACTING CHAIRMAN: The whole basis of interprovincial motor transport is that at the moment it becomes interprovincial the federal department comes in.

Mr. COPE: In the issuance of the franchise but not the motor vehicle licence plate. In all instances the motor vehicle licence is issued by the province and would not be interfered with in any way.

The ACTING CHAIRMAN: But once the federal authority has jurisdiction it could make the same regulation with regard to interprovincial transport.

Mr. BALDWIN: That is right.

Senator SMITH (*Queens-Shelburne*): Does this mean eventually, if this legislation comes into full effect, that if a transport company has a purely provincial operation it would have to apply to the federal authority for permission to operate?

Mr. BALDWIN: Not if it is purely provincial, but only at the moment it crosses the boundary.

The ACTING CHAIRMAN: But the moment it does the federal authority comes in.

Senator PHILLIPS: In section 31(2) there seems to be some conflict between the principle of having established rates, on the one hand, and then the commission having the authority to decide whether a transportation system is necessary.

Mr. BALDWIN: I think the answer there would be that the principles of the bill refer to competition between modes of transportation, trucking versus railways, and shipping, and so on, but do not preclude economic regulation within a single mode internally, if I can describe it that way.

Senator PHILLIPS: What I am confused about is how we are going to establish trucks as being in competition with railways if we limit the number of trucking firms that can obtain a licence.

Mr. BALDWIN: This would be a matter for the commission to decide in a particular case. The formula is the same in most countries in relation to licensing requirements.

Senator THORVALDSON: You were referring a moment ago, Mr. Baldwin, to the necessity for a provincial licence by any truck. Do you mean that if, for instance, you have a trans-Canada bus line running right across Canada which was licensed under this act, that the buses starting, say, in Vancouver and ending up in Toronto would be required to carry a provincial licence?

Mr. BALDWIN: The vehicles would have to have provincial licences in each province in which they function.

Senator THORVALDSON: But supposing you licensed a route right across Canada and one province refuses to grant the motor vehicle licence of a particular bus or vehicle?

Mr. BALDWIN: I doubt if they could do so, although I speak not as an expert. The provincial licensing authority might take the position that some of the operations are purely provincial and require that a provincial common carrier licence be required for that particular segment. It is this situation that convinces us that there must be some effective cooperation between transport boards that issue common carrier licences and any federal authority that deals with the matter.

Senator THORVALDSON: Then it would seem to me that the jurisdiction of the federal Government is very doubtful in this field unless it is very well defined.

The ACTING CHAIRMAN: When you say that the federal authority is doubtful, Senator Thorvaldson, is it not rather that there is an area to which the federal authority in such an operation might not extend and you might have to supplement it with a provincial common carrier licence having regard to the nature of the operations you were doing in a particular province as well as or in addition to your interprovincial operation.

Senator THORVALDSON: I can understand that. I am referring entirely to a carrier starting out from Vancouver and going across Canada say to Montreal. Is any province in a position to stop that operation by saying it will not grant a provincial licence to those vehicles?

Senator SMITH (*Queens-Shelburne*): In some provinces they do not even call that right a licence. I have in my hand a new permit for my car to operate on the roads of Nova Scotia, and other roads in the country, I presume. The use of the word "licence" here, I think, has a different meaning from "permit."

The ACTING CHAIRMAN: Let us not go into the refinement of words. We have a question of jurisdiction to deal with. The purpose of negotiations and discussions now going on in the provinces is to resolve the possibility of just such a things as you are suggesting, Senator Thorvaldson. Senator Flynn?

Senator FLYNN: I would like to ask Mr. Baldwin if from a strictly administrative viewpoint the present situation of jurisdiction of the provinces only presents any difficulty. It seems to me that when the federal authority decided that it would not intervene everybody was satisfied that the provinces would have exclusive jurisdiction. I was wondering whether there is any difficulty, if there is any change requiring authority to have two jurisdictions.

Mr. BALDWIN: Referring to the first question, there are gaps in the present system that mean it is not fully effective. There have been court decisions, and I think Senator Thorvaldson referred to one. The other is the Kleysen case which displayed certain weaknesses in the legislation. Also there are unevennesses in the federal jurisdiction which apply at the provincial levels and therefore we have not a truly national scheme. Certain of the provinces, as well as certain portions of the trucking industry, suggest that there should be a national approach to this. This is where we have started the discussions with the provinces.

Senator FLYNN: But would this not remove discussion with the provinces at a local level?

Mr. BALDWIN: Not in the least.

Senator FLYNN: I am thinking of a situation that might arise unless the provincial authorities decided to adjust their legislation.

Mr. BALDWIN: This is why it is essential to work with the provinces.

The ACTING CHAIRMAN: Shall section 31 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 32. Shall section 32 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 33—Tolls and tariffs. Shall section 33 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 34 deals with free and reduced rate transportation. Shall section 34 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 35 deals with the power to make regulations, and it enumerates all the conditions which the commission may govern by regulation. This section extends for two pages. Shall section 35 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: That brings us to Part IV, and I suggest that that may be deferred until this afternoon.

Senator DESCHATELETS: There are two clauses in Part IV, Mr. Chairman, which might be dealt with now.

The ACTING CHAIRMAN: Part IV deals with bridges. We have two sections about which perhaps Mr. Baldwin could tell us. We could easily dispose of them before we adjourn.

Mr. BALDWIN: This is in respect of jurisdiction in regard to safety matters in connection with certain bridges which is presently vested in the Board of Transport Commissioners, although they have for that purpose used the engineers of Public Works to do the work for them. This part merely transfers the complete jurisdiction in regard to these technical and safety standards for these particular bridges to the Department of Public Works.

Senator THORVALDSON: Does this refer to all bridges or only to railway bridges?

Mr. BALDWIN: All bridges under federal jurisdiction.

The ACTING CHAIRMAN: Does Part IV carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: That brings us to Part V, which is a big part of this bill. We will resume our consideration of that when the Senate rises this afternoon.

The committee adjourned.

Upon resuming at 3.45 p.m.

The ACTING CHAIRMAN: I call the meeting to order. When we adjourned this morning we had reached Part V on page 24 of the bill, commencing with section 38. Mr. Baldwin, have you any comment to make on section 38?

Mr. BALDWIN: No, Mr. Chairman; although I can give a brief explanation. The principal purpose of this clause is to perpetuate or to continue the arrangements that are needed for the regulation of bridge tolls.

The ACTING CHAIRMAN: You say "perpetuate"; what do you mean by that?

Mr. BALDWIN: To continue the regulation of bridge tolls according to the principles already used.

Senator LEONARD: Is there any substantive change in section 42?

Mr. BALDWIN: No.

The ACTING CHAIRMAN: Notwithstanding anything you have done in relation to changing rate formula, or anything else, the old scheme applies?

Mr. BALDWIN: As far as bridge tolls are concerned.

The ACTING CHAIRMAN: Shall section 38 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 39?

Mr. BALDWIN: The present wording of the section is related only to agreements between a railway company and a steamship company. The purpose of the amendment is to make reference to agreements which could be with any other transportation company operating as a common carrier or having the status of a common carrier. This would make it possible to deal with inter-modal agreements between carriers not just those provided or referred to which are a railroad and a steamship company.

Senator PEARSON: Does it deal with any company or number of companies in particular?

The ACTING CHAIRMAN: Well, directors act through the majority; that is the law.

Mr. BALDWIN: Yes.

The ACTING CHAIRMAN: Shall section 39 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 40.

Mr. BALDWIN: At present a separate Act of Parliament is required in any case where a railway company, and this primarily means the CNR, wishes to construct a branch line over six miles in length. Recent experiences over the last

few years have indicated that this is a rather short distance and that it is requiring a number of small bills to be introduced which the Government felt were not really necessary, and that it would be more appropriate to modern conditions to have the six miles changed to 20 miles.

Senator KINLEY: What about the cost?

Mr. BALDWIN: The cost has to be approved by the Government, anyway.

Senator BENEDICKSON: With respect to branch lines, Mr. Baldwin, is there still a policy under which the cost of new branch lines would be authorized by a special bill in the two Houses of Parliament rather than through the CNR financing itself?

Mr. BALDWIN: This would depend to some extent, sir, on the arrangements which the CNR may make in any particular circumstances. If it requires an advance from the treasury under the present proposals of the bill special legislation would only be required if the branch line is over 20 miles in length. I am not sure whether I took your point correctly.

Mr. COPE: As I recall, the Canadian National Railways get the approval to expenditures or authority to borrow money for construction of branch lines in two ways, through the Canadian National Railways Financing and Guarantee Act or by Act of Parliament. In this case the special act would only apply to lines in excess of 20 miles, and then in accordance with any arrangements the Minister of Finance or Minister of Transport would make with respect to railways to provide that provision under the special act, or the Canadian National Railways Financing and Guarantee Act.

Senator BENEDICKSON: Is the other new legislation?

The ACTING CHAIRMAN: Only increasing the six miles to 20 miles and what flows from that.

Senator LEONARD: But with respect to the financing of a branch line under 20 miles there is no legislation even with respect to the financing?

Mr. BALDWIN: Unless the Government decides to do so under the Canadian National Railways Financing and Guarantee Act.

Senator PEARSON: Would two sections of ten miles on the same main line be considered as 20 miles.

The ACTING CHAIRMAN: No; a branch line is a branch line.

Senator PEARSON: It applies to only one line.

The ACTING CHAIRMAN: That is right.

Senator BENEDICKSON: But a line as large in length as Pine Point to a mining area northward, would that have a counterpart for the future? Would that require a special bill?

Mr. COPE: Yes; and certain financial arrangements would be set out in the special act for the line.

The ACTING CHAIRMAN: Shall section 40 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 41?

Mr. BALDWIN: Section 41 is directly related to section 40 which just states the authority of the company to deal with construction and operation in cases under 20 miles.

The ACTING CHAIRMAN: You get some indication of a branch there, Senator Pearson, if you read it. You can run a branch from a branch. Shall section 41 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 42 deals with abandonment and rationalization of lines and operation.

Senator ASELTINE: I see on the map three lines they are trying to abandon in the Rosetown area.

The ACTING CHAIRMAN: You do not think they should do that to you out there?

Senator ASELTINE: Oh, no. It will put a crimp in all our deliveries so far as this big crop is concerned that we are marketing right now.

Mr. BALDWIN: Section 42 is a lengthy section which sets forth the new procedures which are proposed for application in the case of abandonment or rationalization of branch lines or the dropping of passenger services.

It is a lengthy section. The minister spoke on it this morning. The basic principles are really rationalization rather than abandonment, and an attempt to provide a broad series of criteria which shall be considered by the new commission in dealing with these cases, and to provide that they shall be dealt with, where applications come in, on an area basis; and also to provide that, where the commission decides that it is not prepared to allow abandonment to take place, even though evidence of economic loss by the railway may be available, that a subsidy may be paid to the railway to keep the line operating.

This has to be considered in the context of the map before you because, during consideration of the bill, in order to clarify the position, in view of the great uncertainty that existed in the western provinces regarding the very substantial number of applications that had been filed, the Government tabled a statement, accompanied by a map, which indicated that, to avoid any uncertainty, it would guarantee a substantial proportion of the existing branch network in the western provinces, the implication being that if any of those lines were in fact losing money they would be eligible to receive a subsidy.

This does not mean necessarily that the non-guaranteed lines would be abandoned, but at least the situation is that, the railway, if it desires, may apply to have such lines considered for abandonment. The commission will then have to determine whether it is prepared to allow them to be abandoned or whether they shall be continued in operation. If it decides on the latter course it must be prepared to pay a subsidy.

Senator ASELTINE: Will there be public hearings?

Mr. BALDWIN: Yes, public hearings.

The ACTING CHAIRMAN: I take it the subsidy you are talking about would be to maintain an uneconomic branch line?

Mr. BALDWIN: That is correct, sir.

The ACTING CHAIRMAN: Must the railway accept the subsidy if offered and continue the branch line?

Mr. BALDWIN: Yes.

The ACTING CHAIRMAN: It has no choice?

Mr. BALDWIN: It has no choice.

Senator BENEDICKSON: What was that question and answer?

The ACTING CHAIRMAN: The question was, must the railway accept a subsidy when it is offered and continue the operation of a branch line. The answer was yes.

Senator BENEDICKSON: Under the judgment of this commission?

Mr. BALDWIN: Yes.

The ACTING CHAIRMAN: I notice that the applications for abandonment are to the commission.

Mr. BALDWIN: Yes.

The ACTING CHAIRMAN: What is the obligation of the committee of the commission, the committee of railways, when it is dealing with a railway matter?

Mr. BALDWIN: Any committee set up by the commission can exercise the powers of the commission, under this legislation, and we would expect that this, in the first instance, would be dealt with by the railway committee of the commission.

The ACTING CHAIRMAN: I notice that the language is "the commission"—the committee of the commission, in the first instance.

Mr. BALDWIN: It would be dealing with them.

Senator LEONARD: Under section 314C(2), the wording is "may consider together as a group". What does that mean?

Mr. BALDWIN: This is to provide that, if a series of applications come in which are related in a particular area, the commission may look at them as a whole, not just individually—the interrelationship, the interaction, so to speak.

Senator ASELTINE: Can you tell me what would happen to applications which have already been made, which have not been dealt with—which came in between now and the time this act comes into force?

Mr. BALDWIN: These are currently being brought up to date by the railways and the Board of Transport Commissioners. In other words, the statistical data is being brought up to date, because it was rather old. They may proceed presumably, following the passage of this legislation—but the minister has given an indication to the House of Commons—

Senator ASELTINE: They will be held by this?

Mr. BALDWIN: No. If they do come forward, regardless of whether they come forward within the context of the existing legislation or the new legislation, they will come forward in accordance with the principles established in this legislation, even though this legislation may not have been proclaimed, because there is power in this section for the Governor in Council to define the manner in which current applications under existing legislation, under either clause 168, which is the existing legislation, shall be dealt with, and his intention would be to define that, if any have to be dealt with under that clause 168, the principles that are to govern the new procedure shall nevertheless apply in looking at them.

Senator THORVALDSON: I wonder if Mr. Baldwin can state any regulations showing the difference between the principle applicable to the whole question of abandonment as previously was the case and in this act? Could you set them out briefly?

Mr. BALDWIN: I will ask Mr. Cope to support me on this. If I could put it correctly, I think we will say that it is, first of all, instead of having a situation in which the railway applies for abandonment and in due course is told whether it may or may not abandon—the economics of the railway operation have a lot to do with it—if it is losing heavily it is better to get rid of it—you now have a possibility that the branch line may be subsidized—which did not exist before—if it is uneconomic. This makes it possible in turn for the new authority, in looking at the application, to take into consideration a much broader series of criteria in regard to whether abandonment should be granted or not. These are the criteria that are spelled out in some length on page 28. Generally speaking, the idea is an area approach and broad consideration of the economic impact in the whole area, the availability of other means of transport, and this sort of thing.

Senator THORVALDSON: Thank you. That is very useful.

Mr. COPE: There is much greater guidance to the commission than in the existing Railway Act, which says:

168. "The company may abandon the operation of any line of railway with the approval of the Board, and no company shall abandon the operation of any line of railway without such approval."

The ACTING CHAIRMAN: To use the minister's expression this morning, we have established guidelines.

Senator BENEDICKSON: What, in fact, has been the payment to the railways since the MacPherson Royal Commission report was brought down and before this legislation came forward? What has in fact been the payment in the last two or three years to the railways? Do you understand my question? They recommended certain things and Parliament did not deal with it. Now, what have the railways received because we did not have legislative enactment such as we are discussing now?

Mr. BALDWIN: There were no payments made specifically on account of branch lines, senator. What happened rather was the gradual accumulation of a series of general subsidies which were increased on three separate occasions, basically relating to a general increase in operating costs of the railways, with their grave overall financial position, the idea being that these were interim broad and general subsidies, designed to cover the situation. Usually, they were related to wage increases—quite frankly—designed to cover the situation until new legislation could be brought in. It started with the the Freight Rates Reduction Act which the minister referred to this morning. Additions were made related to the recommendations of the Royal Commission, and again the 1964 wage settlement and the total amount paid is over \$100 million at present.

Senator BENEDICKSON: In a calendar year 1966, for our railroads, what do you think that the Government provided in lieu of the passing of this legislation?

Mr. COPE: It was \$110 million approximately.

Senator BENEDICKSON: In 1966?

Mr. BALDWIN: On account of 1966. There were some payments on account of 1965 that were included in the total, but on account of 1966 it was approximately \$110 million.

Senator BENEDICKSON: And how much in 1965?

Mr. COPE: Roughly the same amount.

Mr. BALDWIN: It would be very close to the same amount, because the last increase was related to the 1964 wage settlement.

Senator BENEDICKSON: And distributed between two major railway companies, the CN and the CP, what would that division be?

Mr. BALDWIN: It was 60-40 relationship approximately—the 60 being CN and the 40 being CP.

Mr. COPE: For 97 per cent of the money.

Senator THORVALDSON: The main purpose of this subsidy payment was to take care of that roll back in freight rates? This was the initial step? As I understand it, the main purpose of this subsidy payment was to take care of the roll-back on freights?

Mr. BALDWIN: The roll-back of freight rates under the Freight Rates Reduction Act. This was added to on account of the situation which developed two years later, and then another item was added on account of the 1964 wage settlement. You are quite right, sir.

Senator ISNOR: How would that be shown in their reports or statements, Mr. Baldwin? Would it be credited to a certain item?

Mr. BALDWIN: The annual reports of the railways?

Senator ISNOR: Yes.

Mr. COPE: It appears as a revenue item.

Senator ISNOR: I see. Then on the other side is it an expenditure?

Mr. BALDWIN: It is just a general revenue item.

Senator BENEDICKSON: Is credit given for this immense amount of money, \$110 million? Is credit given, to your knowledge, in the annual reports of the CPR and CNR?

Mr. BALDWIN: It is in the CNR report. I cannot recall the CPR report.

Senator BENEDICKSON: The last reports available I suppose are for the calendar year 1965?

Mr. BALDWIN: Yes.

Senator BENEDICKSON: In your opinion, is there reflected in that report proper indication of their receipt of their share of this \$110 million?

Mr. BALDWIN: Speaking from memory, and so far as the CNR is concerned, yes. My memory is a little shaky on the CPR. We are going to find out.

Senator THORVALDSON: I think what Senator Benidickson means is are these payments regarded as income in so far as the railways are concerned?

The ACTING CHAIRMAN: Yes, they are.

Mr. BALDWIN: Yes, they are.

Senator BENEDICKSON: And they are properly given credit for as taxpayers' money? They are taxpayers' money, are they not?

Senator THORVALDSON: I do not think I have seen any item on that.

The ACTING CHAIRMAN: No, I think it only shows as revenue. Where else would you put it?

Mr. BALDWIN: The CNR has an item on it and we are checking the CPR.

The ACTING CHAIRMAN: There may be a note on the balance sheet indicating that so much of this is subsidy.

Senator LEONARD: These payments have nothing to do directly with the section of the bill relating to the abandonment of branch lines?

Senator DESCHATELETS: This amount of money appears somewhere as an expenditure, Mr. Baldwin, does it not?

Mr. BALDWIN: Not specifically, because it was not related to any one particular expenditure; it was a general subsidy.

Senator DESCHATELETS: Well, it appears as a subsidy.

The ACTING CHAIRMAN: No, it appears as revenue. There is a note to the balance sheet of the CNR indicating how so much of it was made up.

Senator LEONARD: Instead of shippers paying the freight, the shippers paid a certain amount, at which the rate was frozen, and the government paid the balance.

The ACTING CHAIRMAN: That is right.

Senator BENEDICKSON: The taxpayers paid \$110 million in one year, roughly 60-40 between the CNR and CPR. Is that what I am told?

Mr. BALDWIN: Yes.

Senator THORVALDSON: Mr. Chairman, while we are on this point, may I ask a question? Does the amount of this subsidy going to the CPR become reflected in the CPR accounts in such a way that, in so far as it is additional income, it would result in additional taxes being paid by the CPR in any way?

The ACTING CHAIRMAN: Mr. Baldwin has said he is not sure how the CPR has dealt with it, but we will be able to tell you that a little later this afternoon.

Mr. BALDWIN: It is considered under the heading Taxable Revenue.

Mr. COPE: Whether they include it within revenue or separate it out we do not know.

Senator THORVALDSON: In other words, it is done in such a way that it would be reflected in the final tax position of the CPR?

The ACTING CHAIRMAN: We will get that information later. Now, on page 30 we had got as far as "Rationalization of lines and operations." Will you explain what that part of the bill is getting at?

Mr. BALDWIN: Mr. Cope might like to speak on this.

Mr. COPE: 314D provides that the commission, after looking into the trackage accounts and train operation accounts, may have certain recommendations to make to the railways as to exchanges of running rights or lessor-purchaser changes in the ownership and operation of facilities in the area.

Subsection (2) would bring about certain changes that are deemed to be advantageous. If there are any capital expenditures made by way of adding to one system's trackage part of the other's trackage, these costs can be considered operating costs by the railway undertaking the connection and assimilating the new operation. Thus their subsidy would reflect those costs for the year.

Subsection 3 provides that under circumstances where for one reason or another the railways are not eager to join in the arrangement recommended by the commission the commission can make certain recommendations to the Governor in Council for whatever action the Governor in Council may wish to take.

Senator BENIDICKSON: Just on that point, assuming that the railways disagree, the commission may reach a decision. That is not good enough? It has to go to the cabinet?

Mr. BALDWIN: This is dealing with points beyond actual branch line abandonment. This gives the Government other methods of rationalization. It was felt that these should not be compulsory in the sense of imposing them on the railway. Especially when costs are involved. Therefore, provision was made that, if the railways do not accept them, or if they go beyond their normal field of responsibility, they may be reported to the Government which may then make further provisions to cover this if it is deemed necessary.

Senator BENIDICKSON: It would overrule this commission?

Mr. BALDWIN: No. It would merely implement the recommendations.

Senator BENIDICKSON: Or reverse them.

Mr. BALDWIN: No. Basically, it would implement them or—

Senator BENIDICKSON: Or what?

Mr. BALDWIN: Or not.

Senator LEONARD: Is this the section under which the kinds of pooling agreement that railway companies had before would be authorized?

Mr. COPE: No. This is a different manifestation of that type of action.

Senator LEONARD: Is it being brought about to cover a pooling agreement?

Mr. COPE: I would think so.

The ACTING CHAIRMAN: Well, I do not know. This seems to be tied in to dealing with traffic that still remains following a decision to abandon some part of a branch line.

Senator LEONARD: No, I do not agree.

The ACTING CHAIRMAN: If you read at the bottom of page 30, you will see that it says:

(4) In the exercise of its duties under section 314C the Commission may also make recommendations not directly involving a railway company

(a) in respect of the orderly handling of traffic remaining to a branch line or any segment thereof for which the Commission has fixed a date for abandonment; or—

Senator LEONARD: But the first three subsections have nothing to do with abandonment of lines, as I understand them.

The ACTING CHAIRMAN: No, but I am talking about subsection (4). I thought you were addressing your question of pooling to that.

Senator LEONARD: No, I was wondering whether pooling came in under the wording of 314D (1).

The ACTING CHAIRMAN: It might come in under subsection (1), yes.

Now, we get down to 314E on page 31. This is a definition section.

Mr. BALDWIN: This is a definition and procedure section for making claims for subsidies.

The ACTING CHAIRMAN: Oh, yes. Are there any questions on that part of it?

Senator McDONALD: Where in the act, if it is in this Act, do you find authority given to the commission to grant CNR running rights on CPR tracks or vice versa?

Mr. BALDWIN: That was the one we were just considering.

Senator LEONARD: Subsection 1 of 314D.

The ACTING CHAIRMAN: Now, we were dealing with the definitions, and dealing with making claims for subsidies.

Mr. BALDWIN: That is 314E. Yes, sir. This is the procedure on it.

The ACTING CHAIRMAN: This is the procedure. Are there any questions in connection with the procedure? If not, that takes us over to page 33 to section 314F.

Mr. BALDWIN: Section 314F, sir, is the provision that relates to applications pending under section 168, that is, applications that are now before the board. It states that a railway may elect to have these transferred, if it so desires, to be dealt with under the new procedure.

The ACTING CHAIRMAN: Yes, we have already talked about that. Now, 314G deals with the authority to prohibit abandonment. What have you to say on that?

Mr. BALDWIN: This is the clause which would be used by the Governor in Council to confirm the map which has already been announced.

The ACTING CHAIRMAN: Yes.

Senator PEARSON: In that case, just looking at the map south of Moose Jaw, you have the CNR running through Gravelbourg. They expect to abandon the line running east of Gravelbourg and running south into Radville and north into Moose Jaw. Then they have a small piece of line running east and west. What have they arranged about that one piece of line?

Mr. COPE: This is one of the few applications of that cooperation which was mentioned. The railways will of their own free will bring about a rationalization of their operations, and they have already met on this particular question and I would think they are going to reach an agreement whereby this particular piece of trackage can be dealt with on an exchange of ownership basis or on a running rights basis.

Senator BENEDICKSON: You mean the two railroads would combine to try and service this area with the elimination of some side lines?

Mr. COPE: That is right.

The ACTING CHAIRMAN: Then we come to 314H on page 34.

Mr. BALDWIN: This provides that the Governor in Council may fix by proclamation the date on which this section shall come into force. This section dealing with abandonment procedure may come into force quite separately and independently. Once this has been done, all branch line applications must be dealt with under the new procedure rather than under the old section 168, unless the Governor in Council gives special authority otherwise.

The ACTING CHAIRMAN: Then we come to 314I.

Mr. BALDWIN: This and the immediately subsequent clauses deal with passenger train services. The original recommendation of the MacPherson Royal Commission had been that provisions should be made for more or less automatic abandonment of passenger services if the railway could demonstrate that they were losing money and for the payment of a stated subsidy on account of uneconomic passenger services, which would decline every year on the theory that some would be abandoned each year.

Instead of following that procedure exactly, the provisions in the bill regarding passenger services have been drafted to follow generally the lines of those dealing with branch line abandonment, namely, to embody the idea of rationalization of services, and instead of automatic discontinuance, where it is considered that although the line is uneconomic it is desirable, a subsidy may be paid.

Senator PEARSON: Supposing you have a passenger bus line running parallel with the railway line and at the same time the railway is losing money, then the subsidy would be paid to the railway to continue in operation?

Mr. BALDWIN: Not necessarily. The existence of alternative means of transportation is one of the things to be taken into consideration. This is noted at the bottom of page 35 of the bill.

Senator BENEDICKSON: On this question of passenger services, which is very important, people have become accustomed to certain passenger services. Now if the railways don't propose to carry this on, there is a provision that the Government of Canada can pay the deficit?

Mr. BALDWIN: And require the railways to continue.

Senator BENEDICKSON: If the board decides it is advisable for them to carry on?

Mr. BALDWIN: Yes.

Senator BENEDICKSON: If that is not done, then the alternative services such as bus lines or airlines or somebody else like that must take over.

Mr. BALDWIN: The existence of alternative services is one of the guidelines to be taken into consideration in looking at an application for discontinuance of service before there is a decision.

Senator BENEDICKSON: But if this is something the railroads don't want to do—

The ACTING CHAIRMAN: Before there is an order to abandon, they may look at the alternative means of transport.

Senator PHILLIPS: Is there anything in the act to compel the railroads when carrying passengers to maintain a certain standard? I am thinking now of the debates in the other place and of reading of instances where people were held a long time on a train in the Gaspé region and were unable to obtain food.

Mr. BALDWIN: There is nothing new in this act in this regard. You would rely on the provisions in the present Railway Act so far as this situation is concerned.

Senator ARGUE: Are there any pending applications?

Mr. BALDWIN: Several. However, there are no well-known passenger services involved.

Senator BENEDICKSON: This is a soft cushion for the railways to transfer to public expense the costs of passenger services in certain areas that normally they would absorb in their national system. Now they can say "let the Government decide to take this over." But on a healthy reputation nationally they have hitherto absorbed these into their finances.

Mr. BALDWIN: Well, I am not sure that you could assume that the railways will continue to absorb losses on passenger services into their general accounts.

Senator BENEDICKSON: Am I correct in assuming that hitherto when they wanted to abandon services they had to go to the Board of Transport Services to get permission to do so? There had been a traditional right on the part of the public, and the costs were absorbed as part of the overall system even if that particular section operated at a loss.

Mr. BALDWIN: Yes.

Senator BENEDICKSON: Is this to be continued?

Mr. BALDWIN: Only if the commission decides there is a substantial public need for continuance of the service.

Senator ARGUE: I saw some time ago that somebody was saying that the CPR should run a train only every other day on its main line. I wonder if there is any information as to whether the CPR wishes to reduce its Canadian service?

Mr. BALDWIN: Not to my knowledge. The last statement of the Chairman of the Board was more or less a guarantee of the continuing of the Canadian.

Senator BENEDICKSON: With respect to the cost of passenger transportation, and I am directing this to the deputy minister, what expertise do you feel you have behind you now in comparison with the accounting services and the regular expertise and everything else at the disposal of the two railroad companies? What do you think you have in the department to combat suggestions that a certain enterprise, particularly passenger services, is uneconomical? How can you counteract a statement by the two railroads or by one or by each of them that they are losing money? How much expertise have you got to deal with that?

Mr. BALDWIN: The Board of Transport Commissioners would have that responsibility. They do have a costing staff which takes independent action in those matters, and in addition it would be contemplated under the new commission there would be a substantial strengthening of the costing competence of the organization, as will appear implicit when we come to the clauses which deal with costing procedures.

Senator BENEDICKSON: My impression is that when the Government or the public is opposed on a rate proposition, whether it is passenger or freight, they are rather outbalanced by the expertise of the private railway companies. Are we counteracting this?

The Acting CHAIRMAN: For one, I am not prepared to accept that the railways have all the genius and that every time they make application for abandonment they are overpowering in their statistical information. They do not always make their point, and it is a matter of weighing the evidence, and I am not prepared to accept a statement that the Board of Transport Commissioners is not equipped, and well equipped, to deal with these matters.

Senator BENEDICKSON: I think you made the point properly, Mr. Chairman, but my question to the witness is: Does he think that we are properly equipped to counteract the expertise of the railway companies when it comes to arguments about these matters?

Mr. BALDWIN: I think for the present procedures, yes. For the purpose of the new bill, there will have to be a strengthening of the accounting and costing competence.

The Acting CHAIRMAN: Clause 314J?

Mr. BALDWIN: This clause is similar to one a few pages back which establishes the procedure for applying for a subsidy on account of an uneconomic passenger service.

The Acting CHAIRMAN: That brings us to the end of section 42. Does section 42 carry?

Carried.

The ACTING CHAIRMAN: Section 43, two-thirds of the way down page 38, and that deals with section 315 of the present act.

Mr. COPE: This is a restatement in the bill of a clause which now exists in the Railway Act. The balance of the clause deals with certain powers of the commission with respect to accommodation of traffic which are consistent with the new philosophy prevailing in this act. The other parts of the section are the reinstatement of the odd words.

The ACTING CHAIRMAN: Generally speaking, section 315 of the present Railway Act deals with accommodation of traffic?

Mr. COPE: Yes.

The ACTING CHAIRMAN: This is repealing subsection 6 which gives the board the power to order specific works and tolls. What does it add?

Mr. COPE: It does not add anything. In the present Railway Act it reads, "or that specific railway tolls be charged." It indicates here the maximum charges that may be made. The railways are going to be given rate freedom subject to a maximum rate control.

Senator KINLEY: Can they expropriate property?

The ACTING CHAIRMAN: The railway?

Senator KINLEY: This commission, for the purpose of acquiring property?

The ACTING CHAIRMAN: No. You have to look at what powers the commission has.

Senator KINLEY: If it is for private purposes, I do not think they can expropriate.

The ACTING CHAIRMAN: The railway itself has general expropriating authority.

Senator KINLEY: Not for private lines.

The ACTING CHAIRMAN: If it is a branch line of a railway. Section 43?

Senator BENEDICKSON: What page are we on?

The ACTING CHAIRMAN: Page 39, section 44.

Senator BENEDICKSON: Thank you.

The ACTING CHAIRMAN: It is section 317 of the act.

Mr. BALDWIN: The new section 317 is designed to provide for the control of rates for the carriage of goods in smaller quantities up to 5,000 pounds. I referred this morning to the maximum rate theory which would apply where you have a monopoly condition. This particular clause is intended to deal with that situation for smaller loads of less than 5,000 pounds, to give the commission the power to establish a tariff in such cases if it feels it is necessary because of a monopoly condition.

The ACTING CHAIRMAN: They would appear to have the power to disallow.

Mr. BALDWIN: Yes, and to disallow.

The ACTING CHAIRMAN: Section 44 carries?

Mr. BALDWIN: A note I have here prepared by the Justice draftsman states:

In line with the general purpose of giving railway companies as much as possible of the freedom of action that other businesses have in conducting their affairs, the section proscribing the pooling of tolls except with the leave of the Commission is removed. The Section formed a logical part of the Act under the monopoly conditions formerly obtaining, but there now is no valid reason for retaining this item of regulation. Pooling, in fact, may be a useful means for railway companies to realize economies of operation and greater efficiency.

The ACTING CHAIRMAN: Shall section 44 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 45, dealing with section 319 of the present Railway Act.

Mr. COPE: This is putting back that clause in a somewhat reduced form.

The ACTING CHAIRMAN: Shall section 45 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: On page 40, section 46. What happens there is that three sections of the Railway Act are repealed. What is the effect of the repeal? What do they deal with?

Mr. BALDWIN: These were so-called unjust discrimination, undue preference clauses which have been eliminated because they do not fit the concept of competitive regulation. They have been replaced by a new maximum rate formula in clause 16, which is the appeal clause on rates prejudicial to the public interest.

The ACTING CHAIRMAN: Do we approve section 46?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 47 substitutes new section 324 of the Railway Act.

Senator ISNOR: May I come back to page 40, transportation by rail and motor vehicles. As I understand it, the CNR controls the Smith Transport Company.

Mr. COPE: The CPR.

Senator ISNOR: Is it the CPR or the CNR?

Mr. COPE: The CPR.

Senator ISNOR: They provide facilities, and what about the private trucking companies?

Mr. BALDWIN: This clause is intended to require that the railways may not give preferential treatment to their own subsidiaries as compared to private trucking companies.

Senator ISNOR: That is what I wanted.

The ACTING CHAIRMAN: Clause 47?

Mr. BALDWIN: The amendments here are, first of all, consequential to the previous repeal or elimination of certain words such as "discriminatory". There is a broadening of the reference to joint tolls which previously referred to joint tolls between rail and water, and is now to cover joint tolls between any two means of transportation.

Senator KINLEY: That would be the Prince Edward Island ferry and the Newfoundland ferry?

Mr. BALDWIN: Yes, it could be.

The ACTING CHAIRMAN: Section 47 carries?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 48, at the top of page 41.

Mr. BALDWIN: The new subsection (1) merely provides the company shall file a classification for freight purposes with the commission for background purposes.

The ACTING CHAIRMAN: Shall section 48 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 49.

Mr. BALDWIN: These are also consequential changes relating to freight and tariff filings. I can give you a detailed note of each of these subsections if you

wish, but I can simplify it by saying that they are adjustments regarding the legality of tolls.

The ACTING CHAIRMAN: Yes, fill that in a little bit.

Mr. BALDWIN: Yes. Subsection (1) is unchanged in this bill. The company is given authority to pass a bylaw which in effect empowers it or its agents to issue tariffs of tolls. The bylaw is the authority by which the company itself approves tariffs made in its name, and accepts responsibility for them.

Subsection (3) of the present act provides that such bylaws shall be approved by the new commission or board. This is now considered unnecessary since the bylaw itself does not set the tolls but is merely the legal authorization for them. Under this subsection it is required that the bylaws shall be filed with the Commission so that they shall be aware of them.

Subsection (4) originally provided that the board should approve such tolls or vary them, and this is dropped as not having any relevance in the new system.

Subsection (5)—that is, in the present act—specifies in some details the requirements and procedure for the authorization of tolls, including the board's approval of the bylaw. This is simplified in order to change that provision and make it fit in with the new system, which provides that the company shall not charge tolls other than those that have been specified in a tariff that has been filed with the board, and no formal approval is required.

Subsection (5) amends the present subsection (6). It incorporates in briefer form and in consistency with the general principles of rate regulation certain subsections in the present Railway Act.

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 50?

Senator BENEDICKSON: This is important.

The ACTING CHAIRMAN: Do you mean section 50?

Senator BENEDICKSON: Yes. It relates to the traditional Crowsnest Pass Rates.

The ACTING CHAIRMAN: That is right.

Senator BENEDICKSON: Now, I believe in the other House there was some difficulty about this legislation as having some relation to this. I would judge that it would be open to this committee legislatively to do something about this if it chooses to do so, but I am not recommending that at the moment. What I am looking at is the left-hand side of our information sheet on the bill.

The ACTING CHAIRMAN: On page 42?

Senator BENEDICKSON: Yes, on page 42, the one that refers to the Crowsnest Pass Rates.

Senator ASELTINE: The minister went into this fully this morning.

Senator BENEDICKSON: I am sorry, but I was not here this morning. I am not a member of the committee. Has this been dealt with to your satisfaction?

Senator ASELTINE: Yes.

Senator LEONARD: The minister made a statement on it this morning.

Senator BENEDICKSON: The only question I wanted to raise was whether the increased grain traffic—maybe this has been covered—of the last two or three years, particularly westward in virtue of the sales to China, have in the opinion of Mr. Cope, an economist in the department—and an impartial person, I presume—brought profitable revenues to the railways, or whether they have hurt the revenues.

Mr. COPE: I think the section as set out has really nothing to do with revenues and the costs of the carriage of grain. It merely maintains the Crowsnest Pass Rates. In fact, it extends the statutory features of the Crowsnest Pass Rates to Vancouver and Prince Rupert, and also to Churchill.

The ACTING CHAIRMAN: It just says that in this bill, no matter what we say or do, nothing will disturb the existing Crowsnest Pass Rates—that is in either subsections (1) and (2).

Senator BENEDICKSON: Perhaps I did not put my question very well, Mr. Chairman. My thought was that this was an opportunity to obtain information from the deputy minister or from the branch head in the Department of Transport having to do with railways, on the question as to whether their inside studies in the department indicate that this Crowsnest Pass Rate freezing under the old legislation is in fact a loss to the railways, or whether they can get by under it.

Mr. BALDWIN: I do not think it is possible to answer that question categorically. I think all you can say is that the statistics that were used by the MacPherson Royal Commission in framing their comments on this situation are obviously out of date because of the substantial increase in the movement of export grain.

Senator BENEDICKSON: I think that is a very, shall I say, clever answer, but I submit this is an important question. I never like to give evidence in committee—

The ACTING CHAIRMAN: Actually, senator—

Senator BENEDICKSON:—but I want to say before I am cut off that the net profits of the two railways have not been so bad since they had to ship increased amounts of grain under the obligation of the Crowsnest Pass Rates. Can I ask the deputy minister whether in his department, or in the branch having to do with railways, there has been a study as to whether this is a harmful thing to the railways, or whether, having regard to the volume, they can get by.

Mr. BALDWIN: Not at the moment.

Senator BENEDICKSON: There is no study in the department?

Mr. BALDWIN: No.

Senator ASELTINE: When there is a big crop they always make money carrying grain.

The ACTING CHAIRMAN: Shall section 50 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: We come now to section 51, which is simply a repeal of section 332 of the act.

Mr. BALDWIN: Yes, section 332 sets forth the requirements for class rate tariffs, and they are no longer necessary.

The ACTING CHAIRMAN: Does section 51 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: We come now to section 52 on page 44.

Mr. BALDWIN: These are the provisions in the present legislation relating to the filing of tariffs reducing tolls, and they have been somewhat liberalized in the re-drafting. The old distinction between competitive and other rates becomes superfluous so it is eliminated from the new subsection (2). In the case of tariffs of reduced tolls the new subsection (3) merely makes it clear that reduced rates may be placed in effect immediately on or after the issue of the tariff without giving a substantial period of advance notice.

The ACTING CHAIRMAN: Yes.

Mr. BALDWIN: In other words, it gives the railways flexibility to meet downward adjustments on short notice to meet competitive conditions.

The ACTING CHAIRMAN: Does section 52 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 53 on page 45?

Mr. BALDWIN: This is a provision, sir, that establishes a floor under rates—the so-called compensatory floor. Perhaps Mr. Cope can speak to the definition of a compensatory rate.

Mr. COPE: Well, the compensatory rate determination would be a job for the commission. The commission are given certain instructions here as to the ways in which they will consider it. Subsection (5) enacts that where the commission receives information by way of a complaint or otherwise containing *prima facie* evidence that a freight rate is not compensatory the commission will make an inquiry into the question.

Senator PEARSON: In other words, if the competition is too keen, and the railway is losing money, it can appeal?

Mr. BALDWIN: That is correct. There is a floor set on the basis really of the variable cost.

Senator LEONARD: Is there any definition anywhere of the word “compensatory”?

Mr. BALDWIN: Yes, when the rate exceeds the variable cost.

The ACTING CHAIRMAN: Where does that appear?

Mr. BALDWIN: The new section 334 (2) provides:

A freight rate shall be deemed to be compensatory when it exceeds the variable cost of the movement of the traffic concerned as determined by the Commission.

Senator BENEDICKSON: This may not be relevant to this section, but it is another instance where a railway, shall we say, is almost the exclusive carrier. What are the rights of those who appeal with respect to charges made in a non-competitive area? And I want to add to my question: Are there considerations given to rates charged say for the same areas in another territory such as the United States? Frankly, I am thinking of the carrying of iron ore over say 100 miles. What protection has an iron mine, which depended on one railway, from exorbitant rates? When I say “exorbitant,” I mean if they are related to or compared to the rates that would be charged for carrying the same tonnage of iron ore below that in the United States?

Mr. BALDWIN: Section 53 now before the committee contains three separate subsections. The first I mentioned previously. It is the clause providing for the compensatory floor. The second, section 335, provides for the two-year freeze on certain rates, to and from the Atlantic provinces. That also was referred to by the minister this morning. The third, section 336, is the clause which provides that where a shipper believes he is in a monopoly position *vis à vis* the railways he may apply to have a maximum rate fixed. And clause 336, sets out a rather detailed procedure and formula for establishment of such maximum rates. Both in that case and in any other case where he may be dissatisfied with the rate made available to him by the railways he also has the right to apply under clause 16, which was dealt with this morning. The criteria that are set forth in that clause have some bearing on your last question, because they relate to undue advantage, etc.

Senator PHILLIPS: Before leaving section 336, in subsection (2) the figure of 150 per cent of the variable cost is mentioned. I have never had an adequate explanation of the origin of the figure of 150 per cent. The only ones I know who can work on this markup are lawyers, and I wonder how railways do it.

Mr. BALDWIN: This was the figure recommended by the royal commission, sir.

Senator PHILLIPS: I have read the report, and I am asking how they arrived at the figure of 150 per cent.

Mr. BALDWIN: The best thing we can do is to refer you to a substantial number of considerations of the commission in coming to 150 per cent.

Mr. COPE: On page 98 of volume 2 of the royal commission report they set out these guidelines:

To summarize and itemize we set out as objectives of maximum rate control the following:

1. It must limit the impact of railway monopoly upon shippers.
2. It fails in its purpose if it is seriously detrimental to the revenue position of the railways.
3. It must be flexible enough to reflect at intervals the changes in railway costs which will occur with the rationalization of plant and services.
4. It should leave incentives for efficiency with the railways and offer incentives to the captive shippers to use transportation as economically as they would in a competitive environment.
5. It must be in keeping with newer ratemaking practices.
6. It must not be in conflict with the optimum allocation of resources in transportation.

In addition to these necessary objectives there are some attributes which would be desirable to have associated with maximum rate control.

1. It would be desirable that it provide some solution to the additional burdens which fall on the long-haul shipper.
2. If possible the regulatory and appeal machinery should be rationalized and simplified to use less time and energy in hearings.

These were the basic factors they took into account and they came up then with the formula set out.

Senator PHILLIPS: I still have not an explanation on how they arrived at the figure of 150 per cent.

Mr. COPE: They do not report on that. They show their general step-by-step analysis.

Senator BENEDICKSON: Mr. Cope, on that point of using an arbitrary position, I think there is a big dispute between the two major railways and say the shippers of lumber and timber products in Northwestern Ontario. My impression is that in anticipation of this legislation which gave freedom to the railways, or gave them more freedom than they had, they proposed to make an increase in their charges for the transport of timber products in the Lakehead area and in Northwestern Ontario generally, that they could not for competitive reasons do anywhere else in the country; but this is before the passing of this legislation. Have you any comment to make on that?

Mr. COPE: The rates you refer to are what are known as competitive rates. The conditions attached to the establishment of these rates are not going to change with this new legislation. The rates on lumber from that area are not such as under most situations familiar to me would involve the development of a maximum rate. I know the rate increase has been suspended until March 31 for further investigation as to other competitive alternatives available to the shipper and what bearing that might have on railway rates.

Senator BENEDICKSON: But did this increase relate to contemplation of advantages under this statute?

Mr. COPE: This bill gives the railways no greater freedom with respect to those competitive rate increases than they now have. The bill itself does not tip the balance.

Senator BENEDICKSON: It does not change things?

Mr. BALDWIN: Not in that situation.

Senator BENIDICKSON: Not with respect to this situation?

Mr. COPE: No.

Senator BENIDICKSON: But it is within your knowledge that there is a protest to the department about this 10 per cent increase with respect to forest products?

Mr. COPE: Yes, we are familiar with it.

Senator BENIDICKSON: But it does not directly refer to the passing of this legislation?

The ACTING CHAIRMAN: No.

Senator BENIDICKSON: Thank you.

The ACTING CHAIRMAN: Now, the section we have been talking about, the new section 336, takes us to page 51.

Senator ISNOR: Mr. Cope, did you speak in Halifax?

Mr. COPE: Yes; it was very enjoyable.

Senator ISNOR: You dealt with this 150 per cent. Did you make a statement that it was pretty hard to understand?

Mr. COPE: I may have. I cannot recall that I referred to 150 per cent. I think I know what you mean, senator.

Senator ISNOR: It does not make sense.

Mr. COPE: I was referring to what the position would be for Canadian railways if all rates exactly equalled variable costs. I think this is the one you mean. I said that if the railway charged nothing more than variable costs for all their product movements in Canada, I estimated that their total deficit would run to some \$400 million. I was trying to show that the railways required something over and above variable costs to meet their overhead costs.

The ACTING CHAIRMAN: Is section 53 carried?

Senator ISNOR: No, Mr. Chairman. Section 53 is very important. It takes in clauses 334, 335 and 336. I understand there is to be a hearing tomorrow, by which time representations are to be made from the Alberta Grain Growers' Association, is it?

Mr. BALDWIN: Not that I am aware of.

The ACTING CHAIRMAN: Mr. J. J. Frawley is going to appear tomorrow morning. The purpose of his visit and what he is going to say, I am not aware, and he has not told me.

Senator ISNOR: Neither am I aware of what he is going to say. I think he will talk on section 53 and the freight rate sections, 334 to 337 and I would not like to see these passed now. I would ask that they stand.

The ACTING CHAIRMAN: I rather lean to the idea. We can go back on them, because we will not be through.

Senator PHILLIPS: In regard to the point by Senator Isnor, he was able to calculate what the deficit would be, without anything for variable costs. Following that theory on, to my mind you should be able likewise to calculate what the railways need to make a reasonable profit, without taking in a figure of 150. I am just reversing the method and saying that if you know what they would lose you must be able to calculate what market they need in order to make a profit.

Mr. COPE: You mean, the average markup?

Senator PHILLIPS: Yes.

Mr. COPE: This is mathematically possible, but the problem is that all forms of traffic would not be able to bear that size of markup. Bulk commodities, for example, by and large, would not be able to absorb markups of anything like that—the examples I think of are sand and gravel, cement, iron ore, and grain.

Senator PEARSON: Potash.

Mr. COPE: These kinds of commodities would not bear anything like that markup.

Senator PHILLIPS: You did not take that into account when you made your statement?

Mr. COPE: That statement was just a measure of variable costs against revenue.

Senator PHILLIPS: This is all I am looking for.

Mr. COPE: In any event, I think the one meaningful comment I might add here is that the commission is directed by this bill to review this formula and to report on it after four years functioning, and if there are problems associated with it, presumably they will have some solutions to put forward.

Senator BENEDICKSON: But underlying everything is there a basis that rates will be compensatory?

Mr. COPE: Yes, clause 334 specifies that rates will be compensatory except where Parliament has decreed otherwise.

Senator BENEDICKSON: Does that refer to Crows Nest rates?

Mr. COPE: Yes, and to other rates in the Atlantic provinces that are frozen.

Senator BENEDICKSON: Which are alleged to be not compensatory?

Mr. COPE: Yes.

The ACTING CHAIRMAN: We are standing section 53.

Section 54?

Mr. BALDWIN: Section 54 really needs to be taken in conjunction with sections 55, 56 and 57, if I may comment on these.

These deal basically with the matter of passenger tariffs, and again they tried to adopt the principle already described with regard to freight rate tariffs.

Section 54 provides basically that the railways have general freedom to set passenger tariffs. However, the commission may intervene in cases where it is felt there is a monopoly situation applying in regard to passenger movement, to deal with tariffs in that connection, or to deal with commuter tariffs.

Section 55 provides an appeal in regard to passenger tariffs, if the public feels that a passenger tariff is not satisfactory.

Sections 56 and 57 provide simplified procedures for the filing of passenger tolls.

The ACTING CHAIRMAN: Sections 54, 55, 56 and 57?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: That brings us down to section 58, which simply repeals. What do these sections deal with?

Mr. BALDWIN: Under the old system, this dealt with certain matters of joint tariffs, placing a burden of proof on the railway in regard to relationship between costs and rates for joint haul movements, and they were not considered to be consistent with the new recommendations of the MacPherson Commission. In fact the sections were considered superfluous.

The ACTING CHAIRMAN: Section 58?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 59?

Mr. BALDWIN: This section, was referred to this morning by honourable senators and by the minister. It preserves the provisions of any existing statute with regard to the movements of freight through the Maritime ports.

The ACTING CHAIRMAN: Section 59?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 60? That is a repeal.

Mr. BALDWIN: This is repealing a heading and section dealing with freight classification, which is no longer required.

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 61?

Mr. BALDWIN: Section 61 repeals that section dealing with special development rates. It is no longer needed because the railways can put in developmental rates without a new section.

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 62?

Mr. BALDWIN: Section 62 is merely the clarification of something in the Railway Act, dealing with the movement of mail and the carriage of armed forces. The section has been revised to deal in separate subsections with rates for the carriage of mail, the carriage of armed forces and their baggage, equipment and stores. The only basic change is to ensure that such rates have to be compensatory.

Senator PEARSON: I would like to know if this section will cover provincial peace officers as well as others.

Mr. BALDWIN: Yes.

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 63?

Mr. BALDWIN: This refers to the period during which the railways needs to retain unclaimed goods, during the period between advertising and sale.

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 64?

Mr. BALDWIN: Section 64 is the repeal of sections no longer necessary, dealing with tolls and tariffs on railway bridges. A new section 365, is provided giving the commission power to exercise with respect to express tolls and express tariffs the powers it has in respect to freight tolls and freight tariffs.

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 65?

Mr. BALDWIN: This is an amendment to section 367, to provide that express tariffs must be filed before carriage, and it eliminates the existing reference to tariffs being disallowed or suspended by the board, because the commission will not have that power under the new legislation.

The ACTING CHAIRMAN: I see a change in relation to express tariffs. You cannot charge them before you file.

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 66?

Mr. BALDWIN: This amendment was requested by the Canadian Standards Association. It deletes a previous specific reference to a specific height for wires and cables along streets and highways, telephone and telegraph lines, making it possible to deal with them in a more flexible fashion, in accordance with arrangements which may be approved from time to time by the Canadian Standards Association.

Senator ISNOR: That can only be applied to the new lines, can it not?

Mr. BALDWIN: Yes, sir.

The ACTING CHAIRMAN: Is section 66 carried?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 67.

Mr. BALDWIN: Because of the comprehensive changes regarding rate regulations in eliminating the old clauses in the Railway Act, we eliminated their

coverage of telegraph and telephone tolls, which are under the Board of Transport Commissioners. Now, since no change is contemplated in that connection, it has been necessary to restore those clauses for purposes of jurisdiction over telegraph and telephone tolls. That is the basic purpose of section 68.

The ACTING CHAIRMAN: There is no change?

Mr. BALDWIN: No.

Senator BENEDICKSON: They go back to this new board?

Mr. BALDWIN: Yes.

The ACTING CHAIRMAN: We will deal now with section 68 on the top of page 57.

Mr. BALDWIN: But that is the section I was just talking about, sir.

Mr. COPE: I do not think they have section 67, then.

Mr. BALDWIN: Did I miss a clause, then, in dealing with the telegraphs and telephone tolls?

The ACTING CHAIRMAN: No, section 67 is the one dealing with telegraphs.

Mr. BALDWIN: Section 68 does the same thing, actually. They are both the same kind of thing.

The ACTING CHAIRMAN: All right. Is section 67 carried?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 68?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Now, section 69 on page 58.

Mr. BALDWIN: Section 69 requires the commission to establish or review at regular intervals the uniform classification of accounts which the railways use. So this is brought up to date with current practice.

The ACTING CHAIRMAN: Carried?

Hon. SENATORS: Carried.

Senator BENEDICKSON: I am sorry, but we have gone from 67 to 68 without my observation. With respect to telephone companies, is there any activity within the department *vis-à-vis* the provinces to try to bring these companies under some jurisdiction, one or the other? Is there anything new in this?

Mr. BALDWIN: Not at the present time.

The ACTING CHAIRMAN: Is section 69 on page 58 carried?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Now, section 70.

Mr. BALDWIN: This is a lengthy clause that establishes the procedure which the commission is supposed to follow in dealing with costing matters which, of course, are going to be of considerable importance in determining whether a branch line or a passenger service is losing money and whether a subsidy is to be paid and so on.

The ACTING CHAIRMAN: This is new. What is the pertinence of it?

Mr. BALDWIN: This is new, yes.

Senator PEARSON: It also refers to air and buses, and so on.

Mr. BALDWIN: It refers to any mode of transport which may be brought under the new commission, yes.

The ACTING CHAIRMAN: Are there any particular provisions there that we should note?

Mr. BALDWIN: I think the most important provisions are on page 60, dealing with the substantial emphasis on the requirements to hold public hearings where changes are proposed.

The ACTING CHAIRMAN: That presupposes that you start out with the system of costing.

Mr. BALDWIN: Yes.

The ACTING CHAIRMAN: Then any departure from that would require public hearings.

Mr. BALDWIN: That is right.

The ACTING CHAIRMAN: Who establishes the system?

Mr. BALDWIN: In the first instance the commission.

The ACTING CHAIRMAN: I see. I suppose that that in itself might involve a public hearing.

Mr. BALDWIN: It could, although in the comments we received in the discussions with provincial representatives it was suggested, for purposes of a starting point, that we should use very much what has been done by the MacPherson Commission in this regard.

The ACTING CHAIRMAN: Section 70 carries?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: That takes us through to the bottom of page 61 to section 71.

Mr. BALDWIN: Clause 71 is a small amendment requested in order to strengthen the ability of railways to deal with trespass by skidoos. We have had quite a lot of difficulty in some areas.

The ACTING CHAIRMAN: You mean skidoos that run along the railway line?

Senator PEARSON: They get them going up and down the lines.

Mr. BALDWIN: People have been killed in a few cases.

The ACTING CHAIRMAN: Carried?

Senator BENEDICKSON: No. Let us take a look at this first. In my little community there are a thousand skidoos. Let us just read the section. We are going to have a winter festival a month hence, and we will have 500 skidoos from the United States.

Senator McDONALD: Are you going to hold the festival on the railway track?

Senator BENEDICKSON: I certainly hope not. All right.

The ACTING CHAIRMAN: Carried?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 72 on page 62.

Mr. COPE: This is a revision of provisions in the existing Railway Act with respect to unlawful rebates or concessions. It reinstates the clauses required. It removes certain others.

Oh, yes, section 436 as presently set up in the Railway Act also prohibits unjust discrimination and this is a concept which has been eliminated by the new philosophy set out in the bill. Other than that it just reinstates the provisions against the giving of illegal rebates.

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 73.

Mr. BALDWIN: 73 is a consequential change in the field of rate regulations, which eliminates reference to competitive express tariffs.

The ACTING CHAIRMAN: Carried.

Mr. BALDWIN: Section 74 relates primarily to what is known as the "bridge subsidy," a special payment that was authorized some years ago with regard to the movement of traffic across northwestern Ontario. This subsidy is now eliminated in the legislation, because of the new provision for subsidy arrangements contained in other clauses, but in providing for its elimination so that the effect

on rate changes will be kept to a minimum and the impact will not make itself felt all at once, provision is also made that any rate adjustments consequential upon the elimination of the subsidy should take place in three steps over a three year period.

Senator BENIDICKSON: As I understand it, this gave to the Canadian National Railway alone an advantage of something like \$2½ million last year and the year before.

Mr. BALDWIN: It could be.

Senator BENIDICKSON: Well, who is going to absorb this \$2½ million henceforth?

Mr. BALDWIN: It will be absorbed in the general subsidy clause, sir, which you will see, when we come to it later. It is the new transitional subsidy which is to carry the railways until any payments of special subsidies on account of uneconomic services are developed.

Senator BENIDICKSON: But will shippers in northwestern Ontario, in the bridge area particularly, and fairly soon, absorb the results of this?

The ACTING CHAIRMAN: You mean have a higher rate because of this change?

Mr. BALDWIN: In some cases that could be so, but this is why we have provided the three year period, which really goes up to the end of four years. Rate adjustments must be gradual rather than be made all at once.

Senator BENIDICKSON: But the bridge feature, which was to prevail with respect to the area between Winnipeg and the other terminal—perhaps it was Sudbury or the Lakehead, I do not remember—is abandoned, and over a three-year period the shippers will have to pay for it.

Mr. BALDWIN: It is abandoned in one sense. In another sense it is swept up in the transitional subsidy, which provides for a large overall declining subsidy. But because the original bridge subsidy was specifically related to a rate situation in a given area, the railways would be free when the subsidy disappears to make certain rate adjustments, if they considered this necessary, and the three-year phasing out was therefore put in in order to ease any impact that might occur so far as the shippers were concerned.

Senator BENIDICKSON: I do not quite understand how it is going to soften the blow, but I want my colleagues, the senators, to realize that since 1952—I believe that was the year—there has been this so-called bridge subsidy.

Mr. COPE: It followed the Turgeon report.

Senator BENIDICKSON: Which I recollect gave out of the Treasury to at least one railway company, the CNR, about \$2½ million last year. I assume the CPR would get a little less, but if this is not any longer to be legislatively paid, presumably the shippers in this area are going to have to pay, is that correct?

Mr. BALDWIN: The MacPherson Commission recommended abolition of this subsidy and made a finding that it really was not working very well.

Senator LEONARD: Does not subsection (2) at the top of page 63 authorize the payment of subsidies?

Mr. BALDWIN: It authorizes increases in rates in easy stages.

Senator BENIDICKSON: But I don't see why we should necessarily approve of this.

The ACTING CHAIRMAN: How do the transitional subsidies work in this?

Mr. BALDWIN: All general subsidies have been abolished, and there is a single transitional subsidy which is mentioned. The payments start at the present payment to the railways and decline over a period of years. In that time their earning power should be increased and this will offset the loss.

Senator BENEDICKSON: Does the deputy minister contemplate that if the railways get \$2½ million a year out of this now the burden will be transferred to somebody else? Would it be transferred to shippers across the country or would it be specifically transferred to shippers within that particular bridge area.

Mr. BALDWIN: It may come from increased earning power due to the greater freedom to compete or due to various other reasons. In fact we think the greatest increase will come in terms of increased earning power through less stringent regulatory procedures generally across the country.

Senator BENEDICKSON: Not necessarily a direct impost on the shippers in the bridge area?

Mr. BALDWIN: Not necessarily increased rates at all. Reduced rates may produce an increase in traffic in some cases.

The ACTING CHAIRMAN: On page 63 you deal with certain increases.

Mr. BALDWIN: This is the new transitional subsidy clause.

Senator McDONALD: As I understand it, in 1967 you will pay \$110 million to the railways to compensate them for the general losses across the nation, and this sum will decline each year up to 1975. After that I presume there will be no further subsidies paid in this fashion.

Mr. BALDWIN: No, except for special subsidies that may be voted if, say, the Canadian Transport Commission so recommends in connection with, say branch lines.

Senator McDONALD: But there would be no general subsidy paid beyond 1975?

Mr. BALDWIN: No, only special subsidies.

Senator McDONALD: And any subsidy paid after that date will be paid on the basis of special consideration?

Mr. BALDWIN: That is right. It may be, for example, on a given movement of commodities or for some reason like that.

The ACTING CHAIRMAN: In the interim you could have special subsidies?

Mr. BALDWIN: Yes, but they are deductible from the transitional subsidies.

Senator KINLEY: On page 44 you say:

For each of the years 1967 to 1974, inclusive, the Commission shall calculate the normal payment that would have been made to a railway company if the following sums were available to be divided among eligible companies, namely:—

And then you give a list of amounts. Have these amounts been set arbitrarily, or wher do they come from?

Mr. BALDWIN: The amount being paid is \$110 million. We started from the present level and we calculated a given percentage of reduction each year, this being, if you will, a general approach to try estimating the period of time the railways would need to improve their earning power and to allow the new special subsidies to be determined.

Senator KINLEY: Supposing the sums are not available?

Mr. BALDWIN: When you come to subsection (4) you will see the consequential relationship to subsection (2).

Senator KINLEY: Is that on page 64?

Mr. BALDWIN: Yes.

Senator KINLEY: The Minister of Finance may pay this out?

The ACTING CHAIRMAN: You will find that under the authority to pay out.

Senator KINLEY: And this is an arbitrary figure here?

Senator BENEDICKSON: Senator McDonald raises the question of the termination of this very substantial subsidy by 1975. Will the deputy minister comment at all on the relationship of this to the fact that with respect to the CNR in 1952 we decided legislatively that we would not automatically buy their 4 per cent preferred stock after nine years, I think it was, nor would we forgive them interest on \$100 millions loaned, after ten years. Is there any relationship to this being extended?

Mr. BALDWIN: Not particularly. The 1952 provision has been extended year by year in the Financing and Guarantee Act in any case, and there is no particular relationship to this clause.

The ACTING CHAIRMAN: If you look at page 65, section 470, there is a heading "Grain Products Defined".

Mr. BALDWIN: This is a new section which relates to the movement of grain products, and I shall ask Mr. Cope to explain that.

Mr. COPE: Section 470 provides protection to the grain and grain products which have been tied historically to the Crowsnest rate level, and provides for product movements to the points specified. It provides that the railways would never be entitled to any subsidy if they disturb the rate levels prevailing on 31 st December, 1966—if they adjusted these rates in any way.

The ACTING CHAIRMAN: You mean up or down?

Mr. BALDWIN: Up primarily.

Senator McDONALD: Where is the definition of grain, or is there one?

Mr. BALDWIN: Subsection 3 on the next page.

Mr. COPE: There has been a definition of grain by the Board of Transport Commissioners which has been recognized in the jurisprudence over the years. It has been recognized to include flaxseed, and the provision on page 66 indicates that rapeseed will take the rates applicable to flaxseed so long as the conditions maintain.

Senator McDONALD: Is that the only definition of grain in the act?

Senator KINLEY: Section 470 on page 65.

The ACTING CHAIRMAN: I would think that "grain products" has a meaning to the ordinary individual, and those who are interested in the trade would know what it means.

Senator McDONALD: The reason I asked is that there has been some difficulty in having rapeseed recognized as a grain. When I think of grain I certainly think of rapeseed, but this has not always been the case, and I wanted to know if there was a definition of grain in the act, and apparently there isn't.

Senator BENEDICKSON: What about page 66?

Senator McDONALD: Section 66 says rapeseed is a grain, but where does it define "grain" and say whether it is wheat, barley, rape, flax, etcetera?

Senator LEONARD: This is particularly applicable with respect to the Crowsnest Pass rates because at the time they were defined originally there was no carriage of rapeseed.

Senator McDONALD: Has it now been brought in under the Crowsnest Pass Agreement, and there has been considerable controversy about that, or is it only brought in under this?

Mr. COPE: Mr. Neilly reminds us that the definition of "grain" is taken to the commodities covered by the grain tariffs of the railways. And section 328 deals with rates on grain as defined there. The definition of "grain" and the definition of "grain products" were not covered in section 328, or rapeseed. This section indicates that "grain" will include rapeseed for the purposes of railway freight rates.

Senator BENEDICKSON: Of the Crowsnest rates?

Mr. BALDWIN: And tied rates.

Senator BENEDICKSON: They will be included.

Senator McDONALD: Rapeseed is now considered grain under the Crowsnest rates.

The ACTING CHAIRMAN: There was a subsection added to the Railway Act in 1960-61, and this is section 328(8), which says that "grain" includes rapeseed.

Mr. COPE: That provision is reinstated under subsection 3 of section 470.

Senator McDONALD: That is the reason you specify rapeseed in this act?

The ACTING CHAIRMAN: Yes. Any other questions?

Carried.

The ACTING CHAIRMAN: Now we come to section 75.

Mr. BALDWIN: This is merely a clarification section that makes it clear that the new provisions of the present legislation do not in any way affect the workings of the Maritime Freight Rates Act or the Terms of Union between Newfoundland and Canada in so far as they relate to transportation.

The ACTING CHAIRMAN: Carried?

Carried.

Senator SMITH (*Queens-Shelburne*): Before we leave that, what is the significance of the very last part of that section 34 that you have just read part of:

...or by subsection (9) of section 319 or section 328 or 329 of the Railway Act.

What is the significance of that part?

The ACTING CHAIRMAN: I will tell you in a minute.

Mr. BALDWIN: This is the provision of similar facilities for other truckers as well as railway-owned trucks.

The ACTING CHAIRMAN: Carried?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 76 we are dealing with now.

Mr. BALDWIN: This is the repeal of the CN-CP act as recommended by the MacPherson Royal Commission as being no longer suitable to the present type of operation.

Senator BENEDICKSON: Is that the old pooling act?

Mr. BALDWIN: Yes.

Senator BENEDICKSON: Has this anything to do with certain pool train arrangements or are they all abandoned?

Mr. BALDWIN: They are all abandoned.

Senator BENEDICKSON: The 1965 Canadian National Railways report refers to carrying on co-operation with the Canadian Pacific Railway in any way they could.

Mr. COPE: I think this has been reported in their annual report in the same form now since about 1940, each year.

The ACTING CHAIRMAN: Section 76 carries?

Hon. SENATOR: Carried.

The ACTING CHAIRMAN: Section 77?

Mr. BALDWIN: This is merely to be consistent with the amendment previously approved which would allow the CNR to build branch lines up to 20 miles in length without having to come to Parliament.

The ACTING CHAIRMAN: Carried?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 78?

Mr. BALDWIN: Section 78 extends the present provisions of the railway grade crossing fund, which otherwise would have run out, for a period of three years. That is the fund that makes it possible to make grants for grade separation.

The ACTING CHAIRMAN: This would have come in any event?

Mr. BALDWIN: Yes, this would have come in in any event.

The ACTING CHAIRMAN: Carried?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 79?

Mr. BALDWIN: This is to prevent any gap between the old and new systems of rate regulation. That is the basic effect of the clause here.

The ACTING CHAIRMAN: It continues the existing rates?

Mr. BALDWIN: Yes, until something else happens.

The ACTING CHAIRMAN: Carried?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: That brings us to Part VI.

Senator McDONALD: Before we leave this part, supposing by 1980, after all the general subsidies have been exhausted, the Canadian Pacific Railway would show a profit of "X" number of dollars on their railroad operations, could they then receive a subsidy on a particular branch line?

Mr. BALDWIN: If that branch line was operating at a loss and the commission had ordered the railway nevertheless to keep that operation going, they could be eligible for a subsidy.

Senator McDONALD: Would they automatically receive the subsidy?

Mr. BALDWIN: They would have to apply for it.

Senator McDONALD: But no matter what their profits might be on the total Canadian operation?

Mr. BALDWIN: The same would apply to the CNR.

The ACTING CHAIRMAN: Part VI, Transitional Provisions. Section 80?

Mr. BALDWIN: These are provisions which really take care of the transfer of the present organizations—the Board of Transport Commissioners as dealt with in section 80, and later the Air Transport Board and the Maritime Commission—to the new organization, and give the necessary protection to both the members of these boards and their staffs. Section 81 protects the position of the present Chairman of the Board of Transport Commissioners under the present legislation, which gives him certain rights *vis-à-vis* the Exchequer Court.

The ACTING CHAIRMAN: Carried?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 82 does the same thing in relation to the Air Transport Board?

Mr. BALDWIN: That is correct.

The ACTING CHAIRMAN: Carried?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 83?

Mr. BALDWIN: The same thing, the Air Transport Board.

The ACTING CHAIRMAN: Carried?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Sections 84 and 85?

Mr. BALDWIN: The Maritime Commission.

Senator BENEDICKSON: Can I say that I am worried about the concept of putting all these boards into one big board. Are we gaining in efficiency or are we going to have the big board develop into the same old thing of committees representing air, maritime and railways? I have sympathy for retaining the members of these various commissions, but where are we going to get unification?

Senator LEONARD: Or integration.

Senator BENEDICKSON: That was a dirty word in the other place. Will they just work this out, or are they all going to be members of one great big household but, in effect, carry on as they did before—maritime, rail and air?

The ACTING CHAIRMAN: Senator, I would say that the design of the bill is not intended to produce the kind of results you suggest might occur. There will be one commission, and those who are presently on these different boards will become members of that commission. There will be added members of the commission. There will be the committees of the commission who will be charged with particular duties in relation to the various headings. It would seem that a unity may be achieved. Of course, you will have to see how it works out.

Senator BENEDICKSON: Well, I am very concerned.

The ACTING CHAIRMAN: I have not the crystal ball here, but I think they have spent a lot of time on this, and the commission has made a report. It is worth giving it a trial.

Section 84 carries?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 85?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 86, the saving clause.

Mr. BALDWIN: This protects the tenure of office of the present appointees to the three agencies.

The ACTING CHAIRMAN: Yes. Does section 86 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 87 on page 71.

Mr. BALDWIN: This allows the new commission to carry on with any of the specific financial functions which may have been vested in the three existing agencies and which have not been completed at the time of transfer.

The ACTING CHAIRMAN: But it does not go further than that, does it? It deals with the—

Mr. BALDWIN:—the Appropriation Act covering the Estimates for 1966-67, and any Appropriation Act passed before the coming into force of Part I.

The ACTING CHAIRMAN: Yes. Does section 87 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 88?

Mr. BALDWIN: This is a similar clause relating to other duties and powers.

The ACTING CHAIRMAN: That is in relation to whatever the status may be of proceedings?

Mr. BALDWIN: That is right. Well, clause 89 covers pending proceedings specifically.

The ACTING CHAIRMAN: Yes.

Mr. BALDWIN: It allows them to be taken on by the new commission.

The ACTING CHAIRMAN: Do sections 87 and 88 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 90 on page 72?

Mr. BALDWIN: This is also to cover any possible hiatus in the regulations, rules, orders and directions presently made, and that existing agency documents carry on until replaced by new documents of the commission.

The ACTING CHAIRMAN: That applies also to section 91?

Mr. BALDWIN: Yes, section 91 covers the same thing.

The ACTING CHAIRMAN: Do sections 90 and 91 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 92?

Mr. BALDWIN: Clause 92 provides that if Parts II, III and V or any of them, come into force before Part I comes into force then any reference in them to the Canadian Transport Commission shall be deemed to be a reference to the Board of Transport Commissioners for Canada.

The ACTING CHAIRMAN: Does section 92 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 93.

Mr. BALDWIN: Clause 93 is a specific recommendation that was put before the Minister by the Air Transport Board, and it emphasizes the definition of "hire or reward" in respect of a commercial air service requiring a license from the Air Transport Board. In certain cases situations had arisen where without obtaining a license from the Air Transport Board or without being required to obtain a safety operating certificate from the department, owners of large aircraft were "dry" leasing aircraft—that is, leasing aircraft without crew. They were operating the aircraft on a "dry" lease basis, and at the same time having the aircrew on their own payroll transferred temporarily to the payroll of the lessee of the aircraft. By this method it was possible, in effect, to operate a charter commercial service without having to meet the safety requirements of the department. The definition is put in it to make it possible for the Air Transport Board to deal with that particular type of situation.

The ACTING CHAIRMAN: In other words, this is to regulate it?

Mr. BALDWIN: Yes.

The ACTING CHAIRMAN: Does section 93 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 94 has to do with the repeal of existing statutes.

Mr. BALDWIN: Yes, as set forth in the schedule.

The ACTING CHAIRMAN: Yes. Does section 94 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 95, the coming into force. You have different Parts coming into force on days to be fixed by proclamation.

Mr. BALDWIN: That is right. This gives the Governor in Council flexibility with regard to the timing of the bringing into force of certain sections.

The ACTING CHAIRMAN: Shall section 95 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Now, we have stood—

Mr. BALDWIN: There is the schedule.

The ACTING CHAIRMAN: The schedule was approved by approving section 94.

Mr. BALDWIN: Yes.

The ACTING CHAIRMAN: We have stood section 53, and the committee resumes its meeting at 10 o'clock in the morning to hear Mr. J.J. Frawley, and to make its final decision as to reporting the bill. I think we have got through a heavy job with despatch.

Senator KINLEY: Mr. Chairman, how far does this affect the Canadian Pacific Steamships? Are they controlled by this legislation?

Mr. BALDWIN: No, they are registered in Britain. They would not be controlled under the present arrangements. There would have to be additional legislation for that.

Senator KINLEY: They are not registered in Canada?

Mr. BALDWIN: No.

Senator KINLEY: They are British ships?

Mr. BALDWIN: Yes.

Senator ISNOR: Would you mind turning to page 56, Mr. Baldwin.

Mr. BALDWIN: Yes, sir?

Senator ISNOR: The "height of wires" deals only with telephone and telegraph lines; is that correct?

Mr. BALDWIN: That is correct.

Senator ISNOR: Does that refer to the group of lines that run through Nova Scotia and New Brunswick?

Mr. BALDWIN: The only jurisdiction existing in the Railway Act is with respect to telephone and telegraph lines, and that is what we are changing. No action is being taken with respect to anything else.

Senator KINLEY: There is nothing in the Lord's Day Act that is different, is there? I am referring to page 75 where it says:

Paragraph (X) of section 11 is repealed and the following substituted therefor:

"(X) any work that the Canadian Transport Commission, having regard to the object of this Act and with the object of preventing undue delay, deems necessary to permit in connection with the freight traffic of any transportation undertaking."

They do that now, do they not?

The ACTING CHAIRMAN: Mr. Baldwin tells me that the word "railway" now occurring in that section is being changed to transportation undertaking. That is the only change in language, is it not, Mr. Baldwin?

Mr. BALDWIN: Yes.

Senator BENEDICKSON: Referring to what Senator Isnor brought up about telegraph and telephone lines, I recall the answer of the witness, but are we then to understand that with respect to communications that have superseded this type of communication we depend upon other federal statutes such as the Radio Act?

Mr. BALDWIN: Yes, that would be the case. If it were a radio microwave system, there is adequate power under the Radio Act to deal with that.

The ACTING CHAIRMAN: The meeting is adjourned until 10 o'clock in the morning.

The committee adjourned.

WEDNESDAY, February 8, 1967.

Senator SALTER A. HAYDEN, *Acting Chairman*, in the Chair.

The ACTING CHAIRMAN: Honourable senators, I call the meeting to order. We had considered yesterday all sections of the bill except section 53, which we stood. We have assembled this morning for the purpose of hearing Mr. J. J. Frawley and then to conclude our consideration of the bill.

Mr. Frawley, would you care to make your statement at this time?

Senator LEONARD: Mr. Chairman, I wonder if I might interrupt for a minute in order to introduce Mr. Frawley. He is counsel at Ottawa for the Province of Alberta. I like to think of him on a rather different stage, however, and that as my old classmate at the University of Toronto and at law school. So I have a special word of personal welcome to Mr. Frawley on this occasion, if you will permit me to say so, Mr. Chairman.

The ACTING CHAIRMAN: Yes. I can assure you, senator, that Mr. Frawley is not unknown to the rest of us here.

Mr. J. J. Frawley, Counsel for the Province of Alberta: Thank you. Mr. Chairman and honourable members of the Senate, I am here this morning to protest against only two sections of Bill C-231, section 16 and section 336.

The ACTING CHAIRMAN: Mr. Frawley, you refer to section 336; that is part of section 53 and you will find it at the bottom of page 46.

Mr. FRAWLEY: When I said section 336, I should have said section 53 which enacts the new section 336. The two sections I am concerned with, then, are section 16 and section 336 which will be enacted if section 53 of this bill is enacted.

The ACTING CHAIRMAN: Section 16 is on page 10 and section 336 is on page 46.

Mr. FRAWLEY: I think in order to discuss these two sections as they should be discussed I should talk to you for a moment about the ten years of freight rate increases between 1946, immediately following the war, and 1958. I think that the setting up of the Royal Commission itself cannot be understood except in the light of those ten years of freight rate increases and, of course, the bill cannot be understood except in the light of the Royal Commission Report.

I have set this out in my brief and, as you choose or as you direct, Mr. Chairman, I can either read that opening part of the brief before I come to a discussion of what I think is wrong with section 336 and section 16, or I can summarize it.

The ACTING CHAIRMAN: Perhaps you could summarize it.

Mr. FRAWLEY: Yes. For ten years there had been applications by the railways for freight rate increases. Those increases were always authorized by the Board on what came to be known quite properly as horizontal percentage increases. Now, the horizontal percentage increases undoubtedly bore more heavily on the long haul provinces. As a matter of fact, they apparently did not bear heavily on Ontario and Quebec at all, because we never saw Ontario and Quebec represented before the Board of Transport Commissioners during those ten years of freight rate increases. They were not there because their shippers and receivers apparently were not detrimentally affected by those increases.

I can assure you that every other province in Canada was there from the beginning to the end, the end being in 1958.

Now, the cumulative effect of these horizontal percentage increases extending over ten years was that the level of freight rates had increased by 157 per cent at the time of the application, and the last application was the one made in the fall of 1958. That application was for a 19 per cent increase.

As I say in my brief, it is not too difficult to understand the uneven burden dollarwise of these percentage increases because, as I say, increasing a \$5 rate from Toronto to Halifax or Edmonton by 15 per cent meant a contribution of 75 cents to the railways' financial need, but only a contribution of 30 cents on a \$2 rate from Toronto to Sherbrooke. Then, of course, the situation was a little worse at times because where the competitive rate structure prevailed either the rates were not increased at all or where such increases were put on they were taken off again as competition dictated.

In 1958 finally the end was reached, and I mean the end in more ways than one. In that year the railways applied for a 19 per cent increase. We went there, not opposing or protesting against the need which the railways had for the 19 per cent, because they made out a case based on increased operating costs, but we went there protesting most vehemently against any more horizontal percentage increases in the then state of the Canadian freight rate structure. There had been so much distortion in the freight rate structure at that time as a result of a decade of increases that we felt something had to be done. I recall we sought what might almost be called an injunction from the Privy Council to stop the proceedings until we could state our case against any kind of increase in the then freight rate structure. We realized the railways needed this, or at least such as they could prove, and they ultimately proved 17 per cent. If you turn to page 2 you will see what I mean by distortion, and I have taken what I have put in there from Exhibit 58-22 of the Canadian Pacific Railway Company in support of its case which showed an estimated result of a general freight rate increase of 19 per cent with 25 cents on coal and coke. I should point out that the first column is the percentage of total revenue, and the estimated total revenue from competitive rates was \$581.7 million dollars, or 12.32 per cent, and that is the figure you will find in my brief. Here I just want to show the comparison, but the percentage of the total yield to be expected and estimated from that increase was 17.67 per cent, and I want to say that that was indeed an estimate because, as I have said, and it was a fact in many instances, the railways would put an increase on the competitive rates and then find through the exigencies of the situation that they would have to take them off again. They estimated that of the total 100 per cent of the increase, 17.67 per cent would come from competitive rates.

The next item on that page I want to stress particularly is "agreed charges". The percentage of total revenue from this was to be 11.75 per cent of the total revenue, but you will see that Canadian Pacific Railway estimated that they could only get $1\frac{3}{4}$ per cent of the total 100 p. 100 of the 19 p. 100 increase from the agreed charges.

Export grain rates, being statutory rates, are not subject to increase and so here it was nil.

International rates were not expected to yield anything. That perhaps should be explained; the increases there came about when the United States railroads made their increases and the Canadian railroads followed suit, but not until then. When they went before the Board of Transport Commissioners the international rates were not shown as yielding any increase.

Senator ISNOR: What year was that?

Mr. FRAWLEY: 1958. Now, there are two important figures on this sheet, the class rates and non-competitive commodity rates and those are particularly interesting particularly to the long haul provinces. The Canadian Pacific Railway estimated and placed before the board the statement that non-competitive rates and class rates were expected to yield almost 74 p. 100 of the 100 p. 100 of the 19 p. 100 increase, whereas agreed charges were to be practically negligible; they were hardly to yield any part of the increase at all.

It was in that situation that we went to the Privy Council—that is all the provinces except Ontario and Quebec. We felt we had reached the end of our endurance to bear these disproportionately applied increases. That is what was wrong; we did not object to the increases themselves, but to the disproportionately applied increases. We in the Western and Atlantic provinces bore the full brunt of the increases, while in other areas, mainly the St. Lawrence Valley and Central Canada they were paying a disproportionately small share of that increase.

We were heard by the federal cabinet in the fall of 1958, and the federal cabinet agreed with us. They approved of the increases, and we did not expect

that they would do otherwise. One of the reasons for this was that there was a strike imminent at that time, and the freight rate increase had to be approved. The railways had made out a case for it, but the Privy Council agreed with us that something had to be done to remove the inequities in the freight rate structure which had come about because of these ten years of disproportionately applied increases.

They passed a statute and they set aside \$20 million from the federal treasury to be paid to the Board of Transport Commissioners annually to be applied to roll back the effect of these freight rate increases on all traffic on the class rates and commodity rates which I have demonstrated from the Canadian Pacific Railway's exhibit were expected to bear this inordinately large share.

That is what was happening for ten years; this picture that I show you was what had happened since 1946. They had built up to this stage, and finally the western provinces—and in the western provinces I include B.C.,—and the Atlantic provinces rebelled and went to the cabinet. The next thing that was done was they set up this Royal Commission on Transportation. There is no doubt about that; the commission was set up as a result of facts placed before the federal cabinet where we went by way of appeal against the 17 p. 100 increase. Certainly the railways did not seek the royal commission, and I think that is rather important when you look at the present situation. I think it is rather important; there wasn't anything wrong with the Canadian freight rate structure as far as the railways were concerned except for one notorious thing, the Crowsnest Pass freight rates. But we felt there were many things wrong. There is one distortion I want to mention in passing, and that is the fact that required Edmonton to pay \$1.80 a hundredweight for steel sheets and plates from Hamilton while Vancouver pays \$1.05, and the car goes right through Winnipeg and Edmonton to Vancouver. We pay \$1.80 and Vancouver pays \$1.05 from Hamilton. That is a distortion. I know there is a long history behind that, but that is a distortion in the structure which, so far as the Province of Alberta is concerned, if we live for another 100 years we will never be happy about it.

The royal commission was set up, and when you look at the terms of reference you will find one principal paragraph, and it is set down as paragraph (a). I have not the complete Order in Council here, but that was the main term of reference, and the term of reference was that the royal commission should consider and report upon—and I have quoted it at the top of page 4 of my statement:

inequities in the freight rate structure, their incidence upon the various regions of Canada and the legislative and other changes that can and should be made, in furtherance of national economic policy, to remove or alleviate such inequities.

That is what the royal commission was charged to do, and I think that that must be kept constantly in mind when we are reaching a conclusion as to whether or not this bill removes the inequities in the Canadian freight rate structure.

It is my submission, of course, that it completely fails to remove the inequities in the Canadian freight rate structure, and that is largely due to the manner in which clauses 16 and 53 have been drawn.

I should not take up any time, really, discussing those parts of the bill with which Alberta has no real disagreement, because it would not be right. You people have more to do than listen to me praising the bill, but perhaps I should say that we have no criticism of the idea that there should be a super board, but actually we do not see much advantage in replacing the Air Transport Board, the Board of Transport Commissioners and the Maritime Commission with this super board.

You know from studying the bill that under the commission there will be set up a series of committees. There will be a railway committee; there will be an air transport committee; there will be a water line committee. Of course, there will also be a commodity pipelines committee, and I have a short word to say about that. There will also be a section dealing with interprovincial highway transport; but the principal committee will be the railway committee. Actually, I see no difference between the way in which that committee will operate and function and the present Board of Transport Commissioners; and there is no great contention there should be. I say that is basically why we see no great advantage. Of course, there may be other reasons. A great deal more money is going to be put into that new commission than is put individually into these other existing agencies, and perhaps more research will be done. The new board will have a great staff of economists and statisticians, and if they have enough good cost analysts I think the status of the commission will perhaps, for that reason alone, be an improvement on what we have at the moment. I say that in passing.

The Minister of Transport sees a lot of advantage in this super commission and, as I say in my brief, Alberta will live with the new commission.

I might say too, just in passing, that the setting up of this new commission is a departure from the recommendations of the MacPherson Commission. I have no quarrel with that in principle, and it would not have occurred to me even to mention it, except for the fact the minister held steadfastly to what the commission recommended in the matter of maximum rate control, with which all the provinces in Canada are so much concerned, and he held to what the royal commission had recommended in the matter of that aspect, in face of protests from every province in Canada, from British Columbia to Newfoundland, with always the notable exceptions of Ontario and Quebec.

The ACTING CHAIRMAN: Of course, the wisdom in the report may occur by instalments.

Mr. FRAWLEY: Yes, as you continue to read it. There is a lot of wisdom in the report, Mr. Chairman; of course, there is a great deal of wisdom. They had many knowledgeable people present briefs. Alberta had something to do with that, so had Manitoba, so had British Columbia, and so had the Maritime provinces. We brought very competent and knowledgeable people before the commission, and so when we look at this report we must have in mind that they received many excellent submissions, including, of course, many good submissions from the railways of Canada. They had good railway submissions, but I think they started to compromise at the end when they started to write the clause with regard to maximum rate control.

All I say about commodity pipelines is this and perhaps I can be excused for saying that if any province in Canada has had much to do with pipelines it is Alberta. If I may interject a personal word, if any one premier in Canada knows something about pipelines and has lived very close to the construction and operation of pipelines, it is Premier Manning of Alberta. I communicated to the Commons committee considering this bill the views of Premier Manning. Very simply stated, they were that the legislation respecting commodity pipelines was quite premature and could very well be deferred. I do not think there is an agency in the whole of Canada that is doing as much work in the matter of pipeline experimentation as the Research Council of Alberta; but, in any event, it was the view of the Alberta Government that this matter could very well be deferred.

We went one step further and we said if, as and when it becomes necessary to regulate and control pipelines, even commodity pipelines, that the regulation should be entrusted to the National Energy Board and not to the new transport commission.

Now, I am here to state Alberta's position, so I might as well state it frankly. This commission, I fear, is going to be to some extent railway oriented—more so, in any event, than the National Energy Board.

There is a rate which carries coal from the producing regions in Alberta to tidewater on the Pacific for shipment to Japan. That rate returns cost, variable cost, otherwise expressed as out-of-pocket cost, plus 84 per cent. That is in the face of American experience where export coal rates, on the average—the only rates we have comparable to rates which move coal to tidewater for furtherance to Japan—the average return above variable, or as it is sometimes called, the burden, is 7 per cent. But the coal operators of British Columbia and Alberta pay a rate which contributes variable cost plus 84 per cent. That rate has been before the Board of Transport Commissioners and has been the subject of complaint, and the Board of Transport Commissioners have accepted that kind of contribution to overhead.

So, I say—and I only say it in passing, because I am here principally to discuss these other matters—I simply say in passing it might very well be a commodity pipeline to move sulphur from Pincher Creek, Alberta, where the Shell Oil Company has large interests and have a company incorporated to at least consider the building of a pipeline, it may be—and I just take the figure out of the air—it may be considered that variable cost plus, say, 25 per cent would be a reasonable return over variable cost to move that sulphur from Pincher Creek to Vancouver. There might be violent disagreement with that, it might be said that the figure should be 10 per cent or 30 per cent. In any event, I think it is a little unsafe to entrust the regulation of commodity pipelines to a board which with equanimity would look at a coal rate which was 84 per cent above cost.

So, I say in passing that we in Alberta think that as and when commodity pipelines reach the point of reality and need regulation then the regulation should be entrusted to the National Energy Board.

Senator BROOKS: May I ask a question there? Would not that limit the carriage of, say, pulp or wood chips and so on if you left it to the National Energy Board rather than to the commission. It would be all right for sulphur—I can see that—but for commodities like coal would you not be limiting the quality of the carriage?

Mr. FRAWLEY: Senator Brooks, if you will allow that it would be acceptable with regard to sulphur then I think we have reached agreement. Once you get into any commodity movement then the National Energy Board, as I put it to the committee, would have to set up its own staff. At the moment they are very expert in the movement of oil and gas, and a lot of this is going to move in the form of a capsule in the middle of the oil or gas. There is a close relationship there, and we think that the National Energy Board is—

Senator BROOKS: If the situation remains as it is today I can see the strong point in your argument.

Senator KINLEY: Mr. Chairman, this percentage was arrived at in 1958. Do you not think that the increase in transportation by truck, and the population, has changed the aspect of all this, and that it is outmoded?

Mr. FRAWLEY: Senator Kinley, I would like to understand—I appreciate the fact that there has been a great change since 1958, but I am not sure what is being claimed in so far as anything I am saying is concerned.

Senator KINLEY: Since this was made there have been new ways of carrying oil and gas, and that changes the picture so far as Alberta and any other province is concerned. If I want to ship something from Boston I will call up the railroad and ask what they will charge. I know what the trucker will charge. The railway usually comes down and meets the trucker's charge. I have instances of that from Toronto and other places. If you are alert you can profit by it. I come from the Maritimes, and I know all about this. The Canadian National Railways have been

operating on a deficit. They owe a lot of money. A lot of money has been paid by the citizens of this country. Ontario and Quebec pay the majority of the taxes in Canada, Nova Scotia's income tax is about 5 per cent of that of the whole of Canada.

I was here in the days when Alberta was not so prosperous. I remember the days when they were struggling with their bond issues, but now they have become affluent, and they have a wonderful province. I hear criticism all along about the Crownsnest Pass Rates, and it is said: "Well, you can't change them". We said that you could not change the Inter-Colonial Railway because that was a feature of Confederation. But, when this company is losing a pile of money it seems to me that this is not the time to come here for lower rates. It is a time to allow the railway to earn more money so that it can pay its bills.

Mr. FRAWLEY: Senator, I must say this, that at the moment—and this may change—it is only the financial need of the Canadian Pacific Railway that is given any consideration in connection with various increases in freight rates. They are not going to go to the board anymore, so it may be that that particular criterion may have lost some of its force.

Senator KINLEY: You were talking about cost of sheet steel to Calgary. I have heard that for years. I have bought steel from England, from the United States, and from Hamilton, and there was a time when I could get it cheaper from Hamilton to Lunenburg than I could from Sydney to Lunenburg. I have run into that quite a bit. But, I do not think it would be a good time to try to make—if the business is no good then let us fix the business up, and put in another management, and so on, and enable it to make some money. But, do not try to say that one province—

Mr. FRAWLEY: Senator, I do not want you to think that there is anything wrong with Alberta, or with any business in Alberta. I am discussing the fairness or unfairness of the freight rate structure. I do not want to get into this business of steel sheets of \$1.80 versus \$1.05, because I could spend all of today and tomorrow in discussing that. I have lived with that for years and years. We have to accept it. It is unfair and unjust. I know what causes it—the Panama Canal. The reason why Hamilton sends steel sheets to Vancouver for \$1.05 is because they say that Vancouver can bring them in via the Panama Canal. How many steel sheets have gone from Hamilton to Vancouver by any other means than the railways? It is that potential competition that causes them to say that they have to give that rate.

The ACTING CHAIRMAN: Mr. Frawley, I am wondering how we have entered into a discussion of a particular freight rate. This bill has nothing to do with that.

Mr. FRAWLEY: Yes, and I must not excuse myself by saying I was asked questions about it.

Senator KINLEY: There is only one thing, Mr. Chairman, and that is that I think it is a principle that has been debated in the United States and Canada for a long time. One manufacturer should have the same opportunities as another, and so far as that goes I think this discussion is good.

The ACTING CHAIRMAN: Let me point out, senator, that this bill provides a method for establishing freight rates, and it provides rights to people who may be hurt by them. It does not deal specifically with the amount of a rate, and therefore we are on a side issue.

Senator KINLEY: I know, but Mr. Frawley says the people who he wants to decide that are the people he thinks will give the best deal.

The ACTING CHAIRMAN: Under this bill, the moment a railway files a rate, rights are provided to the shippers to contest it.

Mr. FRAWLEY: In any event, Mr. Chairman, I do not disagree with you at all, and I apologize. I have only one more minor matter to discuss. I said I would

discuss very briefly those parts of the bill with which Alberta takes little or no exception. I am on page 6 of this brief, and I am referring to interprovincial highway transport.

Now, federal regulation of interprovincial transport is not coming in at the moment. This bill merely makes provision in Part III that at some time later on proclamation the regulation and control of interprovincial highway transport may be committed to this new transport commission.

The ACTING CHAIRMAN: And I would think undoubtedly at that time you might require some legislation—some additional legislation.

Mr. FRAWLEY: Perhaps there probably would be a repeal of the existing statute which at the moment creates or constitutes the provincial regulatory boards as federal boards. That is true. That statute would probably have to be repealed when this is proclaimed. I say nothing about that. We know what the Privy Council said in the *Winner* case. We know what the law is. The Privy Council said that not only is interprovincial transport under federal control exclusively, but also the intraprovincial operations of an interprovincial enterprise.

Now, that is rather difficult. I think it is going to be rather difficult, but in any event there is a more serious matter, and that is that the Minister of Transport, or the Government of Canada, before they can proclaim this act must go to the provinces and must get virtually the consent—I do not mean consent in the strict legal way, but they must get the consent of the provinces, because the provinces own the highways on which this interprovincial transport will run.

That is all I think that needs to be said. I think that that can be negotiated, and I take pains here to say that although Alberta has no problem under the present statute whereby our provincial board is created a federal board for the regulation of interprovincial transport. We have had no problems in the courts or anywhere. I must admit that Ontario has had problems, and so has Manitoba, but we have not. So, we are living with it quite well, but that does not mean that when the Minister of Transport comes to Alberta to negotiate this thing he will be refused. I do not want to leave that impression at all.

Now, I come to Part V of the bill which deals with amendments to the Railway Act. There is a lot of space devoted in the bill to branch line abandonment. I do not want to minimize the importance of branch line abandonment because I know that in some provinces it is important. It is quite important to Saskatchewan, and it is important, perhaps, to Manitoba. It is not unimportant to Alberta, but I think I am not wrong when I say that branch line abandonments have not been the problem in Alberta that they have been in other parts of Canada. But, I say that that does not mean that we will not be alert. We will examine the situation as and when these applications for branch line abandonments come up.

I think the administration is to be commended. As I say at the top of page 7 of this statement, we have 331 miles in Alberta that are not frozen until 1975, and they could be the subject of applications at once. But I think the guidelines that have been laid down are good guidelines; they go a long way to require the commission to examine all of the physical and economic factors before ordering a branch line abandonment.

Now I would like to come to section 336. I am speaking only for Alberta this morning, but as a matter of fact this section was subjected to criticism by many witnesses who made statements to the Commons committee when this bill was before it.

The section first describes the kind of shipper that can invoke section 336. Perhaps I should say in capsule form that section 336 is intended to provide a means whereby a shipper who complains about a certain rate can go to the commission, request a figure as to the cost of his movement, then depending on the kind of information he gets can then declare himself captive. The importance

of the word is merely that he must then become captive, commit all of his traffic then, just like under an agreed charge, to the railway.

Now, the statute defines who is this candidate for the fixing of a rate, who is the shipper that can go before the commission and ask that his rate be fixed—the maximum of his rate to be fixed. Well, it is a good definition, it is an improvement on the earlier definition, and I certainly want to give the Minister of Transport full credit for having improved that definition by putting one important key word in the opening lines of section 336. This is the kind of shipper that can go to the board to invoke this new procedure:

A shipper of goods for which in respect of those goods there is no alternative, effective and competitive service by a common carrier other than a rail carrier. . .

etcetera. The important word there is “effective,” and that word can only be understood and can only be assessed, appreciated, adopted and enacted after you have looked at what the report of the MacPherson Commission says about the kind of evil, the kind of situation this section was intended to cure.

Now, the MacPherson Commission certainly recommended that there be set up this maximum rate control.

My proposition is that if a rail rate is at a level where it returns variable cost and in addition say 400 per cent—I am not speaking for the 400 per cent—of those costs, then, even though there physically exists an alternative carrier by highway or water, that alternative competition is not “effective” competition. If the alternative competition were effective the rail carrier would not be able to exact a rate making such an excessive contribution above variable or out of pocket costs.

I said a moment ago that was my fundamental proposition, and it is today. It was for the relief of such a shipper that the MacPherson Report sought a remedy. I wish to call to the committee's attention two or three passages from the MacPherson Report in support of what I am putting to the committee.

This matter is dealt with beginning at page 92 of volume 2 of the Royal Commission Transportation under the sub-heading “Measures of Significant Monopoly.”

May I say here in passing that perhaps I might be excused for what might look like extensive quotations. Perhaps I must blame Mr. Pickersgill for that, because in the Commons committee when I read a quotation he thought I was rather limited, and he did what is done every day in all kinds of places, including the courts, he went back and read a little bit more leading up to what I had quoted. That is proper and acceptable.

Senator BROOKS: Could you give us some examples of situations of this kind?

Mr. FRAWLEY: Yes, I can give you examples, senator. At the moment I am just discussing the principle of the kind of shipper, any shipper, whether of coal from Alberta to Vancouver, sulphur from Vancouver to Alberta, or potash from Saskatchewan to Vancouver, any commodity which returns variable cost—any rate which is many times variable cost—and that comes from the MacPherson Report. When you say many times variable cost that is just another way of saying it makes an excessive contribution above variable cost. That is what the MacPherson Commission said was an indication of significant monopoly, and they said that is the kind of shipper that can have the excessive contribution examined and a rate determined in lieu of the rate he is paying.

The ACTING CHAIRMAN: What you are saying is, Mr. Frawley, that if between two points you have a rail movement with a certain rate that returns a substantial profit over variable cost and you have other transportation means moving between those two points at presumably lower rates and yet they are not

able to attract the business, then you say that the shipper would not be in a position to establish that effective rate, and if he wanted to move by railway he would have to live by what the rate was?

Mr. FRAWLEY: That is right, except that he can go to this section and say "I want my contribution examined".

The ACTING CHAIRMAN: Or go under section 16?

Mr. FRAWLEY: Yes, or go under section 16. Perhaps I should not agree too quickly. Section 16 prohibits discrimination and undue preference. At the moment, Mr. Chairman, I am wondering whether or not the mere fact of making an excessive contribution to overhead constitutes discrimination. So if you will permit me, I will politely disagree that he could go under section 16.

I will now return to my critical examination of section 336, and read from page 92 of the MacPherson Report under the heading "Measures of Significant Monopoly," to which I have already referred:

It is this lack of freedom of entry which opens up the possibility that there are pockets of traffic throughout the country where there is still a positive degree of monopoly and where there may even be a significant degree of monopoly—significant enough that the shipper might be able to justify his demands for some measure of protection on economic grounds.

Let me read now from page 93:

With the intensification of truck, water, air and pipeline competition, we are less concerned that the railways are exploiting all shippers than with the possibility that a significant element of monopoly may still persist in a few cases.

So, even with the intensification of truck, water and other competition the report says there may still be a significant element of monopoly in some cases. Then they go on to say, on page 93:

The average degree of rail monopoly as measured by the difference between total revenues and total costs is not high; indeed it is, by the test of profits, lower than in many industries in Canada. One might argue, then, that the nation must be content with a rough economic justice. We have recognized that there is an increasing amount of competition in the transportation business. It may very well be asked, therefore, if monopoly regulation is not merely a relic of the past which could be safely dispensed with today. This commission believes that the average degree of monopoly which the railways have today is not itself significant and would not itself justify elaborate and expensive rate regulating machinery.

Then follows the quotation to which I wish to draw your attention:

Nevertheless we found evidence that for some rail movements the rates were many times higher than costs, indicating that a significant degree of monopoly still exists in at least a few commodity areas. Some evidence of the substantial variations in the degree of monopoly is provided by the very uneven incidence of freight rate increases in the post-war period. Railways have found it possible to implement much larger percentage rate increases on some movements than on others. It was conceded in evidence before us by witnesses for the Canadian National Railways that there remain commodity movements for which the railway has a significant degree of monopoly. There is every reason to believe that similar situations exist with the Canadian Pacific Railway Company.

We come back to this passage:

We found evidence that for some rail movements the rates were many times higher than costs, indicating—

That word "indicating" can be very readily translated as meaning "which means that"—

—that a significant degree of monopoly still exists in at least a few commodity areas.

Then, at page 99:

It is our conclusion that maximum rate control can come closest to attaining these objectives and gaining these attributes if it is based on the variable cost of the particular commodity movement plus an addition above variable costs such as will be an equitable share of railway fixed costs.

Every rate must pay the variable costs. It is that segment, that part of the rate above variable that received, and deservedly received, the attention of the MacPherson Commission, and is receiving such attention as I am able to give it now.

I have one more quotation, an important one, from page 101. It is given at the bottom of page 9 of my statement. It is:

The function of maximum rate control—

That is, section 336—

—is to place limits upon the share of these fixed costs the captive shipper must carry. The weight of the burden of inallocatable overheads determines the justice and reasonableness of the rate.

So my submission to the committee is that there is an absence of an effective alternative service if the railway can charge rates which are in the words of the Report "many times higher than cost". It follows therefore that any shipper who suspects that his rate makes an excessive contribution over variable costs, true not fictitious variable costs is entitled under this section 336 to invoke the new procedure, have the costs of his movement determined and a maximum rate fixed by the commission.

So, we have nothing wrong with the first part of this section. We have nothing wrong with these opening words that defined the candidate for the fixing of a rate, defined the kind of shipper who is entitled to invoke this procedure. That is all right and, I say again, thanks to the fact that Mr. Pickersgill put in the word "effective," which was not there when the bill was brought down last year.

Then, as the report says at page 105:

Having received the maximum rate determination, the shipper then decides whether to declare himself captive.

Up to this point, I have no objection to the section.

The ACTING CHAIRMAN: You have no objection to the formula by which the maximum rate is fixed by taking the variable cost and adding 150 per cent?

Mr. FRAWLEY: That is exactly what I have the strongest possible exception to. I am saying, in so far as the section defines the man who can apply—that is all—apply. But, as I say in the middle of page 10, it is acceptable to that point. The words in my statement are: "would seem to provide a quite acceptable procedure. And so it does to this point."

But the very next phrase in my statement—and I cannot over-emphasize it—is: "Unfortunately the acceptability ends right there." Because, as soon as this candidate begins to invoke the procedure, he is invoking a situation which has been made completely farcical by the two factors introduced, the 30,000 lb. car, and then the 150 per cent, which has been pulled out of the air.

I would like to say something more. I noticed yesterday that Senator Phillips was asking Mr. Cope some questions, and Mr. Cope, who is a very

knowledgeable person and—well, he is very knowledgeable. Perhaps one cannot say more than that: he is honest and he is knowledgeable, he is everything that is good. I would like to finish it up and elaborate a little bit, for the benefit of Senator Phillips and all other senators, on this matter of the 150 per cent. But I have not got to that. I want to say, Mr. Chairman, that my acceptance of section 336 ends there—my acceptance of the section ends there.

As I say, at page 10 of my statement:

What follows by way of rules for arriving at the variable cost of this shipper's haul are so unreal as to rule out any possibility of the shipper invoking the rate determination procedure provided by section 336.

How does this come about? By the tragically simple expedient of making the costing a farce by requiring that the Commission must cost all shipments as if they were carried in 30,000 lb. cars—

even though it may be potash out of Saskatchewan, being moved in 140,000 lb. carloads. The commission must cost it as if that big car was a little one.

I must admit, of course, because it follows, that for the 30,000 lb. carload shipper the formula is true and valid.

Whenever it is not true and valid, it is unacceptable to Alberta and to all of the provinces of Canada except Ontario and Quebec.

In his case, the case of the man who ships, day in and day out, in 30,000 lb. cars, the 30,000 lb. carload formula is valid. I do not accept the 150 per cent added to that. It has no invalidity apart from that. From the point of view of the 30,000 lb. shipper, using the 30,000 lb. car, it is obvious that there is nothing wrong. But, as I say rhetorically on page 11 of my statement: "Will anyone say that this bill was placed before Parliament to provide a maximum rate procedure for the 30,000 lb. carload shipper and for him alone?" And then I say "Obviously not."

Why then was this fictitious cost procedure recommended by the royal commission and adopted in section 336? For one reason only, to prevent the slightest impairment of railway revenues even in the short run.

The commission says to the shippers of Canada: "We will examine those rates which are suspected of contributing excessively to "burden" that is to say contributing excessively over and above variable or out of pocket costs; we will examine rates which are suspected of being many times higher than cost, but we will adopt an unreal, a fictitious, in plain language a false yardstick in our examination, namely, we will arrive at the cost of moving your 140,000 lb. carloads of steel sheets from Hamilton or Sault Ste. Marie or Sydney but we will first make the false assumption that your 140,000 lb. carloads are 30,000 lb. carloads and then work out the cost per hundredweight and base all our further calculations upon that wholly fictitious cost."

Of course, that procedure makes the entire rate determination quite meaningless and turns the proffered help of section 336 into an empty gesture. In every case of a heavy loading shipper he would have a rate fixed for him several times the rate he is already paying.

Now, when it comes to that, I cannot put it any better than the Canadian Manufacturers' Association put it to the Commons committee. The Canadian Manufacturers' Association took the example of iron ore and, using what it called "accepted railways costing procedures," demonstrated that the use of the fictitious 30,000 lb. carload for variable costs plus 150 per cent contribution to burden resulted in these ridiculous situations: A shipper whose rate was \$2.68 per net ton would be offered the "protection"—and, understandably, I put that in quotation marks—of a maximum rate of \$14.64; a shipper paying \$3.70 would be protected under section 336 with a rate of \$23.49.

I do not think you have to do any more, Mr. Chairman, than just that to indicate that this section is unreal. If it were unreal only in the abstract, it would

not matter, but in addition to its being unreal it is unfair because it does not do what the MacPherson Commission said should be done, namely, find a remedy for that shipper who lives in an area of significant monopoly. And you have to look at the expression "significant monopoly," because it is not a monopoly if you have a highway running down one side and have water running down the other side.

But if the Canadian Pacific Railway Company—and I must be pardoned for always referring to that company, but for many years I was accustomed to doing so because it was the only company whose costs were put before the board for determination of financial need. I was asked by Senator Kinley about that. We know that the Canadian National Railways had to live with whatever increases were awarded it on a basis of the determination of the Canadian Pacific Railway's needs. That was accepted; it was just a fact of life during that decade.

Senator THORVALDSON: Mr. Chairman, at this point may I ask Mr. Frawley a question in regard to the two points on top of page 12? Were these rates, in one case \$2.68 per net ton and in the other case \$3.70, actual, factual rates taken from the rate structure or were they fictitious?

Mr. FRAWLEY: What the C.M.A. analyst did, Senator Thorvaldson, was to take the \$2.68 per net ton on iron ore moving from point A to point B. It might have been iron ore concentrates moving from Thompson, Manitoba, to Fort Saskatchewan, but it was an actual rate. He said he used accepted railway costing procedures. There is no doubt that it was an actual rate, therefore. That is what he did, then, you see, because the load was moving at \$2.68 per net ton on a car which probably loaded even more than 140,000 lbs. I keep saying 140,000 lbs., but some cars now are bigger than that. All members of the committee know that the trend is towards bigger cars, but, in any event, that \$2.68 was actual.

The C.M.A. analyst took that movement and translated it into a fictitious movement of 30,000 lbs. and then got the cost associated with 30,000 lbs. Then he added 150 per cent to that. Then that produced a rate of \$14.64. I think that answers the question you put to me, Senator Thorvaldson.

Senator ISNOR: What is the average weight per carload, sir? You quoted 30,000 lbs. and you quoted 140,000 lbs. What would be the average?

Mr. FRAWLEY: The average? With great respect, Senator Isnor, I am not sufficiently familiar with railway movements to say, but an average, respectfully, is not as important as the actual movement itself.

Senator KINLEY: They will not give you the carload rate unless you have 30,000 lbs. to the car. Do you object to the average man in Canada having a rate on a 30,000 lb. carload?

Mr. FRAWLEY: What I object to, senator, is that if I am moving steel sheets or plates, or if I am receiving them—and shipper and receiver are synonymous terms—if I am receiving them in Edmonton and they are coming in day in and day out at 140,000 lbs., 160,000 lbs., 180,000 lbs., then I do not want them costed as if they were moving in 30,000 lb. cars.

The ACTING CHAIRMAN: On that point, Mr. Frawley, it is not an absolute rule you are stating that you must arrive at this fixed rate, whether the weight is 30,000 lbs. or 140,000 lbs. Is there not some provision in this section of the bill for making some adjustment in your variable costs or otherwise where the weight would be in excess of 50,000 lbs. or more?

Mr. FRAWLEY: Minimal, yes, Mr. Chairman. And it is minimal in the opinion of all of the people who presented briefs to the commission and went into that question. One of them was the Maritime Transportation Commission, representing the four Atlantic provinces. Another one was the very excellent Government of Manitoba brief. You will find that they dealt with the subsection because the

subsection is there. There is a subsection which has an ameliorating effect. But I accept all the amelioration this subsection gives me, and it still leaves the fiction. It is still substantially fictitious, even though you bring in what I call the minimal amelioration, which one of these subsections provides for. I think it is subsection 5(b) (ii).

The ACTING CHAIRMAN: On page 48, yes.

Mr. FRAWLEY: I am obliged to you for calling that to my attention. That certainly must be taken into account.

The ACTING CHAIRMAN: There is an alternative to what you have suggested. Perhaps by making this calculation you might establish that the existing rate after all, by comparison, is reasonable.

Mr. FRAWLEY: Oh, yes, but then I am entitled to have my rate costed, if I am entitled to anything. If you assume that I am a candidate, and you must assume so, then, as I say later on in the brief, what we are asking for is costing on 140,000-pound carloads. I cannot ask for more relief than this. I am moving steel sheets from Hamilton to Edmonton. I can move them in 160,000-pound carloads, but I am not reaching for the biggest possible cars, so let us say I ship them in 140,000-pound carloads. I am not asking for averages. I am talking about what moves my steel sheets from Hamilton to Edmonton. I find it moves in 140,000-pound carloads and has for years.

Now, I say if I am a candidate to have that rate examined I want to know what is the cost of moving that 140,000-pound carload to Edmonton, and, honourable senators, why the resistance? Only because of the fear of impairment of railway revenue, and I will indicate from a part of the report that the commission itself said just that. And I will just be a few minutes getting to that section in the report itself. There is no doubt about that.

Senator THORVALDSON: I would like to ask Mr. Frawley a question following from what I asked him a little while ago, referring to a rate increase from \$2.68 to \$14.64. Is that a fictitious rate or could that not be an actual, practical case? In other words, is it possible now—and it seems absurd—to move a rate from \$2.68 to \$14.64? Is that a factual matter or is it fictitious?

Mr. FRAWLEY: It is a fictitious rate which emerges from applying the formula to that particular movement that the C.M.A. analyst costed.

Senator THORVALDSON: Is that likely to be applied factually?

Mr. FRAWLEY: No, no, because then the man would say that he would just not discuss this any further. So we come to nothing. It is an empty gesture. That is my complaint. In fact, I said to the Commons committee that they should take it out. I said, "If you do not want to amend it, remove it."

Senator THORVALDSON: May I ask if the potash industry in Saskatchewan, which is obviously a captive shipper—

Mr. FRAWLEY: I am using the word captive in a little different sense, but you are right: it is captive in every way.

Senator THORVALDSON: There is competition as between the two railways, but certainly it is a commodity that must travel by railway.

Mr. FRAWLEY: Yes.

Senator THORVALDSON: How are those shippers going to be affected by this Act? Are they going to be adversely affected, or have they got a guaranteed negotiated rate now, or are they likely to apply under this Act as competitive shippers?

Mr. FRAWLEY: The act in this form?

Senator THORVALDSON: Yes?

Mr. FRAWLEY: Never in this form; never in the world, because they would only get from this statute a rate worked out on the fictitious basis that they

were not moving 140,000-pound cars, but 30,000-pound cars. You know the cost goes right up. The commission would say to the potash shipper—"we have worked out your cost with 30,000-pound cars, and we have added 150 per cent and your rate is X dollars"—maybe four or five times what he is paying. But working it out on the basis of 30,000-pound cars plus 150 per cent is completely fictitious when he is using 140,000-pound cars.

The ACTING CHAIRMAN: But that surely does not fully exhaust the ameliorating provision on page 48, because if in fact he is moving 140,000-pound cars and the commission makes a calculation on the basis of 30,000-pound cars, then you have to consider this additional factor of the difference between 30,000 pounds and 140,000 pounds, and they have to make certain reductions, up to certain limitations, in the variable rates they are using to establish the fixed rates in order to reflect that. Surely the only argument is that if there is something, it just is not enough.

Mr. FRAWLEY: I said a moment ago that I fully agree with the fact that there is an ameliorating section. It was not in the original bill, and without being too personal about it but merely to try to explain a little about this, perhaps you will permit me to tell you a very short story. When the first bill was introduced in Parliament, the Minister of Transport was the Hon. George McIlraith, and he called in the provinces. Mr. Cope's predecessor, Mr. Scott, was also there, and Mr. Manning, and I put it to them that there must be some effect given to the higher loading carloads, and from that point there was an ameliorating clause put in. But originally there was no ameliorating clause, and I give credit where credit is due. But I say that that is not the same as if I was costed out at 140,000 pounds. If I was actually costed out at 30,000 pounds with some amelioration it is not the same as being costed at 140,000 pounds. Take the potash shipper, for example. If he could go to the board and say, "I want my movements costed at 140,000, or 160,000 or 190,000 pounds"—assuming we were getting into such large cars—"I want it costed out at the actual carload rate; I don't want it plussed by this figure that will come out of the air to augment the railroad revenues; I want it costed on a more realistic figure" then, maybe the shipper would have a rate properly costed and properly plussed that will be better than the rate he is getting. I want him to be able to invoke something sensible. Whether he gets some good from that or not is something we have to live with, but we should not have to live with this sort of a fictitious formula. I have not pursued this aspect of it to the point where I have done all the arithmetic necessary, but I protest against the fictitious nature of the limitations because we feel they violate the terms of the MacPherson Report where it said that we should get some relief.

The ACTING CHAIRMAN: This does provide a measure of relief in those cases. Your complaint is that it does not go far enough, and that the basis of calculation is not a real basis.

Mr. FRAWLEY: That is right, but it does not lose the character of being completely fictitious. I do not want to be facetious, but perhaps it is a little less fictitious depending upon the degree of amelioration. I will not give it any benediction—I submit it is wholly insufficient and it does not remove the evil of costing on the basis of a 30,000-pound carload.

Senator THORVALDSON: Is this a formula recommended by the MacPherson Commission?

Mr. FRAWLEY: Yes, it is; I have to admit that. There is no doubt about that.

Senator KINLEY: To me it seems to be so arbitrary. Why the 150 per cent? It scares the average person.

The ACTING CHAIRMAN: It was the recommendation of the commission, and for the basis for it you have to go back and read the entire commission report.

Senator KINLEY: It might possibly apply in a unique situation where you have to go into the Arctic, for example.

The ACTING CHAIRMAN: Once you agree there is such a thing as overhead there you have to assess some portion of the indirect cost necessary to operate. In many areas it is more than this.

Mr. FRAWLEY: In the case of drugs it is more than that.

The ACTING CHAIRMAN: I was not thinking only of drugs.

Senator KINLEY: Once in a while you buy stuff in farm country, and your broker makes the entry that you are in a hurry and you get the invoice for what you have bought and you will find there 100 per cent.

The ACTING CHAIRMAN: The only comment I want to make at this stage is that the illustration you chose, Mr. Frawley, in reference to steel sheets and potash may not be a very apt illustration.

Mr. FRAWLEY: That may be; there may be other illustrations that would serve my purpose better.

The ACTING CHAIRMAN: These illustrations may not serve your purpose at all.

Mr. FRAWLEY: I am just endeavouring to make one point and that is that much of the commerce of Canada goes in carloads higher than 30,000 pounds.

Senator KINLEY: The average man does not have the capital to buy such large quantities. He cannot buy that much steel at the one time. Such an amount of steel would be a very large investment.

Mr. FRAWLEY: You have to excuse me, perhaps, but I am talking for the Province of Alberta, and out there we move around in a big way and we use big cars. It is the best part of Canada, and a 30,000-pound car is regarded as a small car in Alberta and there are many 140,000-pound cars moving in and out. It could be that these steel sheets from Hamilton is not the best example I could take, but I am not really looking for examples. I am discussing what is a completely wrong and self demonstrated evil in this section. As far as I am concerned the fact of the MacPherson Report saying 30,000 pounds plus 150 per cent—and I am going to read part of the report later—that is not the complete answer. If it were, I would not be here at all; we would not have been before the Commons committee. I would say "the MacPherson Commission said that, and that is all there is to it."

But that is not the attitude of the people I am speaking for, and it is not the attitude of the provincial governments who sent people to appear before the Commons committee. Such an attitude would be inconsistent with the principle laid down and which I have quoted in my statement. What they ultimately recommended there was a compromise and is a departure from what would naturally follow from what they said in the quotations I have given. I cannot say any more than that about the MacPherson report.

Senator KINLEY: You get \$3 a ton on your coal, by the ton, no matter how much they have in the car?

Mr. FRAWLEY: Do you mean the rate?

Senator KINLEY: You get a subsidy of \$3 a ton for the coal you have to move to the coast.

Mr. FRAWLEY: Oh, yes, there is no doubt about it; there is a subsidy at the moment, but I am told it is on the way out.

Senator KINLEY: But you do not want to pay steel by the ton but want to pay by the carload.

Mr. FRAWLEY: There is a subsidy on coal, and there is no subsidy on steel sheets.

Senator KINLEY: Is not that the reason this commission is appointed, to deal with all those matters?

The ACTING CHAIRMAN: That is right.

Senator KINLEY: We have appointed the commission to deal with it, and we are dealing with it here.

The ACTING CHAIRMAN: Yes, senator, but Mr. Frawley and the people he represents have the right to come here and express a dissenting view and tell us the reasons for expressing that dissenting view, whether or not we accept it.

Mr. FRAWLEY: Speaking on behalf of the Premier of Alberta, I want to say I appreciate your hearing me. It is all very well to say we have a right to be heard before Parliament, but we are glad to be invited. It is all very well to say, "You have had your day in the Commons," but under the Constitution of Canada this bill is just a lot of paper until the Senate of Canada approves it.

Senator BROOKS: While you are speaking for Alberta, your arguments apply, I think, to the Atlantic provinces just as much, if not more than, to Alberta.

Mr. FRAWLEY: I have always thought that the Atlantic provinces and Alberta have been just as close as my fingers are now. We are long-haul provinces, we are the outlanders, and freight rates are a terrific problem to us and to the Atlantic provinces.

Senator THORVALDSON: When you speak for Alberta you also speak for Manitoba and British Columbia.

Mr. FRAWLEY: I would like to think I am speaking today—or, at least, I am sure I am not saying anything that would not be paid if Manitoba and Saskatchewan were here, and British Columbia, for that matter, because they presented a very strong case to the Commons committee against section 336. I have to be forgiven for saying Alberta; certainly, the Prairie provinces are one in opposing section 336.

Senator LEONARD: I hope you will not mind there being a senator from Ontario here!

Senator BROOKS: They have been pretty quiet at most of these meetings.

Mr. FRAWLEY: We must keep in mind that Ontario has a great many more senators than Alberta; Alberta has only six senators. I have always thought there was something wrong about that, but that is in the Constitution.

The ACTING CHAIRMAN: That is not something we are going to deal with this morning!

Mr. FRAWLEY: No. I come to the remaining factor in this formula, and that is the 150 per cent.

Under the rules prescribed by section 336—and this is page 12 of my statement—after the carload costs have been determined in the manner I have outlined, the commission then must add 150 per cent to those variable costs, and the resulting figure will be the rate, the maximum rate which the railway must not exceed.

The MacPherson report declared that the addition above variable cost must be such as will be an equitable share of railway fixed costs. Of course, 150 per cent or 200 per cent or 10 per cent added to a fictitious variable cannot cure the evil. The total will be just as fictitious as the base.

How can the 150 per cent possibly be an equitable contribution to rail fixed costs when you cost a 140,000 pound carload at 30,000 pounds? All that that arithmetic does is to assure—and I emphasize this, that seems to be its purpose—is to assure that the cost of the shipment will not only be fictitious but it will be ridiculously high.

That seems to be precisely what was intended, so as to assure that there would be no impairment of rail revenue, even though it left the shipper con-

tributing excessively above cost. That is what the section does; it just assures that. It seems axiomatic that the 150 per cent must have meaning.

Even assuming that there were substituted—

The ACTING CHAIRMAN: I speak only because I do not want to be taken as accepting your statement that that is what the section does in absolute form. You are not reflecting at all the amelioration that is provided where the carload is in excess of 50,000 pounds, and how the variable costs are reduced in the formula.

Mr. FRAWLEY: You are quite right, Mr. Chairman. You are perfectly right in calling to my attention repeatedly that there is an amelioration factor. There is no doubt about that, and perhaps I should have—and it may be that the Senate committee has facilities for doing that, that someone should take the amelioration clause which you find on page 48 and find out how close it will bring a 30,000 car up to 140,000. I know there is amelioration there, and I know the 150 per cent is not added on until that factor has been applied. It is just a matter of arithmetic. It will not turn a 30,000 car into a 140,000 car. Perhaps I cannot make my statement any better than that.

The ACTING CHAIRMAN: If you want that magic, you will have to find it somewhere else.

Mr. FRAWLEY: Yes, but it will turn a 30,000 car into something else. That amelioration is just that, amelioration, and it does not turn the section from what it is into the kind of section I want it to be. I want it to be actual and factual, true not fictitious.

The ACTING CHAIRMAN: Do you agree, whether you take a load of 30,000 pounds or 140,000 pounds, among your costs there are some items that would remain constant, regardless of the weight?

Mr. FRAWLEY: Yes, I rather think there are some.

Senator KINLEY: It is harder to haul a heavier car than a lighter car.

Mr. FRAWLEY: With great respect, it does not take away, in my respectful submission, from the validity of my protest and my criticism, that whatever those costs are, they are going to be "X" dollars if you are paying it on 30,000, and they are going to be "Y" dollars if you are paying it on 140,000 pounds.

The ACTING CHAIRMAN: It might be "X-plus" because there may be costs in the 140,000 that are in excess of those which relate to the 30,000.

Mr. FRAWLEY: If you have ever looked at a freight tariff—and I am sure that you have—you find that after the tariff quotes the rate, then there is a little column that is appended to the rate and it indicates: at 30,000 pounds, "X" cents; then at 50,000 pounds the rate is down; and as the 30,000 goes up to 140,000 the \$2 or \$5 goes down. It is there, and you accept it being there, which means only one thing, that it costs less to move that 140,000 pounds in one carload than to move four times the 30,000 cars.

Perhaps I should not depart from this, but it will only take a moment. One thing would be this shipper could do this perfectly ridiculous thing. Say he is a 120,000-pound shipper. I suppose he could line up four cars and start loading them in 30,000 cars. Would that be permitted for a moment? I think you would have the Board of Transport Commissioners talking about wasteful use of cars if you did this to meet the requirements of this fictitious and unjust section.

The ACTING CHAIRMAN: I think we have run over that one.

Mr. FRAWLEY: Yes, that is right. I have one remaining factor, sir, and that is the 150 per cent. My proposition in connection with the—

Senator ASELTINE: What do you recommend?

Mr. FRAWLEY: I have a specific recommendation. I am happy to say the senators have been very patient in hearing me, and I actually conclude my remarks with a proposed amendment.

Even assuming that there were substituted true, valid costs at actual carload weights—140,000-pound cars, if that was the fact—then there still must be some assessment and some examination of the 150 per cent figure before it is enacted and forced willy-nilly upon the commission, with no alternative to use in arriving at its rate determinations.

I put it to the committee that there must be a definite relationship between what is permitted over variable costs and the nature of the profit which the Commission deems desirable and acceptable that the railways should earn net after provision for all costs, variable and fixed.

If the bill does not contemplate that the commission should concern itself with the concept I have enunciated, that there must be a relationship between the addition over variable costs and what the railways should earn. If the commission is indifferent as to that, and if the bill makes the commission indifferent as to that, then it necessarily follows that the commission is quite indifferent as to whether the Canadian Pacific earns net 2 per cent or net 20 per cent from its rail operations.

No meaning whatever, then, is given to the words "equitable share of fixed costs" which the MacPherson Royal Commission declared was the purpose of the addition to variable costs. Indeed, the report makes it quite clear that the relief from excessive contribution over variable costs was the objective of rate control. If that is so, and if the 150 per cent is not to be looked at in the light of what is a fair rate of return, then the so called new freedom in rate making is indeed freedom, and the long haul shippers must resign themselves to large rate increases indeed.

I add this for a bit of emphasis; if that is the situation, and if there is this indifference on the part of the Commission to the 150 per cent, then I have nothing but profound regret for the part that Alberta played along with all the other provinces except Ontario and Quebec in the requesting and setting up of this Royal Commission investigation.

In the committee of the House of Commons the railways answered our criticism on section 336 by frankly agreeing that it would hardly ever be used if at all, but that that was not important because the shippers do not need legislative protection. They enjoyed greater protection now.

That posture is a complete avoidance of the issue we raised—the issue of significant monopoly, the issue of rates which contribute excessively and disproportionately over variable costs. We want suspect rates costed at actual weights then plussed by a percentage which will be an equitable share of fixed costs. The commission will never know whether 150 per cent will be too much or too little.

If that was done—if the cars were costed actually as they moved, and they were plussed by some intelligently applied percentage to provide for overhead—then maximum rate control would afford some relief, and it would bring about reductions in those rates which, in the words of the MacPherson Report, are many times higher than cost.

Rate reductions, I suggest, are furthest from the thoughts of the people who drafted this bill. No, impairment of rail revenue is the objective, even though the impairment would result from reducing the excessive contributions to overhead which the MacPherson Report said was the purpose of maximum rate determination.

Now, I said I wanted to say something about section 16, and after I do so my remarks are concluded. In the committee of the House of Commons the Minister of Transport took the position that the new section 16—and not section 336, as I have contended and as counsel for the other provinces contended—was the heart of the bill. With great respect I disagree with the Minister.

Section 16 is the new anti-discrimination section, but it is not related in any way to those provisions designed to cure the inequities which the Terms of Reference directed the royal commission to remove—inequities directly related

to the unequal contributions over variable cost which freight rates were bearing, inequities which flowed directly from the decade of horizontal percentage increases in freight rates. Section 336 was the section designed to remove those inequities and distortions in the rate structure. I have endeavoured to show you how badly section 336 has failed to provide the machinery to bring about rate reductions by eliminating excessive contributions to overhead.

I will say just a word about section 16 because the Minister of Transport relied so heavily upon it. A shipper who has reason to believe that a freight rate may prejudicially affect the public interest—not the individual interest of the complaining shipper, but the public interest—may complain to the commission. It was difficult under the old law to convince the board to find discrimination, and to order its removal. It will be quite impossible under section 16. How will a small, not wealthy, shipper prove public interest. Then obviously follows this question: Is it interest in the national sense, the provincial sense, the municipal sense, or the regional sense? None of those questions are answered.

The ACTING CHAIRMAN: Except that "public interest" is said to be in respect of tolls for or conditions of the carriage of traffic within, into or from Canada.

Mr. FRAWLEY: I put it, Mr. Chairman, in this way, that if a small—I say "small" but I mean somebody who has not the wealth of Canada Packers—if a small vegetable processor in southern Alberta felt that his rate was prejudicial and that it amounted to discrimination, he used to be able to go to the Board. I am not saying anything about how difficult it was to get that established, but in any event he was able to go to the Board and say: "This rate prejudicially affects the business of John Brown and Company of Lethbridge, Alberta"—or, it might be John Brown and Company of Medicine Hat, Alberta. The Board of Transport Commissioners then listened to him and said whether or not that business was prejudicially affected. I submit that now he cannot do that. He has to show that the public interest is prejudicially affected.

The Minister of Transport in the committee of the House of Commons put to me something to the effect that the Province of Alberta could probably contend that that was against public interest. With great respect, I do not know how the Province of Alberta would handle a matter of that kind if this particular vegetable processor went to it and asked it to provide counsel and cost analysts, and so on. He would still have to talk about the effect that the so-called allegedly discriminatory rate had on his business. It is not public interest. I do not think the fact that a vegetable grower in southern Alberta is having a difficult time is going to terribly upset the economy of Alberta. I am wondering what this man would have to show in respect of the public interest. A municipality is a public body; a province is a public body; Canada itself, the nation, is a public body.

In any event, gentlemen, I can say no more than I said in introducing this concept. My complaint in introducing this concept is that it is just one more aspect of this bill which is unacceptable. It seems to me to be designed to make it difficult—almost impossible—to prove a case of discrimination because there is this spectre of public interest rising up in front of any small shipper.

Maybe if the rates in Canada for moving domestic grain—not the Crowsnest Pass grain, because that is in a place by itself—were to be challenged there would be some public interest involved in that, but I respectfully put to the committee that there would be many, many thousands of instances where a small shipper would find it just impossible to prove discrimination and undue advantage. You can not do anything at all with it under section 16.

In concluding my representation I have two proposals to make to the committee. One is that the Senate should amend section 336 so as to substitute—this proposal can be found on page 15—to substitute actual variable costs for the fictitious variable costs which the commission must use in determining the fixed maximum rate. Perhaps I should say it should substitute actual varia-

ble costs for the fictitious variable costs even as they are ameliorated by section 336 which the commission must use in fixing the maximum rate.

The ACTING CHAIRMAN: Can you stop there for just one second?

Mr. FRAWLEY: Yes.

The ACTING CHAIRMAN: There is a definition of "variable costs". You keep talking about fictitious variable cost, but there is a definition of "variable cost" on page 47, in subsection (3) which reads:

In determining the variable cost of the carriage of goods for the purposes of this section, the commission shall . . .

And then follows the enumeration of the things it must take into consideration.

Mr. FRAWLEY: That is right, Mr. Chairman; but you certainly can never get around the fact that there is a direction that when you are costing the costs of a candidate for the fixing of a maximum rate you must cost him as moving 30,000 carloads.

The ACTING CHAIRMAN: Then you are only stating half the proposition, because part of the direction is given under (c) of subsection (3):

calculate the cost of carriage of the goods concerned on the basis of carloads of thirty thousand pounds in the standard railway equipment for such goods;

But later in the ameliorating section it says if that rate is in excess of 50,000 or more, then you reduce your variable cost by as much as 50 per cent.

Mr. FRAWLEY: It could be, Mr. Chairman; but so far as I am concerned the case I am presenting is that if I am moving in 120,000-pound cars or even 190,000-pound cars, which are now moving on the railways in Canada, I do not want to be costed at 30,000 pounds plus 50 per cent even. That is going the whole distance. As I say, I regret I did not have an actual piece of arithmetic worked out for you, but I simply say that if you fail to cost me actual, then it is fictitious. It is either true or false. This may not be quite as false as if you did not have the amelioration section, but it is still false. I cannot say any more than that.

Senator LEONARD: Is it practical to do as you suggest? Can you have all size shipments included? Does there not have to be some variation from that standard? If you take a 120,000-pound movement you have to have variations from that.

Mr. FRAWLEY: Senator Leonard, I would simply say, let us take the potash industry. I do not know what they move in by carload. Or let us take sulphur, or steel sheets or plates, or any heavy industry. You surely would agree that you would not term that kind of carload, which is a whole industry—sulphur does not move at all except in very large cars because of the value of the commodity, and everything else. When you say you have to have some standard, surely you would say, "Well, they move in 140,000-pound cars and therefore it is a 140,000-car industry."? We have to standardize this thing, but do not standardize it at 30,000 pounds, the size of a truck. Fancy using the analogy of a truck when you are moving iron ore concentrates.

Senator LEONARD: But when you are using examples like that, are they not hypothetical?

Mr. FRAWLEY: All that I can say is that you must not deny me the opportunity of having that movement costed. If that movement were costed and it came out at better than the negotiated rate in existence, that is not saying any more than that.

Senator LEONARD: But you have that opportunity otherwise, do you not?

Mr. FRAWLEY: I have no opportunity to ask for the maximum rate on a cost-plus basis.

Senator LEONARD: No.

Mr. FRAWLEY: And I suggest that this freight rate structure should be more and more cost-oriented. There was an indication in the MacPherson Report that it should be more cost-oriented. And why should it not be cost oriented? What is there different about the transport industry from any other industry? As long as the plus is fair there is nothing wrong with costing a freight rate, because you must have your variable cost. You have certain traffic contributing excessively, that is all. I do not know what the contribution of the potash industry is now, but if it is more than it should be according to a fair formula then it should be reduced.

I suggest, therefore, that there should be two amendments, namely: that actual variable costs should be substituted for the fictitious variable costs which the commission must use in determining the fixed maximum rate. Secondly: substitute for the 150 per cent contribution to be added to variable costs such percentage as would reflect an acceptable level of railways earnings.

The ACTING CHAIRMAN: Let us take a moment to talk about substituting for the 150 per cent, which is at least a fixed amount, such percentage as would reflect an acceptable level of railway earnings. Who is going to say that?

Mr. FRAWLEY: For ten years the Board of Transport Commissioners did exactly that; they examined the financial need of the Canadian Pacific Railway, and having arrived at their operating costs, then they had to add something; they added something for surplus and for contribution to fixed costs. They did exactly what I am saying. The Province of Manitoba made a more comprehensive criticism than I did, and the only answer was, "We are getting away from what was done in the freight rate cases."

There is nothing startling when I say 150 per cent. There must be some percentage—10 per cent or 300 per cent, any percentage.

Perhaps I should have a little more to say about maximum rate control. The whole concept of maximum rate control was placed before the MacPherson Royal Commission—and by whom? By the Province of Alberta, through Dr. Merrill Roberts of the University of Pittsburgh. He came here and put the proposition of maximum rate control before the commission. He studiously avoided naming any percentage. There should be a percentage that should go up and down, based on an intelligent assessment of what the profit should be. If you just blindly apply the 150 per cent, then you do not care whether the CPR is going to earn two per cent or 20 per cent.

I would also request an amendment to section 16 which would remove the requirement that a shipper complaining of unjust rate discrimination must prove that the rate concerning which he complains prejudicially affects the public interest. The amendment I request would restore the ancient rule which came to us from the common law that a common carrier must charge tolls and afford facilities without favouring or unduly preferring one user against another and without discrimination.

The ACTING CHAIRMAN: I think "prove" is an unfortunate word. The statute says that the person must make out a prima facie case, that is, just produce certain facts.

Mr. FRAWLEY: Of course, Mr. Chairman, we are all familiar with what a prima facie case means in the practice of law and in the presentation of cases. Some judges are very difficult to convince that there is a prima facie case, and others are convinced very easily. Do not put too much store in that.

The ACTING CHAIRMAN: When you say some judges are very difficult to convince, if you put a period there I would agree with that.

Mr. FRAWLEY: Mr. Chairman, and members of the Senate committee, I am very thankful and appreciative of the time you have given me to discuss this matter. Perhaps I took too much time. However, for myself and for the Premier of Alberta I wish to express thanks for the invitation to come here and to state our case and our continued opposition to sections 336 and 16 of this bill.

The ACTING CHAIRMAN: There are a few points Mr. Frawley made in the course of his presentation which may be considered. I think Mr. Baldwin would like to give some information to the committee with respect to them.

Mr. J. R. Baldwin, Deputy Minister of Transport: Thank you, Mr. Chairman. I think it might be helpful if I did comment on several points raised by Mr. Frawley within the broad context of the work that went into the preparation of the legislation. I must confess at once that this is a very complicated and intricate problem, with respect to the explanation of a maximum rate formula and its relationship to the process of rate making and in general the railway movement and competition. We found, when we were in the very active discussion stage, in the preparation of the legislation—and I refer now to the period before it reached parliamentary consideration—I am now trying to set a sort of framework for the later comments—we found it was not easy to reconcile the interests of the various groups that we talked to. With the full consent and encouragement of the minister, we at the staff level had very extensive and frank discussions with the representatives of all possible interests—provincial, municipal, railways, and other modes of transport—about the thinking that was going into the bill, and were very frank and forthcoming about what we were proposing to put into the bill. As a result of those discussions, even the first draft of the bill, quite apart from the subsequent amendments made in the Standing Committee and the Committee of the Whole, in the House of Commons, reflected many helpful and useful suggestions which we received from a wide variety of sources, including Mr. Frawley, who made very helpful suggestions on many of the points.

We discussed all of these very frankly, but we did find that there were basically two points of view that we felt we did have to keep in mind, if this was to be successful legislation, and reconcile them with the representations made to us on one side or the other.

Quite frankly, in the developing of a maximum rate formula—and I gather the principle of the maximum rate idea is not an issue, it is a question whether the formula is a good one—as we brought forward each idea, we found, quite normally, and I suppose this is understandable, in discussion with the operators of transportation—and I include particularly the railways—that there was a tendency to feel that what they were trying to bring forward was not sufficiently favourable to them, it did not take enough account of their needs to earn the revenues required to get out of this very heavy subsidy position, and reliance on the Government. On the other side we found that the briefs that came in from other groups usually emphasized the need somehow to limit the railways' ability to earn money and try to bring the formula into a close cost relationship, so that the railways would recover their variable costs, but would receive a more modest contribution to their overhead costs.

It has not been easy, frankly, to reconcile these two objectives which we feel must be reconciled in the legislation, namely, reasonable support of the position of the railways to maintain their earning power and increase it, because it is the basic objective of the legislation, and fair treatment under all circumstances of the shipper.

As for the formula itself, I think I could say there is no disagreement, that it appears it is going to work reasonably well, certainly up to 30,000 lbs., and perhaps up to 70,000 lbs. I think I would select the latter figure, because there is quite a substantial amount of data to support that.

A submission made by Mr. Borts which I believe Mr. Frawley referred to, and which certainly was referred to yesterday, supported that assumption itself. It pointed out that generally, up to 30,000 lbs. on a trial basis it appeared to be very good; but also suggested that on what I call the higher rated traffic, the

traffic that moves at higher rates because it is a more expensive type of traffic, it would work well up to 70,000 pounds.

One of the honourable senators, earlier asked about the average carloading, I guess it was Senator Kinley. The average carload runs about 70,000 pounds which ties in very well with the performance expected of the formula. The issue raised by Mr. Frawley seems to relate to the heavier carloading bulk commodities that it might be described as low rated commodities—sulphur, potash, coal, and so on.

My comment on the working of that formula in that general area is a twofold one. First, it is that our examination had indicated that there is really very little need for a maximum rate formula to protect that type of traffic, and this is where I felt that the submission made by Mr. Frawley could be a little misleading, quite frankly.

The second point—and I will come back to both of these points—is that even where the need does exist, the formula is not going to work too badly.

Returning to the first point with respect to heavy bulk loading traffic, this, as Senator Kinley put it, is traffic which is generally associated with large companies and large shippers, who are in a strong position to negotiate a favourable rate with the railways that has no relation to the maximum rate requirements that exist now or that we think will exist in the future.

I could give many examples, but perhaps the three commodities mentioned by Mr. Frawley would be good examples.

The present maximum rate on the steel plate movement that he mentioned, to Edmonton, is running at \$3.68 per cwt; but it is actually moving at \$1.95, because the companies have been able to negotiate a good rate with the railways and the negotiating position is a strong one. The railways want that traffic and are prepared to bargain for it.

Potash has a maximum rate, a class rate, of \$2.99 per one hundred pounds, but it is actually moving at 45 cents.

Sulphur was mentioned. The sulphur example I happen to have here is out of Alberta to Vancouver. The maximum rate is \$1.75 but the traffic is actually moving at 45 cents.

These are big companies that have proven their ability to negotiate with the railways. The railways want the traffic and are prepared to offer a favourable rate. They are not in a position, under this legislation, to move in and impose maximum rates. That is not the purpose of the legislation. The purpose is to provide a maximum rate, not for the railway to introduce it but for the shipper to fall back on it if there is need for it.

We have not changed the agreed charges formula, and in most cases the shippers have used the bargaining power to take advantage of it.

I might mention, in this connection, when we talk about effective competition, there is very effective power they bring to bear on the railways. It is not just the power that there may be a shipping line or a trucking line alongside which one could term as an alternative—though a trucker could not be much of an alternative when you are talking in bulk loading of 200,000 tons. It is normally what is described as open-market competition, which really means that sulphur, potash, coal, to be successful in competing in the open market, whether a western Canada commodity moving into Ontario or Montreal, or something going to overseas markets, that commodity has to be able to compete at a given price in the world market, and when the railway starts to talk with the shipper, he knows very well what the world market price is and therefore he knows very well that if he imposes a full-class rate he may be entitled to impose under the rate structure as it exists now, the traffic will not move, because the total price on the world market is going to be too high. The railway wants that business and therefore they negotiate agreed charges or provide a special rate.

I can give other examples. There is the fact that the Canadian National branch lines, which have been built usually under parliamentary statute in the last few years, have in most cases been preceded by a negotiation with the industry that wanted the branch line to be built to serve them.

The result of the negotiation has usually become a negotiated rate or an agreed charge at relatively low cost level which is far below the maximum class rate that is now permissible.

I could also point out that the general level, or the averaging of these charges—although I admit at once that averaging is sometimes misleading—the average of bulk commodity charges in this general area—comes out below the average of the agreed charge which now exists—we have a substantial volume of evidence to show that, in the area of the heavier-loading commodity, which Mr. Frawley referred to extensively, this protection is not substantially needed, because all potential users have shown full ability to bargain effectively with the railways and obtain, even now, a rate that is far below the maximum rate, and we think in the area of perhaps the lighter loadings to which Senator Kinley referred, the protection is afforded quite effectively by the formula.

I will make a couple of brief comments on the formula, because even to the extent that our assumptions may be wrong, and where now there may be need for the use and protection of the maximum rate for a heavy loading commodity, we do not think the formula is going to work too badly. We admit it is not perfect but we have looked at all the other alternatives we can think of, and we do not think we have found anything more satisfactory that we could do. On a random sample basis we have examined the formula to see how it might work out under certain situations.

The results work out not too unfavourably in comparison with the maximum rates which we now have, in the class rates. In some cases they came out the same, in some cases they came out higher and in some cases lower.

Quite apart from that, in an attempt to meet some of the points that were mentioned, we did, as the chairman has indicated, nevertheless recognize that in cases where the maximum rate might be called into play for heavy loading commodities, there is some benefit in cost savings as compared with the lighter loading commodities for the railway, and we have provided a formula which requires—and that is the one to which the chairman referred—that part of that benefit be shared with the shipper.

We did something else. We put in as a further protection what I might call a two year freeze on the availability of use of the maximum freight formula in cases where rates are presently at a level controlled by the Freight Rates Reduction Act.

In other words, we have said that unless a railway actually raises a rate in that category of rates as compared with the August 66 rate, the availability of the maximum rate may not be claimed.

Now, this was not to limit the position of the shipper but to limit the position of the railways to encourage them to keep their rates down at the present level.

Having made all the reviews that I have mentioned, and having looked at the special situation of the heavier loading commodities, we came to the conclusion that may be this formula is not absolutely perfect. But there was no alternative formula we considered administratively feasible that was any better, and most of them looked a lot worse. It does provide protection over the wide area I have mentioned, and, if there is any weakness—and we do not think there is much—it could exist in these heavier loading commodities where there is very little need for it. As I said, International Nickel can bargain with the CNR and get a good rate. They are pretty equal when they take each other one, so to speak.

The MacPherson Commission did a lot of work on this and we finally concluded that the best thing to do was to adopt the MacPherson Commission formula with the modifications I have indicated, but to provide as well that this formula will come up for review with four years, at which time, presumably, there will have been enough experience to indicate whether there are weaknesses in it. If so, they can be remedied at that time.

Finally, as an additional safety valve against any possible weakness, we have strengthened clause 16. This was done at several stages in the Committee process in order to make it a pretty broad appeal clause carrying with it a number of written-in principles which we think protect the public interest and ensure, that, if in the long run even the application of the maximum rate formula should not work fairly in the opinion of a shipper, that maximum rate too, like anything else, could be appealed under clause 16.

I have not attempted, honourable senators, to deal seriatim with the particular points of Mr. Frawley. Rather I have tried to indicate a little of the philosophy that went into the building of this bill, and I hope I have been able to indicate the thought that led to the final position we adopted.

Senator PEARSON: Why choose four years for the review?

Mr. BALDWIN: We do not think that there is going to be that much use of the clause. We may be wrong. Certainly, in the heavier loading commodities we do not think there is, because we think the evidence has indicated that in that area the shippers will be able to take care of themselves in moving their commodities at far below the present maximum rates. Also, we want to have evidence in order to build a case, and when you do examine it you will see that it is a complicated matter; so we have to have enough time to do proper research.

Senator LEONARD: Mr. Chairman, I would ask Mr. Baldwin if he has any comment on the question of interpretation of public interest that Mr. Frawley raised?

Mr. BALDWIN: Yes, sir. The point raised by Mr. Frawley with regard to public interest was very much in mind when, in the committee stage in the House of Commons, clause 16 was redrafted to include, on page 10, section 16(b) and, subsequently, in subsection (3), sub-subsections (i) and (ii) in particular.

Earlier drafts of this clause did not contain those particular matters. We have tried to spell out the criteria relating to "an unfair disadvantage" and "an undue obstacle" to the interchange of commodities. We also did a little research into the judicial interpretation of the phrase "public interest."

There are other cases lying outside our jurisdiction, but we are pretty satisfied that the normal interpretation is a broad interpretation which would take care of the points raised by Mr. Frawley.

Senator ISNOR: Mr. Chairman, I raised the question of the average tonnage of these cars because I thought it might fit into the formula.

Mr. BALDWIN: Oh, yes, it was Senator Isnor who raised that question.

Senator ISNOR: Yes, I asked Mr. Frawley that question. I wanted to ask Mr. Frawley, who presented his very fine brief in a very capable manner, whether he was representing the CPR or the Province of Alberta. And I ask that question because he has referred to the CPR repeatedly. I suppose the CNR and the Atlantic provinces would be in the same position. Is that right, Mr. Frawley?

Mr. FRAWLEY: The CNR and the Atlantic provinces would be what?

Senator ISNOR: Was lack of competition with the CPR the basis on which you used its name so often?

Mr. FRAWLEY: No. I refer to the Canadian Pacific Railway so often because the financial need of the Canadian Pacific Railway Company, Senator Isnor, is the only yardstick which the Board of Transport Commissioners can take. I

rather think that, when the new commission is set up, the costs of the Canadian Pacific Railway will be the basic costs which the commission will use as guidelines.

Senator ISNOR: Thank you. I wondered why you used it. Mr. Chairman, Mr. Frawley stated that he was invited to appear before this committee. Is that a correct statement?

The ACTING CHAIRMAN: Let us not quibble.

Senator ISNOR: Just a moment. I have a question.

The ACTING CHAIRMAN: Just let me add that it was indicated to me that Mr. Frawley wanted to know whether it would be possible to appear before the Senate committee and I said, "Yes, if there is a request, why, certainly, we will hear him." I fixed a time, therefore, and I said that we were going on on Tuesday and Wednesday and that if he were available on Tuesday I would like it, but if not, we would make it on Wednesday morning. How he got here is another question. There is the combination and he is here and he has made his presentation.

Senator ISNOR: I just wanted to make sure of that invitation.

The ACTING CHAIRMAN: He is not an intruder.

Senator ISNOR: That is fine. If he were, he would still be welcome.

The ACTING CHAIRMAN: Oh, yes.

Mr. FRAWLEY: I think I had requested the invitation in a letter, senator, and I am grateful to be here, because the committee need not have heard me. You must understand that I wrote a letter saying that I would like to be here.

Senator ISNOR: If Mr. Frawley were invited, was the Maritime Transportation Commission invited? It presented a very fine report or brief to the House of Commons.

The ACTING CHAIRMAN: Nobody was invited to this committee.

Senator ISNOR: Was the Port of Halifax Commission invited?

The ACTING CHAIRMAN: No, nobody was invited. So far as the two bodies you mentioned are concerned, having you here as a representative of those interests, I do not think we would need anything more.

Senator ISNOR: Thank you very much, Mr. Chairman. I try to look after their interests, but I am afraid I do so only in a very feeble way.

Senator ASELTINE: Do not be so modest.

Senator ISNOR: Mr. Frawley, your whole brief was more or less based upon the lack of competition in certain areas. Would you say that?

Mr. FRAWLEY: No. The point of my brief, senator, was that even where there is apparent competition there is no effective competition, if the railway is enabled to exact excessive contributions to overhead.

Senator ISNOR: Granted that, there is still competition entering into it, and I want to place before you, Mr. Chairman and members of the committee, that we in the Atlantic provinces have not the same competition as Quebec and Ontario. With that thought in mind I think the commission should bear in mind that our rates in the Atlantic provinces should be given very careful consideration.

The ACTING CHAIRMAN: They started off right away by reserving all the statutory provisions previously existing.

The one section outstanding is Section 53. Shall that carry?

Senator ARGUE: Might I ask one question of Mr. Frawley? I wonder if he would care to guess how this \$110 millions by way of subsidies, when it is raised by increases in freight rates etc. will be distributed among the various types of rates mentioned on page 2? Will the burden fall in somewhat the same manner

or will there be some real improvements? Will it be distributed so that the general burden will be spread in a fair and equal manner?

Mr. FRAWLEY: I would say that the same situation exists today as existed in 1958. The railway companies cannot put increases on competitive rates with any assurance that they will remain there because if competition becomes too keen they will have to remove them. But they can always put increases on class rates and non-competitive commodity rates knowing that they will stay there.

Senator LEONARD: But you must not overlook the fact that some of the subsidies will change from being general subsidies and will become special subsidies payable only in special circumstances.

Mr. FRAWLEY: I did not follow you too well when you spoke about subsidies. There have been some available pending the passing of this legislation. But I don't know of any subsidies in the freight rate structure at all. There is no subsidy in the Crownest Pass freight rate structure.

Senator LEONARD: I think either the minister or Mr. Baldwin said yesterday, when asked about the situation when a report is made to the Governor in Council and representations are made for special action, that it would come out of the public treasury.

Senator CONNOLLY: The minister has said that many times.

Mr. BALDWIN: There is provision in several places for governmental action to provide special subsidies where such duties would be imposed on the railways—that is public duties, so that they may not lose by this.

Senator THORVALDSON: This is the principle of the act.

Mr. FRAWLEY: There is nothing in this, with great respect, that envisages continuous subsidies. I do not know of any freight rates for movements in or out of Alberta that justify a subsidy.

The ACTING CHAIRMAN: You must be doing very well now.

Mr. FRAWLEY: Because we are able to pay our way, but we are paying on a false and wrong principle.

The ACTING CHAIRMAN: Shall Section 53 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: I do not know if Section 1 carried yesterday; shall Section 1 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Shall I report the bill without amendment?

Hon. SENATORS: Agreed.

The committee adjourned.



First Session—Twenty-Seventh Parliament

1966-67

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING COMMITTEE ON

TRANSPORT AND COMMUNICATIONS

The Honourable T. D'ARCY LEONARD, *Acting Chairman*

No. 12

Complete Proceedings on the Bill C-229,

intituled:

“An Act to authorize the provision of moneys to meet certain capital expenditures of the Canadian National Railways System for the period from the 1st day of January, 1965 to the 30th day of June, 1967, and to authorize the guarantee by Her Majesty of certain securities to issued by the Canadian National Railway Company”.

THURSDAY, FEBRUARY 9, 1967

WITNESSES:

Canadian National Railway Company: Norman J. MacMillan, President; Ralph T. Vaughan, Vice-President, and J. W. G. Macdougall, General Counsel.

REPORT OF THE COMMITTEE

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967

THE STANDING COMMITTEE
ON
TRANSPORT AND COMMUNICATIONS

The Honourable T. D'Arcy Leonard, *Acting Chairman*

The Honourable Senators

Aird,	Lefrançois,
Aseltine,	Leonard,
Baird,	Macdonald (<i>Brantford</i>),
Beaubien (<i>Provencher</i>),	McCutcheon,
Bourget,	McDonald,
Burchill,	McElman,
Connolly (<i>Halifax North</i>),	McGrand,
Croll,	McLean,
Davey,	Méthot,
Dessureault,	Molson,
Dupuis,	Paterson,
Farris,	Pearson,
Fournier (<i>Madawaska-Restigouche</i>),	Phillips,
Gélinas,	Power,
Gershaw,	Quart,
Gouin,	Rattenbury,
Haig,	Reid,
Hayden,	Roebuck,
Hays,	Smith (<i>Queens-Shelburne</i>),
Hollett,	Thorvaldson,
Isnor,	Vien,
Kinley,	Welch,
Lang,	Willis—(46).

Ex officio members: Brooks and Connolly (*Ottawa West*).

(Quorum 9)

REPORT OF THE COMMITTEE

MINUTES OF PROCEEDINGS
ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Monday, February 6, 1967:

"Pursuant to the Order of the Day, the Honourable Senator Benidickson, P.C., moved, seconded by the Honourable Senator Connolly, P.C., that the Bill C-229, intituled: "An Act to authorize the provision of moneys to meet certain capital expenditures of the Canadian National Railways System for the period from the 1st day of January, 1965 to the 30th day of June, 1967, and to authorize the guarantee by Her Majesty of certain securities to be issued by the Canadian National Railway Company", be read the second time.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Connolly, P.C., moved, seconded by the Honourable Senator Benidickson, P.C., that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative."

J. F. MacNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

THURSDAY, February 9th, 1967.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10.00 a.m.

In the absence of a Chairman, and on Motion of the Honourable Senator Beaubien (*Provencher*), the Honourable Senator Leonard was elected *Acting Chairman*.

Present: The Honourable Senators Leonard (*Acting Chairman*), Aird, Aseltine, Beaubien (*Provencher*), Brooks, Burchill, Connolly (*Ottawa West*), Fournier (*Madawaska-Restigouche*), Gershaw, Haig, Hays, Hollett, Kinley, Lefrancois, McDonald, McElman, Pearson, Power, Roebuck, Smith (*Queens-Shelburne*) and Willis. (21)

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

On Motion duly put it was *Resolved* to report recommending that authority be granted for the printing of 800 copies in English and 300 copies in French of the proceedings of the Committee on Bill C-229.

Bill C-229, "Canadian National Railways Financing and Guarantee Act, 1965-1966", was read and considered, clause by clause.

The following witnesses were heard:

Canadian National Railway Company:

Norman J. MacMillan, President.

Ralph T. Vaughan, Vice-President.

J. W. G. Macdougall, General Counsel.

On motion of the Honourable Senator Haig it was *Resolved* to report the said Bill without amendment.

At 11.45 a.m. the Committee adjourned to the call of the Chair.

Attest.

Frank A. Jackson,
Clerk of the Committee.

REPORT OF THE COMMITTEE

OTTAWA, Thursday, February 9, 1967.

The Standing Committee on Transport and Communications to which was referred the Bill C-229, intituled: "An Act to authorize the provision of moneys to meet certain capital expenditures of the Canadian National Railways system for the period from the 1st day of January, 1965 to the 30th day of June, 1967, and to authorize the guarantee by Her Majesty of certain securities to be issued by the Canadian National Railway Company", has in obedience to the order of reference of February 6th 1967, examined the said Bill and now reports the same without amendment.

All which is respectfully submitted.

T. D'ARCY LEONARD,
Acting Chairman.

On motion duly put it was Resolved to report recommending that authority be granted for the printing of 800 copies in English and 200 copies in French of the proceedings of the Committee on Bill C-229.

Bill C-229, "Canadian National Railways Financing and Guarantee Act, 1965-1967", was read and considered, clause by clause.

The following witnesses were heard:

- Canadian National Railway Company:
- Norman J. MacMillan, President.
- Ralph T. Vaughan, Vice-President.
- J. W. G. Macdonnell, General Counsel.

On motion of the Honourable Senator Haig it was Resolved to report the said Bill without amendment.

At 11:45 a.m. the Committee adjourned to the call of the Chair.

Attest.

Frank A. Jackson,
Clerk of the Committee.

THE SENATE

THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Thursday, February 9, 1967.

The Standing Committee on Transport and Communications to which was referred Bill C-229, to authorize the provision of moneys to meet certain capital expenditures of the Canadian National Railways System for the period from the 1st day of January, 1965 to the 30th day of June, 1967, and to authorize the guarantee by Her Majesty of certain securities to be issued by the Canadian National Railway Company, met this day at 10 a.m. to give consideration to the bill.

Senator T. D'ARCY LEONARD, *Acting Chairman*, in the Chair.

The ACTING CHAIRMAN: Honourable senators, the Senate has sent to us Bill C-229, to authorize the provision of money to meet certain capital expenditures of CNR. This is an important bill involving quite an authorization for this expenditure, and I would ask for the usual motion with respect to printing of 800 copies in English and 300 copies in French.

The committee agreed that a verbatim report be made of the committee's proceedings on the bill.

The committee agreed to report recommending authority be granted for the printing of 800 copies in English and 300 copies in French of the committee's proceedings on the bill.

Hon. JOHN J. CONNOLLY (*Ottawa West*): Before you proceed with your work, I think, as Leader of the Senate, it is only appropriate that I should come here this morning to say to the new President of the Canadian National Railways, Mr. Norman J. MacMillan, how glad we are to see him here and how welcome he is, and to congratulate him upon the assumption of his new duties and responsibilities.

Mr. MacMillan is no stranger to this committee; he has been coming here over a number of years. I can shorten what I have to say about him by simply putting it like this. All honourable senators would want me to welcome him here as warmly as Senator Haig's father used to welcome him here when he came as Vice-President. He is known particularly to the westerners, although Montreal has adopted him. We are also very glad to see general counsel of Canadian National Railways, Mr. Graham Macdougall, and Mr. Ralph T. Vaughan, Vice-President and Secretary who, by the way, is a Nova Scotian. They are pretty representative geographically on the board of the Canadian National Railways.

The ACTING CHAIRMAN: Thank you. On behalf of the committee I am glad to endorse that welcome and I want to congratulate you, Mr. MacMillan, on your appointment.

This bill was sponsored in the Senate by Senator Benidickson and was explained by him. It was debated there, and unless there is something further to be said about it, I shall ask Mr. MacMillan to proceed with any explanation he desires to give us.

Senator ASELTINE: I would like him to explain the delay in presenting this measure to us. The appropriations for 1965 and 1966 have probably all been spent. That is one of the things that bothered us when looking at the bill. Why was there this delay in bringing this measure for our approval?

Senator ROEBUCK: I think there was some confusion with regard to the appointment of auditors and that might explain it in part.

Mr. Norman J. MacMillan, President, Canadian National Railways: Mr. Chairman and honourable senators, I should like to begin by thanking Senator Connolly for his very kind reference to me and also by expressing our thanks, and the thanks of the Canadian National officers who are here with me, for the cordial invitation to appear before you this morning. Because the bill also embraces in some of its sections references to Air Canada, I would like to amplify the introductions of my colleagues by saying that Mr. Vaughan, in addition to being Vice-President and Secretary of the Canadian National Railways Company is also Secretary of Air Canada. Mr. Macdougall, who is General Counsel of the railway company has been associated with Air Canada and its legal affairs for a long period of time. For myself, although my primary responsibilities are well known to you, I have been associated with Air Canada for 30 years in various capacities. Only recently I was also appointed to the board of directors of that company; so that we do come before you with some knowledge of the affairs of Air Canada in addition to the affairs of the Canadian National.

It is rather difficult for me to explain this bill comprehensively, and, as a result, it is not always too easy to understand the bill. I might begin by making a number of confessions, one being that I think that I, more than anyone else, am the father of this legislation in its present form.

Senator ROEBUCK: Is that a confession or a boast?

Mr. MACMILLAN: I think it is a confession, and you will see why later. This legislation evolved in its present form about 20 years ago, and the evolution was brought about because in its earlier form, I think it was utterly incapable of being understood. I know I could never explain it, and no one could ever understand my explanations.

The bill basically establishes a line of credit, and that really is its reason for being. It is the one deviation from that broad principle which is the opening language of paragraph (a) of subsection (1) of Section 3, where we use the language: "The National System is authorized (a) to make capital expenditures." This certainly expresses by way of statute the authority to make capital expenditures.

The confession I am about to make is that, under the Canadian National Railway Act, the main corporate statute of the railways, which was passed first in 1919, there is included authority to make capital expenditures. The statute provides that the capital budget of the railway shall be under the control of the board of directors and that the board of directors shall annually present to the Minister of Transport the capital budget. The statute provides further that the Minister of Transport shall, with the concurrence of the Minister of Finance, have the budget approved by the Governor in Council, following which it shall be tabled in the House of Commons. This constitutes the actual capital expenditure authority.

As I mentioned briefly before, the Financing and Guarantee Act, in the form in which it was when we relied entirely on that statutory authority, began by authorizing the railway to issue securities in a specific amount, and there was no identification between the amount of the securities to be issued and our capital budget. It was always extremely difficult to draw the thread between the

procedure which was provided for under the C.N.R. Act and the procedure provided for under the Financing and Guarantee Act.

It was because of this financing characteristic that this statute was given the name originally of the Financing and Guarantee Act.

There was another reason. The other reason was that, under our Canadian National Railway Act, we are not authorized to use the powers of the railway in matters of expropriation. Parliament provided a special code for us, stipulating that we would take our expropriation powers from the Expropriation Act of Canada. The Expropriation Act of Canada, being the next step, provides that the power to expropriate will lie when the expropriation is for the purposes of a public work. And a public work is defined as a work which has been authorized by Parliament or in respect of which Parliament has authorized the issuance of guarantee securities.

Senator ROEBUCK: That is of general application. That applies to the C.P.R. as well?

Mr. MACMILLAN: No, it does not. The C.P.R. powers lie under the Railway Act, and it is in this way we differ.

Under the budgeting procedure provided in the Canadian National Railway Act, Parliament as such normally did not approve the budget at all. Consequently, there was never any strict compliance with the requirements imposed on us under the Expropriation Act. Those powers are very seldom used but when they are used, when the need arises to use them, they should be unfettered.

We thought at that time—and I am talking now of a period of about 15 years ago, perhaps a wee bit longer—that we could cure both the difficulty of explanation of the bill and the other problem, the hiatus, by amending the bill to read that Parliament authorized the capital expenditures—as is now to be found in this particular paragraph (a) of the bill.

The real situation which prevails is that for the years 1965 and 1966 we followed the normal budgeting procedures provided in the Canadian National Railway Act. We compiled our budget, we transmitted it to the Minister of Transport, and it was in due time approved by order in council and tabled in the House of Commons. The actual dates, for your information—and I do not suggest you make a note of these—were that in 1965 the budget was fully approved by order in council on March 4, 1965; in 1966, the budget was approved on April 5, 1966. In both instances they were tabled within a reasonable time—I do not know the actual date—in both the Senate and the House of Commons.

The ACTING CHAIRMAN: Yes.

Mr. MACMILLAN: Now, if you would care to refer to page 2, subparagraph (i), there is a tabulation "Estimated Requirements in the Calendar Year 1965". Here we are dealing in terms of authorization, really, as I mentioned to you, for a line of credit, but not specific expenditures.

These are the totals which flow from the inclusion in our budget in both 1965 and 1966, of total projects, and they do not represent the money which we in fact spend.

It again is a line of credit. The machinery was adopted because normally that section would have been followed by a section permitting us to borrow, and the Minister of Finance to loan, the company the amount of money referred to in this tabulation. But we do not use this, we do not borrow money from the Minister of Finance, and therefore to some extent the tabulation lacks practical importance.

To give you an idea of what actually happened—one of the advantages of this being done in retrospect is that I can tell you what happened in these years—in this column (i) the six items actually totalled \$161,600,000, which is referred to at the bottom of page 1. That was the total of the budget on a projected basis.

At the time this was presented to Parliament, we indicated in the supporting material that we anticipated the cash expenditures against that would amount to \$146,600,000. The difference in the two figures comes about because of the fact that, where we get involved in expenditures of this order of magnitude, we know that everything will not be accomplished, but we cannot tell at that time in what areas we will be unable to accomplish our objective. Shortage of material, shortage of manpower, weather, change in plans, or other eventualities invariably bring about a reduction in the contemplated capital program.

In that year when the budget was prepared we made an arbitrary assessment that we would underspend the project by \$15 million, so we deducted \$15 million from the \$161.6 million, giving us a figure of \$146.6 million. The actual capital expenditure amounted to \$136 million in the calendar year 1965. Therefore, to the extent of the difference, this legislation provided the line of credit to which I refer.

Senator ROEBUCK: What is the difference between the road property and branch lines? Are not the roads branch lines as well?

Mr. MACMILLAN: Yes, they are, senator. The difference is that the branch line embraces those which come before you for specific statutory approval.

The ACTING CHAIRMAN: New branch lines?

Mr. MACMILLAN: New branch lines. We put them in really by direction of the Department of Finance many years ago, so that the entire finance requirements of the Canadian National are to be found in one place.

In each new branch line statute there will be found authority to build a branch line which could be taken as comparing with the authority to spend the money that is referred to in here, together with authority to borrow for the branch line. That, again, would be comparable to legislation in its normal form, but in the tabulation they are brought together because they do become part of our capital program.

The same story as I related with regard to 1965 is available with regard to 1966. The projects shown on page 2 total \$192 million, and, against that, at the time we filed that budget we anticipated we would only be able to spend \$172 million. In this instance we were out a wee bit, and we do not know yet, because our books are not closed for 1966, but perhaps we shall spend \$175, a bit more than we anticipated our cash requirements would be.

These are very large figures, and I should remind you—and I am sure some of you will recall—that in our capital program at all times are a number of items which, by virtue of their character, are continuing ones. They go on for some years.

A branch line is a good example. We may start a branch line as soon as the weather opens up in 1967 and not finish the line until 1969 or 1970. This expenditure will continue to appear in the intervening budgets, but it will become a declining item. So, in each budget we break them down between new and continuing projects.

For example, in 1966, in the total project tabulation of \$192 million there were only \$90.5 million of new projects. The other \$100 million was in respect of matters of the kind I referred to which had been going on for some years, and we are never able to cut them off at the end of the calendar year; they do, in fact, continue.

If you take these items—road property, branch lines, equipment, telecommunications and hotels—in our approach to the problem we break these down into innumerable different categories.

For instance, road property we break into lines and diversions. This is work done on existing lines, and it may be the adjustment of the curvature or diverting the line of railway avoid some physical condition—it may be to avoid a

developed portion of a town or city—and is included in here. This is not a large item.

The next item we use is roadway improvements. This embraces all our real housekeeping of the railway. It is the replacement of rail, ballast, ties and tieplates, and the physical fittings used on the actual railway itself. It is always the largest part, and it is the one in the budget which is forever with us, the continuation of the physical steel on the ground.

The next item we have is what we call large terminals. These are our yards. The small ones we put into roadway improvements. The large ones, such as the building of the humpyard in Winnipeg or Toronto or Montreal or Moncton, are in the category of large terminals. In addition to large terminals main, main flat yards such as at Port Mann, Edmonton, Sarnia, and others of that nature, are included in large terminals. These are incorporated on a program basis. When we determine upon them, we set the program as being a two- or three- or five-year program, and the expenditures continue over the actual period of the program.

Then we have yard tracks and buildings, signals, roadway, shop machinery and the general item, a catch-all item.

THE ACTING CHAIRMAN: Does the grade crossing come under road property?

MR. MACMILLAN: Yes, it does, under "general." These all constitute road property. Branch lines are those specific new branch lines which are authorized by special acts.

EQUIPMENT: This is reasonably self-explanatory. It covers locomotives, freight cars, new passenger cars, if we are buying any, and also highway vehicles—trucks, trailers, buses, and things of that nature, together with what we call additions and conversions.

In additions and conversions we include modifications to freight cars which are being perpetuated in their normal condition, but to which we are adding something. By way of example, we have, and every railway in North America has in its equipment inventory, a substantial number of ice-cooled refrigerator cars. These were the only type of rolling stock we had for a long time in which we could move refrigerated traffic.

Since about four years ago we have had under way a program to vary these cars by the addition of what we call indoor refrigerator units. This was a "first" for the Canadian National, and we experimented over a year or two and then embarked on a program. This is really a unit very much like the cooling unit used on highway trailers. It is larger and a little more efficient because of the greater need. We sit them right in the door. The car remains as it always was but this is, for our budgeting purposes, an addition to the existing rolling stock.

Conversions are self-explanatory. It is the item in which we take one type of car and convert it to a different use. That item, again, is always with us. It is this type of expenditure we embrace in equipment.

TELECOMMUNICATIONS: This is a tabulation pertaining to our telecommunications arm, and we embrace in it all the items which we break into components for the railway. For example, we have a tabulation for inside plant, which is the switching equipment and other electronic apparatus which is put in buildings; and outside plant—pole lines, microwave towers and things of that nature, which do the job for the telecommunications arm which the railroad itself does for the railway.

SENATOR ROEBUCK: Do you get power for refrigeration from the wheels?

MR. MACMILLAN: No, from little diesel oil-driven generators.

SENATOR ASELTINE: Are there separate generators for every car?

MR. MACMILLAN: Yes.

SENATOR ASELTINE: Are there separate diesels for every car?

Mr. MACMILLAN: Yes. The real efficiency in the car flows from its independence and ability to sit it out. We prefer to generate the electricity in the wheels, but when it is stopped we lose the refrigeration.

Hotels: This item is completely self-explanatory. We have just about finished now our five-year program of renovation of our hotels, and those of you who are in and out of the Chateau Laurier are familiar with the efforts we have expended here.

These two items—the \$6½ million in the one tabulation and the \$6.9 million in the other—cover all hotels, and this is broken down normally, and in our tabulation, among the different hotels.

Senator BROOKS: Just as a matter of curiosity, what happens to the engines that the diesels supplant? They cannot be converted to do anything, but is there any market for them, or are they a total loss?

Mr. MACMILLAN: They were not a total loss, but they are all gone with the exception of a few which are around Canada in parks and places of that nature.

When the diesel electrics became available in the beginning we retired some locomotives which had run out their time. The steam days were subject to certain rules and regulations of the Board of Transport Commissioners which prescribed periods of time, at the expiration of which certain things had to be done. They had to be re-tubed, as we called it. All the tubes in the boilers had to be replaced for safety reasons. These were works required by the attrition of time. They did not represent wear and tear, or anything like that at all.

As we saw the new diesel power coming in and the phasing out of steam, we stopped doing re-tubing of these older locomotives, so when we did retire them there was very little value left in them, other than for scrap. We moved all the steam power to Stratford at that time, and some of you may recall that Stratford was exclusively a steam plant, a steam locomotive repair point. We knew then that with full dieselization Stratford's function would cease to be, so we moved all the power there and it was at Stratford it was cut up. By these means we were able to keep the shop in operation for a couple of years longer and permit the employees to be looked after during the phasing-out period. That is what happened.

Senator PEARSON: What is the life expectancy of diesel as compared to steam?

Mr. MACMILLAN: We always took the position that the steam locomotive would live forever. It didn't in fact, but that was a normal railway approach to the problem. We preserved the number of locomotive 6541, or whatever it was, and in the course of time virtually replaced everything else. We had locomotives in existence at that time that when they finally retired were theoretically 50 years old in some instances. Normally, they were not anything like that, but they could be renewed by replacing fire boxes, boilers, and so on. Diesel electric, on the other hand, is subject to obsolescence, because new techniques are evolving at all times. The normal life anticipated for the diesel was 25 years when they came into service originally.

Here again we could perpetuate them by replacing the diesel engine and replacing the electronics and replacing the traction wheels and the motors on the wheels, and if all those things were to be done it would continue to provide service, but as I intimated a moment ago, the components have been improved upon, the manufacture and design have radically been improved upon and now we are endeavouring in programs of that nature to build into the older locomotives the traction motors and diesel engines of new design.

Senator BURCHILL: In railway accounting, is there any formula for drawing the line between ordinary maintenance and capital?

Mr. MACMILLAN: I am not very much of an accountant. As a matter of fact I do not have too much understanding of the way the accounting is done, nor, I

confess, have I much sympathy on occasions. The Board of Transport Commissioners provided some years ago a code of uniform accounting rules. These were prescribed for all railways subject to the jurisdiction of the board. They are not always easily understood. I can give you a variety of examples. If we replace a single rail length, that is a length of rail which is 39 feet, on the main line because a rail has broken or deteriorated by use, then I am quite sure that is maintenance, but if we replace a half mile of rail in the same segment of the main line, some of that becomes capital. Why, I don't know. Similarly, if we take a box car which needs repairs, there are certain types of repairs which can be done and charged to operation and others that are charged to capital. I do not think this is a matter of dollars; I think there are other principles which they follow. The net result is that sometimes we embark upon a program of a particular kind, and about halfway through discover that it is not an operating charge—that it has become a capital charge, and vice versa.

Senator HOLLETT: In the Estimates of 1967, could you give some assurance that an allowance will be made for converting the narrow gauge railways in Newfoundland to wide gauge?

Mr. MACMILLAN: I would like to be able to do that, but I am sorry I cannot.

Senator HOLLETT: There is no hope whatever? You have been there for 30 years and you are a director of the company.

Mr. MACMILLAN: Well, I would hope to give a reasonable response, but as you can gather, senator, I think the mistake there was that it was not standard gauge in the beginning.

Senator HOLLETT: We were not a part of the Canadian nation at the beginning.

Mr. MACMILLAN: I know that.

Senator HOLLETT: But we did have certain promises. You have been there now for 30 years and you know about these promises. Surely something is going to be done. I imagine the railway in Newfoundland is not a paying concern and one of the reasons is that it is narrow gauge.

Mr. MACMILLAN: I am not too sure how far we are in our program at Port aux Basques at the moment. I am sure you know that as a consequence of this program and for the first time, as far as I know, there will be some standard gauge trackage built in Port aux Basques, but it will not be extensive.

Senator SMITH (*Queens-Shelburne*): Can you tell us what is the cost involved of putting a wide gauge railway and altering bridges to accommodate it from Port aux Basques throughout the province?

Mr. MACMILLAN: I would not like to estimate that, but I can tell you it would be a very, very large sum.

Senator SMITH (*Queens-Shelburne*): Would it be in the hundreds of millions of dollars?

Mr. MACMILLAN: Yes.

Senator HOLLETT: You must, however, give us credit for building this long before they were built on the mainland. I think a little consideration ought to be given to that.

Mr. MACMILLAN: Yes.

Senator HOLLETT: Can you tell me what it would cost to convert one mile of rail to wide gauge?

Mr. MACMILLAN: You cannot really guess at that, senator, because there are very few contiguous miles which are identically the same in character. It would depend upon the bearing power, the curvature, the construction of the sides and right of way, the bridges and culverts, and everything appertaining to it.

One aspect that probably most people overlook is that the problem is not a simple one of merely moving the rails out to four and a half feet apart, because that would mean that the railway would be out of commission for the entire period of conversion. What actually is required is the superimposition of a standard gauge rail upon the existing rail to permit of traffic moving during the entire period of conversion. In other words we would have to have a minimum of three tracks laid throughout, and most probably four tracks, and also we would have to do the same thing at each switch point and at each bridge and at each culvert. Then, even if that were possible, and I think it is possible but at a very large expenditure of money, there is the question of equipment. All the equipment presently in Newfoundland would have to be converted to standard gauge equipment, and during this transitional period there are still these attendant problems. There are many places in the world where this exists. In Australia, for example, you have this problem. I think they have four different gauges on the continent of Australia. Railways there are state owned and when they meet you have the problem of moving from a gauge of four-feet eight-and-a-half inches to a gauge of five feet. I understand that they lift the cars up and put new tracks under them at the point of interchange.

Senator HOLLETT: Thank you, I hope it will be done during your presidency.

The ACTING CHAIRMAN: Actually, he is wishing you a long life.

Mr. MACMILLAN: If I may go on to subsection (b). This subsection is very often difficult to understand.

Senator HAIG: You have not discussed investment in the affiliated companies.

Mr. MACMILLAN: I am sorry. This is a small item which embraces the capital contribution of Canadian National to railways which we do not fully own but of which we own a part. In this category I would mention the Northern Alberta, the Toronto Terminal Railway and the Shawinigan Falls Railway. In all of these we are in equal partnership with Canadian Pacific. Also included are two American Railways in Chicago, of one of which we own one-fifth, while in the other we have a one-twelfth interest. The other partners there are railways operating in that vicinity.

Senator HAIG: Does that include the Ottawa Terminal Railway Company?

Mr. MACMILLAN: It would have done, but in that case the National Capital Commission provided the expenditure required for this railway.

Senator ASELTINE: Will you explain exactly the connection between CNR and Air Canada for us. Why is this necessary? Has it been done before?

Mr. MACMILLAN: The Canadian National by the statute or by the Air Canada Act owns all its common stock. That probably accounts for Air Canada being included in this legislation. That is a matter of government policy. At the time Air Canada was created they determined that part of the capital requirements for Air Canada should be provided through the vehicle of the Canadian National. It is for that reason they always appear in our Financing and Guarantee Acts, and in our budget, as an item which is provided for under the legislation. They follow the same machinery as we do in terms of preparing their budget and having it presented for approval by the Governor in Council, and likewise it is approved.

Senator HAIG: You lend them the money and they pay it back?

Mr. MACMILLAN: Yes, we actually borrow the money from the Minister of Finance and it flows directly through us, through to Air Canada, and then on the way back it flows through us, through the Minister of Finance.

Senator ROEBUCK: Is there any advantage in that system?

Mr. MACMILLAN: I imagine the advantage is that, in the first place, we have the Financing and Guarantee Act every year. It obviates the necessity of another

piece of legislation which would do exactly the same thing for Air Canada as is done in here, and this legislation, as you will remember, in terms of borrowing power, is confined almost entirely to Air Canada.

As we go along through the act, I shall point out the only departure from that procedure.

In paragraph (b), where we are talking in terms of an aggregate expenditure of \$126 million in the year 1967, the first point I wish to make is that this is again in the nature of credit. The components of it are always specifically broken into the first budget presented thereafter. They are not additional to the tabulations which are shown. In the 1967 budget, these items which total \$126 million all become definitive and they move up, so it is not to be understood that they should be added to the specific tabulation.

The ACTING CHAIRMAN: Does that mean that the 1965 and 1966 Air Canada expenditures are in the two top tabulations?

Mr. MACMILLAN: No, they are in the Air Canada budgets for that year.

The ACTING CHAIRMAN: But not in any legislation?

Mr. MACMILLAN: Only the borrowing.

The ACTING CHAIRMAN: It is only the borrowing that becomes legislation.

Mr. MACMILLAN: Yes, for the six months. This is why I say it is really a line of credit. What this section provides is that the Canadian National is granted authority to pay obligations incurred prior to 1967, that is, up to December 31, 1966, that is, when the obligations have been incurred; but the authority to do this expires on July 1, 1967.

In more specific terms, the railway's component of the \$126 million is \$76 million and the Air Canada component is \$50 million. These are expenditures which can come along for payment during the period of year which falls between the end of the preceding calendar year and the date on which the Financing and Guarantee Act for the next year has been enacted. It is intended to look after that hiatus period.

When we picked the date July 1 in any year, it was picked because it was midway through the year and at that time normally the Financing and Guarantee Act had been enacted, because we normally get the Financing and Guarantee Act through Parliament sometime in May or early in June. The only magic of July 1 is the one that I have presented to you: it was picked because it normally ensured that the legislation would be passed by that date.

Senator THORVALDSON: Mr. President, before you proceed, I notice you have to borrow to discharge obligations that were incurred by Air Canada. What type of obligations were those and how did Air Canada finance those prior to your discharging them?

Mr. MACMILLAN: Air Canada for the past three or four years has financed itself entirely with self-generated funds, depreciation salvage, and other items of that nature. This is the first time of borrowing for at least four years.

In this particular case—we are talking now of the period in which we are, that is, January 1 to July 1, 1967—the \$50 million is required to permit of their taking delivery of three DC-8 aircraft which cost about \$9 million each, and six DC-9 aircraft which cost about \$4 million each. This involves a capital expenditure of the order of magnitude of \$52 million and this is in addition to their normal capital requirements during that period of time. The \$2 million, of course, they will find in their own self-generated funds during the first six months of 1967.

Senator THORVALDSON: All these airplanes will be delivered this year, or prior to July 1—or perhaps some have been delivered?

Mr. MACMILLAN: These specific aircraft will come along in this six-month period. Our item, \$76 million, is confined to equipment, rolling stock.

The next subsection, subsection (c), is authority, again in respect of this hiatus or interlocking period, January 1 in any given year to July 1 in that year, and has appeared in the statute for many, many years.

What we need here is really authority to proceed with the carrying on of our business, the ordering of new equipment, the entering into contracts, which we must do at that time, and if we do not make them at that time we will not obtain equipment until a full year has elapsed.

The next subsection, subsection (2), gives to the National Company, with the approval of the Governor in Council, the general authority to borrow from the minister funds for the advantage of Air Canada. They are required for the purposes which I have just referred to above, that is, the \$50 million.

The next paragraph is a general authority, authorizing us to issue securities for that purpose.

Then there are various statutory directions as to what happens about these things. We are required by statute, for example, to refer to these matters definitively in the next year's budget, which we always do.

Senator THORVALDSON: Those securities you referred to are direct securities of the railway company, guaranteed by the Government, is that right?

Mr. MACMILLAN: This is really the introductory portion of that, and we get the specific guarantees later on in the bill. What you said, senator, is correct, but the guarantee power does not actually lie there, it is referred to much more specifically.

The ACTING CHAIRMAN: It is possible that you might do your financing entirely through the Minister of Finance without proceeding to the public?

Mr. MACMILLAN: That is correct.

Section 4 is related to the issuance of securities by the National Company to the public for Air Canada. Then, on page 4, at the top, you have section 5, which authorizes the Governor in Council to guarantee these securities.

Section 6 grants authority to the Minister of Finance to loan us the money required by Air Canada and this is actually the section which is used. There has not been a public issue by Canadian National for the benefit of Air Canada for a long time—and I am not sure that there ever was one specifically for that purpose. The procedure is that we obtain the funds required from the Minister of Finance, they stand in their books in our name, earmarked for Air Canada. This is all done pursuant to section 6 on page 4. You will notice that there is broad gauge authority granted to the minister. The amount which may be loaned pursuant to the section is \$50 million, the same \$50 million.

Senator ASELTINE: Why is it \$50 million? Why is it not much more than that?

Mr. MACMILLAN: Because we just need \$50 million. In that section 3 where we ask for only \$50 million—

The ACTING CHAIRMAN: It is the cost of the new planes.

Senator ROEBUCK: Can you tell us more about what \$50 million is to be used for?

Mr. MACMILLAN: That is to be used to buy the three DC-8 and the six DC-9 aircraft.

Senator ROEBUCK: You have mentioned that.

Mr. MACMILLAN: Yes, I did.

In section 7 there is general statutory authorization to us, permitting the Canadian National to consolidate the capital requirements of our member companies, such as our telecommunications companies, our hotel companies, our various components. You will recall that there are a number of corporations embraced in the general terminology of "Canadian National Railways". This bill always stands in the name of Canadian National Railway Company. Then, as we

find it extended, to the national system, it is the National Railways under the statute.

Senator KINLEY: What is the position of the Canadian National Steamships?

Mr. MACMILLAN: That is one of them. We have Canadian National West Indies Steamships now—no, I am sorry, we do not; we have the Canadian Steamships on the west coast operating from Vancouver north to Prince Rupert, and so on.

Senator KINLEY: Plus the *Bluenose*, *Bar Harbor* and *Digby*—you have two there.

Mr. MACMILLAN: Ships? We have more than that, actually.

Senator KINLEY: Two main passenger ships?

Mr. MACMILLAN: Yes.

Senator KINLEY: Now you have them in the West Indies shipping, but you have them on inter-island journeys in the West Indies shipping, ships that we gave to the West Indies.

Mr. MACMILLAN: We do not operate that.

Senator KINLEY: Does that come under your department?

Mr. MACMILLAN: No, the Government did that directly. I do not think the Government of Canada operates that vessel.

Senator KINLEY: You donated the vessel?

Mr. MACMILLAN: No, it was not donated through us: it was donated by Canada.

Senator KINLEY: Do you contemplate any new ships for the West Indies trade?

Mr. MACMILLAN: Not at this moment.

Senator KINLEY: There is a rather completed arrangement for a ship to operate between Boston and Yarmouth, which the Americans are going to finance themselves. You know about that, I suppose?

Mr. MACMILLAN: Yes, I have heard about this.

Senator KINLEY: For many years, that was the main departure point from Nova Scotia for America, and it seems it is coming back; it seems to be a natural thing.

The *Bluenose*, of course, is farther up the bay, and there was a committee which wanted to put it down at Digby. You have made arrangements with the CPR to amplify that service across the Bay of Fundy, which has been very good. That does not interfere much with the *Bluenose*, does it?

Mr. MACMILLAN: It is too early to tell, really. But these discussions are actually in the hands of the Department of Transport. We are not carrying those discussions at all.

Senator KINLEY: But your directors still control the Canadian Merchant Marine; your directorate is still the directorate of the Canadian Merchant Marine?

Mr. MACMILLAN: I do not think there is any left. That company has been absorbed. We certainly did; 30 years ago it was the same group.

Senator KINLEY: Well, less than that.

Mr. MACMILLAN: Yes.

Senator KINLEY: But you have some of the ships on the Pacific?

Mr. MACMILLAN: No, we do not, in that name.

Senator KINLEY: It is pretty well disappeared. We have not much of a merchant marine now, have we?

Mr. MACMILLAN: No.

Senator KINLEY: Does the bill we passed yesterday, Bill C-231, have much association with the railroad? Does it interfere with your liberties at all?

Mr. MACMILLAN: I think it is rather difficult to answer your question categorically at this moment.

Senator KINLEY: All right.

Mr. MACMILLAN: If I may return: Section 8—

Senator THORVALDSON: Before you leave section 7, Mr. President, there is a phrase in here I do not exactly know the meaning of. It states:

The National Company may aid and assist, in any manner—

—and what does this mean:

—not inconsistent with section 3, any others of the companies and railways—

—and so on. Does that mean you just must not overspend?

Mr. MACMILLAN: That is right. Under section 3 we are restricted to expenditures in the category to a given amount. This section says we cannot give to one of our shipping companies more capital assistance than has been included in the budget—just by way of example.

Then on section 8, this is a requirement which we have always had, that if we do go to the public and sell bonds the proceeds shall be deposited to the credit of the Minister of Finance initially, and then paid out by him.

Sections 9 and 10 are really in identical language, except that section 9 deals with Canadian National and section 10 deals with Air Canada. They provide that at any time before July 1, 1967—and this, again, has been repeated year after year—where the earnings of the railway are insufficient to meet its operating requirements, then the Minister of Finance may advance moneys to cover the deficit. The same authority is granted to Air Canada.

The basic reason for this is that in the first few months of every year every transportation company is in a deficit position, and they have to pick up the losses as the year goes on. This is the same provision as has been available for many years.

The ACTING CHAIRMAN: Mr. MacMillan, your auditors keep reporting the fact of the matter is it leaves you for the last six months without any statutory authority for financing your deficit. They seem to suggest that some procedure should be devised by the Government to provide authority to appropriate moneys to make deficit payments on a definite basis. Is this, in fact, a practical problem?

Mr. MACMILLAN: The practicalities are that we are able to finance.

The ACTING CHAIRMAN: You have some other authority?

Mr. MACMILLAN: Yes.

Senator THORVALDSON: Further to that, Mr. President, does the CNR finance in the same way as other companies, through banks?

Mr. MACMILLAN: No.

Senator THORVALDSON: Are items like this carried by bank loan, as would be the case in an ordinary company?

Mr. MACMILLAN: No, the banking for the CNR is done by the Minister of Finance under this section. The subsection, in both cases, is a direction to both the railway and Air Canada to repay the advances when the operating revenues are sufficient to permit that being done.

Sections 11 and 12 are sections which appeared in 1952, and they were part of the package of the Canadian National Railways Capital Revision Act. In both instances the authority included in 1952 expired, and these sections have been

incorporated in every financing guarantee act subsequent to the expiration, and they continue the principles of the original Capital Revision Act.

The first one deals with the company being relieved of the payment of interest on the sum of \$100 million. And the second provides for the purchase by the Minister of Finance of 4 per cent preferred stock in an amount equal to 3 per cent of our gross earnings per annum.

Senator ROEBUCK: Why should you be relieved of that interest repayment indefinitely?

Mr. MACMILLAN: Just because it was part of the package of the 1952 Act. That Act contemplated the whole question would be reviewed in 10 years, and the 10-year period has now ended.

Senator ROEBUCK: What was the money got for?

Mr. MACMILLAN: We never did get the \$100 million that is referred to here. It was really a means adopted to relieve us of a fixed charge, and it was unrelated to anything, but it was included, and for a 10-year period.

Senator ROEBUCK: Repayment was deferred for 10 years, without any interest?

Mr. MACMILLAN: That is correct.

The ACTING CHAIRMAN: I think the bonds actually mature in 1972.

Mr. MACMILLAN: Yes, they do.

The ACTING CHAIRMAN: But the original capital revision provided for a moratorium on interest for 10 years, and that moratorium has been carried forward from year to year.

Mr. MACMILLAN: That is right.

The ACTING CHAIRMAN: The capital revision took the old capital of the CNR and changed it all, and gave a certain amount of stock.

Senator ROEBUCK: Why not give them the \$100 million, and have done with it?

Mr. MACMILLAN: We would have found that quite satisfactory!

Senator ROEBUCK: I think it would be a better idea than having an item in the books like this, and deferring the interest payment on it indefinitely from year to year.

The ACTING CHAIRMAN: I presume they expect there will be one more revision of the capital of the CNR.

Senator THORVALDSON: Is this the only obligation that has been assumed by the federal Government in regard to the revision of 1952?

Mr. MACMILLAN: No, in 1952 there was a much larger recapitalization. As I said, this was part of the package. The Capital Revision Act at that time was intended to be a package determined upon for a 10-year period. The whole question was to be re-examined at the expiration of the 10-year period. The real effect is to extend what was intended to be a 10-year period, and it has now become a 14-year period.

The next section is one which is really included in this bill only for convenience. It is the appointment by Parliament of the independent auditors of the Canadian National, and the appointment is that of the Touche, Ross firm of Montreal and Toronto, for the years 1966 and 1967.

In respect of 1966 they carried on primarily because they had been appointed auditors prior to that by Parliament. It was, no doubt, the will of the Government that they continue. We do not appoint the auditors at all, and they were named in several references before the House of Commons.

Senator ROEBUCK: They did actually carry on their continuous audit?

Mr. MACMILLAN: Yes, exactly the same as they have always done. They are there all the time, they have a large staff which is in our buildings at all times.

Senator ASELTINE: How long have they been auditors?

Mr. MACMILLAN: I think three or four years, something like that. Prior to that it was DeLalanne of the McDonald Currie firm.

Mr. Chairman, that is my explanation of the bill. I will be delighted to try to answer any questions.

Senator THORVALDSON: I have one question I would like you to clear up in relation to this question of capitalization. Do any of the various subsidiaries have direct capital obligations either to the public or to some other place?

Mr. MACMILLAN: No, not to the exclusion of the system. Air Canada's capital positions tabulated and it exists independently of Canadian National, but the Canadian National budget embraces all capital obligations of all components of the railway, and they are consolidated in this bill.

Senator HAYS: I have a question which may not relate directly to the bill but which does relate to rolling stock. How much grain can you and Canadian Pacific carry for export?

Mr. MACMILLAN: Unfortunately I do not have my charts with me. I give a lot of attention to this. I can say this, that to take the two properties together, I think we are almost at the peak of our ability. We still have some elasticity, but not a very great deal, and it is giving us some concern, frankly.

Senator HAYS: Are there any provisions in your budget so far as rolling stock is concerned, and in saying this I am looking into the future, to make it adequate to carry 800 million bushels? It seems to me that at \$5 a ton for fertilizer, on 29 million acres, it will give something like 1,100 million bushels of wheat each year under normal conditions. How is the railroad going to do its part so far as the carrying of this is concerned?

Mr. MACMILLAN: I should say that we are very conscious of the possibility you mention. We are also very conscious of the fact that we can easily find ourselves faced with the movement of one billion bushels of wheat. It is very much in our minds but we do not think it is likely to happen this year, and we do not think it will take a big jump all of a sudden but there are very definite indications of this occurring in the foreseeable future.

There are many facets to the movement of grain, as you know, and the railways only provide what I might call the middle link in this chain. We do not originate the movement of grain nor do we finalize it, and the real problem facing us in this matter lies not in the lack of ability of the railroads to move the grain but in the problems at the original collection points and their ability to handle tonnage of this magnitude, and also the export handling facilities being able to dispose of grain in such quantities. It is all that many of these locations can do now to handle what is going through, and this applies to the country elevators as well as to the export terminals. The whole problem is really to try to bring all of these three components into harmony, and when the time comes I hope the railways will do their part.

Senator HAYS: You are getting geared to this sort of production?

Mr. MACMILLAN: We have spent a great deal of time on it.

Senator HAYS: What about the export facilities at Vancouver and at Montreal?

Mr. MACMILLAN: The Government is very much aware of this problem. The departmental officials are aware of it and there are studies under way as far as I know, at this very moment into the question of how to resolve the problems of trans-shipment. The only way that this can be accomplished is by very substantial expansion of the facilities, and, in addition, the variation of some of the equipment and the apparatus. It is really a question of examining the methods which have been used traditionally in some of these export terminals.

Senator HAYS: Can you carry 800 million bushels by 1969?

Mr. MACMILLAN: Yes, we could.

Senator HAYS: And you are geared to do this now?

Mr. MACMILLAN: No, we are not geared to do it now.

Senator HAYS: But you would be by then?

Mr. MACMILLAN: That depends upon the ability of the collection points to give us 800 million bushels in the first place, and the ability of the export terminals to take it from us. One of the great problems we have always had in the movement of grain was the fact that really there are three different parties involved. There are the operators of the line elevators, and these vary in size from being very small elevators to quite large elevators as they now have. Once the railway car is loaded at these elevators, then that entity has been satisfied or that requirement has been satisfied and then we move the grain to one of four different outlets.

To obtain the greatest efficiency on the railways, we must be able to unload the car of grain as soon as it reaches its destination, and we cannot move enormous tonnages unless we get the turnaround of the equipment, but we find all too frequently that cars are taken on and loaded and they are not offloaded sufficiently quickly, and we lose the cycle. This results in a problem which compounds itself. In the first place we require many cars to move a constant flow of grain. Secondly, we need more tracks on which to place these cars where we are moving into a congested position, and we need more locomotives, and we need much larger railway plant than we would if we could put grain into our rolling stock and really use it as a belt line where the cars are in motion all the time. That is what is really required to move these large tonnages.

Senator HAYS: What do you do in regard to planning? I will give you an example of my own particular case. I have been able to move 15,000 bushels of grain, and I have another 85,000 which I have not been able to move. This situation has been going on for years. Take the situation of malting barley, I could move two cars if there were cars. The deadline for this is February 28. If I don't move it by then I don't sell it. Having regard to the moisture content I could grow twice as much grain this year. But there seems to be a great problem with regard to moving this grain and accepting it. It does not take much fertilizer to almost double the proper moisture conditions of the present.

Mr. MACMILLAN: I am quite aware of that.

Senator ROEBUCK: Has any estimate been made of how long the fertility of our soil will stand the constant increase in the production of grain?

Senator HAYS: I can answer that question for you. Forever.

Senator ASELTINE: The top soil is 50 feet deep where I live.

Senator McDONALD: Is it not true that in many respects railroad cars spend a longer time either parked at country elevators or at terminal points than they do in transit between the elevators and the terminal?

Mr. MACMILLAN: They spend four times as much.

Senator McDONALD: In other words your facilities are geared to move this grain. They are much further advanced for moving 800 million bushels than either the country elevators or the terminal elevators?

Mr. MACMILLAN: That is right.

Senator THORVALDSON: In regard to this problem, you said a moment ago, that the matter was being worked on—by committees, presumably. Is there sufficient liaison at the present time in those studies as between the elevator people and the terminal people, who are largely the same as the owners of the terminal elevators, and the railways? Is there liaison between those interests, to find a solution to the problem which I think all of us in western Canada know is going to be a most difficult one?

Mr. MACMILLAN: I would answer your question by saying that in recent years we have established a very excellent relationship. There was a period of time prior to that when there was very little contact. As a matter of fact, I think most of us spent our time trying to find ways and means of blaming the other fellow. That is what happened. But that is no longer true. We have good relations with the Wheat Board and all the elevator companies and the pools who are involved in this problem. There is much more awareness of the problems than there was two or three years ago and there is a great deal of conversation going on between them pretty well all the time.

Senator BURCHILL: In the export, you are not overlooking the Maritime ports of Halifax and Saint John, I hope.

Mr. MACMILLAN: No, no; I was very careful not to name any ports.

The ACTING CHAIRMAN: First of all, perhaps I should thank Mr. MacMillan for his very able, excellent and comprehensive explanation. It is quite evident that he has had the experience of years in the business.

Senator McELMAN: Mr. Chairman, before you move on, the President has mentioned the new equipment, the DC-9 aircraft. Can he tell me how many are in service now?

Mr. MACMILLAN: Mr. Vaughan probably knows.

Mr. Ralph T. Vaughan, vice-president and Secretary, Canadian National Railway: There are six in service now.

Senator McELMAN: And you are acquiring six more?

Mr. VAUGHAN: Mr. MacMillan mentioned six coming before July 1, 1967. Eventually I think they are planning on 30 or 32.

Senator McELMAN: Are any of these new purchases meant for service in the Atlantic provinces?

Mr. VAUGHAN: Yes. I have no doubt about that.

Senator McELMAN: The reason I ask is that I am from New Brunswick and we have, I guess, the only capital city in the nation that has no rail passenger service by any of the railways. Air Canada has improved its service somewhat. Recently we are getting some Vanguards. I have reason to believe that for all flights out of that area, and I think your records will show the position, there seems to be a pretty strong feeling that additional services should be provided, and a jet service. Out of the Atlantic area presently there is no effective jet service.

Mr. MACMILLAN: That is correct, and we are quite conscious of this. I will bring your remarks to the attention of the management of Air Canada. The problem, of course, has been that we had but a limited number of DC-9 aircraft available and they have been placed in service in locations in which we can get the greatest utilization from them. As others become available, they will supplant the Vanguard services and the services performed now with Viscounts. I know this has been a question which has arisen in the Maritime provinces on several occasions quite recently, and we have had discussions about it and these are the plans. They plan to extend the service as much as the availability of equipment enables it to be extended.

Senator McELMAN: My only point, Mr. President, is that you say the DC-9's have been put in service where the greatest utilization possible is available. They are also duplicating DC-8 routes, you will agree, while the Atlantic area still waits for jet services. We are happy to know that finally we are getting some consideration.

Senator THORVALDSON: While you are on the DC-9's may I compliment you on the service we get from the DC-9's from Ottawa to Manitoba.

Senator HAIG: In your hotel amortization, have you a planned program for the whole country, from east to west?

Mr. MACMILLAN: Yes, we have, Senator Haig.

Senator FOURNIER (*Madawaska-Restigouche*): Going from jets to taxis, is there any hope that the taxi service would be improved from Ottawa station to Ottawa in the near future?

Mr. MACMILLAN: We have a great problem there.

Senator FOURNIER (*Madawaska-Restigouche*): So have we.

Mr. MACMILLAN: We anticipated and understood there was to be a very fine bus service from the station to other parts of the City of Ottawa and also that there would be adequate taxi service provided. These things have not always worked out as we had hoped they would. I can tell you that there are active conversations going on right now about this. There were discussions yesterday and I understand they are going to be resumed today, to see if we can do something about it.

Senator FOURNIER (*Madawaska-Restigouche*): Thank you.

Senator ASELTINE: Would you care to make any statement with respect to plans for passenger services in addition to your red, white and blue system, and the turbo trains to Expo, and the other cross-country trains that I mentioned in the Senate chamber the other day when I was speaking on the bill.

Mr. MACMILLAN: I should be delighted to try and tell you a little bit about our passenger business. It is one subject which invariably provokes interest. We have, I think, now one of the best passenger businesses, and passenger services, available anywhere on the continent. It will be improved upon. We are expecting delivery of the first of our turbo trains in the next few months. These trains have had a great deal of publicity.

They are quite unconventional, in that there is no locomotive, as we have known them in the past. The lead car and the trailing car have a little dome, so we call them the power dome cars.

The power is provided by turbines, which in turn operate electrical generators in one variation, and in the other drive a transmission; and the power is transmitted to the wheels either through electricity or transmission.

The turbine itself is about $3\frac{1}{2}$ to four feet in length and is, lying on its side, perhaps about 30 inches in diameter, at its widest point. If my memory is correct, it weighs 350 pounds. Two of these, operated in tandem, constitute the power in the power dome car.

In concept, we are going to put five passenger carrying cars in the middle and a power dome heading in both directions, at both ends, so that it becomes a completely articulated unit of seven cars. This is the turbo train.

These trains are capable of very high speeds. They will be heated and cooled by electricity. All of the electrical requirements of the train are provided by a turbine, exactly the same as those used for locomotion. The train itself has quite a different contour to a conventional train. It is slung much closer to the rail.

There is really more room inside the cars, but the cars are lower, they are flattened out and a wee bit wider.

The doors inside are in the centre of each car. The cars are permanently connected and can only be uncoupled in the shops. It was for that reason I described them as an articulated unit. Doors give access, of course, to the floor of the car, and an integral part of the door is a set of stairs which, for a station like Montreal's central station, are inside the car because the floor of the car is lower than the platform. One then will go down two steps into the car. In a station like the one in Toronto or Winnipeg or Vancouver, the stairs fold out and go down because the platform is lower than the level of the car. This is all done automatically.

The meals service on the train will be of two different varieties, as will the seating accommodation. We plan to have in the coaches very comfortable seating arrangements, and associated with this type of accommodation will be a snack bar where passengers may buy food in packaged form—sandwiches and things of this kind.

Then, in what I think we are going to call the club cars, as opposed to chair cars, because the service is going to be somewhat different, the type of meal service which has been found so satisfactory on aircraft is going to be used, and we will have personnel in each car who will look after the occupants of that car and will bring their meals to the seats and give them anything else they may wish to have.

Senator THORVALDSON: Ice water!

Mr. MACMILLAN: Yes. The intentions are to use two of these seven-car trains, again coupled in tandem, and run them between Montreal and Toronto in both directions, three times a day. So we will have 14 cars leaving Montreal for Toronto quite early in the morning, and leaving Toronto for Montreal at the same time. We anticipate the running time will be of the order of four hours, thereby cutting an hour off the present time.

We hope to turn the train at its destination inside the hour, and return to the point of origin, and then turn it again, late in the afternoon, and make another single trip. So that in this way we will have this equipment in motion for a minimum of 12 hours each day, and dedicate it to the service for two or three hours more—15 hours, perhaps, per day; and it is by these means that we expect to gain very substantial advantages.

Associated with that—and your question, senator, was a very broad gauge one—

Senator ASELTINE: What is the expense of the operation?

Mr. MACMILLAN: We think the expense of the operation in this utilization will be substantially less than the conventional train as we know it today. Part of that flows from utilization rather than direct cost of operation, because the idle time on any type of railway equipment is very expensive to us. The same is true of aircraft. When an aircraft is on the ground, it is a complete lossleader; you are not earning any revenue from it. Similarly, when the train is stopped, there is no revenue being earned either.

Associated with this train we will have in operation this summer, some time, out of Toronto another type of new equipment which we have bought from the Hawker Siddeley Company. It is an aluminum-stainless steel combination, as I recall, light-weight car. We are going to run these. We have bought five trains of five cars each. These will pull with diesel electric locomotives, one unit each, which we will be able to do because of the reduction in the dead weight of this new type of car. They will operate basically out of Toronto and towards the Niagara frontier—Windsor, Sarnia, and down into the territory such as Guelph, Kitchener—and, in all probability, also north of Toronto. This, in some ways, is an experiment. If it works out well, as I certainly hope it will, then it points the way to some further development.

I should say to you that it is extremely unlikely that Canadian National in the future will buy any more conventional passenger equipment. I am using the word “conventional” in the sense of heavy-weight steel equipment of the type we bought 15 years ago, because we think the future lies in the utilization of much lighter-weight equipment. In the first place, we can buy it more economically; we can operate it very much more economically; and we can maintain it more economically, thereby getting greater utilization from it.

Senator SMITH (*Queens-Shelburne*): Would you like to comment on the relative safety factors in connection with the proposed change-over from heavy metals to lighter metals?

Mr. MACMILLAN: The interesting part of this is that there is no sacrifice of safety at all. As a matter of fact, in many instances there is greater safety in the utilization of these alloys and lighter-weight materials.

Perhaps I misled you when I said "lighter weight." I did not mean lighter in bulk or in strength at all. What I meant was lighter in avoirdupois; they do not weigh as much; but they do have the ability to comply with all the safety standards which have been prescribed by both the Board of Transport Commissioners and the Interstate Commerce Commission. All our equipment is subject to test in these respects.

Senator KINLEY: Of course, aluminum is much lighter than steel.

Mr. MACMILLAN: Yes, it is. But there is a new steel which is very much lighter than old steel; this is the type we are using.

Senator THORVALDSON: What is going to be the passenger capacity of this train you refer to, this seven-car train that will operate between Montreal and Toronto?

Mr. MACMILLAN: We put the two together; it is about 620.

Senator THORVALDSON: That is in 14 cars?

Mr. MACMILLAN: Yes. The car you know today is 85 feet long. These cars, I think, are only 40 or 42 feet long, so they are not to be compared with the old car.

I omitted to say there are no doors in between cars. This is all open, so once one gets in the train it ceases to be several cars; it is one continuous unit.

Senator PEARSON: Will the construction of the car allow easier travel around curves?

Mr. MACMILLAN: Yes, the centre of gravity is very much reduced and the truck system is entirely changed. Each car has but two wheels rather than two sets of four-wheel trucks.

Senator O'LEARY (*Antigonish-Guysborough*): Is the line between Montreal and Toronto under the centralized control system?

Mr. MACMILLAN: No, we have three types of signal on that line at the moment. We are in the middle of a program of converting it all to centralized traffic control. It will take about three years more to complete it. We have C.T.C. between Montreal and Coteau, and also between Toronto and a point a short distance east of Oshawa. There is an automatic block system in between, but as time goes by it will all be the same.

Senator ASELTINE: Have you any comments to make on your transcontinental passenger trains?

Mr. MACMILLAN: Well, the transcontinental service is a very substantial part of our operations, more than it used to be. It gives us great problems. This is particularly so in the summertime because of the demands made upon us to accommodate passengers. Not many years ago we did all the work we had to do with one train, and then we inaugurated the Panorama. Both of these trains originate in Montreal and Toronto and come to a common point at Capreol, where we join them together. Then we run the Supercontinental as a fast train from Toronto to Vancouver, and another from Montreal to Vancouver, and have the combination of the Panorama behind it. But we still have had demands which are very, very heavy on us. This summer will be a case of more of the same.

Senator BURCHILL: Mr. Chairman, do you think this would be an appropriate time for me to bring up the matter I raised the other evening about passengers travelling from New Brunswick?

The ACTING CHAIRMAN: I wondered if you intended to speak to the President about that. Perhaps there will be time for you to do so afterwards.

Senator KINLEY: What about the hotels, Mr. Chairman? Your hotel in Montreal is now under Hilton management. Do you find that private management is better than railway management for the hotels?

Mr. MACMILLAN: Well, when we made the original agreement with the Hilton company we did so for a very specific purpose. It was simply this; this hotel, the Queen Elizabeth, was determined to have a much greater function to perform as a large convention hotel than in any other way, and to make it succeed it was necessary that there should be available enormous convention-garnering capabilities, and that is why we made the deal with the Hilton company.

Senator KINLEY: I might say that I still think the Chateau Laurier is the best hotel in Canada. I remember some years ago when Mr. Balfour, former Prime Minister of Great Britain, was here. He said to us "Boys, I have been all over the world and I want to tell you that the Chateau Laurier is the best hotel I have ever been in." For myself I prefer the old-fashioned way of the Chateau to the 'shakedown beds' of the new hotels.

Senator SMITH (*Queens-Shelburne*): I have a question to ask with regard to the training of employees dealing with passengers. Has there recently been a training program to elevate the standard of courtesy of all employees in the passenger service?

Mr. MACMILLAN: About two years ago we embarked upon a very intensive training program for what we call the "out-front" employees. These are the employees who manage the ticket offices, the gates and the trains, and we have done our very best to train them in the duties which they must perform of the passengers.

Senator SMITH (*Queens-Shelburne*): All I wanted to say is that this program has been a great success because for the last two years I have seen quite a difference in the attitude of everybody I have come in contact with. Starting out with the new uniforms, which is all part of the new approach to the passenger, I noticed, and I have been interested in this subject, that no matter what kind of clothes a passenger wears he gets every courtesy from your employees. I am not sure that that has always been the case. It is a good program and it is working well.

Senator ASELTINE: I have also heard this being remarked upon by passengers from the United States and other countries.

Senator HAIG: I move that the bill be reported without amendment.

The ACTING CHAIRMAN: Do you wish to deal with it section by section or do you wish to have the bill reported in accordance with Senator Haig's motion?

Hon. SENATORS: Report the bill.

The ACTING CHAIRMAN: Very well. I want to thank Mr. MacMillan for the excellent presentation he has given to us and to assure him that we look forward to seeing him here again on future occasions.

The committee adjourned.



First Session—Twenty-Seventh Parliament

1967-68

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE ON
TRANSPORT AND COMMUNICATIONS

The Honourable T. D'ARCY LEONARD, *Acting Chairman*

No. 13

Second Proceedings on the Bill S-44,

intituled:

*"An Act to amend an Act to incorporate the Kingston Bridge
Company"*

THURSDAY, FEBRUARY 23, 1967

WITNESSES:

Department of Public Works: Lucien Lévesque, Deputy Minister; Province of Quebec: The Honourable Paul Martineau, Counsel for the Department of Justice.

ROBERT SCHROEDER, P.R.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967

The Acting Chairman: I wonder if you intended to speak to the President about that. Perhaps there will be time for you to do so afterwards.

Senator Rivest: What about the hotels, Mr. Chairman? Your hotel in Montreal is now under Hilton management. Do you find that private management is better than public management for the hotels?

Mr. MacMillan: Well, when we made the original agreement with the Hilton company it was for a very specific purpose. It was simply this; this hotel, the Grand Hotel, was supposed to have a much greater function to perform as a big convention hotel than in any other way, and to make it succeed it was necessary that there should be available enormous convention-getting facilities. That was the reason why we made the deal with the Hilton company.

Senator Rivest: I wonder if I shall think the Chateau Laurier is the best hotel in Montreal. I remember a few years ago when Mr. Balfour, former Prime Minister of Great Britain, was here. He said to me, 'Boys, I have been all over the world and I have seen many hotels, but the Chateau Laurier is the best hotel I have ever seen.' I prefer the old-fashioned way of the Chateau to the new-fashioned way of the new hotels.

Mr. MacMillan: (Addressing MacBurrill). I have a question to ask with regard to the training of employees dealing with passengers. Has there recently been a change in the standard of courtesy of all employees in the language of the railway?

Mr. MacBurrill: About two years ago we embarked upon a very intensive training program for what we call the "out-front" employees. These are the employees who handle the ticket office, the gates and the trains, and we have had the very best results in the duties which they must perform of the railway.

Senator Rivest: (Addressing MacBurrill). All I wanted to say is that this program is a great credit to you. For the last two years I have seen quite a change in the attitude of everybody I have come in contact with. Starting out with the railway, which is no part of the new approach to the passenger, I am glad to hear that you have succeeded in this respect, that no matter what kind of employees you have, you have the courtesy from your employees. I am not sure that I have ever seen the case. It is a good program and it is working.

Mr. MacBurrill: I have also heard this being remarked upon by passengers from other countries and other countries.

Mr. MacMillan: Will the bill be reported without amendment?

Mr. MacBurrill: Do you wish to deal with it section by section or do you wish to deal with it accordant with Senator Haig's motion?

Mr. MacMillan: I am not sure.

Mr. MacBurrill: Well, I would like to thank Mr. MacMillan for the report and the information that he has given and to assure him that we look forward to seeing the bill passed by the House.

Mr. MacMillan: Thank you.



First Session—Twenty-Seventh Parliament

1966-67

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE ON
TRANSPORT AND COMMUNICATIONS

The Honourable T. D'ARCY LEONARD, *Acting Chairman*

No. 13

Second Proceedings on the Bill S-44,

intituled:

"An Act to amend an Act to incorporate the Richelieu Bridge Company".

THURSDAY, FEBRUARY 23, 1967

WITNESSES:

Department of Public Works: Lucien Lalonde, Deputy Minister; Province of Quebec: The Honourable Paul Martineau, Counsel for the Department of Justice.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967



First Session—Twenty-Seventh Parliament

1986-87

THE STANDING COMMITTEE
ON
TRANSPORT AND COMMUNICATIONS

The Honourable Salter A. Hayden, *Acting Chairman*

The Honourable Senators

Aird,
Aseltine,
Baird,
Beaubien (*Provencher*),
Bourget,
Burchill,
Connolly (*Halifax North*),
Croll,
Davey,
Dessureault,
Dupuis,
Farris,
Fournier (*Madawaska-
Restigouche*),
Gélinas,
Gershaw,
Gouin,
Haig,
Hayden,
Hays,
Hollett,
Isnor,
Kinley,
Lang,

Lefrançois,
Leonard,
Macdonald (*Brantford*),
McCutcheon,
McDonald,
McElman,
McGrand,
McLean,
Méthot,
Molson,
Paterson,
Pearson,
Phillips,
Power,
Quart,
Rattenbury,
Reid,
Roebuck,
Smith (*Queens-Shelburne*)
Thorvaldson,
Vien,
Welch,
Willis—(46).

Ex officio members: Brooks and Connolly (*Ottawa West*).

(Quorum 9)

WITNESSES:

Department of Public Works: Lucien Lalonde, Deputy Minister; Pro-
vince of Quebec: The Honourable Paul Martin, Counsel for the
Department of Justice.

MINUTES OF THE PROCEEDINGS
Thursday, February 23rd, 1967.

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Tuesday, November 8, 1966:

"Pursuant to the Order of the Day, the Honourable Senator Deschatelets, P.C., moved, seconded by the Honourable Senator Connolly, P.C., that the Bill S-44, intituled: "An Act to amend an Act to incorporate the Richelieu Bridge Company", be read the second time.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Deschatelets, P.C., moved, seconded by the Honourable Senator Connolly, P.C., that the Bill be referred to the Standing Committee on Transport and Communications.

The question being put on the motion, it was—

Resolved in the affirmative."

DEPARTMENT OF PUBLIC WORKS:

Lucien Lalonde, Deputy Minister.

PROVINCE OF QUEBEC:

The Honourable Paul Martineau, Counsel for the Department of Justice.

On the suggestion of the Chairman, it was Ordered that the Clerk have these proceedings printed as quickly as possible and send copies to all parties concerned; and that further consideration of the said Bill be now adjourned.

At 10.50 a.m. the Committee adjourned to the call of the Chair.

Attest:

Frank A. Jackson,
Clerk of the Committee.

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Tuesday, November 8, 1958:

"Pursuant to the Order of the Day, the Honourable Senator Deschamps, P.C., moved, seconded by the Honourable Senator Connolly, P.C., that the Bill S-44, intituled: 'An Act to amend an Act to incorporate the Kitchener Bridge Company,' be read the second time.

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

The Bill was then read the second time.

The Honourable Senator Deschamps, P.C., moved, seconded by the Honourable Senator Connolly, P.C., that the Bill be referred to the Standing Committee on Transport and Communications.

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

- J. T. MACNEILL,
Clerk of the Senate.
- Pattee,
- Phillips,
- Power,
- Quart,
- Raittbury,
- Reid,
- Reebuck,
- Smith (Queens-Shelburne)
- Thorvaldson,
- Wain,
- Wash,
- White—(46).

Ex officio members: Brooks and Connolly (Ottawa West).

(Quorum 4)

MINUTES OF PROCEEDINGS

THURSDAY, February 23rd, 1967.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10.00 a.m.

In the absence of a Chairman and on Motion of the Honourable Senator Beaubien (*Provencher*), the Honourable Senator Leonard was elected *Acting Chairman*.

Present: The Honourable Senators Leonard (*Acting Chairman*), Aseltine, Beaubien (*Provencher*), Gelinas, Gershaw, Haig, Hollett, Kinley, Smith (*Queens-Shelburne*) and Welch. (10).

In attendance: R. J. Batt, Assistant Law Clerk and Parliamentary Counsel and Chief, Senate Committees Branch.

Bill S-4, "An Act to amend an Act to incorporate the Richelieu Bridge Company", was further considered.

The following witnesses were heard:

DEPARTMENT OF PUBLIC WORKS:

Lucien Lalonde, Deputy Minister.

PROVINCE OF QUEBEC:

The Honourable Paul Martineau, Counsel for the Department of Justice.

On the suggestion of the Chairman, it was Ordered that the Clerk have these proceedings printed as quickly as possible and send copies to all parties concerned; and that further consideration of the said Bill be now adjourned.

At 10.50 a.m. the Committee adjourned to the call of the Chair.

Attest:

Frank A. Jackson,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

Thursday, February 23rd, 1967.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10:00 a.m.

In the absence of a Chairman and on Motion of the Honourable Senator Beaudin (Proceder), the Honourable Senator Leonard was elected Acting Chairman.

Present: The Honourable Senators Leonard (Acting Chairman), Asselin, Beaudin (Proceder), Gelin, Gosselin, Hain, Hollett, Kinley, Smith (Queens-Sheparan) and Welch (18).

In attendance: R. J. Barr, Assistant Law Clerk and Parliamentary Counsel and Chief, Senate Committee Branch.

Bill S-4, "An Act to amend an Act to incorporate the Richelieu Bridge Company", was further considered.

The following witnesses were heard:

DEPARTMENT OF PUBLIC WORKS:

Jacques Lalonde, Deputy Minister.

PROVINCE OF QUEBEC:

The Honourable Paul Martin, Counsel for the Department of Justice.

On the suggestion of the Chairman, it was Ordered that the Clerk have these proceedings printed as quickly as possible and send copies to all parties concerned; and that further consideration of the said Bill be now adjourned.

At 10:50 a.m. the Committee adjourned to the call of the Chair.

Attest:

Frank A. Jackson,
Clerk of the Committee.

THE SENATE

THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Thursday, February 23, 1967.

The Standing Committee on Transport and Communications, to which was referred Bill S-44, to amend an act to incorporate the Richelieu Bridge Company, met this day at 10.00 a.m. to give consideration to the bill.

Senator T. D'Arcy Leonard, Acting Chairman, in the Chair.

The ACTING CHAIRMAN: Thank you, honourable senators. The committee is continuing the discussion on Bill S-44, an Act to amend an Act to incorporate the Richelieu Bridge Company. This bill was referred to the committee last December. The committee held a meeting on Wednesday, December 14, under the chairmanship of Senator Hugessen, at which evidence was heard. That meeting was adjourned to resume again at the call of the chair as and when an opinion was obtained from the Department of Justice with respect to some aspects of the bill.

We have before us this morning two witnesses for the Department of Public Works, Mr. Lucien Lalonde, the Deputy Minister, and on his right Mr. Peter Sorokan, Chief of Legal Services. On my left is the Hon. Paul Martineau, Counsel for the Department of Justice for the Province of Quebec, who is in the position of being rather a guest witness here.

Now, an opinion has been received. Are there any preliminary questions before we proceed? There has been received an opinion from the Deputy Attorney General and I think I had better ask Mr. Lalonde, to whom the opinion was directed, to speak to that. The opinion should really form part of the proceedings; therefore, Mr. Lalonde, if you have the original or are prepared to say you have a copy which is a true copy of the original, perhaps we should then have the opinion read. I think it is important.

Lucien Lalonde, Deputy Minister, Department of Public Works: Thank you, Mr. Chairman. This is the opinion which I received from the Deputy Attorney General as a result of the request of this committee:

Dear Mr. Lalonde:

I understand you wish my opinion on the following questions:

1. Does an Act to incorporate the Richelieu Bridge Company (1882) 45 Vict. c. 91 prohibit the Government of the Province of Quebec from erecting a new bridge across that part of the Richelieu River which commences three miles north of the bridge authorized to be constructed by the said Act and ends at the province line on the south side of same?
2. If section 18 of the said Act is repealed, what will be the legal effect of such repeal? In particular, will the province be empowered to expropriate the bridge which was authorized to be constructed under the said Act?

In my opinion, Question 1 ought to be answered in the negative; the normal rule is that a statute does not apply to the Crown unless it is stated the Crown is bound thereby.

With regard to Question 2, it is my opinion that, if section 18 of an Act to incorporate the Richelieu Bridge Company is repealed, the bridge in question would no longer be "a work for the general advantage of Canada" within the meaning of that expression as used in the British North America Act. The result of this is that Parliament will no longer have jurisdiction over the work as such, although it continues of course to have jurisdiction in relation to navigation and shipping. On the question whether the Province of Quebec could expropriate the bridge, I am of the view that it could not, because that would destroy the undertaking of a federally incorporated company.

Yours truly,

(sgd) E. A. Driedger.

Deputy Attorney General.

The ACTING CHAIRMAN: Do you wish to speak further on this matter in the light of this opinion?

Mr. LALONDE: Perhaps it might be of interest to the committee to know that the first part of the opinion, although it is the first time the department has it in writing, is not entirely new to the department. Some time ago when we started to discuss this with the Province of Quebec we were told by our own solicitors verbally that they thought that the answer to the first question—does that section 12 prohibit the province from building on each side of the bridge—appeared to be that the Crown in the right of the province was not affected by that section. We had meetings with representatives of the Province of Quebec at which time we told them that this was the view of our own lawyers, and the representatives of the province said they would consult their own lawyers about this and came back and told us that they did not agree entirely with this point of view, and that at least in the opinion of their own lawyers it was just an opinion and could be argued one way or the other.

At that time the department was discussing with the Province of Quebec the question of jurisdiction over a number of bridges, in particular six bridges of different capacity and different types all located within the Province of Quebec that had been built quite some time ago by the federal Government at a time when the question of jurisdiction was not quite so clear. These, as I say, were built by the federal Government and were all within the Province of Quebec and could be designated as intraprovincial bridges. We in the department felt that jurisdiction having been clearly established with regard to roads and bridges within the province that this antiquated status should be corrected and we asked the province if they would assume in future the responsibility for maintenance, operation and looking after these six bridges. While we were discussing this they said "We agree with you that these bridges are now entirely within the jurisdiction of the province and therefore should be our responsibility and not yours. But there is one bridge which we feel is involved in the same manner and that is the Richelieu Bridge. If you want us to assume jurisdiction over the other bridges, you've got to make it possible for us to assume in a clear-cut way the jurisdiction over that bridge." And after thinking it over we considered this was a reasonable attitude, and we looked for a method of doing this in such a way that we would not have to abolish the charter held by the Richelieu Bridge Company for some time and place this bridge under the provincial jurisdiction. This is how we came to this recommendation for the deletion of section 18, which according to the opinion by the Deputy Attorney General would seem to indicate that it will place this bridge from now on within the jurisdiction of the province.

The ACTING CHAIRMAN: The difference between the other six cases and this one is that this is a private company and the others were bridges built by the federal Government. In this case there are private interests involved. What is the situation with regard to those private interests? In a normal case a bill affecting a private company comes before Parliament from the private company, and not by way of a government amendment unless with the consent of the private company itself. Would you speak to that?

Mr. LALONDE: You have certainly touched on the one difficulty. That is one difference which creates in my opinion all the trouble. If the bridge had been federally owned there would have been no problem at all. As far as I am aware this is the only privately owned bridge operated on a charter given by the federal Government without being either interprovincial or international, and we certainly did not have any precedent on which to base a judgment or make a decision, and we were simply attempting, realizing that there were some very special features to this case, to find a solution that would not cancel the charter outright, and that would permit us to transfer the jurisdiction to where it should be.

Senator GELINAS: There were other private bridges in the Province of Quebec that were expropriated, but they were not operated under a federal charter.

Mr. LALONDE: This is the only one I can remember.

Senator GELINAS: Because there was the Belair Bridge, for example, and others that I can remember, but I don't know that they were operating under federal charter.

Mr. LALONDE: I am not aware of any others.

Senator KINLEY: Were there not two other bridges here, one below and one above this one?

Mr. LALONDE: No, Senator, there was only one bridge, and as I understand it the intent of the province is to build a public bridge next to this one. There is only one. It is simply between two small municipalities.

Senator DESCHATELETS: Can I ask a question of Mr. Martineau? I understand he is a witness on behalf of the provincial Government.

Hon. Paul Martineau, Counsel, Department of Justice, Province of Quebec: I am acting as counsel for the Province of Quebec.

Senator DESCHATELETS: It seems to me that the legal opinion we have on question No. 1 is the important one. If the province had not questioned the legal opinion given by the officials I do not think there would have been any problem. I would like to know from Mr. Martineau if he agrees with the legal opinion given as to the first question asked, that is that the province cannot now proceed with the building of a bridge.

Hon. Mr. MARTINEAU: Mr. Chairman, I would think, on behalf of the province, that we would like to agree, but I am afraid that we might be placed in a difficult situation later on if we accept the opinion this law does not place any prohibition whatever on the province, because there is jurisprudence, cases reported by the Supreme Court of Canada and others, to the effect that such a law applies to everyone, including a provincial government. So, this is the purpose I believe, of the proposed amendments to the law, and it is to make absolute'y clear that the province will henceforth be fully empowered to exercise the jurisdiction that is normally given and erect a bridge at that place.

We are not here to oppose the bill. As a matter of fact, we welcome it, but we believe it does not go quite far enough.

Senator DESCHATELETS: In other words, Mr. Martineau, if I understood well, the province would like to be in a position in which it cannot be challenged?

Hon. Mr. MARTINEAU: That is right, sir.

The ACTING CHAIRMAN: May I follow that up by asking this question? Even if we take out section 18, section 12 will still be in the act?

Hon. Mr. MARTINEAU: That is right.

The ACTING CHAIRMAN: What do you say to that? Section 12 is a section that limits your building a bridge within three miles.

Hon. Mr. MARTINEAU: Section 12 does place a prohibition on any person or company, other than the incorporated company, constructing or maintaining a public thoroughfare across that river at that place, at a distance of three miles downstream and to the provincial border the other way.

This is one of the difficulties that the government of the Province of Quebec is facing at this time, and if an amendment to the act is to be made, we would suggest as well an amendment to section 12 of the act, to make it clear that the prohibition enacted there will no longer apply to the province.

There is dispute on this question; it is a controverted opinion. I respect the opinion that has been voiced, and it is certainly no doubt supported by authorities and jurisprudence, but the opposite view is also supported.

The ACTING CHAIRMAN: You are saying that, first of all, in the opinion of the Department of Justice you have the right to do it, but you are asking us nevertheless to go specifically against our own opinion and remove in some way that restriction. You ask for two amendments, one being that we give up our jurisdiction completely and that section 18 be withdrawn, but that we still proceed to amend section 12. It seems to me that is putting us in a completely impossible position.

Hon. Mr. MARTINEAU: We do not go against that opinion, but we say that if the purpose of the bill is to enable the province to build its own bridge across the river at that spot, why not make it perfectly clear and eliminate the possibility of suit or litigation or other difficulties with the company that is now charged with the operation of the bridge?

The ACTING CHAIRMAN: The only answer I can give you is that we think you have the power to do that now, but there are private interests affected who are not here before Parliament, even though they have been notified, and if we remove section 18 when we think you already have that power, what we are doing is something that is affecting these private interests, which we do not think we have to do. You have the power to build the bridge anyhow.

Hon. Mr. MARTINEAU: Section 18 says:

The bridge of the Richelieu Bridge Company, hereby incorporated, is declared to be a work for the general advantage of Canada.

This is, therefore, a derogation from the constitution which would normally place such works under the jurisdiction of the province. The way it can be derogated is by declaring it to be for the general advantage of Canada. This definitely gives the federal Government absolute jurisdiction in the matter.

If section 18 is deleted, then the province assumes its normal jurisdiction, but we are still faced with the prohibition established by section 12. There is a difference of opinion on this. Some say it does not apply to the province and some say it does. Would there be a disadvantage in declaring outright it does not?

Senator DESCHATELETS: There is no doubt here, as far as I am concerned, that the public interest is involved to a certain extent by having a new, modern bridge which can connect with the local highways in Quebec. It will serve better the interests of the people than this bridge; there is no doubt about that. But

since the public interest is involved, has the province given any thought to proceeding as usual with expropriation, as can surely be done?

The ACTING CHAIRMAN: Or even negotiations?

Senator DESCHATELETS: Yes, or negotiations?

Hon. Mr. MARTINEAU: As far as expropriation is concerned, I will refer to the opinion that has just been read on the question whether the Province of Quebec could expropriate the bridge, and I am of the view it could not, because that would destroy an undertaking of a federally-incorporated company. That is the view of the Department of Justice here; it is the opinion submitted to Public Works.

Senator DESCHATELETS: As far as negotiations are concerned, have there been any negotiations with the owners of the bridge, the Richelieu Bridge Company, up to now?

Hon. Mr. MARTINEAU: I do not know of any. There could have been some, but I have not examined the question from that point of view.

The ACTING CHAIRMAN: Mr. Lalonde, assuming the act remains in its present form—that is, that the bill is not passed—and the application comes along from the Province of Quebec under the Navigable Rivers Act, or whatever it is called now, where the Dominion has the jurisdiction for approval of the works, are you in any embarrassment in approving the plans and the work itself, providing they are satisfactory from that standpoint? If the bridge is within the three-mile limit, does it matter to you that the Richelieu Bridge Company has a prohibition in its act against that? Is the Government embarrassed by speaking in one act in one way and in another act allowing the prohibition to take place?

Mr. LALONDE: I can only give you a personal opinion, because the Department of Public Works, until about three months ago, was responsible for the administration of the Navigable Waters Protection Act. That responsibility now belongs to the Department of Transport. However, if I may give you a personal opinion, the only thing that the Department of Transport would consider, I think, is whether the plans for the bridge will interfere with navigation under the bridge; and as far as the other considerations involved in this are concerned, they would not even look at them.

The ACTING CHAIRMAN: In other words, it would be looked upon on its merits, regardless of section 12 of this bill?

Mr. LALONDE: That is right, sir.

Senator GELINAS: In connection with the negotiations, if negotiations were activated again and the two parties agreed, would not that settle the whole thing, or would it not, if the owners and the Government agreed on a price for expropriation? I understood Mr. Martineau to say the negotiations had started, but they had not been too active.

Hon. Mr. MARTINEAU: Mr. Chairman, I believe that even if there were an agreement between the private owners and the Province of Quebec, the Province of Quebec would still be in a position where it would appear to be openly flouting a public enactment. This is the reason why it is felt preferable to have the act as it stands now amended. The proposed amendment is perfectly in agreement with the views of the province, as far as it goes, because it does transfer jurisdiction of operating transportation across the bridge to the province; it takes it away from the federal Government. On the other hand, it does not provide for the relations with the present owners, and this is the thing that the Province of Quebec would like to have cleared up. The only way it can be cleared up, in our view, is by some express enactment in the amendment to the effect that Section 12 does not apply to the provincial government or, in this case, to the Province of Quebec.

The ACTING CHAIRMAN: Would you not agree, Mr. Martineau, that if we do this we are affecting private rights—the rights of the owners of this bridge?

Hon. Mr. MARTINEAU: Not completely, Mr. Chairman, because it has been submitted by the Department of Justice—well, yes, it would in that way, but there would still have to be expropriation. You would definitely affect private rights, except if it is expressly mentioned that the prohibition does not apply, and in that case you are not affecting private interests. Of course, it does not apply to the provincial government. Even in reading the terms of Section 12 it is not quite clear whether it does or not, because Section 12 reads:

After the said bridge is open to the public, and while it remains fit for traffic, no person or company—

Well, the word “government” does not appear, but it could be construed as being included in “person”.

—other than the Company hereby incorporated, shall construct or cause to be constructed any bridge or bridges, or shall use as a ferry any boat, scow or vessel of any kind, for the purpose of conveying any person, animal or vehicle whatsoever, for hire or reward, across the said river—

Well, the province of Quebec would not operate the bridge for hire or reward, so it could be construed—and this is one reasonable construction of that section—that it does not apply to the Province of Quebec as such provided it does not intend to construct a toll bridge. If it is a toll bridge then this very likely would apply. If it is not a toll bridge then it would not apply. But, there is an ambiguity in that section, and I respectfully submit that if there is a possibility of eliminating that ambiguity, well, why not do it when an amendment to the act is being considered.

The ACTING CHAIRMAN: Mr. Lalonde, could I put this question, which I think follows from what you said earlier, to you directly: Do you and your departmental officials consider that this work is no longer a work for the general advantage of Canada?

Mr. LALONDE: Yes, Mr. Chairman. This is definitely a bridge which serves the local population only. It has no relationship to the Trans-Canada Highway at all, and as a matter of fact, if it were not for the fact that that charter was granted so many years ago, this is the type of bridge which we would not dream of building now within a province at any time.

The ACTING CHAIRMAN: May I ask Mr. Martineau a question? If we act on the opinion of the Department of Justice that the Province of Quebec has the right to build a bridge notwithstanding this act, and, therefore, the act is not necessary, have you anything to say as to whether in that case, if we do not pass the bill, the province will still wish to go ahead and proceed on the basis that it has the power, because we have come to that conclusion here?

Hon. Mr. MARTINEAU: No doubt it would want to proceed, but as was stated before, Mr. Chairman, the private interests that are involved here are not represented, and it could involve the province in a conflict with those private interests. This is the reason why we feel the way we do, especially in view of the answer of the Deputy Minister a few minutes ago to the effect that this bridge is no longer in the general or national interest of Canada. We feel that that amendment should be proceeded with either as it is, or by making it more explicit still by amending as well Section 12.

The ACTING CHAIRMAN: If the Province of Quebec were not involved, and the Dominion of Canada felt that this was no longer a work for the general advantage of Canada and was dealing with private interests who had constructed the bridge, I think the Dominion of Canada would feel that it had to protect in some way the private interests which had gone ahead and built the bridge while it was a work for the general advantage of Canada.

Senator DESCHATELETS: This is a vital point.

The ACTING CHAIRMAN: Yes.

Senator SMITH (*Queens-Shelburne*): Mr. Chairman, it seems to me that it should not matter to us whether the period over which this bridge has operated under the designation of its being a work for the general advantage of Canada is 85 years or 5 years. The intention of a government at any time to take something away from somebody that was given 5 years ago may seem more important to us than taking away something that was given 85 years ago, but, speaking as a layman, it seems to me that these private interests should still be assured of that right notwithstanding the fact that 85 years have passed and circumstances have changed. My own view, as a layman, is that we should proceed very carefully in respect to taking away that right without having some indication from those private interests that they are quite willing for this to be done because there is no profit in it, or whatever their reason might be. As I recall the evidence we heard the last time the bill was before the committee, there was no indication from the company for or against the action proposed in this bill.

The ACTING CHAIRMAN: Perhaps we should ask Mr. Batt or Mr. Jackson, the officials of the committee, to explain to us what the situation is with respect to representations from representatives of the company.

The CLERK OF THE COMMITTEE: The company replied that they did not want to appear before the committee at that time, but that they did oppose the bill.

The ACTING CHAIRMAN: Have you been in touch with them with respect to this particular meeting?

The CLERK OF THE COMMITTEE: Yes. I was speaking to Mr. Stein himself.

The ACTING CHAIRMAN: What was his attitude?

The CLERK OF THE COMMITTEE: It was still my impression that they did not want to be represented. I have a letter signed by him in which he states he does not wish to appear.

The ACTING CHAIRMAN: But that refers to the previous meeting?

The CLERK OF THE COMMITTEE: Yes.

Senator SMITH (*Queens-Shelburne*): Who is Mr. Stein?

The CLERK OF THE COMMITTEE: The counsel for the company.

Senator DESCHATELETS: I might say that I received a letter on December 28 from Mr. Stein. This letter is written in French, and I think I can summarize it by saying that they are opposed to this legislation and that they would not like the members of the committee to feel that because they are not attending the meeting of the committee that this is through negligence of some kind. Since this question involves two governments they feel that they should state their opposition, and remain away from the hearing. This is the only explanation I have as to why they are not present here.

The ACTING CHAIRMAN: Are there any further questions?

Senator KINLEY: Who owns the present bridge over the river? Is it the same company? I understand that they are building a modern bridge—

The ACTING CHAIRMAN: No, no.

Mr. LALONDE: The Richelieu Bridge Company owns the present bridge, which is a toll bridge. That is the only bridge in that area at the moment. As I understand it, the Province of Quebec wishes to build a modern bridge next to it to be operated without tolls.

Senator KINLEY: And the same company which is proposing this bill owns the old bridge?

The ACTING CHAIRMAN: No.

Mr. Batt, Assistant Law Clerk and Parliamentary Counsel: My impression, gained from a letter received from Mr. Stein, is that the company that owns the bridge is Richelieu Bridge Company (1959) Limited.

Mr. LALONDE: They got a renewal?

Hon. Mr. MARTINEAU: They are the assignees of the original company which received the charter from the Canadian Government.

Senator KINLEY: When this was before the committee when Senator Hugessen was the chairman we heard evidence from different people. Have we not a transcript of what was said at that meeting?

The ACTING CHAIRMAN: Yes, here is a copy of the evidence.

Senator KINLEY: You have the evidence?

The ACTING CHAIRMAN: Yes, the proceedings of December 14.

Senator DESCHATELETS: Do you know, Mr. Martineau, how many shareholders there are of this company?

Hon. Mr. MARTINEAU: No, I do not know, sir.

Senator GELINAS: Mr. Chairman, it has been said that the company objects to this bill, but on what grounds do they object? Have they stated those grounds?

The ACTING CHAIRMAN: I am sorry, Senator Gelin. Were you asking me a question?

Senator GELINAS: Yes, at the meeting on December 14 the company objected. May I ask: On what grounds did they object?

The ACTING CHAIRMAN: There is a letter dated December 13, 1966 which perhaps I should read into the record. It is from the firm of Letourneau, Stein, Marseille, Bienvenue, Delisle & Larue, Barristers and Solicitors, of Quebec City. It is addressed to Mr. Frank A. Jackson, Clerk of the Transport and Communications Committee, and reads as follows:

Re: Bill No. S-44, An Act to amend an Act to Incorporate the Richelieu Bridge Co.—our file No. 64,207.

Dear Mr. Jackson:

We thank you for your letter of the 9th instant, received this morning, and your telegram of yesterday, the latter advising us that the committee's hearing on the above noted bill has been re-scheduled for tomorrow, Wednesday, the 1th instant.

As we wrote yesterday to the Chairman of the committee, Senator Hugessen, our client, Richelieu Bridges (1959) Limited has decided not to be represented at the hearing, though it still opposes the bill.

I am not familiar myself with Richelieu Bridges (1959) Limited, but I am told by Mr. Batt, our Assistant Law Clerk, that it is a provincial company; and I may just be guessing, but I infer that it may be a shareholder of the federal company. However, it is signed by Charles Stein, on behalf of the firm of solicitors.

Senator HOLLETT: Did I understand Mr. Martineau to say that the federal Government could be construed as being a person under section 12?

Hon. Mr. MARTINEAU: Mr. Chairman, I was referring to the provincial government and stating that under the generic term "person" mentioned in section 12, the provincial government could be included.

Senator HOLLETT: Do you think that is possible?

Hon. Mr. MARTINEAU: Well, there is jurisprudence to that effect.

Senator HOLLETT: If that were so, I think this could easily be stalled.

Hon. Mr. MARTINEAU: Yes, I am of opinion that is so, Mr. Chairman, but since opinion is divided on that question this is the reason why if there were an

explicit statement or amendment to section 12 which would exclude the provincial government, then there would be no difficulty at all, I think.

The ACTING CHAIRMAN: The opinion of our Department of Justice is that section 12 does not apply to the Province of Quebec but to the Crown in the right of the Province of Quebec.

Senator HOLLETT: How does section 12 read, Mr. Chairman?

The ACTING CHAIRMAN: It is a long section, but I will read it in part:

After the said bridge is open to the public, and while it remains fit for traffic, no person or company, other than the Company hereby incorporated....

Which is the Richelieu Bridge Company—

... shall construct or cause to be constructed any bridge or bridges, or shall use as ferry any boat, scow or vessel of any kind, for the purpose of conveying any person, animal or vehicle whatsoever, for hire or reward, across the said river, for a distance of three miles on the north of the said bridge and to the Province line on the south of the same;

Now, the opinion of the Department of Justice is that this act does not prohibit the government of the Province of Quebec from erecting a new bridge across that part of the Richelieu River which commences "three miles on the north of the said bridge and to the Province line on the south of the same". In other words, within that area the Province of Quebec is not restricted.

Senator HOLLETT: They could build a bridge?

Hon. Mr. MARTINEAU: Yes.

The ACTING CHAIRMAN: They can build a bridge, it is not prohibited.

Senator ASELTINE: I cannot agree with that; it sounds unreasonable to me.

The ACTING CHAIRMAN: This is on the basis that no act of Parliament binds the Crown unless it is so stipulated.

Senator HOLLETT: But is it not a fact that this bridge we are now discussing is no longer fit for public use, looking at it from the point of view of today compared with when it was introduced? Would you not say it was no longer fit?

Hon. Mr. MARTINEAU: If I may answer, Mr. Chairman: Following the interviews I have had with provincial authorities they are definitely of that opinion—the bridge is antiquated, inadequate, dangerous, and does not meet modern needs; and so I think there is no difficulty on that point at all.

Senator DESCHATELETS: I wonder if I may ask a question relating to the question which was posed by Senator Gelinas, namely: Why does the company object to this? Well, I had some conversations with Mr. Stein, and also with the president of the Richelieu Bridge Company, and their fears are very simple. They feel that if we oppose this legislation the first thing that will happen is that the Province of Quebec will come and build another bridge within three or four hundred feet of the present bridge and that there will be no compensation.

Senator GELINAS: That is why I directed a question at first, why have not negotiations been activated and settled on a price. The two bodies must agree on the price.

Hon. Mr. MARTINEAU: Here we are faced again with the opinion of the federal Department of Justice that the province cannot expropriate it because it is a federally incorporated company and it would have affected the structure of that company.

Senator GELINAS: But, Mr. Martineau, if the Richelieu Bridge Company in 1959 wished to cancel, before doing that they would want to know what they are getting out of this on the expropriation, I would think.

The ACTING CHAIRMAN: And indirectly we are doing something definitely to their disadvantage, I would think, if we passed this bill.

Senator HOLLETT: I did not hear that, Mr. Chairman.

The ACTING CHAIRMAN: We would be doing something definitely to the disadvantage of the company as a private interest if we passed this bill.

Are there any further questions of the witnesses? Do they wish to say anything further?

Mr. LALONDE: Mr. Chairman, I am not sure whether we explained our position well enough in the light of the questions asked. When we began to discuss this with the province we took, rightly or wrongly, the attitude that this is not the kind of a responsibility which is carried now by the federal Government. The only responsibility we admit with respect to roads and ferries is one connected with the Trans-Canada Highway. So we said to ourselves, we do not care whether this bridge is antiquated or not, because it is not our responsibility to provide that kind of transportation within the Province of Quebec; but we are concerned if we as a federal department are preventing the province from carrying out their own responsibilities, and therefore how can we take out the legal block that we have put in to prevent the province from carrying their responsibility. This is all we have attempted to do in this bill; it is to make it possible for them to take some action, because we feel it is their responsibility, not that of the federal authority.

The ACTING CHAIRMAN: But the legal opinion clears you.

Mr. LALONDE: Well, we have to go by the legal opinion, of course.

The ACTING CHAIRMAN: But the same thing might be true of a bridge built not five years ago but say ten years ago under a similar clause, but which now you would feel was no longer your responsibility; but in that case I would think that if private interest was involved, you would want to be sure the private interest was having whatever rights it had, protected.

Mr. LALONDE: We did not consider this was our departmental responsibility.

Senator SMITH (*Queens-Shelburne*): I cannot see up to this point, Mr. Chairman, how we could recommend taking away that right unless we had some kind of assurance that the private interest was going to be recognized by the other party involved, in this case, the government of the Province of Quebec. We do not even know how far such negotiations might have gone on; we know they have not been fruitful, apparently, and I do not see how we can take away that right without having some assurance in some form or another that the taking away of the right is going to be compensated for.

The ACTING CHAIRMAN: May I make a suggestion? Perhaps we might adjourn again, even though it appears that we are taking some time on this bill. However, it would be better to take time rather than to do something that might be wrong either way. Therefore, I suggest that we have the proceedings of this meeting printed as quickly as we can get them, making sure they are sent to the people concerned, and adjourning now to the call of the chair. In the meantime, perhaps we shall be able to see if any further progress can be made in resolving the matter so that we feel that our doubts could be removed. Do honourable senators agree to my suggestion?

Hon. SENATORS: Agreed.

The ACTING CHAIRMAN: Then the meeting is adjourned, to resume at the call of the chair. In the meantime, the proceedings will be printed as quickly as possible, sent to the government of the Province of Quebec, the company, and all concerned, and requests will be made for any further comments when we meet again, when representations will be made. Is that agreed?

Hon. SENATORS: Agreed.

The committee adjourned at the call of the chair.

SENATE OF CANADA

Standing Committee on Transport and Communications
1st Session, 27th Parliament, 1966-1967

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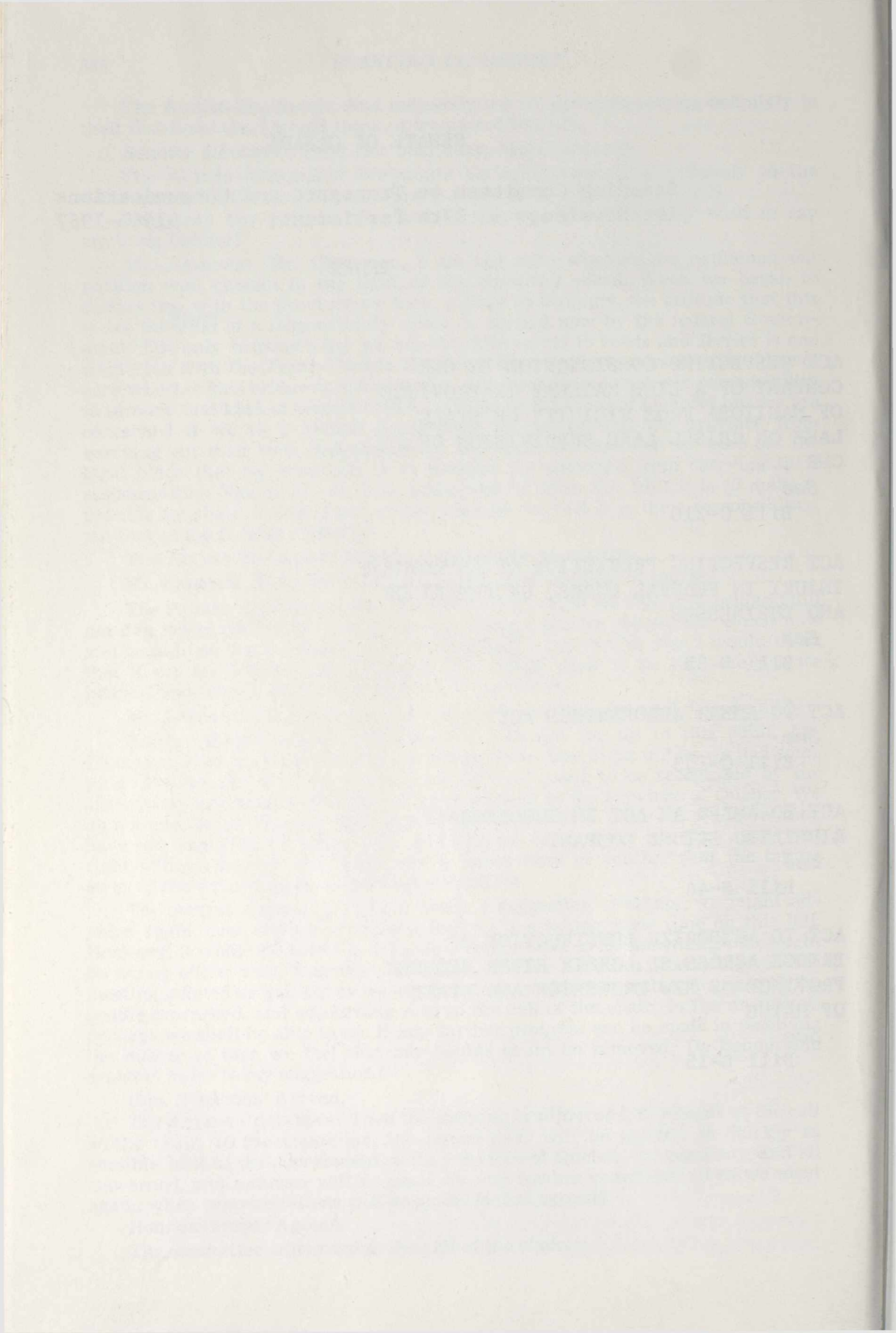
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