Canada. Parliament. Senate.
Standing Committee on Transport and Communications, 1965.

Date Loaned			

Third Session—Twenty-sixth 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 Bill S-4,
intituled: "An Act respecting The Algoma Central and Hudson Bay Railway Company."

THURSDAY, MAY 13, 1965

WITNESSES:

The Algoma Central and Hudson Bay Railway Company: Mr. John G. Edison, Q.C., Special Counsel; Mr. Leslie C. Waugh, President and General Manager; Mr. Douglas A. Berlis, Q.C., General Counsel and Secretary.

REPORT OF THE COMMITTEE

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

22507—1

THE STANDING COMMITTEE

on

TRANSPORT AND COMMUNICATIONS

The Honourable

ADRIAN K. HUGESSEN,

Chairman

The Honourable Senators

Aird,
Aseltine,
Baird,
Beaubien (*Provencher*),
Bouffard,
Buchanan,
Burchill,
Connolly (*Halifax North*).
Croll,
Dessureault,
Dupuis,
Farris,
Fournier (*Madawaska-Restigouche*),
Gelinas,
Gershaw,
Gouin,
Haig,
Hayden,
Hollett,
Hugessen,
Isnor,
Jodoin,
Kinley,
Lambert,
Lang,
Lefrançois,
Macdonald (*Brantford*),
McCutcheon,
McGrand,
McKeen,
McLean,
Methot,
Molson,
Paterson
Pearson,
Phillips,
Power,
Quart,
Rattenbury
Reid,
Roebuck,
Smith (*Kamloops*),
Smith (*Queens-Shelburne*),
Stambaugh,
Thorvaldson,
Veniot,
Vien,
Welch,
Willis,
Woodrow—(50).

Ex officio members

Brooks,
Connolly (*Ottawa West*).

(Quorum 9)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Thursday, May 6th, 1965:

"Pursuant to the Order of the Day, the Honourable Senator Leonard moved, seconded by the Honourable Senator Farris, that the Bill S-4, intituled: "An Act respecting The Algoma Central and Hudson Bay 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 Leonard moved, seconded by the Honourable Senator Farris, 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.

22507—1½

MINUTES OF PROCEEDINGS

THURSDAY, May 13, 1965.

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, Bouffard, Buchanan, Croll, Farris, Gershaw, Haig, Hayden, Hollett, Isnor, Kinley, Lambert, Lefrançois, Molson, Quart, Reid, Roebuck, Smith (*Queens-Shelburne*), Veniot, Willis and Woodrow.—(22)

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

On motion of the Honourable Senator Hayden 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-4.

Bill S-4, an Act respecting The Algoma Central and Hudson Bay Railway Company, was read and considered, clause by clause.

The following witnesses were heard:

The Algoma Central and Hudson Bay Railway Company: Mr. John G. Edison, Q.C., Special Counsel; Mr. Leslie C. Waugh, President and General Manager; Mr. Douglas A. Berlis, Q.C., General Counsel and Secretary.

Following discussion, and on Motion of the Honourable Senator Willis it was resolved to report the said Bill with the following amendments:

1. *Page 3, line 17:* after "rights" insert ", present and future". ....
2. Delete clause 8 and substitute therefor the following:

"8. The Company has as ancillary and incidental to the purposes and objects set forth in the Special Act creating the Company the powers set forth in subsection (1) of section 14 of the *Companies Act.*"

At 10.45 a.m. the Committee adjourned until Thursday next, May 20, at 10.00 a.m.

Attest.

Frank A. Jackson,
Clerk of the Committee.

REPORT OF THE COMMITTEE

THURSDAY, May 13, 1965.

The Standing Committee on Transport and Communications to which was referred the Bill S-4, intituled: "An Act respecting the Algoma Central and Hudson Bay Railway Company", has in obedience to the order of reference of May 6, 1965, examined the said Bill and now reports the same with the following amendments:

1. *Page 3, line 17:* After "rights" insert ", present or future."

2. *Page 3:* Delete clause 8 and substitute therefor the following:

"8. The Company has as ancillary and incidental to the purposes and objects set forth in the Special Act creating the Company the powers set forth in subsection (1) of section 14 of the *Companies Act.*"

All which is respectfully submitted.

A. K. HUGESSEN,
Chairman.

THE SENATE

STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Thursday, May 13, 1965.

The Standing Committee on Transport and Communications, to which was referred Bill S-4, respecting The Algoma Central and Hudson Bay Railway Company, met this day at 10 a.m.

Senator A. K. Hugessen in the Chair.

The CHAIRMAN: Honourable senators, I would ask the committee to come to order. We have for consideration this morning Bill S-4, an Act respecting The Algoma Central and Hudson Bay Railway Company. This is a private bill, but nevertheless it affects an important corporation engaged in transport. I wonder if the committee feels we should have the proceedings reported.

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: Before proceeding with consideration of this bill I should like to read to the committee three letters I have received in connection therewith.

The first is a letter from our Law Clerk and Parliamentary Counsel dated the 12th instant:

> In my opinion, this Bill is in proper legal form, except that in clause 8, line 41, "Companies" should read "Canadian Corporations". An amendment will be required in this regard, but the corresponding change in the explanatory note to that clause can be made without any necessity of amendment.
>
> There are two minor corrections to be made in the explanatory notes to clause 7. These are: "December 4" should read "December 5", and the word "unanimously" should be deleted. In this case, no formal amendments need be made in committee, and the necessary corrections will be made in the next printing.
>
> The Minister of Transport has indicated that he has no objection to the passage of this Bill.

The second letter we have is directed to our Law Clerk and Parliamentary Counsel from the counsel for the Department of Transport. It is dated May 11 and reads as follows:

> I refer to Bill S-4 being an Act respecting The Algoma Central and Hudson Bay Railway Company and being a private bill which received first reading in the Senate on May 4, 1965, and to Bill S-5, being an Act respecting Great Northern Railway Company, a private bill which received first reading in the Senate on May 4, 1965.
>
> I have to advise you that the Minister of Transport has no objection to the said Bills.

We are not considering the Great Northern bill today, honourable senators, as its proponents are not ready to proceed with it, but we will be considering it at a meeting on Thursday next and perhaps we can consider that we have now received the opinion of counsel for the Department of Transport to the effect that the department has no objection to that bill.

The third letter I have to read is from one of the members of our committee, the honourable Senator Aird, dated May 12. He writes as follows:

> Dear Senator Hugessen:
>
> Re—The Algoma Central and Hudson Bay Railway Company and Bill S-4.
>
> This is to advise you, as I have already advised the Speaker of the Senate and the Leader of the Government in the Senate, that I am a Vice-President and Director of the Algoma Central and Hudson Bay Railway Company and therefore I do not consider it appropriate that I should take part in any deliberations concerning this Company.
>
> Accordingly, as a member of the Standing Committee on Transport and Communications, it is my intention to absent myself from any Committee hearings and to take no part in the debate, nor to participate in any vote on Bill S-4, presently under consideration.

Honourable senators, we have here, in support of this bill: Mr. Leslie C. Waugh, President and General Manager of the railway company; Mr. Douglas A. Berlis, Q.C., General Counsel and Secretary, and Mr. John G. Edison, Q.C., Special Counsel.

The bill was explained on second reading by Senator Leonard. Have you any further comments you wish to make, Senator Leonard, or do you wish to advise us?

Senator LEONARD: Mr. Chairman and honourable senators, I think I said on second reading all, I could usefully say. I have called to the attention of counsel for the applicant the discussion that took place on second reading, and I would suggest that Mr. Edison, of counsel for the applicant, might now address the committee and be at your disposal.

The CHAIRMAN: Is it agreeable to the committee?

Hon. SENATORS: Agreed.

The CHAIRMAN: Honourable senators, this bill contains a number of sections relating to various facets of the corporate organization of the company. I suggest perhaps the best way for us to deal with it is section by section, and to ask Mr. Edison for any comments or explanations we require as the sections come along. I do not know that we need any general explanation beyond that which Senator Leonard gave on second reading.

Senator ISNOR: We had very good coverage by Senator Leonard then.

The CHAIRMAN: If that is the way the committee wishes to proceed, I will go ahead along those lines.

Hon. SENATORS: Agreed.

The CHAIRMAN: Section 1, change of name. They wish to change their name from The Algoma Central and Hudson Bay Railway Company to Algoma Central Railway. As honourable senators will remember, Senator Leonard told us the company does not go to Hudson Bay and has no intention of going to Hudson Bay, and in that respect it perhaps differs from the attitude of the citizens of Winnipeg some years ago who resounded with the cry, "On to the Bay!" So it wishes to change its name to Algoma Central Railway. Are there any questions that any honourable senator wishes to ask on section 1? Shall section 1 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Subsection 2 is simply to make clear that notwithstanding the change in name the obligations of the company remain the same.

Section 2, capital decreased. This is simply to provide that the capital stock of the company shall be decreased.

Senator ASELTINE: Could we have some explanation as to why this is necessary?

Mr. John G. Edison, Q.C., Special Counsel, The Algoma Central and Hudson Bay Railway Company: Mr. Chairman and honourable senators, the capital of this company was by Act of Parliament in 1958 increased by the creation of 250,000 preferred shares, and 80,000 of those were sold to the public at that time. The affairs of the railway company have been successful and prosperous since that date, and some of those shares have been redeemed by the company, and the larger part of the shares have been converted into common shares in the capital stock of the company in accordance with the provisions attaching to the preference shares when they were issued. The result is now that none of the preferred shares are outstanding. By virtue of the statutory nature of this corporation and the terms of its enabling statutes there is no provision for cancelling those preference shares which are no longer outstanding without amending legislation. The situation is analogous to those that honourable senators who are lawyers or familiar with the Companies Act or the new Canada Corporations Act are familiar with. Before the passing of the new Canada Corporations Act it was necessary to get Supplementary Letters Patent in cases where preference shares had been redeemed or converted. Under the provisions of the new act I believe it is possible for companies to take that action without coming back to get Supplementary Letters Patent. I hope that explanation is satisfactory.

Senator ISNOR: What is the difference between the amount redeemed and the number cancelled?

Mr. EDISON: The actual number was 10,176 shares that were redeemed, and the balance were converted into common shares.

Senator BOUFFARD: There are none outstanding at the present time?

Mr. EDISON: No, the balance of the 250,000 are authorized but none are outstanding at the present time.

The CHAIRMAN: Does that explanation satisfy you, Senator Aseltine?

Senator ASELTINE: Yes.

The CHAIRMAN: Shall section 2 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 3, capital surplus. I gather what happened here, Mr. Edison, was that the company purchased from the public some of these preferred shares on a discount from their par value, and that has resulted in a capital surplus of $508,800, which you now restore to earned surplus?

Mr. EDISON: That is essentially it. They were not purchased at a discount, but a provision of the previous legislation dealing with the creation of these preferred shares specified that the capital must not be reduced by the redemption thereof, so the amount has been set up in the capital surplus account. This, again, corresponds with the procedure that takes place under the Companies Act and allows the company to restore that amount to earned surplus.

Senator CROLL: Did I understand you to say they were not purchased at a discount?

Mr. EDISON: No, they were not. They were purchased at par or better.

The CHAIRMAN: They were purchased at their par value of $508,800, which resulted in a capital surplus, and now they wish to restore it to earned surplus, is that it?

Mr. EDISON: That is correct, sir.

Senator SMITH (*Queens-Shelburne*): What is the situation with regard to outstanding warrants for the purchase of common shares?

Mr. EDISON: I think they have all been taken up. Perhaps I could ask Mr. Waugh, President of the company, to answer your question.

Mr. Leslie C. Waugh, President and General Manager, The Algoma Central and Hudson Bay Railway Company: Roughly, there are about 128,000 warrants outstanding. In other words, when the stock was split five for one there remained 25,600 warrants outstanding.

Senator HAYDEN: Were these shares that were redeemed redeemed out of liquid funds? I am thinking of the provisions of the Companies Act, and this is an analogous procedure here where, in the first instance, the result of redemption, since you used funds other than capital to redeem, would be to create a capital surplus, and now you are seeking to reduce that to earned or distributable surplus.

Mr. EDISON: They were all obtained from the current earnings of the company over the years. Clauses 2, 3 and 4 really relate to the same matter, sir.

The CHAIRMAN: Shall section 3 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 4, decrease of capital. What does section 4 cover—the future redemptions of preferred shares, doesn't it?

Mr. EDISON: Yes. It provides that if in the future—while there is no present intention to issue any more preferred shares—they are issued and subsequently redeemed or converted, the same accounting procedures can take place as we are providing for in the case of shares already dealt with in that way, so we do not have to come back to Parliament again to ask for this remedial measure.

Senator BOUFFARD: You still have about 170,000 preferred shares which have not been issued?

Mr. EDISON: Yes, sir.

Senator BOUFFARD: Do you intend at some time to issue them, and if you redeem them you want the same procedure to apply?

Mr. EDISON: Yes, sir.

Senator HAYDEN: It is to permit you to redeem out of capital?

Mr. EDISON: Yes, sir.

Senator MOLSON: This leaves a balance of 170,000 shares, roughly?

Mr. EDISON: Yes, Senator Molson.

The CHAIRMAN: Shall section 4 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 5 deals with the borrowing powers of the company, and provides in the usual language that the directors may at any time borrow money on the credit of the company, issue bonds, debentures, debenture stock or other securities of the company, and, in paragraph (c), mortgage, hypothecate, charge or pledge all or any of the real and personal property, undertaking and rights of the company to secure any such bonds, debentures, et cetera. It is in the usual language of a borrowing by-law.

I have a suggestion to make to the incorporators with respect to paragraph (c), which reads:

> mortgage, hypothecate, charge or pledge all or any of the real and personal property, undertaking and rights of the Company...

I suggest that there be added the words "present or future". I think honourable senators who have been engaged in corporate financing are accustomed to using those words to make quite certain that the company can mortgage or pledge future assets if it wishes to.

I have a further reason for suggesting that. Bill S-5, which is also referred to this committee, respecting Great Northern Railway Company and Great Northern Pacific & Burlington Lines, Inc. contains in section 5, which deals with the borrowing powers, the words:

> ... mortgage, hypothecate, pledge and charge its railway and undertaking and all of its property, assets, rents and revenues, present or future...

I think we should adopt similar language in both cases.

There is, of course, the further consideration that if those words are used in one bill and not used in this then some ill-disposed person might say that we do not intend to give this company the power to mortgage future property.

Mr. EDISON: I am instructed that we shall be very happy to accept the suggestion.

Senator HAIG: I will move the addition of those words.

The CHAIRMAN: Then, Senator Haig moves that after the word "rights" in line 17 on page 3 there be added the words "present or future."

Senator HAIG: Yes.

Senator HAYDEN: May I ask Mr. Edison a question?

The CHAIRMAN: Just a moment, Senator. Are you speaking to the amendment?

Senator HAYDEN: No.

The CHAIRMAN: Is the committee in favour of the amendment?

Hon. Senators: Agreed.

Senator HAYDEN: I was wondering why it was necessary to state there shall be no limitation upon the principal amount borrowed since the section reads:

> notwithstanding anything contained in the Railway Act or any other act...

Mr. EDISON: The answer, Senator Hayden, is that in the 1958 legislation the company placed a self-imposed limitation of $11 million upon its borrowing, and the company wishes now to have that limitation removed. There were issued $11 million in combined bonds and debentures as a result of the enabling legislation of 1958.

Senator HAYDEN: The alternative could have been to strike out that section in the 1958 legislation.

Mr. EDISON: Yes, except that those bonds are still outstanding, and they were created under those terms. This is only my opinion—and I defer to yours because you know a great deal more about this than I do—but I do not think it would be appropriate to repeal that particular provision. We thought that this was the best way of doing it.

Senator HAYDEN: By doing it in this fashion it is then clear beyond doubt, and you do run into difficulties when you ask people for an opinion.

Senator BOUFFARD: When the present bonds were issued you were limited to $11 million.

Mr. EDISON: Yes, we were limited to $11 million.

The CHAIRMAN: Shall section 5, as amended, carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 6 provides that the directors may establish the terms of any bonds, the interest rate, the maturity date, and that sort of thing. There is nothing special about that, is there?

Mr. EDISON: No, this corresponds to the enabling provision in the 1958 legislation.

The CHAIRMAN: Are there any comments or questions with respect to section 6? Shall section 6 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 7 provides:

> No further approval by the holders of shares of the Company shall be required with respect to the issuance of the bonds, debenture stock or other securities authorized by this Act or the terms or provisions relating thereto.

That is the normal corporate practice, as honourable senators know. A general by-law is approved by the shareholders authorizing the directors to borrow money and issue securities from time to time. The directors do not then need any further approval when they exercise these powers. I do not know whether this section is absolutely necessary, but...

Mr. EDISON: The reason why this section is there, Mr. Chairman and honourable senators, is that there is a section in the Railway Act—the Railway Act, honourable senators will realize, was passed many years ago when things moved a little slower—which provides that a company of this kind must get the approval of the shareholders before issuing securities. The Railway Act also provides that a meeting of shareholders cannot be called until after the expiry of 28 days' notice. It has also to be advertised in the *Canada Gazette* and the newspapers. A meeting of the shareholders cannot be called in less time than 35 days, and having regard to the fashion in which the securities market operates it is not possible to arrange terms with underwriters for bonds or debentures to be issued and then have a delay of 35 or 40 days before the terms can be officially approved.

Senator CROLL: What about the vote on December 4, 1964?

The CHAIRMAN: That date is December 5, 1964.

Senator CROLL: What were the proportions for and against?

Mr. EDISON: There were 510,180 shares represented. A proxy came in from a shareholder holding 10 shares which, while it was not quite clear, indicated that he wanted to vote against everything at the meeting. By direction of the chairman that proxy was voted against the approval of the act in the form in which it appears, so that the vote in favour was not absolutely unanimous. The vote was 510,170 shares for, and 10 shares against.

The CHAIRMAN: Ten shares doubtfully against.

Senator SMITH (*Queens-Shelburne*): He lost his deposit.

Senator BOUFFARD: What was the amount of the bonds to be issued at that time?

Mr. EDISON: Originally the total was $11 million in bonds and debentures, of which approximately $2.5 million had been redeemed up to this time. There are outstanding at the present time approximately $8.5 million.

Mr. BERLIS: $8,282,000, to be exact.

Senator BOUFFARD: Do you mean to say that you want the directors to have an unlimited right to issue bonds to the extent of much more than $11 million?

Mr. EDISON: That is technically correct, but the present provisions of the existing bond trust deed and the debenture trust deed place rigid restrictions on the issue of additional securities. In the first place, we cannot issue additional bonds except and unless we have three times the asset coverage for all of the funded obligations of the company, and also only if the company in the previous two years had average earnings sufficient to pay all the interest twice over.

Senator BOUFFARD: But at the same time there are securities outstanding, authorized by the shareholders, in the total amount of $11 million?

Mr. EDISON: Yes, sir.

Senator BOUFFARD: If we pass this section you can issue debentures for another $20 million or $25 million without having any authority?

Senator HAYDEN: May I interrupt for one minute? I understand that the deed of trust contains a limitation, and that limitation is in your special act?

Mr. EDISON: Yes, it is.

Senator HAYDEN: Your limitation in the trust deed is simply with respect to the terms and conditions under which you may issue more bonds?

Mr. EDISON: That is correct. I should like to inform the honourable senator that the shareholders had this very section of the bill in front of them at the meeting of last December when they approved the application to Parliament for this enabling legislation.

The CHAIRMAN: I suggest, Senator Bouffard, that this is substantially similar to what happens in respect of a letters patent company when you ask the shareholders to give the directors a general power to borrow money and issue bonds and securities from time to time. This is not in the form of a by-law—that is true—but it is in the form of a clause of a bill which was submitted to and approved by the shareholders.

Senator CROLL: I am concerned with this provision which would appear to brush the shareholders aside for the purpose of convenience and time, as Mr. Edison indicates. But, this is in principle—

Senator HAYDEN: It is ordinary practice in company law.

Senator CROLL: It is not the practice to ignore the shareholders to this extent. Does Mr. Edison think it is warranted? Do you think it wise, Mr. Edison, to deal with this matter in this way without consulting the shareholders—even that person with ten shares, whoever he may be?

Mr. EDISON: With great respect I reply to the honourable senator in this way, that in modern commercial practice it would be virtually impossible for this company to proceed on any other basis. As some honourable senators have indicated, large commercial companies that are incorporated under the Companies Act issue bonds and debentures regularly and frequently. One sees advertisements in the papers every day for large issues of securities which are issued by the boards of directors without the approval of the shareholders. The shareholders, both in this company and in commercial companies, pass by-laws for this purpose. In this case they have approved this particular legislation requiring the directors to do that, giving them that power in advance, and we have had no objections from any shareholders, except the holder of ten shares, who seems to object to everything.

Senator CROLL: The point is that up until now it has been carried on very successfully, and you have consulted your shareholders from time to time. Now you deviate from that.

Mr. EDISON: Our shareholders have approved this particular provision on two occasions. They approved a corresponding provision in the 1958 legislation, and they approved this particular provision that the committee is looking at, in exactly this format, at their meeting in December.

Senator CROLL: If it was provided for in 1958, why did you consult them in 1964? You said that the issue of debentures was provided for without consulting the shareholders in 1958.

Mr. EDISON: That was inserted in the legislation at the time with the consent of the shareholders, but that enabling legislation was limited, as I said, to the $11 million that was a ceiling which was imposed at that time. We are now dealing with a theoretical situation where the company may wish to issue additional securities.

Senator BOUFFARD: And you have already consulted the shareholders?

Mr. EDISON: Yes, sir.

Senator LEONARD: It may be helpful to the committee to have this information. What percentage of the shareholders were present at the shareholders meetings?

Mr. EDISON: I am very grateful to you for asking that, senator. There were over 80 per cent of the outstanding shares of this company respresented at this meeting, and I think that senators who have had some familiarity with company meetings will agree that that is a very large representation. 510,000 represents more than 80 per cent of the outstanding shares of the company.

Senator BOUFFARD: The shareholders have already been consulted?

Mr. EDISON: Yes.

The CHAIRMAN: Is there any further discussion on section 7? Shall section 7 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 8, dealing with ancillary powers, raises two separate questions. I will read the section:

> It is hereby declared and enacted that the Company has and always has had as ancillary and incidental to the purposes and objects set forth in the Special Act creating the Company the powers set forth in subsection (1) of section 14 of the Companies Act.

Honourable senators will remember that on second reading Senator Grosart very properly raised a question about this section, that it purported to be retroactive. I think that is something the committee should consider. Generally speaking, I think the Senate is against enacting retroactive legislation. There may be some special reason why they wanted it retroactive in this case. It is conceivable that the company may have been engaging in activities which are not strictly within its charter powers. It may have been threatened with a suit, or something of that kind, and wants to cure that situation and say that it "has and always has had." However, unless there is some situation such as that, I think as a general principle that we should be a little chary about granting powers that are retroactive in that sense. Perhaps Mr. Edison could explain to us the basis for asking for this section.

Senator BOUFFARD: What is the wording of subsection (1) of section 14?

The CHAIRMAN: Section 14 is that long section of the federal Companies Act which gives a number of inherent powers to any company. It has subsections (a) to (bb) inclusive, comprising three pages.

Senator BOUFFARD: Giving all the powers?

The CHAIRMAN: Yes, inherent powers to any company incorporated by letters patent, and this company wishes to have the same powers.

Senator HAYDEN: I notice the reference to subsection (1) of section 14 of the Companies Act in clause 8. It is now law.

The CHAIRMAN: That is the next point to discuss.

Senator CROLL: Could we get Mr. Edison's answer to your question, Mr. Chairman?

Mr. EDISON: On the question of retroactivity, I am pleased to give the committee what explanation I can. Many lawyers, and many of the members of the Senate are opposed to retroactive legislation. I do not think it was appreciated that we were asking for a wide indulgence in this regard, and if it is the wish of the committee, since this question was raised on second reading—and I have consulted the authorities of the company—we would be quite willing to delete those words "has and always has had" and to eliminate them from the section.

In defence of the company, I would like to say one word, that up until 1958 this company was run by a bond holders' committee for nearly 50 years, and it was, in effect, as far as the company was concerned, as if the mortgagee was in possession. I think perhaps, with great respect to people who were engaged in the financial operations of the company at that time, that they did not always look at the powers that a statutory company of this kind has, and when the shareholders' directors took over in the last six years their legal advisors had been looking into various matters the company had been dealing with, and we found three specific cases, which are of minor importance, and no trouble has been caused to the company as yet, but about which we thought there might be some doubt as far as the company was concerned.

The first of these cases was the employees pension plan that was set up. The second was a plan which the company embarked upon for the benefit of certain of their employees, to lend money to employees. The third case, from time to time the company has had surplus moneys to invest between interest dates and that sort of thing, and has made investments.

It may sound curious, but the fact is that we could find no authority in the Railway Act or in the enabling statute of this company to justify those particular endeavours in which the company was engaged. Those three matters are all specifically covered in the ancillary powers given to companies, in the Canada Corporations Act.

It was intended, I think, in the language which was inserted in the draft bill, to make this clear, that those three particular endeavours that the company had engaged in were within its powers, but no question has been raised about it.

The CHAIRMAN: They have not been attacked?

Mr. EDISON: They have not been attacked. I can quite appreciate that Parliament and the Senate should not be asked to give blanket approval to something they know nothing about. There might have been some action the company should not have taken. We are not asking for any retroactive legislation. I hope you will accept my explanation, and we can readily accept the amendment to that draft section on that basis, if the committee so wishes.

Senator HAYDEN: You could, instead of making this declaration, have ratified any exercise of such ancillary powers.

Mr. EDISON: Yes, senator, but you will realize that the lawyers do not know everything that the board of directors have done in the last 11 years.

Senator CROLL: I move that that part be struck out.

The CHAIRMAN: Mr. Edison's explanation simply shows that the committee members, who are acquainted with the Latin language, are acting *ex abundanti cautela*. Let us strike out from clause 8, the words:

> It is hereby declared and enacted that the Company has and always has had . . .

Shall we say "the company shall have as ancillary"?

Senator HAYDEN: Let us say, "the company has".

The CHAIRMAN: Commencing with line 37, let us strike out the words, "It is hereby declared and enacted that the company".

Senator HAYDEN: And strike out the words "has and always has had".

Senator FARRIS: Is that not ambiguous, and is it not open to argument?

The CHAIRMAN: My suggestion was "that the company shall have".

Senator CROLL: As of now shall have, yes.

The CHAIRMAN: Yes.

Senator BOUFFARD: If the words are deleted, will it not mean that the company's by-laws will have to be changed?

Senator ISNOR: It is their problem.

Senator BOUFFARD: I would rather ratify what was done than add to the company's powers the ancillary and incidental powers.

Senator CROLL: If we are going to ratify, then we ought to have the matter placed before us, that is, the three matters which have been referred to, so that we shall know something about it. To ratify what was done, without knowing anything about it, seems to me to be unreasonable. We say as of now that the company has the ancillary and incidental powers, and I think that is fair.

The CHAIRMAN: You suggest the words "the company has"?

Senator CROLL: Yes.

Senator SMITH (*Queens-Shelburne*): Is it quite clear that the opinion of the witness is that there is very little if any possibility of developing trouble in connection with the plan which they had?

Mr. EDISON: Yes, I am reasonably sure of that. One cannot be absolutely positive.

Senator SMITH (*Queens-Shelburne*): That would be of some concern to others, apart from Senator Bouffard.

Mr. EDISON: In view of the comments by members of this committee, I think that if the question arose we would have to come to Parliament and ask for a specific provision.

Senator SMITH (*Queens-Shelburne*): I think you would get it.

Mr. EDISON: Thank you. I think that is the proper remedy.

Senator ASELTINE: Why not leave it just the way it reads? I thought we always had it, anyway.

Senator CROLL: We are going to assent to something we know nothing at all about, and we should not do that.

Senator BOUFFARD: Apart from that, section 14 is not in force yet.

Senator LEONARD: I understand the company is agreeable to dropping the words "and always has had" in clause 8.

The CHAIRMAN: The proposers are in favour of dropping those words. Why do you not simply start with the words "The company has as ancillary and incidental—"?

Senator CROLL: Yes.

The CHAIRMAN: Is that your amendment?

Senator LAMBERT: That would eliminate the retroactive effect.

The CHAIRMAN: Shall I take a vote on the amendment?

Hon. SENATORS: Agreed.

The CHAIRMAN: It is agreed. Is there anyone to the contrary?

It is carried.

There is this further amendment, as Senator Hayden says, which is required in section 8, the last line. It is not the "Companies Act", it is the Canada Corporations Act.

Senator HAYDEN: On reflection, the amendment, which includes the change in the name, comes into force on the 1st July, so anything we do until 1st July is still under the Companies Act of Canada and the amendments do not deal with section 14.

The CHAIRMAN: No.

Senator HAYDEN: So I think the name at this time is perfectly proper.

The CHAIRMAN: What does our Law Clerk say on that?

Mr. HOPKINS: The amendment dealing with the coming into force of the Companies Act was moved in the Commons and it does not come into force until 1st July, 1965, so I think possibly we were right the first time in leaving the reference to the Companies Act.

The CHAIRMAN: We will leave line 41 as it is. Shall section 8, as amended, carry?

Hon. SENATORS: Carried.

The CHAIRMAN: It is carried. Shall section 9, dealing with the Board of Transport Commissioners, 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 carried. Shall I report the bill as amended?

Hon. SENATORS: Agreed.

The CHAIRMAN: It is carried. Thank you, honourable senators. That concludes the consideration of the bill.

The committee adjourned.

Third Session—Twenty-sixth Parliament

1965

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-5,

intituled: "An Act respecting Great Northern Railway Company and Great Northern Pacific & Burlington Lines, Inc."

THURSDAY, MAY 20, 1965

WITNESSES:

Great Northern Railway Company: Mr. L. E. Torinus, General Counsel; Mr. George D. Finlayson, Q.C., Parliamentary Agent.

REPORT OF THE COMMITTEE

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

22509—1

THE STANDING COMMITTEE
on
TRANSPORT AND COMMUNICATIONS

The Honourable
ADRIAN K. HUGESSEN,
Chairman

The Honourable Senators

Aird,
Aseltine,
Baird,
Beaubien (*Provencher*),
Bouffard,
Buchanan,
Burchill,
Connolly (*Halifax North*),
Croll,
Dessureault,
Dupuis,
Farris,
Fournier (*Madawaska-Restigouche*),
Gelinas,
Gershaw,
Gouin,
Haig,
Hayden,
Hollett,
Hugessen,
Isnor,
Jodoin,
Kinley,
Lambert,
Lang,
Lefrançois,
Macdonald (*Brantford*),
McCutcheon,
McGrand,
McKeen,
McLean,
Methot,
Molson,
Paterson,
Pearson,
Phillips,
Power,
Quart,
Rattenbury,
Reid,
Roebuck,
Smith (*Kamloops*),
Smith (*Queens-Shelburne*),
Stambaugh,
Thorvaldson,
Veniot,
Vien,
Welch,
Willis,
Woodrow—(50).

Ex officio members
Brooks,
Connolly (*Ottawa West*).

(Quorum 9)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Thursday, May 6th, 1965:

"Pursuant Order, the Honourable Senator Reid moved, seconded by the Honourable Senator Smith (*Kamloops*), that the Bill S-5, intituled: "An Act respecting Great Northern Railway Company and Great Northern Pacific & Burlington Lines, Inc.", 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 Reid moved, seconded by the Honourable Senator Smith (*Kamloops*), 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.

22509—1½

MINUTES OF PROCEEDINGS

THURSDAY, May 20th, 1965.

Pursuant to adjournment and notice the Standing Committee on Transport and Communications met this day at 10.25 a.m.

Present: The Honourable Senators Hugessen (*Chairman*), Baird, Bouffard, Buchanan, Connolly (*Halifax North*), Croll, Fournier (*Madawaska-Restigouche*), Gershaw, Gouin, Haig, Hollett, Isnor, McCutcheon, Phillips, Rattenbury, Smith (*Kamloops*), Smith (*Queens-Shelburne*), Stambaugh, Willis and Woodrow. (20)

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

On Motion of the Honourable 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 of the Committee on Bill S-5.

Bill S-5, An Act respecting Great Northern Railway Company and Great Northern Pacific & Burlington Lines Inc., was read and considered clause by clause.

The following witnesses were heard:

Great Northern Railway Company:

Mr. L. E. Torinus, General Counsel.

Mr. George D. Finlayson, Q.C., Parliamentary Agent.

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

At 10.50 a.m. the Committee adjourned to the call of the Chairman.

Attest.

Frank A. Jackson,
Clerk of the Committee.

REPORT OF THE COMMITTEE

THURSDAY, May 20, 1965.

The Standing Committee on Transport and Communications to which was referred the Bill S-5, intituled: "An Act respecting Great Northern Railway Company and Great Northern Pacific & Burlington Lines, Inc.", has in obedience to the order of reference of May 6th, 1965, 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

THURSDAY, May 20, 1965.

The Standing Committee on Transport and Communications, to which was referred Bill S-5, respecting Great Northern Railway Company and Great Northern Pacific & Burlington Lines, Inc., met this day at 10.25 a.m.

Senator A. K. Hugessen in the Chair.

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

The committee agreed to report, recommending that 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: With regard to Bill S-5, an act respecting Great Northern Railway Company and Great Northern Pacific & Burlington Lines, Inc., I have a report from our Law Clerk, Mr. Hopkins, addressed to me, dated May 7, stating:

> In my opinion, this bill is in proper legal form and I have no suggestion to make for its amendment.

Honourable senators will also recall that at our meeting last week, when considering The Algoma Central and Hudson Bay Railway Company bill, we received a letter from counsel for the Department of Transport in which he dealt with both that bill and this Great Northern Railway bill. He said that in neither case did the Department of Transport nor the Minister of Transport have any suggestion to make or wish to be represented. So I think we can take it that the Department of Transport is satisfied so far as they are concerned.

The bill stands in the name of Senator Reid, who explained it on second reading. Unfortunately, Senator Reid cannot be here today as he had to go to Vancouver for a meeting of the International Pacific Salmon Fisheries Commission, but the bill is sponsored here today by Mr. George D. Finlayson, Q.C., Special Counsel, Mr. L. E. Torinus, General Counsel, and Mr. Peter G. Beattie, Parliamentary Agent. I understand Mr. Finlayson is the one who will explain the bill to us.

Mr. FINLAYSON: Yes, Mr. Chairman.

The CHAIRMAN: Does the committee wish to hear Mr. Finlayson?

Hon. SENATORS: Yes.

Mr. George D. Finlayson, Q.C., Special Counsel: Mr. Chairman and honourable senators, I am appearing in support of Bill S-5 on behalf of its sponsors, which are the Great Northern Railway Company and Great Northern Pacific and Burlington Lines Inc. Perhaps I should explain to you what the overall purpose of the bill is.

There is attached to the bill, as a schedule, an agreement between Great Northern Railway Company, which is known as Great Northern, and Northern Pacific Railway Company, which is known as Northern Pacific.

These two companies will merge under this merger agreement, and the subsequently merged company, which is Great Northern Pacific and Burlington Lines Inc., is going to merge with Chicago, Burlington & Quincy Railroad Company. This will involve some 24,000 miles of track in the United States.

As far as Canada is concerned, the Great Northern operates about 130 miles of railway in the Province of British Columbia which it, in turn, acquired from the Vancouver, Victoria and Eastern Railway and Navigation Company, and from The Nelson and Fort Sheppard Railway Company.

The lines run in four parts. One runs from Blaine, Washington, up to Vancouver, B.C. The second runs from the United States border to Keremos. The third runs from the United States border to Nelson, B.C., and the fourth is part of a line between Kettle Falls, Washington, and Republic, Washington, which just loops up over the border and serves Grand Forks, B.C. Another company which is involved in the merger, but with which we are not concerned, is Pacific Coast Railroad Company which operates some 20 miles of railroad track in Seattle, Washington, but which does not affect this line in Canada.

Great Northern actually owns these 130 miles of track in Washington and British Columbia and operates it. Great Northern and Northern Pacific each own one-half of a company called Midland Railway Company which operates between Emerson and Winnipeg, Manitoba. Midland owns only a few miles of track in Winnipeg itself and some rolling stock, but it has a trackage agreement with the C.N.R. whereby it is permitted to operate trains on C.N.R. tracks between Emerson and Winnipeg.

The only other point that is relevant so far as the merger is concerned is that the merged company is going to enter into an arrangement with the Spokane, Portland & Seattle Railway Company to lease its lines.

The result will be, as I have said, that the company will operate some 24,000 miles of railroad line in the Uniterd States. I am advised it will be the longest railroad company in the United States—that is, in terms of the number of miles of track.

What is the effect of this going to be in Canada? In the first place, there has always been a close family relationship between Great Northern and Northern Pacific in the United States—

The CHAIRMAN: Those were the Hill lines, were they not—James J. Hill?

Mr. L. E. Torinus, General Counsel: That is correct.

Mr. FINLAYSON: These lines almost parallel each other going across the northwestern United States. As I have already pointed out, each owns one-half of the operation of the Midland Railway Company which runs between Emerson and Winnipeg.

The two of them together own 98 per cent of the stock of the Chicago, Burlington & Quincy Railroad Company, which will come into the merger later on. Each owns 50 per cent of this 98 per cent.

In addition, each owns 50 per cent of the stock of the Spokane, Portland & Seattle Railway Company, which is the company it is proposed to lease the stock from.

Each has its head office in St. Paul, Minnesota. In fact, they share the same building. This community of interest has existed for quite some time, and as a practical result of the merger there is not going to be any change in the operation in Canada.

Great Northern is the only company that owns property in Canada at the present time—that is, in British Columbia—and the two companies already own half each of this operation in Manitoba. Indeed, the only change as a result of the merger is that the merged company is going to be a stronger and larger operation which will more efficiently serve the traffic requirements over the lines in Canada.

As to the purpose of the bill, may I emphasize that it is entirely permissive. It is enabling legislation which will permit the merger agreement set out in the schedule to be effective so far as Canada is concerned. Nothing besides the enabling power is being asked for before this committee because this merger cannot be effective until the Board of Transport Commissioners has recommended to the Governor in Council that the agreement be sanctioned, and the Governor in Council has sanctioned the agreement.

The CHAIRMAN: That is found in section 1 of the bill, is it not?

Mr. FINLAYSON: Yes, sir. At the present time, of course, it is necessary for the two companies to have this merger approved in the United States by the Interstate Commerce Commission. The status of the proceedings is that there has been a report by an examiner, who has taken evidence, to the commission in which he recommends that the merger goes through subject to certain conditions. The date of June 16, 1965, has been set for the full commission to hear the matter.

Senator CROLL: Mr. Finlayson, I have two questions. Where in the agreement do you protect the workers, and how will this affect their pension plans?

Mr. FINLAYSON: It does not deal specifically with pension plans.

Senator CROLL: There is something on page 11.

Mr. FINLAYSON: The only operation is the one that is owned by Great Northern in British Columbia, and it is going to carry on in the same way it is being carried on now. There is no reason why the employees should be affected in any way.

Senator CROLL: Well, there is going to be a new legal entity.

Mr. FINLAYSON: That is right. It is a merged company. The two companies will merge together into one company—that is so—but my point is that from a practical point of view there is not going to be any change at all in the operation in British Columbia, because we have only Great Northern there now, and it is going to be carrying on business under a new name and under a larger corporation.

Senator McCUTCHEON: In the last sentence on page 11 there is a statement of intention to protect existing benefits.

Senator CROLL: But, you do speak on page 11 about the possible impairment of some of the pension or retiring conditions.

Senator McCUTCHEON: Where does it say that?

Senator CROLL: About six or seven lines from the bottom of the page it says:

> . . . substantial impairment the provisions made in existing plans for retirement and pension of employees . . .

It is a matter for some concern and consideration.

The CHAIRMAN: It reads:

> A new pension plan containing uniform provisions for the payment of benefits upon retirement to all employees of the New Company eligible under the terms of existing plans, which will preserve so far as practicable without substantial impairment the provisions made in existing plans for retirement and pension of employees . . . will be adopted by the New Company.

Senator CROLL: What is "substantial impairment," Mr. Chairman? What have they in mind?

Senator MCCUTCHEON: The employees have a pretty strong union. I should think that they can protect themselves.

Mr. FINLAYSON: Mr. Torinus, who is the General Solicitor in the United States of Great Northern, could answer that question in a little more detail.

Mr. TORINUS: There is provision in the merger agreement, Article X, and which appears on page 11 of the pamphlet copy which I have, which provides as follows:

> Pension benefits payable in accordance with the provisions of the several pension plans of the Constituent Corporations to persons on or entitled to be on their pension rolls on the Merger Date and to widows of such persons shall thereafter be paid by the New Company to the extent such pension benefits are not paid out of any trust fund theretofore established for the purpose. A new pension plan containing uniform provisions for the payment of benefits upon retirement to all employees of the New Company eligible under the terms of existing plans, which will preserve so far as practicable without substantial impairment the provisions made in existing plans for retirement and pension of employees of the Constituent Corporations who are in active service on the Merger Date, will be adopted by the New Company. Such new plan will be appropriately integrated with existing funded pension plans for such employees, with or without funding of the new plan in whole or in part or continuation of funding under any such existing plan or plans.

In other words, each of the separate companies has its own pension plan, and the new company, as this provision reads, will assume the obligations to the employees by integrating the existing plans into a new pension plan of the new company.

Senator MCCUTCHEON: By about the time you do that you will have to integrate the existing plans for the employees under that great piece of legislation, the Canada Pension Plan.

Senator CROLL: The senator does not like it, but the rest of us are very fond of it. What about the employee working agreements; what have you said about that?

Mr. TORINUS: The collective bargaining agreements between the railroad companies and the employees?

Senator CROLL: Yes. How does it affect Canadians?

Mr. TORINUS: Under the merger agreement the new company assumes all the obligations of the constituent companies, which would include any contractual obligation under collective bargaining agreements.

Senator CROLL: Will you point to that provision? I did not quite catch it earlier in the proceedings.

Mr. TORINUS: Will you look at Article IX which is on page 10 of the bill, entitled "merger of assets and assumption of liabilities"?

Senator HAIG: In other words, the new company which is going to be incorporated under this merger will take over all the assets and liabilities, together with all the obligations? Is that a fair statement?

Mr. TORINUS: That is a fair statement, senator.

The CHAIRMAN: Does that satisfy you, Senator Croll?

Senator CROLL: Except that, of course, I look upon these collective agreements as a benefit rather than an obligation. However, it is in very general

terms. You have been with the company for some time, Mr. Torinus. Under similar mergers you have gone through, what has been the experience?

Mr. TORINUS: In what respect?

Senator CROLL: As to collective agreements.

Mr. TORINUS: In the United States, in the event of a merger, the Interstate Commerce Commission passes upon whether or not the merger is in the public interest, and as a part of its duty, under the Interstate Commerce Act in the United States, it must consider the effect upon employees. It imposes in its orders for improving mergers in the United States certain provisions for the protection of employees. It has quite a long history of merger decisions which impose those conditions.

That matter was considered extensively in the merger proceedings here involved, and the examiner has recommended the imposition of protective conditions for the benefit of employees. These are embodied in the examiner's proposed report and are in accordance with the decisions which the Interstate Commerce Commission has made in earlier merger cases.

Senator CROLL: May I just add, Mr. Finlayson, that there is not a long history of mergers in Canada of a similar nature. Does our Board of Transport Commissioners look upon that item as of importance in mergers in Canada?

Mr. FINLAYSON: My problem is the same as yours, senator. There does not seem to be much of a history there to look for it. All I can say is that it is certainly the intention of the merger company to respect the collective bargaining agreements in all contractual relationships with the employees; and if for some reason the Board of Transport Commissioners are not satisfied on that point, I assume that in the public interest they would not recommend the merger.

Senator MCCUTCHEON: If you did not recognize the collective bargaining agreement, you would not be running many trains from Vancouver to Blaine.

The CHAIRMAN: Any further questions? Are you ready to consider the bill?

Hon. SENATORS: Agreed.

The CHAIRMAN: Section 1, "Authority to merge and amalgamate in respect of assets and undertaking in Canada of Great Northern Railway," contains the provision that the merger and amalgamation shall not become effective in Canada until the Board of Transport Commission has approved. Shall the section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 2 provides "Authority of Great Northern Pacific & Burlington Lines Incorporated to acquire assets of Great Northern and shares of Midland." That is, the assets in Canada, I take it, Mr. Finlayson?

Mr. FINLAYSON: That is so.

The CHAIRMAN: Shall section 2 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 3 deals with the powers of the Great Northern. They will continue to have the powers vested in the Canadian companies. Shall section 3 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 4—"Agreements with other companies subject to Railway Act." Shall section 4 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 5?

Senator HAIG: Before you proceed with section 5, Mr. Chairman, what is section 134 of the Railway Act?

The CHAIRMAN: That is mentioned in section 5.

Senator HAIG: That is what we are going to discuss now.

The CHAIRMAN: That is the section providing that a railway company wishing to borrow must obtain the approval of its shareholders. Also, it is rather interesting, Senator Haig, to recall that in section 5 of this bill they ask for authorization to issue bonds, debentures and to hypothecate present or future property. Does that satisfy you, Senator Haig?

Senator HAIG: Thank you.

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 without amendment?

Hon. SENATORS: Agreed.

The CHAIRMAN: In connection with Bill S-3, to incorporate the Ottawa Terminal Railway, may I say that I told the committee last week I thought we would be meeting next Thursday with regard to that. However, Senator Roebuck will not be able to be here next Thursday, and he wishes to be present when the bill is considered because, as you will recall, at his request the railway union representatives will be here. I agreed with him that we would sit on June 3, two Thursdays from now.

The committee adjourned.

Third Session—Twenty-sixth Parliament

1965

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 S-7,

intituled: "An Act respecting Interprovincial Pipe Line Company".

THURSDAY, MAY 20, 1965

WITNESSES:

Interprovincial Pipe Line Company: Mr. T. S. Johnston, President; Mr. R. B. Burgess, Q.C., Parliamentary Agent.

REPORT OF THE COMMITTEE

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

22511—1

THE STANDING COMMITTEE

on

TRANSPORT AND COMMUNICATIONS

The Honourable

ADRIAN K. HUGESSEN,

Chairman

The Honourable Senators

Aird,
Aseltine,
Baird,
Beaubien (*Provencher*),
Bouffard,
Buchanan,
Burchill,
Connolly (*Halifax North*)
Croll,
Dessureault,
Dupuis,
Farris,
Fournier (*Madawaska-Restigouche*),
Gelinas,
Gershaw,
Gouin,
Haig,
Hayden,
Hollett,
Hugessen,
Isnor,
Jodoin,
Kinley,
Lambert,
Lang,
Lefrançois,
Macdonald (*Brantford*),
McCutcheon,
McGrand,
McKeen,
McLean,
Methot,
Molson,
Paterson,
Pearson,
Phillips,
Power,
Quart,
Rattenbury,
Reid,
Roebuck,
Smith (*Kamloops*),
Smith (*Queens-Shelburne*),
Stambaugh,
Thorvaldson,
Veniot,
Vien,
Welch,
Willis,
Woodrow—(50).

Ex officio members

Brooks,
Connolly (*Ottawa West*).

(Quorum 9)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Tuesday, May 11th, 1965:

"Pursuant to the Order of the Day, the Honourable Senator Molson moved, seconded by the Honourable Senator Gelinas, that the Bill S-7, intituled: "An Act respecting Interprovincial 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 Molson moved, seconded by the Honourable Senator Gelinas, 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.

22511—1½

MINUTES OF PROCEEDINGS

THURSDAY, May 20, 1965.

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*), Baird, Bouffard, Buchanan, Connolly (*Halifax North*), Croll, Fournier (*Madawaska-Restigouche*), Gershaw, Gouin, Haig, Hollett, Isnor, McCutcheon, Phillips, Rattenbury, Smith (*Kamloops*), Smith (*Queens-Shelburne*), Stambaugh, Willis and Woodrow. (20)

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

On Motion of the Honourable 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 its proceedings on Bill S-7.

Bill S-7, An Act respecting Interprovincial Pipe Line Company, was read and considered, clause by clause.

The following witnesses were heard:

Interprovincial Pipe Line Company:

Mr. T. S. Johnston, President.

Mr. R. B. Burgess, Q.C., Parliamentary Agent.

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

On motion of the Honourable Senator Gouin it was Resolved to report recommending that the Parliamentary fees paid last Session be applied to this Session.

At 10.25 a.m. the Committee proceeded to the next order of business.

Attest.

Frank A. Jackson,
Clerk of the Committee.

REPORT OF THE COMMITTEE

THURSDAY, May 20, 1965.

The Standing Committee on Transport and Communications to which was referred the Bill S-7, intituled: "An Act respecting Interprovincial Pipe Line Company", has in obedience to the order of reference of May 11th, 1965, examined the said Bill and now reports the same without any amendment.

Your Committee further recommends that the Parliamentary fees paid upon the Bill at the last Session apply to the Bill at this Session.

All of which is respectfully submitted.

A. K. HUGESSEN,
Chairman.

THE SENATE

THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

THURSDAY, May 20, 1965.

The Standing Committee on Transport and Communications, to which was referred Bill S-7, respecting Interprovincial Pipe Line Company, met this day at 10 a.m.

Senator A. K. HUGESSEN in the Chair.

The CHAIRMAN: We have a quorum. I call the meeting to order. We have two bills before us to consider this morning, Bill S-5, respecting Great Northern Railway Company and Great Northern Pacific and Burlington Lines Incorporated, and Bill S-7, respecting Interprovincial Pipe Line Company.

I suggest that, as we dealt with the second bill during the last session, we should take it first this time and perhaps we can dispose of it quickly.

> The committee agreed that a verbatim report be made of the committee's proceedings on the bills.
>
> The committee agreed to report, recommending that 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: Concerning Bill S-7, respecting Interprovincial Pipe Line Company, I have a letter from our Law Clerk, addressed to myself, and dated the 12th instant:

> In my opinion this bill is in proper legal form and I have no suggestions to make for its amendment.

The bill stands in the name of Senator Molson. I do not think he is here today. The people who are appearing in support of this bill are Mr. T. S. Johnston, President of the Interprovincial Pipe Line Company; Mr. J. Blight, Secretary-Treasurer, and Mr. R. B. Burgess, Q.C., Parliamentary Counsel.

I understand, Mr. Burgess, it is you who will make the representations.

Mr. R. B. Burgess, Q.C., Parliamentary Counsel, Interprovincial Pipe Line Company: Yes, Mr. Chairman, I will open.

The CHAIRMAN: The committee will remember that we considered this bill less than a year ago, at least, a bill similar to this. We passed it.

Senator CROLL: "Similar"? It is the exact bill, is it not?

The CHAIRMAN: I was about to ask Mr. Burgess if this is the exact bill, without any word changed.

Mr. BURGESS: Yes, that is true. We have elaborated a little on the explanation to make it somewhat clearer.

Mr. HOPKINS: The explanatory notes.

The CHAIRMAN: You have brought the explanatory notes up to date. Does the committee wish to hear any further evidence on this?

Hon. SENATORS: No.

The CHAIRMAN: The bill provides for the subdivision of the shares into $1 shares. The reasons given to us last year are, I suppose, still valid, that they wish to have a wider distribution of the stock and make it available for smaller investors to get shares in the company.

Senator CROLL: In order to avoid possible criticism—and this bill has come under some attack in the other place—and as there may have been some new members added to this committee, we should at least have a preliminary statement setting it forth, for the purposes of the record.

The CHAIRMAN: That is right.

Senator CROLL: It would mean that we do not automatically pass the bill just because we passed it last session.

Mr. BURGESS: Members of the Senate, as the Chairman has already stated, this bill is in terms identical to those of a similar bill which was before this committee and which was passed by the Senate last session. That bill was S-42 of that session. As I have said the text of the bill is identical. As shown by the explanatory notes the purpose of the bill is to subdivide each of the 40 million authorized shares of capital stock of the company of a par value of $5 into five shares of a par value of $1. I don't think I need to mention that were it not for the fact that the applicant is a special act company, the procedure of applying to Parliament would not be necessary. It is an ordinary stock split, which in the case of an ordinary company would be done by application to the Secretary of State.

The form of the bill has been approved by the staff of the Senate, and you have heard our Law Counsel's report on that. I would like to emphasize that the bill, if enacted, will not increase the total authorization of authorized capital of the company beyond the fixed $200 million. As I have stated, it will merely subdivide the present 40 million shares at $5 into 200 million shares at a par value of $1.

So that the committee will have some idea of the company, its purpose and its business, I should like to briefly review the history of the company. I believe you are all aware that it was incorporated by a special Act of Parliament in 1949.

Senator CROLL: Would you mind taking a few minutes to answer some of the criticisms made in the other place about this bill. Could you give us the background of the criticism?

Mr. BURGESS: I would be very happy to read from the record.

Senator MCCUTCHEON: Surely we don't need to be treated to uninformed criticism here.

Senator CROLL: Perhaps it is not uninformed.

Mr. BURGESS: I would be very happy to quote from the record.

Senator CROLL: I would certainly be pleased to have you deal with the criticism.

Mr. BURGESS: Without taking a great deal of time of the committee, it is going to be a little difficult.

Senator WILLIS: Who were the critics?

Mr. BURGESS: Mr. Prittie, Mr. Howard and Dr. Kindt. This is on third reading.

The CHAIRMAN: What was the basis of their criticism?

Mr. BURGESS: It is that there was something very—I think I can say—dishonest about subdividing company stock, and then through the agency of a manipulator pushing this subdivided stock on the market, the present stockholders being able to unload and make a fortune. Perhaps if I read some of Dr. Kindt's remarks on third reading that might be of some help. If the committee

will bear with me I shall read his complete remarks, in fairness to him. They take up about a page and a half of *Hansard*.

The CHAIRMAN: Are we interested in what a member of the House of Commons has said?

Senator CROLL: Can you give us a summary of it?

The CHAIRMAN: That, I think, would be better.

Mr. BURGESS: Basically the summary is as I have said. It was felt that if we subdivided these shares—and this was the basis of the criticism made by Dr. Kindt and the other members—there would be an automatic increase in the value of the subdivided shares.

Senator AIRD: That does not always follow.

Mr. BURGESS: This is quite true, but that is the argument presented to us. With that automatic increase, with the word "automatic" in quotes, in the value of the company's shares, an operator who sponsors the stock and wishes to increase it makes this higher market at the present time, and the present holders unload in the higher market at the expense of the innocents who buy in at this higher market price. I am sorry I cannot make more sense of the criticism in the other place than this.

The CHAIRMAN: Does that satisfy you, Senator Croll?

Senator CROLL: Yes, but I don't think they suggested any dishonesty. They suggested "something sinister," which is different.

Senator MCCUTCHEON: A very subtle distinction, I would say.

Senator HOLLETT: Could it happen? Could it happen, as they say, that people would unload their shares?

Mr. BURGESS: It could not happen in this company with the major shareholders not being prepared to sell at any price.

Senator MCCUTCHEON: It is very difficult to make a market of 200 million shares unless it is something like Windfall.

The CHAIRMAN: Any further questions? Is the committee ready to consider the bill?

Senator SMITH (*Queens-Shelburne*): What was the company's main consideration when they decided to present this bill to Parliament? Is it in the company's general interest to split the shares or were you thinking principally in terms of availability of the stock under the employees' savings plan? Is that one of the first considerations?

Mr. BURGESS: That is a consideration, the employees' savings plan, but it is a secondary consideration. I think the primary consideration of the board of directors of a Canadian company of this nature is to broaden the base of their stockholdings, in particular to broaden the base of their stockholdings in Canada. This serves an extremely useful purpose in that for the benefit of your existing shareholders as well as for the benefit of others who might wish to buy into the company, you get a much narrower market on your stock. When your stock is at a price up in the eighties or the nineties it is a rich man's stock and many investment syndicates and people like that buy it, but the man in the street is not going to buy very much. You get a buy order that can be a major investment fund or something of that nature, and the stock market accelerates because they are buying stock on what their financial experts have told them. They want the stock then; they buy it; and the price escalates. That order is filled and the stock drifts down a little way. The net result is that you have wide swings in the market price of a true blue chip stock. The market can vary as much as $2 or $3 over two or three days. This is not good for the individual small shareholder who is in here. If he has to sell at a given time for personal

reasons, he has to take what the market gives that day. If it happens to be $89 instead of $93, he has to take the $89. When you broaden the base and, therefore broaden the number of persons who can logically get into it and afford to get into it, you narrow that and you are dealing in eighths of a point on the stock market instead of this swing which can be two, three or four times.

Senator SMITH (*Queens-Shelburne*): The summary of what you have said is that this device or idea gives some stable conditions to the market which otherwise would not exist, for the settlement of estates and things of that kind?

Mr. BURGESS: Yes, that is true. If I might take just one moment to answer the secondary part of the question about the employees' savings plan, because of the fact this was thrown in our faces and we were told we really did not give a great deal of consideration to our employees' feelings or their ability to buy the stock or not buy the stock, in the interval between the last time we were here and today we have made a poll of our employees. That poll indicates that approximately 90 per cent of our employees feel—and this was a bona fide poll and no names attached or anything like that—around 90 per cent figure they would be more able to take advantage of this avenue of investment under the employees' savings plan of purchasing the company's stock if the stock were split five for one.

Senator ISNOR: How did you take that poll?

Mr. BURGESS: I assume it is the same way most companies would take a poll. It was sent out in questionnaire form. The employees were asked to answer it. There were no records kept; there was nothing on any one of these ballots which indicated in any way who the employee was or what position he held. The ballots came in in sealed envelopes, and they were opened by the Employee and Public Relations Department. Mr. Johnston, the President, or none of the other corporate officers know who voted where.

Senator ISNOR: What were the questions?

Mr. BURGESS: This is the actual ballot which went out to the employees:

> Interprovincial Pipe Line Company is presently petitioning the Parliament of Canada to amend the Company's charter by splitting its stock on the basis of five shares for one.
>
> The result of such an amendment would be that one share of stock, worth approximately $90 at present market prices, would be split into five shares, each worth approximately $18.
>
> The Company would like to give Parliament a factual statement as to the wishes of its employees in this regard. Accordingly, each participant in the Employees' Savings Plans is being asked to answer the following two questions:
>
> 1. Would it be more attractive to you as an avenue of investment of your Plan savings if the stock were subdivided on a 5 for 1 basis, so that each new share would have a market value of approximately $18?

Then there was a space for "yes" and a space for "no".

> 2. If you presently allocate your Plan savings to cash savings, or are contemplating doing so some time in the future, would the lower unit price of the Company stock encourage you to change your allocation from cash savings to the purchase of Company stock?

Then there was a space for an answer of "yes" or "no".

> Would you please answer the questionnaire immediately, do not sign, but merely place in a sealed envelope and hand to your immediate supervisor for transmittal to the Department of Employee and Public Relations.

Senator CROLL: What was the answer?

Mr. BURGESS: The answers to the first question were: 90 per cent "yes".

Senator ISNOR: Is that of your total number of employees?

Mr. BURGESS: Yes, of the total number of employees who are participants in the savings plan, and the only employees who are not participants in that plan are those who have not been with the company for the required length of time, six months. I believe it is one or two employees of our total who are not participants in this plan.

Senator CROLL: How many employees have you?

Mr. BURGESS: Just a moment, and I will get you the actual figures.

Mr. T. S. Johnston, President, Interprovincial Pipe Line Company: Just under 600.

Senator CROLL: And all but two are participants?

Mr. JOHNSTON: Ninety-nine per cent of them are, of the eligible ones.

The CHAIRMAN: Could we have the actual figures of the vote?

Mr. JOHNSTON: Yes, I have the vote here.

Mr. BURGESS: To question No. 1 the answers were: "Yes", 475; "No" 22; and "No answer" 11. Perhaps I had better go back.

The CHAIRMAN: Question No. 2?

Mr. BURGESS: "Yes" 400; "No" 35; "No answer" 73. In the first case the "Yes" replies as a percentage of the total replies received were 93.5 per cent; and to the second question, 78.7 per cent. The total number of employees participating in the plan were 575. There were 14 absent because of sickness or vacation, so the total number of employees polled was 561. The total number of replies received were 508, being 90.5 per cent of those polled.

The CHAIRMAN: Is the committee ready to consider the bill section by section? Are there any further questions?

Section 1: Subdivision of capital stock. Shall section 1 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 2: Rights of holders of present shares. 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: There is one motion which it is suggested the committee might see fit to pass, seeing this is the resubmission of a bill which came to us last session:

> Your committee recommends that the parliamentary fees paid upon the bill at the last session apply to the bill of this session.

That seems reasonable, I think. It was no fault of the sponsors they did not get through last session.

Motion agreed to.

The CHAIRMAN: Thank you, gentlemen.

Mr. BURGESS: Thank you, honourable senators.

Third Session—Twenty-sixth Parliament

1965

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING COMMITTEE ON

TRANSPORT AND COMMUNICATIONS

The Honourable A. K. HUGESSEN, *Chairman*

No. 4

First Proceedings on Bill S-3,
intituled: "An Act to incorporate the Ottawa Terminal Railway Company."

THURSDAY, JUNE 3, 1965

WITNESSES:

Department of Transport: Jacques Fortier, Q.C., Counsel; *National Capital Commission:* Lt. Gen. S. F. Clark, Chairman; Mrs. E. M. Thomas, Counsel; J. L. MacQuarrie, Railway Consultant; *International Railway Brotherhoods:* W. G. McGregor, Vice-Chairman, National Legislative Committee; Stuart Wells, Director of Research, Non-Operating Committee; *Brotherhood of Railway Clerks:* F. H. Hall, Executive Assistant; *Canadian National Railways:* J. W. G. Macdougall, Q.C., General Solicitor; *Canadian Pacific Railway Company:* K. D. M. Spence, Q.C., Commission Counsel.

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

22563—1

THE STANDING COMMITTEE

on

TRANSPORT AND COMMUNICATIONS

The Honourable

ADRIAN K. HUGESSEN,

Chairman

The Honourable Senators

Aird,
Aseltine,
Baird,
Beaubien (*Provencher*),
Bouffard,
Buchanan,
Burchill,
Connolly (*Halifax North*),
Croll,
Dessureault,
Dupuis,
Farris,
Fournier (*Madawaska-Restigouche*),
Gelinas,
Gershaw,
Gouin,
Haig,
Hayden,
Hollett,
Hugessen,
Isnor,
Jodoin,
Kinley,
Lambert,
Lang,
Lefrançois,
Macdonald (*Brantford*),
McCutcheon,
McGrand,
McKeen,
McLean,
Methot,
Molson,
Paterson,
Pearson,
Phillips,
Power,
Quart,
Rattenbury,
Reid,
Roebuck,
Smith (*Kamloops*),
Smith (*Queens-Shelburne*),
Stambaugh,
Thorvaldson,
Veniot,
Vien,
Welch,
Willis,
Woodrow—50.

Ex officio members

Brooks,
Connolly (*Ottawa West*).

(Quorum 9)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Wednesday, May 12th, 1965.

"Pursuant to the Order of the Day, the Honourable Senator Lambert moved, seconded by the Honourable Senator Hugessen, that the Bill S-3, intituled: "An Act to incorporate 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 Lambert moved, seconded by the Honourable Senator Hugessen, 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.

22563—1½

MINUTES OF PROCEEDINGS

THURSDAY, June 3, 1965.

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

Present: Honourable Senators Hugessen (*Chairman*), Aird, Baird, Beaubien (*Provencher*), Buchanan, Connolly (*Halifax North*), Croll, Fournier (*Madawaska-Restigouche*), Gershaw, Gouin, Haig, Hayden, Isnor, Kinley, Lambert, McCutcheon, McGrand, Phillips, Power, Quart, Rattenbury, Reid, Roebuck, Smith (*Kamloops*), Smith (*Queens-Shelburne*), Stambaugh, Thorvaldson and Woodrow—28.

In attendance: E. Russell Hopkins, Law Clerk and Parliamentary Counsel, R. J. Batt, Assistant Law Clerk and Parliamentary Counsel and Chief Clerk of Committees.

On Motion of the Honourable 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 Bill S-3.

Bill S-3, An Act to incorporate the Ottawa Terminal Railway Company, was considered.

The following witnesses were heard:

Department of Transport: Jacques Fortier, Q.C., Counsel.

National Capital Commission: Lt. Gen. S. F. Clark, Chairman; Mrs. E. M. Thomas, Counsel; J. L. MacQuarrie, Railway Consultant.

International Railway Brotherhoods: W. G. McGregor, Vice-Chairman, National Legislative Committee; Stuart Wells, Director of Research, Non-Operating Committee.

Brotherhood of Railway Clerks: F. H. Hall, Executive Assistant.

Canadian National Railways: J. W. G. Macdougall, Q.C., General Solicitor.

Canadian Pacific Railway Company: K. D. M. Spence, Q.C., Commission Counsel.

After discussion and on Motion of the Honourable Senator Croll, it was Resolved to amend the said Bill as follows:

Page 3: Strike out lines 33 to 35 inclusive and substitute therefor the following:

(*g*) furnish for hire in and about the Cities of Ottawa and Hull such adequate and suitable service as is customary or usual for the pick-up, delivery and transfer of goods by means of trucks or

At 12.15 p.m. the Committee adjourned until Thursday, June 24th, 1965.

Attest.

Dale Jarvis,
Clerk of the Committee.

THE SENATE

THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Thursday, June 3, 1965

The Standing Committee on Transport and Communications, to which was referred Bill S-3, to incorporate the Ottawa Terminal Railway Company, met this day at 10 a.m.

Senator A. K. HUGESSEN in the Chair.

The CHAIRMAN: Honourable senators, I would ask the committee to come to order. It is 10 o'clock, and there is a quorum. We have this morning to consider Bill S-3, an act to incorporate the Ottawa Terminal Railway Company.

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

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

The CHAIRMAN: Honourable senators will note that this bill is similar to a bill we considered last year which was recommended by this committee to the Senate after one or two amendments, when it was passed by the Senate, but it failed to receive passage in the House of Commons.

The gentlemen who are appearing in support of the application are the same as appeared before us last year: Lt. Gen S. F. Clark, Chairman of the National Capital Commission; Mr. Jacques Fortier, Counsel for the Department of Transport; representatives of the two railway companies— Mr. K. D. M. Spence, Q.C., Commission Counsel for Canadian Pacific Railway and Mr. J. W. G. Macdougall, Q.C., General Solicitor for Canadian National Railways. Also we have for the petitioners, Mrs. Thomas, Counsel to the National Capital Commission.

In addition, there are some gentlemen here who wish to make representations in connection with this bill, who were not present last year. They are representatives of the various railway unions, and there are quite a number of them. They represent the Brotherhood of Railroad Trainmen, the International Railway Brotherhoods and the Canadian Brotherhood of Railway Transport and General Workers.

The committee will recall that last year we had representations from the Canadian Trucking Associations, whose general manager, Mr. John Magee, was present with his counsel.

As I recall it, we made one change in the bill at their request, and refused to make one or two changes. I understand that Mr. Magee is here this morning. However, I received a letter from him which I think I should read to the committee. It is addressed to myself and is dated June 1. It reads as follows:

Dear Senator Hugessen,

Canadian Trucking Associations has had discussions with the railways with regard to an amendment of section 10(g) of Bill S-3 which would resolve to the mutual satisfaction of both parties questions inherent in the existing section. Agreement has been reached as to the

form of an amendment mutually acceptable and we understand that the Department of Transport has approved a draft, concurred in by Canadian Trucking Associations which, on behalf of the two railways, has been submitted by Canadian National.

We are informed that this amendment will be moved at the hearing of the Senate Committee on Transport and Communications on Thursday, June 3. The writer will represent Canadian Trucking Associations at this hearing but unless it appears during the discussion that the amendment may not pass, it is not the intention of Canadian Trucking Associations to make a submission to the committee.

If we are asked if the amendment meets the objections of the trucking industry we will, of course, reply in the affirmative.

Yours truly,

John Magee,
General Manager.

So it may or may not be that, as the discussions go on this morning, that Mr. Magee will wish to be heard.

Honourable senators, in view of the situation, perhaps the most logical way for us to start our proceedings this morning will be to find out in just what respects, if any, the bill which is before us today differs from the bill which was submitted to us and which we considered last year. If the committee agrees that that should be the logical way to start our proceedings this morning, we can go ahead after that.

Hon. SENATORS: Agreed.

The CHAIRMAN: I am sure that Mr. Fortier, the counsel for the Department of Transport, who is here, would be willing to tell us just in what respect the present bill differs from the bill which was introduced last year. I think Mr. Fortier will also be in a position to tell us about the amendment to section 10 which has apparently been agreed upon by all the parties interested.

Mr. Jacques Fortier, Q.C., Counsel, Department of Transport: Mr. Chairman, honourable senators, you will recall that Bill S-33 which was approved by the Senate last July was previously amended by this committee and the following changes were made before it was approved by the committee:

In section 9, the words "in or about the City of Ottawa" were changed to read "in and about the City of Ottawa".

In section 10(g) the words "in and about the City of Ottawa" were added on the first line after the word "hire".

The CHAIRMAN: That was with respect to the trucking service, was it not?

Mr. FORTIER: Yes, Mr. Chairman. Bill S-3 which is now before this committee is in the same terms as the previous Bill S-33, subject to the following changes, which have been incorporated in the bill:

In section 10(e), on the last line, the word "licences" has been deleted.

This change has been made at the request of the City of Ottawa, which claimed that, if the Ottawa Terminal Railway Company were given the right to issue licences it might infringe on the rights of the city to issue licences under its licensing by-laws.

Senator CROLL: Mr. Fortier, what is the difference between a licence and a concession?

Mr. FORTIER: I think that when we speak of a legal document we would rather use the word "licence" rather than "concession"—a "licence" or a

"permit". The form of document that would be given, that would have the heading of licence, would be called either a licence or a permit.

Senator CROLL: They take an objection and say you cannot grant licences. You do not call them licences, you call them concessions. Where is the difference?

Mr. FORTIER: In Bill S-33 we had included the word "licences" and that has now been deleted.

Senator CROLL: That is my point. What is the difference between the word "concession" and "licence"? You have "concessions" there now.

Mr. FORTIER: The word "concession" was in Bill S-33 and it still is in this present bill.

Senator CROLL: I see that.

Senator ROEBUCK: What you are asked is, what is the difference? What did you eliminate when you left in "concessions" and struck out "licences"? What did you eliminate by doing that?

Mr. HOPKINS: Mr. Chairman, may I intervene?

The CHAIRMAN: Yes.

Mr. HOPKINS: I assume that it was to protect the licensing authority of the City of Ottawa. A concession would presumably be contractual between the parties but a licence might still be necessary, despite the concession from the municipal authority.

Senator CROLL: That could be it.

The CHAIRMAN: There might be a concession to operate a newsstand, but it might require an additional licence from the City.

Senator CROLL: I understand that. I see that now.

Mr. FORTIER: A further amendment is now included in Bill S-3, in paragraph (g) of section 10. We have deleted the words "passengers," "buses," "cabs". This deletion was made at the request of the Ottawa Transportation Commission.

The CHAIRMAN: This is under the heading of "transfer service" on page 3. It is paragraph (g)?

Mr. FORTIER: That is right. The Ottawa Transportation Commission complained that if the Ottawa Terminal Railway Company had the right to operate passenger ground transportation in the city, that would transgress its franchise to operate buses in the City of Ottawa. So that paragraph (g) now refers exclusively to the trucking operations.

The CHAIRMAN: And it includes the amendment that we made last year restricting it to "in and about the City of Ottawa".

Mr. FORTIER: That is right, Mr. Chairman. The last amendment, which is now contained in this bill, is opposite page 17. In clause 26 of the Memorandum of Understanding, there is a date "second day of January, 1965" for the closing of all transactions. I am advised by the National Capital Commission that this has been extended beyond that date.

Senator SMITH (*Queens-Shelburne*): Would the witness repeat that, as I did not get the significance of it?

Mr. FORTIER: In clause 26 of the Memorandum of Understanding the closing date for land transactions is set out to be January 2, 1965. This date has been extended, by an agreement between the National Capital Commission and the two railways.

Senator ROEBUCK: What is the date now?

Mr. FORTIER: I understand it is August 1, 1966.

Senator SMITH (*Queens-Shelburne*): I do not understand this. My copy of the bill says "shall take place simultaneously on the second day of January, 1965." If that date is extended, where are we?

The CHAIRMAN: This is a schedule to the bill, which is a Memorandum of Understanding which was made on the 17th October, 1963, and contained that clause 26. All that the witness is pointing out is that, by subsequent agreement between the parties, they have extended the date which they agreed upon in 1963.

Senator LAMBERT: I think it was understood at the time that it involved a readjustment to the values on the exchange of land between the railways and the corporation. I think that is the reason.

The CHAIRMAN: Yes. Do you understand that, Senator Smith?

Senator LAMBERT: Any lawyer will understand it.

Senator CROLL: One has to be a lawyer to understand it.

Mr. FORTIER: In addition to the amendments which are now incorporated in Bill S-3, there is a further amendment—as Mr. Magee pointed out in his letter to the chairman which was read a few minutes ago—which if approved by the committee would finally dispose of the objections of the Canadian Trucking Associations to this bill.

This further amendment is in paragraph (g) of clause 10. It would replace the first three lines of paragraph (g) by these:

> Furnish for hire in and about the Cities of Ottawa and Hull such adequate and suitable service as is customary or usual for the pick-up, delivery and transfer of goods by means of trucks.

Senator CROLL: Would he read it?

The CHAIRMAN: Perhaps we will come to that when we consider the bill section by section. I gather that this change has been agreed upon by all parties interested. We can discuss it when we come to that section.

Mr. FORTIER: The reason for this amendment, as pointed out by the Canadian Trucking Associations, was in order to eliminate any ambiguity as to the meaning and intent of paragraph (g). The railways have agreed to this change. They have pointed out that the reworded paragraph (g) will make the point abundantly clear, that the service, pick-up and delivery, will include service in the City of Hull. Those are the amendments, Mr. Chairman.

The CHAIRMAN: Thank you. I think the committee understands the amendments that are now in this bill, as compared with the bill originally presented to us last year. I do not know how far the committee wishes to go in covering the ground we went over last year. You remember that we had General Clark give a general picture of the situation. Perhaps the committee would wish to ask General Clark some questions again. It would be interesting if he would tell us what progress has been made with this whole development since last year.

Senator ROEBUCK: Mr. Chairman, I raised some questions with regard to the unions when the bill was before the Senate.

The CHAIRMAN: I was going to suggest that after we hear the proponents of the bill, and a general exposition of the scheme, we would call upon the unions. They have only one matter to discuss, and they have submitted a memorandum to us and for that reason I thought we should hear the proponents first of all and then hear the unions, if that is agreeable to the committee.

Senator ROEBUCK: All right.

The CHAIRMAN: General Clark. General Clark is known, I think, to all of us from last year.

Lt. Gen. S. F. Clark, Chairman, National Capital Commission: Honourable senators, I realize the contract for the implementation of the railway relocation plan is not a point of this bill. Therefore, if I may, I shall omit the background I gave last year and do as you suggested, that is to bring you up to date on the progress made in the railway relocation program which has been approved by the Government.

The first stage of the railway relocation program called for the removal of the C.N.R. crosstown tracks, and the building of a belt line, the Walkley Road belt line, to connect these two sections, therefore permitting it to come around this part of the city. That relocation was completed in 1955, and since that time, as you are well aware, the railway grade plus additional land needed forms the right-of-way for the new Queensway, part of the Trans-Canada Highway, and about nine miles of this have already been completed from the intersection with Highway 29 to the Rideau Canal. That is where you can drive to just a few blocks away from the Rideau Canal. This was completed but one cannot cross the canal until the bridge which is under construction at the present time is completed, also the construction of the part of the road up to the railway line. We hope to be able to complete the last stage of this Queensway in late 1966 when the railway tracks to Union Station have been removed. Another abandonment that was called for was the Sussex Street subdivision of C.P.R. which ran from Sussex Drive, near the National Research Council, behind City Hall and generally comes along the line of the canal to Bank Street. The section from Sussex Drive to Beechwood, was abandoned on the 15th June 1964, and if you have been driving by you will have noticed that the approaches to the new Macdonald-Cartier Bridge joining Ottawa and Hull are fairly well advanced. The balance of the subdivision from Beechwood to Bank Street may be abandoned on one month's notice from the 1st of October this year by a decision of the Board of Transport Commissioners. This has freed a considerable quantity of land in here, and in addition to providing a rather complicated approach to a six-line bridge, it will leave sites for Government buildings or for such other purposes as the Government may wish to use the land.

The new station: The contract for the new station located near the Queensway in Alta Vista Drive was awarded February 12th this year, and it is our hope and expectation that it will be completed in July of 1966. The plan calls for only one railway line going across Ottawa into the Hull-Lucerne area—the Prescott subdivision. When these lines are removed all the interprovincial traffic which travelled on these two railway lines will have to be concentrated on this one north-south railway line and because of the increased number of trains per day we have to operate, the level crossings will be eliminated to ensure the safety of people driving and to allow free movement of the ever-increasing amount of motor vehicle traffic along Carling and the other avenues and streets that cross there. We are depressing the railway grade from the Rideau River underneath the canal and on to Dows Lake, underneath the highway, underneath Carling Avenue and coming back up to grade again at about Somerset Street. We have completed the tunnel under here and the construction is progressing very well under the highway and Carling Avenue. We expect that will be completed and ready for operation in 1966.

I should have mentioned that also alongside Union Station there is under construction a new telecommunications building for the railways. The contract was awarded on the 2nd February this year, and we hope it will be completed at the end of the year.

Senator REID: Does that mean taking down the present station?

General CLARK: Yes. If I may deal with that—when this new station is completed and ready for operation and when the grade separation is completed and ready for operation, and the two things have to come simultaneously, then we can abandon the railway lines that run across the Rideau River, past the Union Station and the Alexandra Bridge to, approximately, Brewery Creek in Hull. As soon as this is done, and we hope it will be in 1966, we will tear up the railway tracks and form a driveway from an interchange to the Queensway along the east side of the canal to meet with Rideau Street at, roughly, the site of the present station. Our consultants are engaged in trying to find a way to go under the two bridges by the Chateau, and to use that grade for a motor vehicle traffic route across the Alexandra Bridge. We hope to complete that new parkway in the spring of 1967. At that time we hope to connect Echo Drive onto the new parkway. Anyone coming from the airport normally comes in a taxi crossing the Pretoria Bridge and now they will be able to continue on the new driveway to the Chateau Laurier or wherever they may be going.

Another stage is the elimination of this railway line running from Bell's Corners to Ottawa West Station. That is the C.P.R. Carleton Place subdivision. There is also what is called the Chaudière spur of the C.N.R. These lead to what I shall call a marshalling yard—excuse me if I do not use railway terminology but I am not familiar with it—in LeBreton Flats. This will be removed and we shall get there about 60 acres of railway land from the railways. When we acquire the balance of that it will be redeveloped as a site for Government buildings. You will recall that last year the Government announced this would be the site for a new Department of National Defence headquarters which will be one of the first building in that area. We hope to have this raiway line, by agreement with the Board of Transport Commissioners, eliminated sometime late next year.

The CHAIRMAN: Late next year, do you say?

General CLARK: Yes, late next year.

Senator SMITH (*Kamloops*): You referred to a tunnel in the Dows Lake area?

General CLARK: Yes.

Senator SMITH (*Kamloops*): Is that going to be completely tunnelized or par of an open cut?

General CLARK: It will be an open cut almost all the way, but where we go under Dows Lake—it is the canal at Dows Lake, really—it is to be a full tunnel because it is under the canal. It comes into an open cut, which starts very close to the Rideau River; and then as you approach the canal it goes into a full tunnel and comes out again into the open cut underneath Carling, to grade at about Somerset Street.

Senator SMITH (*Kamloops*): Will there be any crossings on that cut?

General CLARK: Yes, the crossings are at Carling Avenue—I might just get the names of the streets here. I think there will be as many crossings as there are now.

Senator SMITH (*Kamloops*): Will there be any level crossings or are they all overhead?

General CLARK: The traffic will travel over the railway. We shall have no level crossings, so the trains can go through at whatever speed is satisfactory for railway operations, without the hazard of striking anyone on a crossing. The main ones are, first Colonel By Drive. We are under that; that is now at grade. Then we come to the Prescott Highway; we are under that. Carling Avenue; we are under that. Beach. Gladstone. So we will be completely away

from automobile traffic. That will be completed some time late next year, we hope.

Senator ISNOR: What about the crossings at Riverside Park? I think there are two or three.

General CLARK: The crossing at Riverside—this is down near Riverside Drive?

Senator ISNOR: Yes.

General CLARK: This is a crossing that is being arranged, I understand—and my staff will correct me if I am wrong—with the City of Ottawa. That is not part of the railway relocation plan. It is a grade separation which is needed, and this will be needed from time to time, and I understand that the City of Ottawa is building a grade separation at this point. We have acquired the land. You will see it on the N.C.C. maps. We plan a connection between a western and eastern parkway at some time in the future. We have acquired the land for grade separation when that is built.

If I might just say a word about industrial lands. The Government authorized the Commission to acquire for development industrial lands near the Walkley Road, Sheffield Road, Belfast Road, Coventry Road and a small area in Bell's Corners, in order to ensure that those industries which were served by rail and which were forced to move because of our railway relocation plan would have land on which to site their industries adjacent to the railway lines, as they had before. We settle with an industry that we take. We buy an industry up and settle fully. If he wishes to rebuild in our industrial lands we sell him land at 20 per cent less than the market value. If he had a private siding from the railway of any capacity—two, three or four cars or whatever it might be—we construct at our cost a siding of exactly the same size as he had before; but if he is expanding his building, as some are doing, there is plenty of land to increase the siding, but anything beyond what they have had at the previous location is financed by themselves in a private siding agreement with the railways.

We have in the industrial areas adjacent to Belfast Road, Sheffield Road, Coventry Road and at Bell's Corners sold 21 sites comprising some 100 acres of land. On 15 of these sites, comprising some 76 acres, new industrial buildings have either been built or are well under construction. We are currently negotiating with eleven more industries for sites in these industrial areas. We are absolutely confident we have much more land than is needed by any industry we displace. As a result of this we have recently sold land to some new industries along with railways that were not displaced.

It was our judgment and the judgment of the various commissions and advisers that when the railway relocation plan was completed, which would eliminate the duplication of a great deal of railway lines and facilities, and when they were concentrated into one system, that this could best be operated by a terminal railway company, which Bill S-3 seeks authority to incorporate.

I think, Mr. Chairman, this is a very quick summary of the progress we have made since our last meeting.

The CHAIRMAN: I am sure the committee is obliged to General Clark for his summary. Are there any questions of General Clark?

Is the committee satisfied in general with the principle of the bill? Shall we proceed now to hear the representations of the railway unions?

Hon. SENATORS: Agreed.

The CHAIRMAN: Gentlemen, which of you wishes to submit the summary? You have a submission you wish to read. Which of you gentlemen will come up and read the summary to us.

Senator ROEBUCK: Mr. McGregor of the Brotherhood of Railroad Trainmen.

The CHAIRMAN: This, gentlemen, is Mr. W. G. McGregor, the Vice-Chairman of the National Legislative Committee of the Brotherhood of Railroad Trainmen. I understand, gentlemen, the other representatives of the labour unions all support Mr. McGregor's submission. Is that correct? In other words, is there anybody here from the railway unions who wishes to make separate representations from those that are going to be made by Mr. McGregor?

Senator ROEBUCK: Perhaps they could be called upon later. Let us hear Mr. McGregor and what he has to say first. There are quite a number of distinguished leaders of the unions here, and some of them would probably like to say a few words, but let us hear from Mr. McGregor first.

The CHAIRMAN: All others who wish to speak afterwards will be given ample opportunity to be heard, I can assure you of that, senator.

Mr. McGregor, would you be good enough to read your brief? Has the committee had the submission circulated to it?

Mr. W. G. McGregor, Vice-Chairman, National Legislative Committee, Brotherhood of Railroad Trainmen: Mr. Chairman and honourable senators, we are honoured to appear before the Senate Committee on Transport and Communications to speak on behalf of the railway workers employed by the C.N.R. and C.P.R. in the City of Ottawa and district. With your permission, Mr. Chairman, I would like to introduce some of my colleagues.

The CHAIRMAN: Yes.

Mr. MCGREGOR: I would like to state that the chairman of our National Legislative Committee of the International Railway Brotherhoods is ill, so I am speaking as Vice-Chairman of the National Legislative Committee of the International Railway Brotherhoods. However, we have present with us: Mr. Frank Hall, Executive Assistant, Brotherhood of Railway Workers; the Director of Research, Mr. Stuart Wells; and the Vice-President of the Machinists and various other organizations of the non-operating groups. I have left with the secretary a list of those who have signed in as being representatives of the other organizations present.

With your permission, is it your pleasure that I read our brief?

The CHAIRMAN: If you would, Mr. McGregor.

Mr. MCGREGOR: This, honourable senators, is a brief on the subject of Bill S-3, an act to incorporate the Ottawa Terminal Railway Company, submitted to the Senate Committee on Transport and Communications by railway unions representing the running trades and the non-operating employees.

We very much appreciate having been given the opportunity to speak to the Committee on Transportation and Communications on the subject matter of Bill S-3.

By way of introduction we should perhaps explain why we did not seek to appear when the predecessor to Bill S-3 was before this same committee last session. The fact of the matter is that, like the Honourable Senator Hugessen, we at that time held the belief that the bill was merely an enabling bill to incorporate the Ottawa Terminal Railway Company with certain powers, and that until it was incorporated and began operating, the unions had no special interest in the matter. It is only gradually that we have come to realize that this was not a sound assumption on our part. No doubt we should have come to this conclusion more quickly than we did, but we did not.

As you know, all railway services in the Ottawa area are presently provided by employees of either the Canadian National or Canadian Pacific Railways. For an organized employee this means that all wages, working conditions, seniority rights, health and welfare benefits, and supplementary unemployment benefits are as provided in the collective agreement between the employee's union and his company. Pensions are not established by collective

agreement but benefits and conditions have been in force for some time, and are well known. Collective agreements are elaborate and fairly complex contracts that, in most cases, are built up over a period of many years and which are normally modified or altered only very gradually through careful negotiation and collective bargaining procedures. Under existing federal law, or Bill S-3 in its present form, the Ottawa Terminal Railway Company will not only not be bound by any of these collective agreements, but its employees will have no recognized bargaining agents to negotiate for them, because in this area federal law is silent about the responsibilities of successor employers. This may seem strange, particularly in such a case as this, where the successor company will in reality be only a paper company and the employees only nominally not be continuing as employees of Canadian National or Canadian Pacific, but it is nevertheless the case. Certain sections of the Industrial Relations & Disputes Investigation Act provide for an orderly succession of union to union under a continuing company but not from one company to another, while Section 17 of the Canadian National-Canadian Pacific Act provides in cases of joint operation or the creation of a jointly owned company "for a fair and reasonable apportionment as between the employees of National Railway and Pacific Railways, respectively, of such employment as may be incident to the operation of such measure, plan or arrangement" and "preference for work to employees in any services or on any works taken over by such new Company", but that is all.

Thus, unless Bill S-3 is amended, creation of the Ottawa Terminal Railway Company will suddenly deprive many longterm employees of all of the rights, privileges and responsibilities that they have obtained through years of collective bargaining, and at the same time it will deprive them of their bargaining medium—their union. As employees of the Ottawa Terminal Railway Company, their present wages and working conditions might be continued, and they might not lose their pension rights, and they might not lose their health and welfare benefits, and they might be granted an equivalent job security plan, but they would have no way of knowing or ensuring this. As a practical likelihood, perhaps we will be permitted a degree of scepticism, on grounds that the past always speaks to the future. Equivalent jobs do not always mean equivalent pay on the two railways and when the Toronto Terminals Railway Company was formed in the early part of this century, wages were subsequently set at the lower of the two rates. Other things being equal, is it unreasonable to expect the same policy to be followed by the Ottawa Terminal Railway Company? Toronto Terminals Railway employees were also deprived of their right to replace junior men elsewhere on the system. Were the same practice to be followed by the Ottawa Terminal Railway Company, senior men would thereby lose the opportunities for advancement and the considerable protection against unemployment that they now enjoy by virtue of their seniority agreements. This would be a particularly galling development in the face of management's repeated admonitions about the evils of so-called "point seniority."

Perhaps we have said enough to explain our interest in Bill S-3; we hope that it is also sufficient to justify a protective amendment being placed in the bill. If so, then while it would probably be presumptuous for us to propose appropriate legal terminology, we would respectfully submit that the essence of the amendment should be to bind the Ottawa Terminal Railway Company to each and every applicable collective agreement or otherwise established benefit and practice now in effect on the Canadian National or Canadian Pacific Railways, until normal termination or until replaced through collective bargaining procedures under the Industrial Relations & Disputes Investigation Act. A relatively simple clause of this sort would guarantee orderly con-

tinuity to the employees and would at the same time leave management of the new company free to concentrate on organizing its corporate and operational activities. Such an amendment would in no way prevent the company from seeking any changes it might desire in future labour contracts.

Eight provinces now have legislation dealing with the continuation of obligations upon successor employers, and on the assumption that these provisions might be of interest to this Committee, we have attached extracts as Appendix B of our submission.

There remains one potential consequence of Bill S-3 that could adversely affect railway employees and which would not be eliminated by the inclusion of a successor clause. As a result of the amalgamation and consolidation of facilities under the Ottawa Terminal Railway Company a net reduction of positions for railway employees is conceivable. We presume that in such an event the provisions of the Canadian National-Canadian Pacific Act would normally apply, but inasmuch as that Act may by then be repealed by the now proposed new railway legislation, it would seem prudent to incorporate the relevant parts of that Act in Bill S-3, and we respectfully urge this course upon you.

Mr. Chairman, that is our brief. I do not know whether it is your pleasure to have us read the successor rights clauses in the eight provincial labour acts.

The CHAIRMAN: I do not think that will be necessary, Mr. McGregor. They will appear in the record of the committee's proceedings, and we can study them at our leisure.

Hereafter follow the extracts referred to from the Federal and Provincial Statutes:

Chapter 37: An Act to amend the Canadian National-Canadian Pacific Act, 1933.

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4. The said Act is further amended by adding thereto the following Schedule:

"SCHEDULE.

The following provisions shall apply in respect of persons who are employees of National Railways or Pacific Railways and who shall not, prior to the effective date of any co-operative measure, plan or arrangement directly affecting such employees agreed to by the National Company and the Pacific Company pursuant to the provisions of Part II of this Act or settled upon or made in consequence of an order of a Tribunal under Part III of this Act, have become pensioners or annuitants in accordance with the rules of any railway pension or superannuation plan or fund of which they may be members, or have voluntarily retired or have been removed from their employment by reason of misconduct or incapacity,—

(1) in this Schedule, unless the context otherwise requires:—

"employee" means any person in the service of National Railways or Pacific Railways for compensation at or after the date of the coming into force of this Schedule, and shall include any person who shall have been in the service of National Railways or Pacific Railways for compensation at any time during the period of twelve months immediately preceding the date of the coming into force of this Schedule, seasonally or intermittently, excepting any person engaged in temporary work not being part of regular operation.

"representatives of interested employees" means the authorized representatives of employees' organizations holding working agreements

with National Railways and/or Pacific Railways, relative to wages and working conditions, and applicable to the class or classes of employees affected by any co-operative measure, plan or arrangement.

(2) (*a*) Every employee who is deprived of his employment as a result of any such measure, plan or arrangement shall be accorded by National Railways or Pacific Railways, the case may be, in whose service he was last employed preceding the effective date of such measure, plan or arrangement, an adjustment allowance as compensation for the loss of his employment, based on length of service (being not less than one year), which shall be a monthly allowance equivalent in each instance to sixty per cent (60%) of the average monthly compensation of such employee during the last twelve months of his employment immediately preceding the effective date of the measure, plan or arrangement which deprived him of his employment, such adjustment allowance to be paid the employee while unemployed by National Railways and/or Pacific Railways and/or any new company referred to in paragraph (*a*) of subsection two of section sixteen of this Act during a period beginning at the date when he is first deprived of employment as a result of such measure, plan or arrangement, and continuing in each instance for a length of time determined and limited by the following table:—

Length of Service	Period of Payment
1 year and less than 2 years	6 months
2 years and less than 3 years	12 months
3 years and less than 5 years	18 months
5 years and less than 10 years	36 months
10 years and less than 15 years	48 months
15 years and over	60 months

(*b*) For the purpose of this Schedule the length of service of the employee shall be determined from the date he last acquired an employment status with National Railways or Pacific Railways, as the case may be, and he shall be given credit for one month's service for each month in which he performed any service (in any capacity whatsoever) and twelve such months shall be credited as one year's service. The employment status of an employee shall not be interrupted by furlough in instances where the employee has a right to and returns to service when called. In determining length of service of an employee acting as an officer or other official representative of an employee organization he will be given credit for performing service while so engaged on leave of absence from the service of the employing company.

(*c*) An employee receiving an adjustment allowance shall be subject to call to return to work after being notified in accordance with the working agreement, and such employee may be required to return to the service of the employing company for other reasonably comparable employment for which he is physically and mentally qualified if his return does not infringe on the employment rights of other employees.

(*d*) If an employee who is receiving an adjustment allowance returns to work the adjustment allowance shall cease while he is so re-employed, and the period of time during which he is so re-employed shall be deducted from the total period for which he is entitled to receive an adjustment allowance. During the time of such re-employment, however, he shall be entitled to the protection afforded by the provisions of paragraphs (3), (5) and (6) of this Schedule to employees who are continued in employment.

(*e*) If an employee who is receiving an adjustment allowance obtains temporary employment with National Railways and/or Pacific Railways and/or any new company referred to in paragraph (*a*) of subsection two of section

sixteen of this Act, his adjustment allowance shall be reduced by the amount of compensation earned by him in such temporary employment during the period that the adjustment allowance is payable.

(*f*) An adjustment allowance shall cease prior to the expiration of its prescribed period in the event of:—

i. Failure without good cause to return to work in accordance with working agreement after being notified of position for which he is eligible and as provided in paragraph (c).
ii. Resignation.
iii. Death.
iv. Retirement on pension or on account of age or disability in accordance with the current rules and practices applicable to employees generally.
v. Dismissal for justifiable cause.

(3) (*a*) No employee who is continued in employment shall, for a period not exceeding five years following the effective date of such measure, plan or arrangement, be placed, as a result of such measure, plan or arrangement, in a worse position with respect to compensation and rules governing the working conditions than he occupied at the effective date of such measure, plan or arrangement, so long as he is unable in the normal exercise of the position held by him at the effective date of the particular measure, tain a position producing compensation equal to or exceeding the compensation of the position held by him at the effective date of the particular measure, plan or arrangement, except however, that if he fails to exercise his seniority rights to secure another available position which does not require a change of residence, to which he is entitled under the working agreement and which carries a rate of pay and compensation exceeding that of the position which he elects to retain, he shall thereafter be treated for the purposes of this paragraph as occupying the position which he elects to decline.

(*b*) The protection afforded by this paragraph shall be made effective, whenever appropriate, by the payment to such employee by National Railways or Pacific Railways, as the case may be, in whose service such employee is employed, of a displacement allowance shall be a monthly allowance determined in such instance by computing the total compensation received by the employee and his total time paid for during the last twelve months in which he performed service immediately preceding the date of his displacement, and by dividing separately the total compensation and the total time paid for by twelve, thereby producing the average monthly compensation and average monthly time paid for, which shall be the minimum amounts used to guarantee the displaced employee, and if the compensation in his current position is less in any month in which he performs work than the aforesaid average compensation he shall be paid the difference, less compensation for any time lost on account of voluntary absences, to the extent that he is not available for service equivalent to his average monthly time during the said period of twelve months preceding his displacement, but he shall be compensated in addition thereto at the rate of the position filled for any time worked in excess of the average monthly time paid for during the said period; provided that at the end of each year there shall be made a recapitulation of the total compensation received by employees in receipt of displacement allowance payable under this paragraph, and the necessary adjustment shall be made in respect to each displacement allowance payble hereunder so that no employee entitled to receive a displacement allowance shall by reason thereof be entitled to receive compensation in respect to his employment during any such year greater than the total compensation paid to him during the last twelve months immediately preceding the date of his displacement.

(4) An employee who is eligible to receive an adjustment allowance under paragraph (2) of this Schedule may, at his option to be exercised within thirty days after the effective date of any such measure, plan or arrangement, resign and (in lieu of an adjustment allowance and all other benefits and protections provided in this schedule) accept in a lump sum a separation allowance determined in accordance with the following table:—

Length of Service	Separation Allowance
1 year and less than 2 years	3 months' pay
2 years and less than 3 years	6 months' pay
3 years and less than 5 years	9 months' pay
5 years and less than 10 years	12 months' pay
10 years and less than 15 years	12 months' pay
15 years and over	12 months' pay

One month's pay shall be computed by multiplying by 30 the daily rate of pay applicable to the position last occupied prior to the date of the measure, plan or arrangement.

(5) No employee who is continued in employment and who is transferred from one place to another place or from the service of National Railways to Pacific Railways, or *vice versa*, or to any new company referred to in paragraph (*a*) of subsection two of section sixteen of this Act, shall, by reason of any such measure, plan or arrangement, be deprived of his pension rights, but such pension rights shall continue as if such transfer had not been made, and any such employee may continue to contribute to the pension fund under the pension plan of the company by which he was formerly employed and upon retirement shall be entitled to receive his pension from that company.

(6) (*a*) Notwithstanding the provisions of section one hundred and seventy-nine of the Railway Act which relate to compensation of employees for financial losses caused to them by removal, closing or abandonment of any railway station or divisional point, any employee who is continued in employment and who is required by the employing company to change his place of residence as a direct result of any such measure, plan or arrangement, shall be compensated by National Railways or Pacific Railways, as the case may be, in whose service he is employed:

i. For all reasonable travelling and moving expenses of such employee and his family and for working time lost as a consequence thereof;

ii. For financial loss suffered in the sale of his home for less than its fair value, and in each case the fair value of the house in question shall be determined as of a date sufficiently prior to the measure, plan or arrangement to be unaffected thereby, and the employing company shall in each instance be afforded an opportunity to purchase the home at such fair value before it is sold by the employee to any other party;

iii. For financial losses suffered by reason of such employee holding an unexpired lease of the dwelling occupied by him as his home.

(*b*) No claim for compensation shall be made in respect to changes in place of residence subsequent to the initial change caused by such measure, plan or arrangement and which grow out of the normal exercise of seniority in accordance with working agreements.

(*c*) No claim for expenses or financial loss shall be paid unless presented within three years after the effective date of such measure, plan or arrangement.

(*d*) In case of a dispute arising in respect to the value of a home, the loss sustained in its sale, the loss under an agreement of sale and purchase, loss and cost in securing termination of lease, or any other question in connection

with such matters, the dispute shall be referred for settlement to the Committee of Adjustment, referred to in paragraph (7) of this Schedule, and, in the event that the said Committee is unable to settle the dispute, either party may apply to the judge of the county court of the county in which the home is situate, or in the province of Quebec or in any other part of Canada where there is no county court to a judge of the superior court for the district or place in which the home is situate, to determine the compensation to be paid as aforesaid, and in such case the judge shall proceed to ascertain such compensation in such way as he deems best, and his decision shall be final and conclusive.

(7) The representatives of the National Company and the Pacific Company and the representatives of the interested employees shall form a permanent Committee of Adjustment which shall meet from time to time when occasion arises for the purpose of enquiring into all matters in connection with the interpretation, application or enforcement of the provisions of this Schedule with respect to any such measure, plan or arrangement, and in the event that any dispute or difference arises in connection with any particular measure, plan or arrangement, including the interpretation, application or enforcement of any of the provisions of this Schedule, such dispute or difference shall be referred to such Committee which shall endeavour to bring about a settlement of the dispute or difference and to this end shall carefully enquire into all matters affecting the merits and right settlement thereof.

(8) (*a*) In the event that any dispute or difference, referred to in paragraph (7), (except a dispute under paragraph (6)) is not settled within thirty days after the same has been referred to the said Committee of Adjustment, such dispute or difference shall be referred to a Board of three arbitrators to be named, one by the representatives of the interested employees and one by the representatives of the National Company and the Pacific Company and the third by the two so named, or in case the two arbitrators so named fail to agree on the selection of the third arbitrator the Minister of Labour shall make such selection, and thereupon the Board of Arbitrators shall be constituted, and shall have exclusive jurisdiction to enquire into, hear and determine all matters and questions arising in connection with such dispute or difference, and shall, in such manner as it thinks fit, proceed to enquire into the dispute or difference and all matters affecting the merits and right settlement thereof, and the award of the arbitrators or a majority of them shall be the award of the Board and shall be final and conclusive and shall not be open to question or review in any court, and no proceedings by or before the Board shall be restrained by injunction, prohibition or other process or proceeding in any court or be removable by certiorari or otherwise into any court, and the award of the Board, on the application of either party, shall be enforceable in the same manner as a judgment or order of a court of record.

(*b*) The costs and expenses of the Board shall be borne equally by the parties in the proceedings."

Successor Rights Clauses in Provincial Labour Acts.

ALBERTA—Labour Act

Sec. 74. (1) Where a business or part thereof is sold, leased or transferred the purchaser, lessee or transferee is bound by all the proceedings under this Part before the date of sale, lease or transfer, and the proceedings continue as if no such change had occurred, and

(*a*) if a bargaining agent was certified the certification remains in effect, and

(*b*) if a collective agreement was in force that agreement continues to bind the purchaser, lessee or transferee to the same extent as if it had been signed by him and no changes shall be made in the agreement during its term without approval of the Board.

(2) Where a business or part thereof is sold, leased or transferred or is merged with another business and the employees affected by a certification of a bargaining agent or by a collective agreement are intermingled with other employees, the Board may, upon the application of any person or trade union affected and after such inquiry as the Board considers adequate

(*a*) determine whether the employees concerned constitute one or more appropriate units for collective bargaining,

(*b*) declare which trade union or trade unions, if any, shall be the bargaining agent or agents on behalf of the employees in each unit or units.

(*c*) amend, to such extent as the Board considers necessary any certificate issued to any trade union or any bargaining unit defined in any collective agreement, and

(*d*) declare which collective agreement, if any, shall continue in force and to what extent it shall continue in force and which collective agreement, if any, shall terminate.

BRITISH COLUMBIA—Labour Relations Act

Section 12. (1) Notwithstanding the provisions of subsection (10) (which deals with cancellation of certification), where a business or part thereof is sold, leased, or transferred, the purchaser, lessee, or transferee is bound by all the proceedings under this Act before the date of the sale, lease, or transfer, and the proceedings shall continue as if no change had occurred; and if a collective agreement was in force, that agreement continues to bind the purchaser, lessee, or transferee to the same extent as if it had been signed by him.

Section 12A. (1) Where a trade union claims that by reason of a merger or amalgamation or a transfer of jurisdiction it is the successor of a trade union that at the time of the merger, amalgamation, or transfer of jurisdiction was certified for a unit, the Board, in any proceeding before the Board or on the application of any person or trade union concerned, may

(*a*) declare that the successor has or has not acquired the rights, privileges, and duties under this Act of its predecessor, or

(*b*) dismiss the application.

(2) Before issuing a declaration under subsection (1), the Board may make such inquiry, require the production of such evidence, and hold such votes as it deems appropriate.

(3) Where the Board makes an affirmative declaration under subsection (1), for the purposes of this Act the successor acquires the rights, privileges, and duties of its predecessor, whether under a collective agreement or otherwise.

MANITOBA—Labour Relations Act

Section 10. Merger of Business

(*d*) If the ownership of the employer's business passes to another employer, the certification shall be binding on that other employer.

Section 18. Effect of Collective Agreements in Case of Merger

(2) Where there is an amalgamation or merger of the business of two or more employers, if one or more collective agreements are in force in respect of employees of one or more of the several employers, each of the several agreements shall, until it is duly terminated, but subject to this Act and the terms of that agreement, remain in force in respect of, be binding upon, and enure to the benefit of

(a) the unit on behalf of which the agreement was made;

(b) the bargaining agent, whether certified or not, that is a party to the agreement; and

(c) the employer that is the owner of the amalgamated or merged businesses. 1959, c. 32, s. 3.

(3) Where in a case to which subsection (2) applies, the board has ordered a merger of units as provided in subsection (4) of section 10 and has certified a bargaining agent for the merged unit, the several agreements, with such modifications as the board may prescribe in order to remove any inconsistencies between the agreements, shall be binding on the new certified bargaining agent and on the employer until the termination thereof or until a new collective agreement is substituted therefor.

NEWFOUNDLAND—Labour Relations Act

Effect on Certification where Ownership of Business Transferred:

Sec. 21A. (1) If the ownership of a business is transferred and a bargaining agent has been certified in respect of the employees employed in that business before the transfer the certification of the bargaining agent is, subject to this Act, binding on the person to whom ownership of the business is transferred.

Effect on Agreements where Ownership of Business Transferred:

(2) If the ownership of a business is transferred any collective agreement entered into by a bargaining agent and the person who transferred the ownership of the business is, subject to this Act, binding on the person to whom ownership of the business is transferred.

NOVA SCOTIA—Trade Union Act

Sale of Employer's Business:

Sec. 20A. (1) In this section "sale or transfer of a business" includes sale or transfer of part of a business for the purpose of avoiding certification of an existing collective agreement.

(2) Where

(a) a trade union

(i) has a collective agreement with an employer, or

(ii) has applied to the Labour Relations Board for certification as the bargaining agent for employees of an employer, or

(iii) has been certified as the bargaining agent for employees of an employer; and

(b) the employer makes a sale or transfer of his business to another person; and

(c) the sale or transfer has not resulted in a substantial change in the plant, property, equipment, products, working force and employment relations of the business;

any or all of (i) the collective agreement (ii) the application, and (iii) the certification, continue in effect and are binding upon the person to whom the sale or transfer has been made.

(3) A trade union may apply to the Labour Relations Board for a determination of whether or not an employer has made a sale or transfer of his business with a purpose of avoiding certification or an existing collective agreement or both.

(4) When the employer was not dealing at arm's length with the person to whom he made the sale or transfer, the employer is deemed to have made the sale or transfer with such a purpose.

(5) Where the Board finds that the employer made the sale or transfer with such a purpose, the certification application or order and the collective agreement or any of these continues in effect and binds the person to whom the sale or transfer was made.

(6) If the sale of a business is to a purchaser who already has an existing collective agreement with another trade union, or whose employees are represented by a certified bargaining agent; the Board on the application of any person including any trade union involved may determine which collective agreement and certification shall cover the employees affected.

ONTARIO—Labour Relations Act

Interpretation

Sec. 47 a. (1) In this section,

(a) "business" includes a part or parts thereof;

(b) "sells" includes leases, transfers and any other manner of disposition, and "sold" and "sale" have corresponding meanings.

Successor employer

(2) Where an employer who is bound by or is a party to a collective agreement with a trade union or on behalf of whose employees a trade union has been certified as bargaining agent or has given or is entitled to give notice under section 11 or 40 sells his business, the trade union continues, until the Board otherwise directs, to be the bargaining agent for the employees of the person to whom the business was sold in the like bargaining unit in that business, and the trade union is entitled to give to the person to whom the business was sold a written notice of its desire to bargain with a view to making a collective agreement, and such notice has the same effect as a notice under section 11.

Powers of Board

(3) Where a business was sold to a person and a trade union was the bargaining agent of any of the employees in such business or a trade union is the bargaining agent of the employees in any business carried on by the person to whom the business was sold, and,

(a) any question arises as to what constitutes the like bargaining unit referred to in subsection 2; or

(b) any person or trade union claims that, by virtue of the operation of subsection 2, a conflict exists between the bargaining rights of the trade union that represented the employees of the predecessor employer and the trade union that represents the employees of the person whom the business was sold,

the Board may, upon the application of any person or trade union concerned,

(c) define the composition of the like bargaining unit referred to in subsection 2 with such modification, if any, as the Board deems necessary; and

(d) amend, to such extent as the Board deems necessary, any bargaining unit in any certificate issued to any other union or any bargaining unit defined in any collective agreement.

Idem

(4) The Board may, upon the application of any person or trade union concerned made within thirty days after the trade union has given a notice under subsection 2, terminate the bargaining rights of the trade union that has given notice if, in the opinion of the Board, the person to whom the business was sold has changed its character so that it is substantially different from the business of the predecessor employer.

QUEBEC—Labour Code

Sec. 36. The alienation or operation by another in whole or in part of an undertaking otherwise than by judicial sale shall not invalidate any certificate isued by the Board, any collective agreement or any proceeding for the securing of a certificate or for the making or carrying out of a collective agreement.

The new employer, notwithstanding the division, amalgamation or changed legal structure of the undertaking, shall be bound by the certificate or collective agreement as if he were named therein and shall become *ipso facto* a party to any proceeding relating thereto, in the place and stead of the former employer.

SASKATCHEWAN—Trade Union Act

Transfer of Obligations

Sec. 28. Where a business or part thereof is sold, leased, transferred or otherwise disposed of, the person acquiring the business or part thereof shall be bound by all orders of the Board and all proceedings had and taken before the board before the acquisition, and the orders and proceedings shall continue as if the business or part thereof had not been disposed of, and, without restricting the generality of the foregoing, if before the disposal any trade union was determined by an order of the board as representing, for the purpose of bargaining collectively, any of the employees affected by the disposal or any collective bargaining agreement affecting any of such employees was in force the terms of such order or agreement, as the case may be, shall, unless the board otherwise orders, be deemed to apply to the person acquiring the business or part thereof to the same extent as if the order had originally applied to him or the agreement had been signed by him. 1955. c. 65, s. 3.

Mr. McGregor: If you wish to have a brief statement on them then Mr. Wells is prepared to give it, and he and my other colleagues are ready to deal with matters with which I am not conversant.

The Chairman: Are there any questions the members of the committee wish to ask of Mr. McGregor?

Senator Hayden: Mr. McGregor, if the changes you suggest are incorporated so as to preserve the employment of those who are presently employed, would you want them to go so far as to provide that if the new system did not employ all the men that are presently employed work must be found for them in the existing operations of both railways elsewhere?

Mr. McGregor: No, this is not our thought. The purpose of this proposed amendment would permit the representatives of the employees who are now with the Canadian National and Canadian Pacific Railways to discuss with the new company those matters that come within the terms of collective bargaining. This will be a permissive clause to allow the company to meet with the representatives of the employees and to discuss these matters, and to indicate the plans and adjustments that will be necessary.

Senator Hayden: But if this is regarded as a joint operation by both railways you would want the provisions of that joint operations statute to apply, would you not?

Mr. McGREGOR: We would prefer it.

Senator HAYDEN: What would be the effect of that? Would it not be as I stated?

Mr. McGREGOR: The purpose is really to permit these deliberations, and the details of such things as job protection would be matters of collective bargaining under the different statutes.

Senator HAYDEN: Of what value would that be unless there is an obligation to provide these men who are losing their positions jobs elsewhere in the system?

Mr. McGREGOR: This was discussed when the amendment to the Canadian Pacific and Canadian National Act was being—at that time it was known as section 16. These were deliberations in 1933. The amendment which we feel could be applied to this act would authorize the railway company to approach the employees' representative to negotiate the allocation of work and conditions.

Senator CROLL: Mr. McGregor, in that last clause, are you not really anticipating the possibility of being closed out and taking the precaution now that you did not take originally with this bill, in advising us that there is that possibility?

Mr. McGREGOR: That is correct, senator.

Senator LAMBERT: Has there been any anticipation of these possibilities that you have just enumerated between the unions and the railways concerned?

Mr. MacGREGOR: At the present time, senator, from information we have been able to gather from the general chairman who negotiated these contracts, these discussions have been held in abeyance until after passage of this bill.

Senator LAMBERT: Has there been discussion with the railways individually by the unions in anticipation of this bill?

Mr. McGREGOR: There have been approaches. However, the position has been that they would go into the details of what would be involved in allocation of work and disruption of the job positions after the bill had been passed; and there is no provision now to show what is necessary in the planning stage to implement the plant operations to comply with this terminal bill.

Senator HAYDEN: Would that not be done better in general railway legislation, than to incorporate it in this particular bill?

The CHAIRMAN: I was going to mention, Senator Hayden, that what these gentlemen say in the last paragraph of one of their submissions, that they presume that if there was a reduction of positions as a result of the new situation, the provisions of the Canadian National-Canadian Pacific Act would apply. However, there is nothing in the bill so to state at the moment. Would your position be helped, Mr. McGregor, if the bill were to be amended to state that the provisions of sections so-and-so of the Canadian National-Canadian Pacific Act shall apply?

Mr. McGREGOR: I feel, Mr. Chairman, this would be sufficient for our purposes.

The CHAIRMAN: Then, of course, if the Canadian National-Canadian Pacific Act is changed in the future by some general legislation, it would be up to you and everybody else to see that the same protection is provided as is now embodied in that act.

Senator HAYDEN: If this is a joint operation, Mr. Chairman, of both railways, would not this joint operation be better in one?

The CHAIRMAN: It would depend on the terms of the present act, senator; but if there is any question about it, it seems to me that my suggestion would

be a very good way of getting around it. Of course, it is not a joint operation, in the sense that it will be a completely new and separate corporation, which is not envisioned by the Canadian National-Canadian Pacific Act.

Senator CROLL: Mr. Chairman, we have the presentation made by the railways. What concerns me, and I am sure concerns others around the table, is that perhaps we had better hear from the sponsors of this bill to tell us something about what they had in mind so that we can weigh it.

The CHAIRMAN: Yes. I was going to call upon them; but before doing that I was going to ask whether there are any other representatives of the unions here who wish to add anything to what Mr. McGregor has said.

Senator CROLL: Is there not enough on the table now for us?

The CHAIRMAN: I do not want to inhibit any other representative from saying anything he wishes. Does any representative wish to add anything to supplement what Mr. McGregor has said?

Senator HAYDEN: May I ask Mr. McGregor one more question?

The CHAIRMAN: Yes.

Senator HAYDEN: On the question of pensions, is that part of your concern, the survival of your pension plan?

Mr. MCGREGOR: This would be a matter that the employees would have to consider, senator. However, as pointed out in the brief, the matter of pensions is not a collective bargaining matter. Both railway employees have a contributory pension plan separate and apart from their collective agreements.

Senator HAYDEN: Portability, of course, would deal with that situation.

Mr. MCGREGOR: We have no portability. If that is anticipated by the Canadian Pension Plan this would be helpful; however, it would not give benefits to many of those employees who have been employed for a great many years, and this portability feature, I feel as a layman, would only become effective in 1966.

The CHAIRMAN: Shall we proceed with Senator Croll's suggestion and hear what the railway companies have to say about this submission?

Senator ROEBUCK: No. I would like to hear from some of the other representatives.

The CHAIRMAN: I asked them, Senator Roebuck, whether they wished to be heard, and I had no reply.

Senator ROEBUCK: You have not had any demands to be heard from behind the board. I do not think the invitation was very pointed. Mr. Frank Hall is here, for instance, and he represents the non-operating unions. Mr. McGregor is from the running trades. I would like to know whether Mr. Hall would like to speak.

The CHAIRMAN: Mr. Hall, if you would like to come over here, we would be glad to hear anything you might wish to say in addition to what has already been said.

Honourable senators, Mr. F. H. Hall is executive assistant for the Brotherhood of Railway Workers.

Mr. F. H. Hall, Executive Assistant, Brotherhood of Railway Workers: Mr. Chairman and gentlemen, the organizations appearing before you today have described in general terms the document which has been presented to you. However, in one respect, I think we have not impressed you with what we feel should be done in the event that we find a number of these employees who are now on the payroll of the respective railways are out of employment.

Other than what we have said as to the application of the Canadian National-Canadian Pacific Act, we would assume there should be bumping

rights by these employees who are displaced. For instance, in the case of an employee with the Canadian National who finds himself out of a job because of the consolidation of forces in the new terminal operation, we consider he should have the right to bump back on to the main line of Canadian National in regard to any seniority rights he has established.

Senator ROEBUCK: I presume he has that right now?

Mr. HALL: He has that right now. Under the various agreements, in some cases the seniority areas are quite wide, and a divisional superintendent might even go beyond that. However, with the setting up of a new company and the provisions of the bill as they now are, the employee would conceivably have no protection along those lines unless some provision was made for it.

Now, with regard to the successor rights clauses, as Mr. McGregor has said, we do not intend to burden the committee with particulars about those. Some are better than others from our standpoint, such as in the Province of Saskatchewan, and in the Province of Quebec, but they do not in all respects comply with what we feel might be the requirements of the employees who might feel themselves displaced by the setting up of this new corporation. So we do hope, gentlemen, that every possible protection will be afforded these employees in the development of the new corporation so that they do not find themselves in any disadvantageous position because of the new operation. That is all I have to say at the moment, sir.

Senator ROEBUCK: Mr. Hall, how will the passing of this act and the setting up of the new company affect your men and also the running trades men in the matter of pensions?

Mr. HALL: Well, the pensions, senator, at the present time are not a matter of contract between the unions and the railways. They were established, of course, a great many years ago, and the unions have something to say about the administration of the plan so far as minority representation on the administrative committees are concerned. The plans are what were established by the railways themselves, and are maintained by the railways on a contributory basis, and the employees have to get into negotiation with the railways to see what rights the employees have acquired under the pension plan to be maintained.

Senator ROEBUCK: Supposing the railways do not agree to do that? Here an employee of the C.P.R. becomes an employee of the new company, that is, the terminal company. He is no longer a C.P.R. employee. Now, does he lose his pension?

Mr. HALL: I understand, senator—this was before my time, as a matter of fact—that when the Toronto Terminal Railway Company was established, again from employees of the Canadian Pacific and Canadian National, the employees were given the choice as to which pension plan they desired to maintain connection with, the same choice to the Canadian Pacific and the Canadian National.

Senator ROEBUCK: Would you require that now, or desire it at least?

Mr. HALL: We would require that.

Senator ROEBUCK: Do you suggest this bill be amended to see that the employee who transfers to the new terminal railroad gets a similar benefit?

Mr. HALL: Has his pension rights preserved in all respects.

Senator ROEBUCK: Should this bill not be amended in that respect?

Mr. HALL: Yes.

Senator CROLL: I should like—

Senator ROEBUCK: Just a moment, please. With regard to pension, with regard to general provisions of the collective bargains between the Canadian

Pacific and Canadian National, which are fairly similar, I think—are they not —the two agreements are rather similar. Do you not desire that those bargaining rights that you have acquired shall be maintained with the employees who transfer to the new company, that they shall have the same conditions they now possess?

Mr. HALL: What we are proposing is that they shall have the same conditions which are established and that such agreements shall not expire and that we shall be able to get that agreement with the new company.

The CHAIRMAN: They say that clearly on page 3 of their brief, senator.

Senator ROEBUCK: There is one more question I have in mind. What do you suggest that we do in this matter? You have submitted the actual amendments which you desire. How do you suggest that we arrive at the actual wording of the amendments which would satisfy you and Mr. McGregor and the others?

Mr. HALL: As we have said, we would not presume to do that, but in our Appendix 1, we set forth the successor rights clauses in provincial labour acts. We think that provisions of this kind would protect us in the transition period.

The CHAIRMAN: You say in your brief that:

> —the essence of the amendment should be to bind the Ottawa Terminal Railway Company to each and every applicable collective agreement or otherwise established benefit and practice now in effect on the Canadian National or Canadian Pacific Railways, until normal termination or until replaced through collective bargaining procedures under the Industrial Relations & Disputes Investigation Act.

Mr. HALL: Yes, that is just what I said in reply to the senator.

Senator ROEBUCK: That is all I have to say. You had a question, Senator Croll?

Senator CROLL: You asked my question, and I will not pursue it.

If you look at page 5 of that Appendix 1, dealing with the Quebec Labour Code, you will see, in section 36, in the second paragraph, given at the top of that page 5:

> The new employer, notwithstanding the division, amalgamation or changed legal structure of the undertaking, shall be bound by the certificate or collective agreement as if he were named therein and shall become *ipso facto* a party to any proceeding relating thereto, in the place and stead of the former employer.

Is not that what you are asking?

Mr. HALL: That is about it, except that I do not recall at the moment whether this refers to a "certificate".

Senator CROLL: Yes, the term is peculiar to the province, but they use "certificate" or "collective agreement".

Mr. HALL: Some might not have a certificate but on the other hand they would have a collective agreement.

Senator CROLL: Yes. That is what you are asking, in essence.

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

Senator ROEBUCK: This might be worked out with our legislative counsel.

The CHAIRMAN: I think we should hear the railways first. Have you any suggestion as to any other representative of the labour unions who might be heard on this, Senator Roebuck?

Senator ROEBUCK: I would suggest that if anyone wants to add a word on what has been said, this is the time to hear it.

Mr. HALL: Our Mr. Wells, who is Director of Research, has made a pretty intimate study of these provincial codes. Perhaps he could give some enlightenment on them.

The CHAIRMAN: You suggest that we hear Mr. Wells?

Mr. HALL: Yes.

The CHAIRMAN: Does the Committee agree?

Hon. SENATORS: Agreed.

Senator ROEBUCK: Thank you, Mr. Chairman.

The CHAIRMAN: This is Mr. Stuart Wells, Director of Research, Non-Operating Committee. Is that the correct description?

Mr. Stuart Wells, Director of Research, Non-Operating Committee: Yes, Mr. Chairman. Honourable senators, I do not have much of a specific nature to say about this appendix that we have on the successor rights clauses in provincial legislation. As I listened today to the questions and the discussion, the one point I think I should emphasize is that without the successor clause there is no provision at the moment for a transfer of the employees and their rights. This is the key thing. It is not whether a particular thing is going to be protected or not: it is that at the moment there is no provision for any orderly transfer of the conditions that presently pertain on the C.N. and C.P. This is what concerns us. We are in a state of unknowing as to what is going to happen when this new company actually begins to operate.

As to the legislation that we have quoted here, I think the Quebec one has already come up and the Saskatchewan one. They are perhaps the simplest and clearest and cleanest examples of the type of legislation which would be required. We have included them all. Of the ten provinces, only Prince Edward Island and New Brunswick do not have legislation of this sort. We have listed them all here alphabetically. As it happens, the last two that we list are perhaps the clearest.

We did not want it presumed that we selected only those which we might think were the best.

Senator CROLL: Mr. Wells, there was an operation similar to this, called The Toronto Terminal. I have no doubt you have researched it. What were the problems there and how were they overcome?

Mr. WELLS: It is extremely difficult to research it. It was almost before anybody's time. It is extremely difficult to get copies of the legislation enacted at that time, and I in fact was not able to get the whole of it. There were some differences at that time. Many of the employees were retained in their parent companies and worked at the railway. I think it is true of most of them, that they stayed on the rolls of the parent companies.

Senator ROEBUCK: They remained employees of the railways, although they worked for the Terminal?

Mr. WELLS: That is right, and these problems to a certain extent did not arise that will arise under this.

The CHAIRMAN: Is it conceivable that some sort of arrangement of that kind could be made in this case, that these employees would remain in the employment of the respective companies while working for the Ottawa Terminal Railway Company? That would solve some of the problems.

Mr. WELLS: I think this was part of the trouble that we were not clear at the last session how this thing would be worked out.

The CHAIRMAN: That would solve the problem, if they remained employees?

Mr. WELLS: Yes.

Senator ROEBUCK: We would have to bind the Terminal Company in that regard before we passed this bill or in connection with the passing of the bill,

or have their undertaking to that extent. I do not know whether they are here prepared to give us such an undertaking.

The CHAIRMAN: That is what we will hear when we hear from the railway company.

Senator ROEBUCK: Yes.

Senator SMITH (*Kamloops*): In the case of the Toronto Terminal Railway Company, are there any employees, who are union men, who are not on the pay roll of either of the companies?

Mr. WELLS: Yes, there are agreements covering the Toronto Terminal. I have a couple of the agreements here.

Senator SMITH (*Kamloops*): Who are there but who are not on the pay roll of either of the two companies?

Mr. WELLS: I had better be perfectly clear on the question before I answer.

The CHAIRMAN: Would you put the question again?

Senator SMITH (*Kamloops*): I want to know if there are any employees eligible to belong to railway unions that are not on the pay roll of either of the companies.

Senator ROEBUCK: That is, in connection with the present one.

Senator CROLL: No, the Toronto one.

The CHAIRMAN: Our Law Clerk points out to me that the Toronto Terminal legislation came into force before the Canadian Pacific and Canadian National Railway Acts.

Senator SMITH (*Kamloops*): I would still like to know if it is a similar operation.

Mr. WELLS: There are a number of unions whose employees are employed by Toronto Terminal Railways. There are other unions where this is not the case. Is that what you are asking? They are members of the same unions but they are employed by Toronto Terminal Railways.

Senator SMITH (*Kamloops*): They are not on the payroll of either of the senior companies?

Mr. WELLS: That is correct.

The CHAIRMAN: The Toronto Terminal Railway Company was incorporated by act assented to on the 13th July 1906.

Senator ROEBUCK: Are there employees of the terminal now who are not members of either of the unions?

Mr. WELLS: I believe at the moment there are employees of the National Capital Commission doing work which might otherwise be done by railway employees and they are not employed by the railways.

Senator ROEBUCK: You are not concerned with them and they are taking care of themselves? Is that so? They have a special agreement?

Mr. WELLS: I am not familiar with their relationship with the National Capital Commission.

Senator ROEBUCK: Anyway we are not concerned with them, but we are concerned with the employees of the railroads now working under the collective agreement and who, when they transfer to a new employer, will not be subject to the benefits provided by the old agreements.

Mr. WELLS: That is so, but it is not just the pension benefits—it is all the other benefits, and the seniority rights and wage agreements.

Senator ROEBUCK: Would it be sufficient, in your judgment, if we made the C.N. and C.P. railway act applicable, that is if it is not already applicable?

Mr. WELLS: This, senator, would cover employees who are displaced or laid off as a consequence of the consolidation of the services but it would do

nothing to protect employees who continue to be employed by the Ottawa Terminal Railway Company. The C.N.-C.P. act applies only to employees displaced as a result of a merger or agreement between the two senior companies. It does not provide that where a new company is set up the agreements will be continued and that the obligations under the existing agreements will be transferred.

The CHAIRMAN: You want two things; you want the rights of employees to continue to be protected as under the present agreement, and you want the rights of employees displaced to be covered by the C.N.-C.P. act.

Mr. WELLS: As I read the C.N.-C.P. act, section 17 provides for the act to apply where a new company is established by the two main railway companies and owned by those railways I think the C.N.-C.P. act, as I interpret it, and of course I interpret it as a layman, would apply in that case. But our concern is with the new legislation coming up which would repeal that act.

Senator ROEBUCK: Section 17 to which you refer is as follows:

> The National Company and the Pacific Company for and on behalf as aforesaid are directed to endeavour to provide that any new company, created as in subsection two of this section referred to, shall give preference for work to employees in any services or on any works taken over by such new company.

The CHAIRMAN: That is not the section we are referring to.

Senator ROEBUCK: That is section (a).

Mr. WELLS: I must have the wrong section.

Senator ROEBUCK: There is a lot in section 17 besides what I have read.

Mr. WELLS: Section 17 (2) (a) says:

> (2) Without restricting the generality of the foregoing, any such measures, plans or arrangements may include and be effected by means of (a) new companies controlled by stock ownership, equitably apportioned between the companies;

The CHAIRMAN: Our Law Clerk has given me an offhand opinion. He says that in his view the Canadian National-Canadian Pacific Act will apply to this new company as being under subsection (a) of subsection (2) of section 17, a new company controlled by the stock ownership of the two parents. If that is so, and you can substantiate that opinion by further research, then perhaps the employees laid off as a result of this operation will be protected now.

Senator ROEBUCK: I looked through this act some days ago before I spoke in the Senate, and I thought it did not. But I would not dispute what our counsel has said.

Mr. HOPKINS: My opinion is tentative and not based upon extensive research.

Senator ROEBUCK: We should make sure of that.

The CHAIRMAN: We should leave it to our counsel to give us a further opinion after research as to whether this act will apply to employees displaced as a result of the creation of this new company.

Senator ROEBUCK: I would be perfectly satisfied.

The CHAIRMAN: Is that agreeable to honourable senators?

Hon. SENATORS: Agreed.

The CHAIRMAN: For the moment then all we need to deal with is the working conditions under the present union agreements for the employees who will be transferred from the Canadian National and Canadian Pacific, respectively, to the new company.

Senator ROEBUCK: And to make sure that the clause still applies.

Mr. WELLS: I do not know what the overlapping duties will be. But if the act is repealed then even if we applied the principle we would still lose in its application.

Senator HAYDEN: But that would not happen unless we approve the clause in some other way.

Senator CROLL: They are not likely to repeal that section.

Senator ROEBUCK: How do you propose to deal with the pension problem?

Mr. WELLS: As we suggested on page 3 of our brief, we would like to see the successor clause, or the successor amendments or successor rights clauses be made slightly broader than just to say collective agreements. It could be extended very easily to include pensions.

The CHAIRMAN: Does it not say otherwise established benefit? That includes a pension plan.

Mr. WELLS: With respect it should say something more than simply collective agreements.

The CHAIRMAN: Have you any suggestions, Senator Roebuck?

Senator ROEBUCK: We are going to hear the employers after this.

The CHAIRMAN: Unless the representatives of the unions here wish to make any further representations at the moment—

Senator ROEBUCK: Mr. McGregor, are there any other witnesses you would like to have heard?

Senator LAMBERT: On this point that has been raised regarding the protection already existing under the act, I think it would be very pertinent if we could have the representatives of the railways before the committee on this point.

The CHAIRMAN: I am about to call on them, senator. They are the gentlemen who appeared before us last year. They are Mr. K. D. M. Spence, Q.C., Commission Counsel, Canadian Pacific Railway Company, and Mr. J. W. G. Macdougall, Q.C., General Solicitor, Canadian National Railways. Will you gentlemen be good enough to come up to the table, please? Which of you will be the spokesman?

Mr. J. W. G. Macdougall, Q.C., General Solicitor, Canadian National Railways: Mr. Chairman and honourable senators, I have not had an opportunity to study very carefully the brief presented to you by Mr. McGregor, but I assumed that he and other members of the railway brotherhoods would be presenting before you the question of just what is going to happen to the employees of Canadian National and Canadian Pacific who may wish to become employees of the Ottawa Terminal Railway Company when that company is incorporated and established.

In that regard, I would like to say that in principle the comments which are made or the requests which are made by the railway brotherhoods, that these men from Canadian National and Canadian Pacific—and I can only, of course, speak for Canadian National—should be treated and receive the same benefits as they are receiving today, represents entirely the same attitude as the company has. We have no desire or wish of any kind that these men should receive different treatment.

In looking at the submission, I must say I do not agree with the conclusion reached on page 2, where it says:

> Thus, unless Bill S-3 is amended, creation of the Ottawa Terminal Railway Company will suddenly deprive many long-term employees of all of the rights, privileges and responsibilities that they have obtained through years of collective bargaining, and at the same time it would deprive them of their bargaining medium—their union.

I must confess that I cannot understand how the organization of this company would result in such an effect, because in the initial discussions which we have held with the union representatives concerning the Ottawa Terminal Railway Company organization, we have, I believe, spoken of our plans to all the local chairmen of all the brotherhoods involved and some of the general chairmen, trying to keep them up to date and to review how we are proceeding. Of course, this has not gone too far because we have not yet incorporated this new company. Nevertheless, we have attempted to keep them informed. In the discussions that we have had we have made it clear that the men from Canadian National who will move to this new company, if they so desire, will be fully protected with respect to pension rights, welfare benefits, and things of that kind, and present wage levels. And we expect that as the company is organized and becomes operative these employees will become a bargaining unit and will bargain with the terminal company, just as the employees of Canadian National bargain with our company; and we cannot see that there is any likelihood of any serious adverse effect in that respect which may fall upon these employees.

Of course, there are many little local areas of arrangement which will have to be worked out between the elected representatives of the employees and the Ottawa Terminal Railway Company once it is established. There might be local things which will have to be worked out in some detail because of particular circumstances; but, generally speaking, my instructions are that Canadian National has no wish or desire to do anything other than see that those employees of ours who may move to the new Terminal Company will have full protection of their rights and privileges.

Senator ROEBUCK: Such as bumping rights?

Mr. MACDOUGALL: I was going to raise that question, Senator Roebuck. The bumping rights you speak of, I take to mean the right of an employee, say, from Canadian National who has become an employee of the Ottawa Terminal Railway Company, and then he wishes to exercise his seniority back on to Canadian National when some particular job occurs. This is something we have no objection to. It should be realized, I think, there are some aspects of that which would have to be negotiated between the company and the employees so that a situation could not arise where a number of jobs open up on Canadian National or Canadian Pacific that a large segment of employees of the Ottawa Terminal Railway Company would all move off on to the Canadian National or move off on to the Canadian Pacific. There would have to be some agreement between the employees and the companies to provide for this sort of situation and to ensure that the Ottawa Terminal Railway Company is not at any time denuded or placed in a position where it cannot carry out its statutory requirements to give service to the public.

So, subject to negotiations on things of that kind, as to how it would be done, Canadian National has no objection to the employees retaining their bumping rights on the parent company, and we would expect in the negotiations with our employees' representatives that we would work out a suitable and satisfactory method of achieving that.

It is a little early in the organization of this company to make absolutely firm statements about such things because we have not sat down with the employees' representatives to work out in detail these various matters which must be worked out. But my intent here this morning is to assure you, on behalf of Canadian National, that it is our desire and our intent to meet the interest of what the employees have spelled out here in their brief. We have no wish to do otherwise, and we would expect, with the goodwill which exists between the employees and the company, that we would be able to sit down over the period of time we have available and work these things out. From the point of view of time, we have not yet incorporated the company. Once we

have that accomplished, then we will have to decide something about organization and how it is going to be staffed and how it is going to be implemented. We have done some preliminary thinking on that, but we have to know the vehicle with which we are going to work. So we have a year or two in which to sort of "flesh-out" the corporate organization and discuss with the unions how we are going to organize and staff the new company, and I would expect to be able to do so.

Senator LAMBERT: Mr. Macdougall, when you were speaking about the uncertainties of the realignment, has there been any adequate estimate of the number of employees who would be affected by the incorporation of this Terminal Company, as contrasted with the regular operations of the two companies now?

Mr. MACDOUGALL: No, senator. That is a very difficult question to answer. That depends entirely on the negotiations between the brotherhoods and the company, and also on the period of time over which these changes can be made. We expect to have a year or two in which we can do that. Once we get our company organized and have discussions with the brotherhoods, and decide how it can be done, we expect to have a period of time to allow things like attrition and the passage of time to enable us to arrange the movement of employees into the new company without too much of an adverse effect on them.

You asked me how many might be affected. I must confess that honestly I have asked that question and I cannot give you an absolute answer. It is possible there may be none, but I think it is more likely there will be some—whether three, five or 15 I really do not know. It will depend entirely on the negotiations and discussions between the brotherhoods and the company, and the period of time over which we are to implement this plan, so to ensure as little adverse effect is felt by the employees as we can possibly arrange.

Senator LAMBERT: Would it be a fair assumption to suggest that with the establishment of this new Terminal corporation and its services here there would be greater railway employment within the bounds of this corporation than have existed heretofore, and that this might lead to a competitive situation between the railways?

Mr. MACDOUGALL: We have thought of that question, senator. One might think by the establishment of this operation that necessarily the result is going to be a reduction in railway employees. It may well be in the initial instance that could result, but you must remember we are reorganizing the railways largely to serve the public and to compete for traffic against my friend Mr. Magee's organization, the Truckers. We hope we will be more competitive, and that we will be able to obtain more traffic. We will have a considerably larger and greater area around the city of Ottawa for industrial development. The size General Clark pointed out at an earlier meeting. We expect the reorganization of railway facilities will enable much more effective and energetic efforts to be made to get more industrial development located in the area.

Senator LAMBERT: Therefore, a larger complement of workers?

Mr. MACDOUGALL: It may well be over a period of time we would hope we would have a larger complement than we have now, but to ask me to make a statement one way or another, I would perhaps mislead the committee, and I do not wish to do that.

Senator CROLL: How many bodies are we talking about?

Mr. MACDOUGALL: There are probably 500 employees or more—several hundred, anyway—in the City of Ottawa, both Canadian National and Canadian Pacific; but how many might be affected by the move is entirely a different question. That depends on the arrangements we make with the unions to work out how it might be done.

The CHAIRMAN: May I ask you one specific question? Would you have any objection to an amendment to this bill along the lines suggested on page 3 of the memorandum of the unions, saying:

> ...the essence of the amendment should be to bind the Ottawa Terminal Railway Company to each and every applicable collective agreement or otherwise established benefit...

—and that would include pensions—

> ...and practice now in effect on the Canadian National or Canadian Pacific Railways, until normal termination or until replaced through collective bargaining procedures under the Industrial Relations & Disputes Investigations Act?

Mr. MACDOUGALL: Mr. Chairman, I would say that we have no objection to that intent being carried out. I think I, as a lawyer, would object to the inclusion of a specific provision in the act to that effect, and for two reasons. The first is that I think it would be inappropriate to place in an act to incorporate a new company a provision of that kind, simply because it does not fit into an act of incorporation. Secondly, I think that both the unions and the company are better served without it. If we both agree, as I think we do, that the intent of this statement should be carried out then it leaves us in a much more flexible position to be able to work out local problems and other small problems that may arise, whereas if a provision of that kind is inserted then we are put in a strait jacket.

As Mr. Hall quite rightly said a few minutes ago the pension benefits are not covered by any collective bargaining agreement. These are benefits worked out over a period of time by the employees and the company, and they are administered by a pension board that is composed of representatives of both the employees and the company.

You may be able to define the word "practices", but I suggest we would get into areas of conflict of views as to what should be covered, whereas if the unions are prepared to accept an undertaking from me, made as a senior officer of the Canadian National, that it is our intent to do what they are suggesting here, then I think we can proceed on the basis we have in the past, namely, on the basis of discussion and agreement between us. I see no difficulty in working this out, and the employees receiving the protection they desire.

Senator CROLL: In view of what Mr. Macdougall has said, and the goodwill he has displayed—and I gather that that applies to the C.P.R. as well—is it not possible for the C.N.R. and the C.P.R. by an exchange of letters to agree to avoid inserting such a provision in the bill. It seems to me that if they understand each other they can reach such an agreement, and then inform us and we can proceed with the bill.

The CHAIRMAN: And we would have the benefit of some sort of undertaking, and the unions would be satisfied without having any specific insertion in the bill that the rights of the employees are being protected.

Senator CROLL: I can see the difficulty that he speaks of as a legal man, and so can you.

The CHAIRMAN: Yes.

Senator CROLL: Since there appears to be no great difference between them, except in detail—and Mr. Macdougall's good will in attempting to meet this problem is very evident—it seems to me that they can do this by an exchange of letters and then notify the committee that they have reached an agreement for all purposes to proceed with the act.

The CHAIRMAN: Before we go along with that suggestion perhaps we should hear from Mr. Spence.

Senator CROLL: I looked at him while I was speaking, and he nodded his head in agreement.

Senator ROEBUCK: I should like to ask Mr. Macdougall a question. There is a suggestion that the Canadian National-Canadian Pacific Act applies. If it does not—and our counsel is to inform us later as to that fact—would you have any objection to including in the bill some clause to make sure that it does apply?

Mr. MACDOUGALL: Senator Roebuck, in answer to that I would say this; as you know, the Canadian National-Canadian Pacific Act was passed in 1933 at the time of the great depression, and it was passed for a specific purpose, to direct the railway companies to attempt to co-operate and agree amongst themselves on measures which affect—

Senator ROEBUCK: The pool trains were the big thing at that time.

Mr. MACDOUGALL: That is right, and there were various other matters covered by it. For many years there has not been very much done under that act for the reason that both companies felt that the interest not only of themselves but of the public was better served by their proceeding individually, or, in cases where they were co-operating, they did not want to feel they were necessarily circumscribed every time by considering that they were proceeding under that act. Sometimes they were co-operating on a joint venture, but when they were they did not necessarily consider they were proceeding under the act.

We have proceeded in this present matter without any consideration being given to the Canadian National-Canadian Pacific Act because this is not a project that was started or initiated by the railway companies. This is a project started and initiated by the National Capital Commission with respect to which the railway companies were asked if they would co-operate.

The negotiations that have taken place between the National Capital Commission and the Canadian National, between the Canadian National and the Canadian Pacific, and between the Canadian Pacific and the National Capital Commission, have been long and arduous. While there has been evidence of a great amount of friendship and co-operation between us it has, nevertheless, been a long road that we have travelled in working out the details of this, but we have never considered ourselves as co-operating under the provisions of the Canadian National-Canadian Pacific Act. We have not proceeded on that basis at all, and I have not considered in great detail whether the act applies. My offhand view as a lawyer would be that it does not because of the facts surrounding the origin and the nature of the joint enterprise and of the way in which it was started. It is also my view that each venture that the Canadian National and the Canadian Pacific decide to co-operate on does not necessarily bring that venture within the scope of the Canadian National-Canadian Pacific Act.

Having said that I should like to say that in the matters that flow from the working out of this joint terminal in Ottawa it has been our intention that the treatment we give our employees here will be every bit as good as that we give our own employees in situations where they are required to move, such as we have experienced at Stratford, London and other places on the Canadian National where we have been faced with the problem of a change that has been required in our organization, such as the closing out of a plant or a shop. In those cases we have made arrangements with our employees on a generally satisfactory basis in order to minimize the adverse impact upon them, and we have looked after cases where we have had real hardship and difficulty.

I should also say in that connection, specifically at London, we have recently had considerable activity of this kind, and we have been working jointly with the unions concerned. We have formed joint committees and sat down together with them to work out the details of how we should handle

cases of difficulty or hardship among our employees. This has worked out extremely well, and we have proceeded on the basis that we will do the same thing in Ottawa. We are hoping, with the time we have available, to avoid cases of serious hardship, and that we shall be able to work out suitable arrangements with the men to move at times that are most convenient to them so as to minimize whatever impact there may be upon them.

I could say in answer to your question that I would not be in favour of the inclusion of the C.N.-C.P. Act provision in this bill so as to make it apply to this company because, first of all, I do not think the act does apply and, secondly, we would prefer to deal with this problem as we have dealt with other problems of similar magnitude—and some of far greater magnitude—in a situation in which we can come to a reasonably satisfactory solution.

Senator CROLL: In the Dominion Labour Relations Act are there not such successor rights clauses?

Mr. MACDOUGALL: No, not in the Industrial Relations and Dispute Investigation Act, except with respect to the unions. There are successor rights provisions which apply to the unions but not to the companies. I do not know why it is not in there, but it is not.

Senator CROLL: You felt you could look after yourselves in those days.

The CHAIRMAN: If there are no further questions of Mr. Macdougall I think we should ask Mr. Spence to give us the view of the C.P.R.

Mr. K. D. M. Spence, Q.C., Commission Counsel, Canadian Pacific Railway Company: Mr. Chairman and honourable senators, Mr. Macdougall has really spoken for both of us to a great extent, and I agree with everything he has said. Like Mr. Macdougall I have had very little chance of studying this brief, but I gather that the fear of the brotherhoods is that their members will wake up some morning to find that they have been transferred from the employment of their various companies into the employment of the Ottawa Terminal Railway Company. That is very far from being the fact. They are not going to be taken unawares, and suddenly find themselves with a new employer.

As Mr. Macdougall has said, we have not progressed very far with the organization of the Ottawa Terminal Railway Company, and there is a great deal of work and discussion to be done yet, not only between the two railways as to how they are going to operate the company, but between the railways and the employees with respect to how they are going to be employed. As soon as the Ottawa Terminal Railway Company starts to operate it is going to have to have, of course, a labour contract. I gather that that is what the brotherhoods are afraid of here. At least, what they are asking for is that a section be inserted in the bill to provide that a new contract be negotiated. Of course, we are going to have to negotiate a new contract, but there is time in which to do that.

We have already been discussing with these brotherhoods some of the problems that will arise. For example, of course, Canadian Pacific has a contract with its brotherhood, and Canadian National has a contract with its employees. Those contracts are not in all respects the same, and if some provision of the kind proposed here was put into the bill that the employees of the two companies transferred to the Ottawa Terminal would continue under their old contracts, you might have two employees working side by side under different terms of the contract. Some of those terms of contract might not be applicable to Ottawa Terminal at all. Those are problems that we have not even begun to work out yet.

Senator ROEBUCK: Mountain differential would not apply, of course.

Mr. SPENCE: No, it would not apply. Of course, there are no mountains in Ottawa. But I think everyone can be assured that the terms we do work

out with the brotherhoods and put into effect, when we actually start to operate, will not be seriously disadvantageous to employees of either railway company or of the new company. Otherwise, the new company would not be able to get employees. Employees are not going to be forcibly transferred from Canadian Pacific to Ottawa Terminal, and if we want to get employees to operate the Ottawa Terminal we are going to have to give them satisfactory conditions before they will accept employment.

Surely those matters are something that can be left to free discussion, which we are quite prepared and anxious to carry on with the brotherhoods, to get these problems worked out among us. I do not think we should be bound by some provision in the act, the consequence of which we cannot foresee at this moment and might be unsatisfactory to all of us.

As to an exchange of letters, I do not know just where that might lead us. I think it might be quite possible to have an exchange of letters as to general intent, the question of good will, and that sort of thing, but if it is anticipated that we should put in the letters all the details of what we are proposing, or what kind of contract is to be made—

The CHAIRMAN: I do not think that was suggested.

Mr. SPENCE: But if it is just a matter of intent and good will, that is another matter.

Senator CROLL: I feel that we as senators, before we are able to vote for this bill, feel there is good will and will be agreement, and that the agreement is imminent, and that is all we are concerned with. We are not attempting to lay down conditions, but I think we should know before we vote—at least, until I vote for the bill—what we are voting for, and that is all we are intending. From what you have said and from what they have said this morning, I take it that you can reach understanding in particular general terms, and that is all we are concerned with.

Mr. SPENCE: Yes, without negotiating a contract, because there has to be a satisfactory contract to everybody.

The CHAIRMAN: Any further questions?

Senator ROEBUCK: Mr. Chairman, I am going to suggest that we ask Mr. Frank Hall to reply. Apparently we can see our way out to some extent, at least, as the result of the very excellent statements made by Mr. Macdougall and Mr. Spence. Now I would like to hear how Mr. Hall responds.

Mr. HALL: Mr. Chairman, speaking for my colleagues and myself, we have listened with a great deal of interest to what Mr. Macdougall and Mr. Spence have had to say, and it was particularly interesting to hear Mr. Macdougall use the word that everybody wants to be more "flexible". The trouble is that their views with respect to what constitutes flexibility do not always coincide with ours. The hard fact of this situation is that when the new corporation is set up the agreements with these railways will be entirely out of existence.

I am not imputing bad faith, or any good will the railways have expressed through their counsel. However, the people we represent do not want and do not expect us to take anything for granted, and we are not going to withdraw or modify in any respect the representations that we have made to this honourable committee this morning, because of what has been said by the representatives of the railway companies.

We want protection in this contemplated legislation so that when the day comes that the corporation is set up and employees rights have to be established, they carry on under the agreements they have at the present time until something else is worked out with the corporation under the Industrial Relations and Disputes and Investigation Act. We just think that protection is necessary, and we cannot take anything for granted. We therefore request this committee

to give us some form of successor rights to protect the employees in the areas of which we have spoken, which are indeed very wide areas, not only with respect to the question of wages and seniority, but with regard to the questions of vocations, holiday rights, handling grievances, and a hundred and one things; and we have got to be assured that we can maintain the operation of the agreements which are in effect at the present time with both these railways, until we have been able to negotiate another agreement with the successor company.

Senator ROEBUCK: Before you go, Mr. Hall, would it be possible as a matter of procedure for you to meet these two gentlemen, who have made some very nice statements to us this morning, and perhaps come to an agreement which you could incorporate in a letter demanding with some assurance that your rights would be respected in the future. That would allow us to go on and incorporate the company and make it possible for progress to be made, and with some assurance to us that we are not depriving you, the unions, and your people, of rights which they now possess.

Mr. HALL: Mr. Macdougall has already said that there would have to be reservations with regard to some things they might be prepared to do. I do not know whether Mr. Macdougall and Mr. Spence feel they could handle this matter, or whether it should be referred to the personal officials of the railways. We would of course not refuse to meet with them, but we would say this that if we meet with them it should be at a very early time, and in the event that the discussions were not successful from our point of view we would want to inform you gentlemen to that effect.

Senator ROEBUCK: If we were to adjourn until a couple of weeks from now and you in the meantime were to meet with the representatives of the employers and find out how far you can go, in the assurance that if there is still something left you cannot agree upon, then you could come back to us.

Mr. HALL: If this committee, Senator Roebuck, requests us through the chairman or yourself, or one of the members, to do that, to meet with the railways within the next two weeks, we will be glad to do that.

The CHAIRMAN: I think perhaps on behalf of the committee I am justified in making that request now to Mr. Hall, and to Mr. Spence and Mr. Macdougall.

Mr. HALL: And in the event we do not come to agreement, we would come back and tell you.

The CHAIRMAN: It would also be helpful to the committee, I think, Mr. Hall, if you do not manage to reach agreement, if you could be a little more specific when you come back to us as to the precise terms of the amendment you wish to incorporate in the bill.

Mr. HALL: That is right.

Senator CROLL: It would perhaps be even more helpful if you did not come back, Mr. Hall.

Senator LAMBERT: If I may say a word by way of conclusion, Mr. Chairman. As sponsor of this bill in the Senate, and a fairly active participant in connection with the committees that have met from time to time in relation to this plan for the whole of the federal district, based on the policy of the government of the country, I think it should be emphasized that this bill represents a culmination of a decision of a plan that was approved at the conclusion of the last war. In other words, 20 years ago steps were taken to outline developments which have been expressed finally in connection with this transport problem in and out of the National Capital Commission area. As you know, that perspective should be retained and maintained at this time when we are discussing one particular special phase of the plan, and that it should not become an issue as between the railways and the railway

unions as to the future of this plan. The removal of the crosstown tracks and the establishment of a new terminal was suggested in the original proposal which brought about the complete amendment of the Federal District Act over 20 years ago. Step by step with the aid of the late Jacques Greber, who came here at the invitation of the Government to give some expression to this plan, all this has come about. I should hope that there would be no substantial delay in the realization of these undertakings, and I think that very definitely it represents the viewpoint of the present Government and of its predecessors in relation to the plan for a capital centre here worthy of the aspirations of this country. These should not be held up at the last moment by considerations which, I submit, would have been much more appropriately introduced when we were considering this bill in the first instance.

Senator ISNOR: Mr. Chairman, I had hoped before Mr. Macdougall and Mr. Spence left the table I would have an opportunity to ask some questions as to the conclusion of their negotiations with the City of Ottawa in regard to level crossings mentioned at our previous meetings. I wonder if Mr. Macdougall could tell us now as to the outcome of these negotiations as far as the railways and the City of Ottawa are concerned.

The CHAIRMAN: I wonder if Mr. Macdougall or Mr. Spence can answer that question.

Mr. MACDOUGALL: I am afraid I do not have the information to answer that question but I shall inquire from some of the other representatives.

Senator ISNOR: Mr. Chairman, that is not a very good answer. Perhaps Mr. Spence can help us. He was here before.

The CHAIRMAN: Mr. Spence?

Senator LAMBERT: The chairman of the commission can probably answer that.

Mr. SPENCE: I think General Clark knows better than anybody what the situation is.

Senator LAMBERT: General Clark gave a reassurance on this at the beginning.

Senator ISNOR: No, he did not. He simply said it was dealt with between the National Capital Commission and the City of Ottawa.

The CHAIRMAN: What is your particular question?

Senator ISNOR: What was the outcome of the negotiations so far as the elimination of level crossings is concerned?

General CLARK: I don't recall the question, but under this plan we have eliminated 70 level crossings. I believe the number is 70 and they will be eliminated at our expense and not at the expense of the City of Ottawa.

Senator ROEBUCK: There will be no level crossings left?

General CLARK: There will be level crossings. This does not eliminate them all, only 70 of them. As the population grows in this area here the need will arise in the future for the removal of others, but when that time comes grade separations will be put in. This plan which is reflected in the tripartite agreement which is a schedule to this and which is approved by the Government will eliminate 70 level crossings and approximately 35 or 36 miles of railroad tracks that existed in this area before we embarked upon the plan. But as the years go by and the population increases in many of these areas that are rural in character now and where there are very few crossings, this situation will be met. When there is a demand for grade separation crossings and of course I cannot speak for the railways here, the situation will be met as it occurs.

Senator ISNOR: General Clark, let us be specific for a moment. You mentioned, if I recall correctly, six or eight crossings within the city limits. Now

with specific reference to this one at Riverside Park and Springland Drive, is that to be eliminated?

General CLARK: Could I check the details first? Riverside Drive—that crossing is in the subdivision from Wass to Hurdman.

Mr. MCQUARRIE: That is not being eliminated under our plan.

General CLARK: But will the city not construct a grade separating structure in this area?

Mr. MCQUARRIE: I don't think so in the Riverside Drive area; I don't think the City of Ottawa will carry out grade separation.

Senator ISNOR: I asked the question, Mr. Chairman because at the time this land was sold with the understanding that the level crossings would be eliminated. I was asked to present this point at previous meetings and I am doing so today for that reason. Apparently the statement made is that the level crossing at Springland Drive and Riverside Park is not to be eliminated; am I correct in that?

General CLARK: I understand your question now. I am sorry I was so slow in understanding what you meant. The question I believe that has been raised by some of the property owners is as to why in this plan we were not eliminating that section of the Beachburg subdivision from Wass Junction to Hurdman. That has never been part of our approved plan. At one time in the earlier proposals of Mr. Greber it was contemplated that a new railroad station would be or might be built in the Walkley Road area.

The CHAIRMAN: Where the present new C.N. freight terminal is?

General CLARK: Yes, in the Walkley Road area here. That was never an approved plan. He made other recommendations that a railway line could run across this section here towards Queen Street. On August 30, 1959, the Prime Minister announced that the Government had taken the decision not to put the terminal here, but beside the Queensway, three miles closer to the centre of the city. If the station had been built in the place originally suggested by Mr. Greber there would then have been no need for this section here. This, of course, is presumption. I am referring to the Beachburg subdivision and the station would be here, but by moving the station three miles closer it did not call for the elimination of the railway line which had been built for many years and which has not in fact been eliminated by our plan.

Now the population is building up in this area and grade separations undoubtedly will be required as this pressure builds up, but again, Mr. Chairman, I cannot give any forecast of when this will take place. Does that answer the question? There is no question of eliminating the railway line.

Senator ISNOR: I wanted to get something definite on the record. I think I have it.

The CHAIRMAN: Honourable senators, I was thinking about the date to which we should adjourn, because I think we have reached the point where we should adjourn. I wonder whether the committee might not be disposed, before we adjourn, to deal with the proposed amendment to subsection (*g*) of section 10 which was agreed upon between the railways, the trucking interests and the commission. If we could have that out of the way we would be that much further ahead, and we could perhaps relieve Mr. Magee of the necessity of coming to our adjourned meeting.

Senator CROLL: I so move.

The CHAIRMAN: On page 3 of the bill, subsection (*g*), towards the bottom of the page, lines 33 and following, the three first lines will now read as follows, instead of the present wording:

> furnish for hire in and about the Cities of Ottawa and Hull such adequate and suitable service as is customary or usual for the pickup,

delivery and transfer of goods by means of trucks or
—and the rest of it goes on as before.

Senator CROLL: I so move.

The CHAIRMAN: Does the committee favour the amendment?

Hon. SENATORS: Agreed.

The CHAIRMAN: Carried. I think that is about as far as we can go at the moment in consideration of this bill, gentlemen. I was wondering as to our date of adjournment. I understand the Senate might be adjourning for a fortnight.

Senator GOUIN: Until Monday, June 21.

The CHAIRMAN: The committee normally meets on Thursday mornings. Could we tentatively fix the next meeting for Thursday, June 24, and then that would give ample time to the representatives of the unions and of the railways to get together, if they can. Is that suitable to the committee?

Hon. SENATORS: Agreed.

The CHAIRMAN: Very well, we will meet next on Thursday, June 24, subject, of course, to anything that might happen in between.

The committee adjourned.

Third Session—Twenty-sixth Parliament

1965

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING COMMITTEE ON

TRANSPORT AND COMMUNICATIONS

The Honourable A. K. HUGESSEN, *Chairman*

No. 5

Second and Final Proceedings on Bill S-3,

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

WEDNESDAY, JUNE 23, 1965

WITNESSES:

International Railway Brotherhoods: A. R. Gibbons, Secretary, National Legislative Committee; *Canadian National Railways:* J. W. G. Macdougall, Q.C., General Solicitor; *Department of Transport:* Jacques Fortier, Q.C., Counsel; *National Capital Commission:* Lt. Gen. S. F. Clark, Chairman.

REPORT OF THE COMMITTEE

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

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THE STANDING COMMITTEE

on

TRANSPORT AND COMMUNICATIONS

The Honourable

ADRIAN K. HUGESSEN,

Chairman

The Honourable Senators

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Baird,
Beaubien (*Provencher*),
Bouffard,
Buchanan,
Burchill,
Connolly (*Halifax North*),
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Roebuck,
Smith (*Kamloops*),
Smith (*Queens-Shelburne*),
Thorvaldson,
Veniot,
Vien,
Welch,
Willis,
Woodrow—49.

Ex officio members

Brooks,
Connolly (*Ottawa West*).

(Quorum 9)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Wednesday, May 12th, 1965.

"Pursuant to the Order of the Day, the Honourable Senator Lambert moved, seconded by the Honourable Senator Hugessen, that the Bill S-3, intituled: "An Act to incorporate 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 Lambert moved, seconded by the Honourable Senator Hugessen, 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.

22565—1½

MINUTES OF PROCEEDINGS

WEDNESDAY, June 23rd, 1965.

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

Present: Honourable Senators Hugessen (*Chairman*), Bouffard, Buchanan, Burchill, Connolly (*Halifax North*), Croll, Fournier (*Madawaska-Restigouche*), Gelinas, Gouin, Isnor, Kinley, Lefrancois, McLean, Molson, Quart, Roebuck, Veniot, Vien, Willis and Woodrow. 20.

In attendance: E. Russell Hopkins, Law Clerk and Parliamentary Counsel, R. J. Batt, Assistant Law Clerk and Parliamentary Counsel and Chief Clerk of Committees.

Bill S-3, An Act to incorporate the Ottawa Terminal Railway Company, was further considered clause by clause.

The Chairman read into the record an opinion of the Law Clerk and Parliamentary Counsel as to the applicability of the *Canadian National-Canadian Pacific Act* to the corporation to be created by the said Bill S-3.

The Chairman read into the record an exchange of correspondence between the Canadian National Railways and the Canadian Pacific Railway Company, and the International Railway Brotherhoods and the Non-Operating Railway Unions concerning an agreement between these parties upon certain broad basic principles with respect to employment transfers.

The following witnesses were heard: *International Railway Brotherhoods:* A. R. Gibbons, Secretary, National Legislative Committee. *Canadian National Railways:* J. W. G. Macdougall, Q.C., General Solicitor. *Department of Transport:* Jacques Fortier, Q.C., Counsel. *National Capital Commission:* Lt. Gen. S. F. Clark, Chairman.

On Motion of the Honourable Senator Connolly (*Halifax North*), it was Resolved to report the said Bill as amended on June 3, 1965.

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

Attest.

Dale M. Jarvis,
Clerk of the Committee.

REPORT OF THE COMMITTEE

WEDNESDAY, June 23rd, 1965.

The Standing Committee on Transport and Communications to which was referred the Bill S-3, intituled: "An Act to incorporate the Ottawa Terminal Railway Company", has in obedience to the order of reference of May 12th, 1965, examined the said Bill and now reports the same with the following amendment:

1. *Page 3*: Strike out lines 33 to 35 inclusive and substitute therefor the following:

"(*g*) furnish for hire in and about the Cities of Ottawa and Hull such adequate and suitable service as is customary or usual for the pick-up, delivery and transfer of goods by means of trucks or".

All which is respectfully submitted.

A. K. HUGESSEN,
Chairman,

THE SENATE

THE STANDING COMMITTEE ON TRANSPORT AND COMMUNICATIONS

EVIDENCE

OTTAWA, Wednesday, June 23, 1965.

The Standing Committee on Transport and Communications to which was referred Bill S-3, to incorporate the Ottawa Terminal Railway Company, met this day at 10 a.m.

Senator A. K. HUGESSEN in the Chair.

The CHAIRMAN: Honourable senators, it is 10 o'clock, and I see a quorum.

You will remember that when we adjourned a fortnight ago we had asked representatives of the railway companies and the unions to see whether they could reach an agreement on the matters that the union representatives brought up at the meeting. One of these matters was the question of whether the provisions of The Canadian National-Canadian Pacific Act, 1933, would apply to this company in the event of the employees losing their positions as a result of the operation of the Union station. We asked our Law Clerk, Mr. Hopkins, to give us an opinion as to whether The Canadian National-Canadian Pacific Act applies to this company. I have here an opinion from Mr. Hopkins, dated June 22, and which I think I should read to the committee:

> At the most recent meeting of the committee I was asked for a considered opinion as to the applicability of the Canadian National-Canadian Pacific Act, R.S., chap. 39, hereinafter referred to as "the Act", in respect of the Corporation to be created by the present bill.
>
> In my opinion, the act would not apply to the proposed Ottawa Terminal Railway Company.

Then he goes on to give a number of reasons which perhaps I do not need to bother the committee with. Perhaps this letter should be printed as an appendix to the proceedings of this meeting.

Senator ROEBUCK: Unless it is very long, I should like to hear it read.

The CHAIRMAN: Very well; then, I will continue:

> The Act was a depression measure enacted in the session of 1932-33, and was designed to effect economies and increase revenues in the operations of the two principal railway companies in Canada. To this end, subsection (1) of section 17 thereof provides that the Companies "for the purposes of effecting economies and providing for more remunerative operation, are directed to attempt forthwith to agree and continuously to endeavour to agree, and they respectively are, for and on behalf as aforesaid, authorized to agree, upon such co-operative measures, plans and arrangements as are fair and reasonable and best

adapted (with due regard to equitable distribution of burden and advantage as between them) to effect such purposes".

Subsection (2) of section 17 recites that "any *such* measures, plans or arrangements may include and be effected by means of (*a*) new companies controlled by stock ownership, equitably apportioned between the companies".

The key word in the subsection is the word "such", which can only refer to the kind of measures, plans or arrangements contemplated by subsection (1). That subsection in turn limits the meaning of these expressions in two ways: first, there must be an agreement between the railway companies, and presumably between the two railways only; second, the agreement must be "for the purposes of effecting economies and providing for more remunerative operation".

It is clear that the Memorandum of Understanding included as a Schedule to the present Bill does not represent an agreement merely between the two railway companies, but among the railways and the National Capital Commission. Indeed, that the government is perhaps the most interested party of all is apparent from the fact that the present Bill is a government measure. Moreover, it is evident from the Bill itself, the Schedule thereto, and the National Capital Act (chapter 37 of the statutes of 1958) that the purposes of the Bill are not exclusively, or even principally, directed either to the effecting of economies or to the increasing of railway revenues (though these consequences may result). They are clearly directed, in the language of section 10 of the National Capital Act, to "assist in the development, conservation and improvement of the National Capital Region".

In the light of the foregoing, it is my opinion that the Act is not applicable in respect of the measure now before the Committee.

I understand that the view I have expressed is concurred in by the Departments of Transport and Justice. It is also consonant with the views earlier expressed on behalf of the railway companies and by Senator Roebuck. I enclose a copy of a letter in this regard addressed to me by Counsel for the Department of Transport, together with photostat copies of an exchange of letters between Mr. Fortier and Mr. Ryan of the Department of Justice.

E. Russell Hopkins,
Law Clerk and Parliamentary Counsel.

The CHAIRMAN: I shall place on record the further correspondence referred to in Mr. Hopkin's letter. It is as follows:

DEPARTMENT OF TRANSPORT
MINISTÈRE DES TRANSPORTS

Ottawa, Ontario,
June 22, 1965.

E. R. Hopkins, Esq., Q.C.,
Law Clerk and Parliamentary Counsel,
Room 359 S,
The Senate,
Ottawa, Ontario.

Dear Mr. Hopkins:

I enclose herewith a photostat copy of the letter of June 21, 1965, from Mr. Ryan to the undersigned advising that, in his opinion, neither section 17 of the Canadian National-Canadian Pacific Act, nor the Schedule to the Act, applies to the two railway companies in the organization of the Ottawa Terminal Railway Company.

Yours truly,
Jacques Fortier,
Counsel.

DEPARTMENT OF JUSTICE
MINISTÈRE DE LA JUSTICE

OTTAWA 4, June 21, 1965.

Jacques Fortier, Esq., Q.C.,
Counsel,
Department of Transport,
Hunter Building,
Ottawa, Ontario.

206,000-15
Re: Ottawa Terminal Railway Bill.
Your file: 150-7 (Law)

Dear Mr. Fortier:

I refer to your letter of June 10th enclosing a copy of the Transcript of Evidence given before the Senate Committee on Transport and Communications with respect to Bill S-3, An Act to incorporate the Ottawa Terminal Railway Company. You have asked for advice on whether or not section 17 of the Canadian National-Canadian Pacific Act and the Schedule to the Act will apply to the two railway companies in the organization of the Ottawa Terminal Railway Company.

I have examined the Transcript of Evidence, the Canadian National-Canadian Pacific Act and the Memorandum of Understanding dated

October 17, 1963, that is a Schedule to Bill S-3. From this information, it appears that the incorporation of the Ottawa Terminal Railway Company is one aspect of the National Capital Commission's comprehensive railway relocation plan for the Ottawa area. I assume that the purpose of the comprehensive railway relocation plan is to "assist in the development, conservation and improvement of the National Capital region in order that the nature and character of the seat of the Government of Canada may be in accordance with its national significance" (*see* National Capital Act, S.C. 1958, c. 37, s. 10).

Under the circumstances, the incorporation of the Ottawa Terminal Railway Company is not, in my opinion, a "co-operative measure, plan or arrangement" within the meaning of section 17 of the Canadian National-Canadian Pacific Act and it follows, therefore, that neither that section nor the schedule to the act will apply to the two railway companies in the organization of the Ottawa Terminal Railway Company.

Yours truly,
S. W. Ryan,
Senior Advisory Counsel.

Ottawa, Ontario,
June 10, 1965.

J. W. Ryan, Esq.,
Senior Advisory Counsel,
Department of Justice,
Room 302, Justice Building,
Ottawa, Ontario.

Dear Mr. Ryan:

Re: Ottawa Terminal Railway Bill
Your Reference 206,000-15

I enclose herewith copy of the Transcript of Evidence that was given before the Senate Committee on Transport and Communications on June 3, 1965 with respect to Bill S-3, an Act to incorporate the Ottawa Terminal Railway Company and your attention is called to the statement of the Chairman of the Committee, page 69, that the Law Clerk and Parliamentary Counsel should advise the Committee whether the Canadian National-Canadian Pacific Act, Chapter 39 of the Revised Statutes of Canada will apply to railway employees of Canadian National and Canadian Pacific displaced as a result of the incorporation of the Ottawa Terminal Railway Company.

The Law Clerk and Parliamentary Counsel has suggested to me that since Bill S-3 is a government measure the Department of Justice might be consulted in the matter.

The provisions in question of the Canadian National-Canadian Pacific Act are those of section 17 with respect to co-operation between

the two railway companies and a review of the said provisions would appear to indicate that they are applicable, exclusively, to agreements between the two companies "for purposes of effecting economies and providing for more remunerative operation".

The purpose of Bill S-3 is to implement the agreement between National Capital Commission, Canadian National and Canadian Pacific for a comprehensive relocation of railway lines and facilities in the Ottawa area, in accordance with the National Capital Commission railway relocation plan, as so stated in the Memorandum of Understanding which forms the Schedule to Bill S-3. Therefore, the purposes of the Bill would not appear to be for the purposes set out in section 17, although economies and more remunerative operation may result from the railway operation which will be conducted in the relocated facilities.

However, paragraph (2) of section 17 states that the measures, plans and arrangements between Canadian National and Canadian Pacific for the purposes set out in the section may be effected by means of new companies controlled by stock ownership, equitably apportioned between the companies and, in view of the said provisions it is suggested that it could be argued that the incorporation of the Ottawa Terminal Railway Company may result in effecting economies and in more remunerative railway operation in the Ottawa area and, therefore, that the said incorporation could be considered to constitute a measure adopted by Canadian National and Canadian Pacific pursuant to section 17.

The railway told the Senate Committee that they do not consider that this is a case where the Canadian National-Canadian Pacific Act would apply and they have not proceeded on the basis that it would apply because the impetus behind the establishment of the Terminal Company has come from the National Capital Commission and its railway relocation plan rather than from the Railway Company. They intend, of course, to treat all employees concerned in the same manner as they do in any other railway reorganization move.

The above is submitted for your consideration and advice on the question of whether or not section 17 of the Canadian National-Canadian Pacific Act would apply to the two railway companies in the organization of the Ottawa Terminal Railway Company so as to compel them to invoke its provision and schedule in the establishment of the Terminal Company.

Yours truly,
Jacques Fortier,
Counsel.

Senator ROEBUCK: Thank you for reading that correspondence, Mr. Chairman. I congratulate our Law Counsel. I find that he always agrees with me.

The CHAIRMAN: I do not know what effect this will have upon the position of the railway unions. However, in respect to the other matters they brought up at our last meeting, they have had two consultations with the representatives of the railway companies, and I am happy to be able to tell you that all parties are now in agreement.

Senator ROEBUCK: And the parties are here.

The CHAIRMAN: Yes.

Senator ROEBUCK: I think we should hear from them.

The CHAIRMAN: If you will allow me, I will start by reading the correspondence which I have received, showing the agreement that has been reached between the unions and the railway companies. We can start from there, and then hear anyone we want to hear from after that.

First of all I want to read to the committee a letter I have received, dated June 22, 1965, addressed to myself as chairman of this committee:

> Honourable Senator Hugessen:
>
> This has reference to our appearance before your Committee on June 3, on the matter of Bill S-3 "An Act to Incorporate the Ottawa Terminal Railway Company".
>
> Our purpose in appearing before your Committee was to seek an amendment to Bill S-3, which would bind the Ottawa Terminal Railway Company, CNR and CPR to each and every applicable collective agreement, or otherwise established benefit and practice now in effect on the Canadian National or Canadian Pacific until normal termination, or replaced through collective bargaining procedures under the Industrial Relations and Disputes Investigation Act.
>
> At the suggestion of your Committee, it was agreed that representatives of the Canadian National, Canadian Pacific and the Unions would meet for the purpose of seeking agreement on the matters mentioned above.
>
> Meetings were held on June 16 and June 21 and we are happy to report to your Committee that agreement has been reached on broad basic principles that will provide guidance in the future with respect to the transfer of employees from the Canadian National and Canadian Pacific to the Ottawa Terminal Railway Compny.
>
> Please find attached copies of an exchange of correspondence between the railway companies and representatives of the Union, which will indicate to you that the broad basic principles agreed to resolve the matters which we raised before your Committee on June 3 last.
>
> Yours truly,
>
> A. R. Gibbons, for
> G. R. Pawson, Secretary,
> Joint Negotiating Committee,
> Non-Operating Railway Unions,
>
> A. R. Gibbons, Secretary
> National Legislative Committee,
> International Railway Brotherhoods.

Now, the correspondence exchanged between the railway companies and the unions with regard to that, I think should also go on the record, and with permission, I will read it to you. Beforehand, I should say that I received a similar letter from Mr. K. D. M. Spence, of the Canadian Pacific Railways, writing on behalf of himself and Mr. J. W. G. Macdougall, also enclosing a copy of the exchange of correspondence.

The exchange includes, first of all, a letter from Canadian National Railways and Canadian Pacific Railway Company, dated Montreal, June 21, 1965, and addressed jointly to Mr. A. R. Gibbons, Secretary, National Legislative

Committee International Railway Brotherhoods, and to Mr. G. R. Pawson, Secretary, Joint Negotiating Committee, Non-operating Railway Unions. The letter reads as follows:

Dear Sir:

Following receipt of your letter of June 8 concerning the matters which you raised before the Senate Committee considering Bill S-3 "An Act to Incorporate the Ottawa Terminal Railway Company" and the meeting held at the offices of the Canadian Pacific Railway Company on June 16 to discuss the four items raised in your letter affecting the employment of the running trades and non-operating employees of Canadian National and Canadian Pacific who may become employees of the proposed Ottawa Terminal Railway Company, we wish to herein set out the broad basic principles agreed upon at that meeting for guidance in the future with respect to the transfer of any such employees to the Terminal Company.

Transfers of employees from Canadian National and Canadian Pacific to the Terminal Company would be accomplished so that individual 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.

We must point out, however, that as yet no final determination has been made by Canadian National and Canadian Pacific as to how much of the actual operation within the Ottawa area will be performed in the future by the Terminal Company and how much will remain with the parent companies. The working out of these arrangements will have to be dealt with later as the Company organization is developed.

We will expect that there will be some particular situations and local circumstances which will require specific treatment. Also satisfactory arrangements will have to be worked out to protect the seniority rights of employees on their parent property in such manner as is considered suitable by the employee representatives and by the Company.

If you are in agreement with the broad general principles expressed in this letter, it may be filed with the Senate Committee advising that body that this letter resolves the matters which were raised by you at the Senate Committee hearing of June 3, 1965, without prejudice to the rights of either party under the Canadian National-Canadian Pacific Act.

Yours truly,

Thomas A Johnstone,
Assistant Vice-President,
Labour Relations,
Canadian National Railways.

K. Campbell,
Assistant Vice-President,
Personnel,
Canadian Pacific Railway Company

That is the letter from the railway companies to the unions. The reply of the unions is a letter addressed to Mr. T. A. Johnstone, and Mr. K. Campbell:

100 Argyle Ave., Rm. 39,
Ottawa, Ontario
June 22, 1965.

Mr. T. A. Johnstone,
Assistant Vice-President,
Labour Relations, C.N.R.,
P.O. Box 8100,
Montreal 3, Quebec

Mr. K. Campbell,
Assistant Vice-President,
Personnel, C.P.R.
Windsor Station,
Montreal, Quebec.

Dear Sir:

This will acknowledge your letter of June 21, relative to certain matters raised by representatives of the railway unions before the Senate Committee on Transport and Communications considering Bill S-3 "An Act to Incorporate the Ottawa Terminal Railway Company".

Your letter sets out the broad basic principles agreed upon at Meetings held on June 16 and June 21, for guidance in the future with respect to the transfer of any employees from the Canadian National and Canadian Pacific to the Ottawa Terminal Railway Company.

Please be advised that we are in agreement with the broad basic principles expressed in your letter.

Yours truly,

A. R. Gibbons, for
G. R. Pawson, Secretary,
Joint Negotiating Committee,
Non-Operating Railway Unions.

A. R. Gibbons, Secretary,
National Legislative Committee,
International Railway Brotherhoods.

Honourable senators, that seems to settle to the satisfaction of everybody concerned the matters raised at the last meeting by the railway unions; if so, it is a very happy conclusion.

Perhaps we might hear a word from the representatives of the unions and from representatives of the railways as to whether that is actually the case. Is Mr. Gibbons, who signed the letters, here this morning?

Senator ROEBUCK: Yes, Mr. Gibbons is here, and also Mr. Macdougall.

Mr. A. R. Gibbons, Secretary, National Legislative Committee, International Railway Brotherhoods: Mr. Chairman and honourable senators, also present are Mr. W. G. McGregor, Vice-Chairman, National Legislative Committee; Mr. W. P. Kelly, Vice-President, Brotherhood of Railway Trainmen, and Mr. F. E. Esterbrook, Vice-President, Transport Communications Employees Union. We would certainly like to say that we are very happy to have reached an agreement with the railway companies. We thank honourable senators for the time that you devoted to the question and for the suggestion made by you that we work together with the railway companies and settle the issue without the necessity of specific legislation. So, without desiring to take up your time,

we express our appreciation for the courtesy of being heard by your committee.

The CHAIRMAN: Thank you, Mr. Gibbons. I have one question. Is the agreement that you reached with the railway companies affected in any way by the information which our Law Clerk has given, that the Canadian National-Canadian Pacific Act does not apply?

Mr. GIBBONS: No, sir, it is not affected. We have reached agreement and we have said in the letter, without prejudice to either party, that we would have to accept the decision as to whether or not the act applied in this particular instance. That was more reasonable than going to the Supreme Court to find out whether or not it applies.

Senator ROEBUCK: Under those circumstances, have you any further objection to the passing of the bill that is before the committee with regard to the Ottawa Terminal Railway Company?

Mr. GIBBONS: No, sir.

The CHAIRMAN: Thank you, Mr. Gibbons. Would Mr. Macdougall or Mr. Spence like to add anything?

Mr. J. W. G. Macdougall, Q.C., General Solicitor Canadian National Railways: Mr. Chairman, I cannot add much to what Mr. Gibbons has said. You have before you and in your records the exchange of correspondence between the companies and the unions. We certainly are very pleased that it has been possible to reach amicable arrangements concerning this matter. I think it reflects the aura of co-operation which has been manifested by the unions and the companies in dealing with this important problem of the transfer of employees to the new corporation.

We thank you also for your consideration and kindness to us.

The CHAIRMAN: On behalf of the members of the committee I should thank those representatives of both sides for having done what we suggested they should do and having reached this most sensible conclusion.

Senator ROEBUCK: Yes, Mr. Chairman, and as I raised this matter in the house in the first instance and rather sponsored the protest here before the committee, I want to express my personal satisfaction in the resolving of this problem. It was a real and a somewhat difficult problem.

I would like to add, Mr. Chairman, that it is another one of the many illustrations we have, which we might mention, of the usefulness of this Standing Committee on Transport and Communications, under your distinguished chairmanship.

The CHAIRMAN: Does the committee wish to hear any further evidence with respect to this bill? We had a great deal of evidence last year, which members of the committee will recall, and we had some more this year. Shall we, therefore, consider the bill section by section?

Hon. SENATORS: Agreed.

The CHAIRMAN: Section 1, short title. Shall section 1 carry?

Hon. SENATORS: Agreed.

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," subsections (1) and (2). Shall section 6 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 7—"number of directors". Shall section 7 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 8—"executive committee of directors, number of members, composition". Shall section 8, subsections (1), (2) and (3) carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 9—"undertaking," and "company may carry out proposals of memorandum in schedule". Shall section 9, subsections (1) and (2) carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 10—"powers of company": (*a*) "acquire property"; (*b*) "provide terminal facilities"; (*c*) "receive grants and bonuses"; (*d*) "dispose of property and services not required"; (*e*) "hotels, warehouses, etc."; (*f*) "telegraphs, etc."—

Honourable senators, we come now to paragraph (*g*) on page 3, dealing with transfer service. You will recall that at our last meeting we made an amendment to lines 33 to 35, which has been agreed upon between the railway companies, the Commission and the trucking interests. We have substituted for the present lines 33 to 35 the words: "furnish for hire in and about the Cities of Ottawa and Hull such adequate and suitable service as is customary or usual for the pickup, delivery and transfer of goods by means of trucks or . . . " Then the rest of it goes on as before. Shall section 10, with this amendment to paragraph (*g*) that I have mentioned, carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 11—"National Railways may convey to the company lands, buildings, etc. . . . " Shall section 11 carry?

Senator VIEN: Does section 11 involve Crown property? This is company property, belonging to the C.N.R. Would that involve even Crown property? The Canadian National Railways is a Government railway company. Does that involve only the property of the company, owned and possessed by the company? Or would it involve as well properties owned by the Crown?

The CHAIRMAN: I do not see how the C.N.R. could undertake to convey properties to the new corporation if it did not own them.

Senator VIEN: Under the Canadian National Railway Act they cannot dispose of any of the property which is property of the Crown without an order in council.

The CHAIRMAN: An act of this kind would supersede any provision of that kind, would it not?

Senator VIEN: I do not raise any objection. I simply want to be advised as to what is involved.

The CHAIRMAN: Perhaps Mr. Macdougall could answer that?

Mr. Jacques Fortier, Counsel, Department of Transport: I do not believe there is any Crown property involved in the exchange of properties between the C.N.R. and the National Capital Commission. I believe Mr. Macdougall can confirm this.

Mr. MACDOUGALL: It would be the property now owned and operated by the C.N.R. in the capital area.

The CHAIRMAN: Does that satisfy you, Senator Vien?

Senator VIEN: Yes.

The CHAIRMAN: Shall section 11 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 12 is a similar section, authorizing the Canadian Pacific Railway Company to convey certain of its properties to the new company. Shall section 12 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 13—use of the company's property by the two railways. 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". I see that all these are to be completed on or before the 1st January, 1967, or such later date as may from time to time be determined. I think that General Clark told us they expect to be finished by the 1st January, 1967.

Lt. Gen. S. F. Clark, Chairman, National Capital Commission: Mr. Chairman, we doubt very much if we could complete the scheme and make all the transfer by that time. We were looking ahead in the agreement, in the hope that we would do that. We now have an amendment to the agreement, stating that it may be at a later date, at such later date as may be agreed between the railways and the Commission. We are quite satisfied with that, Mr. Chairman.

The CHAIRMAN: Thank you.

Senator VIEN: Is there no provision to have some public authority determine the manner in which this will be done? I agree entirely that the two companies should form a terminal company and manage the Ottawa terminal, except that in respect of bonds and other commitments in which the C.N.R.

finds itself involved. In the case of the C.P.R. it is a privately owned company and it is acting on the provisions of the board of directors. But the supreme authority with respect to the C.N.R. is the Government and Parliament of Canada. By this bill we are creating a new railway company. It is called the Ottawa Terminal Railway Company, but it is a new railway company. I am all in favour of the principle involved. However, with respect to certain things, railway companies are subject to the Board of Transport Commissioners, and also subject to orders in council so far as the C.N.R. is concerned. Therefore, it does not seem that the same relationship exists, as to the foreseeing powers of the Government or of the Board of Transport Commissioners.

The CHAIRMAN: Is not that provided under section 17, senator?

Senator VIEN: That refers only to the construction of the railway.

The CHAIRMAN: Under section 18, the Railway Act applies.

Senator VIEN: I think that would provide for it.

Senator ROEBUCK: I think it would have applied, even if it had not been inserted here.

The CHAIRMAN: Shall section 17 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall section 18 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: 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 as amended?

Hon. SENATORS: Agreed.

Senator ROEBUCK: I think we should place on record the fact that this is the second time we have gone over this bill. On a previous occasion we examined it very carefully in detail and approved it as it now stands, with some amendments, so that today there is no further amendment necessary. We have made an intensive examination of the clauses which we have gone over on a previous occasion.

Senator VIEN: I think we should take advantage of this opportunity to congratulate the two railway companies on coming to this agreement. I think it was long overdue and that it is a matter of great importance. There is a union station in Toronto, and one in Ottawa. This new station will be a terminal which will be the same as a union station and which will be operated by this company in which the two railway companies will participate. At this stage I would like to express the wish that at some time in the future, when the opportunity arises, the two companies might come to a similar agreement with respect to Montreal. If we had a terminal railway company in Montreal all the terminal facilities could be combined under the management of such a company. I feel it would be a Godsend for Montreal and for the railway

companies. There is an extra expenditure of money involved in the duplication of terminal facilities at Montreal. If they could all be combined, I think the service provided would be more adequate and, as I have said, it would be a benefit to the City of Montreal and to the country at large.

The committee adjourned.

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

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Third Session—Twenty-sixth Parliament

1965

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING COMMITTEE ON

TRANSPORT AND COMMUNICATIONS

The Honourable A. K. HUGESSEN, *Chairman*

No. 6

Complete Proceedings on Bill C-124,

intituled: "An Act respecting the construction of a line of railway in the Province of Ontario by Canadian National Railway Company from a point at or near mileage 3.2 of the Froomfield Spur of the Canadian National Railway near Sarnia in a southerly direction for a distance of approximately 12 miles to the property of Canadian Industries Limited in Sombra Township in the County of Lambton."

TUESDAY, JUNE 29, 1965

WITNESSES:

Canadian National Railway Company: M. Archer, Vice President; D. F. Purves, Assistant Vice President; G. M. Cooper, Solicitor.

REPORT OF THE COMMITTEE

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

22567—1

100

THE STANDING COMMITTEE

on

TRANSPORT AND COMMUNICATIONS

The Honourable

ADRIAN K. HUGESSEN,

Chairman

The Honourable Senators

Aird,
Aseltine,
Baird,
Beaubien (*Provencher*),
Bouffard,
Buchanan,
Burchill,
Connolly (*Halifax North*),
Croll,
Dessureault,
Dupuis,
Farris,
Fournier (*Madawaska-Restigouche*),
Gelinas,
Gershaw,
Gouin,
Haig,
Hayden,
Hollett,
Hugessen,
Isnor,
Jodoin,
Kinley,
Lambert,
Lang,
Lefrançois,
Macdonald (*Brantford*),
McCutcheon,
McGrand,
McKeen,
McLean,
Methot,
Molson,
Paterson,
Pearson,
Phillips,
Power,
Quart,
Rattenbury,
Reid,
Roebuck,
Smith (*Kamloops*),
Smith (*Queens-Shelburne*),
Thorvaldson,
Veniot,
Vien,
Welch,
Willis,
Woodrow—49.

Ex officio members

Brooks,
Connolly (*Ottawa West*).

(Quorum 9)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Monday, June 28th, 1965:

"Pursuant to the Orders of the Day, the Honourable Senator Connolly, P.C., moved, seconded by the Honourable Senator Hugessen, that the Bill C-124, intituled: "An Act respecting the construction of a line of railway in the Province of Ontario by Canadian National Railway Company from a point at or near mileage 3.2 of the Froomfield Spur of the Canadian National Railway near Sarnia in a southerly direction for a distance of approximately 12 miles to the property of Canadian Industries Limited in Sombra Township in the County of Lambton", 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 Hugessen, 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.

22567—1½

MINUTES OF PROCEEDINGS

TUESDAY, June 29, 1965.

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*), Aseltine, Buchanan, Burchill, Connolly (*Halifax North*), Dupuis, Gouin, Haig, Hollett, Lang, Lefrancois, McLean, Quart, Smith (*Kamloops*), Smith (*Queens-Shelburne*) and Veniot.—16.

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

Bill C-124, An Act respecting the construction of a line of railway in the Province of Ontario by Canadian National Railway Company from a point at or near Mileage 3.2 of the Froomfield Spur of the Canadian National Railway near Sarnia in a southerly direction for a distance of approximately 12 miles to the property of Canadian Industries Limited in Sombra Township in the County of Lambton, was read and considered clause by clause.

The following were heard in explanation of the Bill:

Canadian National Railway Company: M. Archer, Vice President; D. F. Purves, Ass't Vice President; G. M. Cooper, Solicitor.

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 Committee's proceedings on the said Bill.

It was resolved to report the Bill without any amendment.

At 11.30 a.m. the Committee adjourned to the call of the Chairman.

Attest.

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

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REPORT OF THE COMMITTEE

TUESDAY, June 29, 1965.

The Standing Committee on Transport and Communications to which was referred the Bill C-124, intituled: "An Act respecting the construction of a line of railway in the Province of Ontario by Canadian National Railway Company from a point at or near mileage 3.2 of the Froomfield Spur of the Canadian National Railway near Sarnia in a southerly direction for a distance of approximately 12 miles to the property of Canadian Industries Limited in Sombra Township in the County of Lambton", has in obedience to the order of reference of June 28, 1965, 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 BANKING AND COMMERCE

EVIDENCE

OTTAWA, Tuesday, June 29, 1965.

The Standing Committee on Transport and Communications, to which was referred Bill C-124, respecting the construction of a line of railway in the Province of Ontario by Canadian National Railway Company from a point at or near mileage 3.2 of the Froomfield Spur of the Canadian National Railway near Sarnia in a southerly direction for a distance of approximately 12 miles to the property of Canadian Industries Limited in Sombra Township in the County of Lambton, met this day at 11 a.m.

Senator A. K. Hugessen in the Chair.

The CHAIRMAN: Honourable senators, I see a quorum. The bill that has been sent to us by the House of Commons is Bill C-124. As this is a public bill I take it that the committee would like the usual resolution passed asking for authority to record our proceedings.

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

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

The CHAIRMAN: The witnesses whom we have before us in connection with this bill are Mr. Jacques Fortier, counsel for the Department of Transport, who is well known to the committee, Mr. G. M. Cooper, solicitor for Canadian National Railways, Mr. Maurice Archer, Vice-President of Canadian National Railways, and Mr. D. F. Purves, Assistant Vice-President of Canadian National Railways. I understand Mr. Cooper is to explain the bill. Is the committee willing to hear Mr. Cooper?

Senator ASELTINE: We would like to have him deal with the objection raised yesterday in the Senate by the senator for Peel (Hon. Mr. Willis).

The CHAIRMAN: I mentioned that point to these gentlemen and they say they are prepared to deal with that objection. This gentleman is Mr. G. M. Cooper, solicitor for Canadian National Railways.

Mr. G. M. Cooper, Solicitor, Canadian National Railways: Mr. Chairman and honourable senators, this bill contains a proposal to authorize Canadian National Railways to construct a 12-mile branch line in the Province of Ontario and immediately in the vicinity of Sarnia. Authority is required because under the Canadian National Railways Act our power to construct new branches without authority of Parliament is limited to six miles. In this particular instance Parliament is not being asked to provide the capital funds for the construction of the line or any part of the capital funds. Furthermore, it is not being asked to authorize any guarantee of securities of Canadian National Railway Company because there is no requirement of borrowing money to undertake the construction. For that reason the ordinary form of Canadian National branch line bill has not been followed in this case.

The bill before us is considerably shorter by reason of the omission of some four usual provisions respecting the issue of securities, the guarantee of securities, etc.

Senator ASELTINE: Why do you not need any money?

Mr. COOPER: The amount required in this case is relatively modest. The estimated cost is $850,000 and we have that capital money available in our ordinary budgetary procedures from reserves for depreciation, debt discount amortization and the sale of preference shares to Her Majesty, so that we do not have to go outside the company in this instance to find this money.

Senator SMITH (*Kamloops*): In that connection has there been anything by way of deposit or guarantee or advance by the company which is to be served by this line? Does that form part of the contract you have made?

Mr. COOPER: Not by a contribution to the capital cost of the line but by a traffic agreement guaranteeing to us revenues from the use by Canadian Industries Limited of the line over a 10-year period. We are assured of sufficient revenues from that to make it a wholly economic service, and to make the project economically feasible.

Senator SMITH (*Kamloops*): Did you say it will be self-sustaining or self-liquidating on its own without assistance from other sources?

Mr. COOPER: It will be a self-sustaining line from the beginning and in the cost there is an element of the amortization of the capital. We are quite confident that the project will be self-liquidating within a 10-year period.

Senator HAIG: Are there any other communities or town or cities to be served by this branch line?

Mr. COOPER: There are no other existing companies in the immediate vicinity, but in passing from the present end of the line at Froomfield—the Froomfield Spur to the C.I.L. plant which is 12 miles distant, the line will go through an area back some two miles from the river which has no railroad service at the moment and which is mainly agricultural in character and which will, by reason of the new railroad service, become more feasibly useful for industrial purposes. So I think we could foresee additional companies being established, but at the moment no specific identifiable companies.

The CHAIRMAN: Could you show us on the map where this line will go so that we will know what you are talking about? For example, where is the Froomfield Spur?

Mr. COOPER: Where my finger is now, that is the main line and the spur comes down here and ties in. This will take off from the spur here and go down south to the C.I.L. plant which is marked in green here. The C. & O. coming down to the waterfront is here.

The CHAIRMAN: By C. & O. you mean the Chesapeake & Ohio?

Mr. COOPER: Yes, and this is the stretch of land here which the new line will open up for development.

Senator LANG: Will the C. & O. also serve C.I.L.

Mr. COOPER: The C. & O. will be serving them too, but the C.I.L. also requested the additional services that we can provide. We investigated the idea of not providing the service and having the C. & O. as the only railway line serving the plant but we came to the firm conclusion that it was in Canadian National's best interests as well as those of C.I.L. that we particiapte and give C.I.L. direct railway service to Canadian National points.

Mr. D. F. Purves, Assistant Vice-President, Canadian National Railways: I might add that C.I.L. asked us for direct railroad service coming in from the back, with the C. & O. coming in from the front.

The CHAIRMAN: Will the volume of traffic from the plant be so considerable that there will be sufficient for two lines?

Mr. PURVES: The volume of traffic that will come to us will be sufficient to pay off all our charges in 10 years.

The CHAIRMAN: Quite apart from anything the C. & O. gets?

Mr. PURVES: Yes. Their traffic will go mainly to the United States where they have a large network. There will also be quite a market for the product in the area close to the plant and much of that market will be served from the plant directly by truck, probably by farmers themselves coming to the plant to pick up their own requirements. So far as we are concerned this was a request from one of our very good customers asking for a second railroad.

The CHAIRMAN: Honourable senators will recall that a couple of years ago we were considering the building of a line into the potash area of Saskatchewan.

Senator ASELTINE: I remember I had considerable difficulties in getting that through the Senate.

The CHAIRMAN: We have the same consideration presented to us, that it would be very advisable to have two lines serving the plant because of the extensive nature of the traffic to be developed, and the fact that if you had one railroad which was hit by a strike or some physical trouble the second one could be used.

Senator ASELTINE: Yes. I remember I had considerable difficulty convincing the Senate it was absolutely necessary in the Saskatchewan undertaking.

Senator HOLLETT: This is largely intended to transport the product of the industry from one place to another rather than for passenger services?

Mr. COOPER: It is designed purely for freight traffic.

Senator HOLLETT: Is there any estimate as to the amount of freight which would be carried on this line?

Mr. Maurice Archer, Vice-President, Canadian National Railways: There is about 400,000 tons annually and we think we would have that. It will be serving points in Canada mostly. There will also be a small amount of inbound traffic.

Senator ASELTINE: You will not be catering to the carriage of passengers?

Mr. COOPER: No.

Senator ASELTINE: Does the other line along the waterfront carry passengers?

Mr. PURVES: As far as we know it does not. It operates only freight trains, twice a day. This will be an industrial spur. If it were only six miles long we could negotiate covering the traffic guarantee only, but because it is 12 miles long we cannot do that and we have to come to Parliament for permission to build this line. But, as I have said, it is an industrial spur designed solely to serve a new plant and, incidentally, open up new country.

Senator LANG: If I might direct a question to Mr. Cooper which may not be germane to the point but which I think does arise out of the question raised in the Senate last night about the abandoning of the line near Alvinston and which is causing concern in that area. Is there some question of policy involved in the establishment of this line and in the abandonment of the other one I have mentioned?

Mr. COOPER: I think the distinction would be between the available business. This is an economically feasible venture which warrants expenditure of the sum required to build this line. I am not familiar with the cir-

cumstances existing concerning the Alvinston line, but if we have made an application for abandonment it must be because the traffic is not sufficient to continue the operation of that line and it is therefore unserviceable from the economic standpoint to keep it in operation.

Senator LANG: What little information I have on it is that the concern arises from local farmers who do from time to time use the line, although I suppose there are other services, for example trucking, available. But I do know that the abandonment of the line does cause concern to these people.

Mr. COOPER: I am afraid the situation must be that as a market we cannot justify it. In many cases it may involve a matter of local pride rather than actual need to have such a line continue. I am not at all familiar with the circumstances of that particular case, but as a matter of general policy I think my remarks cover the situation.

The CHAIRMAN: I think the committee will remember that for quite a number of years the only branch lines which Canadian National have sought permission to construct have been industrial lines in respect of which they have reached agreement with the industries concerned which would make it perfectly certain that they would recoup their money. This is just another one of these applications.

Mr. COOPER: Yes, indeed.

Senator SMITH (*Kamloops*): Is this spur line not putting the Canadian National in a position to carry the raw materials into the plant required for processing there?

Mr. COOPER: Yes.

Senator SMITH (*Kamloops*): Do you haul potash to the plant?

Mr. PURVES: The principal raw material inbound will be phosphorous rock which comes from Florida and the Carolinas. The main Canadian inbound material will be sulphuric acid.

Senator SMITH (*Kamloops*): Will this be handled by pipe or by tank car?

Mr. PURVES: This acid which we will handle will come by tank car. In our calculation it will be mainly the outbound traffic which will support the line.

The CHAIRMAN: Anything you get other than that will be just so much extra?

Mr. COOPER: The line will be justified by the outbound traffic without any inbound traffic, but if we get inbound traffic so much the better.

Mr. PURVES: It is not likely that they will use much potash unless they go in for heavy mixing or blending. The product of this new plant will be largely anhydrous ammonia and some nitrates.

Senator ASELTINE: What line will carry this product from Florida and the other States in that vicinity to the site of this plant?

Mr. PURVES: I do not know. This would depend upon what arrangement the Chesapeake & Ohio would work out with their connections. There probably would be a fair amount of competition for the traffic among the American railways.

Senator ASELTINE: You would not be carrying any of that?

Mr. PURVES: No, I do not think so.

Senator LANG: While on the question of rail service in this area, I understand that a very large thermal generating station is being built by Ontario Hydro—I understand one of the largest in the world—and coal traffic into that area will be very considerable. Is this matter under consideration by the C.N.R. as to how they might be able to take advantage of this amount of traffic coming into this area?

Mr. COOPER: We have not included that traffic as economic justification for the line. Our expectation, I believe, is that American coal will be used because at this location Canadian coal cannot compete from the point of view of price. The plant is on the water. I think we probably expect most of the traffic to move by water, with some by the C. & O., but our own expectations are not very rosy on coal traffic.

Mr. PURVES: We checked into that at the time the Ontario Hydro Commission announced its plant at Courtright. I have been over that. As Mr. Cooper pointed out, it is likely what coal goes there will be American and will be water-borne. It is pretty difficult to get eastern Canadian coal much west of Toronto, and even if it were water-borne, Dosco, I think, feels there is not much hope of going west of Toronto with it. We have been wondering how much one can depend on coal for that plant. They have so located it that they are in a very nice spot to use petroleum, if they so choose; and I imagine there will be a fair amount of competition between petroleum and coal to take care of that plant's requirements.

The CHAIRMAN: Are there any further questions any honourable senator wishes to ask? I think the witnesses have dealt with this question of the other railway quite satisfactorily. If there are no further questions, shall we consider the bill section by section?

Hon. SENATORS: Agreed.

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

Hon. SENATORS: Carried.

The CHAIRMAN: Section 2: Competitive bids or tenders. Shall section 2 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 3: Maximum expenditure. Shall section 3 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 4: Report to Parliament. Shall section 4 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: Carried.

The CHAIRMAN: Thank you, honourable senators. A motion to adjourn is in order.

Hon. SENATORS: Carried.

The committee adjourned.

SENATE

Standing Committee
on
Transport and Communications

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