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First Session—Twenty-seventh Parliament

1966

PROCEEDINGS OF

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget

and Mr. Jean-T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 1

Respecting

BILL C-193

An Act to amend the Public Service Superanuation Act, the Canadian Forces Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Superannuation Act, the Diplomatic Service (Special) Superannuation Act, the Intercolonial and Prince Edward Island Railways Employees' Provident Fund Act and the Canadian Corporation for the 1967 World Exhibition Act.

WEDNESDAY, JUNE 15, 1966

FRIDAY JUNE 17, 1966

WITNESSES:

From the Department of National Revenue: The Hon. E. J. Benson, Minister; *From the Treasury Board:* Mr. G. F. Davidson, Secretary; *From the Department of Finance:* Mr. H. Clark, Director of Pensions and Social Insurance Division; *From the Department of Insurance:* Mr. E. E. Clarke; *From the Department of National Defence:* Brig. W. J. Dawson, Judge Advocate General; Group Captain H. A. McLearn, Deputy Judge Advocate General.

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

24547—1

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Hon. Senator Maurice Bourget and Mr. Jean-T. Richard

and

Representing the Senate Senators		*Representing the House of Commons*
Mr. Beaubien (*Bedford*),	[3]Mr. Aiken,	Mr. Lachance,
[1]Mr. Blois,	Mr. Ballard,	Mr. Leboe,
Mr. Cameron,	Mr. Bell (*Carleton*),	Mr. Lewis,
Mr. Choquette,	Mr. Caron,	[4]Mr. MacRae,
Mr. Croll,	Mr. Chatterton,	Mr. McCleave,
Mr. Davey,	Mr. Crossman,	Mr. Munro,
Mr. Deschatelets,	Mr. Émard,	Mr. Orange,
Mrs. Fergusson,	Mr. Faulkner,	Mr. Ricard,
Mr. Hastings,	Mr. Hymmen,	Mr. Rinfret,
Mr. Roebuck,	Mr. Isabelle,	Mr. Tardif,
[2]Mr. Yuzyk—(12).	Mr. Keays,	Mr. Walker—(24).
	Mr. Knowles,	

[1]Replaced by Senator O'Leary (*Antigonish-Guysborough*), June 16, 1966.

[2]Replaced by Senator Quart, June 16, 1966.

[3]Replaced by Mrs. Wadds, June 8, 1966.

[4]Replaced by Mr. Fairweather, June 16, 1966.

Edouard Thomas,
Clerk of the Committee.

ORDERS OF REFERENCE

Extracts from minutes of proceedings of the Senate, Thursday, June 16, 1966.

That the Senate do unite with the House of Commons in the appointment of a Joint Committee of both Houses of Parliament to enquire into and report upon a measure respecting employer and employee relations in the Public Service of Canada and upon such other related legislation as may be referred to it by either House;

That the Senate designate twelve Members of the Senate to be members of the Joint Committee, namely the Honourable Senators Beaubien (*Bedford*), Blois, Bourget, Cameron, Choquette, Croll, Davey, Deschatelets, Fergusson, Hastings, Roebuck and Yuzyk;

That the Joint Committee have power to call for persons, papers and records and examine witnesses, to report from time to time and to print such papers and evidence from day to day as may be deemed advisable and to sit during sittings and adjournments of the Senate.

That the names of the Honourable Senators O'Leary (*Antigonish-Guysborough*) and Quart be substituted for those of the Honourable Senators Blois and Yuzyk on the list of Senators appointed to serve on the Special Joint Committee of the Senate and House of Commons on the Public Service.

J. F. MacNEILL,
Clerk of the Senate.

MONDAY, April 25, 1966.

Resolved,—That a Joint Committee of the Senate and House of Commons be appointed to enquire into and report upon a measure respecting employer and employee relations in the Public Service of Canada and upon such other related legislation as may be referred to it by either House; that twenty-four members of the House of Commons, to be designated at a later date, be members of the joint committee, and that standing order 67(1) of the House of Commons be suspended in relation thereto; that the said committee have power to call for persons, papers and records and examine witnesses; to report from time to time and to print such papers and evidence from day to day as may be deemed advisable and that standing order 66 be suspended in relation thereto; and that a message be sent to the Senate requesting that House to unite with this House for the above purpose, and to select, if the Senate deems it advisable some of its members to act on the proposed joint committee.

24547—1½

TUESDAY, June 7, 1966.

Ordered,—That the Members of the House of Commons on the Joint Committee of the Senate and the House of Commons to introduce a measure to provide for the establishment of a system of collective bargaining, approved April 25, 1966, by Messrs. Aiken, Ballard, Bell (*Carleton*), Caron, Chatterton, Crossman, Émard, Faulkner, Hymmen, Isabelle, Keays, Knowles, Lachance, Leboe, Lewis, MacRae, McCleave, Munro, Orange, Ricard, Richard, Rinfret Tardif and Walker.

WEDNESDAY, June 8, 1966.

Ordered,—That the name of Mrs. Wadds be substituted for that of Mr. Aiken on the Special Joint Committee on the Public Service.

MONDAY, June 13, 1966.

Ordered,—That Bill C-193, An Act to amend the Public Service Superannuation Act, the Canadian Forces Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Superannuation Act, the Diplomatic Service (Special) Superannuation Act, the Intercolonical Prince Edward Island Railways Employees' Provident Fund Act and the Canadian Corporation for the 1967 World Exhibition Act be referred to the Special Joint Committee on the Public Service; and

That the said Committee report the bill back to the House on or before Thursday, June 23rd next.

WEDNESDAY, June 15, 1966.

Ordered,—That the quorum of the Special Joint Committee on the Public Service be fixed at ten (10) members, provided that both Houses are represented, during consideration of Bill C-193.

Ordered,—That the House of Commons section of the Special Joint Committee on the Public Service be granted leave to sit while the House is sitting, during consideration of Bill C-193.

THURSDAY, June 16, 1966.

Ordered,—That the name of Mr. Fairweather be substituted for that of Mr. MacRae on the Special Joint Committee on the Public Service.

Attest.

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

REPORT TO THE SENATE

WEDNESDAY, June 15th, 1966.

The Special Joint Committee of the Senate and House of Commons on the Public Service makes its first Report, as follows:

Your Committee recommends that its quorum be fixed at ten (10) members, provided that both Houses are represented, during enquiry into Bill C-193, intituled: "Statute Law (Superannuation) Amendment Act, 1966".

All which is respectfully submitted.

MAURICE BOURGET,
Joint Chairman.

(Concurred in, June 16, 1966)

REPORTS TO THE HOUSE

JUNE 15, 1966.

FIRST REPORT

Your Committee recommends that its quorum be fixed at ten (10) members, provided that both Houses are represented, during consideration of Bill C-193.

(Concurred in, June 15, 1966)

JUNE 15, 1966.

SECOND REPORT

Your Committee recommends that the House of Commons section be granted leave to sit while the House is sitting, during consideration of Bill C-193.

Respectfully submitted,

JEAN-T. RICHARD,
Joint-Chairman.

(Concurred in, June 15, 1966)

MINUTES OF PROCEEDINGS

WEDNESDAY, June 15, 1966.
(1)

The Special Joint Committee of the Senate and the House of Commons on employer-employee relations in the Public Service of Canada met at 2.15 p.m. this day for organization purposes.

Members present: Representing the Senate: Honourable Senators Blois, Bourget, Choquette, Croll, Davey, Fergusson, Roebuck (7).

Representing the House of Commons: Mrs. Wadds and Messrs. Bell (*Carleton*), Caron, Emard, Faulkner, Hymmen, Isabelle, Keays, Knowles, Lachance, Leboe, McCleave, Ricard, Richard, Tardif, Walker (16).

The Clerk of the Committee presided over the election of the respective Chairman from the Senate and the House of Commons sections.

Moved by the Hon. Senator Fergusson, seconded by the Hon. Senator Davey,

Resolved,—That the Hon. Senator M. Bourget be the Chairman from the Senate section of this Special Joint Committee.

Moved by Mr. Bell (*Carleton*), seconded by Mr. Knowles,

Resolved,—That Mr. Jean T. Richard be the Chairman from the House of Commons section of this Special Joint Committee.

The Clerk of the Committee, having declared the Hon. Senator Bourget and Mr. Richard duly elected as Joint Chairmen, turned the meeting over those gentlemen.

On a motion of Mr. McCleave, seconded by Mr. Faulkner, the Committee agreed to seek permission to reduce its quorum to (10) during consideration of Bill C-193, provided that both Houses are represented.

Mr. Knowles moved, seconded by Mr. Walker, that the Committee be authorized to sit while the House is sitting for the period that Bill C-193 is before the Committee.

On a motion of Mr. Bell (*Carleton*), seconded by Mr. Lachance, the Committee authorized the printing of 1500 copies of the English version of the Minutes of Proceedings and Evidence, and 750 French copies.

The Committee agreed that briefs to be presented dealing with the Bills referred to it (other than C-193) must be in the hands of members one week before the appearance of the organization submitting said brief. Furthermore, the briefs are to be submitted in English and French.

The Committee agreed to the establishment of a Subcommittee on Agenda and Procedure comprising the Joint Chairmen, two Senators and six Members to be selected by the Chairmen in consultation with the Whips.

At 2.30 p.m., the meeting was adjourned to Friday, June 17, 1966, at 9.30 a.m.

FRIDAY, June 17, 1966.
(2)

The Special Joint Committee of the Senate and the House of Commons on employer-employee relations in the Public Service of Canada met at 9.35 a.m. this day, the Joint Chairmen, the Hon. Senator Bourget and Mr. Richard, presiding.

Members present: Representing the Senate: Honourable Senators Bourget, Choquette, Fergusson, Hastings, O'Leary (*Antigonish-Guysborough*), Quart (6).

Representing the House of Commons: Mrs. Wadds and Messrs. Bell (*Carleton*), Caron, Chatterton, Émard, Hymmen, Keays, Knowles, Lachance, Leboe, McCleave, Orange, Richard, Rinfret, Tardif, Walker (16).

In attendance: Hon. E. J. Benson, Minister of National Revenue and President of the Treasury Board, Dr. G. F. Davidson, Secretary of the Treasury Board and Mr. H. D. Clark, Director of Pensions and Social Insurance Division, Department of Finance.

The Joint Chairman, Mr. Richard, invited the Honourable E. J. Benson, Minister of National Revenue, to make a statement on the subject of Bill C-193.

The Committee questioned the Minister, Dr. Davidson and Mr. Clark on the details of Bill C-193.

The representative from the Department of Finance undertook to provide the Committee with a written statement covering the effect of this bill on the other seven.

On a motion of the Hon. Senator Fergusson, seconded by Mr. Leboe, the following tables were accepted as part of this day's proceedings:

Example of application of integration formula to an illustration explained to the Special Joint Committee of the Senate and House of Commons examining the Canada Pension Plan. (*See Appendix A*)

Examples of application of integration formula. (*See Appendix B*)

Diplomatic Services (Special) Superannuation Act. (*See Appendix C*)

The Committee agreed to the names of the members selected by the Joint Chairmen for the Subcommittee on Agenda and Procedure, viz: Hon. Senators Bourget, Croll and O'Leary (*Antigonish-Guysborough*), Messrs. Richard, Bell (*Carleton*), Knowles and Leboe.

At 11.00 a.m., the meeting adjourned to 2.30 p.m. this day.

AFTERNOON SITTING
(3)

The Special Joint Committee of the Senate and the House of Commons on employer-employee relations in the Public Service of Canada met at 2.33 p.m. this day, the Joint Chairmen, the Hon. Senator Bourget and Mr. Richard, presiding.

Members present: Representing the Senate: The Hon. Senators Bourget, Choquette, Fergusson, Hastings, O'Leary (*Antigonish-Guysborough*) (5).

Representing the House of Commons: Mrs. Wadds and Messrs. Bell (*Carleton*), Chatterton, Hymmen, Isabelle, Keays, Knowles, Leboe, McCleave, Orange, Richard, Rinfret, Tardif, Walker (14).

In attendance: Same as at morning sitting, and Mr. E. E. Clarke, Chief Actuary, Insurance Department; Brig. W. J. Lawson, Judge Advocate General, and G/C H. A. McLearn of the Department of National Defence.

The Committee resumed questioning of the witnesses on the subject of Bill C-193 and requested that the representative of the Department of Finance provide a copy of an agreement covering the portability aspect of the Bill (*See Appendix D*) and a list of employer groups who have signed such agreements with the Federal Government (*See Appendix E*).

The meeting adjourned at 4.25 p.m. to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

OTTAWA, Friday, June 17, 1966

The CO-CHAIRMAN (Mr. Richard): Honourable senators and members of the House of Commons, this is our first regular meeting to deal with Bill C-193. As you were advised on Wednesday last, the first witness to appear before us is the Minister of National Revenue, the Honourable E. J. Benson. I will ask him to appear before the committee now to give us a statement in explanation of this bill.

Honourable E. J. Benson, Minister of National Revenue: Gentlemen, first of all, I should like to thank the members of the Senate and the House of Commons who are serving on this committee. You have undertaken a task that will be fairly difficult. This is the first of four bills. It is, however, unrelated to the three other bills you will be considering, because they are bills to institute collective bargaining in the Civil Service, and call for a re-organization of the Civil Service Commission which will become the Public Service Commission, and a re-organization of the Treasury Board.

The bill before you, in respect of your consideration of which there is a time limit, is a bill to adjust the pension plans of the public service so that they may fit in with the Canada Pension Plan. The bill has several other purposes. It deals with the wartime service of military personnel and also the question of the forfeiture of pensions by retired military people when they come to work in the Public Service of Canada.

Mr. Hart Clark and Dr. Davidson are with me today, and, with your pemission, I should like to have them go through the bill with you in detail and clean away matters of interpretation—that is, deal with it clause by clause, or in whichever way the committee decides. It might then be useful if you could reserve any points on which you wish to question me, especially in respect to Government policy, and I will come back to the committee after all the various intricacies of the bill are cleared away. At that time I shall be pleased to talk to you about Government policy on particular matters included in the bill upon which some of you might want to ask questions. Indeed, some matters have already been raised in the House of Commons. At that time I shall be quite prepared to make a statement.

It is my understanding also that you are going to hear representations from retired officers' associations and from some of the civil service associations. If it meets with your approval, I would prefer to come back after you have heard these representations, and then answer questions relating to Government policy.

If this would be permitted, I would like to introduce to you Mr. Hart Clark and Dr. George F. Davidson, who are here. They are both very familiar with the bill. Then we can proceed as you see fit. Perhaps then you could clear up a

good many of the matters included in the bill before you start questioning me on matters of Government policy.

Mr. BELL (*Carleton*): It seems to me that there is one question of public policy on which we should be clear before the minister leaves. I wonder if you would outline to us the factors which induced the Government to decide to integrate the Public Service Superannuation Act, and other acts, and the Canada Pension Plan, rather than to stack it?

Hon. Mr. BENSON: Well, the Civil Service pension in Canada is a pension plan to which civil servants contribute 6½ per cent, and in the case of females 5 per cent. When the matter of the Canada Pension Plan came up the Government was faced with a decision as to whether or not it should be stacked or there should be integration. At that time they consulted the Civil Service national organizations and the Advisory Committee on the Public Service Superannuation Act which includes the staff side and representatives of Government. The decision was made that in view of the relatively high contributions and the fact that the Civil Service pension in Canada is one of the better ones in the western world, employees would rather have a pension integrated then stacked. I know Mr. Knowles, who is here, argues we should not have let them do this, but I think the decision really is an employee decision arrived at after full consultation with employer organizations.

Mr. BELL (*Carleton*): Has any consideration been given to an escalation clause in the public Service Superannuation Act so that it would have a genuine integration of the Canada Pension Plan?

Hon. Mr. BENSON: No. Here we get into a matter of what should happen in pension plans throughout the country. I think the Canada Pension Plan, by attaching somewhat of an escalation factor, has started a precedent in the country. It was a precedent, however, that the Government did not want to follow or feel it should follow in dealing with this pension plan which, as you know, is a funded pension plan for employees of the Government service.

Mr. CHATTERTON: Is the Government giving consideration to other legislation such as the federal Public Service Pension Adjustment Act, as you call it?

Hon. Mr. BENSON: I can only assure you that the problem of all retired civil servants, and indeed of older people in Canada is receiving active Government consideration seriously, and has been for some time. We cannot help but be considering it seriously.

Mr. BELL (*Carleton*): The honourable minister is more encouraging than the Minister of Finance, I am glad to hear.

Hon. Mr. BENSON: If you want an argument in regard to adjusting pension plans after people retire, it is that the Government pension plan is funded like hundreds of other pension plans in the country, in which the amount that people get out of the pension plan is based on their contribution, and there is no automatic escalation built into it.

Mr. CHATTERTON: If you tell us, for instance, that you are considering legislation such as the Public Service Pension Adjustment Act—

Hon. Mr. BENSON: The problem is under constant consideration and review. There are arguments both ways. I think the Minister of Finance has given the

arguments against making adjustments in the Public Service for retired public servants. They contribute so much to a pension plan, and the plan is funded to take care of this responsibility. What they get out is relative to what they put in and is relative to the salaries at the time they make their contributions, and it is the same as pension plans across the country. It is not a problem unique to the Public Service.

Mr. KNOWLES: I do not want to throw cold water on the encouragement that Mr. Bell gets out of the minister's assurance, but I would like to know just what this assurance means. Let me put it this way. When the present Government first came into office we had the assurance of the then Minister of Finance that this matter of adjustment of pensions on retirement would be considered. This built up to where consultations seemed to be taking place, where hopes mounted. Then the point was reached when the answer was pretty firm to the effect that nothing would be done. The Minister of Finance is the one who knows.

Mr. CARON: Mr. Chairman, I wish to raise a point of order. We are not discussing that plan, we are discussing Bill C-193, and I think we should go on with this. It is not the time to discuss what might happen to those who are retired.

Mr. KNOWLES: Mr. Chairman, one can see that if this is a point of order it should have been made 10 minutes ago. We do have a bill to amend a group of superannuation statutes, and some statement on this as to whether or not this is just the usual answer to whether the Government really is going on to a new round of considerations.

The CO-CHAIRMAN (*Mr. Richard*): I think you will agree, Mr. Knowles, that at the present time this committee is not considering pensions of retired civil servants. However, I quite agree that it was a good thing to have a short statement, because the matter has been in everybody's mind. My feeling is that we have received about the only kind of answer we can receive at the present time from the Minister of National Revenue, who is not the Minister of Finance and who cannot speak for Government policy which has not been enunciated yet.

Hon. Mr. BENSON: I would not like anyone to take anything I have said as assurance of anything. What I have said is that we have been looking at these matters; and this is a fact. Documents are prepared which I have been studying in this regard, and I cannot say any more than that it is not an assurance of any kind. There is no change in Government policy. I cannot make a unilateral change in Government policy. I am reviewing the matters, that is all.

Mr. CHATTERTON: If the contention is raised that we cannot discuss a problem of superannuation, I think that is completely wrong, because representatives are appearing before us and I think it is definitely their concern. They have an interest and stake in this.

The CO-CHAIRMAN (*Mr. Richard*): Not in this present bill. Those who are already retired are not affected by this bill.

Mr. CHATTERTON: Well, that is the contention, but these people believe they have a stake.

The CO-CHAIRMAN (*Mr. Richard*): I think they have a stake, not in this bill, but in any legislation. May we make that clear I am sure what the honourable

members would like to know just now is where the Government stands on this, and we can get on with he bill shortly after. I do not think it is necessary to raise any point of order at this time.

Mr. KNOWLES: I do not accept the point of order. Will there be other opportunities? Is Mr. Benson in a position to say whether there could be some other committee opportunity to deal with this problem, and be in order?

Hon. Mr. BENSON: I cannot say that. This bill is to adjust pension plans of those presently employed by the Government. I cannot say more. It is a question raised by many retired public servants. When these questions are raised, the Government has to consider them. I can give no assurances of any kind.

Mr. KNOWLES: Is there any written correspondence concerning the statement that public service groups approved of the principle of integration? I am not doubting the minister's word, but all the letters I get from civil servants on the other side.

Hon. Mr. BENSON: I am told that the Advisory Committee, which consists of people on the staff side and on the Government side, made a recommendation to the Minister of Finance for integration and this was the course followed by the Minister of Finance.

Mr. KNOWLES: When did those discussions take place?

Hon. Mr. BENSON: Dr. Davidson and Mr. Clark are in a better position to answer that.

Mr. KNOWLES: I am trying to find the date when the statement was first made in the house about the pension plan. I think it was November 1964. The principle of this bill is a substantially different interpretation of that statement. Were there no discussions in the meantime or prior to 1964? This ready concurrence mystifies me.

Hon. Mr. BENSON: The recommendations were made in March 1964 to the Minister of Finance, on which this bill was designed.

Mr. KNOWLES: In the last two years, all the protests which have come to us have been otherwise.

Hon. Mr. BENSON: I never heard any protests with regard to integration or stacking. I have not had a single letter personally from the Civil Service with regard to the question.

Mr. KNOWLES: This is strange. I have not had a single letter from civil servants supporting it.

Hon. Mr. BENSON: We have different friends.

Mr. CHATTERTON: Could a statement be prepared on each of the seven other acts which are to be affected by this bill.

Hon. MEMBERS: Agreed.

Mr. KNOWLES: As to procedure, I should like the opinions of Dr. Davidson and Mr. Clark.

Co-Chairman Mr. RICHARD: It would be well to hear from Dr. Davidson and Mr. Clark first.

Dr. George F. Davidson, Secretary, the Treasury Board: Mr. Clark is probably the only person who really understands what is really in this bill. Although I shall be here, I will pass on to him as many questions of detail as I can.

As to procedure, it seems to me that the sooner we consider the bill Part by Part the better. We can become confused by a general presentation. We should concentrate first on the bill as a whole, as set out in opening page of Explanatory Notes. Then we should concentrate on Part I. Clark and I will give cross references wherever necessary to clauses in other acts or to clauses elsewhere in this bill.

I direct your attention to what is stated here to be the four-fold purpose of the bill as a whole. It is to provide for fulfilment of the undertaking given by the Government, at the time of the introduction of the Canada Pension Plan, to implement, to whatever extent possible, the policy of integration between the Canada Pension Plan and the legislation covered by this bill.

The second purpose is to take account of the movement in the direction of portable pensions, which has become a feature of provincial legislation. Quebec, Ontario and Alberta have passed legislation to increase portability of pensions as between industrial and other pension plans. This is to enable the labour force to become even more mobile than in the past, by removing deterrents through lack of portability.

In conformity with the trend established by provincial legislation, the Government is prepared to play its part to convert its legislation to conform to these portability requirements which the provinces are imposing. The third main purpose is to raise the limit on the amount of the supplementary death benefit payable in respect of persons employed in the Public Service and members of the Canadian forces. In the past there has been a limit of $5,000 on the death benefit provision. This sum, by this bill, will be raised to a limit that is approximately equivalent to the salary that the employee is receiving at any given time. Together with the raising of the limit there is a provision to separate the death benefit provisions for members of the armed forces from the death benefit provisions for the members of the Public Service, the reason for this being that the mortality experience in relation to the relatively healthy members of the armed forces is so much more favourable than that of the relatively unhealthy members of the Public Service that the armed forces can be given the advantage of the more favourable rate to which their experience entitles them. For that purpose the death benefit provisions, as they apply to members of the armed forces, will be deleted from the Public Service Superannuation Act and be converted into a separate new Part of the Canadian Forces Superannuation Act.

Finally, there is a grab bag of amendments of different kinds which I think it will be better to deal with as we come to them, because some of these amendments are of a general nature that are being made in the interests of better administration and to clean up a number of leftover problems that have arisen from time to time in the past. These will affect some parts of the legislation and others. There is, for example, something here covering the situation that arose from the fact that the postal workers went out on a work stoppage last year and technically disqualified themselves under the present law

from being able to contribute in respect of the time they were off work and could not count it as pensionable service.

There is a clause in the Canadian Forces Superannuation Act amendments which takes care of the provisions that have been the subject of representations by retired members of the armed forces now employed in the Public Service with respect to deletion of section 17 (2) of the Canadian Forces Superannuation Act.

There are amendments arising from the criticism voiced by the Auditor General on a number of technical points that have arisen in the course of his examination of the public service superannuation accounts from time to time. These can best be dealt with when we come to the consideration section by section of the bill now before us.

The CO-CHAIRMAN (*Mr. Richard*): Mr. Chatterton.

Mr. CHATTERTON: In approaching the whole question of integrating the P.S.S.A. with C.P.P., the P.S.S.A. operates on a funded basis. Was that feature of the P.S.S.A. retained there to proceed primarily with the principle that that feature of P.S.S.A. will be retained? Will there be a different expectancy with regard to demands on P.S.S.A. than before?

Dr. DAVIDSON: The principle of funding is being retained by the Public Service Superannuation Act to exactly the same extent as has been the principle of the legislation before. In extracting, if I may use that expression, the segment of the contributions that relates to the contributions payable under the Canada Pension Plan—in extracting that segment of contributions, we have endeavoured to ensure that the segment of benefits extracted at the same time as benefits could become payable under the Canada Pension Plan balances off exactly against the contributions extracted so that there is no disturbance of the actuarial balance of the P.S.S.A.

The CO-CHAIRMAN (*Mr. Richard*): Mr. Bell.

Mr. BELL (*Carleton*): Could I ask Mr. Clark if he could indicate the impact on the individual civil servant? I think I am correct that no one will be less favourably situated as a result of the integration. Could Mr. Clark tell us under what circumstances civil servants will be more favourably situated so far as future superannuation under the Canada Pension Plan is concerned?

Mr. Hart Clark, Director, Pension and Social Insurance Division, Department of Finance: Mr. Bell, until the Canada Pension Plan benefits become payable to the civil servants who have contributed since the 1st of January of this year there will be no change in the benefits payable under the Public Service Superannuation Act. However once the Canada Pension Plan benefits become payable it would be a probable result that the combination of the benefits of that plan and those payable under this amended plan will be higher than the benefits payable had the P.S.S.A. remained unchanged. The tables which I can distribute whenever it is deemed appropriate will give examples of this, and in the case of career civil servants the effect of the Canada Pension Plan is to give what you might call a maximum gain in this regard for a person who has, say, 10 years to go until retiring at the age of 65. This is an inherent feature of the Canada Pension Plan itself.

Mr. BELL (*Carleton*): It applies to everyone?

Mr. CLARK: That is right, and so the same relative gain that the contributors to the Canada Pension Plan as a whole will have is passed on to a substantial degree in the integrated formula which was recommended to the Government by the advisory committee.

The other factors which are quite relevant come up in the cases of survivor benefits under the two Acts, and they are again in accordance with recommendations of the advisory committee—what you might call duplication of the benefits under the two plans is proposed. There are certain problems which gave rise to this, and the committee recognized these and recommended this approach which the Government decided to adopt. This of course won't be a factor until 1968 when the survivor benefits would first become payable under the Canada Pension Plan.

Again in the field of disability benefits, which under the Canada Pension Plan will become payable in 1970 the same sort of adjustment formula as proposed for ordinary retirement will apply, and the same relative gain could take place in the case of a person retiring for disability.

(*Translation*)

Mr. CARON: Does this bill include a change affecting the prevailing rates employees of Public Works?

Dr. DAVIDSON: Would you please repeat the question?

Mr. CARON: Could this bill change the rates for prevailing rates employees in Public Works.

Dr. DAVIDSON: If you will look at clause two on the second page, the definition is there.

Mr. BOURGET: Section 3(c).

Dr. DAVIDSON: Prevailing rates employees are included.

Mr. CARON: Public Works are included as well?

Dr. DAVIDSON: Yes.

Mr. CARON: Thank you.

(*English*)

Dr. DAVIDSON: Could I just add one very brief word to Mr. Clark's explanation on the previous question, namely, that his description applies to the relationship between employees under the Public Service Superannuation Act and the Canada Pension Plan. The relationship in respect of members of the armed forces is, of course, different.

Mr. BELL (*Carleton*): Mr. Clark spoke of tables which he had. I wonder if they are available, if this is the appropriate time for us to have them.

Mr. CLARK: They are available.

The CO-CHAIRMAN (*Mr. Richard*): Would it be a more appropriate time to distribute them when we know more of what they are about?

Mr. BELL (*Carleton*): He has indicated they do relate precisely to this question.

Mr. CLARK: That is right.

CO-CHAIRMAN (*Mr. Richard*): Then will you have them distributed?

Mr. CLARK: Yes, Mr. Chairman.

Mr. KNOWLES: Mr. Chairman, we seem to have got into a matter of order right away, Mr. Bell's question and the answer relating more or less to the formula of benefits at the beginning of clause 9 of the bill. If that is our plan and we are going to stay with the subject that has been raised I would like to ask Mr. Clark a question following on what he has just said.

I think I understand the formula, in that it provides that a person with 10 years to go does get the maximum marginal benefits. At the end of the 10 years he has the full benefit of 10 years in the Canada Pension Plan and has lost a minimum amount so far as the Public Service Superannuation Act is concerned. Is it not correct that if one carries this forward—and let me go to the extreme—in the case of a person having 35 years to go from any date subsequent to January 1, 1966, at that point there is practically no difference. He will have gained 25 per cent of his maximum pensionable earnings under the Canada Pension Plan, but he will have lost 24½ per cent from his superannuation.

I have two questions. One, am I understanding the way the formula works? My second question is: What is the rationale for a scheme that actually reduces the marginal benefit an employee will get the longer he has been in the service? It is not just that he gets a smaller increment in the succeeding years after the tenth year but actually the total marginal benefit dwindles until it gets down to nothing. Is my understanding correct? And, secondly, what is the rationale?

Mr. CLARK: Yes, Mr. Knowles, you understanding is correct. At, say 30-35 years the result of applying this formula could well be that the civil servant's pension would be the same on the combined basis as the act now provides. I think this relationship could be attributed in part to the contribution basis that was developed under the Canada Pension Plan. As Mr. Benson indicated, one of the basic factors in developing this integration formula was the maintenance of approximately the same overall cost. In other words, the civil servant would continue to pay 6½ and 5 per cent, overall, but a lower effective rate, say, of 4.8 on the first $5,000 initially—

Mr. KNOWLES: On the first $4,400.

Mr. CLARK: That is right, and then the full 6½ per cent on any salary beyond the $5,000. Now, with this diversion of contributions away from the superannuation account, the matter of calculation of what type of benefit could be paid was turned over to our actuarial advisers in the Department of Insurance, and we considered a number of alternatives which they suggested, bearing in mind, as I say, that the overall cost was to be kept within the same limits. This was the end result of their calculations that produced this levelling off, as it were, over that period of time. It depends, of course, on a number of factors as to whether and in how many cases this will happen, but it is a possible result.

Mr. KNOWLES: I appreciate the actuarial calculations that produced these figures, but I do not know whether I have yet made the point I am trying to make in asking for the rationale of this. Most people who come into a pension plan, or who already have a pension plan and come into another pension plan,

reasonably anticipate that the result will be in the end a total pension greater than would have been the case otherwise. How do you sell to the young civil servant going in for 35 years the fact that he is going to be in two plans, but 35 years from now he will get the same pension as he would have got had he only been in the one?

Mr. CLARK: I think, Mr. Knowles, one could have developed such a formula perhaps, where the overall cost would have remained the same but where civil servants, say, retiring in the next 20 years would have had a greater reduction than that provided under this formula.

Mr. KNOWLES: No doubt.

Dr. DAVIDSON: Mr. Knowles, could I suggest to you that what you are putting by way of a question as to rationale is really relating to that portion of the result which is an incidental portion of the basic principles under which integration is being put forward.

Mr. KNOWLES: I agree. I just do not like it.

Dr. DAVIDSON: What is happening, in effect, is that the object which the Government set out to achieve on the basis of the recommendations received from the advisory committee was as complete an integration of the Canada Pension Plan and the Public Service Superannuation Plan as would be possible; and had it been possible to work in strictly actuarial and mathematical terms a complete fit by which the combined contributions would have been exactly the same and the combined benefits exactly the same, this would undoubtedly have been the result which would have been presented for parliamentary approval but, in fact, it did not work out that way and there has resulted what has been described as a degree of "windfall" benefit in the first ten years of the integrated operation of the two plans.

You are asking us to explain the rationale of not perpetuating the "windfall" benefit. I think the greater difficulty is of explaining the rationale of the "windfall" benefit in the first place.

Mr. KNOWLES: We went through all that in another committee.

Dr. DAVIDSON: If you can accept my description of the windfall benefit for the moment, the fact is it is really a feature of the Canada Pension Plan; it is not a feature of the Public Service Superannuation Plan, either in its present or amended form.

Mr. KNOWLES: I recognize that and, unlike some of my friends on the Canada Pension Plan Committee, I did not object to the windfall benefit, and I still do not object.

My point is that in the case of the windfall benefit under the Canada Pension Plan there is not a windfall for those 20 or 30 years down the road, but the absolute amount, at least, is still there for them. However, in the case of the retiring civil servant you take away that absolute amount. You give the windfall for the next ten years, and then you gradually cut it out. This was the complaint of the Great West Life. It did not like the windfall. A man gets it at 55, but the amount of that windfall is there for the 45 year old and the 35 year old.

I know that what we are into here, Mr. Chairman, is a matter of policy—a matter of Government decision. We have before us the experts who have had to translate that Government decision into actual formulas. What I am really objecting to is the policy.

Mr. CHATTERTON: What Mr. Knowles is trying to do is to correct the inequities and anomalies that are inherent in the Canada Pension Plan.

Mr. KNOWLES: Not at all.

Mr. CHATTERTON: The experts, when they appeared before the Canada Pension Plan Committee, said that when you try to integrate the Canada Pension Plan with any other funded plan you run into difficulties. It is just not practical.

Mr. Clark has indicated that the survivor benefits of the Canada Pension Plan will not apply to civil servants as in the case of all Canadians until 1968, except the disability benefit which applies in 1970. A civil servant who retires next year, for instance, gets merely the survivor benefit under the P.S.S.A.

Dr. DAVIDSON: That is right.

Mr. CHATTERTON: The widow of a civil servant who retires in 1968 gets the benefits from both, and I will show you in time where a widow gets a pension greater than her husband's salary My question is: Was it not possible to integrate in such a manner that even though a civil servant who retires next year will get greater survivor benefits from the P.S.S.A. they will be subsequently reduced when the survivor benefits of the C.P.P. are applied, keeping in mind that you have done that, in effect, already in that a civil servant who retires before he becomes eligible for the C.P.P. benefits has strictly a P.S.S.A. pension? That P.S.S.A. pension is adjusted at the time when he becomes eligible for the C.P.P. payment; is not that right?

Mr. CLARK: Yes.

Mr. CHATTERTON: Did you try to do that, or was it found to be impossible?

Mr. CLARK: Mr. Chatterton, the approach in dealing with this aspect was not to improve the basic existing benefit formula under the P.S.S.A. All I can say is that it was not proposed. I guess it is as simple as that.

Mr. CHATTERTON: It was not even considered?

Mr. CLARK: Well, I suppose you could have had the parallel consideration that in ten years from now, say, the maximum gain from the integration formula will take place, and the same approach might then be suggested for any civil servant retiring in those ten years. Why should you not give him a higher benefit than that of the civil servant retiring in 20 years with the same salary experience? This was not the approach that was considered.

Mr. CHATTERTON: I can see that it would be almost impossible from a practical point of view to integrate that feature, but the fact is that the survivor benefits all have a fixed amount in them. For example, the widow's pension is $25 per month plus a percentage, and the orphan's benefit is a fixed percentage, and so on. In view of the fixed benefits of the C.P.P. it seems to me that it would have been possible to amend the survivor benefits of the P.S.S.A. to adjust them for those who do not get both.

Dr. DAVIDSON: Mr. Chatterton, of course, it would be possible, but it would be possible only by increasing the expenditures, and making an additional charge against the Public Service Superannuation Fund, because there would not be anywhere else to charge them. This would, in however a minimal way, upset whatever actuarial balance there is in the—

Mr. CHATTERTON: That would apply if you leave the survivor benefits in the P.S.S.A. as they are, but if, on the other hand, you reduce the outflow from the P.S.S.A. by reducing the survivor benefits once the C.P.P. survivor benefits apply, then you could have equalized demand on the P.S.S.A.

Dr. DAVIDSON: The point is that after 1968 when the survivor benefits of the Canada Pension Plan come into effect it is not intended to reduce the survivor benefit under the P.S.S.A. Therefore, there is no recovery. Unless one were to consider a compensatory reduction in the survivor benefit under the P.S.S.A. after 1968 to pay additional benefits in the two-year period, and thus maintain a balance in the fund, one could not achieve your purpose without increasing the charges on the Public Service Superannuation Fund. Rightly or wrongly, I think the assumption made by those who worked on it that it would not be desirable to shave or reduce the Public Service Superannuation survivor benefits past 1968 for a host of future survivors merely to meet a transitional situation in respect of the years 1966 and 1967. That decision could well have gone another way, but this was the rationale of the particular decision.

Mr. KNOWLES: Would not Dr. Davidson's suggestion have the effect of giving to civil servants between now and 1968 disability benefits from the C.P.P. that other people do not get out of the C.P.P.?

Dr. DAVIDSON: Survivor benefits?

Mr. KNOWLES: Yes. I am concerned with the fact that civil servants keep all the benefits that the Canada Pension Plan was supposed to provide, but are not asking for any special ones.

(*Translation*)

Mr. CARON: Could we come back to clause 6, or can we discuss it elsewhere? I see in clause 6—

Dr. DAVIDSON: What page, Mr. Caron?

Mr. CARON: On page 9 at the bottom in French; in English, I believe it is page 8, sub-paragraph 2. Could we have an explanation on this part covering re-imbursement of a pension paid in error? Can the amount be recouped in a lump sum, or can it be obtained in instalments so as to avoid the retention of the whole salary?

Dr. DAVIDSON: In instalments.

Mr. CARON: How many? In what proportion?

Dr. DAVIDSON: I do not know. That would depend on the amount of his payments.

Mr. CARON: Yes, but is there not a proportion, a percentage?

Dr. DAVIDSON: That depends on the decision of the Minister.

Mr. CARON: The Minister may decide?

Dr. DAVIDSON: Yes.

Mr. CARON: This is not decided by statute—

Dr. DAVIDSON: No.

Mr. CARON: If he has to repay 10 or 15 per cent, or whatever amount he must repay. This will reduce his salary disproportionately.

Dr. DAVIDSON: You mean—

Mr. CARON: Through an error, we have paid out a pension. On one hand, he needed it, kept it, then we ask him to repay. Then, in reimbursing the amount, we ask for a sum, say of 5, 2, 3, 4 or 10 per cent. It is the Minister who decides. There is nothing in the Act that limits the amount by a certain percentage above which the Minister cannot go?

Dr. DAVIDSON: Yes.

Mr. CARON: Do you not think that it would be wise, in an act such as this, to establish a maximum and a minimum?

Dr. DAVIDSON: Mr. Caron, it would be better to cover that aspect in the regulations which the Governor-in-Council may establish.

Mr. CARON: But, that is a bit dangerous.

Dr. DAVIDSON: That's because it's a detail, you see and according to our experience with the other laws, my own personal opinion is that the Minister will not be very harsh in deciding the amount that must be retained from each employee.

Mr. CARON: But this is required of the Minister, who will render the decision?

Dr. DAVIDSON: Oh! Yes.

Mr. CARON: If the Minister is severe by nature, he may be harsh on the person, and if the Minister is mild by nature, he could be soft.

Dr. DAVIDSON: The Minister of Finance has never been very hard.

Mr. CARON: It has happened on occasion—Thank you.

(English)

Mr. KNOWLES: Mr. Chairman, may I come back again to clause 9. There is a point that does concern a great many people in the Public Service to which I think positive assurance should be given. I have in mind Mr. Pennell's statement in November 1964, and a statement by Mr. Bryce before the Canada Pension Plan Committee to the effect that persons who put in a number of years to enable them to retire before age 65 are not affected adversely at all.

If I understand clause 9, this business of reducing the amount of a pension under the Superannuation Act applies only to a person who has reached age 65. In other words, if a person has 35 years service in at age 62 and retires at that point he draws at that point the full pension provided in the Public Service Pension Act.

Mr. CLARK: That is correct.

Mr. KNOWLES: But at this point, if he reaches 65 the percentage reduction set out in here in a year comes into effect, presumably offset by what he will get from the Canada Pension Plan, with the understanding that if it is not the same he can apply for the difference.

Mr. CLARK: That is correct.

Mr. KNOWLES: The point that I think should be explained to the house is that there are a lot of public servants who do not understand it, particularly employees in the Post Office service. They know they have the right to retire at 62, and now they have to go to age 65. I think this should be made clearer to those who are affected.

Mr. TARDIF: If an employee retires before 65, does not that apply to those who are retiring for health reasons?

Dr. DAVIDSON: After the age of 60 you can retire at your own choice or that of your employer.

Mr. CARON: And get the federal pension anyway.

Mr. KNOWLES: In spite of what the experts say, I think it should be on the record, because I think this is the point that causes the greatest amount of misunderstanding and disturbance.

Dr. DAVIDSON: We would be glad to repeat some of your words, but not all of them, Mr. Knowles.

Mr. CHATTERTON: From the answer you have just given, I take it that if a civil servant retires in 1967 he is not eligible for any Canada Pension Plan benefits, but he would have contributed to the Canada Pension Plan. He goes on the P.S.S.A. He is not eligible for C.P.P. because he has not reached the age limit. If he retires next year, having contributed to C.P.P. the pension is strictly a P.S.S.A. pension, but when he arrives at an age at which he is eligible for C.P.P., his P.S.S.A. is changed, is that correct?

Mr. CLARK: That is right. I think Mr. Knowles was dealing with the case when the plan was operating smoothly but subclause (2) of clause 9 on page 13 of the bill, gives this effect.

Mr. KNOWLES: On this question, may I raise one other point? Is it a fact as set out that a person whose combined pensions do not equal what they would have done under the P.S.S.A. must apply for the difference? If so, why is it not automatic?

Mr. CLARK: This really stems from the Canada Pension Plan. The Superannuation Branch has no authority to go and ask the administration of the Canada Pension Plan what pension the man is getting from the Canada Pension Plan. You will recall that in the Canada Pension Plan there were very close restrictions on the dissemination of information on pensions even within the Government service, and therefore it was necessary to have the individual retired civil servant initiate the action for the release of the information from the Canada Pension Plan administration, whereby it could be established that he was receiving—

Mr. KNOWLES: That would place the pensions on the basis of dissemination of information.

Mr. CLARK: If the employee authorized it. His application would contain a statement authorizing the administration of the Canada Pension Plan to release the information.

Mr. KNOWLES: What happens in the case of an employee who does not realize what is happening to him and does not make the application until somebody calls his attention to it a year or so later? I have in mind particularly the phrase at the bottom of page 12 and the top of page 13 of the bill, that it is increased by the amount of the difference effective from such day as determined in accordance with the regulations. Should it not be effective from the day at which the difference to his disadvantage would be effective?

Mr. CLARK: That could well be the day that is fixed in the regulations.

Mr. KNOWLES: Why should we leave that to the regulations, should it not be a matter of right established in the statute? Take the case of a postal worker retired at 62—and it strikes me this could happen in the next little while. He gets his full pension under the Superannuation Act. Three years later he reaches 65 and his superannuation is reduced according to this formula, but this particular postal worker does not work in the meantime. He has had three years of no contributions to the Canada Pension Plan, and he has only one or two years. So the amount of the Canada Pension Plan benefit he gets at 65 will be less than the reduction that will take place in his superannuation. Surely it should be automatic that the cheque that makes up the difference would be effective to the day of reduction?

Mr. CLARK: One factor that I think could be relevant to that point, Mr. Knowles, is that if this retired employee were employed elsewhere, if he left the civil service—this happens particularly in the case of those retired at 60, they find employment elsewhere and they contribute to the Canada Pension Plan. The Canada Pension Plan of course provides that if employment continues beyond 65 up to 70, or even 67, say, that there will be either the complete ineligibility for Canada Pension benefit, or, if he has already started to receive it, there could be a reduction in it. It was, perhaps, the uncertainty as to all the sets of circumstances that would arise under those conditions which led us to suggest a flexible provision, leaving it to the regulations, where you can be sure that the fairest approach would be taken.

Mr. KNOWLES: I think you are making a good case for what I said earlier, the application being necessary. However, with respect, I do not think you are doing so well on this point. It seems to me that entitlement ought to be without question that if this employee at 65 is found then or a year or two later to have been getting a total pension less than he would have got, that after he applies for it the entitlement back to age 65 should be automatic—I mean, it should be as of right, not subject to the vagaries of regulations.

Dr. DAVIDSON: Mr. Chairman, if Mr. Knowles means that the retroactivity of whatever he should be entitled to, taking into account the variety of circumstances Mr. Clark had indicated, or if Mr. Knowles is suggesting that retroactivity should be automatic, I think there would be no quarrel with that. This says that the person would be entitled, as a makeup, to the amount to which he would be entitled under this act if no deduction were made under (1a). But circumstances under which no deduction is being made might include

the circumstance of the man being employed from 62 on and therefore his Canada Pension Plan entitlement is under suspension after age 65.

Would you suggest that, because he is working and his Canada Pension Plan portion is in suspense during the period of his employment, that total amount should be made up to him retroactively?

Mr. KNOWLES: You have made the suggestion. This gets back to the post office workers who have been told, by you and by me, that they suffer no disadvantage. Our post office workers say that if it were not for this arrangement they could get some other job and draw full superannuation but under this arrangement and the circumstances outlined by Dr. Davidson, the superannuation will be reduced at 65. Can you explain that to the post office worker in the light of the assurance that there would be no reduction?

Dr. DAVIDSON: His superannuation is not reduced; his Canada Pension Plan benefit is in suspense.

Mr. KNOWLES: Under this clause, once he reaches 65 it is reduced. On the one hand the formula is such that civil servants do not get full extra benefit of the Canada Pension Plan. That is decided policy and I can only argue about it.

Here is a case where you are nullifying the assurance that no civil servant would be at any disadvantage that he would not have suffered had the C.P.P. not come into effect. You have helped me to build up a case.

Dr. DAVIDSON: I try to be helpful.

Mr. KNOWLES: A post office employee retires at 62, gets another job and works to 70. His superannuation pension is reduced at 65. He then says "You said we would not suffer; if there had not been a C.P.P. I would still be drawing full pension."

Dr. DAVIDSON: The intention is to ensure that a person retiring at 62 will get full public service superannuation benefit without any abatement between 62 and 65, assuming that he has retired. The intention further is that at 65, if he continues to be retired, he suffers an abatement in public service superannuation benefit only equal to the C.P.P. amount that he becomes entitled to at 65, and if there is any greater abatement it has to be made up by this clause here. That right, so far?

Mr. KNOWLES: Yes.

Dr. DAVIDSON: This then provides that if at 65 he is not retired but employed, the amount of the C.P.P. which is suspended under C.P.P. because of his employment at 65 will be made up to him by this clause on page 13.

Mr. KEAYS: Up to the time he gets the C.P.P.

Dr. DAVIDSON: This clause does not go so far as to provide that that will be made up to him.

Mr. CARON: That will affect only those employed by the Government. Outside the Government it does not affect their pension.

Dr. DAVIDSON: It does. If he is working at 65 the C.P.P. provides that his benefit under the C.P.P., to which he would be entitled otherwise, would be suspended.

Mr. CARON: Even if he is working anywhere?

Dr. DAVIDSON: Yes.

Mr. TARDIF: He can stop making contributions?

Dr. DAVIDSON: No. He will continue to make contributions under C.P.P. and build up his eligibility for future benefit when he does retire.

Mr. WALKER: No one shall receive less total benefit from that pension and C.P.P. than he would have received. This is the philosophy of the full act. Is that not so, that nobody shall receive less than whichever pension turns out to be the higher—the C.P.P. or superannuation?

Dr. DAVIDSON: That is when he retires.

Mr. KNOWLES: That would be the philosophy. We are talking about a man who retires at 60 or 62 and suffers a reduction in his pension. The section says there is to be a reduction. It does not say anything about C.P.P. It provides a formula of seven-tenths of a per cent.

There is another section which says that, as a result of this reduction, together with whatever he is getting through C.P.P., if he is not back to the original amount, he can apply for makeup pay.

Now we are told there can be circumstances where he would not get that amount.

So, from 62 to 65 a man is working, drawing full superannuation benefit. From 65 to 68 he is still working and his superannuation is reduced, but he may not get the other.

Mr. CLARK: That particular provision is not dependent on regulation. Subclause (1d) on page 13 says that the guarantee under (1c) does not apply in these circumstances of employment, in effect, after 65. That is not a subject that is left to regulation.

This is another recommendation of the advisory committee which the minister mentioned earlier. This committee felt that, taking two civil servants with similar employment history, one retires completely at 65 and the other continues working, the one who retired completely and who was subject to a reduction in his pension, should not get less from the superannuation account than the other one who continued working. This was the reasoning which led to this recommendation.

It was to give equality between pensioners whose service with the Civil Service had been identical.

Mr. KNOWLES: Are you telling me now that under (1d) a person who, because he is still working, is not drawing C.P.P., is not subject to (1c)?

Mr. CLARK: That is correct.

Mr. KNOWLES: But when we were talking about the setting of the effective date by regulation, you gave the example of a person in this 65 to 70 bracket as a reason for leaving it to regulation.

Mr. CLARK: You could have a situation of some doubt over the application of sections 68 and 69 of the C.P.P., where the relevant date at which application could be given to (1c) was not completely clear.

We can look at this further, in view of your concern. It was partly a drafting difficulty in spelling out the situations that would have to be covered. There were no ulterior motives.

Mr. KNOWLES: That satisfies me if the experts will make sure that the commitment given to persons who have achieved the right to retire on full pension before 65 is not lost.

The CO-CHAIRMAN (*Mr. Richard*): It is now 11 o'clock. Is it the wish of the committee to adjourn so that the members may attend the House of Commons?

Hon. MEMBERS: Agreed.

Senator FERGUSSON: May I ask if the example supplied by Mr. Clark will be part of the printed proceedings or not?

The CO-CHAIRMAN (*Mr. Richard*): It was not intended that it should be but it can be printed as an appendix, and I will accept such a motion.

Senator FERGUSSON: I so move.

Motion agreed to.

The CO-CHAIRMAN (*Mr. Richard*): I suggest we adjourn until 2.30.

The committee adjourned until 2.30 p.m.

AFTERNOON SITTING

The CO-CHAIRMAN (*Mr. Richard*): Order, please. We will now resume the discussion where we left off this morning with Dr. Davidson and Mr. Clark.

Mr. BELL (*Carleton*): Mr. Chairman, when the committee rose this morning we were at what I think is perhaps a critical point of the situation under the provisions of section 9, as they appear on page 13, and I have had some qualms about whether there is not a very genuine problem here.

I understand fully the situation as to the person who retires at age 62 and from age 62 to age 65 is entitled to his full pension under the Public Service Superannuation Act. At age 65 that pension under the Public Service Superannuation Act is reduced by the amount of the Canada Pension, and if he is then employed he does not then receive the Canada Pension payments, of course.

If this were to be started *de novo* for all persons entering the public service as of this point, I could feel this was fully justified. I am wondering whether there is any element of a breach of contract with those who have entered the public service with the act as it has stood up to now, who had every reason to anticipate that at age 65, when in 20 years' time Dr. Davidson goes out at age 65, he would be entitled to be employed again, or figure that he could, and draw a full superannuation. Are we depriving the Dr. Davidsons and the Mr. Clarks of something which was virtually an assurance given by statute to them?

This has, I confess, as I have meditated upon it over the lunch hour, concerned me very much, as to whether this provision ought not to be suspended until such period of time as you get a completely new group of people in the public service.

Dr. DAVIDSON: Mr. Chairman, could I perhaps offer one or two tentative comments which may verge on expressions of opinion?—and I apologize for that, if I stray too far into the opinion area.

In a sense, I suppose you could say—and I am almost afraid to say it with Mr. Knowles here!—that if you want to speak about a breach of contract, what the expectations are of civil servants under the law as it now stands and as he has read it up to now, any change in the Superannuation Act Parliament makes changes the expectations that the individual has under the Superannuation Act, and if that is what we are referring to by "a breach of contract," I suppose one could argue that any legislation that changes any of the conditions of contribution or of benefit is a breach of contract; but Parliament reserves to itself the right to do this.

What this reduces itself to is the fact that the civil servant who entered in years past, at a time the Public Service Superannuation Act was on the statute books in a certain form, understood that he was required to make certain contributions and that he was eligible to receive certain benefits. And the conditions of employment in this regard have, in the life history of most of us in the public service, already changed on a good many occasions.

Mr. BELL (*Carleton*): Yes, but always for the better though, have they not?

Dr. DAVIDSON: Well, I hope so, and I would hope that in this instance also we would be able to agree they were changing for the better as well.

Mr. BELL (*Carleton*): Query!

Dr. DAVIDSON: Although this is a matter of opinion.

The fact is that a civil servant who has been paying at a certain rate of premium—let us say 6½ per cent—towards his old age retirement has always been able to look forward to the expectation that he would be able to receive a benefit on retirement from the public service at a certain level. That is still the case under this legislation. He is still in a position where, upon his retirement from the public service, he is entitled to receive the benefit made up of two elements, the Canada Pension Plan and the Public Service benefit that will be the adjusted benefit under the new legislation if he takes his retirement.

Mr. BELL (*Carleton*): Provided that he stays off the labour market.

Dr. DAVIDSON: Yes, provided that the stays off the labour market and does not obtain other employment. If, however, he chooses to accept further employment he will then forfeit, for the time being, through suspension his entitlement to the Canada Pension Plan portion which is payable, and he will, during the period that he continues to be employed in non-governmental employment, continue to build up his entitlement and improve the amount of the Canada Pension Plan. Then immediately upon his retirement from the labour market he will be able to take up his improved Canada Pension Plan benefit without any adverse effect on the reduced Public Service Superannuation benefit which he had been entitled to draw since he was 65 years of age.

Could I just perhaps give the committee an example to show how this problem presents itself from a slightly different angle? I think Mr. Bell and Mr. Knowles have shown how it looks from one angle. Let us take the case—and I have discussed this privately both with Mr. Bell and Mr. Knowles—of two civil servants who are the same age and who entered the public service on the same day and, if you can imagine it, leave on the same day. Let us say they retire at the age of 62 and that each at that time has 22 years of service to his credit. Because they have drawn the same salary in the last six years of their

employment, they have the same average salary for pension purposes and they are entitled, as a consequence of taking their retirement at age 62, to exactly the same amount of pension. At age 62 these two retired civil servants will draw precisely the same amount of benefit. At age 65, if one of them remains completely retired and does not take employment, his Public Service Superannuation benefit is reduced by a certain amount of dollars representing the Canada Pension Plan benefit to which he is entitled.

His exact counterpart, under the law as it now stands, who has in the meantime entered the labour market, will have exactly the same treatment, as far as the Public Service Superannuation benefit is concerned. It would be reduced at age 65 to exactly the same amount of money the fully retired civil servant was drawing, only in this case the employee's Canada Pension Plan benefit would be suspended until such time as he retired from his non-governmental employment, at which point it would be reinstated at what would then presumably be a somewhat higher level.

From the point of view of the Public Service—and I believe I am correct in stating this was the position taken by the Advisory Committee on the Superannuation Act—the position taken is that these two retired civil servants, who have now exactly the same number of years and the same pension entitlement, are entitled to exactly the same treatment under the Government Employees' Public Service Superannuation Act, and that whatever effect the status of an employed or unemployed person may have so far as the Canada Pension Plan is concerned, it will not result in one of these civil servants being treated more generously than the other civil servant so far as the Public Service Superannuation benefits are concerned.

I think this illustrates the difficulty that we would be in if we were to accept the argument—and this might be employment, incidentally, that could qualify a retired civil servant under the Quebec Pension Plan as well as the Canada Pension Plan—that during the period an individual of 65 years of age and over is employed elsewhere when his Quebec pension or Canada pension benefit is suspended that he should be compensated for this by an additional amount of benefit from the Public Service Superannuation Fund. This would have two effects. It would result, first, in the Public Service Superannuation Fund subsidizing to this extent either the Canada Pension Plan or the Quebec Pension Plan, as the case may be, and, second, it would result in the retired civil servant aged 65 who continued to be employed receiving a larger benefit from the Public Service Superannuation Fund than the same retired civil servant not so employed would receive. We would consider, from our point of view, that this would be less than equitable treatment as between those two civil servants in the circumstances I have described.

Mr. CHATTERTON: Is my understanding correct that this adjustment of the Public Service Superannuation Fund payment will not apply in the years 1967 to 1969 inclusive?

Mr. CLARK: No, it would depend upon the relevant age as provided in subclause (2) on page 13.

Mr. CHATTERTON: Yes, that is what Dr. Davidson has said has been done in respect of these three transitional years.

Mr. CLARK: Except that the two persons in the same position would be treated in the same way. Two 60 year olds would be treated alike, regardless of what they were doing.

Mr. ORANGE: Mr. Chairman, this is an area which in many respects has a limited application because within 35 years this particular problem will disappear. I am wondering if the officials of the department—I know it is probably difficult to do this—have tried to calculate or make an estimate of what the cost or saving to the Canada Pension Plan would be, or what the additional cost to the Public Service Superannuation Fund would be. As I see it, it is a retrograde step for a civil servant in his not being entitled to the full benefits at the age of 65. I am wondering what the cost to the public treasury would be. Is it possible to calculate this?

Dr. DAVIDSON: I would say it is quite impossible to calculate it unless you can tell me how many of these civil servants at age 65 will continue to be employed, and give me at least some details of the general nature of their entitlement under the two schemes.

Mr. ORANGE: But in the calculation under the Canada Pension Plan I assume that there has been a factor calculated into it for people still in the labour force after the age of 65.

Dr. DAVIDSON: I think that that would be true for the population of Canada as a whole, but it cannot be made with respect to the retired civil service population.

Mr. ORANGE: The point here is well taken, and it is one of concern to civil servants who will take some form of employment after they reach the age of 65. This happens from time to time. Surely these people will look upon themselves as being pioneers for taking this at the age of 65. I think that this is a possible area of concern.

Dr. DAVIDSON: Are you asking me to agree with the opinion you have expressed?

Mr. ORANGE: No, I am expressing my own opinion.

Dr. DAVIDSON: Mr. Chairman, the point Mr. Orange is raising now is in the area of actuarial science, with which I am not familiar. It may be that the actuarial experts from the Department of Insurance, who had something to do with the calculations that were made in the context of the Canada Pension Plan, would be able to throw some light on this, but I cannot go beyond saying that I see some very real difficulties unless we have some fairly firm assumptions to go on, so that we may put a price tag on the relief that would result from the Public Service Superannuation Fund because of the provisions of this bill.

Mr. ORANGE: I am wondering if there would be any point in asking the officials of the Department of Insurance. Is that possible?

The CO-CHAIRMAN (*Mr. Richard*): Dr. Davidson advises me that Mr. Clarke of the Insurance Department is present.

Dr. DAVIDSON: Yes, perhaps he could comment on this.

Mr. E. E. Clarke, Chief Actuary, Insurance Department: The only thing I can say in this regard is that we have no statistics at all on which to make such

a calculation. You are talking about the relief for the Public Service Superannuation account from persons being employed after the age of 65 and, therefore, not getting the Canada Pension Plan benefit during such employment.

Mr. ORANGE: Yes.

Mr. CLARKE: I do not think we have any statistics at all that we could use to make such an estimate. We have calculated what the relief to the Public Service Superannuation account is in respect of present contributors from the benefit reductions after age 65, and we have also estimated what benefit would accrue to these same contributors from the Canada Pension Plan. The relief to the Superannuation Account, as I remember it, is of the order of $350 million and this is offset by the contributions that the Public Service Superannuation account will not receive. The benefits that will accrue to the contributors of the Public Service Superannuation plan from the Canada Pension Plan is of the nature of $750 million. The difference between those two figures is the benefit from the combination of the Canada Pension Plan benefit and the Superannuation plan benefit. These figures are in respect of the whole active contributory group at the present time.

M. KNOWLES: Mr. Chairman, I think it is to Dr. Davidson that I should put my question.

The CO-CHAIRMAN (*Mr. Richard*): Yes. Thank you, Mr. Clarke.

Mr. KNOWLES: Mr. Chairman, I would like to say again that I recognize we are discussing in all of this a marginal problem. The percentage of civil servants who will retire before the age 65 and work on until age 70 may not be very large, but I am still concerned about this attitude from the point of view of public relations, because of the kinds of complaints we have been receiving from some of these people. I will come directly to the question I want to put to Dr. Davidson. May I take a moment to make sure that we understand this section correctly. It was said this morning by Mr. Clark quite clearly that subsection (1d) on page 13 makes it clear that subsection (1c) does not apply to people who are not in receipt of Canada Pension Plan benefits between the ages of 65 and 70.

Mr. CLARK: That is correct, with reference to sections 68 and 69 of the Canada Pension Plan?

Mr. KNOWLES: Yes.

Mr. CLARK: That is right.

Mr. KNOWLES: But subsection (1a) and (1b) of section 9(1) do apply to those cases?

Mr. CLARK: That is correct.

Mr. KNOWLES: In other words, we have the picture correctly that these people who retire at age 62 and who are still working after age 65 do take a reduction in their annuities as spelled out in subsection (1a) of section 9(1), and they do not get relief under (1c)?

Mr. CLARK: Subject, of course, to the qualification about which Mr. Chatterton has been concerned, that this applies really from 1970 on.

Mr. KNOWLES: Yes, subsection (2).

Mr. CLARK: That is right.

Mr. KNOWLES: Now may I address my remarks directly to Dr. Davidson. There is no denying that you make a good case for equality of treatment, so far as the public treasury is concerned, between the two employees whom you described. But are you not, the Government of Canada, still in the position of having to explain your answer for this to the same two civil servants? If the Canada Pension Plan had not come into being and we did not have this integration and it was possible for these two civil servants to retire at that same early age, get the same pension, and for one of them to work and the other not, and the one who worked got the benefit of working, maybe for some private company to build up some more pension, but in any case there was no diminution of his superannuation, now that is something to start with—that was there. So the employees concerned say "Look, this is what we have, we are told by the Government there is to be no disadvantage to us as the result of the Canada Pension Plan." Yet plausible though you have made it, there is a change.

Dr. DAVIDSON: I do not know what the specific terms were, Mr. Knowles, of the assurance that the Government gave to the Public Service in terms of the Canada Pension Plan. I would have to talk with Mr. Clark to see if it was stated in quite such unqualified terms as you have indicated. You have said the Government has given the assurance that under no circumstances would any disadvantage arise to any civil servant as a result of the Canada Pension Plan and this integration with this legislation?

Mr. KNOWLES: I think that is a fair presentation of Mr. Pennell's statement in the House of Commons in November 1964, and of Mr. Bryce's statement before the Special Joint Committee.

Dr. DAVIDSON: I think this is true undoubtedly as a statement in so fas as the position of a retired civil servant is concerned who is no longer in the labour market. I doubt very much whether it was ever put in the unqualified terms you have set out.

Mr. KNOWLES: In the light of that, you realize you have a public relations job to do.

Dr. DAVIDSON: Mr. Knowles, perhaps I should reverse our roles, and ask you if there is a problem of justifying to people who are under the Canada Pension Plan. Why does that one person who has worked and paid contributions up to age 65 and retires get his pension, and the person working does not get it until he stops work? This is really the problem here.

Mr. KNOWLES: At least, it is a new piece of legislation and this is a deliberate decision as to what is to be done, whereas now we are changing a previous setup. I think I can defend the Canada Pension Plan on the point you have made, but at any rate, it is at least something new. Here we are—

Dr. DAVIDSON: Here we are giving to retired civil servants exactly the same thing, giving them a reduced benefit—

Mr. KNOWLES: May I interrupt. Here you are starting *de novo*. You have no answer to that argument, but you are starting with two civil servants who knew

they could retire and there would be no diminution of their pension of either pension under the Superannuation Act?

Dr. DAVIDSON: Correct.

Mr. BELL (*Carleton*): Is it not really a vested right which we are now interfering with?

Dr. DAVIDSON: I think this is really a matter of opinion, Mr. Bell, as to whether in this whole rearrangement we are not interfering, if you want to use the expression, with rights that were previously vested in a law passed by the Parliament of Canada. The answer is, surely, that in every change we are making we are interfering with a vested right. Most of the other vested rights are not a subject of argument; this is a subject of argument, and I readily admit it is a matter of judgment as to whether in interference of this particular vested right we are dealing fairly in the circumstances with all those whose interests are affected. But it is no more an interference with a vested right in this instance than all the other interferences with other vested rights written in this whole piece of legislation.

Mr. KNOWLES: In the case of another vested right, namely, the right to retire at age 62, which carried with it the right to draw full pension at that point without having to work until age 65, there has been no change. I mention this, because it is an argument I would like to make, because they come back to me with the same argument: "That is O.K., if we understand it, but this other right that we had before we now lose."

Dr. DAVIDSON: The age 62, of course, is not affected by the advent of the Canada Pension Plan, because eligibility has not started. This is the distinction.

Mr. KNOWLES: To most employees who retire early there is an improvement. They want to know the pension they would have got and more to pick up when they are 65 to offset the deduction. This other group, however, will have to have some White Paper.

Perhaps at this point, Mr. Chairman, I should make a suggestion, that I made on second reading of the bill, that when we are through with all of this and this committee has finished and we return to the Civil Service organization, and so on, the Government should consider producing a White Paper that will answer these questions for the people. Civil servants are so numerous they are almost a public in themselves, and I would hope that a pretty useful White Paper could be prepared at that stage of the game.

Dr. DAVIDSON: I should say on that, Mr. Chairman, and Mr. Knowles, that I would endorse this as being a very worthwhile suggestion. I think I can say to Mr. Knowles that it is the intention of the authorities responsible for the administration of the Public Service Superannuation Act, once we know what you are going to do with the legislation, to produce a bulletin that will highlight for the employees who come under the plans the main points of concern and interest.

I think that we have to wait to prepare that until we know what the legislation is going to be in its final form. I think we shall also benefit from the kinds of discussion taking place here and in the passage of the bill through Parliament, because this will serve to highlight for us as well as others the

sensitive areas of concern in the Public Service, regardless of the change. We will produce something of that kind, I can assure you of that.

Mr. CHATTERTON: Mr. Chairman, we have been provided with examples of integration in P.S.S.A. Can we also have examples of the Armed Forces Act—at least, that one, according to your proposal?

The question I wish to ask is, why was age 65 chosen for the adjustment age? Why not, for instance, age 70? Was it related to the 1.3 calculation?

Mr. CLARK: The calculation was related to age 65, that being the normal age at which the Canada Pension Plan will become available within the next five years. Again through the use of this special provision the approach to this stage is gradual. But it was the fact that, to the majority of persons under C.P.P., would be applicable which led to its choice.

Mr. BELL (*Carleton*): Mr. Chairman, I wonder if it is the sense of the committee that we have perhaps pursued this particular stage as far as we can and that all of us would like to meditate upon it, and perhaps when we come back to this particular section in the committee we may have heard representations from the staff associations. Then we will be in a better position to take a final judgment on a matter which concerns me considerably.

Mr. HYMMEN: If an employee outside the Civil Service, in industry elsewhere, comes to retirement age and receives an income above a certain amount, is his pension deferred also?

Dr. DAVIDSON: It depends on his income from employment.

Mr. HYMMEN: Why should civil servants be treated differently from others?

Mr. KNOWLES: It is income from employment, not income from a pension.

Mr. HYMMEN: Income from employment after retirement age. Mr. Knowles is considered the champion of civil servants; and Mr. Bell and you, Mr. Chairman, (*Co-Chairman Richard*) and others have sizeable numbers of civil servants as constituents. We want to be fair but we have to consider other people.

Mr. ISABELLE: It is unfair to those civil servants who retire at 62.

Mr. KNOWLES: When you produce the White Paper, could you produce a formula which one could understand in 15 minutes? It took an hour to understand this one. This refers to a quantity multiplied by a certain figure, multiplied by 50. It appears that .7 per cent is the same thing. That is in clause 9.

Dr. DAVIDSON: I know what you are looking at. I did not understand it, either.

The CO-CHAIRMAN (*Mr. Richard*): Mr. Bell, on portability.

Mr. BELL (*Carleton*): Could we have a brief outline of the provisions relating to portability?

Mr. CLARK: Perhaps the most important provision is the amendment to section 28 of the act, which deals with the reciprocal transfer agreements with other employers. Hitherto, that has been confined to other governments, includ-

ing provincial and municipal. It has been extended also to universities and to groups of municipal employees.

The amendment to section 28, which is contained in clause 18 of this bill, page 23, will make it possible to have these agreements with any employer of a recognized type. Broadly speaking, what is contemplated and what has been followed in practice, in approving such pension plans in the past, is the qualification of that plan for income tax exemption privileges in relation to contributions.

Whereas today a reciprocal agreement could not be concluded with, for example, the Canadian Pacific Railway, this bill would make it possible. It is the same with any company with a pension plan recognized for these purposes.

The next provision, which may be of more interest to Mr. Knowles than to anyone else, introduces some of the terms contained in the portable pension legislation of Ontario, Quebec and Alberta which Dr. Davidson mentioned earlier.

This is regarded with mixed views. When you hear from the staff associations, you will learn this.

This provision appears in clause 11, page 16. It provides that, after a date to be fixed by the Governor in Council, the pension contributions (after that date) of civil servants will be locked in, if they have more than 10 years of service on ceasing to be employed and are then over the age of 45. This is the basic requirement in the legislation of the three provinces I have mentioned.

It really means reducing from age 60 to age 45 the age at which a person could leave and receive the full return of his contributions.

Other provisions on portability are indirect. There is power to count service under other circumstances than the act originally provided. There is power to deal with a new type of situation into which we will be running as a result of the portable pension legislation in the provinces, namely the locking in of the contributions under an existing private plan in a province. This means that an employee who comes to us from such an employer would be barred from counting his service, unless we had a reciprocal agreement with that employer. It could be that he has a certain fraction of his service to his credit locked-in with that employer's pension plan. An amendment to the act will make it possible to recognize and permit the employee to pick up that fraction of the service which is not locked in the plan of the previous employer.

There are some other small points here and there that can be regarded as improving the portability, but those are the main points.

Mr. BELL (*Carleton*): Would you go back to the original statement on the new definition of approved employer. Assume that Bell Telephone Company becomes an approved employer and I have 20 years service there and decide to enter the Public Service. What happens precisely in those circumstances? Also, may I put it in reverse, if I have had 20 years service with the government of Canada and wish to accept a position with Bell Telephone Company, what happens? How is it handled?

Mr. CLARK: If we had one of these agreements?

Mr. BELL (*Carleton*): Assuming one of these agreements, which I assume is the objective—that in the case of large employers this is what you would be seeking.

Mr. CLARK: Well, the typical agreement of which we now have perhaps in the order of twenty provides that the Government of Canada may pay to the pension plan of that other employer an amount of money out of the superannuation account equal or up to an amount equal to the contributions by the employee, the matching contributions by the Government, and the interest which has become due and credited during the years, provided that the plan to which that employee is transferred would have required an equal amount or equal contributions. If the two are on a par, there is a full transfer of funds and a full recognition of the service under out act, and vice versa. If the two are on a par there will be a transfer of the employer matching contributions and the interest to be paid over to the other superannuation account. If by chance the contribution rate under the other plan is less, then there is provision whereby the share of the excess contributions that the employee has paid into the superannuation account will be returned to him as a return of contributions. If by any chance there is an agreement with another employer where the employee has contributed to a less expensive plan, then in fairness to our own employees he should not get the full credit under our plan for a lesser contribution, but he is given the right to pay the difference and get full credit, or have a reduced credit if he does not wish to pay any additional funds.

Mr. BELL (*Carleton*): You say there are approximately twenty of these agreeements in effect now?

Mr. CLARK: It is in that order. There has been an upsurge in the last two years.

Mr. BELL (*Carleton*): Since these are public property, would there be a copy available for the committee to see?

Mr. CLARK: They all follow one pattern. Perhaps we can arrange to have one available.

Mr. BELL (*Carleton*): If it is a standard form, I would like to have an opportunity to view one. Could it be filed with the Clerk?

Dr. DAVIDSON: There is just one small point on that. I don't know how the other parties regard the confidential nature of these documents. Would you be satisfied if we were to get the consent of the other parties or failing that if we were to give you a copy of a blank form?

Mr. TARDIF: Would it not be easier to get a blank?

Dr. DAVIDSON: We could phone another party who is quite near and seek his consent.

Mr. BELL (*Carleton*): Either alternative would be satisfactory. Perhaps the blank form will be most suitable.

Mr. KNOWLES: May I ask if in all these cases the employee when he retires gets one pension cheque, that is the employee who comes from a private plan to the Canadian Government?

Mr. CLARK: This is our objective. Unfortunately we have not in every instance succeeded in getting the other employer to agree to accept all the service that an employee might have under our act. Incidentally this has necessitated another one of the amendments to this act whereby if the other

employer, and I won't mention names, but if the other employer will not accept the full credit, then the employee can retain a deferred annuity credit under this act for the balance.

Mr. KNOWLES: Are there some cases that work in the other way, where an employer does want to turn over the funds?

Mr. CLARK: We don't put any bars.

Mr. KNOWLES: This is the reason you have to have the lock-in provision, is it not?

Mr. CLARK: That is one consideration, yes, although the two are independent really. You see, a lock-in is really related to the employee who moves to another employer or simply stops work and then he will have a deferred annuity credit here. If he goes under a transfer provision, that is quite independent of the locking-in.

Mr. KNOWLES: That is what I meant; the lock-in is provided where there wasn't a transfer of funds.You have been talking about the provision of the Ontario, Quebec and Alberta legislation. Are you going to give us a preview of what we will get here?

Dr. DAVIDSON: When you talk of Ontario, Quebec and Alberta, you are not talking of the Dominion of Canada.

Mr. CHATTERTON: I am not too clear on the workings of the provision as I see it here. It will occur compulsorily after 10 years?

Mr. CLARK: If a person has 10 years of service. Supposing the Governor in Council picks January 1, 1967 as the date under this clause, and a year later an employee left, and at that time he had 10 years' service, then the contributions he had made during 1967 would be locked in, but not those up to January 1, 1967. There has been a great deal of misunderstanding on that point and I might say we have had far more letters on that point than on the question of co-ordination or integration.

Mr. CHATTERTON: But from that date on all contributions will be locked in?

Mr. CLARK: That is provided he is over 45 at the time.

Mr. CHATTERTON: And has 10 years' service?

Mr. CLARK: Yes.

Mr. CHATTERTON: Until the future date when the federal Government passes a pension portability act, is that right?

Dr. DAVIDSON: On the date fixed by the Governor in Council.

Mr. KNOWLES: In this bill with respect to Government pensions what you are talking about is the regulations regarding private pensions in other organizations? Such as the CPR?

The CO-CHAIRMAN (*Mr. Richard*): Any other questions on the portability feature?

Mr. KNOWLES: When you say you would be reluctant to let us have a contract with other companies, could we have the names of the entities with which agreements have been made?

Mr. CLARK: Certainly, we could supply you with those on Monday.

The CO-CHAIRMANS (*Mr. Richard*): Does that cover the main section which you have picked out of the superannuation act and which is general to all acts?

Mr. BELL (*Carleton*): There is the death benefit on which we should have a little further explanation.

Mr. KNOWLES: Before you get to that, is the provision in section 12 regarding death within one year after marriage an instance of bringing the Public Service Superannuation Act into line with the Canada Pension Plan?

Mr. CLARK: If you read it closely you will see that we did a little improvement on the Canada Pension Plan, but substantially it is the same.

Mr. KNOWLES: Surely it has to be an improvement.

Dr. DAVIDSON: You don't have to be quite as dead under this plan.

The CO-CHAIRMAN (*Mr. Richard*): Are there any other questions on this?

Mr. MCCLEAVE: You can take it with you if you don't go.

The CO-CHAIRMAN (*Mr. Richard*): Does Mr. Clark want to make any other comments on the application of the Public Service Superannuation bill as it affects the armed forces at this time?

Mr. CLARK: No, not in relation to these parts.

The CO-CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. BELL (*Carleton*): Mr. Chairman, I would like to have a general statement from Mr. Clark or Dr. Davidson as to the changes in death benefits so far as the Public Service Superannuation Act is concerned.

Mr. CLARK: Mr. Bell, really the only change of great substance is the removal of the present ceiling of $5,000, so that after this act comes into force it will effectively be either the salary of the employee, if the salary is the multiple of $250, or the multiple of $250 next above the salary. In other words, if an employee's salary were $7,100 it would go up to $7,250, and so on. This, of course, will mean that the contribution which the employee pays at the rate of 40 cents a thousand would go up from $2 to, in that particular case, $2.90.

Mr. CHATTERTON: For the first $5,000?

Dr. DAVIDSON: No, $7,250.

Mr. KNOWLES: There is no change in the 40 cents?

Mr. CLARK: No, not in so far as the civil servants are concerned. This has led to a number of consequential changes, but the principal changes are related to the dropping of the members of the regular forces from this part of the act and providing a separate provision of their own. Once again, there are one or two little anomalies that are being cleared up in relation to automatic coverage on retirement, but this is a remedial provision.

Mr. TARDIF: This provision applies to one who dies while in the service or somebody who dies while on pension?

Mr. CLARK: The increased protection or the higher level of benefit and contribution does not apply to a person who has already retired. However, I should explain—

Mr. KNOWLES: We always forget them.

Mr. CLARK: However, I should explain that the provision under the present act whereby the amount of benefit reduces gradually after age 60 still applies. In other words, it goes down by one-tenth, but it is still subject to the minimum paid-up benefit of $500 which was introduced into the act a few years ago. So, that remains for all persons, but the step-down formula is still the same.

Mr. TARDIF: What happens to the man who pays this additional cost for this additional protection and goes on pension for five years and then dies?

Mr. CLARK: The premiums are in the nature of term insurance, whereby it is for a month at a time that you are providing protection.

Mr. KNOWLES: If you do not die you live!

Mr. CLARK: The paid-up benefit, for which the Government, incidentally, pays in full, is the one that is carried on into the future, no matter how long he lives.

The CO-CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. KNOWLES: Mr. Clark referred to the fact this does not cover people already retired, and I am not going to ring the changes on that now, but I am sure, Mr. Chairman, you were delighted with Mr. Benson's answer to my question this morning in the house that he would not object to our being given terms of reference so we could discuss retired civil servants after we get the rest of this legislation through.

The CO-CHAIRMAN (*Mr. Richard*): That would be a very welcome suggestion.

Mr. BELL (*Carleton*): I would like to pursue one other matter in connection with this section of the bill. It may be Dr. Davidson would feel he should reserve it for the minister, and if he does I will quite understand.

I did express on second reading my concern at the provisions of the bill which substituted "Minister" for "Treasury Board" in every case where the term "Treasury Board" appears in the act. I expressed, I think, on second reading the feeling this was putting entirely into the hands of one minister what previously had been in the hands of Treasury Board, the opportunity to check error. If Dr. Davidson feels free to comment upon it, I would be glad if he did. If not, I would like to have it taken as notice that I do feel a real explanation of this change ought to be given to the committee.

Dr. DAVIDSON: Mr. Bell, could I perhaps not give a full explanation but open up the issue to some extent? I think it is not quite correct to state that in the amendment of the bill in all cases where "Treasury Board" has previously been referred to is substituted therefor "the Minister."

Mr. BELL (*Carleton*): With three exceptions, I think.

Dr. DAVIDSON: What we tried to do was to separate out those places where the Treasury Board reference seemed to have meaning in terms of a policy decision of some kind being required from those instances where it was a question of Treasury Board exercising a discretion with respect to an in-

dividual case. This arises in part, perhaps, out of my own preoccupation with doing what can be done to examine and implement the findings of the Glassco Commission, which, as you know, was quite critical of the fact an excessive number of fairly small decisions required the attention of the Treasury Board —some 16,000 submissions having to be made by departments annually to a committee of, theoretically, six ministers sitting for the purpose of deciding whether or not a pension payable to a surviving common law wife of a civil servant should in fact be paid to the common law wife or to the legal surviving widow, or divided between the two of them. My own conclusion, I must say—and I think I will have to take some of the blame for this—was that where there were decisions of what I thought were an administrative order or that involved discretionary judgment applied to an individual situation—where there were decisions of that kind to be made, it was more appropriate to make them the responsibility of the Minister responsible for the administration of the superannuation legislation; and that Treasury Board should not be required to take the individual decisions that were part and parcel of the day-to-day administration of the act and regulations, and that Treasury Board should be required to take decisions only where matters of more general importance were at issue. This was the principle which led to the substitution of "the Minister" for the "Treasury Board" in certain clauses where the term "Treasury Board" had appeared in the past, and the retention of the reference to the Treasury Board or the Governor in Council in certain other instances.

Mr. BELL (*Carleton*): Was any consideration given to any technique of review in such circumstances, or is the minister's decision to be considered final in each of these cases?

Dr. DAVIDSON: I cannot say truthfully there was consideration given to the establishment of an appeal tribunal in the supervision of the act, no.

Mr. BELL (*Carleton*): Based on some past experience with superannuation cases, I have some very considerable qualms about this. I think it wise that it should be considered in the first instance by a minister, but I think also there is a most salutary effect when it goes to the Treasury Board for review. I fear that you may get a lack of uniformity in administration because of considerable differences in attitude between one minister and another. I feel there is a greater uniformity of administration when you have three or four ministers considering it together in Treasury Board because things are then inclined to even out.

Dr. DAVIDSON: I did not understand your point about three or four different ministers.

Mr. BELL (*Carleton*): The fact that you have three or four different ministers in the Treasury Board who have before them the report of the Treasury Board's staff gives you, in effect, a dual review of the situation. My experience has been that Treasury Board decisions have generally greater uniformity than, perhaps, ministerial decisions standing alone.

Mr. CHATTERTON: Mr. Chairman, I should like to pursue a question that was raised this morning. I have been thinking about it and I am not satisfied with the answer given. I am referring to this whole question of the combined pension under the new formula in relation to the survivor benefits. By 1968 all those

employed in the Civil Service as of January 1 this year will have the benefit of the widow's pension.

Mr. CLARK: Yes, that is right. When you say "all" I point out that there is the provision that they must meet the qualification as to age and dependents. There is an eligible age bracket.

Mr. CHATTERTON: Yes, that is right. Generally speaking, the combined survivor benefits, after they become eligible, of the P.S.S.A. and the Canada Pension Plan are quite substantial. This derives from the fact that the best part of the Canada Pension Plan is the survivor benefit provisions. In your whole approach to this formula in which you arrive at the figure of 1.3 per cent, leaving the survivor benefits under the P.S.S.A. as they are, did you consider, for instance, using a larger percentage? In other words, did you consider generally increasing the pension of all, and generally reducing the survivor benefit of all? They would all still be better off so far as survivor benefit is concerned, except in the few cases you mentioned—those under 35, who have no dependents under the C.P.P. Was this question of generally raising this rate of 1.3 per cent, and reducing the survivor benefits, explored at all?

Mr. CLARK: We did consider a number of alternative approaches, and certainly one of the factors, as I understand it, that Mr. Ted Clarke and his colleagues in the Insurance Department included in their calculations was this very one. It would be better to have Mr. Clarke deal with that, if you wish him to. He knows the relevance of that factor in the overall calculation. But, I do know it was included.

Mr. CHATTERTON: May I ask, through Mr. Clark and the Insurance Department, what percentage of the demand on the fund is attributable under the P.S.S.A. to the survivor benefits of the P.S.S.A. in relation to the pension, for example? Is it a substantial percentage?

Mr. CLARKE: I would say the value of survivors' benefits is about 20 per cent of the value of the contributor's own benefits.

Mr. CHATTERTON: I was thinking, Mr. Chairman, that in integrating an actuarially sound funded plan and a non-funded plan you run into anomalies. To me, the greatest of all anomalies is in the fact that in certain cases a widow gets a pension that is greater than what her husband had been earning. This extreme anomaly makes it ridiculous. Generally, the survivor benefits are greatly improved in the combined plan from what they were before.

Dr. DAVIDSON: I think it is correct to say that you are also going to encounter situations where the combined pensions from all three sources for a retired living person will be greater than the earnings of that individual during his employment.

Mr. CHATTERTON: I did not get that.

Dr. DAVIDSON: It is also true, Mr. Chatterton, that we will encounter cases of where the combined benefits from all three plans—the Canada Pension Plan, the Public Service Superannuation Fund and the Old Age Pension—will be greater than the earnings of the individual while he was employed. These are anomalies that in the matching of two systems as complicated as these are beyond ingenuity to—

Mr. CHATTERTON: I should not complain. I am of the right age.

Dr. DAVIDSON: May I say to Mr. Bell that I will bring the point he has raised to the attention of Mr. Benson so that he will be in a position to comment on it at a later stage.

Mr. BELL (*Carleton*): Thank you, Dr. Davidson.

The CO-CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. KNOWLES: I have two or three sort of pick-up questions, Mr. Chairman. On page 2 of the bill, section 3(1)(ba) seems to provide that from here on civil servants under the age of 18 shall not contribute to the Public Service Superannuation Fund. Does this affect very many people?

Mr. CLARK: No, it affects relatively few, Mr. Knowles. It is only to provide, as the notes indicate, a really complete co-ordination with the Canada Pension Plan under which, as you know, contributions do not commence until that age.

Mr. KNOWLES: This does not apply to any of the under 18 year-olds now working for the Government?

Mr. CLARK: They are excepted from this exception.

Mr. KNOWLES: How many are there?

Mr. CLARK: I have just exchanged glances with a representative of the Superannuation Branch, and I understand that they would not want to hazard a guess.

Mr. KNOWLES: There is a theoretical loss involved here—

Dr. DAVIDSON: We have not got them as young in the civil service as they have in the armed forces, judging from some of the statistics.

Mr. KNOWLES: On page 9, Mr. Chairman, I gather that the section that provides that the minister shall be able to recover annuities paid in error, refers only to the principal amount of such errors? There is no interest collected, is there?

Mr. CLARK: That is right.

Mr. KNOWLES: When we were talking about portability there was one question I should have asked. There cannot be portability, I take it, unless there is a reciprocal agreement between the Government and the other employer. An individual who works for a company that does not want to get into this cannot get his portability either way?

Mr. CLARK: If there is no agreement—well, not exactly. Supposing that we have no agreement with company A and an employee transfers. Under the provisions that have been in the act since 1947 he can elect to contribute for the pensionable service which he gave up on transferring. If it is ten years under the other plan then he can elect to contribute for that.

Mr. KNOWLES: But he has to pay?

Mr. CLARK: That is correct. He has to pay on the double rate basis, but the object of the reciprocal agreement is to get the other employer to transfer his portion.

Mr. KNOWLES: I know of a few cases of where an employee had left such a firm and got his money back, and then sought to obtain coverage here and then

found it was too costly. He might have had ten years service in, but on coming into the civil service he discovered that the money he received would only pay for four or five years.

Dr. DAVIDSON: You will find an interesting example of something approaching this on page 4, under subsection (EA). People have called this an omnibus bill, and I think this is the merry-go-round clause in the omnibus bill. Here is the case of a person who starts as a civil servant and transfers to an approved employer, and his contributions and the employer's contributions go to the fund of the approved employer. Then he leaves that approved employer and goes to another approved employer who has a scheme which is not related to that of the Government. In leaving the approved employer he takes a return of his contributions when he goes to the second outside employer. Then, he comes back into the Government service. This clause makes provision for him to be able to re-establish his period of service by redepositing, in effect, into the Superannuation Fund the value of the contributions which were originally transferred on his behalf to employer No. 2, and which he eventually got in cash by leaving employer No. 3.

Mr. KNOWLES: What about the case of any employee who leaves the Government and goes to a firm with which there is no reciprocal agreement and wants to put his money into that if that company permits it. What are the limitations of leaving his money here for a deferred annuity?

Mr. CLARK: If he has five years service he can leave his money for the annuity credit in the account.

Mr. CHATTERTON: At his option.

Mr. CLARK: Yes. If he had five years service with the Government.

Mr. KNOWLES: But still reciprocal agreements are preferable?

Mr. CLARK: That is correct.

Mr. WALKER: Have you agreements with other municipalities and provinces, and so on, say with provincial crown corporations; or is it necessary to have a reciprocal agreement covered in some other way?

Mr. CLARK: In Alberta we have an agreement with a provincial pension board which is responsible for all the people under a local authorities pension act, I think it is called, in the Province of Alberta.

Mr. KNOWLES: Are the Government ones you are citing now included in the 20 agreements?

Mr. CLARK: The municipal ones are under the present authority, but anything beyond would be under the new authority.

The CO-CHAIRMAN (*Senator Bourget*): Have you such agreements in the Province of Quebec?

Mr. CLARK: No. We could have an agreement with the City of Hull, for example, if that is desirable. We do have an agreement with the Province of Quebec, but not as yet with any of the municipalities.

Mr. WALKER: In other words, you deal directly with municipalities, not just through the provincial government?

Dr. DAVIDSON: The law authorizes us to do that.

Mr. CLARK: We are dealing at the provincial basis where there is a provincial law providing pensions for all the municipal employees. Currently we are dealing with such a board in the Province of Ontario, but negotiations are not complete.

Mr. WALKER: In the case of federal civil servants who are going to a particular area, has there been any attempt to get reciprocal agreements to accommodate them?

Dr. DAVIDSON: I think the consensus of our efforts to enlarge the coverage through reciprocal agreements will be centred very largely in the provinces which now or in the future enact their own portable pension legislation.

Mr. WALKER: Is the department able to take any initiative in connection with federal provincial conferences to have this type of thing on the agenda?

Mr. CLARK: Mr. Chairman, that has been done, yes, on more than one occasion.

Mr. LEBOE: I wonder if any thought has been given to a repository for all these funds so that one cheque would get to the individual in the final anaylsis? Is it not possible that the various cheques could be dealt with through a computer system, or something of that kind?

Mr. CLARK: I might say that both the Ontario and the Quebec legislation, certainly, and the Alberta legislation as well, contemplates this possibility. It has been urged upon all the other provinces, too, at such time as they may bring in such legislation. Whether or not the federal legislation would go that far I do not know, it remains to be seen.

Dr. DAVIDSON: I think it should be pointed out that the provincial authority seems to go on the assumption that they, the provincial government, will have the fund under their direct control in their legislation. I am sorry, Mr. Clark wants to correct me.

Mr. CLARK: No. They did contemplate the possibility of a countrywide fund. It can go either way, but they do not exclude the countrywide approach.

Mr. KNOWLES: Have any other provinces to your knowledge approached this kind of legislation other than the three you have named?

Mr. CLARK: They have all been represented at a series of conferences which we attended as well, and it would be unfair for me to speak about their plans.

Mr. KNOWLES: I have one more question. Comments have been made about the extended coverage effected by the various bills we have had before us. Are we reaching the stage where everybody who works for the Government is under a pension plan?

Mr. CLARK: I understand there is one with a provision up to 10,000 new contributors.

Mr. KNOWLES: Which provision, and who are they?

Mr. CLARK: This is in clause 3(2), where prevailing rate and seasonal employees are brought in automatically after six months, in the case of a prevailing rate, or after a cumulative six months in the case of the seasonal

employee. Previously this was subject to designation by the Treasury Board, and while the period has gradually been lowered and currently has been two years after becoming an employee, before these employees were designated, the designation has not been automatic. It is on the recommendations both of the advisory committee on this act and the Treasury Board prevailing rate advisory committee that this provision for coverage after six months has been proposed.

Mr. CHATTERTON: What percentage of the prevailing rate and seasonal employees have been designated in relation to those who have not been?

Mr. CLARK: Dr. Davidson says there are 40,000 altogether. I understand this would bring in 10,000. If we leave out those still in there for six months or for broken periods, I am not sure how many there would be.

Dr. DAVIDSON: I would say that more than half of the prevailing rate are covered, and that this will cover the additional number Mr. Clark spoke of.

Mr. CHATTERTON: I am not sure about this, but do I understand that those which have not been designated have been contributing at a lesser rate.

Mr. CLARK: At the same rate to the retirement fund.

The CO-CHAIRMAN (*Mr. Richard*): Any other questions?

Mr. BELL (*Carleton*): Can we now go on to the Canadian Forces?

Mr. MCCLEAVE: Mr. Chairman, I was wondering if the provincial acts relating to this are simply on the reciprocal basis, that is, that they will enter into arrangements with other provinces with similar legislation.

Mr. CLARK: They permit transfer arrangements or the deferred annuity, but they do require one or the other in the case of a person over 45 years of age to which I referred.

The CO-CHAIRMAN (*Mr. Richard*): Shall we go on with the amendments, Mr. Clark, with respect to the members of the Canadian Forces?

Mr. CHATTERTON: Mr. Chairman, this morning I asked if examples could be prepared and I did not receive a reply in the affirmative.

The CO-CHAIRMAN (*Mr. Richard*): Some examples have been prepared of the Public Service Superannuation Act, I understand.

Mr. CLARK: The illustrative examples of this morning relate to the Public Service Superannuation Act. You will see that examples are not really too relevant in the case of the Canadian Forces Superannuation Act, when you hear the description from National Defence.

Dr. DAVIDSON: The significance of Mr. Clark's remarks will become apparent later.

The CO-CHAIRMAN (*Mr. Richard*): We now have Brigadier Lawson and Group Captain McLearn of the Department of National Defence.

Brigadier W. J. Lawson, Judge Advocate General, Department of National Defence: I have very little to add. The purpose of the bill is the same purpose in respect to the Canadian Forces Superannuation Act as it is in respect to the Public Service Superannuation Act, that is, to integrate it with the Canada Pension Plan, along much the same lines.

There are some other amendments dealing with minor anomalies in the C.F.S.A. which are included in the bill.

Mr. BELL (*Carleton*): First, in connection with the calculation of the period of service, section 40, page 37, I gather this fully takes care of the anomaly whereby wartime service was not counted at all as service in the regular forces. This will meet the considerable complaints I am sure Brigadier Lawson has had, as I have had.

Brigadier LAWSON: That is true.

Mr. BELL (*Carleton*): In connection with the problem of employment in the Public Service of those who have retired from the armed forces, this is now the problem under section 17(2), which section is being repealed and a new section is being inserted which gives the authority somewhat similar to that which there is in the R.C.M.P. Superannuation Act.

Would Brigadier Lawson outline what is contemplated would be done in this respect, when the authority is available?

Brigadier LAWSON: I am not able to do this. It is a question of Government policy which should be left to the minister.

Dr. DAVIDSON: May I interject, from the back, to suggest that this may be one of the questions which should be reserved for Mr. Benson.

Mr. BELL (*Carleton*): I appreciate it is a matter of Government policy but I have been trying to get the answer since the resolution stage and I am apparently no further than I was then. I want to serve notice now that I do not intend to be taken by surprise with some statement at the very last moment in the deliberations of this committee. I am not making complaint about Brigadier Lawson, because I appreciate this is not within his field of jurisdiction, but I think the minister has to come clean with this committee and not play footsie with us until the very last moment.

Mr. TARDIF: I do not think the minister should be accused of playing footsie.

Mr. BELL (*Carleton*): He was asked on the resolution stage and on the second reading in the House.

The CO-CHAIRMAN (*Mr. Richard*): Let us wait until events show what is happening. The minister has said he will come before us and I will see to it that he remains long enough to answer questions and not to evade, by his absence, the questions you want to put to him.

Mr. CHATTERTON: Could Brigadier Lawson compare integration here with the integration in the P.S.S.A.? There is a formula in the P.S.S.A. whereby the benefits will be calculated by 1.3 per cent up to $5,000. Is there a similar formula?

Group Captain McLearn, Deputy Judge Advocate General, Department of National Defence: In general, the benefits available in the armed forces are different from what they are in the Civil Service, because our contribution is only 6 per cent, as compared with 6½ per cent paid by members of the Civil Service. The differences are not marked. The details can be provided.

Mr. CHATTERTON: Could Mr. Clark tell us what is the simple formula for calculation?

Mr. CLARK: This is a straight offset approach in so far as the members of the forces who are contributing under the Canadian Forces Superannuation Act are concerned. In other words, the full benefit under the present 2 per cent formula for each year of service is payable up until the age when the C.P.P. could become payable, nominally 65 or, on disability, from 1970. At that time the benefits would be reduced by the portion of the C.P.P. benefit which was attributable to the period of contribution while a member of the forces.

In other words, supposing you had a case where the armed forces pension was $7,000 and the pension attributable to his service in the forces under the C.P.P. was $600, the $7,000 would simply be reduced at that stage by $600. The $600 would be payable under the C.P.P., but of course subject to the escalation which that plan provides from that stage on.

Mr. CHATTERTON: So it is simply a reduction of an addition of an equal amount?

Mr. CLARK: That is correct. As Group Captain McLearn indicated, the factors which entered into this, which were responsible for the complete exclusion of the members of the forces from C.P.P. last year, are really the high cost of the plan in relation to the contributions, which in turn arises out of the average low age at which pensions become payable. This was the source of the trouble.

Mr. CHATTERTON; And the survivor benefits under C.F.S.A. remain the same.

Mr. CLARK: The survivor benefit under all these acts is the same, in other words, one on top of the other.

Mr. CHATTERTON: How about those members of the armed forces who retire this year? There is no effect on them at all?

Mr. CLARK: The coming into force section has retroactive effect. The Minister of National Defence requested that this coverage be applied to, I think, all who were members of the forces on the 1st of January.

Mr. CHATTERTON: Are deductions being made now?

Group Captain MCLEARN: We did make deductions, under special authority in the National Defence Act, of the amount that will be required under the C.P.P.

Mr. CHATTERTON: If he retires from the armed forces and is not eligible for C.P.P., he goes on to C.F.S.A.?

Group Captain MCLEARN: That is right.

Mr. CHATTERTON: As soon as he becomes eligible for C.P.P., the adjustment takes place?

Group Captain MCLEARN: Yes.

Mr. CHATTERTON: He receives the pension?

Mr. CLARK: Normally, it would be on obtaining age 65, but at that time he receives the C.P.P.

Mr. CHATTERTON: But it is at such time as he actually receives the Canada Pension Plan?

Mr. CLARK: Yes. That is why we call it an offset approach in that initial year. But in the succeeding years, depending on escalating factors under the Canada Pension Plan, the portion would be subject to automatic escalation.

Mr. CHATTERTON: The deduction would then be equivalent to the increase which by way of escalation would also be deducted?

Mr. CLARK: No. That factor and the additional survivors' benefits would, I think, be the main considerations in doing anything at all on this plan. As you may recall from the parliamentary committee of the Canada Pension Plan at that stage, we had not devised an acceptable approach.

Mr. CHATTERTON: May I ask do the same principles apply to the amendments to the other acts?

Mr. CLARK: This applies also to consideration of the R.C.M.P. Superannuation Act, but different considerations come into the acts mentioned later in the bill

Mr. KNOWLES: One of the main differences between this and the present Public Service Superannuation Act is that the offset is exactly the same amount, but there is no need for any clause that says you get it in the way of a make-up.

Mr. CLARK: There is such a clause—no, I am sorry, you are right.

Mr. KNOWLES: There is no need to apologize. Now, may I ask this? What happens in the case of a retired member of the forces who after his retirement from the forces worked at something else during the course of which he increased his Canada Pension Plan benefit at age 65? How do you calculate what portion of the Canada Pension Plan is deductible from his forces pension?

Mr. CLARK: This provision in each bill is left to the regulations. We had in mind, however, an approach similar to that which is contemplated under the Canada Pension Plan where you have to make such distributions in the case of a person who has been in employment in the Province of Quebec, say, and subsequently in the Province of Ontario. You have to make a split of his pension. The records are set up in such a way that such a determination can be made, and the same sort of approach would be followed here. Mind you, there will have to be some special provision in relation to the drop-out periods, and technical features like that. But that is the general order of the approach.

Mr. KNOWLES: I take it your aim is to see that only that portion of the retired serviceman's pension that was earned in the forces would be deducted?

Mr. CLARK: That's right.

Mr. KNOWLES: There are also some knotty problems posed by a transfer from the Canada to the Quebec Pension Plan. There is also the problem if a man retires at 55—or let us say two men retire at 55, and one man works for 10 years and another works only part of the time—this affects his total Caanda Pension Plan calculation. How do you decide what portion of that Canada Pension Plan that he finally gets is the portion attributable to the time he was in the forces?

Mr. CLARK: This is a case where he does not work anywhere else after he retires?

Mr. KNOWLES: I am making it as difficult as I can for you. I am saying that he retires at 55 and during the next 10 years he works for five years but not for the other five.

Mr. CLARK: But we have exactly the same problem in relation to a person—

Mr. KNOWLES: —who does not work at all.

Mr. CLARK: —who was in Quebec until age 55, and moves to Ontario and works there for the period you have indicated. It is exactly the same situation.

Mr. KNOWLES: But how do you solve it?

Mr. CLARK: There is provision for doing it in the Canada Pension Plan. There is a fair amount of calculating involved and I do not know if you really wish to see the calculations.

Mr. KNOWLES: Maybe we could use some paper on it. I think I understand it. The man who retires at 55 knows from the statute what his forces pension is to be, but he does not know at that point what his Canada Pension Plan is going to be. Whether he works or does not work, the calculation at 65 has to take the entire situation into consideration. You have the problem, but it is no problem to the armed forces man who does not work because there will be an offset.

Mr. CLARK: That is right. I am not denying that there is a problem, and that a formula will have to be developed which should be in accordance with these division principles enunciated in the Canada Pension Plan, and which have to be applied to every individual who has had employment for a time in Quebec and for a time in the rest of Canada. We would, of course, be working in co-operation with the Canada Pension Plan administration on this.

Mr. KNOWLES: It is not unlike the difficulty of making rebates to employers. How do you assess the relative contributions? However I am satisfied if your aim is to deduct from the serviceman's pension only that portion of the Canada Pension Plan which he earned while he was in the forces.

Mr. CLARK: That is right.

Mr. CHATTERTON: A member retires from the armed forces and he gets his C.F.S.A. and then eventually he also gets his Canada Pension Plan adjustment. However that person has his C.F.S.A. and then he goes to work and he earns $900 a year and there is a deduction from his C.F.S.A. accordingly. Do you make it up from the other?

Mr. CLARK: There is a similar provision in the Public Service Superannuation Act and you should consider it in the same light for the same reasons.

Mr. CHATTERTON: But you said that under the Public Service Superannuation Act if you continue to work on you suffer a reduction. My question in this case is after the adjustment takes place and he works and earns $900 a year, over which amount there is a reduction of 50 cents for every dollar earned, do you make this up on his C.F.S.A. pension?

Mr. CLARK: No.

Mr. WALKER: Mr. Chairman, where a man has earned a certain amount from the Canada Pension Plan he has qualified for some Canada Pension Plan payment. Is it only the portion that comes from that plan which is geared to the cost of living?

Mr. CLARK: That is a provision in the Canada Pension Plan. There is no provision for escalation in any of these acts with which we are dealing in this bill.

Mr. BELL (*Carleton*): On the resolution stage and second reading I tried to persuade your minister that he should bring an escalation clause into this bill.

Mr. KNOWLES: There is no loss of the escalation?

Mr. CLARK: No, that is correct.

Mr. LEBOE: When the Canada Pension Plan came up I tried to keep it out of it.

Mr. CHATTERTON: In the case of the armed forces personnel, a member of the armed forces who earns less than $5,000 a year, he does not get the maximum Canada Pension Plan benefit?

Mr. CLARK: No.

Mr. CHATTERTON: Say, while in the armed forces he is moonlighting and brings up his contribution rate to the $5,000, does that affect it?

Mr. CLARK: No.

Mr. CHATTERTON: In other words, this is going to stop moonlighting for those under $5,000 because it would not pay them?

Mr. CLARK: They would get an additional benefit from their moonlighting —that is what you are saying?

Mr. CHATTERTON: Yes.

Mr. CLARK: That is correct.

The CO-CHAIRMAN (*Mr. Richard*): If there are no other questions on that, I would like to ask the members of the committee if they want to conclude this general session or if they have any other questions to ask in relation to any of the other features of the act which are of similar application, as I understand it, as far as the R.C.M.P. and others are concerned.

Mr. CLARK: In the case of the R.C.M.P. it is an identical approach in relation to the Canada Pension Plan. In the case of the other two it is a variation of the approach taken on the earlier one.

Mr. MCCLEAVE: May I suggest that we have copies of the examples given to us under each of the different acts as well as the P.S.S.A.?

Mr. CLARK: Yes, we can arrange that. We have tables available on the Diplomatic Act which could be distributed now, and we will have the others available at the beginning of next week.

The CO-CHAIRMAN (*Mr. Richard*): Is that satisfactory?

Hon. MEMBERS: Agreed.

Mr. BELL (*Carleton*): I think they should be distributed now.

The CO-CHAIRMAN (*Mr. Richard*): Yes, if you have them, we should have them distributed now.

The committee adjourned.

APPENDIX "A"

EXAMPLE OF APPLICATION OF INTEGRATION FORMULA TO AN ILLUSTRATION EXPLAINED TO THE SPECIAL JOINT COMMITTEE OF THE SENATE AND HOUSE OF COMMONS EXAMINING THE CANADA PENSION PLAN

		Mr. C.
(1)	Public Service Superannuation Act average salary (best of 6 years)	6,600
(2)	Maximum CPP benefit salary (average last 3 Y.M.P.E.'s)	7,000
(3)	Service after inception of C.P.P.	19
(4)	Service before inception of C.P.P.	10
(5)	Total service (line 3 plus line 4)	29
(6)	2% formula benefit under present Act[a]	3,828
(7)	1.3% formula benefit[b]	2,950
(8)	C.P.P. pension[c]	1,650
(9)	Combined pension (line 7 plus line 8)	4,600
(10)	Increase in combined pension over 2% formula benefit (line 9 minus line 6)	772
(11)	Line 10 expressed as a percentage of line 6	20.2

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[a] The benefit under this formula is—total years of service × 2% × average salary.

For Mr. C.: 29 years × 2% × $6,000 = $3,828 p.a.

[b] The benefit under this formula is—years of service before inception of C.P.P. × 2% × average salary plus years of service after inception of C.P.P. × 1.3% × average salary not exceeding the maximum C.P.P. benefit salary plus years of service after inception of C.P.P. × 2% × average salary in excess of maximum C.P.P. benefit salary.

For Mr. C.: 10 yrs. × 2% × $6,600 + 19 yrs. × 1.3% × 6,600 = $2,950 p.a.

[c] The maximum C.P.P. benefit in the year of retirement is 25% of the average of the Y.M.P.E. in the year of retirement and the Y.M.P.E.'s for the previous 2 years. Mr. C's Public Service Superannuation Act benefit salary is 6600/7000 of the maximum C.P.P. benefit salary. Hence Mr. C's C.P.P. benefit is assumed to be 6600/7000 of 25% of 7000 or $1,650 p.a. (The actual C.P.P. benefit in this example is $1,621.92 p.a. knowing the full details of the contributor's employment history under the C.P.P.)

APPENDIX "B"

EXAMPLES OF APPLICATION OF INTEGRATION FORMULA

	Mr. A	Mr. B
(1) Final salary	3,600	6,000
(2) Average salary (best 6 years)	3,300	5,500
(3) Service after inception of C.P.P.	20	20
(4) Service before inception of C.P.P.	10	10
(5) Total service (line 3 plus line 4)	30	30
(6) 2% formula benefit under present Act[a]		
—from ages 60 to 64 inclusive	1,980	3,300
—after age 64	1,980	3,300
(7) 1.3% formula benefit[b]		
—from ages 60 to 64 inclusive	1,980	3,300
—after age 64	1,518	2,600
(8) C.P.P. pension at age 65[c]	825	1,250
(9) Combined pension at age 65 (line 7 plus line 8)	2,343	3,850
(10) Increase in combined pension over 2% formula benefit (line 9 minus line 6)	363	550
(11) Line 10 expressed as a percentage of line 6	18.3	16.7

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[a] The benefit under this formula is—total years of service × 2% × average salary.

For Mr. A: 30 yrs. × 2% × $3,300 = $1,980 p.a.
For Mr. B: 30 yrs. × 2% × $5,500 = $3,300 p.a.

[b] The benefit under this formula is—from ages 60 to 64: total years of service × 2% × average salary after age 64: years of service before inception of C.P.P. × 2% × average salary plus years of service after inception of C.P.P. × 1.3% × average salary not exceeding the C.P.P. maximum plus years of service after inception of C.P.P. × 2% × average salary in excess of C.P.P. maximum.

For Mr. A: from ages 60 to 64: 30 yrs. × 2% × $3,300 = $1,980 p.a.
after age 64: 10 yrs. × 2% × $3,300 +
20 yrs. × 1.3% × $3,300 = $1,518 p.a.

For Mr. B: from ages 60 to 64: 30 yrs. × 2% × $5,500 = $3,300 p.a.
after age 64: 10 yrs. × 2% × $5,500 +
20 yrs. × 1.3% × $5,000 (assumed C.P.P. maximum) + 20 yrs. × 2% × $500 = $2,600 p.a.

(c) The C.P.P. benefit is 25% of an average salary (which is assumed to be the average of the best 6 years in this example) not exceeding the C.P.P. maximum (which is assumed to be $5,000 in this example). The C.P.P. benefits payable in these examples would be less if contributions under the C.P.P. were discontinued before the contributor's 65th birthday due, for instance, to retirement from the Public Service without subsequent employment.

For Mr. A: 25% × $3,300 = $ 825 p.a.

For Mr. B: 25% × $5,000 = $1,250 p.a.

APPENDIX "C"

DIPLOMATIC SERVICES (SPECIAL) SUPERANNUATION ACT

Examples of Application of Integration Formula

(Retirement at Age 65)

		Mr. A	*Mr. B*
(1)	Final Salary	10,000	10,000
(2)	Average Salary (last 10 years)	9,000	9,000
(3)	Service after January 1, 1966	10	20
(4)	Service before January 1, 1966	5	5
(5)	Total Service (line 3 plus line 4)	15	25
(6)	Benefit under present Act[a]	5,400	6,300
(7)	Benefit under proposed integration[b]	4,400	4,800
(8)	C.P.P. benefit at age 65[c]	1,250	1,250
(9)	Combined pension at 65[d]	5,650	6,300
(10)	Increase in combined pension $	250	0
	%	4.6	0

[a] The benefit formula under the present Act for,

—Mr. A: $\frac{25}{50} \times$ average salary plus $\frac{1}{50} \times$ average salary $\times$ years of service in excesss of ten or,

$\frac{25}{50} \times \$9{,}000 + \frac{1}{50} \times \$9{,}000 \times 5 = \$5{,}400$ per annum

—Mr. B: $\frac{35}{50} \times$ average salary or $\frac{35}{50} \times \$9{,}000 = \$6{,}300$ per annum

[b] The proposed benefit formula provides for a reduction at age 65 or later of 2% for each of the first ten years of service after January 1, 1966 and 1% for each year in excess of 10, after January 1, 1966, on salary up to the Canada Pension maximum subject to the guarantee that the combined pension will not be less than that presently provided for in the Act for,

—Mr. A: 5400—20% $\times$ \$5,000 = \$4,400

—Mr. B: 6300—30% $\times$ \$5,000 = \$4,800 (See note (d))

[c] The Canada Pension Plan pension is 25% of an average salary not exceeding the C.P.P. maximum (which is assumed to be \$5,000 in this example) for,

—Both Mr. A and Mr. B.—25% $\times$\$5,000 = \$1,250 per annum.

[d] For Mr. A: the sum of line 7 and line 8

For Mr. B: the sum of line 7 and line 8 is only \$6,050 per annum so the guarantee provides for a total pension of \$6,300 per annum. This would have the effect of changing the pension under the Diplomatic Services (Special) Superannuation Act for Mr. B on line 7, shown at \$4,800, to \$5,050 per annum.

APPENDIX "D'

MEMORANDUM OF AGREEMENT DATED
THE 10th DAY OF December A.D. 1962

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA, represented by the Minister of Finance, hereinafter referred to as "the Minister",

OF THE FIRST PART;

AND

LAVAL UNIVERSITY, hereinafter referred to as "the University",

OF THE SECOND PART.

WHEREAS section 28 of the Public Service Superannuation Act, chapter 47 of the Statutes of Canada 1952-53, (hereinafter referred to as "the Act") authorizes the Minister, with the consent of the Governor in Council and in terms approved by the Treasury Board, to enter into an agreement with a "public service employer"; and

WHEREAS the terms of this agreement have been approved by the Treasury Board by Treasury Board Minute T.B. 603439 of November, 15th, 1962, and the consent of the Governor in Council to enter into this agreement has been obtained by Order in Council P.C. 1962-5/1643 of November 22nd, 1962; and

WHEREAS the University is a "public service employer" within the meaning of section 28 of the Act aforesaid; and

WHEREAS the Senate of the University has approved the terms of this agreement and has by resolution authorized the Rector and Bursar of the University to enter into this agreement with Her Majesty in right of Canada.

NOW THEREFORE THIS AGREEMENT WITNESSETH that the parties hereto, in consideration of the covenants and agreements hereinafter contained, covenant and agree with each other as follows:

1. The University will pay or will direct to be paid an amount computed in accordance with clause 2 into the Superannuation Account in respect of an employee who contributes under the University Plan and who,

(*a*) after the 1st day of July, 1960, ceased or ceases to be employed by the University to become employed in the Public Service,

(*b*) became or becomes employed in the Public Service within three months from the time ceased or ceases to be employed by the University,

(*c*) has not received or does not receive any amount as a return of contributions under the University Plan,

(*d*) passes a medical examination as prescribed by the Minister, and

(*e*) executes two documents in the form of Appendix "A" and, within six months of the date of this agreement or within one year of becoming a contributor to the Superannuation Account, whichever is later, delivers one to the University and one to the Minister.

2. The amount which the University will pay or will direct to be paid, pursuant to clause 1, is the lesser of

(*a*) an amount equal to twice the amount which, under the Act, would, in the opinion of the Minister, be required to be paid into the Superannuation Account by the employee to purchase a period of pensionable service under the Act equal to the period of service in respect of which the employee contributed under the University Plan, calculated by the Minister as if the employee had been a contributor under the Act during the said period of service and as if the salary payable to the employee in respect thereof were equal to the salary that was actually paid to him during that period, together with interest at a rate equal to the rate which, in the opinion of the Minister, is or was payable under the Act during the said period of service calculated from the middle of each fiscal year in the said period of service to the date of payment by or on behalf of the University into the Superannuation Account; or

(*b*) an amount equal to the aggregate of amounts that, under the University Plan, would, in the opinion of the University, stand to the credit of the employee under the University Plan for the period of service in respect of which the employee contributed under the University Plan, calculated by the University as if the salary payable to the employee during that period were equal to the salary that was actually paid to him, together with interest at a rate of four per cent per annum, compounded annually, calculated from the middle of each fiscal year in that period to the date of payment by or on behalf of the University into the Superannuation Account.

3. Where the University is required by clause 1 to make a payment or to direct that payment be made into the Superannuation Account, the University shall, subject to clause 5, make the payment or direction within six months from the time it receives from the employee concerned a completed document in the form of Appendix "A".

4. Where, in accordance with clause 3, payment is made into the Superannuation Account in respect of an employee, the period of service in respect of which the employee had been contributing under the University Plan prior to the time he left his employment with the University, may, subject to clause 5, be counted by the employee as pensionable service for the purposes of subsection (1) of section 5 of the Act without further contribution by him, except as provided in this agreement.

5. The service of an employee referred to in clause 4 that may be counted as pensionable service for the purpose of subsection (1) of section 5 of the Act will be determined as follows:

(a) where the amount calculated under paragraph (a) of clause 2 is equal to or is less than the amount calculated under paragraph (b) of that clause, and the appropriate amount is paid into the Superannuation Account, the employee in respect of whom the payment is made may count as pensionable service the period of service in respect of which he contributed under the University Plan, and any excess amount held in respect of the employee and not required to be paid into the Superannuation Account will be dealt with, subject to the University Plan, in accordance with an agreement between the University and the employee; and

(b) where the amount calculated under paragraph (a) of clause 2 is greater than the amount calculated under paragraph (b) of that clause, and the appropriate amount is paid into the Superannuation Account, the employee in respect of whom the payment is made may count as pensionable service only that portion of the period of service in respect of which he contributed under the University Plan that one-half of the amount paid in respect of him will purchase, when applied to that part of his service under the University Plan which is most recent in point of time, calculated by the Minister in accordance with the rate or rates of contribution applying from time to time under the Federal Act in respect of a corresponding period of current service as if

(i) the employee were a contributor under the Federal Act during the said period of service, and

(ii) the salary payable to the employee in respect thereof were equal to the salary that was actually paid to him during that period,

together with interest at a rate equal to the rate which, in the opinion of the Minister, is or was payable under the Federal Act during the said period of service calculated from the middle of each fiscal year in the said period of service to the date of payment by the University into the Superannuation Account.

6. The employee may count all or any part of the remainder of the period of service that he was entitled or eligible to count as service under the University Plan and that may not be counted as pensionable service under paragraph (b) of clause 5 if he elects to pay for it an amount calculated by the Minister as follows:

(a) where the employee within six months from the time he is advised of the extent of the said remainder, so elects, the amount shall be twice an amount calculated in the manner described in paragraph (b) of clause 5, and

(b) where the employee, after the period mentioned in subclause (a), so elects, the amount shall be calculated as if paragraph (j) of subsection (1) of section 6 of the Federal Act applied to the employee.

7. The Minister will, subject to clause 12, pay an amount computed in accordance with clause 8 to the University for pension purposes in respect of a contributor to the Superannuation Account who,

(a) after the 1st day of July, 1960, ceases or ceased to be employed in the Public Service to become employed by the University,

(b) became or becomes employed by the University within three months from the time he ceased or ceases to be employed in the Public Service,

(c) has not received or does not receive any amount as a return of contributions under the Act,

(d) passes a medical examination as prescribed by the University, and

(e) executes two documents in the form of Appendix "B" and, within six months of the date of this agreement or within one year after the first deduction under the University Plan, whichever is later, delivers one to the Minister and one to the University.

8. The amount payable in respect of an employee to whom clause 7 applies shall be equal to the lesser of

(a) an amount equal to the aggregate of the amounts that, under the University Plan, would, in the opinion of the University, be required to be contributed by the employee and by the University under the University Plan in respect of the period of pensionable service to the credit of the employee under the Act (taking into account clause 10), calculated by the University as if deductions had been made from the salary of the employee under the University Plan during the said period of pensionable service and as if the salary payable to the employee during that period were equal to the salary that was actually paid to him or that, under the Act, is or was deemed to have been received by him, whichever is relevant, together with interest at a rate of four per cent per annum compounded annually, calculated from the middle of each fiscal year in the said period of pensionable service to the date of payment by the Minister to the University; or

(b) an amount equal to twice the amount which under the Act, would in the opinion of the Minister, be required to be paid into the Superannuation Account by the employee to purchase a period of pensionable service under the Act equal to the period of pensionable service to the credit of the employee under that Act (taking into account clause 10), calculated by the Minister as if that period of pensionable service were current service and as if the salary payable to the employee during that period were equal to the salary that was actually paid to him or that, under the Act, is or was deemed to have been received by him, whichever is relevant, together with interest at a rate equal to the rate which, in the opinion of the Minister, is or was payable under the Act during the said period of pensionable service, calculated from the middle of each fiscal year in the said period of pensionable service to the date of payment by the Minister to the University.

9. An employee in respect of whom payment in accordance with clause 10 is to be made who

(a) immediately prior to the time he ceased to be employed in the Public Service was making or required to make payments by instalments into the Superannuation Account in respect of a period of prior

service that he was entitled or eligible to count as pensionable service under the Act, and

(b) has not made all the said payments,

shall be deemed to have to his credit a portion only of that period of pensionable service equal to the portion thereof that the actual amount paid by him into the Superannuation Account will purchase calculated by the Minister under the relevant provisions of the Act.

10. Where the Minister is required by clause 7 to make a payment to the University, he shall make the payment within six months from the time when he receives from the employee concerned a completed document in the form of Appendix "B".

11. Where, in accordance with clause 10, payment is made by the Minister to the University in respect of an employee, subject to clauses 9 and 12, the period of service of that employee that at the time he left his employment in the Public Service he was entitled to count as pensionable service for the purposes of the Act may be counted by that employee as a period of service in respect of which contributions have been made under the University Plan without further contribution by him, except as provided in this agreement.

12. The pensionable service of an employee referred to in clause 11 that may be counted as a period of service in respect of which contributions have been made under the University Plan will be determined as follows:

(a) where the amount calculated under paragraph (a) of clause 8 is equal to or is less than the amount calculated under paragraph (b) of that clause, and the appropriate amount is paid by the Minister to the University, the employee in respect of whom the payment is made may count as a period of service in respect of which contributions have been made under the University Plan all the period of pensionable service to his credit under the Act (taking into account clause 9) and any excess amount held in respect of the employee and not required to be paid by the Minister to the University will be dealt with, subject to the Act, in accordance with an agreement between the Minister and the employee; and

(b) where the amount calculated under paragraph (a) of clause 8 is greater than the amount calculated under paragraph (b) of that clause, and the appropriate amount is paid by the Minister to the University, the employee, in respect of whom the payment is made, may count as a period of service in respect of which contributions have been made under the University Plan only that portion of the period of pensionable service to his credit under the Act (taking into account clause 9) that the amount paid in respect of him will purchase calculated in such manner as the University Plan may provide.

13. (1) This agreement may be terminated by either party by notice in writing given to the other party by registered mail at least one year before the date of termination specified in the notice.

(2) Where the agreement is terminated in accordance with subclause (1), such termination shall have effect with respect only to employees who become employed

(*a*) in the Public Service following employment with the University, or

(*b*) with the University following employment in the Public Service on or after the specified date of termination.

(3) Where a notice of termination is given, nothing in subclause (1) shall be deemed to affect the operation of this agreement with respect to employees who become employed

(*a*) in the Public Service following employment with the University, or

(*b*) with the University following employment in the Public Service prior to the specified date of termination and, with respect to such transfers of employment prior to the specified date of termination, all the obligations of the parties to this agreement shall continue as if notice of termination had not been given.

14. This agreement is subject to the Act and to the University Plan.

15. In this agreement,

(*a*) "Act" includes, where relevant, the Civil Service Superannuation Act, chapter 50 of the Revised Statutes of Canada, 1952;

(*b*) "current service" means any period of service that was or that might be counted by an employee as pensionable service under the Act and in respect of which the employee contributed or contributes currently to the Superannuation Account;

(*c*) "employee" includes professor, officer and clerk;

(*d*) "fiscal year" means the period from the 1st day of April in one year to the 31st day of March in the next year;

(*e*) "opinion of the University" means with respect to the expression of any opinion by the University for the purposes of this agreement, the opinion expressed on behalf of the University by the Bursar thereof;

(*f*) "prior service" means any period of service that was counted by an employee as pensionable service under the Act and in respect of which the employee did not contribute currently to the Superannuation Account;

(*g*) "Public Service" means the Public Service as defined in the Act;

(*h*) "Superannuation Account" means the Account referred to in the Act as the Superannuation Account;

(*i*) "University Plan" means the Pension Plan for the employees of the University that came into force on the 1st day of July, 1962 and includes, where relevant, the pension plan for employees of the University in force prior to the 1st day of July, 1962;

(*j*) words importing the masculine gender include the feminine gender; and

(*k*) words in the singular include the plural and words in the plural include the singular.

IN WITNESS WHEREOF the parties hereto have caused this agreement to be signed and sealed on the day and year first above written.

(Sgd) Ruby Meabry
Witness

(Sgd) George Nowlan
Minister of Finance of Canada

LAVAL UNIVERSITY

(Sgd) Jacques St-Laurent
Witness

(Sgd) Msgr. Louis Albert Vachon, P.A.
Rector

(Sgd) Girard Marceau
Witness

(Sgd) Emile Jobidon, ptre
Bursar

APPENDIX "A"

To: Laval University,
Quebec, P.Q.

and

To: The Minister of Finance,
Government of Canada,
Ottawa, Ontario.

I ..... of ..... in the

..... of ..... in the

Province of .....,

(a) hereby request Laval University to make payment or direct that payment be made into the Superannuation Account of the Government of Canada in respect of me in accordance with and pursuant to the agreement entered into on the day of A. D. 196 , between the Government of Canada and Laval University; and

(b) in consideration of the payment referred to in paragraph (a) being made, I hereby release and forever discharge Laval University from all manner of actions, causes of action, suits, debts, accounts, covenants, claims and demands whatsoever which against the said University, I ever had, now have, or which my heirs, executors, administrators or assigns, or any of them, hereafter can, shall or may have for or by reason of any pension, return of contributions or other like benefit that I, or any other person, may be, or at any time become, entitled or eligible to receive because of contributions made by me, or on my behalf, to the pension plan of Laval University or because of my employment with the said University, or both.

Signed and Sealed the day of A.D. 196 , in the presence of

_____

_____

APPENDIX "B"

To: The Minister of Finance,
Government of Canada,
Ottawa, Ontario.

and

To: Laval University,
Quebec, P.Q.

I ..... of ..... in the

..... of ..... in the

Province of .....,

(*a*) hereby request the Minister of Finance of Canada to make payment to Laval University in respect of me in accordance with and pursuant to the agreement entered into on the day A.D. 196 , between the Government of Canada and Laval University; and

(*b*) in consideration of the payment referred to in paragraph (*a*) being made, I hereby release and forever discharge Her Majesty the Queen in right of Canada from all manner of actions, causes of action, suits, debts, accounts, covenants, claims and demands whatsoever which against Her Majesty I ever had, now have or which my heirs, executors, administrators or assigns, or any of them, hereafter can, shall or may have for or by reason of any pension, return of contributions or other like benefit, that I, or any other person, might have been granted or that I or any other person may be, or at any time become, entitled to receive because of contributions made by me, or on my behalf, into the Superannuation Account of the Government of Canada, or because of my employment in the Public Service of Canada, or both.

Signed and Sealed the day of A.D. 196 , in the presence of

_____

_____

APPENDIX "E"

Employers with whom the Minister of Finance has Entered into Reciprocal Transfer Agreements

Employer	*Date of Agreement*
Government of the Province of British Columbia ..	June 24, 1955
Government of the Province of Quebec	March 14, 1962
Government of the Province of Alberta	May 30, 1962
Public Service Pension Board of the Province of Alberta (hospitals, counties, municipalities, cities, etc.)	July 26, 1965
Government of the Province of Saskatchewan	April 27, 1964
Government of the Province of New Brunswick ...	August 31, 1965
Government of the Province of Ontario	May 16, 1966
Bank of Canada	May 21, 1954
Central Mortgage and Housing Corporation	August 3, 1954
Canadian Arsenals Limited (became part of Public Service January 1, 1962)	May 12, 1955
Canadian National Railway Co.	December 31, 1955
Canadian National (West Indies) Steamships Limited	August 8, 1958
City of Ottawa	December 27, 1957
Eldorado Mining and Refining Limited (subsidiaries —Northern Transportation Co. Ltd. and Eldorado Aviation Ltd.)	July 3, 1962
Air Canada	December 14, 1962
McGill University	December 4, 1961
Waterloo Lutheran University (operating Waterloo University College, and Waterloo Lutheran Seminary)	April 17, 1962
Carleton University	July 27, 1962
Laval University	December 10, 1962
Board of Administrators, Alberta Teachers' Retirement Fund	May 2, 1966
University of Waterloo	May 21, 1966

First Session—Twenty-seventh Parliament

1966

PROCEEDINGS OF
THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean-T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 2

Respecting
BILL C-193

An Act to amend the Public Service Superannuation Act, the Canadian Forces Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Superannuation Act, the Diplomatic Service (Special) Superannuation Act, the Intercolonial and Prince Edward Island Railways Employees' Provident Fund Act and the Canadian Corporation for the 1967 World Exhibition Act.

MONDAY, JUNE 20, 1966

WITNESSES:

Mr. Lloyd Walker, President, The Association of Canadian Forces Annuitants; Dr. G. F. Davidson, Secretary of the Treasury Board; Mr. H. D. Clark, Director of Pensions and Social Insurance Division, Department of Finance; Mr. T. F. Gough, President, and Mr. W. Doherty, National Secretary, Civil Service Association of Canada.

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

24549—1

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE PUBLIC SERVICE OF CANADA

Joint Chairmen

The Hon. Senator Maurice Bourget and Mr. Jean-T. Richard

Representing the Senate — *Representing the House of Commons*

Senators

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Croll,
Mr. Davey,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. Hastings,
Mr. O'Leary (*Antigonish-Guysborough*),
Mrs. Quart,
Mr. Roebuck—(12).

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Caron,
Mr. Chatterton,
Mr. Crossman,
Mr. Émard,
Mr. Fairweather,
Mr. Faulkner,
Mr. Hymmen,
Mr. Isabelle,
Mr. Keays,
Mr. Knowles,
Mr. Lachance,
Mr. Leboe,
Mr. Lewis,
Mr. McCleave,
Mr. Munro,
Mr. Orange,
Mr. Ricard,
Mr. Rinfret,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—(24).

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

MONDAY, June 20, 1966.

(4)

The Special Joint Committee of the Senate and the House of Commons on employer-employee relations in the Public Service of Canada met at 10.03 a.m. this day, the Joint Chairman, the Hon. Senator Bourget and Mr. Richard, presiding.

Members present: Representing the Senate: Honourable Senators Bourget, Fergusson, Hastings, O'Leary (*Antigonish-Guysborough*), Quart (5).

Representing the House of Commons: Messrs. Bell (*Carleton*), Caron, Chatterton, Keays, Knowles, Leboe, McCleave, Munro, Orange, Ricard, Richard, Tardif, Walker (13).

In attendance: Mr. Lloyd Walker, President, The Association of Canadian Forces Annuitants; Dr. G. F. Davidson, Secretary of the Treasury Board; Mr. H. D. Clark, Director of Pensions and Social Insurance Division, Department of Finance; Mr. T. F. Gough, President, and Mr. W. Doherty, National Secretary, Civil Service Association of Canada.

The Committee heard a brief on behalf of retired members of the Canadian forces who wish to have present legislation changed so that they may retain their full Service pension while employed in the Public Service.

The questioning of the witnesses concluded on this point, the Committee then heard the brief from the Civil Service Association of Canada and questioned the witnesses thereon.

At 12.20 a.m., the Joint Chairmen adjourned the meeting to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

24549—1½

EVIDENCE

OTTAWA, Monday, June 20, 1966.

The CO-CHAIRMAN (*Mr. Richard*): Order. We have with us this morning Mr. Lloyd Walker, who has representations to make on behalf of the Association of Canadian Forces Annuitants. Mr. Walker, would you like to make a statement to the committee? Perhaps touching on the subject I mentioned to you before, you will explain to the members of the committee how you come into this arena this morning on an amendment to the Superannuation Act as it concerns the Canadian Forces Superannuation Act.

Mr. Lloyd Walker, President, Association of Canadian Forces Annuitants: Mr. Chairman, ladies and gentlemen, if I appear nervous it is because I am. I cannot speak on how we got into this omnibus bill. All I know is that the Government has seen fit to put the amendment to the C.F.S.A. section 17(2) in this bill. I do not think there is any direct connection other than it does affect pension plans.

My presentation this morning is based on principle, and the principle is simply this, that for the last 20 years everybody, all ranks in the Armed Forces have paid 6 per cent of their income into the Canadian Forces Superannuation Act. However, under section 17(2) of the act flight-sergeants and below or staff sergeants and below can work for the federal Government without any restriction. They can earn any salary in the Civil Service of Canada and the Public Service and draw their full pension. However, warrant officers and officers, for some reason which has not been explained to us as yet, have restrictions placed upon the amount of income they can earn while working for the federal Government.

The principle involved as far as we are concerned in it is that we pay the same percentage of our income into the act, into the superannuation account, and therefore we are entitled to exactly no more and no less than everybody else. However, this restriction has in effect forced people of officer status—

Mr. CARON: What do you mean "no more and no less"?

Mr. WALKER: We are asking for no restriction, the same as applies to flight sergeants and below and staff sergeants and below.

Mr. CARON: But you said you were receiving no more or no less.

Mr. WALKER: I started on a principle, and I am staying with it.

Mr. TARDIF: Do you mean you would eliminate the 40 per cent, for example, when they try exams?

Mr. WALKER: No, there is no 40 per cent in trying exams. Now we are into another act; this is another act.

The CO-CHAIRMAN (*Mr. Richard*): Order. I suggest at this time that we would like to get the story first from the witness and then question him.

Mr. WALKER: This service preference is a myth, and I have only learned it to be so since I have been in the Civil Service.

We are asking for no restriction. In other words, we are recommending, and our association was formed for the sole and express purpose of deleting section 17(2). That is the only aim we have.

Now, in our presentations to the Government we have run into no complete answer in support of section 17(2) other than it is on the books. This is the main reason for applying it so far as we have been able to ascertain. I am in an awkward position by not knowing what the minister is recommending in the way of regulation, but the fact that he is recommending regulations indicates that he is doing something less than a complete deletion of section 17(2). So that we feel that the correction will be one of degree and not one of principle.

Under section 17(2) we feel that a man's pension is determined by two main factors. One is the years of service, the other is his ability to progress. Both factors are equally important, in that one man could spend 20 or 25 years in the service and end up a corporal, and another man could spend 25 years and end up Chief of the Air Staff.

Any formula that restricts the incentive to progress says to me that you are placing a premium on mediocrity. I think that it is not in the Public Service interest to emphasize years of service only and I am afraid that formulas which come up, in my talks with Dr. Davidson, years of service seemed to predominate in the discussion. He is more interested in how long you have been in the service than in your ability, your capability to progress while in the service.

If the Civil Service is short, as we are informed they are, of mid-management personnel, any restrictions placed on this level is precluding people joining the Civil Service while they can go to provincial governments, to industry or to any other employment without any loss of pension.

I believe, and our association believes, that the only corrective action that should be taken in this matter is a complete deletion of section 17(2).

This is taken care of in clause 47, in which it says that sections 17(2) and (3) are to be deleted; and our answer to the problem is "period". This is the correct action to take, in our opinion; and we feel that any further regulation is discriminatory.

It is a question of degree as to how discriminatory it is, but if you believe in restriction on people who are putting the same amount of money in, you are applying discrimination to one of them.

Mr. CARON: When you speak of "section", it is the old act?

Mr. WALKER: This is the Canadian Forces Superannuation Act.

Mr. CARON: The old act, not the new act?

Mr. WALKER: Under the one as it is laid before you.

Mr. KNOWLES: I wonder if we could have that clear, that this bill, by clause 47, does repeal subsections (2) and (3) of the old section 17. I gather what the witness is drawing our attention to is that, by clause 51(2) something is put in

its place. Is that something that is to be put in its place the thing that you are concerned with?

Mr. WALKER: That is right, sir.

The CO-CHAIRMAN (*Mr. Richard*): That is what I have been anxious to have the witness explain. We are aware of the fact that sections 17(2) and (3) are to be repealed. We want to know how the bill affects you, on section 51, and I wish you would come to that point.

Mr. WALKER: I would like to get to that, if Mr. Minister has seen fit to let us know what his regulation would be that he proposes. Then I could speak with some authority. At the moment I know nothing more of section 51 than you do. We have not been given his confidence in this matter. Therefore, I cannot surmise what regulation he is going to propose. I was hoping that Mr. Benson would outline this proposal at the opening session of the committee meeting. Therefore, I would be able to speak directly to that regulation as it affects us.

At the moment, I can only say that any proposal violates the principle. By what degree will depend on the proposal that the minister puts forward. I think it would clear the air a great deal if we could have the terms of this regulation at this time.

Mr. BELL (*Carleton*): What is the position in other countries? No doubt, this same situation arises elsewhere, where retired members of the armed forces who are on pension enter the Public Service of that country. Could the witness tell us what the position is in, say, the United States, Great Britain, Australia or any other countries?

Mr. WALKER: Australia, for instance, had 50 per cent restriction up until December 1965, at which time they removed all restrictions. In other words, they had gone through the phase which I am afraid the present Government is now embarking upon, and Australia has found that unsatisfactory, in that they desired the retired people in the Public Service and they removed all restrictions in December 1965.

The American situation is not comparable to ours at all, in that the American serviceman does not contribute to his pension. He, however, is enabled to draw $2,000 without restriction and 50 per cent of his pension, of his further amount of pension. This is without any contribution on his part to his pension fund.

We are paying 6 per cent and we have had a restriction which in many cases represents 100 per cent loss of pension, if you work for the federal Government.

In my own case I lose 100 per cent of my pension. The only reason that many of us, I believe, in our organization are working for the federal Government at this time is that the situation appeared so illogical that we thought that, in this enlightened day, corrective steps were about to be taken. We have heard they were about to be taken, for many years.

Mr. BELL (*Carleton*): What about Britain?

Mr. WALKER: Britain has no restriction, to my knowledge.

Mr. BELL (*Carleton*): And the restriction does not apply, am I correct, when a person is employed by a Crown corporation in Canada?

Mr. WALKER: The Crown corporation situation is ridiculous. Some Crown corporations, right here in Canada, you can work for without any restriction.

The Central Mortgage and Housing Corporation is one. If I were to work for C.M.H.C. I would draw full pension and full salary.

Other Crown corporations have restrictions.

This is something which, again, has been a very awkward situation.

Mr. BELL (*Carleton*): How is the distinction drawn? Is it between proprietary corporations and agency corporations?

Mr. WALKER: I think Dr. Davidson would have to explain that to you. I have heard it. I do not understand it. It is a definition of what is the "Public Service".

Some Crown corporations are classified, apparently, on periodic review, as being in this position, and others are not.

In the National Film Board, you lose your pension: under the C.M.H.C. you get your pension. I myself fail to see the distinction.

Mr. BELL (*Carleton*): I would want to pursue that later with Dr. Davidson.

When I have argued this case with governmental officials, it has been alleged against your point of view, Mr. Walker, that the amount of subsidization of an officer's pension is so large and so beyond the 6 per cent that the present rule should be maintained. I think the figure has been mentioned to me that it is something of the order of 18 or 20 per cent, the extent of subsidization. I am sure that this will be raised by other witnesses and I would like you to try to deal with this as a matter of principle now.

Mr. WALKER: Dr. Davidson is the only source I have had for this argument. We are not in a position, as the Government does not see fit to provide us with a detailed accounting on this fund. We accept Dr. Davidson's word for it and we assume it must be correct.

I do not understand that this enters into your employment in the Civil Service of Canada, in the Public Service, in any way. This is a pension fund to which we contribute and we are assured that if we contribute our 6 per cent the Government is going to put whatever their share of it comes to into the pot at the same time.

Our way of thinking is "I have paid into this fund for 25 years; I assume the Government has put in its part; therefore, there is no cost to the taxpayer of Canada." All we are asking is that the pension we have earned be paid to us, regardless of where we work, and we see no difference between working for the Ontario Government at Toronto—where practically every retired officer is going—or the federal Government in Ottawa. We feel too fine this distinction that the Government insists on applying in this case.

We cannot speak with authority on percentages. However, we do speak with some feeling on principle in this matter.

Mr. Tardif raised a point. Dr. Davidson, I believe, feels that in opposing this matter for many years, as soon as we got interested in helping ourselves in this thing, the name of Dr. Davidson became very prominent in any discussions as to the opposition in the matter.

Dr. Davidson, I firmly believe, feels that he is protecting the Civil Service of Canada from some evil in this matter. Since I have been in the Civil Service, and seen how promotion boards and how recruiting is operating, I do not see the point at all. If a department has an opening, the department or the

personnel branch will decide whether there is somebody capable, within the department, of filling that vacancy; and if there is, there will be a departmental competition and the vacancy will be filled from within the department. If, however, they are short of that type of person or they feel they have not anybody sufficiently qualified to fill it, they will have a Civil Service competition. The Civil Service Commission, in their wisdom, might feel that some other department has personnel that could fill that vacancy; and there will be a competition amongst civil servants.

If, however, they feel there is nobody capable, or if they are particularly short of that category, they will have an open competition, and open competition is the only place that a serviceman has a chance to compete. But he is competing with the man in the street, not with civil servants, because in their wisdom the Civil Service Commission have seen fit to hold open competition because they cannot fill it otherwise.

Now, you raise the point of civil service preference, and this is a very good point, and in saying this I am expressing a personal opinion—I cannot speak for our association on this matter because it is no concern of ours. But my experience on boards is that the first thing a civil service board does is to try to disqualify as many service people as possible because of having it forced down their throats. They may be good people, and they may not be, but the very fact that the man is breathing, if he is alive, he can qualify in certain categories. If he qualifies he gets the job. I am now expressing my own views on the matter, but if you want a department head as a production manager, you do not want to be forced to take an inferior person simply because he has service experience, and therefore you read the fine print in his application and you do everything you can to protect yourself against being forced to take somebody who cannot do the job as well as somebody else.

Mr. TARDIF: That has to be corrected in some way because the members of the civil service claim regularly and repeatedly that they are impartial. The statement you made would lead people to believe that they are not impartial. It is a known fact that there have been repeated representations to elected representatives many times that the members of the armed services have a preference. I have no objection to that. I have no objection to a reasonable adjustment being made in the presentation you are making. You stated a while ago that because you work for the civil service you lose 100 per cent of your pension.

Mr. WALKER: That's right.

Mr. TARDIF: If you don't work for the civil service and if you do work for private industry and if you drew the same salary as a civil servant, and if you drew your pension as well, would not that put you into another income tax bracket?

Mr. WALKER: But this income tax bracket is something the Government is going to give us; in other words they are going to give with one hand and take away with the other. They are going to take a large percentage, say one-third or something like that, away with the other hand. The amount of money involved is much less than some people would have us believe.

Mr. TARDIF: The problem is not as great as it appears on the surface.

Mr. WALKER: Quite the contrary.

Mr. KNOWLES: Nobody would ever take your full pay back by way of income tax.

Mr. TARDIF: I would not agree with that, but most of the labour organizations claim that one of the main qualifications for promotion is the years of service, and you seem to think that the ability to make progress is more important than the years of service. In most cases I would say that years of service plus years of progress would be the deciding factor, but in the army is it not service that counts mainly?

Mr. WALKER: I believe this used to be correct; I believe that merit is now receiving a much greater emphasis than it did previously. It used to be that if you could stay alive and not hit anybody you would come up eventually for promotion on straight years of service. I do not say that is the case today, and I do think that nowadays merit is receiving much greater attention.

Mr. TARDIF: One thing you said was that in most cases the heads of departments are not anxious to get members of the armed forces, and they show preference to people within the department. I think if you read the evidence back you will find that is what you said. I don't think this exists in civil service departments; I don't think anybody has any objection to taking members of the armed forces.

Mr. KNOWLES: Is this subject before the committee?

Mr. TARDIF: That is part of the evidence the witness gave.

The CO-CHAIRMAN (*Mr. Richard*): I hope the answer will be brief because we have covered a subject that would take up a whole day at least and would require quite some time to deal with fully.

Mr. TARDIF: Well then, Mr. Chairman, would it be in order the next time I have questions if I were to submit them to some members of the committee to see if I should ask them?

The CO-CHAIRMAN (*Mr. Richard*): No, but the subject of veterans' preference is not part of the bill.

Mr. TARDIF: It is part of the evidence the witness gave, and as such it becomes part of the record.

The CO-CHAIRMAN (*Mr. Richard*): That is why I allowed you to ask questions on this. I would hope we could close that part of the evidence now.

Mr WALKER: If I may have 10 seconds—there is an implication here that is quite serious. I had no intention of saying that the civil service has any feeling about hiring service people. By that I mean that they are the same whether an individual is in the civil service or in the services or anywhere else. If you are hiring people to do a job, you want to be sure that you can hire the best people available for the money you have to pay. All I wanted to say about service preference, and this is a personal opinion and I prefaced this in that way earlier, that it was not an assocation opinion—but I just wanted to say that the service preference has outlived its usefulness. At this point of time it is no longer the factor it was, and you do not want to take a chance on being forced to take a person who is not as well qualified as others.

Mr. TARDIF: Would you say the armed forces are not better trained today than they used to be 15 or 20 years ago?

Mr. WALKER: Without doubt, sir.

Mr. CHATTERTON: Can you say, Mr. Walker, whether the civil service have taken a stand on this regulation?

Mr. WALKER: No.

Mr. CHATTERTON: Have you sought their support?

Mr. WALKER: Our approach to this whole thing is that this was a National Defence act. This is the Canadian Forces Superannuation Act, and as retired members of the forces our feeling was that our approach was to the Minister of National Defence or the Associate Minister of National Defence because it was their act. It was not a civil service act. We took this approach through National Defence because in our opinion it was a personnel question.

Mr. CHATTERTON: I would preface what I have to say now with the remark that I am not opposed to the repealing of 17 (2). I have heard on many occasions in the dockyards, for example, objections from civil servants that these navy personnel with their fat pensions were taking jobs from others.

Mr. WALKER: I have covered that in my remarks about competition in the civil service. In an open competition, if they do not hire a retired warrant officer or officer, they will hire somebody else and pay the same amount of money and to the officer they will pay the same amount of pension—in other words the Government will pay for the job and for the pension. That is what we are asking—we are asking that the man should not be restricted from taking the job if he is the better man.

Mr. CHATTERTON: Have you any reason to believe that if 17 (2) were repealed these other employers like crown corporations would follow suit?

Mr. WALKER: I cannot speak with any authority, not knowing the proposal. I would assume any proposal on this matter would take that into account.

Mr. CARON: You said a moment ago that when a member of the Armed Forces works for the Government, he loses his pension. That is to say that, over the rank of sergeant, all those who have come on pension and who return to work for the Federal Government because their services are required have their pension suspended as long as they remain in federal service?

Mr. WALKER: If I understand the question correctly, our pension is suspended while we work for the federal Government. We do not lose it to the effect that it disappears; we simply cannot draw it while we are employed by the federal Government.

Mr. CARON: Is it not the same thing for an employee who is on pension at 65 years of age, but is recalled to fulfill some other function in the Government, is not his pension, as for the services, stopped?

Mr. WALKER: There is one major difference in it. It is a major point I omitted, and that is that an armed forces officer or warrant officer is forced to retire. He cannot stay on to age 65, as is the case of the civil servant. At his prescribed age he must retire. This age is from 45 to 55, depending upon rank, and in the majority of the cases of our members the average age is probably at

47-48 years of age. At this point in time most people have families to educate, children to go to school, probably university, and he cannot live on his pension. He has to work for somebody. The Government has paid at this point probably many thousands of dollars in training and experience to train this officer or warrant officer, and because of section 17(2) they are forcing him to find employment in provincial governments or industry or the United States. We feel that because the federal Government has already invested this amount of money in this individual it is in the public interest that he continue to serve in the public service, and if he is going to finish out his normal working life I see no reason why he should not work for the federal public service as well as anybody else.

Mr. CARON: But when these officers go on pension at 48 or 50, shall we say, do they not receive a substantial pension? For example, a captain will probably receive $4,000 or $4,500; a major, probably $6,000; a colonel, probably from $8,000 to $10,000; and a brigadier, from $12,000 to $14,000; which is a rather considerable amount.

Mr. WALKER: As I pointed out, the two major factors affecting the size of pension are years of service and rank upon retirement. This combination could affect his pension drastically in either way. In other words, a particularly brilliant officer who has risen fairly quickly but has come into the service late in life could end up with a pension equivalent, maybe, to a captain because of his lack of years of service. On the other hand, a major or captain who has gone his 35 years would have a larger pension than a more senior officer with only 25 years' service. So it is a combination of both.

I think probably what worries us—and, again, we get back to the principle you are already treating one group of armed forces personnel, flight sergeant and below, in one way and warrant officers and officers in a completely different way, even though our contribution is exactly the same percentage now. A man who is going to qualify for a larger pension has made a much larger contribution to the pension fund, because he is paying 6 per cent of his salary for the length of service. Therefore, he is entitled to a greater return from the pension fund than the more junior person. So, as a matter of principle, if you do not treat them on retirement exactly the same, to me this is discrimination of one group against another, and we see no reason for this discrimination to exist.

Mr. CARON: But, is that not due to the fact that sergeants are in receipt of smaller pensions than senior officers, which explains why the Government has felt that if they should retain their complete pension besides their salary, such salary be smaller because they would not have the qualifications of a captain, a major, a lieutenant-colonel, a colonel or a brigadier?

Mr. WALKER: Our supposition as to why this inequality exists dates back over 20 years, at which time under the old act flight sergeants and below were not allowed to contribute to the pension fund. They made no deduction from their pay and contributed to the pension fund. So that we presume that at that time the act did not include them because they were not paying into the fund and their pension on retirement was, of necessity, quite small. However, officers and warrant officers have always paid their contribution.

When Part V came into the act all ranks were included and from A.C. to air marshal they all paid 6 per cent of their income equally. At that point in

time section 17(2) should have been deleted so that the people were treated from that point on equally. How this inequality has lasted for 20 years, we are not in a position to surmise.

Mr. CARON: So, you feel that senior officers are not fairly dealt with?

Mr. WALKER: We cannot speak for any particular rank. We have all ranks in our association, and I would not presume to single out any particular rank and say that he is fairly or unfairly dealt with. We feel that all ranks who are restricted are unfairly dealt with under the old act that takes one group of people and places no restriction upon them.

Mr. CARON: Even though you are fairly dealt with?

Mr. WALKER: We feel we are unfairly treated as a group. This is the point at which I think there is room for negotiation. We feel that when you start treading on, say, a deputy minister's heels that somebody could have a case for a ceiling, but not a restriction on all ranks above the rank of warrant officer—we feel that this is unjust.

Mr. WALKER, M.P.: Good morning, Mr. Walker! Basically, your case this morning is that you are making a case for equal treatment for all ranks, officers right down to privates, in the armed forces. Is this correct?

Mr. WALKER: Right. This is the only thing I can do at this point of time, not knowing what the proposal is.

Mr. WALKER, M.P.: You are proposing one way of cracking it. Do you say the discrimination would be removed completely rather than if granting your case the present privileges were withdrawn from the warrant officers down?

Some MEMBERS: Oh, oh!

Mr. KNOWLES: Which Mr. Walker is speaking now?

Mr. WALKER: I think you could weaken our case, but I am afraid you would generate a much bigger one.

Mr. WALKER, M.P.: I am not sure, but the point of discrimination has been brought up this morning, and there are two ways of ending it. One is to put everybody in, and the other is to put everybody out. Are you setting any age limit for the time of retirement? Are you setting any age limit at which these restrictions which you wish to have removed will no longer apply? I am talking now about an officer who is taking his pension and going to work for another Government agency. Are you setting an age limit at, say 62 or 65?

Mr. WALKER: At the present time the normal civil service regulations take over, and he would have the option of retiring at 60, and forced retirement at 65.

Mr. WALKER, M.P.: Mr. Caron has asked if you have the pension scale. I am not concerned about the amounts, but the principle of this thing. If a person has paid for and earned a pension—and I do not care what it is—the principle here is that you take your pension with you when you take another job. Mind you, this would put you in a class different from that of members of Parliament and recipients under the Canada Pension Plan when it comes into effect based on the age of 65, who may wish to do the same thing within the Government service.

Mr. WALKER: Do you mean we would as a class, by age or income—what are you referring to?

Mr. WALKER, M.P.: I am referring to those who receive a pension and take on other employment in the Government service.

Mr. WALKER: That is right. I know of no other employment in the public service that forces you to retire at 45 or 47 years of age. This is the nub, I think. If we were working and completing our 35 years of work to the age of 55 or even 60 I do not think there would be too many interested in further employment. But, this is cutting you off in your prime, and it forces you to seek other employment.

Mr. KNOWLES: Mr. Walker, the comments you have just made prompt me to say that I was forced to retire at the age of 50, and I went on full pension during the four years of that enforced retirement. When I decided to run again in the next election I had to make a choice between staying out on a higher salary and on a pension, or giving up the pension and coming back here at a lower salary. However, it was a choice I made. I did not intend to get into this kind of argument, but the two Mr. Walkers produced it.

Mr. WALKER: If your party was the only to which this applied—if all the other parties did not face the same conditions in respect to retirement—would you not feel that you had a justified complaint? Would you not feel that you had been discriminated against if it applied only to the N.D.P.?

Mr. KNOWLES: If it applied to only the New Democrats and not the Liberals?

Mr. WALKER: Yes. This applies only to warrant officers and above.

Mr. KNOWLES: May I ask the question the other way around? Are there any other groups who can work in the federal Civil Service and draw such pensions as they have earned other than the lower ranks about which we are talking?

Mr. WALKER: We can work in some Crown corporations as presently constituted. We can work for Central Mortgage and Housing, and draw our whole pension. The names of some of the other Crown corporations escape me at the moment, but there are several several others that we can work for and still draw full pension.

Mr. KNOWLES: Mr. Bell has prompted me to ask you about the R.C.M.P.?

Mr. WALKER: We are not too conversant with the R.C.M.P. regulations, but I believe that the R.C.M.P. regulations are very similar to the armed forces regulations.

Mr. KNOWLES: Mr. Chairman, when I put up my hand to catch your eye I did not intend to question Mr. Walker. However, I wonder if our procedure is such that we can now hear from Dr. Davidson on this point, with the possibility of having Mr. Walker back again? I do not want to set up a running debate between Dr. Davidson and Mr. Walker, but—

Dr. George F. Davidson, Secretary, Treasury Board: I demand equal time.

The CO-CHAIRMAN (*Mr. Richard*): Mr. Tardif has a question.

(*Translation*)

Mr. TARDIF: What I would like to know, Mr. Chairman, is whether the Federal Government contributes the same amount to the Armed Forces' Pension Fund than members of the Armed Forces themselves? For example, members of the Armed Forces contribute 6 per cent of their pay to their pension fund. Does the Federal Government contribute the same amount, more or less?

The JOINT-CHAIRMAN (*Senator Bourget*): Than for the civil servants?

Mr. TARDIF: No. For example, for the people who are members of the Armed Forces contribute. What is the Federal Government's contribution in respect of the same pensions for the same people?

(*English*)

Mr. WALKER: I have no knowledge in this area.

(*Translation*)

Mr. TARDIF: Mr. Chairman, Mr. Davidson might possibly answer that.

The CO-CHAIRMAN (*Mr. Richard*): Yes, I am waiting until other members are through with Mr. Walker.

(*English*)

Mr. KNOWLES: I would like to commend Mr. Walker for having stated his case very clearly. As we always do, we have tried to confuse him but he has stated the principle clearly. Perhaps we might have Dr. Davidson now say something on that principle.

The CO-CHAIRMAN (*Mr. Richard*): Has any other member a question to put to the witness?

Mr. WALKER, M.P.: Mr. Walker, would you prefer to have what you are seeking in the legislation rather than having it accomplished by regulation? Is this your—

Mr. WALKER: Our approach to this basically is that the section of the act should be deleted, period. This is our aim. Now, if the Government in its wisdom insists in regulation then I would think, from my experience over past years, that to have it in the form of a regulation is preferable in that any further negotiations on the matter would not die at this point, and it would be easier to amend if it were a regulation rather than a statute.

Mr. WALKER, M.P.: But you would feel happier if you knew now what the regulation was?

Mr. WALKER: Yes, I would.

Mr. BELL (*Carleton*): Perhaps the Minister of National Revenue could tell us.

Mr. CHATTERTON: Mr. Walker, do you have any idea of the number of ex-forces personnel who are now working for the Government?

Mr. WALKER: We are not able to obtain any accurate information on this point. We have been operating largely locally. We have had contact with both the east and west coasts where there are other fairly large groups, but Ottawa represents the largest group, which is estimated at 600 or 700 people. This is a

small number, and this adds to the aggravation. I think this raise of approximately $3,000 that the pilots received has probably drastically reduced the number affected.

The CO-CHAIRMAN: (*Mr. Richard*): We shall now call on Dr. Davidson.

Mr. CHATTERTON: Dr. Davidson, is the Armed Forces Pension plan established on an actuarial funded basis?

Dr. DAVIDSON: It is based on actuarial principles, on the same basis as the other funds.

Mr. CHATTERTON: I ask that question for a reason. What is the effect of this integration of the Canada Pension Plan with the Canadian Forces Superannuation Plan? What is the effect of that on the fund?

Dr. DAVIDSON: If my understanding is correct, Mr. Chatterton, it really has no effect. There is a complete offset.

Mr. CHATTERTON: My next question is: Can you tell us what the effect of the complete repeal of section 17(2), would be on this fund, assuming there will be considerably more of these pensioners employed by the federal government?

Dr. DAVIDSON: If one were to base one's estimates on the numbers who are now in the Public Service and affected, the amounts would not be very great. Of course, it is quite impossible to estimate what the effect would be of complete removal of section 17(2) on the tendency of retiring members of the Armed Forces to enter the Public Service.

Mr. CHATTERTON: You do not anticipate that it will completely upset the balance or the position of the fund?

Dr. DAVIDSON: I couldn't answer that question. It would depend entirely, I say, on the numbers who would as a result of the removal of the present restrictions decide to enter the Civil Service.

It might be helpful if I put some of the figures on the record as to the numbers in the Public Service. I have here a statement which was given us in March of this year from the Department of National Defence, which sets out the following: that the number of officers entitled to pensions from the services who are presently serving in the Public Service is 587. The number of chief petty officers and warrant officers is 306, as given by these figures, making a total of 893. Of these, 309 officers and 161 chief petty officers and warrant officers, or a total of 470, are suffering some abatement of their pension entitlement because of their service in the Public Service.

In the case of 70 officers and 14 chief petty officers and warrant officers, or a total of 84, the result is a complete suspension of their pension as of the date of reporting, leaving a total of 208 officers and 131 chief petty officers and warrant officers, or a total of 339 whose pensions are unaffected by the present provision in the legislation.

This gives the members of the committee some idea as to the actual dimensions of the present problem in so far as those in the Public Service at the present time are concerned. It does not throw any light upon the extent to which the present provisions have in fact resulted in men of these ranks deciding to go elsewhere rather than to enter the Public Service upon retirement.

Mr. CHATTERTON: You say in the case of 84 there was complete suspension?

Dr. DAVIDSON: Yes.

Mr. CHATTERTON: But in the remainder none was affected at all. Were there not some only partially affected?

Dr. DAVIDSON: I gave you the figure first of 309 officers and 161 chief petty officers and warrant officers, or a total of 470 who suffered a partial abatement.

Mr. CHATTERTON: I am sorry.

Mr. TARDIF: Mr. Chairman, could we now have an answer to my question, that is what is the Federal Government's contribution to the Armed Services' Pension Fund as compared to that of the member of the forces himself?

Dr. DAVIDSON: The question can be broken down into three parts, Mr. Chatterton. My understanding is that so far as the members of the Armed Forces, other than those of officer rank, are concerned, the contribution that the Government makes is of the order of $1.4 to every one dollar for those below the rank of officer.

May I start over again? Mr. Clark tells me that the contribution is of the order of 10 per cent for the employer against 6 per cent for the employee.

Mr. CHATTERTON: For what ranks?

Mr. TARDIF: Is that for the people that are below?

Dr. DAVIDSON: The rate of contribution is of the order of 6 per cent for all personnel of the Armed Forces and the order of 10 per cent for the employer.

Mr. BELL (*Carleton*): Is that across the board?

Dr. DAVIDSON: I am trying to get the information on the record. First of all, that is the technical position. If I understand Mr. Clark correctly, the contribution by all personnel is of the order of 6 per cent. The contribution of the employer is 10 per cent. However, this does not take into account the additional contributions that the employer has to make from time to time with salary revisions to make up the actuarial deficits of the fund whenever salary adjustments are made.

Having said that, may I come to the second part of the point? This has to do with the ages of retirement, because the ages of retirement of the men of officer status are on the whole, if I understand correctly, lower than for the other ranks. The effect of this is that in terms of the drawings on the fund it costs the employer $4 for every $1 of contribution by the officer personnel to finance the cost of pensions to those of officer rank.

Mr. TARDIF: Which works out to what percentage?

Dr. DAVIDSON: Well, $4 to $1. May I just complete the statement by contrasting that with the ratio that applies to the non-officer personnel and the ratio that applies, as I understand it, also in the Public Service Superannuation Act of $1.4 to one. These last figures I have given you illustrate the extra cost on the pension fund of the early ages of retirement.

Mr. KNOWLES: Does the 1.4 figure apply both to the Armed Forces of lower rank and the Civil Service?

Dr. DAVIDSON: That is my understanding. I think I should make a correction on that 1.4 to one figure, Mr. Knowles—and I am not in a position at this moment to give you the correct figure. Could I submit it to the committee at a later date to be sure it is reported correctly in the evidence? It is substantially a lower ratio than it is for the officer group.

Mr. KNOWLES: Do you know at the moment whether the figure for the Armed Forces lower ranks is the same for the Public Service Superannuation Act?

Mr. Hart Clark (Director, Pension and Social Insurance Division, Department of Finance): In the case of the officers, the cost of the benefits apart from the just the normal benefits, on a normal progression of an officer up the ranks is in the order of 25 per cent of his pay and on which he pays 6 per cent. In the case of the men below the officer rank, as I understand it, it is roughly in the order of 15 per cent. In other words, the 6 per cent that the man pays, and the 9 or 10 per cent that the Government pays—in fact, there is a little bit of overpayment in respect to the men if you tried to segregate them into the different categories. But this is the order of the cost. In the case of the Civil Service, it is a straight matching approach for current service. The big difference comes when you have to make up the additional deficit arising from salary revisions, and it is when the salary revision takes place that the 1.4 factor in relation to the Civil Service comes into play. In other words, take one of your B category, or whatever it may be, that has a revision in its pay structure. For every dollar in the increased annual salary level, the additional liability to the Government is 1.4. In other words, if you have a $10 million increase, you have an immediate increase in the liability of approximately $14 million.

Now, in the case of the Armed Forces, it is a different factor, and there it is much higher for officers than for men. We have to split the calculation into two, with one factor related to officers and a much lower factor related to men. In so far as the men are concerned, it is not too far from the figure in the Civil Service; but in the case of the officer, my recollection is that it is between $3 and $4 for every dollar of the increase.

Mr. MCCLEAVE: We have a request in principle from Mr. Walker. Could Dr. Davidson answer that request? Is he going to say yes, or is he going to say no? Can he give any indication as to the regulation that would be set up under clause 51?

Dr. DAVIDSON: I would not be in a position to answer as to what the Government is going to do on this. It would not be proper for me, in my capacity, to do this. I had anticipated that Mr. Benson would be here this morning. I do not know what has delayed him. I checked before I came in at 10 o'clock, and the office was expecting him at that time. I have asked them to let me know as soon as he arrives.

I would like to say that I got the impression, as I listened to the discussion this morning, that I invented the provision which is under discussion now. I was glad to hear Mr. Walker say that it had been in the legislation for 20 years. In fact, some part of it has been in since 1907.

I would respectfully remind members of the committee that it was the Parliament of Canada which invented this legislation. Succeeding governments

have had some reason which they thought was good for making this provision, and it is that provision of the Parliament of Canada to which we are directing our attention—not to me, who, in the last few years, have been in the uncomfortable position of Secretary of the Treasury Board.

Mr. McCLEAVE: I think we all find you not guilty.

Mr. KNOWLES: But please explain.

Dr. DAVIDSON: What is the explanation? I can only speculate. But I suspect that the explanation has something to do with two factors in the picture. One is the disproportionately high cost that we have been just discussing of making pension provisions for officers where the ages of retirement are as low as they are.

The real factor, to my mind, arises from the fact that the policy of the armed forces does compel retirement at these early ages. Traditionally, it has been considered that the purpose of a retirement pension is that the employer who is no longer in a position to employ a trusted employee—and officers of the armed forces are servants of the Crown, even as civil servants are. The view has been that, when an employer reaches the point where he feels required to retire, because of age, a trusted servant who was employed, he provides a pension more or less generous according to the circumstances; and he does not expect, having provided him with a pension, and having provided him with a pension that is laudably costly in terms of the employer's share of the pension, as this one happens to be, that he will then turn around and re-engage that employee.

Having stated this principle, I wish to go on and state immediately, before Mr. Bell gets at me, that succeeding governments and Parliaments, during the years, have really shot that principle full of holes. They have turned around and, in the case of all of those of staff sergeant and below, they have said: "We will forsake this principle, we will allow a man who is a staff sergeant or of a lower rank, to be retired on pension, and then we will be free to rehire that same man, whom we have just pensioned off, because of age, and we will pay him his full salary and also pay him in the way of pension the full amount for which we and he had contributed."

It is precisely because Parliament has started to slide down that hill, that you are in the position that you are in at the present time, when Mr. Walker is coming along and saying that to make this provision for men of staff sergeant and below, and to turn around and refuse to make this provision for those of warrant officer rank and above, is discrimination.

That is not the end of the story. Not only does this kind of rule apply to men of warrant officer rank and above, but Parliament has also applied it to members of the Public Service. Parliament has also applied it to members of Parliament. Mr. Knowles was talking about coming back and having to forsake his pension. What about defeated members of Parliament who are fortunate enough, on some future occasion, to qualify for a job with the Civil Service of Canada? They will have to give up their members of Parliament pension, when they enter the Civil Service.

The CO-CHAIRMAN (*Mr. Richard*): And the Senate, too. That is my case.

Dr. DAVIDSON: I will leave it to you to decide whether that comes under the heading of employment or not.

A MEMBER: Touché.

Dr. DAVIDSON: I hope that Senator Mrs. Fergusson, who used to work with me in the Department of National Health and Welfare, and who I gather had to give up her superannuation entitlement when she became a senator, will forgive me for having made such light of her present occupation.

The dilemma is, where does this thing stop—or does it stop?

I want to be the first to admit—and I think the Government is prepared to recognize—that there is a particularly bad feature to the present situation, arising from what I would call the frictional point. Let me illustrate. Incidentally, it was Mr. Walker who was good enough to make this point, and who convinced me personally of the validity of it.

Take the present situation. The present situation is that a staff sergeant who retires and enters the Civil Service is able to draw his full pension entitlement, and whatever salary he is fortunate enough to get from the Civil Service employment. The officer immediately above him, the serving man immediately above him in rank, the warrant officer, has to forfeit—subject to the provisions of the present section 17(2), a part or all of his pension, in certain circumstances.

In certain circumstances, as you see, the formula contained in section 17(2) has no effect at all, because the combined salary and pension entitlement is less in some situations than the pay as of rank, in that warrant officer or officer's retirement.

You do have this frictional area, where two men, one of whom might have been a staff sergeant just a few months or a few years before he was unwise enough to accept promotion to warrant officer. These two men are treated differently. At this frictional point I think it is clear that there is a problem that does require some kind of solution.

This is why I think I can say the Government is proposing in the bill to remove section 17(2), which is the present absolute guillotine on some of these situations; and to ask Parliament for the power, by regulation, to make adjustments, to make regulations determining the amount of adjustment, if any, which should be made in the case of ranking officers who retire and enter the Public Service.

Mr. Walker will not mind my saying that he and I have had a number of discussions on this point, in which he, speaking on behalf of his people, has reiterated time and time again that what he wants and they want is the complete abolition of section 17(2). Having made that point abundantly clear so that even I could understand it, he then went on to indicate that there were some alternatives which, if the Government or Parliament was not prepared to go the whole way, he would like to have examined. It is some of those alternatives that we have been examining and it is with an alternative in mind that the Government has proposed, in the legislation, clause 51, to ask Parliament to give it the authority to regulate in such a way as to eliminate the worst

features of the present discrimination, which now admittedly exists and has existed, of course, down through the years, throughout the history of this entire situation.

Mr. McCLEAVE: I think the problem boils down to this, that by use of the regulations some attempt is made to keep a fund which is actuarily imbalanced in as close a balance as possible.

Dr. DAVIDSON: I would be less than honest if I did not say, Mr. McCleave, that the question of the effect of a change of this kind on the actuarial balance of the fund is one of relatively little importance. It really is not, in our judgment, an issue which is likely in dollars and cents to have any significant effect on the actuarial balance of the fund. What we are worried about here is the principle involved in going further than we have gone in accepting the principle that an employer who retires his servants on account of age, and this is the presumptive reason why officers retire as young as 45 or 55—and provide them with a fairly costly retirement pension, should then turn around and re-employ those same employees. How can I or the Government or you as members of Parliament, if you go to the extent of going all the way in the Canadian Forces Superannuation Act, argue against making exactly the same provision in the Public Service Superannuation Act, and what effect does this kind of change have on the position that has been taken by some of the other staff associations that discourages either the retention of civil servants beyond the normal retirement ages or questions the wisdom of encouraging the re-employment of retired civil servants and thereby in their judgment to some extent having an unhealthy effect on the standard of remuneration set for employed civil servants? This is really the dilemma; it is not a question of the actuarial cost involved.

Mr. McCLEAVE: Since we are dealing with points of principle, you have people who can retire at the same age with theoretically the same pension as those retiring from the armed forces. One man can go on and get $10,000 a year for doing a job, while another gets into the Public Service and loses by it.

Dr. DAVIDSON: That is the situation which you members of Parliament have created over the years.

(Translation)

Mr. CARON: Doctor Davidson, Mr. Walker said that paragraph 2 of section 17 should be repealed?

Mr. DAVIDSON: Yes.

Mr. CARON: They will then be replaced with paragraphs 48 and 49 and 50. Paragraph 47 states:

> Subsections (2) and (3) of section 17 of the said Act are repealed.

But they are not merely repealed, they are replaced. What difference is there between the new parts and the old section?

Dr. DAVIDSON: Sections 48, 49 and 50 have nothing to do with this matter. However, this is dealt with in paragraph 51, page 42 of the English text, or 42 of the French text—it is the same page.

Mr. CARON: It is not on the same place on the page, but it is on the same page.

Dr. DAVIDSON: Beginning with the second subsection of section 21 of the said Act—English text, the subsection reading as follows:

(*English*)

Section 21 of the said Act . . .

(*da*) specifying, notwithstanding anything in this Act, the extent to which and the circumstances under which any annuity or pension payable under this Act or the former Act to a retired officer, warrant officer or chief petty officer first class or second class who holds any office or position or performs any services, the remuneration for which is payable out of the Consolidated Revenue Fund or by an agent of Her Majesty in right of Canada, shall be reduced or suspended;

Now what that does, having eliminated section 17(2), is to provide that the Governor in Council may by regulations determine the extent to which, if any, the benefits of the retired officers of the ranks we are discussing shall be reduced—the extent to which, if any, they shall be reduced by virtue of the fact that on retirement they accept employment in a new branch of the Public Service of Canada, the remuneration for which comes out of the Consolidated Revenue Fund, or with a corporation acting as an agent for Her Majesty in the right of Canada. What this means is that the Governor in Council on proclamation of this act will issue regulations which will determine the amount by which, and the rules which shall apply if there is to be any abatement under any circumstances whatever.

(*Translation*)

Mr. CARON: They will be granted to all officers from second lieutenant up?

Dr. DAVIDSON: This depends on such regulations as will be issued by the Governor-in-Council.

Mr. CARON: You are not aware at the present time? That is to say you cannot tell us?

Dr. DAVIDSON: I have no authority to tell you.

Mr. CARON: The Minister will be able to tell me?

Dr. DAVIDSON: Yes.

Mr. CARON: Thank you.

(*English*)

Senator O'LEARY (*Antigonish-Guysborough*): I think perhaps Dr. Davidson has already covered what I had intended to ask. Just to make sure I am correct in my thinking may I refer to the second group of statistics which he gave us. I believe that these figures for those already serving do not tell us too much because we do not have any record of the discouraging factors for those who are entering the service.

Secondly, with respect to the contributions, I understand they are the same for all ranks, 10 per cent for employer and 6 per cent for employee.

Dr. DAVIDSON: They are the same for all ranks so far as the 6 per cent is concerned.

Senator O'LEARY (*Antigonish-Guysborough*): Then we come to the beginning of discrimination under the Public Service Superannuation Act. This in my mind is where discrimination begins. Did you make a statement to that effect?

Dr. DAVIDSON: I said there are certainly elements of discrimination in the present legislation, and that is in my opinion and in the opinion of the Government. That is why it is acting as it proposes to do.

Mr. WALKER, M.P.: Did I understand you correctly when you said that in the officer class there were even now some of them re-employed retired officer class who had total abatement, and some had partial abatement and some had none at all? In effect are we not doing now—and I don't know what the formula is—but are we not doing now what section 52 tends to do?

Dr. DAVIDSON: The present formula is the formula written into the control. Section 17 (2) does not state—and this is I think something which may not be fully understood—perhaps Mr. Walker or I should have put on the record what section 17 (2) does provide. It is set out in the explanatory notes. But it does not state that a retired officer on entering Public Service employment must forego his pension. Section 17 (2) does not have that effect. It provides that when a retired officer leaves the armed forces and enters the Public Service his combined salary and pension cannot exceed in total the pay as of the rank that he had when he left the armed forces updated from time to time as the pay of that rank moves up with periodic pay increases. That is the control point. If a retired officer finds himself entering the civil service and his salary level on entering plus his pension is not greater than the pay he had as of the date he retired, he does not suffer anything. That is why you find there are three classes, some of which have partial abatement, and a relatively small number, like Mr. Walker himself—he is one of the 84 I mentioned—who suffer the complete suspension of their pension during the period of their employment.

Mr. WALKER, M.P.: Just one other point; I think I understand this, but in fact the retired service personnel now working up to the class of warrant officers are in a preferred position to all other civil servants?

Dr. DAVIDSON: In effect, that is correct, because the public service employees themselves are treated, in fact, in the same way as the officers.

Mr. WALKER, M.P.: Do you feel the early forced retirement age of the armed services has led to some of this problem?

Dr. DAVIDSON: I am convinced it is really the root cause of the situation we are now in.

Mr. WALKER, M.P.: The forced early retirement?

Dr. DAVIDSON: That is correct, and what do you do with men of 45 and 48 and 50 years of age who have served in the armed forces for the required period of time and have taken pensions which may be quite small in some situations and quite substantial in others, and you find yourselves wanting to re-engage him in a civilian capacity? Do you put a salary on top of the pension or say there has to be some adjustment?

Mr. WALKER, M.P.: Do you know the principle behind this forced early retirement? Was it a question of physical health?

Dr. DAVIDSON: I can only speculate, as you can. I presume it is the assumption that members of the armed forces have to be fighting soldiers and capable of flying an aircraft and doing a lot of other strenuous things that people like myself, who are sitting before parliamentary committees, do not have to do.

Mr. KNOWLES: Careful. You are on the firing line.

Dr. DAVIDSON: Sometimes I feel I should get some special consideration too, but up to now no one has introduced amending legislation on my behalf.

Mr. BELL (*Carleton*): I would like to raise two points with Dr. Davidson which I have raised already with Mr. Walker, and perhaps have the matter clarified.

The first deals with crown corporations. There is no provision for abatement of any kind in some, and in others there is. What is the principle? Is it proprietary corporation versus an agency? What is the principle?

Dr. DAVIDSON: The provision arises, not from anything in any other legislation, but in the Canadian Forces Superannuation Act itself. I think, basically, the distinction arises between a corporation which acts as an agency of Her Majesty in right of Canada and one that does not. In general, this means a proprietary corporation versus an agency corporation, but I am not sure the line is quite as clean-cut as that. However, you will notice on page 42 that to cover this we have referred—and this is consistent with the present position—to officers whose employment subsequent to their retirement is either paid out of the Consolidated Revenue Fund or paid by an agency of Her Majesty in right of Canada. I am told that wording has been designed by the Justice officials to maintain the present position.

Mr. BELL (*Carleton*): I wanted to be clear whether that language maintains the status quo or gives the Governor in Council now the opportunity to put abatement provisions in where they are not in existence at the present time. I raised this with the minister in the house, you may remember.

Dr. DAVIDSON: I am assured, Mr. Bell, in the case of any crown corporation which under the existing legislation is free to engage a retired officer without any adverse consequence arising in respect of his military pension, that situation has been protected.

Mr. Chairman, perhaps I might be permitted to put on the record some material which Mr. Walker's organization circulated to Parliament—a number of corporations where the pension is not affected by entering their employment. Air Canada, Canadian National Railways, Central Mortgage and Housing Corporation are examples of that. On the other hand, crown corporations such as Atomic Energy of Canada, Crown Assets Disposal Corporation, and an organization which is now defunct called the Northern Ontario Pipe Line Crown Corporation—if you obtain employment with one of those you are subject to the same kind of abatement that applies to the public service.

Mr. BELL (*Carleton*): I would now like to ask one or two questions with regard to the R.C.M.P. The language which is being inserted in section 21 by clause 51(2) is, I understand, identical language to that which is in the R.C.M.P. act.

Dr. DAVIDSON: That is correct.

Mr. BELL (*Carleton*): And the minister in the house indicated that if this had been in the Canadian Forces act the matter would have been dealt with long ago. In fact, what is the position under the R.C.M.P. Superannuation Act today?

Dr. DAVIDSON: The position, Mr. Bell, is that by regulation under the R.C.M.P. legislation the Governor in Council has legislated section 17(2) of the Canadian Forces Superannuation Act as being applicable to members of the armed forces. I think I can say this, that it follows that if section 17(2) is deleted and the Governor in Council then decides to pass certain regulations as affecting the armed forces, these same regulations will be applied *pari passu* to the R.C.M.P.

Mr. BELL (*Carleton*): At the existing stage there is no difference between the retired R.C.M.P. and that?

Dr. DAVIDSON: Yes.

Mr. BELL (*Carleton*): What is the breaking point in the ranks as far as the R.C.M.P. is concerned?

Mr. CLARK: It applies in the officer category, commissioned officers and up, the same provision as section 17(2) in the R.C.M.P. The constables, corporals and so on, have the full pension plus the civil service pay. It is only fair to say it is a much lesser problem in so far as the R.C.M.P. is concerned. I understand at most there are only three affected.

Dr. DAVIDSON: Could I just perhaps, Mr. Chairman, on my own initiative interject a problem within a problem that does arise here, and that is the problem of the officer who retires from the armed forces and then enters, as I understand he may do, the reserve forces. The present provision, if I am correct, is that on his entry into the reserve forces at the end of one year, after one year in the reserve he can resume his contributions under the Canadian Forces Superannuation Act. I think there is a problem there that we will need to look at. In the event that a decision were taken, for example, to delete section 17(2) completely and let the thing ride free, it would be necessary to make some sort of a provision that would determine whether a retired member of the armed forces could continue to receive his full pension with the armed forces while resuming employment in the reserve forces.

The CO-CHAIRMAN (*Mr. Richard*): Are there any other questions of Dr. Davidson?

Mr. KNOWLES: Dr. Davidson, I am not trying to get you to reveal what is in the regulations, since I know you cannot, but is it not a fair assumption from the way section 51(2) is drawn that whatever is done will not be any more disadvantageous to the officers than section 17(2) now is?

Dr. DAVIDSON: I think that is the fairest of assumptions.

Mr. KNOWLES: Is it not also fair to assume that if a change is being made it is probably a change for the better, as far as they are concerned?

Dr. DAVIDSON: I think that is an assumption that Mr. Walker would be the first to agree with, and I think it is no secret to Mr. Walker that the formula that we have given the most serious attention to is an alternative formula that his association itself suggested to us in the first place. The only question I think that he might be unhappy about is the level at which the formula that he is talking of is being considered for inclusion.

Mr. KNOWLES: Perhaps Mr. Walker would like me to quit while he is winning.

Dr. DAVIDSON: Perhaps Mr. Walker could tell us what it was that he proposed as an alternative to the complete abolition of section 17(2).

Mr. WALKER: This is a very good point. I am glad Dr. Davidson suggested it. In our negotiations I pointed out that flight sergeants with 35 years of service were now being paid a pension of $4,300 a year while employed in the federal Civil Service without any restriction. Therefore, I took the figure of $4,300 as being the base figure, or the minimum figure, at which to start negotiations. We pay more into the fund than a flight sergeant does, and, therefore, we are entitled to something more than $4,300, depending upon the ratio of our contributions. So, by putting up the figure of $4,300 I intended it as a minimum figure.

Dr. Davidson immediately replied that this represented 35 years service, to which I could not help but agree. Therefore, he suggested, our years of service over 35 times $4,300 plus some nominal percentage to represent our difference in contributions might be a workable formula. I recommended at that time, and in a following letter to Mr. Benson, that the percentage be 25 per cent based on the fact that this was a middle rank between that of warrant officer and the most senior officer as far as increase in pay is concerned and, therefore, increase in contributions. We felt it approached a middle of the road policy. If Dr. Davidson could assure us that that 25 per cent was there in that formula I would not take up any more of your time.

Dr. DAVIDSON: Perhaps I could ask Mr. Walker a question. If I assure him that the 25 per cent is not a feature of the formula, how much longer is this going to take?

Mr. WALKER: Then, we revert to principle.

Dr. DAVIDSON: Perhaps I could add one word. I am sure Mr. Benson would not mind my saying this. The kind of proposal Mr. Walker has indicated as having originated from his side was the kind of proposal that led us to the conclusion that there is a clear problem that presents itself as between the staff sergeant who retires and has a full pension, and the warrant officer or chief petty officer 1 and 2, who is just one grade above, and who retires and is subject to the abatement. I think it is not too much to say that starting from that point the position that we came to is that there is a case for ensuring that the warrant officer, let us say, retiring after 20 years of service is not placed in a worse position than the staff sergeant immediately below him in rank who also retires after 20 years of service.

I repeat that there is a case for ensuring that the warrant officer who retires after 35, 30 or 25, or whatever it is, years of service shall not be in any worse position than the serving man immediately below him in rank.

I will not, and I cannot, go beyond that at this point in terms of indicating to the committee the kind of formulation that we have been working on, and the potential area of difference between the position that the Government may be coming to in its regulation and the position that Mr. Walker outlined. I can assure Mr. Walker that the difference between our positions is not likely to be greater than 25 per cent.

Mr. KNOWLES: That sounds like one of those notch provisions we sometimes see in the Income Tax Act.

Dr. DAVIDSON: What is involved here is an underwriting or an assurance that some kind of a stop will be put in the abatement provisions so that an officer who would otherwise suffer a complete reduction of pension, or a reduction of pensation that would put him in a worse position than if he had been a staff sergeant serving the number of years that he had served in the Armed Forces, would not have his pension reduced under any circumstances below that floor.

Mr. KNOWLES: Some of what we have discussed this morning may come up again when we get back to the question of retired civil servants. There are some civil servants who are in the position of having to work after they have retired.

Dr. DAVIDSON: In the public service?

Mr. KNOWLES: Or outside. It is not on all fours with this problem, but I suggest that there is a relationship.

Dr. DAVIDSON: This is part of the larger problem that I tried to indicate to the committee. This is not a question, in my judgment, at least, of a few retired officers. The real question here is: Does the Crown accept as a principle the desirability of extending across the board—I think that that is the eventual implication—to all of its retired employees the privilege of returning to employment in the public service following retirement, and the privilege of drawing a federal salary on top of the federal retirement pension to which it can be quite properly said they have contributed as much as anybody else, and therefore he has some entitlement to draw it after retirement as anybody else.

Mr. WALKER: With 65 as the age limit?

Dr. DAVIDSON: No, 60.

The CO-CHAIRMAN (*Mr. Richard*): Mr. Tardif?

Mr. TARDIF: Mister Chairman, according to what Dr. Davidson says, it is likely that non-commissioned officers will be considered since the new policy will apply to them. There is no difference between them and the commissioned officers.

If it will help I will ask my question in English. There is very little difference between a warrant officer and a lieutenant. If it is possible to accept the policy that a warrant officer will be considered for that, then because the difference is so slight between a warrant officer and a lieutenant what happens? If the lieutenant is excepted, is there really any difference between him and a captain, and what happens then?

Dr. DAVIDSON: The point is that the formula we are talking about applies to all officers so that if, for example, you were to provide that a warrant officer with 20 years of service would not be treated less generously on entering the civil service than a staff sergeant, you would likewise provide that a lieutenant or a captain or an air marshal could be assured under this formula that if he enters the civil service he will be treated at least as well, and not less generously, than a staff sergeant. I think they are entitled to that treatment.

The figure which Mr. Walker mentioned is approximately accurate. Perhaps I can give the committee the precise figures. The present maximum entitlement for pension purposes of staff sergeants—well, Mr. Walker mentioned a figure of $4,300 after 35 years of service. The exact figure is $4,218.20. The exact figure

for 30 years is $3,615.60; for 25 years, $3,013.00; for 20 years it is $2,410.00. To be fair to the committee I can give also the difference between those figures and the figures for the next highest rank, which is that of warrant officer 1. For a warrant officer 1, 35 years service, the figure is $5,182.80—slightly more than $1,000 in excess of the staff sergeant. With 30 years of service it is $4,442.40; with 25 years service, $3,702; and with 20 years service, $2,961.60. That will give the members of the committee at least a couple of bench marks in the kind of area we are talking about.

Mr. CHATTERTON: What is the present pay of a staff sergeant?

Dr. DAVIDSON: I am sorry, I cannot tell you.

Mr. WALKER: I would say approximately $6,400, but that is not the precise figure.

Dr. DAVIDSON: For warrant officer 1, the monthly rate of pay for Group 4A—and I do not know what it is at the highest—is $437 per month; that is the basic rate. With six years progressive pay it is $467, so I take it I am correct in stating that $467 is the maximum that a warrant officer, class 1, could receive after six years progressive pay.

Mr. WALKER: I have a figure of approximately $6,400 for flight sergeant and staff sergeant; in the case of the flight sergeant, with six years in the ranks, and that takes into account subsistence allowance, marriage allowance, etc.

Mr. BELL (*Carleton*): Mr. Chairman, perhaps we have gone as far as we can until the minister satisfies our curiosity with exact figures of the formula. I suggest that at the time he does that it might be possible for us to have an analysis of the effect of the formula upon the 893 persons that Dr. Davidson has mentioned to us. Presumably there will no longer be the 84 persons who are in complete suspension. However, it will be interesting to know how many more there would be than the 339 at present whose pensions are unaffected, and the category of 470 still suffering some abatement.

Dr. DAVIDSON: Mr. Bell, there are some problems of a purely technical nature in the doing exactly of what you have said, but we will do our best.

Mr. BELL (*Carleton*): I wish to emphasize that I do not want to delay the minister's statement by reason of this.

Dr. DAVIDSON: Mr. Clark has been whispering in my ear and I am not unaware of the problems.

The CO-CHAIRMAN (*Mr. Richard*): This should conclude the presentation on behalf of the Association of Canadian Forces Annuitants. I would like to remind you that we have before us briefs which were put on the table this morning from the Civil Service Association of Canada, both in French and English. The first three pages deal with Bill C-193. I understand that the National President of the Civil Service Association of Canada, Mr. T. F. Gough, and Mr. William Doherty, the National Secretary, are here. With your permission, I would like to invite them to come forward.

Mr. CHATTERTON: What time do you propose to recess, Mr. Chairman?

The CO-CHAIRMAN (*Mr. Richard*): At 12.30. I thought that if we commenced with this presentation it would be easier to continue this afternoon.

I would like to remind committee members that if we can conclude with this presentation today, we will have the representations of the Civil Service Commission tomorrow. They have indicated that they would like to come.

Mr. BELL (*Carleton*): To make representations on the Public Service Superannuation Act?

The CO-CHAIRMAN (*Mr. Richard*): If the committee wishes to hear them.

Mr. KNOWLES: You are not referring to the Civil Service Federation?

The CO-CHAIRMAN (*Mr. Richard*): No, the Civil Service Commission.

Mr. KNOWLES: When we have finished with the Civil Service Federation of Canada, is that all we shall have to do?

The CO-CHAIRMAN (*Mr. Richard*): Yes, unless you want some representation, and the Civil Service Commission could be here perhaps this evening or some other time. They have asked to be here, unless you have any objections, Mr. Knowles.

Mr. KNOWLES: No, no.

The CO-CHAIRMAN (*Mr. Richard*): Proceed, Mr. Gough, please.

Mr. T. F. Gough *(National President, Civil Service Association of Canada):* Mr. Chairman, the comment of the Civil Service Association has the virtue and perhaps the merit of being brief. Our main concern in this particular act is clause 11.

The provision in this clause, restricting the right to secure the return of contributions, is new, as there is no such restriction in the present act. In the event that this clause is approved, every employee who reaches the age of forty-five and has not less than ten years of pensionable service, will become entitled to an immediate or deferred annuity, depending on circumstances, but no right to a return of contributions.

The possibility of such an arrangement has been foreseen due to similar provision in provincial legislation, and has resulted in a clear and strong demand from our membership that the change be resisted by all possible means. The initial protest was made by our Ottawa-Hull Council which has a membership of some 10,000, and at their initiative referred to all our councils for opinion. Their protest was very strongly endorsed and these views were conveyed to the responsible minister, the Minister of Finance.

The Public Service has regarded the Public Service Superannuation Act as embodying certain rights that should not be abrogated without consent. This is such an area in the view of our membership. It is our view that the clause is a matter of policy, and one that could hardly be justified by the facts. Comparatively few resign the service after age forty-five, but it is clear that large numbers do not wish their right to resign circumscribed by what is regarded as a penalty.

We would therefore urge that this clause be amended and the right to secure a return of contributions, up to age sixty, be retained.

This organization would take this opportunity to deplore the absence of any amendment which would protect the value of the pension dollar, or amendment that would maintain the purchasing value of the dollar for those who have

retired. With one exception, for which those who benefited were very grateful, there has been a consistent refusal to provide relief from the shrinking of the dollar, it being argued that the Government could not provide treatment for its retired employees which was not provided by private employers. This argument has seemed without substance in view of the fact that other governments, notably the United States and Britain, have seen their responsibilities in another light. Recognizing that governments are reluctant to do any other than follow industrial practice, there should surely be some exception to the rule.

If we may assume that full dollars were contributed to the fund, and the dollar on retirement was also a full dollar, it seems only right that the full value be maintained. In our view, payment of Old Age Security Pension should not be regarded as a compensatory factor, since this is the entitlement of all citizens, and paid for by taxes.

The problem has, of course, been recognized by the provisions in the Canada Pension Plan, for adjustment in pension payments in accordance with increases in prices. However, none of this will be of benefit to those who have retired from the Public Service, who have seen modest comfort change to stringency and want. We have been disheartened and disillusioned at our failure to convince successive governments on the tragic nature of this problem, on the terrifying dilemma of the aged watching their meagre resources dwindle month by month, and no possible means to augment them. We would speak once again for these victims of prosperity, so that they will not die either from want or anxiety, and so that they may live out the rest of their lives in dignity.

Mr. CARON: Mr. Gough, you were saying that as of age 45, they are no longer entitled to pay arrears?

Mr. GOUGH: They are entitled to a return of contributions up to age 60, under the act.

Mr. CARON: To come under the Act, may they pay arrears to come under the new Act, that is the Canada Pension Plan?

Mr. GOUGH: I am afraid this interpretation mechanism is not working too well, sir. I do not get the full intent of the question.

Mr. CARON: I will try to make it in English. According to the new law, are those of 45 years old entitled to pay back their pension, their increased pension?

Mr. KNOWLES: This is not section 11.

Mr. GOUGH: This is another section.

The CO-CHAIRMAN (*Mr. Richard*): We are dealing with section 11, which would provide that an employee could not receive the return of his contributions after age 45.

Mr. CARON: After he goes out of the service. So he is not entitled at the present time, before age 60, to get his pension?

Mr. GOUGH: He can get it, under certain circumstances, after age 60, on disability; but normally—

Mr. CARON: But he is not entitled to anything back?

Mr. GOUGH: He can take a deferred annuity or a return of the contribution.

Mr. CARON: And what you are on is that they have a right to get their part of the pension which they have paid for?

Mr. GOUGH: We are suggesting that if a person wishes to get his return of contributions to the superannuation fund, he should be entitled to have the full return.

Mr. CARON: Or the pension that would be allowed at that time?

Mr. WALKER: Instead of taking the amount of the pension.

Mr. CARON: If he wants to have a smaller pension he can take it now at age 45?

Mr. GOUGH: He cannot take it now, unless he is totally disabled.

Mr. CARON: And that is not what you are asking?

Mr. GOUGH: No, it is simply a question of the right to secure return of the contribution, as is now provided under the present act.

Mr. BELL: You want the status quo?

Mr. GOUGH: Yes.

Mr. CHATTERTON: In your brief there is no reference to the provision in section 9(1d) which in effect says that if a civil servant retires before age 65 then, except for these three intervening years, normally if he retires before age 65, at age 65 his P.S.S.A. pension is adjusted and integrated with the Canada Pension Plan; but if at that age he is still working, in other words if he does not get his Canada Pension Plan, then his civil service pension is reduced, although he does not get the Canada Pension Plan. You have no reference to that provision?

Mr. GOUGH: I have to admit, Mr. Chatterton, that this is one of the aspects of the bill that has escaped my attention. It has been a rush and I only became aware of this when the committee met on Friday. I have not had the opportunity of considering it. I would certainly think that there is an essential inequality somewhere in this situation but I have not been able to put my finger on it.

Mr. CHATTERTON: You anticipate that your association will in due course make representations, either to this committee or to the Government, on that particular point?

Mr. GOUGH: Yes.

Mr. KNOWLES: Was this point placed before you when your association agreed with the integration plan, if it did agree?

Mr. GOUGH: Are you referring to the Advisory Committee on Superannuation?

Mr. KNOWLES: Yes.

Mr. GOUGH: I do not recall this aspect of the matter but I have to say that I missed one critical meeting at which it might have been discussed. I was ill at the time. I do not recall this aspect of the matter being raised, or most certainly I would have been fully aware of it when the bill was brought down.

Mr. CHATTERTON: I followed all the statements made by the minister and others up to the time this bill was submitted, and never before has there been any mention made of that provision. As a matter of fact, in March of last year I had a comprehensive brief on what the effect would be. This is something that was not mentioned before.

Mr. GOUGH: I was not aware of it.

Mr. CHATTERTON: I am told now that I am wrong, that reference was made to it. I apologize.

Mr. KNOWLES: I made statements to this effect on Friday. This whole business bothered me so much that I continued to do my homework on it. There was a statement by Mr. Bryce to the Canada Pension Plan Committee. Public servants who got their pension but continued to work, and therefore would not get the Canada Pension Plan would suffer a reduction.

It was unfortunate that we did not get at it more then. Even on that statement, Mr. Bryce assured us there would not be any loss of benefit, but it seems to me that this is a loss of benefit.

Mr. GOUGH: It very definitely is. As I indicated, we intend to go into the matter, to determine what may be recommended.

Mr. KNOWLES: So far as Bill C-193 goes, your only reference to us is on clause 11.

Mr. GOUGH: That is right.

Mr. KNOWLES: About clause 11, is it clear that this denial of refund of contributions becomes effective only when this bill comes into effect?

Mr. GOUGH: Exactly.

Mr. KNOWLES: And any contributions that were in prior to January 1, 1966 are still refundable?

Mr. GOUGH: Yes, as a matter of fact we received a good deal of correspondence during the past winter, from people asking if they should resign from the Public Service before the bill went through, in order to obtain their return of contributions.

Mr. KNOWLES: Has your association looked at this in the light of a general desire to build up portable pensions?

Mr. GOUGH: Exactly. That angle has been canvassed, as thoroughly as it could. I presented all the aspects of the matter to the councils but the majority of them were still of the opinion that they should retain this right. I really do not think that it is a right of any magnitude, in so far as the number of people who might take advantage of it is concerned. It is simply that they feel that they want it, just in case.

Mr. KNOWLES: I appreciate this, but I am also aware of the second part of your brief, which relates to the problem faced by today's retiring civil servant. I wonder if we do not have to look ahead and concern ourselves about retiring civil servants in the future. Should we not now be concerned to build up the best possible pension structure, including complete portability? I wonder if

there will not be a delay, 25 or 30 years hence, where there would be retired civil servants whose pensions would not be as good as they might be if it had not been for these locked-in provisions.

Mr. GOUGH: As the president, in an instance of this sort, unfortunately I have not an opinion. I must express, to the best of my ability, the opinion of the membership. So to that extent perhaps, with respect to your question, I might plead the First Amendment.

Mr. CHATTERTON: Can anyone tell us what percentage of these civil servants, let us say in the last 10 years, who had the right to withdraw their contributions —how many of those exercised that right?

Mr. GOUGH: This would probably be in the last report on the Superannuation Act.

Mr. CLARK: About 90 per cent have taken the choice of return of contributions, in preference to deferred pension.

Mr. CHATTERTON: Looking at it then from the point of view of the individual, is it not normally preferable to leave the contributions for the deferred annuity?

Mr. CLARK: Is it not agreeable? Yes. Not only has he certain protection for his dependents, but in the event of death, or in the event of total disability his pension will become payable immediately, no matter what happens.

Mr. BELL (*Carleton*): I would like to refer to the last part of the brief, and make sure I understand what is being sought here. Are you merely asking in this, Mr. Gough, that there should be an increase in pensions for retired civil servants, or are you advocating that there be built into the superannuation act an escalation clause now?

Mr. GOUGH: It is perhaps twofold in that we are suggesting that there be built into the public Service Superannuation Act at this time an escalation clause but to carry with it an assumption, if this were done, that the Government would be obligated to provide something for those who have already retired.

Mr. BELL (*Carleton*): I appreciate that and I am in favour of both. What I am asking, however, is what is the nature of the escalation clause which you are advocating should be built into the superannuation acts while they are under consideration?

Mr. GOUGH: This is a matter that did receive some considerable study at another committee a year and a half ago before the Canada Pension Plan came into existence. At that particular time for informative purposes we did develop or at least the professional people on the committee did develop certain possibilities. I think perhaps those possibilities could become available to the committee, but being only a technician and not a professional, I would not be able to outline those at this particular time. I would not be able to give the possible ways for building into the act the suggestions which could take care of this situation, but I think I am correct in stating that this has been developed some two or three years ago.

Mr. BELL (*Carleton*): Did you contemplate that the result of any escalation clause might be an increase in contributions?

Mr. GOUGH: This possibility was canvassed at the committee, very naturally, because they had to deal with the possibilities of what could be done under present contributions and what might be done under increased contributions. So the plans to which I have referred did effectively cover both possibilities. Individually I think that public servants generally are willing to pay for what they get. Certainly if you may exclude the first part of my memoranda here this morning, a large portion of the service is very much concerned with the pensions at age 65 and whether or not that pension is going to remain substantially unchanged in its value whether they live 10, 20 or 30 years.

Mr. BELL (*Carleton*): There is one policy, so far as the Civil Service Association is concerned, which has been formulated in relation to escalation.

Mr. GOUGH: The policy is now some four years old, and at that particular time there was a resolution at our national convention which did suggest the increase in the pension could be paid for by increases in costs. At that time we had no idea what these costs might be, but I would be reluctant to say at this point of time that that might be the policy of the organization some four years later. I don't know.

Mr. CHATTERTON: To pursue the questions raised by Mr. Bell, are you suggesting that in future the pensions of civil servants be escalated in accordance with some formula related either to the cost of living or to the average standard of wages? We were told before the Canada Pension Plan committee that it was very difficult, if not impossible, for a plan which is funded on an actuarial basis to provide for such future escalations because you never know what the increase in the cost of living is going to be. My question is this: Do you think your organization or civil servants generally would be in favour of abandoning the principle that the fund for the Public Service Superannuation Act should be on an actuarial basis, keeping in mind of course that the Canada Pension Plan is not on an actuarially funded basis? In other words if you want to retain the actuarially funded basis of the Public Service Superannuation Fund, such escalation would have to be provided for out of some revenue other than the fund. What is the opinion of your organization with regard to this alternative?

Mr. GOUGH: There is no policy in this regard. I would say, as I indicated to Mr. Bell a moment ago, that provided the costs were not too great, the majority of public servants would prefer to pay. With respect to the question of whether they would be willing to consider another plan rather than one which is on an actuarial basis, I am inclined to think that the majority, and of course you will appreciate that this is a question which has not come up, except through the voice of the present superannuates who are apt to take a pretty jaundiced view of the words "actuarial soundness of the plan"—but I would think the majority of the public servants would prefer an actuarial plan even though it meant an increase in contributions.

Mr. CHATTERTON: What would be the reaction if there was a provision whereby, for example, the pension readjustment act which was passed in 1959 should be brought before Parliament for review every four years or so?

Mr. GOUGH: I am quite sure that would satisfy the majority. Of course that payment was made out of consolidated revenue by a special vote. It might perhaps become a matter of collective bargaining at some future date.

Mr. KNOWLES: So are the supplementary amounts that have to be put into the fund from time to time to take care of salary increases.

Mr. GOUGH: That is an additional cost to the employer and is one which was envisaged when the act was set up in 1924 but not, probably, in the magnitude that it has reached today.

Mr. KNOWLES: It is clear from your brief that you support very strongly the position of retired public servants and I take it that if we got that subject referred to this committee by the house you would be prepared to come back?

Mr. GOUGH: I would be happy to come back. You will understand that as an officer of the association I get as many calls as you do, or indeed as many as Mr. Bell does. This is a very serious problem, and I do not think I misused the words when I said it was tragic in a number of instances because I believe that to be the case. I would be happy to come back.

Mr. MCCLEAVE: I want to raise one point. You spoke to us about resolving the problems in relation to cost of living, and agreements under collective bargaining, but you cannot bargain for retired civil servants, can you?

Mr. GOUGH: No, but this has its ramifications in other areas and we hope the Government would give some consideration to some formula.

Mr. CHATTERTON: Has your association taken a position with regard to the question we discussed previously with respect to section 17(2) of the present Canadian Forces Superannuation Act?

Mr. GOUGH: No.

Mr. CHATTERTON: Have you stayed away from that point?

Mr. GOUGH: Yes we have. The constitution provides us with enough trouble within our own bailiwick without going outside.

Mr. KEAYS: When an employee has been working for the Government for seven or eight years, does he sign an employment form setting out the conditions of employment, et cetera?

Mr. GOUGH: Not that I am aware of, of that nature. No, I have never heard of it—unless, of course, it might be a crown corporation or something of that nature, but most certainly not in the Government service under the present Civil Service Act.

Mr. KEAYS: It is understood, however, he has been making contributions towards the pension plan?

Mr. GOUGH: Yes.

Mr. KEAYS: And it is also understood that he has the right to the return of his contributions?

Mr. GOUGH: Yes, that is right, as it is at the moment.

Mr. KEAYS: Do you know what formula we are basing ourselves on to tell him he has no right to the return of his contributions?

Mr. GOUGH: I am assuming—and I think this is a fair assumption—this is in the act, because there was an agreement between the federal authority and some of the provincial authorities that this should go into provincial plans and,

very naturally, if there were amendments the Government would perhaps give some undertaking they would consider them for the federal plan; but it is in the Ontario and Quebec plan, I believe, where there is no refund of contributions after age 45 if the individual has 10 years of service.

Mr. KEAYS: Do you believe in the aspect of portability of the plan?

Mr. GOUGH: Yes, I think that is right.

The CO-CHAIRMAN (*Mr. Richard*): We have concluded now, I assume, our examination of the brief of the Civil Service Association of Canada. There is no purpose in meeting this afternoon because we have no organization to appear before us.

Mr. BELL (*Carleton*): Unless the minister were available.

The CO-CHAIRMAN (*Mr. Richard*): Well, will you leave it with me? Probably this evening would be more convenient.

Mr. BELL (*Carleton*): Are you contemplating meeting this evening?

The CO-CHAIRMAN (*Mr. Richard*): If we have the minister. Otherwise there are no witnesses.

The committee adjourned to Tuesday, June 21, 1966, at 9.30 a.m.

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

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

First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget

and Mr. Jean-T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 3

Respecting

BILL C-193

An Act to amend the Public Service Superannuation Act, the Canadian Forces Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Superannuation Act, the Diplomatic Service (Special) Superannuation Act, the Intercolonial and Prince Edward Island Railways Employees' Provident Fund Act and the Canadian Corporation for the 1967 World Exhibition Act.

TUESDAY, JUNE 21, 1966

WITNESSES:

Hon. E. J. Benson, Minister of National Revenue and President of the Treasury Board; Dr. G. F. Davidson, Secretary of the Treasury Board; Mr. H. D. Clark, Director of Pensions and Social Insurance, Department of Finance; Mr. E. E. Clarke, Chief Actuary, Insurance Department; Mr. J. J. Carson, Chairman, Civil Service Commission; Mr. L. Walker, President, Association of Canadian Forces Annuitants.

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

24551—1

SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Hon. Senator Maurice Bourget and Mr. Jean-T. Richard, M.P.

and

Representing the Senate	*Representing the House of Commons*	
Senators	Mr. Ballard,	Mr. Lachance,
Mr. Beaubien (*Bedford*),	Mr. Bell (*Carleton*),	Mr. Leboe,
Mr. Cameron,	Mr. Caron,	Mr. Lewis,
Mr. Choquette,	Mr. Chatterton,	Mr. McCleave,
Mr. Croll,	Mr. Crossman,	Mr. Munro,
Mr. Davey,	Mr. Émard,	Mr. Orange,
Mr. Deschatelets,	Mr. Fairweather,	Mr. Ricard,
Mrs. Fergusson,	Mr. Faulkner,	Mr. Rinfret,
Mr. Hastings,	Mr. Hymmen,	Mr. Tardif,
Mr. O'Leary (*Antigonish-Guysborough*),	Mr. Isabelle,	Mrs. Wadds,
	Mr. Keays,	Mr. Walker—(24).
Mrs. Quart,	Mr. Knowles,	
Mr. Roebuck—(12).	(Quorum 10)	

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, June 21, 1966.
(5)

The Special Joint Committee of the Senate and the House of Commons on employer-employee relations in the Public Service of Canada met this day at 9.35 a.m., the Joint Chairmen, the Hon. Senator Bourget and Mr. Richard, presiding.

Members present: Representing the Senate: The Honourable Senators Bourget, Fergusson, Hastings, O'Leary (*Antigonish-Guysborough*), Quart (5).

Representing the House of Commons: Mrs. Wadds and Messrs. Bell (*Carleton*), Caron, Chatterton, Keays, Knowles, Leboe, McCleave, Ricard, Richard, Tardif, Walker (12).

In attendance: Hon. E. J. Benson, Minister of National Revenue and President of the Treasury Board; Dr. G. F. Davidson, Secretary of the Treasury Board; Mr. H. D. Clark, Director of Pensions and Social Insurance Division, Department of Finance; Mr. E. E. Clarke, Chief Actuary, Insurance Department; Mr. J. J. Carson, Chairman of the Civil Service Commission; Mr. G. A. Blackburn, Director General, Staffing Branch, Civil Service Commission; and Mr. Lloyd Walker, President, The Association of Canadian Forces Annuitants.

The Committee questioned Hon. Benson and the representatives of the Treasury Board and the Departments of Finance and Insurance on points raised at a previous meeting dealing with the submission of the Association of Canadian Forces Annuitants and with the subject-matter of Bill C-193.

Following the testimony of the aforementioned witnesses, the Committee received a brief from the Civil Service Commission dealing with the point of "disability" and questioned the Chairman of the Commission thereon.

The President of the Association of Canadian Forces Annuitants was given the opportunity to voice his views on the statement made earlier by the Minister.

The Committee received from the Treasury Board representative a copy of "Proposed Integration Formula under the PSSA" (*See Appendix F*), and "Examples of Application of Integration Formula—Canadian Forces Superannuation Act and Royal Canadian Mounted Police Superannuation Act" (*See Appendix G*).

At 11.25 a.m., the meeting was adjourned to 3.30 p.m. this same day.

Edouard Thomas,
Clerk of the Committee.

24551—1½

EVIDENCE

OTTAWA, Tuesday, June 21, 1966.

The CO-CHAIRMAN (*Mr. Richard*): Honourable members of the Senate and of the House of Commons, as agreed yesterday, we have with us this morning the Minister of National Revenue, the Honourable E. J. Benson. Are there questions?

Mr. BELL (*Carleton*): Yes. Mr. Minister, you probably heard of the representations which were made to this committee yesterday on behalf of retired personnel of the armed forces who sought to enter the Public Service. I wonder if we could have your comment in respect of those representations and if you would be able to tell the committee what your proposal is in relation to this matter.

Honourable E. J. Benson, Minister of National Revenue: Inevitably, one has to answer, I guess. I have heard of the representations yesterday. I have not had a chance to read the transcript, of course, because it is not produced yet.

The proposal under the regulations will set out the minimum we would propose to do. The minimum we would propose to do is to put officers in the same position as are other ranks up to the staff sergeant level who entered the armed services. That is the minimum we will do and I cannot go beyond this, because anything beyond this would have to be decided by the Government. The minimum we would propose is the $4,200 base—the $4,218 base that officers can have that would not affect their salary in the Civil Service in any way. That is the pension for 35 years service, which a staff sergeant can get and enter the Civil Service without affecting his salary in any way. This is the minimum we will provide in the regulations. I cannot go beyond this.

I have read the representations that the retired officers' association would like 25 per cent beyond this. This would bring them roughly to the Warrant Officer I level. I have not had a chance even to discuss this with my colleagues and I would not like to go beyond the point of saying that we will make sure in the regulation that officers who enlist in the armed forces will be able to get a pension, in addition to their salary, of up to the staff sergeant level of $4,200 under those circumstances.

If you move into the officer category there are problems here in relation to it. As you know, the contribution of the Government to officers' pensions is much higher than that to other ranks: it is about $4 to $1, as compared with about $2 to $1. It becomes more costly if you move beyond that.

Mr. BELL (*Carleton*): This may not be the occasion to argue the matter, Mr. Chairman, but I might ask the minister why, having conceded the principle, he does not carry the principle out in full and simply repeal section 17(2) and do it cleanly and in a straightforward manner.

Hon. Mr. BENSON: Probably for the same reason that you did not do it in 1959. It is a very costly thing to do, for the Government.

There is a principle involved here, of having an employee of the Government retired and then in addition receive his salary from the Government. Perhaps the principle should never have been started. However, I think it is fair and reasonable to go to the staff sergeant level and I have indicated my intentions to recommend this to my colleagues.

If you go beyond this, you get to the stage where, supposing somebody is getting a $10,000 pension from the Government as a retired officer in the army—and then accepts, say, a Civil Service job of $20,000, then the Government is paying the $20,000 salary and is also contributing four to one towards that $10,000 pension.

Mr. BELL (*Carleton*): You keep emphasizing this four to one basis. Is it your position that the Government of Canada is treating officers too generously?

Hon. Mr. BENSON: I would not like to say that.

Mr. BELL (*Carleton*): Then what significance does the four to one base have? This is the pension he earns and if the Government of Canada pays up four to one, so what? Even take that four to one pension, that officer can go out to private industry, he can go to the provincial government or to a municipal government, and you do not complain.

Hon. Mr. BENSON: That is right.

Mr. BELL (*Carleton*): Where is the distinction? The principle has already been breached fully, of not having two incomes from the same employer. It is breached in full, even under the legislation of section 17(2).

Hon. Mr. BENSON: It is not breached completely, it is breached only to a level.

Mr. BELL (*Carleton*): But once you breach the principle, what ground do you have to stand on?

Hon. Mr. BENSON: Don't blame me for breaching the principle, this was done by a previous government. I am not saying the principle is wrong. All I am saying is we are putting the officers up to the level of an O.R. who retires at the same maximum level, that is $4,200 after 35 years service.

Mr. CARON: On section 6 I was told the other day that it is up to the minister to decide what is the maximum or minimum which could be paid for those who received a pension by mistake. I was asking about the recovery of the pension paid by mistake and I was told that it is up to the minister to decide if it is going to be 2, 4 or 6 per cent. Would it not be better if there was a maximum set? It may not always be the same minister, and after you we may have a harder one to come. And they may go up to 10 per cent.

Hon. Mr. BENSON: The Minister of Finance has always been tougher than the Minister of National Revenue, but this is done to allow flexibility in the amount of recovery so that the Minister of Finance can look at the particular circumstances in any individual case and recover the appropriate amount.

Mr. CARON: But you can go to 10 per cent, and there is nothing to stop them going higher than that. If there was a maximum it could be prescribed that it should be within certain limits. Some could pay 2 per cent, some could pay 4 per cent, but could you not say that it should not go higher than 6 per cent?

Hon. Mr. BENSON: This would cause difficulty with somebody who had, for example, an overpayment of $2.36. You might want to recover the total at once and it would not be very practical to spread it over a period. Now if it was several hundred dollars you might want to spread it over a year or two years in accordance with the ability of the individual to pay. Of course this is done under the Financial Administration Act.

Mr. CARON: What would be the general recovery you have to get from one of the civil servants? What is the average recovery you have to get?

Hon. Mr. BENSON: I don't think I can indicate this because I don't know. It varies, some being small amounts and some being more substantial amounts. I don't think we have ever had people complain that the Minister of Finance, under Financial Administration Act, was being too harsh in the recovery of payments.

Mr. CARON: But there is always a danger.

Hon. Mr. BENSON: Yes, but I think it is serving a better purpose by allowing the Minister of Finance to consider the individual circumstances and if there was a small amount, as I mentioned a while ago $2.36, he could do it by recovering 100 per cent at one time.

The CO-CHAIRMAN (*Mr. Richard*): In order to have a more orderly discussion and since we have started on the armed forces, Mr. Chatterton had a question to ask and then Mr. McCleave.

Mr. MCCLEAVE: I wanted to ask a question about clause 9.

Mr. CHATTERTON: When the minister said he would use the pension of a staff sergeant as the base, does he mean that the pension of officers would be adjusted according to length of service?

Hon. Mr. BENSON: Yes, so that he may have the same position with respect to income from pension and that it would not affect his salary in the Civil Service, as a staff sergeant. After 25 years service this would be $3,013, and after 20 years service this would be $2,410.

Mr. CHATTERTON: I am in favour of the complete removal of 17 (2), but if, as the minister indicates, he is going to adopt some kind of formula to make it less inequitable and since you are going to adjust them by years of service, surely to make it equitable there should be a percentage adjustment on the pensions that officers are getting. Whatever percentage they might get would be arguable, but surely there should be some adjustment over the years of service plus the percentage of pension he would bet under this.

Hon. Mr. BENSON: This is the argument put forward yesterday by the retired officers' association. Of course I will look at this, and I also have to look at the cost implications, although Mr. Bell tells me there are none. When you hire somebody back you have an employee of yours and if you allow him his full pension and salary I think it requires some consideration by the Government. What you are indicating is the 25 per cent or something like that.

Mr. CHATTERTON: I think it requires recognition of the principle that the man with the higher pension is entitled to a little more. Once you accept that principle, if you start with 5 per cent, successive ministers, who are not as tough, might be more generous.

Hon. Mr. BENSON: I have gone a long way towards meeting the demands of the retired officers' association, because when I took over office I felt they were being treated unfairly. And I said this morning they would then be in the same position as the highest O.R.

Mr. CHATTERTON: This is to apply to the R.C.M.P. too?

Hon. Mr. BENSON: Yes, although governed by regulation it has been the same provision as this, governed by 17 (2).

Mr. KNOWLES: Will this apply generally?

Hon. Mr. BENSON: We will have to consider it, and we will be looking into something we have not considered before.

Mr. LEBOE: If you have a retired pensioner and you have someone else working in the Public Service doing a job that is going to cost X number of dollars, if that civil servant happens to become the one who is getting the pension, he is going to get the same number of dollars. What you are asking for is discrimination against the individual who is going to move into the Civil Service and then you may have the situation that this individual who may be very capable and very valuable to the Government is going to be lost to the Government because of this particular matter, and it isn't going to cost the Government a five-cent piece more, as you have indicated, because where you have two people you are paying the same amount of money and the recovery on income tax might balance it.

Hon. Mr. BENSON: I think the position has been that in most instances where officers have gone into the Civil Service to work, they have done it by choice although they could have gone into other jobs. However they moved into the Public Service and the guarantee they received was that they could earn an amount in the Public Service which added to their pension would bring it up to the salary of the rank they had in the service on retiring. If this salary moved up, the amount they could get in their pension also moved up. What we are doing now is we are saying they can get their salary plus a pension floor of $4,200.

Mr. LEBOE: I cannot follow the logic when you say it will cost the Government the same amount.

Hon. Mr. BENSON: For the particular job it costs the same amount, but the Government also contributes towards the pension of the retired officer.

Mr. LEBOE: But that will be on the basis of the Public Service and on the basis of the officer's rank.

Hon. Mr. BENSON: No, we are talking about officers' pensions now—officers who have retired. The reason the problem arises with respect to officers and is very rare with respect to civil servants is that officers retire from the armed services at, say, 50 years of age, and many of them at 45 years of age. Then they are entitled to a pension of several thousand dollars. Then they go into the

Public Service and work and take a job. The previous law has been the amount they could get in the Public Service plus their pension, the salary they get plus their pension must not exceed the amount they obtained in their equivalent rank in the armed services. We are saying they can get the full salary of any job they move into in the service plus a floor of $4,200 before it will affect his pension.

Mr. LEBOE: What you are saying, in essence, is that the deduction in the superannuation when they go into the Public Service is not the same as for some other person who goes into the Public Service?

Hon. Mr. BENSON: Well, they are working towards another pension then. This is a second pension.

Mr. LEBOE: This is the deal.

Hon. Mr. BENSON: There there is no problem because the amount they contribute to superannuation, that is the Civil Service superannuation, is the same as for any other civil servant, 6½ per cent. What we are talking about is the pension they may have the benefit of receiving at age 45, from 20 or 25 years' service in the armed services.

Mr. LEBOE: I see that, but I cannot follow the logic of what you are saying. I think you should be saying you ask an individual, after he has received a pension in the armed services, to come into the Public Service and save the Government money, and not to cost the Government more money—to save the Government money under the legislation.

Hon. Mr. BENSON: That is true in a sense, but there is a principle involved here, I believe. If you have an employee—and, as Mr. Bell says, we have partially breached this principle—if you have an employee to whom you contribute $4 for every dollar that he contributes towards his pension in the services and he retires at age 45, and then he becomes an employee of yours again, should you give him his complete pension from the first job plus the full salary of the new job, plus his entitlement to a new pension?

Mr. LEBOE: I would say absolutely, because he can elect to stay out of the Public Service and you will have to pay somebody else the same money to take that position.

Hon. Mr. BENSON: This is his choice, and the reason we have the problem is because many officers, even under the regulations as they existed, where an officer had no floor on his pension when he moved into the Public Service, chose to work for the Public Service.

Mr. LEBOE: I am thinking of the case of an individual who is very valuable to the Public Service. In a case of that kind the Public Service will say to that man, "We want you," and he says, "I am not interested because of the situation," and you are depriving the Pubblic Service of certain qualified people.

Hon. Mr. BENSON: Yes, but, of course, this is also true of the position where somebody demands $35,000 to come to work for the Public Service. Should you be able to go out and hire him at a salary above everybody else for the Public Service?

Mr. LEBOE: This is "haywire" because of the fact we are taxpayers. Whether we pay taxes to the municipal or provincial or federal government, we

are all taxpayers. If this same individual can go out and take the taxpayers' money as a result of being in the public service in a provincial administration without any question, it is all tax dollars and the principle goes out the window.

Mr. KNOWLES: Does the Minister know of any private industry that pays a man a pension and takes it back in part?

Hon. Mr. BENSON: My experience in private industry has been that where a person who retires from industry they do not pay the additional salary. If they hire them back often people come back to work at a rather nominal amount to more or less cover their expenses. In my experience in several firms, they retire at age 65, whereas in the armed forces they retire at age 45. If the armed forces said that officers could stay to age 65 this problem would not exist, just as it exists very little with respect to the Civil Service. A civil servant can come back in, but the total amount they may draw is up to the salary of that position they held prior to retirement in the Civil Service. The same for officers.

Mr. TARDIF: This applies to the City of Ottawa too.

Hon. Mr. BENSON: Yes.

Mr. MCCLEAVE: Is it possible, Mr. Minister, that these officers employed in the Public Service could take home less pay under this new formula than they have now?

Hon. Mr. BENSON: No, I am told they cannot.

Mr. MCCLEAVE: I have the two formulae here and as I understand it the proposal is the maximum that can be taken out of the pension would be $4,218 a year. Is that not correct?

Hon. Mr. BENSON: Yes. The proposal really is to retain the present formula, but to underpin it with this floor of $4,200, so they could not take home less than they take home at the present.

Mr. MCCLEAVE: Is it possible they could take home a pension greater than $4,218?

Hon. Mr. BENSON: Yes, of course. This is the floor; we are pinning a floor under it.

Mr. BELL (*Carleton*): It is a figure which is just ignored in the calculation. Is it truly a floor? Is it not an amount you ignore totally in making your calculation, based on the existing formula?

Hon. Mr. BENSON: Really what we are doing is, under the application of the present formula, we are saying you can draw from a pension fund an amount up to the equivalent rank. Where the amount of a pension they could draw is less than the $4,200 for 35 years' service, they would get that amount.

Here is a situation, where an officer now draws, after 30 years' service, $7,023.99, and he would continue to draw it under the present proposal. With 25 years' service he draws $6,775. He continues to get this. Another case, where somebody draws $5,723. These are actual cases. In the case of a chief petty officer with 25 years' service drawing $3,240 of pension, that is above the floor and would remain the same; and 20 years' is above the floor as well. So anybody above the floor it would not affect, but anyone with a pension that he draws below the floor for a number of years service, for a staff sergeant, he would get this benefit.

Mr. McCLEAVE: It is possible, Mr. Minister, for an officer now working in the Public Service of Canada to say, draw $5,000 a year pension plus a salary in the Public Service?

Hon. Mr. BENSON: It is now possible to do this, depending on his rank pay in the service, and it will be possible to do this in the future. But what we are saying is that when the formula is applied we will not allow a person to draw less than the pension indicated here from the pension fund. That is the $4,200 for 35 years' service.

Mr. BELL (*Carleton*): We will obviously have to argue it out, and at the appropriate time we may want to hear Mr. Walker's comments on it.

Mr. KNOWLES: I would like to put to the minister three questions relating to clause 9. They are on matters that we discussed with the experts, but we were referred to the minister. May I say that in asking these questions it might sound as though I accepted the *fait accompli*, or the whole philosophy that flows through this bill. The minister knows that I do not, but he also knows that sometimes we have to deal with a *fait accompli*. My questions are specific, and the first one relates to clause 9 where this is a provision requiring a person, whose combination of superannuation and Canada Pension Plan payment at age 65 falls short of what his superannuation was prior to age 65, to apply for the difference. That is the subject of my first question, and I will come back to it in a moment. I want to put the bases of my three questions first.

My second question relates to the wording in the clause which says that if there is a make-up allowance granted the effective date of that make-up allowance is to be determined by the regulations.

My third question will relate to the fact that a civil servant who retires, say, at the age of 62 and who takes some other job and, therefore, does not get his Canada Pension Plan benefit while he is working, assuming he works past age 65, has his superannuation reduced at age 65 but does not get any figure to keep his superannuation at that level.

Now, having given you the bases of my three questions, I come back to the first one. Why should it be necessary for a person to apply for a short-fall that occurs through no fault of his own? We were told by the experts to look at the Canada Pension Plan. I have looked again at the Canada Pension Plan and found that there are sections—around sections 104, 105 or 106—that provide for an employee to give permission that information concerning his account be given to those who might require it. In fact, the Department of Finance and the Department of National Revenue are named. Is there not some way in which under the provisions of the Canada Pension Plan this necessity of applying could be avoided? We all know there are cases of people who have missed things to which they are entitled simply because of ignorance of them, and there may be ignorance of such a short-fall. Is there not any way by which the necessity of applying could be done away with?

Hon. Mr. BENSON: What we are proposing to do, Mr. Knowles, is that when a person reaches the age of 65 and his pension is reduced by the superannuation formula that has been worked out—the integration formula—he will be notified in writing that it has been reduced, and if the amount is not made up by the

Canada Pension Plan he should notify us immediately, and he will then, presumably, give us permission to look at his Canada Pension Plan records, and we will then pick it up.

For the Government of the day to assume the task of doing this would mean, I believe, under the Canada Pension Plan—it is a long time since I looked at the act—that we would have to get a waiver from every civil servant when he retires, and then compare every case. The majority of them would not have to be compared because they would be all right. It was felt that the simpler method of handling this was to notify the person who is retiring that the reduction has taken place under the formula, and that this is why his pension is going down, and also inform him that if the short-fall is not made up by the Canada Pension Plan then he should get in touch with the Government which will sort it out for him.

Mr. KNOWLES: Mr. Benson, in the first place, if it is a statutory problem it can be taken care of in the time honoured way. There could be a clause in this bill which says that notwithstanding the provisions of such and such—

Mr. BENSON: Mind you, this is putting the burden on the—

Mr. KNOWLES: Just a minute. You are going through the business of notifying a civil servant that his superannuation is being reduced. You are asking him to look at the whole situation. Is it beyond the capacity of these computers to tell the retired person at the same time that his superannuation is being reduced by X dollars, and that the Canada Pension Plan benefit that he is picking up is Y dollars, so obviously he is getting more or obviously he is getting less? I mean, people do miss out on these things through no fault of their own—perhaps through just a failure to deal with it. It seems to me that a short-fall that is affected by legislation should be taken care of automatically.

Hon. Mr. BENSON: Yes. Well, the difficulty involved is, of course, first of all, in the fact that the two pension plans are being administered by two different departments of government. It is not difficult for two departments to get together, but in the case of the Quebec Pension Plan they are being administered by two different governments. The short-fall of some civil servants will arise as a result of the Quebec Pension Plan not making up the difference. That is administered by the Quebec Government as such.

I think that by informing people at the age of 65 that the Quebec Pension Plan or the Canada Pension Plan should make up the amount by which their superannuation is being reduced we will induce them to come back to us. As you say, there could be an instance of where they do not come back. The alternative, of course, is to take every person who retires and get the figures from the Quebec Pension Plan, but we cannot legislate—

Mr. KNOWLES: Do not victimize the people who come under the Canada Pension Plan because—

Hon. Mr. BENSON: Very well. We would have to get a figure from the Canada Pension Plan, but perhaps we could not get it in respect of the Quebec Pension Plan. We would then have to compare these two figures, and then correct the situation. If we did this for federal civil servants I believe we would not refuse to do it for other people such as provincial civil servants who are going to be in the same situation, and for those people in industry—

Mr. KNOWLES: You are not reducing the Public Service Superannuation Fund with respect to provincial civil servants.

Hon. Mr. BENSON: But they may be reduced and—

Mr. KNOWLES: But they do not have the right to apply to you for a make-up of the short-fall.

Hon. Mr. BENSON: No, but they have the right to apply to the province or to their employer for a short-fall.

Mr. KNOWLES: Mr. Minister, you are avoiding the issue. It is you—you, the Government of Canada—that has this legislation under which a short-fall is possible, and you, the Government of Canada, has undertaken to legislate to make up that short-fall.

Hon. Mr. BENSON: That is right.

Mr. KNOWLES: And you have given us great faith in the computers. Well, having stated that, I should like the minister to look at it.

Hon. Mr. BENSON: I will look at it. I am not against doing anything that is fair to the employee. I just have to look at the mechanics of doing this, and also the statutory provisions.

Mr. KNOWLES: You do not have any trouble in letting people know where there is a short-fall in their income tax.

Hon. Mr. BENSON: I have more trouble than I want. I have not yet got all the returns assessed.

Mr. CHATTERTON: Other than in cases where persons continue to work at 65, and, assuming Quebec does not change its benefits, have you worked out any cases in which the combined pension is less?

Mr. Hart Clark, Director, Pensions and Social Insurance, Department of Finance: In the examples that we have worked out this result has not flowed, but it comes very close when you get to 30 and 35 years from now. You could, I think, determine circumstances where it would become less, and the guarantee would then have to come into play.

Mr. CHATTERTON: But it would be only in very rare cases years from now?

Mr. CLARK: That is right.

Mr. WALKER: I have a supplementary question. Is there a cut-off date for the notification?

Hon. Mr. BENSON: No, they can apply at any time.

Mr. KNOWLES: My second question has to do with the effective—

The CO-CHAIRMAN (*Mr. Richard*): Mr. Knowles, I think Senator Fergusson has a supplementary question.

Senator FERGUSSON: When a pensioner finds he is subject to a short-fall at the age of 65, and he advises the department of this, and it is reinstated for him, does the reinstatement go back to the time when he started to lose it?

Hon. Mr. BENSON: Yes, of course.

Mr. KNOWLES: Just a minute. That is my second question. I ask Senator Fergusson to look at the act. Its date is effective from the time of the resignation, and the minister assured us that it would go back to that date. It seems to me this should be in the statute.

Hon. Mr. BENSON: The reason for the regulation is that there are complicated cases to deal with, with respect to disability and that sort of benefit. In the standard case it will go back to the date in which the short fall takes place. The first reason for wanting to put it in as a regulation is that it is difficult to define it and to take care of all the cases. We are giving the committee assurance in the case of retired civil servants in normal retirement that it would always go back to the date of the short fall.

Senator FERGUSSON: I did not realize that was going to be Mr. Knowles' second question. I became confused from all the questions he put from the beginning.

Mr. KNOWLES: I don't wonder. However, Mr. Minister, I would appreciate it if you could give us that assurance.

Hon. Mr. BENSON: The sole reason for regulation is that it is difficult to take care of cases and it would make the statute very complicated, because there are other cases besides retirement, there is disability, and so on.

Mr. KNOWLES: There are many cases in government setups where there are plans that if you do not meet the deadline you don't get it. I gather that under this there would be no time factor, that if a person discovers three or four or five years after, if there had been a short fall, he will be able to get the make-up payment back to the date of retirement.

Hon. Mr. BENSON: That is right, if it is a case of straight retirement.

Mr. KNOWLES: Mr. Benson, my third question is one that we argued at length the other day and I do not need to repeat the argument; I would like your comment on it, and also whether you see any solution to it.

I recognize the arguments which Dr. Davidson and Mr. Clark put up about the retired civil servant that goes back to work—a man retired at 62 who goes back to work for five or six years, that he should not be treated any differently from a person who does not go back to work. Both of them pay for an annuity, which on the low $5,000 plan would be only 1.3 per year up to age 65. However, you have assured civil servants that they will suffer no loss in benefits as a result of the coming into effect of the Canada Pension Plan. Post office employees—and they are your friends in particular—

Hon. Mr. BENSON: Generally speaking.

Hon. Mr. KNOWLES: Before the Canada Pension Plan came into effect they could get in 35 years service and retire on pension and go to work at something else and not suffer any reduction in their Public Service pension at age 65. Now they will suffer. They will not get the Canada Pension Plan and under the terms of some of the subclauses here they will not get a make-up grant. How do you explain this change in benefit and right to your postal worker friends?

Hon. Mr. BENSON: I would like to explain it to all civil servants, including postal workers. On full retirement there is no loss. I think it was subject to the condition of full retirement. I thought Mr. Bryce made this clear to the Canada

Pension Plan Committee, as I recall his evidence at that time, that if a civil servant fully retires, the make-up is there and there is no loss in benefit. If he choses to work somewhere else at age 65 then the Canada Pension Plan comes into play and he is in exactly the same position with respect to the Canada Pension Plan portion of his pension as any other Canadian. Therefore, he may earn a certain amount of money without affecting his benefit under the Canada Pension Plan and if he chooses to build up his Canada Pension Plan credit, which he could do by working between 65 and 70, we do not reduce the amount of the superannuation when he finally gste his Canada Pension Plan, but he does not get a make-up from the Superannuation Act in order to put him in a position which he would be in if he decided to retire fully.

I have heard of what Dr. Davidson and Mr. Clark said. I do not think I can add anything material to that.

Mr. KNOWLES: You are also aware of what you said this morning about the officers in the Armed Forces. There is a bit of breaching of the position there. You do not want to be unfair to these people. I realize what Mr. Bryce said to the Canada Pension Plan Committee which was on December 15, 1964, about these people who go back to work; but he also said before he got to that, as Mr. Pennell did in the house, that there would be no loss of benefits. Perhaps I may be a semanticist here, and am interpreting the benefits in the broad general way, but that is the interpretation that many civil servants have put on it that there is to be no loss of benefit.

Now, one of the benefits they have enjoyed to the present time—I am not speaking of people with big pensions who are going back to work, but of people whose pensions frequently just make it necessary for them to go back to work. Previously they had the right to do this and would suffer no loss in their Public Service superannuation pension. Now they do.

Hon. Mr. BENSON: I agree. However, I should make it clear to the committee that the position which the Government arrived at in this regard was done in full consultation with the Pension Advisory Committee, and indeed it was explained quite fully to the chairman of the National Joint Council in a letter to him by the former Minister of Finance, the Honourable Walter Gordon—the position was explained fully to him, and since no representations were received objecting to it it was accepted.

Mr. KNOWLES: One of the members of the committee said he resisted.

Hon. Mr. BENSON: I do not want to take the letter of the former Minister of Finance, but in this letter, which I took the trouble to read last night, the position was set out quite clearly to the chairman of the National Joint Council, and it was accepted.

Mr. KNOWLES: I recognize the force of Dr. Davidson's arguments, and I am sure he won't mind my saying that we discussed it privately, but I do think there is a parallel between this and the officer problem. I think there is a particular problem there. One principle would take you one way, and another principle would take you the other, and you are finding a compromise. I wonder if some way could be found even on a temporary basis for a few years to deal with the problem of those who feel they have a commitment in the Public Service? I will not pursue it further. I ask you to look at it between now and when we get this back to the house.

Mr. BELL (*Carleton*): I am deeply concerned in connection with this matter and would like to suggest that the minister and his officials should look again at the problem respecting these persons who enter the Public Service hereafter. I venture to suggest to the minister that the attitude which should be taken is that those who are in the Public Service now have a vested right by stature, and that to take that right away is in effect breaching what they were entitled to accept by reason of guarantees in the Parliament of Canada. I venture to put it to the minister that he should consider some type of make-up for that situation for those who are in the Public Service at this time. I suggest that there is something very close to a breach of an employment contract with those who are in the service now.

Hon. Mr. BENSON: Certainly we will take a look at it again. The position that has been arrived at is the agreed position in this regard, as indicated to you, that the National Joint Council have been fully informed all the way along. It is the position of industry with an integrated plan— I know that Mr. Knowles is going to say that nobody is going to integrate industry—but plans in industry are integrated even with the O.A.S., and even if they are integrated with the Canada Pension Plan to provide for early retirement at age 60, the problem is that the pension will be reduced at 65 if a person does not get the Canada Pension Plan because he chooses to work. One must remember that the only reason a person chooses to work is that he can get more money than he is getting out of the C.P.P.

Mr. KNOWLES: It may be a necessity.

Mr. BELL (*Carleton*): In many cases today it is a necessity.

Hon. Mr. BENSON: In future there is the added advantages under C.P.P. that it does escalate according to average wages.

Mr. BELL (*Carleton*): Mr. Chairman, I think we will have to argue this matter.

Hon. Mr. BENSON: This is a windfall benefit that will come to people in the Civil Service because by switching over to C.P.P. then they have part of the pension put into a pension attached to an index that will increase in the future.

Mr. KNOWLES: Put them both on that level.

Hon. Mr. BENSON: It costs money.

Mr. CHATTERTON: The definition of disability in CPP is somewhat different from the definition of disability under the Civil Service Act. Do you foresee the possibility of a person receiving a disability pension under CPP and continuing to work under the Civil Service Act?

Mr. CLARK: We could see it going either way, that he could under some circumstances possibly qualify under CPP and not under ours, and vice versa—though I think he is more apt to qualify under the Public Service Superannuation Act than under the CPP.

Hon. Mr. BENSON: I think that is the case.

Mr. KNOWLES: In that case, that you have just described, do you have any provision to make up the short fall?

Mr. CLARK: In the case of disability, and if he did not qualify under CPP, the full benefit would be payable on the 2 per cent basis.

Hon. Mr. BENSON: Yes.

Mr. CLARK: Up until the retirement pension became payable under CPP.

Mr. BELL (*Carleton*): I have two other matters of principle on which we need some help from the minister. The first is in respect to the lock-in under clause 11. I would like to ask the minister if he would take another look at this particular provision. I think there is considerable concern in the Public Service now as to appreciation of what this clause provides. I would like the minister to take with his officials another look at the matter.

Hon. Mr. BENSON: We will take a look at the evidence which has been submitted. I personally am a great believer in a lock-in pension. One of the difficulties that existed with respect to people who have retired in this country is that they build up a pension plan for some time; then they leave their job and get those pension plan payments back. They go into another job and then leave that and get the second pension plan payments back. When they get to age 65 they have nothing to live on.

This is the great advantage of lock-in. This is not a sharp lock-in provision. It is at age 45 and 10 years service. It is for future contributions. If someone is in the Public Service to age 45, and has worked 10 years in the Public Service, he has an amount of pension due to him. It is to his benefit to have that locked in. Only in this way can you build to a position in Canada where you have real portability of pensions, so that pension accumulates throughout the person's working lifetime and therefore he is entitled to a pension based on the number of years he has worked and the total amount of money he has earned.

Mr. BELL (*Carleton*): I agree, if this is a forerunner of a real system of portability of pensions and if we could see the other legislation which the minister may have in mind, and if we are to realize that it is an attempt to deal effectively with portability within federal jurisdiction and to integrate with the provincial portability—

Hon. Mr. BENSON: That is right.

Mr. BELL (*Carleton*): —schemes in full. But I do have concern as to providing this lock-in at this stage, until we do have the scheme.

Hon. Mr. BENSON: It is left in here to a date of effectiveness to be proclaimed by the Governor in Council. The reason for doing that was so that, when we have the other legislation, we can proclaim this section and they could start at exactly the same time.

Mr. BELL (*Carleton*): Will the minister give a commitment to the committee that he will not proclaim this until we have this other effective legislation?

Hon. Mr. BENSON: This is the intention. I can give my commitment. I cannot commit future governments. However, why talk about future governments—we are going to have the pension plan legislation through to provide portability, we hope, in this session.

Mr. KNOWLES: The minister promised it soon, and it has been promised before recess.

Hon. Mr. BENSON: Before recess?

The CO-CHAIRMAN (*Mr. Richard*): A lot depends on the members of the House of Commons.

Mr. CHATTERTON: Is there any case where the dollar value of the cash return is worth more than the present value of the cash annuity?

Mr. CLARK: In relation to age 45? This is what you mean?

Mr. CHATTERTON: Yes.

Mr. CLARK: Subject to confirmation from our actuaries from the Department of Insurance, I would think that the return of contributions at that age would invariably be less than the present value, including the survivor benefits attached to it, the possible future disability benefits attached to it.

Mr. CHATTERTON: Perhaps the other Mr. Clarke can tell me if there is any one case where the present dollar value of the cash return is worth more than the present dollar value, including survivor benefits, of a deferred annuity, at that age.

Mr. E. E. Clarke, Chief Actuary, Department of Insurance: I cannot imagine it in the usual case. It might happen, of course, if the person entered the Public Service at age 16 and obtained a return of contributions after five years of service, that the cost of the deferred pension benefit would be close to the return of contributions. The reason is that the cost of pension benefits is very low at the young ages because it is a long time before the benefit has to be paid. I would think that in 99 per cent, or perhaps even 99.9 per cent of the cases, the value of the deferred annuity benefit is much greater than a return of contributions.

Mr. KNOWLES: An effective public relations job is needed on this whole business of the relationship between various pension plans, where these lock-in provisions fit into the present structure we are trying to build. It seems to me that much of the complaint arises from misunderstanding. There is a public relations job to be done in this respect.

Hon. Mr. BENSON: I agree with you. It is our intention to produce an information bulletin which will give a full explanation of this. Some people believe we are going to take pension benefits which they can get out now and lock them in. This only applies to future contributions and the lock-in contribution to age 45. In answer to your question, we are going to try to do a public relations job with the Civil Service, to make sure that they understand fully.

Mr. KNOWLES: I mean, not just explaining to them that you are not taking any contributions from them, but where this fits into the total effort to build a solid pension.

Hon. Mr. BENSON: A solid pension scheme in the country.

Mr. BELL (*Carleton*): The other point, briefly, is one discussed with Dr. Davidson. Even his usual convincing style did not succeed in convincing me. Generally, throughout the bill, the powers which in the past have been vested in the Treasury Board will, under this legislation, be vested in the minister—either the Minister of Finance or the Minister of National Defence, as the case may be. I have some concern about this, as to whether it will give unevenness of administration and as to whether there may not be hardships

arising from time to time. It seems to me that there is a salutary advantage in the review of these cases by Treasury Board staff and finally by three ministers or such a quorum of the Treasury Board. I wonder if the minister would comment on the reason the Government has in making this particular change, and if they insist upon it would he consider whether there might be a general clause where a person who was dissatisfied with ministerial decision might have the right to appeal to the Treasury Board?

Hon. Mr. BENSON: Certainly I would be willing to consider the last point that was raised by Mr. Bell. However, I would like to say that the idea of transferring these decisions to the Minister of Finance is surely in accordance with the principle laid down by Glassco that administrative decisions should be made by the minister and that Treasury Board should not be burdened down with these particular decisions. I would also like to say from my own experience that it is invariably the Minister of Finance who makes the decision. The recommendation comes, in the particular cases envisaged, to Treasury Board where there are several ministers who are not familiar with the case. The recommendation is made and I cannot think of any case where the recommendation has not been accepted. I would hope that there would be a fair decision and I am sure that this will be the case—that there will be a fair decision by the Minister of Finance in these cases. I would be willing to consider the possibility of providing for an appeal.

Mr. BELL (*Carleton*): I would appreciate that very much. Based on my own experience in dealing with superannuation cases in the Department of Finance I am concerned that there is no appellate jurisdiction, as it were.

(*Translation*)

The JOINT-CHAIRMAN (*Mr. Richard*): Mr. Minister, before you leave, I want to say that if you have a look at the French version of Bill C-193 you will note it is called *Loi sur la pension du service public*. This is hardly pleasing to the ear because the proper words in French should be "fonction publique". "Service public" in French is just as bad as if we were to say, in English, "public function". Would it be possible to write a new title for the French version of Bill C-193 which would correct, not only the title but all those instances where the words "service public" appear so as to replace them with "fonction publique" in all cases?

I am making this remark to the members of the committee. Those who know these matters will agree that we should not proceed any further with those words. We thank the newspapers for having pointed out this mistake to us.

(*English*)

Hon. Mr. BENSON: I would like to say it is perfectly acceptable provided we can find a procedural way of doing it.

The CO-CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Minister.

We have before us a brief which was just handed to us. It is from the Civil Service Commission and is as a result of a call which we received yesterday from the chief commissioner of the Civil Service, Mr. Carson, who said he would like to appear briefly this morning on Bill C-193. Mr. Carson is accompanied by Mr. G.A. Blackburn, Director General, Staffing Branch, Civil Service Commission. Mr. Carson.

Mr. J. J. Carson, Chairman, Civil Service Commission: Mr. Chairman, I would like to make it very clear to the committee that the Civil Service Commission recognizes that superannuation is none of its statutory concern, but if the committee are contemplating any changes in the proposed bill we would like to draw to the committee's attention one place where we feel the provisions could interfere with effective staffing. This relates to an age-old problem in any large organization where your retirement arrangements are sufficiently rigid that they prevent the opportunity to give attractive retirement pensions to people who have, through no fault of their own, become incapable of coping, either mentally or physically, with certain aspects of the job. This can happen through technology or organizational changes and the varying degrees of senescence that takes place in people. I am not referring to disabled persons in the present definition of disability which is rather a rigid medical definition, but we have civil servants who through no fault of their own are unable to cope with the full demands of the job, and because the retiring arrangements call for an actuarial reduction in the pension they receive, very often this ends up with the department carrying them on the payroll which in our view is not the best solution to utilization of manpower or maintenance of morale in the Public Service. That is all I would like to say.

(*Translation*)

Mr. CARON: This is not included in the act at the present time?

(*English*)

Mr. CARSON: No. The amendments, however, that are proposed do not make provision for this opportunity.

(*Translation*)

Mr. CARON: Since you are claiming that there are two kinds of disabilities, disability which can be established in a pretty definite way by doctors and disability which is more difficult to determine but of which Civil Service Commission people are aware. They can see when a person is physically or mentally afflicted without being really or completely incapable of performing his duties.

(*English*)

Mr. CARSON: This occurs in a variety of ways; very often the individual is just not capable of coping with the changing nature of his duties. Technology overtakes him and for some reason or other at his age he does not have the capacity to be retrained.

(*Translation*)

Mr. CARON: Can this be foreseen or observed medically?

(*English*)

Mr. CARSON: No, not necessarily. Our experience has not been completely satisfactory here. The medical profession, of course, work within the definitions of disability as they see them. The individual is not disabled in terms of coping with life, but he is either aging at too rapid a rate to cope with the demands of

the job or his hearing or his eyesight or a variety of things prevent us from being able to employ him effectively.

(*Translation*)

Mr. CARON: Have cases like this appeared very often, or are they exceptional?

(*English*)

Mr. CARSON: No, not too many, but we have seen them here and there in departments, and whenever they do occur they are a real concern.

Mr. BELL (*Carleton*): I wonder, Mr. Carson, if you could indicate whether these representations for the two amendments suggested have been made to the Treasury Board previously, and presumably if they have been turned down.

Mr. CARSON: Not to Treasury Board, but to the Minister of Finance.

Mr. BELL (*Carleton*): But they have not been adopted by the Minister of Finance?

Mr. CARSON: That is correct.

Mr. BELL (*Carleton*): What reasons have been advanced to you for not adopting them?

Mr. CARSON: I am not aware of the reasons. I think it is probable that the Department of Finance felt they had quite enough to cope with in the revisions and this proposal of ours was much lower in the order of priority than anything else. But I would think the Treasury Board or the Department of Finance could answer that.

Mr. BELL (*Carleton*): Is it your proposal that these amendments should be made only to the Public Service Superannuation Act? Do you think it ought to go into the Royal Canadian Mounted Police Superannuation Act and the Diplomatic Service (Special) Superannuation Act?

Mr. CARSON: We are under the impression that they are provided for more effectively in those bills than is the Public Service.

Mr. BELL (*Carleton*): Do you know what the existing provisions are in those bills?

Mr. CARSON: No, I am sorry to say I am not aware of that. You will understand that the Public Service as such is our concern and not those covered under these other acts.

Mr. BELL (*Carleton*): You are concerned with some who are under the Diplomatic Service (Special) Superannuation Act?

Mr. CARSON: Not if they are civil servants. I presume if they are civil servants they are under the Public Service Superannuation Act.

Mr. WALKER, M.P.: Mr. Carson, the question that immediately comes to my mind is: Who decides on this extended definition of "disability" you are speaking of? I presume it was fairly easy before; a medical doctor, if you will, could have done this. But with this new dimension, is it drunkenness or straight incompetence, or incompatibility? These are pretty hard things to define. The

crux of my question is: Who are the people who will be saying that, " 'James Walker' working in a certain department, because of emotional stress on his job has demonstrated his incompatibility, and incompatibility is not good. This man is ruining this particular department." Who decides this?

Mr. CARSON: We have proposed for the committee's consideration one of two alternatives. I do not think you need to accept both. One is that the definition of "disability" be broadened. This could still be referred to the Department of National Health and Welfare who make these decisions, with this broader interpretation of "disability." Or, alternatively, you could have the proposal come forward from the department to Treasury Board for a special pension arrangement to be made. Either one or the other would be of great assistance in resolving this kind of problem.

Mr. WALKER, M.P.: Who defines "disability" now? Who makes the decision now on disability? Is this done by regulation or practice?

Mr. CARSON: My understanding is that the Department of National Health and Welfare's Civil Service Health Division does.

Mr. WALKER, M.P.: There is nothing spelled out in the legislation which includes the loss of an arm, head or leg?

Mr. CARSON: There is a definition in the main act that has been amended.

Mr. WALKER, M.P.: So it is an extension of the definition of "disability" you are after.

Mr. CHATTERTON: Is it the intention, Mr. Carson, that such a person under the broadened definition would receive a pension which would be the same as he would be given under section 2(*d*), the P.S.S.A. pension? Is that what you had in mind?

Mr. CARSON: I think so, Mr. Chatterton. Our concern is to try to overcome this problem of the actuarial reduction which takes place, and to permit the individual to go on pension immediately this kind of situation recommends itself.

Mr. CHATTERTON: There is a new factor, and that is the Canada Pension Plan. If a person is relieved under these circumstances he most likely would not be able to get another job. He might not qualify for disability under the Canada Pension Plan with this broadened definition, and then he would be deprived of making contributions to the Canada Pension Plan and thereby earning a pension under that act. This is something that has to be kept in mind.

Mr. CARSON: I quite acknowledge the point you are making. I would suggest the individuals I am referring to would not necessarily be unemployable in some other kind of situation, but, even so, the alternative of carrying him on the payroll to achieve the objective you are seeking here, I think is just very demoralizing to the rest of the staff and, in many cases, to the individual himself.

Mr. CHATTERTON: Would you say the majority of people in this category are elderly employees?

Mr. CARSON: I would not say "elderly." I would want to be extremely careful.

Mr. CHATTERTON: Are they going on in years?

Mr. CARSON: Any time from 50 on we are faced with this kind of situation.

Senator O'LEARY (*Antigonish-Guysborough*): You have covered a question I have in mind with respect to the mechanics of the decision, but I have just a further question, and there is a simple answer. Would that person then on pension be precluded from applying for or being considered for a minor position at a future date?

Mr. CARSON: Not at all.

Mr. KNOWLES: Mr. Chairman, may I pose a problem that strikes me—and, maybe, I have not understood it. Would you not still have the problem on a personal basis of deciding what is the fair thing to do with regard to one of these emotionally disturbed "Jim Walkers"?

Mr. WALKER, M.P.: Does that go on the record, Mr. Chairman?

Mr. KNOWLES: You put it there yourself! All right. Say you have a 52-year old and you have the right to retire him early. I do not know on what pension, and I am not quite sure what kind of pension you have in mind, but certainly it would be less than his salary. Would there still not be the problem of deciding whether or not, out of the goodness of your heart, to carry him instead of putting him on pension? Have you solved the problem in this way?

Mr. CARSON: There is always that kind of human judgment. I think those of you who have even more extensive experience with the Public Service than I have know the pressures that are always there to continue the individual on, and I would expect that if any possible employment could be found for the individual this is always the course that would be elected. But there are recurring situations in which it is almost a hopeless proposition. The individual would be better off to be at home than creating a source of embarrassment and difficulty for himself and his employer. The business of trying to reorganize the job and modify the working environment—these things are always done and, I would hope, would always continue to be done, but there are some situations in which this is not a viable solution, and yet we are faced with the fact the only alternative is an actuarially reduced pension and, under those circumstances, the individual could not be expected to elect to take retirement, and I would think any thoughtful or concerned department would not try to press early retirement unless there could be some more satisfactory arrangement made in terms of the pension available.

Mr. KNOWLES: You speak of the present situation as revolving around an actuarially reduced pension. What do you have in mind in your proposal?

Mr. CARSON: I do not know what the best way to describe it would be. It would be, let us say, a median pension, one that would be equivalent of what the individual would have received if the employer had continued to make his contributions. I do not think you could expect the employer to be making up the equivalent of the employee's contributions as well.

Mr. KNOWLES: You mean for the balance of his normal working period?

Mr. CARSON: Yes, we are proposing really the same pension be made available to the disabled employee.

Mr. CHATTERTON: Can somebody tell us what the formula is for a disability pension under the P.S.S.A.?

Mr. CARSON: I wonder if Mr. Clark would like to answer that?

Mr. CLARK: As long as he has five years of service he can qualify for and receive a pension, if he qualifies as being disabled.

Mr. CHATTERTON: What is the formula?

Mr. CLARK: Two per cent of his average salary on the six-year average basis, multiplied by the number of years of service. In other words, if he had five years of service he could get ten per cent of his average salary over those five years, and if he had ten years of service he could get 20 per cent of his average salary over six years.

Mr. CHATTERTON: You see, Mr. Chairman, I was under the impression that there was a different formula for going on pension by virtue of ill health, but there is not. The person Mr. Carson describes here would not be any better off than he would be if he had been retired on account of disability under section 2.

Mr. CARSON: Yes, but our difficulty is that we cannot retire him as totally disabled.

Mr. CHATTERTON: So there would be a different formula?

Mr. CARSON: Not a different formula, but a broader definition of "disability".

Mrs. WADDS: Mr. Carson, it has been my experience that the definition of "disability" has broadened over the last few years, mainly because of the interpretation doctors have of disabilities. We seem to be up against an increasing number of disabilities. Is this your experience?

Mr. CARSON: Not when they are written into legislation.

Mrs. WADDS: You do not find the term "disability" has now a broad interpretation?

Mr. CARSON: I think there has been a sort of accepted broader interpretation of it, but I do not think this has been the case within the parameters which the Department of National Health and Welfare feels it works.

Mr. KNOWLES: Not under the Disabled Persons Act.

Mr. MCCLEAVE: Mr. Chairman, I am wondering if Mr. Carson could say how workable the present practice is in the present situation.

Mr. CARSON: Mr. Chairman, I would not want to over-exaggerate this situation. The Public Service is coping with it in one way or another. It is very difficult for us to give you any exact measure of how many people are now carried on the payroll and yet not able to be effective at all. These are found across the length and breadth of Canada. I have no indication of numbers. When the cases come to my attention they are usually in the context of a department saying: "Can you possibly place this individual elsewhere in the service, because he has become a hopeless proposition within this department?"

Mr. McCLEAVE: Perhaps I could make this point; the Civil Service Commission has taken the rather unusual step, after having been turned down on its submission by the Minister of Finance, of coming directly to this committee. Most of us were intrigued yesterday when we heard about this because we have not heard of such a step being taken before. Obviously there must be some burning and compelling need, Mr. Carson, for you to appear before this committee. You must be able to give us a strong reason as to why you are here.

Mr. CARSON: Mr. Chairman, perhaps my most compelling motivation is to establish in the committee's mind that there is an independent commission.

Mr. McCLEAVE: Now that you have established your independence, can you give us a more precise assessment of what you regard as the seriousness of this problem?

Mr. CARSON: In terms of good management even one of these cases is, I think, a serious problem. In the short period that I have been Chairman of the Commission I must have faced at least each month a case in which a department finds itself locked in with no alternative. An individual is not sufficiently disabled to be certifiable by the Department of National Health and Welfare, and yet no useful purpose is being served by retaining that individual on the payroll. But, he is there, and the unattractiveness of the available pension means that neither the individual nor the department is prepared to move.

Mr. McCLEAVE: This adds up to something like twelve cases a year?

Mr. CARSON: These, I think, are the ones that I hear about.

Mr. McCLEAVE: Do you think the problem will become aggravated because of the growing sophistication of the Public Service in the use of computers and new techniques?

Mr. CARSON: Yes, indeed.

The CO-CHAIRMAN (*Mr. Richard*): I am going to interject a question. Is it not the practice just now, because you have no established regulations other than those that you do have, that such employees as you are talking about really are not given promotions, or are demoted. Is not that what you are arguing?

Mr. CARSON: Indeed. This is an alternative that is also used. In many instances it is a sensible alternative to demote an individual. In some cases it is the choice that the individual himself would elect. But, there are many other cases, I can assure you, in which demotion is no solution, and in which the very act of demotion accelerates the disentegration of the individual.

Mr. BELL (*Carleton*): Mr. Carson's batting average may be only one a month, but I can assure him that my batting average is considerably more than that. I see these cases pretty regularly.

The CO-CHAIRMAN (*Mr. Richard*): If the committee does not mind my interjecting I will say that this is a great worry to me because these are cases in regard to which Mr. Bell and myself and others are often accused of patronage, which, of course, is untrue. We spend most of our time meeting many of these people who complain that they have not been given promotion,

or even that they have been demoted, and often we find that there is some feeling in the department or the commission that these people do not fill the job properly. However, that is not a satisfactory answer, because it does store up trouble within the whole department. This is an area that I think should be considered by the committee and by the commission.

Mr. CARSON: Thank you, Mr. Chairman.

Senator FERGUSSON: Because I was employed by, and was in charge of, two fairly large regional federal departments of the civil service I know that this is a great problem. I do not know how wide it is, but I do know I have seen it myself in offices under my jurisdiction. I realize the suggestions that have been made by the Civil Service Commission will probably make for greater efficiency in the departments concerned, and I know that that is what the Civil Service Commission is aiming at, but I would like to know if Mr. Carson has any idea as to whether the amendments he suggested would be welcomed by the employees who might be affected.

Mr. CARSON: Mr. Chairman, I think this is a variable. There are many employees who have indicated that their preference would be to get out if they could have any kind of a reasonable pension arrangement.

Senator FERGUSSON: This is my opinion too, and I would like to know if you feel the same way.

Mr. CARSON: There will be some cases in which some encouragement and persuasion would have to be provided, but you can do a far better job of persuading an employee if you have a reasonable proposition to make to him.

Senator FERGUSSON: Yes, if you have something to offer him. Thank you.

Mr. WALKER: Mr. Carson, has anybody in the Civil Service—a section head, or anybody—authority at the present time to fire somebody who is incompetent, or somebody who has demonstrated he is the type of person you have in mind when you talk about enlarging the definition of "disability"? Does anybody ever get fired from the Civil Service for these things?

Mr. CARSON: Yes, but you will understand that dismissals are subject to appeal.

Mr. WALKER: Yes, I do.

Mr. CARSON: This, of course, is a very great deterrent to casual firings. I think this year our annual report deals—I am sorry; I do not have the numbers at my finger tips, but they are not very large. They are in the order of several hundreds out of a total of 140,000. This is a very small number. It is very difficult, you know, for a department to prove incompetence satisfactorily in an appeal board setting, and the result is that it is very rarely tried.

Mr. WALKER: As an independent body why do you hesitate to use this procedure more? It is used all the time outside the Civil Service and, mind you, in those cases they have unions which plead the case of the dismissed employee.

Mr. CARSON: You will understand that the commission is not the employer of the civil servant. We are there to safeguard his interests and the interests of the particular department. It is up to the department to take the initiative in

recommending a discharge for incompetence, and we then adjudicate the appeal. In the last analysis I guess it has to be the Governor in Council who sanctions the dismissal.

Mr. WALKER, M.P.: But you do not think you have an unused weapon there which will accomplish what you are asking to have accomplished?

Mr. CARSON: No. In the cases I am referring to—

Mr. WALKER: It would not stick in an appeal?

Mr. CARSON: No, not at all; and it would be unfair to dismiss them on grounds of incompetency because very often this is a gradual deterioration. This is no fault of the individual.

The CO-CHAIRMAN (*Mr. Richard*): Any other questions? Mr. Knowles?

Mr. KNOWLES: I would like to return to a question which was asked earlier. You indicated, Mr. Carson, that you do not work out an exact figure?

Mr. CARSON: We would accept the present disability provisions.

Mr. KNOWLES: But in that amount only I thought you were proposing something in between that.

Mr. CARSON: No. I think we would accept the present disability provisions.

Mr. KNOWLES: In other words, a person with 10 years service who went out now would get a 20 per cent pension?

Mr. CARSON: The individuals we are talking about usually have more than 10 years service; it is up to 20 or 25 years service.

Mr. KNOWLES: Would you put any kind of floor in terms of years before this would become applicable?

Mr. CARSON: No. Our advice to the committee would be that you adopt the disability formula to broaden the possibility of interpretation of the disability formula. Or if this does not commend itself we advise that you consider the alternative route of permitting the Treasury Board to work out a reasonable pension arrangement for the individual, depending upon circumstances.

Mr. KNOWLES: If we did it for disability of this kind we would soon be asked to do it for other kinds of disabilities, too, wouldn't we?

Mr. CARSON: I would of course like to see this extended to the whole range of occupational disability, not just physical or mental disability.

Mr. KNOWLES: Would you do this for members of Parliament too?

Mr. CARSON: I do not think that situation has ever arisen, Mr. Knowles.

The CO-CHAIRMAN (*Mr. Richard*): Mrs. Wadds?

Mrs. WADDS: May I ask the same question in terms of how long an employee has been in the service? Is there any time limit? Is there no floor now?

Mr. CARSON: We do not make any fixed recommendations on this. Certainly if it was felt desirable to put some modifications on when this could be used, if it was available after age 45, that could be done.

Mr. MCCLEAVE: Could we hear from Dr. Davidson on this, Mr. Chairman?

The CO-CHAIRMAN (*Mr. Richard*): Dr. Davidson could be called, but I think it should probably be left with the minister.

Dr. George F. Davidson, Secretary, Treasury Board: I think a proposal to this effect was included in a letter which the previous chairman of the Civil Service Commission, Mr. MacNeill, presented to the Minister of Finance, perhaps a year or a year and a half ago. I will go on immediately to say that if a provision to this effect does not appear in the present bill it is not because there was any disagreement as to the validity of the point which had prompted this suggestion from the Commission. However, it is a pretty complicated problem and it has implications for the treatment of persons of this kind that affect other schemes as well as the Public Service superannuation scheme. It has implications, for example, for the treatment of certain kinds of members of the Armed Forces who are presently retired under a regime referred to as being in the interests of the economy or efficiency, which I take it really lies at the back of what Mr. Carson and his colleagues are concerned about; and to make a change of that kind without full consideration of all implications, and of other legislation which is on the statute books at the present time, I think would get us into the kind of difficult situation in terms of inconsistencies between different kinds of legislation that we are anxious to avoid. Therefore, the view of the officers of the Department of Finance and of the Treasury Board staff as they looked at this was that this was a problem that required study, that required a degree of responsibility from the employing departments which we had not yet attained, and that it was just not possible with these complicated problems to try to sort out difficulties having to do with integration in dealing with this particular aspect of the problem.

It may interest all members to note that we have in clause 11, on pages 16 and 17 of the English text taken a timid step in the direction of meeting at least one segment of this problem, in that we have provided for a voluntary action on the part of the individual to take his retirement on an actuarially equivalent basis after the 20 years of service had been completed. That I say is a timid step in the direction of recognizing that there is a problem here of people who after a certain number of years in the service begin to lose their ability to carry on at quite the same level that they are expected to, to carry on in terms of their classification levels and their assigned responsibilities, and we have at least opened the door here by providing the opportunity for individuals to take a voluntary retirement on this basis.

Mr. KNOWLES: At what age?

Dr. DAVIDSON: At age 50, with 20 years of pensionable service. The purpose of this, Mr. Knowles, is to avoid having people move out into the retirement stream so far as the Public Service is concerned with an abnormally small pension that will come back to haunt us when you ask questions in future sessions of Parliament about the number of people with small pensions who are on our retirement list.

Mr. KNOWLES: This age 50 seems in very common relationship with Mr. Carson's last statement concerning age 45.

Dr. DAVIDSON: There is no absolute age that anyone can determine as being the absolute age; but I mention this merely to indicate that we have opened the door so far as the voluntary decision of the individual is concerned. We did not feel in the present circumstances of our knowledge and in the absence of any considered evidence from the employing departments that we would be justified in plunging into the other area which is represented in effect by decisions to compulsorily retire individuals in advance of what they would normally have expected to complete in the way of a career service. We will continue to examine that. These are not the last amendments, I suspect, that will be presented to the Public Service Superannuation Act.

I think we do need to have the evidence of the employing departments, with the managers on the spot of the Public Service, who should be in a position to support and confirm the tentative impression that we have, and that the Civil Service Commission has, as to the prevalence of this kind of problem; and when we have a considered assessment made of the extent of this problem and the steps which should be taken to meet it, and when we have worked out consistent relationships that we think we would have to establish as between terms to be laid down in the Public Service Superannuation Act and the terms that are now laid down in the Canadian Forces Superannuation legislation, we will no doubt come back to Parliament with some kind of provision designed to meet this situation.

If you look at the provisions set out in the regulations applicable under the Canadian Forces Superannuation Act, you see that the provisions respecting retirement to promote economy or efficiency, are in effect based upon the principle of the actuarially reduced equivalent. This is why I would have some concern about moving ahead on Mr. Carson's formula in respect of the Pubic Service Superannuation Act, without first having had an opportunity to assess the impact of that on the Canadian Forces arrangement. I believe the Canadian Forces arrangement applies also with respect to the R.C.M.P. They do have, as Mr. Carson said, better provisions for dealing with this, but they deal with a situation on the basis of the actuarially reduced equivalent being paid on compulsory retirement, and not on the somewhat more generous basis Mr. Carson has indicated the Commission would have in mind for persons coming under the provisions of the Pubic Service Superannuation Act.

Mr. MCCLEAVE: This is under active study, Dr. Davidson?

Dr. DAVIDSON: This will be under more active study in the future than it has been in the past.

Mr. KNOWLES: Have Dr. Davidson or Mr. Clark yet been able to work out the simplified formula for the computation in clause 9 which I asked about on the first day we met?

Dr. DAVIDSON: Mr. Clark says it is being tabled today, and I am willing to bet it is more complicated than the bill itself.

Mr. KNOWLES: I ask, Mr. Chairman, that it be put as an appendix, rather than in the text, and perhaps Dr. Davidson would look at it to see if he can understand it.

The CO-CHAIRMAN *(Mr. Richard)*: That will be done.

Mr. BELL (*Carleton*): Mr. Lloyd Walker is here and I would ask that he be given an opportunity to comment on the minister's answer this morning.

The CO-CHAIRMAN (*Mr. Richard*): Yes, but I should not like to start a precedent of recalling witnesses one after another.

Mr. BELL (*Carleton*): This is an unusual situation.

Mr. Lloyd Walker, President, Association of Canadian Forces Annuitants: I would like to correct some points from yesterday. As an association we are grateful for the consideration being given to us up to this point by the minister and Dr. Davidson. I may have sounded a little harsh on Dr. Davidson yesterday.

One thing I mentioned in passing yesterday has come into a little more prominence because of the minister's statement. I was trying to draw a point between length of service and merit. This is brought out more clearly in the minister's announced intention—which I hope is not firm at this point—that he is only recognizing length of service and has made no provision for merit as represented by promotion or a rank.

Any formula which is an alternate to a principle—and you are making a pretty elastic principle out of this, to start with—must recognize—if you insist on introducing this—both of the main factors that contribute to a man's pension, length of service and ability to progress, as represented by his promotion.

That is our main point of criticism on the minister's announcement.

Secondly, we come back to the point that it is discrimination. It is a little less discrimination than existed, but it is still a basic principle of discrimination. You are treating two groups of people differently under the same act.

People say that we are leading the world. I might point out that we are lagging far behind in this connection. Most other countries have seen the light, in the waste of manpower by training people for 25 or 35 years in the armed forces and then refusing them an opportunity in the Public Service. Most of those in the administrative and technical fields find a retired officer, because of his forced retirement at an early age, a very welcome addition to the Public Service. I think Mr. Carson could either substantiate my feeling on this or dispute it.

Canada is no exception in this respect, that we are training technical people and administrative people to a level that they make a very substantial addition to the Public Service.

To force them to go to industry, to the United States or to provincial governments, is not in the public interest. The degree to which you do this will be the degree to which you pay a man the pension he has earned.

The proposal by the minister this morning does offer some relief, but they are not going to get the people they want. They are going to get the people who have served a long time in the services but have not been able to progress to any great rank—they are the people you are singling out now and offering an opportunity to serve with the Public Service.

I will not belabour this point now but I hope I may have an opportunity to discuss it with the minister again. We will make every effort to do so.

I think the stress should be on merit and not on length of service, if the public interest is to be served.

Senator FERGUSSON: Mr. Walker has said that Canada treats retired armed forces personnel in a different manner from that of other countries, that elsewhere these trained people are accepted without discrimination. What other countries treat their service personnel differently?

Mr. WALKER: As I mentioned yesterday, Australia has removed all restrictions, from December 1965. Up to that point, they paid 50 per cent of the pension.

The United States example is not valid, because the serviceman there does not contribute to his pension. Even in that case, without any contribution, he receives $2,000 plus 50 per cent of his pension. If you figure that for 30 years you have paid 6 per cent of your income, and add it on top of that, this would be quite acceptable.

England has no specific penalty for Public Service.

The CO-CHAIRMAN (*Mr. Richard*): Thank you, Mr. Walker.

The committee adjourned until 3.30 p.m.

APPENDIX "F"

PROPOSED INTEGRATION FORMULA UNDER THE PSSA

P60 = pension payable from age 60 (or later) to 64

P65 = pension payable from age 65 (or later) for life

S = final average salary (best 6 year period)

M = the average of the Year's Maximum Pensionable Earnings for the year in which the PSSA retirement pension becomes payable (but not before age 65) and for each of the 2 preceding years under the CPP

b = years of service before January 1, 1966

a = years of service after January 1, 1966

CPP = the assumed benefit under the CPP calculated at time of retirement from the public service (but not before age 65) based on contributory service under the PSSA and having no regard for any actual reduction in benefit due to the retirement test.

$P60 = .02\ (b+a)\ S$

$P65 = (.02b+.013a)\ S$, where $S \leq M$

$= (.02b+.013a)\ M + .02\ (a+b)\ (S-M)$, where $S > M$

$P65 \geq P60$—CPP, where $b > o$ and the PSSA annuity becomes payable immediately upon retirement.

NOTE: Disability pensions payable from any age are calculated in a like manner on years of service up to retirement on disability with the 1.3 factor applying from date when CPP disability benefit could commence.

APPENDIX "G"

CANADIAN FORCES SUPERANNUATION ACT
ROYAL CANADIAN MOUNTED POLICE SUPERANNUATION ACT

Examples of Application of Integration Formula

(Retirement at Age 50)

		Mr. A	*Mr. B*
(1)	Final Salary	7,000	7,000
(2)	Average Salary (6 years)	6,000	6,000
(3)	Service after January 1, 1966	15	10
(4)	Service before January 1, 1966	10	15
(5)	Total Service	25	25
(6)	Benefit under present Act[a]	3,000	3,000
(7)	CPP Benefit[b]	625	500
(8)	Benefit under integration[c]	2,375	2,500
(9)	Total Benefit[d]	3,000	3,000

[a] The benefit under the present Act provides for a benefit of 2% of the average salary (6 years) for each year of service. In both cases this would be $.02 \times \$6{,}000 \times 25 = \$3{,}000$ p.a. This benefit will be payable to 65 under the proposed integration formula.

[b] The portion of CPP benefit earned while contributing under either of the above Acts is:—

Mr. A who was 35 in 1966 $\frac{15}{30} \times \$1{,}250 = \$625$ p.a.

Mr. B who was 40 in 1966 $\frac{10}{25} \times \$1{,}250 = \$500$ p.a.

[c] The proposed benefit under integration is to subtract the CPP benefit payable 65 from the present benefit.

[d] The total benefit at 65 will be the same as the CFSA or RCMPSA benefit before 65.

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

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

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

First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean-T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 4

Respecting
BILL C-193

An Act to amend the Public Service Superannuation Act, the Canadian Forces Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Superannuation Act, the Diplomatic Service (Special) Superannuation Act, the Intercolonial and Prince Edward Island Railways Employees' Provident Fund Act and the Canadian Corporation for the 1967 World Exhibition Act.

TUESDAY, JUNE 21, 1966
(Afternoon Sitting)

WITNESSES:

Mr. C. A. Edwards, President, Civil Service Federation of Canada; Mr. W. Kay, National President, Canadian Union of Postal Workers; Dr. F. Davidson, Secretary of the Treasury Board; and Mr. H. D. Clark, Director of Pensions and Social Insurance Division, Department of Finance.

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

24553—1

SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Hon. Senator Maurice Bourget and Mr. Jean-T. Richard, M.P.

and

Representing the Senate	*Representing the House of Commons*	
Senators	Mr. Ballard,	Mr. Lachance,
Mr. Beaubien (*Bedford*),	Mr. Bell (*Carleton*),	Mr. Leboe,
Mr. Cameron,	Mr. Caron,	Mr. Lewis,
Mr. Choquette,	Mr. Chatterton,	Mr. McCleave,
Mr. Croll,	Mr. Crossman,	Mr. Munro,
Mr. Davey,	Mr. Émard,	Mr. Orange,
Mr. Deschatelets,	Mr. Fairweather,	Mr. Ricard,
Mrs. Fergusson,	Mr. Faulkner,	Mr. Rinfret,
Mr. Hastings,	Mr. Hymmen,	Mr. Tardif,
Mr. O'Leary (*Antigonish-*	Mr. Isabelle,	Mrs. Wadds,
Mrs. Quart,	Mr. Keays,	Mr. Walker—(24).
Guysborough),	Mr. Knowles,	
Mr. Roebuck—(12).		

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, June 21, 1966.
(6)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 3.35 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present: Representing the Senate: The honourable Senators Bourget, Fergusson, O'Leary (*Antigonish-Guysborough*), Quart (4).

Representing the House of Commons: Mrs. Wadds and Messrs. Bell, (*Carleton*), Chatterton, Crossman, Fairweather, Hymmen, Keays, Knowles, Lachance, Leboe, McCleave, Orange, Ricard, Richard, Tardif, Walker (16).

In attendance: Mr. C. A. Edwards, President, Civil Service Federation of Canada.

The Committee heard a brief from the Civil Service Federation and questioned the witness thereon.

It was agreed to print appendix A to the Brief as an appendix to this day's proceedings (*See appendix H*).

At 5.45 p.m. the questioning of the witness concluded, the meeting adjourned to 8.00 p.m. this same day.

EVENING SITTING
(7)

The Special Joint Committee of the Senate and the House of Commons on employer-employee relations in the Public Service of Canada met this day at 8.10 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard presiding.

Members present: Representing the Senate: The Honourable Senators Bourget, Deschatelets, Fergusson, Hastings, O'Leary (*Antigonish-Guysborough*) (5).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Hymmen, Keays, Knowles, Lachance, McCleave, Orange, Ricard, Richard Tardif, Walker (12).

In attendance: Mr. W. Kay, National President, Canadian Union of Postal Workers; Dr. G. F. Davidson, Secretary for the Treasury Board; Mr. H. D. Clark, Director of Pensions and Social Insurance Division, Department of Finance.

24553—1½

The Committee questioned the President of the Canadian Union of Postal Workers on his group's brief and then requested comments of the Secretary of the Treasury Board on this presentation as well as that of the afternoon sitting.

The Committee considered Bill C-193 clause by clause as follows:

Clause 1, Stand; Clause 2, Carried; Clause 3, Carried; Clause 4, Carried; Clause 5, Carried; Clause 6, Carried; Clause 7, Carried; Clause 8, Carried; Clause 9, Stand; Clause 10, Carried; Clause 11, Carried; Clause 12, Carried; Clause 13, Carried; Clause 14, Carried; Clause 15, Carried; Clause 16, Carried; Clause 17, Carried, Clause 18, Carried; Clause 19, Carried; Clause 20, Carried; Clause 21, Carried; Clause 22, Carried; Clause 23, Carried; Clause 24, Carried; Clause 25, Carried; Clause 26, Carried; Clause 27, Carried; Clause 28, Carried; Clause 29, Carried; Clause 30, Carried; Clause 31, Carried; Clause 32, Stand; Clause 33, Carried; Clause 34, Carried; Clause 35, Carried; Clause 36, Carried; Clause 37, Carried; Clause 38, Carried; Clause 39, Carried; Clause 40, Stand; Clause 41, Carried; Clause 42, Carried; Clause 43, Carried; Clause 44, Stand; Clause 45, Carried; Clause 46, Carried; Clause 47, Carried; Clause 48, Carried; Clause 49, Carried; Clause 50, Carried; Clause 51, Carried; Clause 52, Carried; Clause 53, Stand; Clause 54, Carried; Clause 55, Carried; Clause 56, Carried; Clause 57, Carried; Clause 58, Carried; Clause 59, Stand; Clause 60, Carried; Clause 61, Carried; Clause 62, Carried; Clause 63, Carried; Clause 64, Carried; Clause 65, Carried; Clause 66, Carried; Clause 67, Carried; Clause 68, Carried; Clause 69, Carried; Clause 70, Stand; Clause 71, Carried; Clause 72, Carried; Clause 73, Carried; Clause 74, Carried; Clause 75, Carried; Clause 76, Carried; Clause 77, Carried; Clause 78, Carried; Clause 79, Carried; Clause 80, Carried; Clause 81, Carried; Clause 82, Carried; Clause 83, Carried; Clause 84, Carried; Clause 85, Carried; Clause 86, Carried; Clause 87, Carried; Clause 88, Carried; Clause 89, Stand; Clause 90, Carried; Clause 91, Carried; Clause 92, Carried; Clause 98, Carried; Clause 94, Carried.

The procedure for discussion on the nine clauses which were allowed to stand was discussed. It was agreed that members wishing to amend these clauses would submit in writing to the Joint Chairmen the proposed amendments prior to the next meeting.

At 9.30 p.m. the meeting was adjourned to 9.30 a.m. Wednesday, June 22, 1966.

Edouard Thomas,
Clerk of the Committee.

AFTERNOON SITTING

EVIDENCE

TUESDAY, June 21, 1966.

The CO-CHAIRMAN (*Mr. Richard*): Order. As stated this morning, we have a brief from the Civil Service Federation of Canada, and Mr. Claude Edwards, the President, is here with Mr. Nelson Porter, the Research Officer. Having looked over this briefly, I would suggest that Mr. Edwards might read his introduction and then read the paragraphs in sequence but allow discussion on each paragraph as we go along. Would that be satisfactory? I think it would be preferable to reading the entire brief through without interruption.

Mr. BELL (*Carleton*): I notice it is under different headings, and I think that would be the more logical approach.

Mr. Claude Edwards, President, Civil Service Federation of Canada: Thank you very much, Mr. Chairman. I realize you have problems as to time and therefore I shall be as brief as I can.

The Civil Service Federation appreciates the opportunity granted to it to present the views of its membership to this Joint-Committee.

It may appear that the Civil Service Federation has purposely ignored the main points of change in the proposed bill, and concerned itself with the secondary aspects. To a certain extent this is true, however with good reason. Our approach is dictated by the fact that the Civil Service Federation is represented on the National Joint Council and as such has already seen the acceptance of certain basic principles in the proposed bill. As an example we refer to the principle of integration of the Public Service Superannuation Act and the Canada Pension Plan. This view, as against that of "stacking" the two plans, was taken upon direction by the Executive Committee of the Civil Service Federation.

If I might digress for a moment here, I would like to add that this does not in our opinion bind us to the acceptance of this principle with respect to any other changes which might take place or with respect to any change in the amount of contributions to the Canada Pension Plan. If the Canada Pension Plan changes, we would hope and expect to have an opportunity of expressing our views having regard to the effect on the public superannuation plan.

As pointed out, much, but not all, of what we have to say to-day will have reference to the secondary position mentioned above. The secondary or housekeeping approach to several items is made necessary because the revised act will not be, as is the case in much of the private sector, subject matter for inclusion under the provision of a collective agreement. This being the case, it is necessary, in fairness to public servants, that all possible tidying up be done now.

One final point before proceeding into our discussion of the proposed bill: it appears from our reading of *Hansard*, that this Bill C-193 was tabled with a note of urgency in that it was only after lengthy debate and a telegram from the Civil Service Federation that the Government agreed to send this bill to a committee. It is our understanding that a time limit of ten days was imposed on this committee to report back to the house. Whereas the Civil Service Federation is interested in seeing the bill passed, it is only interested in seeing it passed if it has been thoroughly studied. We wish to go on record that we are not exerting any pressure on this committee to complete their examination of the bill and if the committee decides to slow the process until it is fully satisfied as to its contents, we shall not dispute such a position.

In fact we are very concerned over the lack of opportunity we have had for an objective study of the legislation and the opportunity to obtain the advice of our members in regard to many aspects of this legislation. This bill proposes such new and misunderstood provisions as the "lock-in" of pension contributions. Our members do not understand or appreciate the reasons for the requirements for "locking-in" primarily because they have never had an opportunity of studying the pros and cons of such proposals. There may be other new approaches in this legislation on which our members may wish to express their opinions. Time has not permitted us to ascertain these.

There were indications in *Hansard* within the last two weeks that many members have taken a great deal of time to study and attempt to understand this bill. We use the term "understand" advisedly as the bill itself is a complicated document for the layman and in this regard we wish to express our wholehearted support of the suggestion recorded in *Hansard* on June 13, 1966 (page 6353), that a White Paper be produced on the amended act. This must be done with a minimum of delay and provided to each public servant. We have in mind the demoralizing effect of other recent and particular changes in the Public Service which have not been adequately communicated and we should not like to see the problem compounded by an announcement of legislation which affects all public servants.

Assurances should be made at the same time to all retired Public Servants that any fears they may have regarding the impact of the "integrated" plans on the Superannuation Account are imaginary rather than real.

The Civil Service Federation supports the intention of the bill to promote greater mobility of the labour force by accepting the principle of portability. However, it is felt that the example of the bill should be more forcefully made.

Changing Section 28, subsection (1) of the Public Service Superannuation Act by broadening the area of transfer of funds to an "approved employer," is an excellent first step. However transfers are still subject to the method of calculation defined in subsection (3) of Section 28. We give this sub-section as it will appear under the proposal:

> "Where a contributor ceases to be employed in the Public Service to become employed by any approved employer with whom

the Minister has entered into an agreement pursuant to subsection (2), the Minister may, if the agreement so provides, pay to that employer out of the Superannuation Account

(a) an amount equal to the total amount paid into the Superannuation Account in respect of that employee, except any portion thereof so paid by Her Majesty in right of Canada,

(b) such amount paid into the Superannuation Account in respect of that employee by Her Majesty in right of Canada as the Minister determines, and

(c) such amount representing interest as the Minister determines".

From reading the above we can see that vesting of a portion of the Government's contribution is not by right, but at the discretion of the Minister. Further, the vesting of interest, part of which is based upon the employee's contributions, is also at the Minister's discretion. The Civil Service Federation contends that vesting should be defined as a right. Further, it is suggested that if a pension plan that would qualify as an approved pension plan, as defined in Bill C-193, is in existence with the new employer of a former public servant and, despite the lack of any reciprocal agreement, if the former public servant and the administrators of this new employer's pension plan can satisfy the Government of the good faith of the transaction, the vested portion should be transferred. This would result in increased portability and serve as a model for Canada.

If a reciprocal agreement cannot be arranged with the new employer of a former public servant the former employee should be permitted to take a deferred annuity at age 65, or at his option, leave on deposit his pension credit with full vesting rights pending the possibility of his present employer subsequently obtaining a reciprocal agreement, or his transfer to a new employer with a reciprocal agreement, or, the introduction of legislation making portable pensions mandatory throughout Canada.

These recommendations concerning increased portability and vesting rights should only apply to a public servant who has had two or more years service, substantially without interruption immediately before his termination from the Public Service.

The CO-CHAIRMAN (*Mr. Richard*): At this point I think Mr. Chatterton has a question.

Mr. CHATTERTON: I take it from the presentation that you are not objecting per se to the lock-in proposal?

Mr. EDWARDS: No, that is right. There is a section dealing with locking-in provisions later in this brief.

Mr. KNOWLES: On the question of reciprocal transfer agreements, have you had any discussion with the authorities as to what the words may mean in this context?

Mr. EDWARDS: No, we have not.

Mr. KNOWLES: Are you seriously afraid there might be a holding-back of some of the employee's contributions?

Mr. EDWARDS: I think there is a possibility from the wording. We are not suggesting it would be so, and we are not suggesting it has been so in the past, but the fact is it is not there as a right.

Mr. KNOWLES: We received in the mail today a copy of a sample agreement in this area between Canada and Laval University. So far as I have had a chance to look at it it seems to be an excellent document. Have you had an opportunity of seeing this?

Mr. EDWARDS: No, we have not had an opportunity to see it. And we have not had an opportunity to study this bill as we would have liked to study it.

As pointed out in our introduction we have not had an opportunity of fully studying the implications of the "locking-in" provisions. Of particular importance we have not had an opportunity to fully determine the viewpoint of our membership. There is considerable misunderstanding of the intent of this legislation and most employees seem to be of the opinion that the proposals in this bill would retroactively apply to present contributors.

Our position on this subject at this time is that the "locking-in" provisions should only apply to 75 per cent of the employees contribution. An employee should be able, at his option, to withdraw up to 25 per cent of his contributions in order to meet particular needs at the change of employment.

We would suggest for the committee's concurrence that special provisions be considered for married women who are not the primary wage earner in a family. We believe that an employee in these circumstances should be able to withdraw all her contributions. She is not legally required to maintain a family and may consider her pension plan as primarily forced savings.

We would also suggest that employees who are "laid-off" should be permitted to withdraw their contributions in full. Many employees in situations such as this are employed in remote areas and return to primary occupations such as farming. The cash value of their pension can be the means of providing the capital they require. Quite often they are not interested, nor do they seek employment in some other area. They work for the government while work is available. When it is no longer available, they return to farming.

The CO-CHAIRMAN (*Mr. Richard*): Are there any questions?

Mr. WALKER: Just a general question. Mr. Edwards, have you or somebody from your association been in attendance at these committee meetings at all? Have you heard some of the explanations on this point?

Mr. EDWARDS: Some of my staff have. Unfortunately, I have not been able to attend. I have not had a complete briefing on what has gone on, only on some of the meetings.

Mr. KNOWLES: Have you been able to get clear on one point that has been given to us, that no contributions made prior to January 1, 1966 are locked in?

Mr. EDWARDS: We are quite clear on this point. The point we are making is that the employees generally are not clear on this and that this will demand a real education and communication process to enable them to understand it.

Mr. KNOWLES: I happen to be sympathetically on the side of the provision, but I am concerned about this point. This is in particular an area where a job of public relations needs to be done by the Government. We need the employees to see this proposal just not as something for their own good, but as part of the context to help to build up a substantial pensions structure in Canada as a whole.

Mr. EDWARDS: The most difficult areas I have had with regard to this are with reference to married women employed in the Public Service. If this provision comes in there are hundreds of married women who say they are going to get out of the Public Service before their contributions are locked in.

Mr. KNOWLES: But married women never reach 45!

Mr. EDWARDS: No. Nevertheless some assure me that under this provision they will.

Mr. KNOWLES: Will the fact that Canada Pension Plan benefits are to be available to married women have an effect on the thinking of married women in the Public Service?

Mr. EDWARDS: I would find it really difficult to assess the thinking of married women in the Public Service, but certainly the Canada Pension Plan contributions are locked in and they are reluctant to have their further contributions to a Public Service superannuation plan locked in in a situation where they are not the primary wage earner. What concerns them is they are thinking of this in terms of forced savings. They are going to pay off their mortgage, buy a yacht or winter in Florida, but they do not think of it in terms of a pension at the age of 60.

Mr. WALKER: That is the principle of pensions.

Mr. EDWARDS: Yes.

Mr. CHATTERTON: I assume when you say that the employee should have the option of withdrawing up to 25 per cent of his contributions, if an employee were transferred to an approved employer the Government would transfer only 75 per cent of the Government's contributions also?

Mr. EDWARDS: This would be 25 per cent of his contributions.

Mr. CHATTERTON: And that leaves 75 per cent of the Government's contributions.

Mr. EDWARDS: I would hope the Government would transfer the full vesting of its share.

Mr. CHATTERTON: What would happen in a case where the employee did not elect to take 25 per cent out in cash? What would the Government then pass over to the new approved employer?

Mr. EDWARDS: I would hope that in both cases the Government would pay over to the approved employer its full share in each case. If the employee left under 25 per cent that would make no difference, but if he drew it out that would be his contributions and not the employer's contributions.

Mr. LEBOE: Would that not be discriminatory?

Mr. EDWARDS: Discriminatory, in which way? Against the Government?

Mr. LEBOE: No, against the fellow who left it all in and only collected the same amount from the Government.

Mr. EDWARDS: In each case the Government's full vesting of their contribution would be paid in each case on the transfer to a new employer, or would be locked in. We are thinking in terms of 25 per cent of the employee's contribution.

Mr. ORANGE: Would this 25 per cent optional part of the employee, the full amount, remain in the employer's contribution?

Mr. EDWARDS: Yes, that is right.

Mr. KNOWLES: That amount remains for the deferred annuity, and the pension computed at the time of pensioning would have to be reduced?

Mr. EDWARDS: Obviously, if it was a basis of computing of a pension, the withdrawal of 25 per cent of his contributions would have an effect on his eventual pension, yes.

Mr. LEBOE: This could have the effect of encouraging people to take 25 per cent out because they are still going to gain the use of the 25 per cent, and they are still going to get the employer's contribution as well. It would encourage the individual to take 25 per cent out for his own use, because he would be getting more out per dollar investment.

Mr. EDWARDS: It would be a reduction of his own pension because his contribution would not be so large.

Mr. LEBOE: But not as much as if the employer took his 25 per cent out too.

Mr. EDWARDS: We hope we are suggesting what is being planned in the Province of Ontario and, we understand, is in the Province of Quebec, where an employee has the right to withdraw 25 per cent of his contributions.

Mr. ORANGE: With the employer leaving in his full amount?

Mr. EDWARDS: This is my understanding.

Mr. ORANGE: In fact, assuming the pension would be $100 a month with full contributions, under the proposal you have the pension would have to be 87 and a half per cent.

Mr. EDWARDS: I would not want to go into computations on it. All I am saying is that if he has contributed over a period of 10 years $1,000 and transfers his employment to an approved employer, he should be permitted to draw out 25 per cent or $250 of it, and the vesting of the other $750 would be locked in along with the employer's share which would be fully vested.

Mr. ORANGE: It seems to me what you are suggesting is not only having the cake and icing but the candles as well.

Mr. EDWARDS: No, I am suggesting what has been already put into effect in Ontario and Quebec.

Mr. KNOWLES: Do you know, in any of those cases of any provision for the employee to come along later and ask to pay it back and get the full pension?

Mr. EDWARDS: I am not aware of that.

Mr. KNOWLES: This is something that needs a great deal of attention, employees asking for the right to pay back their contributions to cover earlier

service. I wonder, with the growing interest in pensions—I think an interest that is encouraged by the fact it is now possible to get a decent pension if you work towards it—whether people could not be sold more on the idea it is good to leave the money in; whether women, for example, could not be persuaded, since they are going to get an old age security pension and perhaps the Canada Pension, that here is another pension. After all, women have come into their own, and pretty soon we are going to have to fight for our rihts. Would you hazard a guess as to whether their thinking on this has gone this far?

Mr. EDWARDS: I think it might. It is an educational process. We have continuously pointed out to the employees it is not wise just to withdraw their pension contributions, that they are much better off leaving them and taking an annuity; but I have had, believe it or not, women employees at age 59 telling me they intended to withdraw their contributions from the superannuation plan before they reached their sixtieth birthday in order to get them out to do such things as take a trip to a foreign country, which would be about the poorest investment they could ever make. They would be better off by leaving the money there and going down to the bank and borrowing $2,000 or $3,000 against their pension return. It would then be a good investment because within a matter of two years they would have received in return of pension more than they had contributed in their actual contributions.

Mr. CHATTERTON: I think we need more such counselling. We were told, I think, that more than 90 per cent of the participants take out their contributions in cash.

Mr. EDWARDS: This is bad counselling. I am not suggesting whose fault it is, but they are not properly advised that having $10 at one time is not better than having $60 later on.

Mr. LEBOE: It is not all strictly a matter of dollars and cents so far as these people are concerned. It is a matter of living to a degree, is it not?

Mr. EDWARDS: This we find is a problem, particularly in the area of employees being laid off. They have limited resources, and the one resource upon which they may be able to capitalize is their contribution to the superannuation fund, and consequently if they can get it out in cash today when they are starving then it is better than waiting for a pension when they reach the age of 60. They may want to use the capital to improve their chances of setting up in a small business, or something like that.

Mr. BELL (*Carleton*): I would like to clear up what your representation is on this, particularly in respect to the impact it may have overall on the situation of portability. Is it your belief that as a general principle an employee should be entitled to withdraw 25 per cent of his contributions when he leaves his employment, leaving in 87½ per cent? If he changes his employment ten times during his working life then he will probably reduce his pension entitlement to such an extent that the pension at the age of 60 or 65 years is probably useless.

Mr. EDWARDS: You have raised a point that we have not fully considered, and I admit we have not.

Mr. BELL (*Carleton*): This is important, because you have one of the best pension plans, and if you are going to set a pattern that is going to be put into

effect generally in respect of all pension plans that are portable then I fear we may get into a position where portability is a bad thing.

Mr. EDWARDS: I think we recognize the importance of portability, and the importance of locking in, because the two go hand in hand. You cannot have portability unless you lock in contributions, but what we are concerned with is that there is already in existence legislation which permits a withdrawal of 25 per cent. This legislation, I understand, is in effect in two or three provinces. When you are running counter to what has been established in making such amendments as are in this bill you run into the problem of trying to sell this to employees as being something that is worthwhile and acceptable. I am not in a position to discuss the pros and cons of whether there should be a 25 per cent withdrawal, and under what circumstances. All I know is that under certain circumstances in Ontario, Quebec, and, I think, Alberta this provision is already in effect.

Mr. BELL (*Carleton*): If you were to counsel any employee you would tell him to leave his 25 per cent in?

Mr. EDWARDS: Yes, I would suggest that an employee should leave his contributions in because if he is going to withdraw his contributions without gaining the benefit of vesting the employer's share then he is certainly losing money.

Mr. BELL (*Carleton*): I am inclined to think that this committee ought to counsel them firmly to leave the 25 per cent in.

Mr. HYMMEN: I would like to ask if these are provincial government pension plans or—

Mr. EDWARDS: I am talking about provincial legislation.

Mr. HYMMEN: With respect to private pension plans?

Mr. EDWARDS: Yes.

Mr. HYMMEN: You say that you understand—

Mr. EDWARDS: Yes, I have not the details. I might say, gentlemen, that we received a copy of this bill only on last Thursday, and we got down to work on it and tried to get some expression of opinion by Monday. We worked our heads off yesterday until midnight in order to get it to this stage.

Mr. WALKER: I have just one general question. I think you stated, Mr. Edwards, that many of the employees consider their pension contributions as almost enforced savings?

Mr. EDWARDS: That is correct.

Mr. WALKER: They regard it as that rather than a payment into a pension plan. If it was not a condition of employment that they have to contribute to the pension plan, have you any rough estimate of how many employees would decline to contribute?

Mr. EDWARDS: I have not any rough estimate but—

Mr. WALKER: Many would not?

Mr. EDWARDS: Yes, particularly married women employed in the Public Service.

Mr. WALKER: The think that I fear, and as Mr. Bell has pointed out, is that some of the things that are now being suggested are in direct conflict to the basic philosophy of a pension plan. In spite of the fact that you feel the principle of a pension plan can be destroyed by opening it up wide and allowing the cashing in of contributions ahead of time, do you feel that we should go along with opening it up to the destruction of the principle of a pension plan?

Mr. EDWARDS: I am not suggesting that you should be opening it up. I am suggesting you should not be closing it entirely to what is in effect at the present time. It is almost impossible to draw out your contributions. What you are suggesting are changes in the method. I am not suggesting it should be opened any wider, but I am suggesting it should not be closed entirely.

Mr. WALKER: I have just one last question. I do not know whether you were here when the Minister—or, perhaps it was Dr. Davidson—said there would have to be some literature, folders, or pamphlets produced explaining fully the purpose of this bill. I presume there will be a long chapter on pension plans in general. Will your problem be solved if this sort of informative material is made available?

Mr. EDWARDS: Very much. I think that this is what is required.

The CO-CHAIRMAN (*Mr. Richard*): Will you go to the next paragraph entitled "Return of Contributions"

Mr. EDWARDS: Attached as Appendix "A" (See Appendix "H") is material extracted from a brief which was intended for the Minister of Finance. Shortly after this brief was completed this present bill was announced and it was deemed appropriate that the material be submitted with this paper.

Appendix "A" presents the Civil Service Federation's request that, when under the act, contributions to the Public Service Superannuation Act are refunded, such refunds should include 4 per cent interest compounded annually. We will not take the time of this committee to read through this appendix unless you so wish it—we believe the merits of our case are adequately presented and that the specific data provided justify our position.

We do recommend your attention to this argument because, as previously stated, this sort of problem must be resolved with reasons that are acceptable to the public servant since this act has been excluded from collective bargaining and all decisions not only must be just, but appear to be just.

Appendix "A" contains a lot of statistical material on the matter of paying interest on a return of contributions, and it gives summaries of the pension plans of provincial and municipal governments, and the amount of interest that is granted, and so on. We feel there should be interest paid on a return of contributions.

Mr. BELL (*Carleton*): There is nothing whatever in the amending bill dealing with this, as I recall.

Mr. EDWARDS: No.

Mr. MCCLEAVE: May I suggest that this appendix be printed as a part of our proceedings.

Mr. BELL (*Carleton*): Yes, I think it should be.

Mr. KNOWLES: The whole document will be in.

Mr. MCCLEAVE: But Mr. Edwards is not going to read the appendix.

The Co-CHAIRMAN (*Mr. Richard*): Is it agreed that the appendix be printed as part of these proceedings?

Hon. MEMBERS: Agreed.

(For Appendix "A", see Appendix "H".)

The Co-CHAIRMAN (*Mr. Richard*): Prevailing Rate Employees?

Mr. EDWARDS:

> We welcome the provisions in this legislation whereby prevailing rate employees, continual seasonal employees, ships officers and ships crews are eligible for superannuation benefits without the former requirement of designation by the employer. Our only concern is that where a six months' waiting period is required that an employee who must await eligibility to participate shall on expiration of the waiting period be considered to be eligible from the commencement of his employment.
>
> "Prevailing Rate" personnel who were not previously designated should be given every opportunity to "buy-back" the time lost as members of the retirement fund at the lowest possible rates, to be extended over the balance of their potential career, and without any interest penalties. This bill is not only an adjustment to effect certain administrative changes, it is also a very excellent opportunity to redress a form of discrimination that has existed too long.

Mr. KNOWLES: Now you are talking our language.

Mr. EDWARDS: Thank you.

Mr. KNOWLES: I think that letting people buy back something that they missed is far more in keeping with what we are trying to do than to ask people to sell something they have already.

Mr. EDWARDS: Certainly we fully support this. There is no difficulty there.

The Co-CHAIRMAN (*Mr. Richard*): Any more comments or questions?

Mr. EDWARDS:

> In our opinion, continuing seasonal employees should be permitted to contribute to the Public Service Superannuation Act at a higher rate to compensate for the reduced period of employment they may be sujected to in a year. For example a canal employee may regularly be employed on a six months seasonal basis. In our opinion these employees should be able, at their option, to contribute to superannuation at a double rate in order to reduce the period necessary to qualify for full superannuation benefits.

Mr. LEBOE: We are not touching on the portability question here. What I am trying to say is that an individual may work for six months, such as a farmer, and then for the winter months he may go into the woods and cut logs. Is it their practice to go into other occupations when ice is on the river?

Mr. EDWARDS: With many it is the practice to work in other occupations. Their period of employment may not be six months, but may be eight or ten months, because they will have certain clean-up work to do. This deals with continual seasonal employees.

Mr. LEBOE: Will they get unemployment insurance?

Mr. EDWARDS: They may draw it. They may be drawing overtime credits during this period, but invariably many of them are notable to contribute for a full twelve month period.

Mr. LEBOE: That is what I am getting at. You are thinking of going along the line of justifying a time, for instance, shall we say eight or eight and a half months, in order to settle whether the individual is going to stay with his work or be driven into two jobs continually. It is just a thought.

Mr. EDWARDS: I understand the point you are raising sir, and I do not know exactly the solution for it, but we know there are many people under these circumstances who have eight months employment and so are only earning two-thirds of the superannuation. This is a real problem.

Mr. ORANGE: You are suggesting the employee contribute the balance of the year in which he is not employed?

Mr. EDWARDS: Yes.

Mr. ORANGE: What about the employer?

Mr. EDWARDS: Obviously we hope he will, too. These are continual seasonal employees.

Mr. TARDIF: They would become members of a preferred class.

Mr. EDWARDS: I would not want to say that.

Mr. TARDIF: I am curious, Mr. Chairman, as to how you would class a man that is not working. What class would you put him in?

Mr. EDWARDS: Perhaps I would put him in the unemployed class.

Mr. TARDIF: What class would you put him in if he made contributions to his pension fund while he is not working?

Mr. EDWARDS: I don't propose to put him in any class at all. I am just suggesting that we think it would be equitable to have some arrangement for an employee to pay a higher rate in order to get a year's contributions, because he is in effect remaining in the service of the Government. He is laid off, perhaps for three months, but he comes back year after year.

Mr. TARDIF: Of course, there are many casuals that don't come back year after year.

Mr. EDWARDS: I am not suggesting that be done for these people. These are continual seasonal employees.

Mr. HYMMEN: They could not come under the former arrangement because they were seasonal employees and they could not contribute to PSS, but they would be registered under the Canada Pension Plan, anyway.

Mr. EDWARDS: They will be registered under the Canada Pension Plan, but if they were designated before they can, I understand, contribute under the Superannuation Act as well.

Mr. KNOWLES: Could you not run into great difficulty with people who work the year round? Is there not a problem here if you are going to permit some people to pay on more than they have actually earned in the calendar year?

Mr. EDWARDS: I do not think it means that you have to open the doors to everybody. I think this is a special circumstance of a continual seasonal employee in the employ of the Government year after year, year after year, and who comes back into that same employment. The Government has a stake in this man and that is far preferable to hiring new people every year.

Mr. KNOWLES: Maybe the Government should pay him an annual salary commensurate with his usefulness.

Mr. TARDIF: I agree with Mr. Knowles that it would be easier to convince the Government afterwards to pay an employee who has made a greater contribution, to pay the greater part of the pension too, if this is going to apply to a continual seasonal employee, and if his contribution is paid while he is not there.

Mr. KEAYS: I wonder if this is not a little unfair to employees? What do you think of the employer who, although he has a pension plan for his regular employees, has these seasonal employees coming along every year. How are you going to justify that to the private sector of industry? How are you going to get the private sector to endorse that?

Mr. EDWARDS: My concern about that particular statement is that I think the Government of Canada has to act as an employer, not as a pace setter for other employers in the private sector.

Mr. KEAYS: Well, I don't know. I think that if the Government establishes a principle, then the employees in the private sector will come along and request the same treatment, and I think this is a dangerous precedent to be creating for employees of the private sector, as, for example, in the construction industry.

Mr. EDWARDS: You might use the analogy of school teachers that work nine and ten months of the year, whose contributions to their pension plan are calculated on a yearly basis, and not on a three-quarters basis.

Mr. KEAYS: But in their case they have full employment, and they are expected during the summer holidays to devote part of their time to reorganization of the next school session, and during Christmas holidays etc., to correcting examination papers. So I do not think you can put school teachers in that category. I am speaking of employment in the private sector. In that relationship, I think the Government can establish bad relations between employer and employee.

Mr. LEBOE: I agree with that. I think this is the way you get argument built up to establish yourself in society as a related group. As the honourable member said, you will get construction workers and people who work in the woods who are going to say to themselves that this is the pattern, and that they want this as well. It bothers me, this particular point, and I think we should make some real research into this matter to see exactly what the possible alternative would be.

Mr. EDWARDS: We are not averse to research on such matters, to find out the impact and see what might be done.

There are two important changes we suggest in regard to calculation and payment of benefits. Our mandate for several years has been that pensions should be calculated on the best five years of employment.

Secondly, we believe that any employee who has contributed for the full 35 year period should, at his option, regardless of age or physical condition, be permitted to retire on full pension benefit without penalty.

Mr. CHATTERTON: I am fully in agreement with both paragraphs, but with the second one particularly. At age 35, that is the maximum, but if a person has the right to retire at 35 and take the pension immediately, why not at age 30? Is it because 35 is the maximum?

Mr. EDWARDS: We suggest that age 35 is the maximum contribution period, and that when he has contributed his maximum contribution he should be permitted to retire, if he wishes. It is an option.

Mr. CHATTERTON: I agree with that, but why not also for the man at 30 years of age?

Mr. EDWARDS: There has to be a limitation somewhere and we are suggesting it voluntarily at the age where he has contributed, to 35.

Mr. TARDIF: I have no objection. After a man has paid for 35 years, he has paid the maximum. Being a local member, I find that most civil servants, after 35 years, come to see their members and ask for an extension of one or two years. You can put this clause in and it will not affect the position very much. It will give people permission to say "You know you are able to retire at 35." It would save a lot of trouble.

Mr. ORANGE: You have studied this for years. Has an attempt been made to find out the cost of the recommendation to the pension fund, if it were adopted?

Mr. EDWARDS: No, but if the employee remains after his 35 years and his salary goes up, he will be drawing from the pension plan a higher rate of pension because it will be based on his final salary on a higher amount.

Mr. TARDIF: If that were the case, the employee would have to continue contributing as long as he was employed. At present, when he has been contributing for 35 years, even if he is young enough to remain in the service, he does not contribute any more?

Mr. EDWARDS: That is correct.

Mr. TARDIF: When both he and the Government have contributed for 35 years, will both discontinue, or do you think the employee should continue making contributions?

Mr. EDWARDS: No, we do not think he should continue.

Mr. TARDIF: You want to put him in the same class as a seasonal employee?

Mr. ORANGE: Have you considered the effect of reducing the time for a calculation of pensions from six years to five years, when the cost of adjusting the pensions from the best ten years to the best six years was an additional one-half of one per cent?

Mr. EDWARDS: There was a time when the contribution was based on five years instead of ten years.

Mr. CHATTERTON: It should never have been changed.

Mr. EDWARDS: Thank you.

Mr. KNOWLES: When you ask that the person from 35 years up be able to retire on full pension benefit, without penalty, is it a penalty in clause 9 you had in mind, to reduce the pension by virtue of the Canada Pension Plan?

Mr. EDWARDS: No, we had not thought of it in those terms. If you retire before actual age of 60 or 50 on account of ill health there is a reduced annuity feature.

Mr. KNOWLES: That is the only penalty you are accepting here? You are not looking at that other reduction in the annuity because of the CPP? What is the penalty you had in mind for the reduction in an annuity under the CPP

Mr. EDWARDS: I was thinking there would not be any reduced annuity on account of early retirement.

Mr. KNOWLES: This applies in your thinking only to the 35-year class. He cannot be very young, having put in 35 years service, perhaps from age 18?

Mr. EDWARDS: He would be 53.

Mr. LEBOE: If this were adopted on this basis, would not the next step be to get in the same position as we talked about this morning regarding the armed services, where they would automatically get the pension at age 35 and then enter the Public Service and get their percentage of pension and also full salary. This looks like another step in the same plan.

Mr. EDWARDS: I cannot imagine this would happen within the Public Service. I cannot say it would not happen that a former employee of the service, retiring at age 53, after 35 years service, would go somewhere else and acquire certain pension rights. This is no different to the armed forces case.

Mr. LEBOE: We are starting into the same type of thing here. If a person has earned a pension legitimately he should get it. If he can get another pension, through another salary, this should be given and it should apply equally to the Government. I do not buy this question of one party getting the tax dollar from one place and the other from another place. This is a question of federal taxation, as we have fiscal arrangement and two levels of government and we are all the same taxpayers. When you analyse it in this way, it looks silly.

Mr. EDWARDS:

> We refer to Page 9 of Bill C-193—line 25, clause 6, (2). Herein the Minister is authorized to retain from subsequent payments any overpayments on annuities. This approach is not completely satisfactory to the Civil Service Federation. Provision must be made in the law to protect annuitants from the embarrassment of administrative errors and to ensure that recovery of such overpayments be made over the longest possible period of time and without interest charges. The responsibility to be accurate must devolve on the government since it has taken on itself the responsibility for administration of the Superannuation Account.

(*Translation*)

Mr. TARDIF: According to what the minister told us this morning—and I am saying this in French so that our interpreters will not go to sleep—these things do not happen too often because, normally, these payment methods are extended over a considerable period.

(*English*)

Mr. EDWARDS: We realize it does not apply in many cases. We are not suggesting it does but we are suggesting that it can provide problems for

employees who through no fault of their own are faced with administrative errors.

> On March 24, 1966, the Civial Service Federation wrote to the Leaders of the five political parties concerning the matter of adjusting pensions to compensate for increases in the cost-of-living and resultant decreases in real purchasing power of the superannuates' dollar.
>
> We will not repeat our arguments in this regard—our views are well recorded and were provided to each Member of Parliament on the same date. Further, if our understanding of the proceedings of this Committee on Friday, June 17, 1966, is correct, there is some thought being given to the formulation of a committee to study this matter after the present legislation is effected. However, we do urge that this committee recommend strongly that this Bill C-193 include an escalator clause to ensure justice to future annuitants.

Mr. KNOWLES: You will come back on this later?

Mr. EDWARDS: Yes, I will be happy to do so.

Mr. CHATTERTON: What prompted you to use the cost of living rather than the level of income? I do not know if you appreciate that there is strong objection from many that in the Canada Pension Plan they used the wrong index. If they had used level of income instead of cost of living, these people would get the benefit of any general rise in the standard of living. Was this intentional?

Mr. EDWARDS: It was not intentional. Your point is well taken.

Mr. CHATTERTON: Make it level of income?

Mr. EDWARDS: We would be concerned not only about cost of living but level of income. As income rises, I think there should be an escalator clause.

Mr. CHATTERTON: Had you considered whether this provision should be contained within the PSSA itself? It would be difficult to provide some plan. Or would you have put it in some such way as in the Pension Adjustment Act, 58-59, and have it done periodically?

Mr. EDWARDS: I am rather reluctant to depend upon a pension adjustment act which may depend upon the whims of the government of the moment. I think to depend upon such an act is rather inappropriate and from our point of view we would much rather find it in the legislation.

Mr. LEBOE: Are you prepared to submit to this committee that all pensioners should have an escalator clause attached to their particular pensions wherever these pensions may stem from?

Mr. EDWARDS: I don't think our function as a government employee organization is really to make recommendations in regard to pension plans involving everybody.

Mr. LEBOE: Do you see the danger which lies in your suggestion, at least which I see in your suggestion? If this practice becomes, shall we say, universal, there is going to be little or no restraint in the economy against inflation because everybody is going to say "Well, I have got a pension and there is an escalator clause on it, so I have nothing to worry about." There is not that sense of restraint or responsibility. I feel this greatly. I was not in favour of it in the

Canada Pension Plan and I am not in favour of it now. My reason is this: I don't think we are looking far enough ahead. If we start something like this and it keeps on growing and growing we are heading for trouble.

Mr. EDWARDS: My only retort to that is that my sense of responsibility would be in regard to people who are already retired and find their pensions going down and the value of their dollar is going down and they may end up by not having enough to live on.

Mr. LEBOE: I think this adjustment ought to take place, but I think the fact that you have an adjustment act to look at these things is far better than to get into a situation where you just build in inflation and it grows and nobody is there to stop it and there is no restraint or responsibility.

Mr. KNOWLES: We have escalation for people during their working years to meet rising costs and standards. Why should not we have it for retired people as well?

Mr. WALKER: You might find general agreement with that principle, but what are the mechanics of putting it into operation?

Mr. LEBOE: They must have a sense of responsibility.

Mr. TARDIF: The people that pay taxes to the Government are also contributors to the civil servants superannuation plan. He too may be on a pension bought by paying premiums to an insurance company and if he does not have the benefit of an escalator clause he feels he is not getting the same treatment as the people who benefit from the Public Service plan.

Mr. EDWARDS: I might say this is becoming more prevalent in the private sector of the economy. It is happening, for example, in General Motors. I should imagine that in the price of the automobile you bought and paid for—

Mr. TARDIF: My automobile is bought but it isn't paid for.

Mr. EDWARDS: It may not be General Motors either, but the auto workers are bringing this in, this point in respect of escalation of pensions. It has happened in other governments and there are many arguments in favour of it.

Mr. KNOWLES: In passing I should say that we are glad to see this paragraph in this brief, and we can assure the witness that the matter will be pursued.

Mr. EDWARDS: I am sure it will be pursued. Thank you.

> The Civil Service Federation is pleased to note that the amount of death benefit has been increased to the equivalent of annual salary. This is in keeping with representations previously made by the Civil Service Federation.
>
> The Federation also feels however, that the present maximum benefit, which reduces 10 per cent per year from age 60 to 70 to a minimum of $500, should reduce by 10 per cent per year from age 60 to 70 to a minimum of $1000. This should be provided from any surpluses under the Death Benefit portion of the Superannuation Plan without any increase in the basic premium of the Death Benefit insurance.

The CO-CHAIRMAN (*Mr. Richard*): Any question?

Mr. ORANGE: Can the fund afford this?

Mr. EDWARDS: I understand it can, because I understand there is a surplus in the death benefit account.

Mr. ORANGE: If it cannot afford it, there will have to be some form of increase.

Mr. EDWARDS: We are suggesting it should be based on the surplus within the fund, if possible.

(*Translation*)

Mr. TARDIF: Mr. Chairman, does that mean that if an employee dies during his employment, he is given a year's salary as a protection, or in other words that his estate receive a year's salary?

(*English*)

Mr. EDWARDS: No, he isn't covered. If he opted out of the death benefit plan he would—

Mr. TARDIF: I should have spoken in English. I only speak French occasionally so that the people at the table will not fall asleep. I understand a civil servant pays so much per month to have the protection of two year's salary or for the protection of $500. Is that increased?

Mr. EDWARDS: At the present time the fully paid up death benefit is $500. He cannot get less than that.

Mr. TARDIF: Can he get more?

Mr. EDWARDS: No, he does not get it in any event. It goes to his estate.

Mr. TARDIF: I realize that. Even if he did get it, as Mr. Knowles said earlier, it would have to be forwarded to him some place else.

Mr. EDWARDS: If he died before his pension was reduced. The present maximum is $5,000.

Mr. TARDIF: If he is presently employed and he pays for this protection and he dies while in employment he gets $5,000?

Mr. EDWARDS: Yes, but it keeps reducing—the amount keeps reducing between 60 and 70 and eventually it is reduced to $500.

Mr. TARDIF: If it is reduced to that, surely the employee would have to live to be 80.

Mr. EDWARDS: No, to 70.

This proposed bill would delegate certain responsibilities to the Minister which previously were solely those of the Treasury Board. In the proceedings of the meeting of the committee on Friday, June 17, 1966, one member of the committee asked for the reasons and we are satisfied with the intention behind this—but, as suggested by the above noted member, we fully support the view that there should be some method of reviewing decisions made by the Minister and his delegates. The concept of a tribunal or committee, as a court of appeal, commend themselves for consideration.

The Civil Service Federation of Canada objects strongly to an intrusion into the private affairs on public servants. We refer to the

present Public Service Superannuation Act Clause 13(4)—"Notwithstanding anything in this act, the amount of any annual allowance to which the widow of a contributor may be entitled under this act shall, if the age of the contributor exceeds that of his widow by twenty or more years, be reduced by an amount determined in accordance with the regulations."

The present regulations covering this aspect of the present act are explained in the Treasury Board Manual, Part XXII, page 99.

Our objection to this section, which is left unchanged by Bill C-193, is the penalty imposed upon the widows of persons who have faithfully served their country for a long time and because of a decision to marry later than is perhaps considered normal by arbitrary standards, are subjected to discrimination in this fashion. We request that this aspect of the present act be eliminated completely.

We would also draw your attention to what we consider is a serious shortcoming in the Public Service Superannuation Act.

While the act provides for widows benefits to legal widows or widows of irregular union of seven years standing, there is no provision for payment of an allowance to a surviving dependant of a contributor who has not married.

The Civil Service Federation has had referred to it a specific case which is an excellent illustration.

A former employee of the Government of Canada with 54 years service never married primarily because he supported a sister who has been ill all her life and dependent on her brother for support. The former employee has contributed at the higher rate for male employees but on his death his dependent sister, five years his junior, will not receive any benefit of his superannuation. The Pension Act for veterans of the armed services recognizes this situation and provides in Section 39 for an award of pension under these circumstances. We respectfully suggest that the Committee familiarize themselves with this Pension Act and consider appropriate amendments to the Public Service Superannuation Act to conform.

Mr. TARDIF: This would also represent a penalty on the people who have not chosen to marry. In this particular case this man did not get married because he had a sick sister to support. What about persons who don't get married because nobody asked them?

Mr. EDWARDS: In that case they wouldn't leave any dependents.

Mr. TARDIF: I am not going into that!

Mr. BELL (*Carleton*): I am rather surprised, Mr. Edwards, that you request the total elimination of the deathbed marriage provision. I agree with you fully that there certainly should be some discrimination. The 30 years may be all wrong, but to suggest the man who marries the day before his death should be able to pass along a pension to that widow, I think, is going a little too far. As I understand your suggestion on this, that is precisely what you are suggesting.

Mr. EDWARDS: This is a misunderstanding. This is not what we intended. We suggested it should not be a reduction on the basis of this 20 or more years, but we are not supporting the idea you should have deathbed marriages.

Mr. BELL (*Carleton*): You said, "We request that this aspect of the present act be eliminated completely." I do not think I can go along with you in relation to that. Twice I have put on record in the house in debate on this particular legislation one particular case where in the Canadian Forces Superannuation the widow is 26 years and four months younger than the deceased husband and the marriage lasted for something more than 30 years, and the widow is totally disentitled. In those circumstances there ought to be an opportunity for a widow, but I think some cut-off should be provided.

Mr. KNOWLES: I think Mr. Bell may have misunderstood your paragraph on page 9. You are asking for a change in this provision about the wife being more than 20 years the junior of her husband, but you are not objecting to the new clause being written into the statute by the terms of clause 12 on page 18 of the bill.

Mr. EDWARDS: Yes, I think there is a misunderstanding. We are suggesting there should not be any reduction because of the 20 years.

Mr. KNOWLES: Under this new clause, provided the marriage took place more than a year before death there is a pension.

Mr. EDWARDS: Yes.

Mr. KNOWLES: But during the year the minister has to decide whether it was for love or money.

The CO-CHAIRMAN (*Mr. Richard*): Or both.

Mr. EDWARDS: We have no objection to this.

Mr. KNOWLES: You have no objection to love or money.

The CO-CHAIRMAN (*Mr. Richard*): Shall we go on to the next paragraph: Widows benefit, on page 10.

> The proposed amendments to the Public Service Superannuation Act do not make any changes to the level of widows' benefits. The act provides that widows will continue to receive, as a basic allowance, 50 per cent of their husband's annuity. The Civil Service Federation wishes to point out certain facts with respect to widows:
>
> —widows must still pay certain taxes or rent for a residence and their overall expenditures for maintenance are not markedly decreased; medical expenses also increase with age;
>
> —widows frequently are not eligible for Old Age Pension for several years;
>
> —the building of the estate, in particular the pension plan, is a joint venture by both husband and wife in that they mutually make certain sacrifices during the husband's work-life to ensure adequate retirement savings;
>
> —the widow may still be supporting or assisting dependents through higher levels of education;
>
> The above factors are real to the widows. In view of this, the Civil Service Federation requests this committee to consider recommending a realistic level of widow's benefit at 75 per cent of her deceased husband's pension entitlement.

In connection with this problem we also commend your attention to the problem of the widower who has had to be supported by his wife through no fault of his own. In such cases consideration should be given to permitting female public servants in such situations to contribute at the 6½ per cent rate in order to ensure a death benefit and a "widower's pension" for incapacitated widowers.

Mr. WALKER: Is there any thought of an increase in the contribution rates to the annuity to take care of this 25 per cent increase?

Mr. EDWARDS: We would hope the fund would be able to bear this.

Mr. WALKER: Have you talked at all with the people who do the actuarial work on these things?

Mr. EDWARDS: We understand the actuarial position, according to the department, is that it cannot bear the additional cost. This is their opinion.

Mr. TARDIF: It cannot bear it?

Mr. EDWARDS: This, as I understand it, is their position. I am not saying we share that opinion.

Mr. WALKER: The people we get this information from say this particular benefit the fund cannot stand and remain an actuarially sound fund; it cannot stand this recommendation. I am not trying to put words in your mouth.

Mr. EDWARDS: This is what we understand is the position of the actuaries in reference to the fund, that it would be an additional cost on the plan.

Mr. KNOWLES: I take it you have had many discussions with the finance authorities on this?

Mr. EDWARDS: We have been trying to get this benefit for many years.

Mr. KNOWLES: Have you had any encouragement along the way?

Mr. EDWARDS: Very little.

Mr. KNOWLES: Have you used the argument that our members of Parliament Retirement Allowances Act provides for 60 per cent pension to the widow? It is not your 75, but at least it is better than 50 per cent.

Mr. TARDIF: I did not hear that. What percentage?

Mr. KNOWLES: 60 per cent of your pension.

Mr. TARDIF: No, five-twelfths of my contribution, which is not 60 per cent.

The CO-CHAIRMAN (*Senator Bourget*): That is yours.

Mr. KNOWLES: Your pension is five-twelfths and the widow's pension is three-twelfths and, with respect, that is 60 per cent of five-twelfths. That is 60 per cent of your pension.

Mr. TARDIF: That is why I asked you. I did not hear what you said.

Mr. WALKER: In your conversations with the finance people on this, did they or have you suggested what percentage increase in premiums would be needed to accomplish this if they are saying this cannot come out of the fund? Have you talked about one-quarter of 1 per cent or 0.1?

Mr. EDWARDS: I cannot recall whether we have discussed actual requirements this would mean in terms of dollars or percentage.

The CO-CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. KNOWLES: If we are through with the rest of the brief, I have another question away back on page one. You said, Mr. Edwards, when reading page one, that your approval of this bill, in so far as it involves integration, was not to be taken as a blanket permanent approval of the principle of integration, but you were approving of what this in fact does in providing for an overall rate of 6½ per cent?

Mr. EDWARDS: Yes, that is correct.

Mr. KNOWLES: In other words, if the Canada Pension Plan a few years from now said integration of these rates was to be made, you would not want to be told you had agreed to integration, but you would like to negotiate perhaps a total higher payment and higher benefit.

Mr. EDWARDS: This is quite correct.

Mr. BELL (*Carleton*): It might be interesting to have on record the number of civil servants Mr. Edwards represents in this federated organization.

Mr. EDWARDS: Approximately 80,000.

Mr. WALKER: How many in Carleton riding!

Mr. BELL (*Carleton*): All the best.

Mr. ORANGE: Whom do you represent?

Mr. EDWARDS: These are all members of the Civil Service from the top professional and administrative classes right down through, in all places throughout Canada.

Mr. ORANGE: You have 80,000 members in your organization?

Mr. EDWARDS: Yes.

Mr. WALKER: Are members of Parliament in that classification?

Mr. EDWARDS: We have not managed to organize them yet.

Mr. BELL (*Carleton*): This is a task not to be recommended to you.

Mr. KNOWLES: Your concurrence in this general plan, does it go way back to 1964? Is it before Mr. Pennell made his first statement on the matter in the House of Commons?

Mr. EDWARDS: I am afraid I do not understand your question.

Mr. KNOWLES: It has been said quite a number of times that your organization, by direction of your executive, agreed with this form of integration.

Mr. EDWARDS: That is correct.

Mr. KNOWLES: That agreement, I take it, was given in 1964.

Mr. EDWARDS: I cannot give you the exact date, but it was certainly given when we discussed this possibility through such media as the National Joint Council and the Advisory Committee on the Public Service Superannuation Act.

Mr. KNOWLES: Have there been any further discussions on it since that time?

Mr. EDWARDS: There have always been pros and cons among our membership, but generally we have accepted this idea of integration of the two plans because many of them were concerned, particularly the younger levels of employees, that they would be in the position of having to pay 8.3 per cent of their salary out in superannuation plan contributions for a long time. Obviously, the benefits to the older contributor within 10 years of retirement are such that he wants to have stacking. He wants one stacked on top of the other. But, the consensus of opinion of the executive of our organization was that integration was acceptable to us at this time on this basis.

Mr. CHATTERTON: Mr. Chairman, I apologize for being absent for a while. I had to make a long distance telephone call. May I revert to the window's benefit. Are you suggesting that the widow's benefit be increased to 75 per cent?

Mr. EDWARDS: That is correct.

Mr. CHATTERTON: You are keeping in mind, are you not, that starting in 1968 the widows will be entitled to a widow's pension under the Canada Pension Plan? The only exception to that would be those who are under 35 and who have no dependents. In all other cases there is a widow's pension which is quite substantial. There is also the orphan's benefit that arises. It is my general opinion that if we were to integrate them in most cases the widow's benefits might become excessive as compared to the pension itself.

Mr. EDWARDS: We realize that there will be improvements as a result of the Canada Pension Plan features, and that certain benefits in regard to widows are stacked on top of the benefits for widows.

Mr. CHATTERTON: They are all stacked.

Mr. EDWARDS: Yes, we realize this.

Mr. CHATTERTON: It seems to me that if you were going after something it should have been an increase in the pension rather than an increase in the survivor benefits, because the survivor benefits, starting in 1968, will be, generally speaking, quite substantial.

Mr. EDWARDS: I am sure you understand Mr. Chatterton, that what we have had to incorporate in our brief in many instances are the mandates of our organization that have come up democratically through our convention structure. This has been a long standing mandate of the Civil Service Federation that there be a pension of 75 per cent for widows.

Mr. CHATTERTON: May I suggest that not many civil servants understand the Canada Pension Plan.

Mr. EDWARDS: I agree.

Mr. CHATTERTON: And I suggest that this recommendation might arise from that lack of understanding.

Mr. EDWARDS: No, I would say in answer to that that this recommendation arose long before the Canada Pension Plan was in existence. We have been trying to obtain it for a long period of time.

The CO-CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Edwards.

We have one more witness to hear this evening, the Canadian Union of Postal Workers.

Mr. BELL (*Carleton*): Is there any chance of our going ahead with them now, Mr. Chairman?

The CO-CHAIRMAN (*Mr. Richard*): No, they are not here. They will be present this evening at 8 o'clock, and they will conclude the witnesses before this committee.

Mr. BELL (*Carleton*): What about the Professional Institute? Are they not presenting a brief?

The CO-CHAIRMAN (*Mr. Richard*): No.

Mr. MCCLEAVE: Does Dr. Davidson wish to comment on this brief? Should we not ask him for his comments now?

The CO-CHAIRMAN (*Mr. Richard*): That is up to the members of the committee.

Mr. MCCLEAVE: We have heard his comments on the others.

Mr. WALKER: I do not agree with that, but it may be that Dr. Davidson can deal with both briefs at the one time after we hear from the Canadian Union of Postal Workers.

The CO-CHAIRMAN (*Mr. Richard*): Yes, perhaps that would be better.

Mr. TARDIF: Yes, I think that that would be more proper.

Mr. MCCLEAVE: I have no objection to that.

The CO-CHAIRMAN (*Mr. Richard*): Very well.

Mr. KNOWLES: I hope that Dr. Davidson does not feel badly because of the fact we have had a session without his putting anything on the record.

The CO-CHAIRMAN (*Mr. Richard*): The committee is adjourned until 8 o'clock.

The committee adjourned.

EVENING SITTING

The CO-CHAIRMAN (*Mr. Richard*): Order. We have with us this evening, Mr. W. Kay, National President of the Canadian Union of Postal Workers, who has a brief to submit to the committee.

Mr. W. Kay, National President, Canadian Union of Postal Workers: This brief is to the joint Chairmen, Mr. J. T. Richard, and the honourable Senator Maurice Bourget and members of the Joint Committee on the Public Service of Canada.

The Canadian Union of Postal Workers, representing 11,000 postal employees, has studied Bill C-193 and will concern itself mainly with the proposed amendments to the Public Service Superannuation Act. This presentation shall be brief because the time limit placed upon us did not allow for a clause by clause study and comment.

We begin from the position that the Public Service Superannuation plan must have no relation to the Canada Pension Plan. In saying this we point out

that we seek the following improvements in the Public Service Superannuation plan. These improvements are that contributions shall be at the rate of 5 per cent for both male and female contributors with present benefits remaining intact (2 per cent of salary times the number of years service, times average salary computed on the best three years of service), and voluntary retirement with full pension shall be at age of 55 or after 25 years of contributory service, whichever comes first; that benefits shall be 90 per cent of salary based upon the best three year average; and that the widow of a contributor, regardless of the size of her family, shall receive 100 per cent of the contributor's pension. In addition, in order that the buying power of the retired pensioner be protected, the Public Service Superannuation Act should contain the same built-in cost of living escalator clause as is provided in the statute covering the Canada Pension Plan. We believe there is no question that the credits accumulated in the Superannuation Account would sustain these added benefits.

Turning now to the Canada Pension Plan, we are firm in our conviction that the public servants who are covered by the Public Service Superannuation Act should have the privilege of voluntary "stacking" of the two plans. Those public employees who reject stacking would then automatically fall into the position of accepting integration.

For those who accept integration, we hold the following views on the mechanics of integration: (1) that integration should result in a simple division which allocates 1.8 per cent to the Canada Pension Plan and the balance to the Public Service Superannuation Plan; (2) that the result of integration shall not change the terms of withdrawal of contributions existing under the Public Service Superannuation Act and that any "locking-in" of contributions and benefits shall be voluntary. To deny these employees the possibility of withdrawing their contributions would be a breach of the frequent assurances that no federal civil servants covered by the Public Service Superannuation Act would lose any benefits, privileges, or suffer any detrimental change in premium costs as a result of integration of the Public Service Superannuation Act with the Canada Pension Plan. The privilege of opting out of any "lock-in" features should be allowed only once on the signature of the employee and should thereafter be irrevocable; likewise, the acceptance of lock-in provisions should be on the same terms.

Turning now to Part II of the Superannuation Act (Death Benefits), while Bill C-193 proceeds in the right direction, we contend that in addition to the present benefits, employees should be permitted, on a voluntary basis, to subscribe to twice the amount of their current salary up to a maximum of $10,000 and that full coverage be maintained up to the age of 65.

We welcome the several amendments that clarify provisions of the Public Service Superannuation Act, and in particular we welcome the provision that protects the pension rights of the post office workers who were on strike in July-August, 1965.

Respectfully submitted on behalf of the Canadian Union of Postal Workers—and the brief is signed by the three national officers, W. Kay, National President; R. Otto, Executive Vice-President; J. E. J. G. Simard, General Secretary-Treasurer.

The CO-CHAIRMAN (*Mr. Richard*): Mr. Bell?

Mr. BELL (*Carleton*): Mr. Kay, it is quite obvious from the brief that your objectives are upwards, and I think it is entirely proper to increase the general coverage. Could you give the committee any indication of what you think the additional liability of the fund would be for the changes which you propose in paragraph 2? I note you say that you think credits accumulated would be sufficient to sustain these added benefits, but what would these added benefits, which I am certain are very attractive to all, cost annually, have you any idea?

Mr. KAY: I have not got the actual dollar value of what this would cost but from the figures we have on the accounting of the superannuation fund we find there is upwards of $2 billion in the fund and the present expenditures from the fund do not exceed the interest calculated on the $2 billion that is already in the fund. As a result, we find that the interest plus the contributions to the fund should sustain far and away better benefits than are enjoyed under the plan today.

Mr. BELL (*Carleton*): I am sure you would find members of this committee highly sympathetic to any point of view such as this, but I for one would like to have some specific indication of what the cost would be. For example, take the reduction of the rate to 5 per cent for male persons. What would be the loss in the fund by that reduction? How much would the fund lose annually if you cut to 5 per cent? I think it is a highly desirable objective but I would like to know what it is we are being asked to do. How many dollars?

Mr. KAY: I could not give you the exact dollar cost to the fund. It would mean from 6.5 per cent to 5 per cent. We based this 5 per cent, of course, on the growth of the present fund plus the fact that female employees have enjoyed the benefits of the fund at the 5 per cent level for many years.

It is our opinion that the fund is not there specifically to accumulate billions of dollars but to pay out benefits commensurate to the income that is collected.

Mr. BELL (*Carleton*): Do you think that there is a case for differentiation between male and female in the fund? This has been the principle for some time. I see you depart from that principle.

Mr. KAY: We do not see the reason for differentiating between male and female.

Mr. BELL (*Carleton*): You do not think that the widows' rights and the children's rights which generally apply to a male pension, have any real validity?

Mr. KAY: We believe that there should be survivor benefits, naturally.

Mr. BELL (*Carleton*): But do you think that the female should pay for the benefits of the male employees' survivors?

Mr. KAY: I believe, we believe, that the contributions should be the same.

Mr. BELL (*Carleton*): You believe in equality of the sexes?

Mr. KAY: Yes.

Mr BELL (*Carleton*): Whatever the benefits may be?

Mr. KAY: Yes.

Mr. BELL (*Carleton*): I think that is a fair point of view. What about the situation on the reduction to the three-year average? Originally it was five years. It was taken up to ten years and brought down to six years. What would the additional cost to the treasury be, to a three-year average applied right across the service?

Mr. KAY: I could not give you the actual dollar value of difference in the average number of years. It would certainly have some effect on the plan but not such that the plan could not sustain.

Mr. BELL (*Carleton*): What of the reduction to voluntary retirement at age 55, or 25 years' of service? Do you know what the amount would be?

Mr. KAY: No I do not.

Mr. BELL (*Carleton*): Actually, Mr. Kay, what I am trying to do is help you out, if you will excuse me. I am all in your corner, in trying to improve the benefits. But I would like to know what the dollar value is and what the effect on the fund is. I am hoping you might be able to give us some figures which would enable the committee to come to a decision in favour of the representations, very valued representations, which you are making. You have not made the calculation?

Mr. KAY: No.

Mr. BELL (*Carleton*): What about the situation of the benefits being 90 per cent of the salary rather than the existing 2 per cent per annum?

Mr. KAY: Naturally that would have another added cost. We take the position that 15 or 20 years ago the Public Service Superannuation Plan was the most attractive pension plan in the country.

Mr. BELL (*Carleton*): This I agree entirely.

Mr. KAY: Now in 1966 with other pension plans having improvements brought about through the years, this makes the Public Service Superannuation Plan no longer as attractive as it used to be in comparison with other pension plans. We feel the Public Service Superannuation Plan should lead the field as an example to employers in the other sectors of the community, that the service plan should be emulated throughout the country.

Mr. BELL (*Carleton*): You have stated a principle with which I am sure every member of this committee agrees completely. We would like to get to precisely that situation and this is what I have been trying to do, to help you along to that situation. I am afraid there may be some of my colleagues here who are more dollar conscious than I am in relation to it and who may want to know what the cost may be of these things. This is what I was hoping that you would help me to convince them that the plan that you advance is a good one.

Mr. WALKER: On the second paragraph of your brief, on the size of surplus funds in the superannuation account, I thought you had a statement from an official stating that there was no actuarial surplus in the fund. Would you say I had been led down the garden path?

Mr. KAY: I am rather a layman when it comes to economics.

Mr. WALKER: So am I.

Mr. KAY: However, when you have a statement to the effect that there is upwards of $2 billion in the fund, and when you find the expenses come to a figure not even as high as the interest, which is one per cent a quarter, it seems to be just a fund to build a huge surplus.

I suppose the economists had some reason for having the billions of dollars; but to the ordinary public servant the accumulation of billions of dollars seems to be a wrong purpose for establishing a superannuation plan.

Mr. WALKER: To an ordinary member of Parliament this seems to be the same thing, but when an investigation is made and when officials in charge of the fund state that, for the actuarial soundness of the plan, for the benefits that have to be paid many years ahead, there is in fact no surplus in terms of actuarial soundness in this plan for the future pay-outs, I am in much the same position as you are in. Have you had such a statement? Have you inquired?

Mr. KAY: Yes.

Mr. WALKER: What has been the reply?

Mr. KAY: I would not say that I have had a reply that for the actuarial soundness this fund must be maintained at this level, but I believe and our members believe that we are being led down the garden path and we are told that we must have these huge sums running into billions of dollars in order to maintain actuarial soundness.

Mr. CHATTERTON: Did your organization on your own consult an actuarial expert engaged by your organization to determine whether the statements of the Government officials are correct or not?

Mr. KAY: In past years we have had a representative on the committee that participated in superannuation fund discussions. It is not just recently.

Mr. CHATTERTON: Did you consult on your own, did you engage an actuary or professional person to advise you whether this was correct or not?

Mr. KAY: No.

Mr. CHATTERTON: In other words, you are guessing as we are?

Mr. KAY: We had a man on the committee, who participated in the discussions

Mr. CHATTERTON: Was he an actuary by profession?

Mr. KAY: No.

Mr. CHATTERTON: So you are speaking with very imperfect knowledge, as a layman?

Mr. KAY: Yes, I am.

Mr. ORANGE: In view of the numbers you have in your organization and your concern with regard to the benefits now extended by the superannuation plan for the civil servants, would it not be to your advantage to have employed professional consultants in the field of actuarial science to give you expert advice with regard to the pension plan or the superannuation fund as it now stands? In other words, as laymen on this committee, we can say such things as

being led down the garden path, but we all understand that experts are the people to give us the kind of advice we need. Would it not be to your advantage and that of your association if you had employed consultants to give you this kind of advice, so that you could speak with authority?

Mr. KAY: I agree that we erred in not retaining an expert in this field.

Mr. ORANGE: As a consultant. I am not suggesting you hire one full-time.

Mr. WALKER: My second question is in connection with blocking in of contributions. I have put the same question to other witnesses.

In connection with pension plans generally, what do you feel is the main purpose of a pension plan? Is it an enforced savings, or is it a pension to be paid at a specified time in the future for the purpose of supplying income of some description after the person has quit working?

Mr. KAY: The main purpose is the second part you stated. It is an income for the future when the person is no longer able to work.

Mr. WALKER: Thank you.

Mr. CHATTERTON: Mr. Chairman, the brief recommends that there be a choice for civil servants who want stacking the Canada Pension Plan on the Public Service superannuation plan or opting into the Canada Pension Plan. Are you suggesting, Mr. Kay, that this be allowed across Canada—that all people rather than just civil servants, have the choice of whether they want to join the Canada Pension Plan or not?

Mr. KAY: No.

Mr. CHATTERTON: Just for civil servants?

Mr. KAY: We believe everyone should participate in the Canada Pension Plan.

Mr. CHATTERTON: Reading from your brief, from the third paragraph—

> ...we are firm in our conviction that the Public Servants who are covered by the Public Service Superannuation Act should have the privilege of voluntary "stacking" of the two plans. Those public employees who reject stacking would then automatically fall into the position of accepting integration.

—do you mean by that that some civil servants should have the choice of integrating and those that do not exercise that option would have the option of rejecting the Canada Pension Plan?

Mr. KAY: No, what we propose is that the public servants be given the choice of participating fully in both the Public Service Superannuation plan for full benefits and also in the Canada Pension Plan for full benefits. Those who do not wish to participate fully in both would then go for integration, having the Public Service superannuation reduced by the amount payable by the Canada Pension Plan. In other words they would be fully integrated where we propose they will be given the choice of fully integrating, or stacking the Canada Pension Plan on the other.

Mr. CHATTERTON: Does not that mean in effect that you choose whether to contribute to the Canada Pension Plan or not?

Mr. KAY: We are not given a choice. We are going to contribute whether we wish to do so or not. We are not given a choice to integrate or not but the proposal is that we should have the choice.

Mr. WALKER: If I remember, you are suggesting I should be able to make a choice on whether to stack the plan or to integrate?

Mr. KAY: That's right.

Mr. CHATTERTON: It is still my view that you elect whether you want to join the Canada Pension Plan as such or have it integrate with the PSSA.

Mr. KAY: We maintain we should participate in the Canada Pension Plan but it should be stacked on top of the full benefits of the P.S.S.A.

Mr. HYMMEN: I have a related question. Would you not anticipate trouble with your members if one were allowed to stack and get a greater equity in the fund?

Mr. KAY: Every member would have the opportunity of stacking or integrating.

Mr. TARDIF: If the employees elect to stack their pensions rather than integrating, and when you remember that part of the pension contribution is made by the taxpayers of the City of Ottawa and by employers throughout the country, would you suggest the employer should pay their contribution to both the regular pension plan and the Canada Pension Plan?

Mr. KAY: Yes, I think so. The superannuation plan has been a part of the so-called fringe benefits a portion of which has been paid out of the public purse—the employer's portion. Now comes the Canada Pension Plan and this should be an added social legislation payable at the same time.

Mr. TARDIF: But then you as a group would be a privileged group. You would be getting double contributions from the Government. You would get the contributions under the Canada Pension Plan as well as the contributions under the P.S.S.A.

Mr. KAY: In the private sector of the economy in many cases there is stacking.

Mr. TARDIF: I know there is stacking in some private enterprises. Do you expect that the contributions normally paid by the employer should be paid if you stack?

Mr. KAY: Yes.

Mr. KNOWLES: First of all I would like to say to Mr. Kay that one of the things I was most pleased about the first day I went through Bill C-193 was the clause that protected the pensions of postal workers on strike last summer, and I am sure all members of the committee are glad to see the paragraph of appreciation in the brief with respect to that point. My colleague suggested you should put your point particularly to Mr. Benson. We invited him to be here tonight.

My second question relates to the 90 per cent figure in the second paragraph of your brief. Would you relate that for me to your support of the formula which you say should remain intact of 2 per cent per year for each year of service? How do you get 90 per cent at 2 per cent per year unless you work 45 years?

Mr. KAY: We were probably basing this 2 per cent on what it is at the present time. But going on further we suggest that the percentage should be raised.

Mr. KNOWLES: Have you any scheme as to how you would arrive or how many years you would take to get to 90 per cent?

Mr. KAY: We propose 25 years.

Mr. KNOWLES: You don't have an answer to my question directly?

Mr. KAY: We don't have the formula worked out, as to how it would be arrived at.

Mr. KNOWLES: Would it be only those who worked 25 years or more would get the 90 per cent?

Mr. KAY: Yes.

Mr. KNOWLES: You don't think it desirable to have some grading up to that?

Mr. KAY: With the full 25 years we propose there should be 90 per cent, and those with less service would have a lesser amount calculated on the percentage basis.

Mr. KNOWLES: May I ask about the 5 per cent contribution figure? If, by chance, consideration were given to a compromise on this point, somewhere between 5 and 6½ per cent—that is what male employees pay, would you favour that whatever the figure is should be the same for male and female?

Mr. KAY: Well, yes, I would say so.

Mr. KNOWLES: May I ask a couple of questions even though I may be repeating some that have been asked about stacking versus integration. You have make it clear that the position of your organization would be in favour of stacking. The bill before us goes all the way with integration. Do I take it that you are suggesting that in the circumstances a desirable compromise would be to have a choice, an individual choice? That is to say that each public servant should have the choice whether he wants to stack or integrate?

Mr. KAY: The reason we propose voluntary stacking or integration by each individual employee is because not everyone favours stacking. Stacking of the two pension plans makes a percentage of 6.5 per cent plus 1.8 per cent, which makes a very high contribution for a person earning a salary of $3,600.

Mr. KNOWLES: Then I was wrong in saying this was a compromise between two positions. Each individual should have the choice?

Mr. KAY: Yes.

Mr. KNOWLES: Bearing in mind your statement with reference to locking in and a decision on this should be irrevocable, would that be the same as the stand with respect to the decision between stacking and integration—a decision once made by an individual would be irrevocable?

Mr. KAY: Yes.

Mr. KNOWLES: Have you looked at the reduction formula which is in Bill C-193, clause 9, the arrangements under which the Public Service superannua-

tion is reduced at age 65 by a certain figure in lieu of the Canada Pension Plan benefit? Do you have any comments to make on that for me?

Mr. KAY: The assurance is given to us that there will be no actual loss as a result of integration. We have accepted this up to the present time, that there will be no loss, and in good faith we say we are not too concerned, providing there is no loss of actual benefits as a result of integration. In many cases there is a slight gain and this, of course, is welcome.

Mr. KNOWLES: Some of us in this committee have been drawing attention to the fact that if a retired civil servant who retires prior to 65 goes back to work at some other job, private industry or what-have-you, his superannuation pension will be reduced at age 65, and if he is still working, and therefore not drawing the Canada Pension Plan benefit, his pension will be reduced and there will be no making up for it at that point.

Mr. KAY: Yes, we have not taken this into consideration as a real, serious matter up to the present time, no.

Mr. KNOWLES: In the fifth or sixth line of your second page you talk about loss of any benefits, privileges or changes.

Mr. KAY: Yes.

Mr. KNOWLES: Did you have anything in mind under the word "privileges"?

Mr. KAY: No, not specifically. We say we were assured there would be no losses, and we have accepted that, and yet we find that integration is going to affect in some ways the privileges in that we are now going to have a lock in of contributions which we did not have before the integration of the two plans, so this is, in our opinion, a breach of the assurances and of the privileges—and a withdrawing of the contributions was a privilege. Locking in the contributions is the denial of a privilege.

Mr. RICARD: Mr. Kay, is it a common practice in a pension plan to expect the widow of a contributor shall receive 100 per cent of his pension?

Mr. KAY: No, I would not know the answer to that.

Mr. RICARD: Could you mention a pension plan where they recognize such a principle?

Mr. KAY: No, I could not.

Mr. MCCLEAVE: I have just one question. I wondered if in the proposals Mr. Kay and his group have drawn up for us they have borrowed from any other plan or used a parallel of any other plan. Is this based on the experience, say, of some large company?

Mr. KAY: No, the proposals we make here for the improvement of the plan are generally drawn from the membership's feelings expressed at conventions in discussing other pension plans, without being specifically able to name any at the present time. The delegates to conventions usually come up with some pretty good ideas in the comparison of plans in proposing the superannuation plan should lead the way in comparison to other plans.

Mr. MCCLEAVE: So you could take any one item and you would find it in some other plan in Canada, is that the idea?

Mr. KAY: I could not name any at this time.

Mr. MCCLEAVE: I know you cannot recall what somebody said at a convention, but would somebody presenting a proposal say, "Such-and-such is from so-and-so"?

Mr. KAY: Yes.

Mr. CHATTERTON: In reply to a question by Mr. Knowles, you said you had taken in good faith statements by the Government that no one will receive a reduction. Having now read Bill C-193, section 9(1*d*), which says that a civil servant who continues to work at age 65 on will have his Civil Service pension reduced at age 65 but not get the Canada Pension Plan, you did not say what your reaction was having now read Bill C-193.

Mr. KAY: I would say it is a reduction of the benefits and a breach of the promise made that there would be no reduction in benefits.

Mr. WALKER: No reduction in benefits as of when? There is a date in here, is there not?

Mr. KAY: Well, from the time we were assured by the Director of Superannuation and the previous assistant to the Minister of Finance that there would be no reduction in benefit.

Mr. WALKER: Period?

Mr. KAY: Yes, period. Now comes along a time when a person reaches 65 and his superannuation plan is reduced and he is not being paid an additional amount from the Canada Pension Plan because he continues employment elsewhere, so there is a reduction in the benefits.

Mr. HYMMEN: In Mr. Kay's submission there is some concern about this locking in provision. In the discussion this afternoon I thought it was pointed out that this would only take effect as of the effective date. I wonder if that point should be clarified.

Mr. KAY: The locking in provision is only to be effective as of January 1 for those employees entering the service after January 1.

Mr. KNOWLES: No, for those already in, but it does not apply to any moneys contributed prior to January 1, 1966.

Mr. HYMMEN: It was mentioned this afternoon that some groups were not familiar with the interpretation of this.

Mr. KAY: This is precisely one of the privileges we are being denied by the proposed integration of the two plans. Up until the present time we were allowed to withdraw contributions upon resignation. It has been a privilege all these years, and now by integration this privilege will be denied those with over 10 years' service at age 45 and up.

Mr. KNOWLES: With respect to contributions made in 1966 and thereafter.

Mr. KAY: That is right.

Mr. WALKER: And yet—and I am not trying to put you on the spot, because there are a lot of things in conflict here—and yet you do agree that the main purpose of a pension plan is to provide a pension when a man's earning power and working life is over.

Mr. KAY: Yes.

Mr. TARDIF: You say in clause 2 you would like the Government to approve retirement on full pension at age 55 or after 25 years of service, whichever comes first. And in the first paragraph you have a request that the death benefit be up to a maximum of $10,000 and up to age 65. That means that if you retire at 55 you would expect the Government to keep on making the contribution they made to the death benefit up to a maximum of $10,000 for the 10 years you are not working?

Mr. KAY: We are bringing in an ideal position here, probably, of $10,000 to age 65. This could be subject to adjustment.

Mr. TARDIF: I realize that. I do not say the principle of asking for the maximum is wrong, because if you do not get the maximum you are likely to get a percentage. But, you are asking to be retired at the age of 55 or after 25 years of contributory service, whichever comes first, and you are asking that employees be permitted on a voluntary basis to subscribe to twice the amount of their current salary for ten years.

Mr. KAY: Assuming we do not get what we are after, which is retirement at the age of 55, and the retirement age stays as it is, then we think that the other should be extended to the age of 60.

Mr. TARDIF: You mentioned in your brief that if you do not get one you are hoping to get the other, or a percentage of one or the other.

Mr. CHATTERTON: With respect to that point, Mr. Kay, when you say:

> —and voluntary retirement with full pension shall be at age 55 or after 25 years of contributory service, whichever comes first—

What do you mean by "full pension"? Suppose a person started at age 50 and worked to age 55. He would have five years' service. What would you consider to be his full pension?

Mr. KAY: Five years times the percentage times the average salary.

The CO-CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. TARDIF: That would be based on two per cent of your salary multiplied by the number of years of service; is that it?

The CO-CHAIRMAN (*Senator Bourget*): Not if you added it to the 90 per cent benefit. It would work out to about 3.5 per cent per year instead of 2 per cent.

The CO-CHAIRMAN (*Mr. Richard*): Are there any other questions? Thank you, Mr. Kay.

Mr. KAY: Thank you for the opportunity of appearing before you.

The CO-CHAIRMAN (*Mr. Richard*): There was a suggestion made this afternoon that we should recall Dr. Davidson to answer some questions which some members might want to put to him before—

Mr. WALKER: It was in connection with these last three briefs.

The CO-CHAIRMAN (*Mr. Richard*): Well, to answer whatever questions are needed.

The CO-CHAIRMAN (*Senator Bourget*): Mr. McCleave indicated he would like to ask some questions of Dr. Davidson.

Mr. McCLEAVE: Following the usual practice I was wondering if Dr. Davidson could comment on the requests made by the Civil Service Federation of Canada and by the last witness on behalf of the Canadian Union of Postal Workers.

Dr. DAVIDSON: Mr. Chairman, I am not in a position to comment on proposals which in their substance do not relate to the provisions of the bill as presented to the committee. The proposals in the brief of the Civil Service Federation this afternoon, and in the brief of the Canadian Union of Postal Workers this evening, clearly go beyond the scope of the amendments which the Government has proposed in the bill before the committee. It would be my responsibility to confine my remarks to the provisions that the Government has sponsored, and to endeavour to explain those to the committee, but it would certainly not be proper for me, in my judgment, nor would it be possible without a very considerable study of the details of the proposals that have been given to the committee this afternoon and evening, to offer any comment, or make any judgment of them in the time that is at my disposal.

It is quite clear, as I think all members of the committee will agree, that both the proposals of this afternoon and those of this evening have financial implications that go a very considerable distance indeed in the direction of adding to the liabilities that the Government of Canada would be assuming if Parliament were to pass legislation along the lines of either of these briefs. The best that I can say, therefore, is that I would think that a detailed examination would need to be made by competent advisers to the Government of the cost implications of these sets of proposals, and that a report on those cost implications should be before the committee before the committee would be in a position to come to any really considered judgment as to what it could accept of these proposals, and what it would have to set aside.

Mr. McCLEAVE: Dr. Davidson, is it possible—I know that we are running against inexorable time—to take any of these proposals in the briefs presented to the committee this afternoon and evening, and bring us a cost breakdown by tomorrow?

Dr. DAVIDSON: We could crank up the computer, if you like.

Mr. McCLEAVE: Is it humanly possible?

Dr. DAVIDSON: I think the answer is that it is not reasonably possible to do so. I can give you one brief example to illustrate what the implications would be of a proposal to set a retirement age of, let us say, 53 after 35 years of service as was suggested this afternoon, or 55 as was suggested this evening. The present retirement age is 65. The average life expectancy of an individual who retires at 65 is possibly something of the order of 12 years. Would I be correct. Mr. Clarke? It follows as night follows day that if you have a retirement age of 53 instead of 65 you will roughly double the life expectancy of the individual on pension, and you double the cost of that particular benefit because you are having to provide it for a 24 year period instead of a 12 year period. I am roughing out the approximations.

Mr. KNOWLES: Is that an actuarial pronouncement?

Dr. DAVIDSON: No, it is not, but if you want a quick answer before tomorrow, that is it.

Mr. KNOWLES: It does not follow that a person who is 52 has that number of years to live, does it?

Dr. DAVIDSON: You would have to work out the life expectancy, but it would cost some more. I could give you a better answer in 24 hours, and an even better one in 48 hours.

Mr. MCCLEAVE: It would cost more because the person is drawing out and not putting in over those last ten years?

Dr. DAVIDSON: You can argue with Mr. Knowles about that.

Mr. ORANGE: I do not know whether Dr. Davidson is in a position to answer this question, but it appears to me that there is a common thread running through the three presentations—those of the Civil Service Commission, the Civil Service Federation of Canada and the Canadian Union of Postal Workers—and that is in respect of the locking in of the contributions after ten years' service and over 45 years of age. This may have been explained to the committee before, and if it was then I am prepared to let this question go. I wonder if Dr. Davidson is prepared to answer this question, if it has not already been answered: Why is there this particular provision?

Dr. DAVIDSON: I think something has been said on this before, but perhaps it would be useful to refer again to the fact that a number of provincial governments—at least three; those of Alberta, Ontario and Quebec—have enacted legislation at the provincial level which is designed to promote the portability of pensions as between private and other pension plans within those provincial jurisdictions. It is in conformity with the declared policies of the provincial governments in respect to pension plans generally within their jurisdictions that the federal Government has indicated by the provisions set out in this bill that it too subscribes to the principle of portability. It is prepared to have its superannuation plan support the principle of portability that is set out in the various provincial enactments. It is in conformity with that objective of the provincial governments that the federal Government has declared its willingness to redesign this provision so as to make portability of pension between the federal employees' schemes and the other schemes that are covered by provincial law.

Now, you cannot talk about portability if you do not talk about locking in the contributions of the employer and the employee so that you have something that is portable. It is a logical consequence of the decision of the federal Government to co-operate with the provinces in the promotion of portability of pensions that the locking in provisions should appear in this legislation.

I should point out, however, since Mr. Knowles or someone else did mention it, that past contributions up to January 1, 1966, would not be locked in, but contributions beginning in 1966 and in future years would be locked in. I would point out that that is not what the bill provides. The bill provides that locking in will begin in respect of persons with more than 10 years of service after 45 years of age as from a date that the Governor in Council shall decide, and that date has not obviously as of now been determined by the Governor in Council because the legislation is not passed, and there is nothing in the bill that specifies that the date which the Governor in Council will set for the

bringing into force of this locking in provision will be in the year 1966, or in any other year for that matter.

Mr. KNOWLES: Could it be earlier?

Dr. DAVIDSON: That is for the Governor in Council to decide. I think it is difficult to put in locking in provisions that are not provided.

Mr. KNOWLES: Did I get this notion out of the air, or did somebody give it to us?

Dr. DAVIDSON: I think members of the committee have assumed in the light of the discussion this morning and in the light of discussion yesterday, when we had some exchanges as to whether or not it was the federal Government's intention to bring in at this session its own other legislation—I think it has been assumed from that that there was a fixed date, January 1, 1966 from which these locking in provisions would take effect. But if Mr. Clark will confirm for me, I think I am correct in stating that according to page 16 of the bill there is no date mentioned as to the commencement of the locking in provisions. On line 37 of page 16 it refers to the locking in in respect of any period of pensionable service after such day as may be fixed by the Governor in Council.

Mr. ORANGE: In other words, the way this provision goes it would not really take effect until say 1976.

Dr. DAVIDSON: I am 45 years of age and I have more than 10 years service. If the date after this law was proclaimed the Governor in Council were to state that to be the day, I could withdraw all my contributions, but I could not withdraw a cent of my future contributions after that date.

Mr. KNOWLES: As you said, you could not lock in contributions that had already been withdrawn. You could hardly imagine a locking in provision of those which had not been withdrawn.

Dr. DAVIDSON: I quite agree.

Mr. HYMMEN: I have a related question. Also this afternoon there was some reference to provincial legislation with regard to voluntary withdrawal of funds.

Dr. DAVIDSON: Perhaps Mr. Clark, who knows the details of these laws respecting portable pensions at the provincial level could elaborate on that, Mr. Hymmen.

Mr. HYMMEN: And on the 25 per cent voluntary withdrawal.

Mr. CLARK: Mr. Chairman, the three provincial acts to which reference has been made do permit an employer to include this 25 per cent lump sum provision to which reference was made. On inquiring, particularly with the Ontario Pension Commission, we find that little use appears to have been made of this provision. In fact, this provision was not included, for example, in the legislation which inserted the locking in provision for the plan for civil servants in Ontario, or teachers in Ontario, and the same applies in the case of the civil servants in Quebec. I have not seen any legislation in this regard so far as the civil servants in Alberta are concerned.

I should point out that this is a particularly difficult provision to insert in a complicated plan of this nature. It is relatively easy to insert it in a plain

underwritten by an insurance company where there is the very direct individual relationship between contributions and benefits, but in a plan of this nature that is not the case.

This point has been discussed in our advisory committee, and I must advise that our actuarial advisors on that committee have certainly recommended most strongly against trying to work out a provision of this nature.

Mr. KNOWLES: May I ask a question about another subject, unless someone wants to pursue that.

In the brief this afternoon from the Civil Service Federation, Dr. Davidson, there was a paragraph on reciprocal transfer agreements with which some concern was expressed. I do not mean that I share it, but the right of the minister to rely on the word "may" as to allow them to be transferred to another entity, raised a question. Now, I see you are passing the ball to Mr. Clark.

Mr. CLARK: Mr. Knowles, this provision is one that has been in the act since 1953. It is the first time that any question has been drawn to the provision. It took us rather by surprise, because there have been no complaints in connection with the twenty agreements that were listed in the report handed to the committee yesterday. You have had an opportunity to study, I think at least briefly, the Laval agreement, and the sort of possibilities which concerned the federation this afternoon just have not arisen in actual practice.

I might say that where you have a plan, again as complicated as this one, where varying rates of contributions are paid and payments are made on the instalment basis, the payments may not be complete when the man leaves. The administration has to have power to determine; the Act cannot say exactly what should be paid.

Mr. KNOWLES: Because of the variations in the plan, some adjustment is necessary?

Mr. CLARK: That is right; and because of the so-called single and double rate contributions. There is also one relatively rare instance now of free service where the new employer would be paid the whole amount although the employee has not contributed anything. It is this series of factors which enter into the choice of the wording here. Again the reference to the "interest as the minister determines", that is really the calculation of the interest at the rate that has been credited to the account over the years and an estimated allocation to that individual, because there are not individual accounts where an interest credit is set up.

Mr. KNOWLES: I have another question, again on another subject. The other subject I would like to ask a question about is with respect to the death benefit legislation. Dr. Davidson said he did not want to touch on matters that were not in the bill, but the death benefit changes are in the bill. I think it is interesting, I think encouraging, to know the approval that is now being given to this legislation. I remember the difficulty we faced when we brought it in. Could any of the improvements suggested today by the federation, or the postal workers tonight, be made at this same time? Could they be made without increasing the premium, or if not, what kind of premium should be necessary?

Dr. DAVIDSON: Are you speaking now about the death benefit provisions, Mr. Knowles?

Mr. KNOWLES: Yes. One general effect is to keep them in a little longer, another is to increase the amount produced; and the third is to increase the floor.

Dr. DAVIDSON: None of these changes can be made without affecting the premium cost to the contributor.

Mr. KNOWLES: The changes that are being made will cost contributors more, will they not? The rate per thousand remains the same but the protection will cost more?

Dr. DAVIDSON: Yes, because the insurance coverages are such. The contribution rate of the improved plan as it is contained in the bill before the committee is unchanged in the case of the Public Service contributors. It is cut in half so far as armed forces contributors are concerned, from 10 cents for $250 worth of insurance to 5 cents. To take the specific suggestion of the Civil Service Federation, that the minimum benefit that remains after reducing term insurance has run its course should be set at $1,000 instead of $500, the federation brief says this should be provided from any surplus under the full benefit portion of the superannuation plan without any increase in the basis premium of the death benefit insurance.

This is just impossible in terms of the balance of the fund as it stands, because the fund, while it does have a very small contingency reserve, does not have a reserve that would begin to meet the added cost of this extra $500 worth of minimum insurance without affecting the contribution rate.

Mr. KNOWLES: In other words, these things can be done but they would raise the premium rate?

Dr. DAVIDSON: They would either raise the premium rate or they would increase the amount that the Government has to contribute by way of its contributions.

Mr. KNOWLES: But you are noticing the more favourable attitude to this kind of legislation that was the case?

Dr. DAVIDSON: We have not only noticed it but a provision that is in the bill now is the evident response to that evidence of a more favourable attitude on the part of the Public Service to a death benefit.

Mr. KNOWLES: I seem to be talking to you as though you were the Government. I know you are not.

Dr. DAVIDSON: It is one of the few things I am glad of not being.

Mr. LACHANCE: On the same subject, in other words, the only purpose of the bill is the integrating of the pension plan with the Superannuation Act?

Dr. DAVIDSON: That and increasing portability are the two prime purposes. Then there are the death benefit changes and we included some purely incidental changes of a procedural nature. It was not the Government's intention at this point in time, to present a comprehensive revision of the Public Service superannuation legislation which would require a whole series of completely new actuarial calculations.

Mr. KEAYS: It seems to me that this brief of the federation submitted to say is just loaded with fears. It seems they fear the intent of this bill. There was one fear expressed in line 7 of page 2 which I think Dr. Davidson replied to one a question from Mr. Orange. There are also two other fears that seemed expressed in the last sentence on page 2 regarding the impact of the integrated plan on the superannuation account, that these are imaginary rather than real. I wonder would Dr. Davidson comment on that?

Dr. DAVIDSON: I perhaps can best comment by drawing your attention to a sentence in the statement that Mr. Benson gave in the House on second reading of this bill when he pointed out that the provision of this bill, respecting integration, did not have any effect on the position of persons who were already retired and were drawing benefits under the Public Service Superannuation Act.

Mr. KEAYS: There is another one on page 4, the last sentence, a misunderstanding of the intent of this legislation. Most employees seem to be of the opinion that the purpose in this bill will be retroactively applied to present contributors.

Dr. DAVIDSON: Again, Mr. Keays, and I gather that you are interested in having this statement on the record it is correct to state, as I have already stated in my testimony this evening, that the proposals in this bill affecting the locking in of contributions have no retroactive effect. As I have already explained, they will not take effect in respect of any contributions, even future contributions, until such time as the Governor in Council fixes a day by proclamation for the commencement of the locking in feature. From that day forward, the locking in will apply to contributions made after that date, but will not apply—I would be certain—to contributions that had been made prior to that date.

Mr. KEAYS: Thank you very much. I have been putting this forward merely so that those who read the evidence will have a clear picture of the situation.

Mr. CHATTERTON: This question does not relate to the brief received today, but goes back to section 40, whereby the armed forces computing the length of service will include the time of war and so on, in the forces raised by Her Majesty in Canada.

I believe that in the Public Service Superannuation Act a civil servant can buy back his wartime service even if he served his time in the allied forces. Why was it in this case restricted to forces raised in Canada?

Mr. CLARK: This relates to what I might call qualifying service. In other words, a former member, say, of the British forces, who subsequently joins the Canadian forces, can elect under other provisions in the Canadian Forces Superannuation Act to count that service for pension purposes, once he qualifies for a pension.

There is a minimum of ten years service in the Canadian forces but once he has that and depending on the type of retirement, he can count that service.

Mr. CHATTERTON: Including service in the allied forces?

Mr. CLARK: In the Commonwealth allied forces. I do not think it goes beyond that into, say, the Free French or the Polish forces.

Mr. CHATTERTON: The same as in the Public Service Superannuation Act?

Mr. CLARK: The Public Service Superannuation Act does extend to the Free French and the other Allied forces.

Mr. CHATTERTON: This is merely for the purpose of qualification?

Mr. CLARK: Yes.

Mr. MCCLEAVE: In appendix A, (see appendix "H") the Civil Service Federation brief expresses its request for return of contributions with interest, that two Crown corporations now carry out that practice—Polymer and the Canadian National Railways.

Is the Public Service Superannuation fund based on the same actuarial principles as those of those two Crown corporations and, if so, why is it not possible to adopt that policy in relation to the fund?

Dr. DAVIDSON: I would have to raise some questions, as to what you specifically mean, Mr. McCleave, by actuarial principles. I think it would be correct to say that both of the plans are based upon the same broad actuarial principles. But elements that go into the costing of the two schemes are entirely different.

It is possible to have one fund which is based on actuarial principles, which contains a provision for return of contributions without interest, and the actuarial calculations are made on that assumption. It is possible to have another fund which is based upon the same actuarial principles, but one of the elements that goes into the making of the actuarial calculations is the assumption that, in this latter case, contributions are returned with interest.

Mr. MCCLEAVE: That I can see, and that is just a general illustration. But do you know what the setup is of Polymer Corporation and the CNR funds for example, and how they compare with those of the Public Service?

Dr. DAVIDSON: I could not make a comparison of those schemes. I can only say that it is completely clear that if a feature were to be added to the Public Service Superannuation Act which involved the return of contributions with interest, this could not but add to the cost of the fund and would have its impact on the contributions level required to maintain the present benefits of the fund.

Mr. MCCLEAVE: It could be a point, could it not, for the experts in the department to examine the fund side by side?

Dr. DAVIDSON: I am advised by Mr. Clark that this question of providing return of contributions with interest has been looked at on previous occasions by the advisory committee on superannuation and it has not looked with favour on including this feature in the legislation. It has not been looked at for a number of years, and it could be looked at again, but I have no doubt the arithmetic will be the same, but whether the viewpoint will be the same or not, I cannot predict.

Mr. KEAYS: Would it be proper to say that the actuarial soundness of the two different funds is based on the contributions as made by the employee and the contributions which may be paid by the employer—

Dr. DAVIDSON: That is correct, Mr. Keays. Obviously the arithmetical equation is different for each individual fund. It may be necessary if interest is paid either to have a comparatively high premium rate and include provisions

for the interest payments or to have somewhat less generous benefits so that the benefit goes out as some form of interest on return of contributions rather than in the form of benefits.

Mr. KEAYS: In other words you are no Santa Claus.

Dr. DAVIDSON: I used to work with Dr. Brock Chisholm in Health and Welfare, and despite his views I still believe in Santa Claus.

The CO-CHAIRMAN (*Mr. Richard*): Any other questions? Thank you very much, Dr. Davidson.

Now, ladies and gentlemen, I am in your hands. Since time is short and tomorrow is a short day I was wondering if we could go ahead and study this bill clause by clause, starting this evening and going ahead as far as we can. Tomorrow morning will be taken up with caucuses, at least for some of the members. We could perhaps do some of the clauses now.

Mr. MCCLEAVE: Why don't we take out the clauses on which there are amendments, suggestions or comments? Then those who wish to deal with those and have their suggestions, amendments or comments prepared and give them to the Chairman at nine o'clock tomorrow morning.

The CO-CHAIRMAN (*Mr. Richard*): That suggestion is quite acceptable to me if it is acceptable to members of the committee.

Mr. MCCLEAVE: I think Mr. Chatterton, Mr. Bell and myself have six clauses we want to deal with—only six.

The CO-CHAIRMAN (*Mr. Richard*): Can you give us the numbers?

Mr. MCCLEAVE: Clause No. 9 on page 12, clause 40 on page 37. Then there are clauses 32, 44, 59 and 70.

The CO-CHAIRMAN (*Mr. Richard*): Then we could proceed with the other clauses right away?

Mr. MCCLEAVE: I think clause 40 should also be held out.

Mr. KNOWLES: Would you also hold out clause 53, and clause 89.

The CO-CHAIRMAN (*Mr. Richard*): The numbers I have here of clauses to be held out now are 9, 32, 40, 44, 53, 59, 70 and 89, and of course clause 1. Shall all the other clauses carry?

Hon. MEMBERS: Carried.

The CO-CHAIRMAN (*Mr. Richard*): It is understood that those who have suggestions, amendments or comments to make should have them ready tomorrow morning at 9.30. Is it agreed that at 9.30 tomorrow morning everyone will be able to proceed with their amendments?

Hon. MEMBERS: Agreed.

The committee adjourned.

APPENDIX "H"

The Civil Service Federation wishes to draw to this Committee's attention a discrepancy between practices in the private sector and the Federal Public Service with respect to the Public Service Superannuation Act; specifically the fact that refunds of employees' contributions to the Public Service Superannuation Plan do not bear interest, whereas in the private sector, the practice of paying such interest is the rule rather than the exception.

That Federal Government employees' contributions accrue interest is indicated in the "Report on the Administration of the Public Service Superannuation Act for the Fiscal Year Ended March 31, 1965". On page 3 it is stated that 78.7 million dollars interest was earned by the Superannuation Account. Further, on the same page of this report, it is stated that the employees' contributions to the Retirement Fund earn interest at the rate of 4 per cent per annum and, for the fiscal year recorded in the Report, an amount of $183,000 was credited to the Fund.

If the Superannuation Account and the Retirement Fund are earning interest, this interest is accrued in part, if not in total, on employees' money. Therefore, it stands to reason that that part of the interest earned by employees' contributions should be assigned to the employees' share of the Account and Fund. It is appreciated that the interest aids in building up such individual employee's pension amount, however, it is not appreciated that an employee who decides to leave the service should suffer the loss of interest earned by his money during the period it was held by the Government.

In the private sector there is ample precedent in pension plan administration for the return of employees' contributions with interest—usually compounded from year to year.

Advance data provided by the Pay Research Bureau on its January 1, 1966 Employee Benefits Survey reveals the following:

PART A

	SAMPLE		
	Treasury Board	*Staff Associations*	*Combined*[1]
1. Number of Companies			
Office	146	166	274
Non-Office	146	166	274
2. Total Co.'s Giving Refunds			
Office	102	142	211
Non-Office	87	118	172
3. Co.'s Refunding with Interest			
Office	54	76	115
Non-Office	42	64	92
4. Co.'s Refunding without Interest			
Office	9	22	24
Non-Office	10	13	16
5. No details re interest			
Office	39	44	72
Non-Office	35	41	64

[1] Totals of Treasury Board and Staff Association samples do not equal the total in the Combined Sample because some companies are represented in both samples.

PART B—Percentage Analysis of Part A

	SAMPLE		
	Treasury Board	*Staff Associations*	*Combined*
Item 3 as % of Item 2 (Part A)			
Office	52.9	53.5	54.5
Non-Office	48.3	54.2	53.5
Item 4 as % of Item 2 (Part A)			
Office	8.8	15.5	11.4
Non-Office	11.5	11.0	9.3
Item 5 as % of Item 2 (Part A)			
Office	38.3	31.0	34.1
Non-Office	40.2	34.8	37.2

Item 3 above is the significant item in Part A. The Civil Service Federation contends that further analysis of Item 5 (part A) would also add to the weight given in Item 3 (Part A) to the practice of refunding employees' contributions with interest. Subsequently we will show this is a pattern in the private sector and the Civil Service Federation believes that many of the companies which constitute Item 5 do follow this practice.

As the PRB data is not yet officially released we have sought other sources which also lend strength to our position. These sources and their supporting evidence are as follows:

1. *A Study of Canadian Pension Plans,* 2nd Edition, Fall 1961, National Trust Company.
   72 of 120 contributory plans indicated return of contributions with interest.
2. *Teacher Retirement Plans in Canada,* April 1963 and subsequent *Supplement,* dated January 1964.
   Refunds with interest are provided to teachers in the following provinces:
   —British Columbia—3%
   —Alberta —3%
   —Saskatchewan —less than 5 years service—Nil
   5-10 years service—2% compounded annually
   10 or more years service—3% compounded annually
   —Ontario —15 years service (or 5 or more years after age 55)—4% interest per annum.
3. Hospitals of Ontario Pension Plan:—handbook—(page 8)
   —"refund of your contributions with 3% compound interest".
4. Pension plans in Ontario—Statistics 1963—page 20 (extract).

	Number of Plans	%	
(*a*) Refund of employee contributions[1]	2,333	31.2	(This study covered 7,476 pension plans filed under the "Pension Benefits Act of Ontario;" — effective date: September 1, 1963.)
(*b*) Refund of employer and employee contributions	3,262	43.6	
(*c*) Refund of employee contributions and vested portion of employer contributions	567	7.6	

(1) No distinction is made between cases in which the refund of contributions is with interest or without interest.

From the above table it can be seen that, although cases where interest on employees' contributions are not defined, another parallel clearly does exist, in that 3,262 plans (or 43.6%), grant a refund of both employer and employee contributions and a further 567 plans (7.6%) grant a refund of employee contributions plus a vested portion of the employer's contributions. This represents a total of 3,829 or 51.2% of the total survey. If, from the example of the previously described PRB data (p. 2) and PRB data shown below, No. 6, we read into Item (*a*) a distinct possibility that at least 50% of the 2,333 plans which refund employees' contributions also grant interest on these contributions, we realize that over 66% of the registered Ontario pension plans provide a return to the employee of an amount greater than that which he originally contributed—or in other words, a premium for the use of capital.

5. Public Service Superannuation Amendment Act (1964) Bill 129. Ontario—in effect April 1, 1964. Section 17 of the act provides for return of contributions *with interest* if the law does not require they be "locked-in".

6. Pay Research Bureau—*Employee Benefits in Industry,* January 1, 1961, page 27. (An analysis of data provided in this report shows that a refund of contributions with interest was a significant feature, even in 1961). Below we indicate the relevant data:

CONTRIBUTORY PENSION PLANS

Office—*88* of 106 surveyed companies had contributory pension plans (83%)

Non-Office—*71* of 94 surveyed companies had contributory pension plans (75.5%)

(*a*) of the above: the following provided interest with a return of contributions:

Office—53 or 50% of the plans, affecting 68,296 employees (37.6%)

Non-Office—42 or 44.7% of the plans, affecting 78,982 employees (34.4%)

Total—95 or 60% of the plans, affecting 147,278 employees (53.0%)

7. Remuneration Survey of Ontario Civil Servants—W. A. Mercer Limited—October 1960. This study showed that as early as 1960 pension plans provided interest on employees' contributions when withdrawn. Examples are given below:

Provincial and Municipal Governments

(*a*) *Province of N.B.:* 1-5 years service—refund of contributions only.
5-10 years —refund of contributions and interest.

(*b*) *Province of Saskatchewan:* refund of contributions with interest.

(*c*) *Province of Alberta:* refund of contributions with interest.

(*d*) *Province of B.C.:* refund of contributions with interest.

(*e*) *Munic. of Metro. Toronto:* (under age 35)—refund of contributions with interest.—(Over age 35)—"Cash refund or deferred annuity based on own contributions plus part or all of Employer Future Service contributions and all Past Service contributions transferred to Plan".

Other Organizations

(*a*) *Polymer Corpn*—refund of contributions with interest @ 3%.

(*b*) *Ontario Hydro*—refund of contributions with interest @ 3%.

(c) *CNR*—refund of contributions with interest.
(d) *University of Toronto*—refund of contributions with interest @ 2½%.

The principle that the Public Service employee's contributions to the Public Service Superannuation Account do in fact earn interest is also accepted. The Treasury Manual of Financial Authorities, Volume II, Section XXII, page 85: Clause 12.2.5, under the heading, "Capitalized Value of Annuity or Annual Allowance"—subclause (*b*), refers to disability payments in the following terms: "Where the contributor ceased to be employed by reason of disability: —in accordance with the mortality basis set out in The Actuarial Report on the Superannuation Account, 1947, with interest at the rate of 4% per annum."

Throughout the Public Service Superannuation Act a contributor who is required to make contributions for prior service or return contributions paid on previous separations must make these payments with interest. In simple equity it seems reasonable that a contributor should be granted interest on the return of his contribution whenever there is no additional financial benefit paid to him from the employer's contribution to the plan.

As a function of being a modern employer, the Government must have a pension plan and must participate in it; however, since the employee does not have a choice as to his participation, (a condition of employment), then if he chooses to separate, he should, in justice, receive back the proper value of his personal capital which has been tied up in the pension plan—i.e.—contributions plus interest. In the previous pages we have seen enough examples to recommend that the rate of interest should be at least 4 per cent, compounded annually.

As a further indication that 4 per cent interest is appropriate to-day, the Treasury Manual, page 127—clause 20.2 "Contributors Accounts", referring to the Retirement Fund, states:

> "...and interest paid by the government. The interest is calculated at 4 per cent per annum..."

Again, on page 132 of the same manual, with reference to the Civil Service Retirement Act, clause 3.1 "Accounts", we note that 4 per cent is again the stipulated rate of annual interest.

As additional weight to our position that interest should be refunded to employees who withdraw from the Superannuation Account, we see in statements describing both the Retirement Fund and Civil Service Retirement Act, authority to provide interest with contribution refunds, and thereby a precedent within the Federal Public Service itself, (References—Treasury Manual, Part XXII, page 129, clause 23.1; page 132A, clause 34.1)

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

First Session—Twenty-seventh Parliament

1966

PROCEEDINGS OF
THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 5

Respecting
BILL C-193

An Act to amend the Public Service Superannuation Act, the Canadian Forces Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Superannuation Act, the Diplomatic Service (Special) Superannuation Act, the Intercolonial and Prince Edward Island Railways Employees' Provident Fund Act and the Canadian Corporation for the 1967 World Exhibition Act.

THURSDAY, JUNE 22, 1966

WITNESSES:

From the Treasury Board: Hon. E. J. Benson, Minister of National Revenue, President of the Treasury Board; Dr. G. F. Davidson, Secretary. *From the Department of Finance:* Mr. H. D. Clark, Director of Pensions and Social Insurance Division.

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

24555—1

SPECIAL JOINT COMMITTEE

OF THE

SENATE AND OF THE HOUSE OF COMMONS

on employer-employee relations in the

PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate — *Representing the House of Commons*

Senators

Mr. Beaubien (*Bedford*),	Mr. Ballard,	Mr. Knowles,
Mr. Cameron,	Mr. Bell (*Carleton*),	Mr. Lachance,
Mr. Choquette,	Mr. Caron,	Mr. Leboe,
Mr. Croll,	Mr. Chatterton,	Mr. Lewis,
Mr. Davey,	Mr. Crossman,	Mr. McCleave,
Mr. Deschatelets,	Mr. Émard,	Mr. Munro,
Mrs. Fergusson,	[1]Mr. Émard,	Mr. Orange,
Mr. O'Leary (*Antigonish-Guysborough*),	Mr. Fairweather,	Mr. Ricard,
	Mr. Faulkner,	[2]Mr. Rinfret,
Mr. Hastings,	Mr. Hymmen,	Mr. Tardif,
Mrs. Quart,	Mr. Isabelle,	Mrs. Wadds,
Mr. Roebuck—11.	Mr. Keays,	Mr. Walker—23.

[1]Replaced by Mr. Langlois (*Chicoutimi*).
[2]Replaced by Mr. Simard.

(Quorum 10)

Edward Thomas,
Clerk of the Committee.

TUESDAY, June 21, 1966.

Ordered,—That the names of Messrs. Simard and Langlois (*Chicoutimi*) be substituted for those of Messrs. Rinfret and Émard on the Special Joint Committee on the Public Service.

Attest.

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

24555—1½

REPORT TO THE HOUSE OF COMMONS

WEDNESDAY, June 22, 1966.

THIRD REPORT

Your Committee has considered Bill C-193, An Act to amend the Public Service Superannuation Act, the Canadian Forces Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Superannuation Act, the Diplomatic Service (Special) Superannuation Act, the Intercolonial and Prince Edward Island Railways Employees' Provided Fund Act and the Canadian Corporation for the 1967 World Exhibition Act.

Your Committee has agreed to report the said Bill with the following amendment:

> Amend the French version of the said Bill by striking out the words "service public" and substituting therefor the words "fonction publique" in the Title and wherever these two words appear in the said French version of the said Bill.

A copy of the relevant Minutes of Proceedings and Evidence, relating to this Bill, is appended.

Respectfully submitted,

JEAN-T. RICHARD,
Joint Chairman.

(Presented Wednesday, June 22, 1966)

MINUTES OF PROCEEDINGS

WEDNESDAY, June 22, 1966.
(8)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 9.36 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present: Representing the Senate: The Honourable Senators Bourget, Deschatelets, Fergusson, Hastings, O'Leary (*Antigonish-Guysborough*), Quart.

Representing the House of Commons: Mrs. Wadds and Messrs. Caron, Chatterton, Crossman, Faulkner, Hymmen, Isabelle, Keays, Knowles, Lachance, Langlois (*Chicoutimi*), Leboe, McCleave, Munro, Orange, Ricard, Richard, Simard, Walker (19).

In attendance: Hon. E. J. Benson, Minister of National Revenue and President of the Treasury Board; Dr. G. F. Davidson, Secretary of the Treasury Board; and Mr. H. D. Clark, Director of Pensions and Social Insurance Division, Department of Finance.

The Committee was assured by the Hon. E. J. Benson that clause 19 of Bill C-193 would be amended in proper legal form to provide for appeal.

Clauses 32, 44, 59 and 70 were then carried.

A motion by Mr. Chatterton, seconded by Mr. McCleave, to delete sub-section 9(1) (1*d*) was negatived on division.

Clauses 9, 40, 53 and 89 carried.

Clause 1, the Title, and the Bill carried.

The Committee agreed that the Joint Chairmen report the Bill back to the Senate and the House of Commons without amendment.

On a motion by Mr. Caron, seconded by Mr. Faulkner, the Committee agreed to the substitution of the correct terminology "fonction publique" in the Title and wherever these two words appear in the French version of the said Bill, for the words "service public".

On a motion of Mr. McCleave, seconded by Mr. Walker,

Resolved,—That permission be obtained to reduce the quorum of this Special Joint Committee to (10) members provided that both Houses are represented, and to sit while the Senate and House of Commons are sitting.

The Joint Chairmen announced the addition of the Hon. Senator Deschatelets and Messrs. Orange, Simard and Walker to the Subcommittee on Agenda and Procedure.

The meeting was adjourned at 10.35 a.m. to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

WEDNESDAY, June 22, 1966.

The CO-CHAIRMAN (*Mr. Richard*): We have a quorum. Last night some clauses of this bill were left over for discussion this morning. Before we proceed I understand the Minister of National Revenue would like to make a few remarks.

Hon. E. J. Benson, Minister of National Revenue: As I indicated when I last appeared before the committee, we undertook to look into the question of decisions being made by the Minister of Finance or the Minister of National Defence without appeal to the Treasry Board in cases which had previously been decided by that Board under the previous legislation. We have looked into the matter very carefully and have come to the conclusion that the position can best be served by putting an amendment under section 19, the regulation section, which will allow the Governor in Council to make regulations to cover all the various items previously decided by Treasury Board and now decided by a minister of the Crown. If the committee would agree to the clauses involved I shall undertake to have drafted in proper legal form an amendment to clause 19 so that the provision for appeal is made.

Mr. CHATTERTON: Is it not clause 30?

Hon. Mr. BENSON: It was the old clause 30, but clause 19 in the new act.

Mr. MCCLEAVE: We have requested that four clauses be held out to provide for this, and what the minister says is quite satisfactory. These clauses are 32, 44, 59 and 70.

The CO-CHAIRMAN (*Mr. Richard*): Shall clauses 32, 44, 59 and 70 carry?

Hon. MEMBERS: Carried.

The CO-CHAIRMAN (*Mr. Richard*): Then there was clause 9, which was also left over. That is to be found at page 11.

Mr. CHATTERTON: I would like to move that clause 9(1) (1*d*) be deleted.

Mr. MCCLEAVE: I second the motion.

The CO-CHAIRMAN (*Mr. Richard*): It has been moved by Mr. Chatterton, seconded by Mr. McCleave, that clause 9(1) (1*d*) be deleted. Are there any remarks on this?

Mr. CHATTERTON: 9 (1) (1*a*) guarantees that there will be no reduction to the combined pension after integration, and 9 (1) (1*d*) agrees that is the case except in the cases of those civil servants who retired before 65. In those cases where a civil servant is working at 65 and his P.S.S.A. benefit is adjusted and reduced then he still does not get his Canada Pension Plan until such time as he stops working. The effect of 9 (1) (1*d*) would then in certain cases actually reduce the man's pension for some years, possibly up to five years.

(*Translation*)

The JOINT-CHAIRMAN (*Senator Bourget*): Have those of you who are French speaking understood the purport of the amendment to be made to clause 9 (1) (1*d*)?

Mr. CARON: I would like to have the French explanation.

(*English*)

The CO-CHAIRMAN (*Mr. Richard*): Mr. Chatterton, would you mind repeating what you have said, because there was a little discussion between members? If you would repeat the object of your amendment, please, for deleting clause 9(1)(1*d*)?

Mr. CHATTERTON: Yes, Mr. Chairman. Clause 9(1)(1*a*) provides that there is a guarantee that no person's pension, by virtue of integration, will be reduced.

Mr. KNOWLES: I think it is clause 9(1)(1c), Mr. Chatterton.

Mr. CHATTERTON: Yes, that is the guarantee. Clause 9(1)(1*d*) says that will not apply except in those cases where the retiree or annuitant is working at age 65. In other words, it says that at age 65 there will be an automatic adjustment of his Civil Service pension. If he is working and suffering a reduction to his Canada Pension Plan by virtue of working, then he will not be receiving his Canada Pension Plan benefit, or will be receiving a reduced amount, so, in effect, for a period of five years it is possible that some Civil Service annuitants who are working will have their pensions reduced.

The JOINT-CHAIRMAN (*Senator Bourget*): In simple words, Mr. Chatterton, it means you do not want any reduction in the Canada Pension Plan.

(*Translation*)

Mr. CARON: Mr. Chairman, could we have Dr. Davidson's explanation on that point?

(*English*)

Dr. George F. Davidson, Secretary of the Treasury Board: Mr. Chairman, I have explained the full situation before and it would be presumptuous of me to start giving members of the committee advice as to this proposal now. I can only reiterate that this provision was inserted in the bill following a recommendation to this effect by the Advisory Committee on Superannuation, which is an official body set up in accordance with the Public Service Superannuation Act, which has on it 12 members nominated by the National Joint Council, equally representative of the staff side organizations and the official side. It was the view of the members of the Advisory Committee that the Public Service Superannuation Act should provide the same treatment to a retiring civil servant, regardless of whether he retired at age 65 in full retirement or whether he accepted employment outside of the Government.

The effect of this amendment, stated in the most factual terms I am capable of stating it in, is to provide additional benefit out of the Public Service Superannuation Fund to the retired civil servant who takes other employment outside of the Government service upon his retirement; and there is, of course,

no compensating financial contribution made to the superannuation fund that would fund that additional benefit that would be paid to the person who continues to work outside the Government after retirement, as distinct from a person who retires completely on retiring at age 65.

Senator O'LEARY (*Antigonish-Guysborough*): I do not understand the term "additional benefit."

Dr. DAVIDSON: The provision contained in the bill, Senator O'Leary, is to the effect that a civil servant, on reaching age 65, has his Public Service superannuation benefit reduced because of the amount of benefit that he is entitled to receive under the Canada Pension Plan on retirement. The purpose of clause 9(1)(1*d*), which is the subject of the amendment, is to provide that even if that retired civil servant goes to work, and in consequence his Canada Pension Plan benefit is suspended rather than being paid to him, that he shall continue to be subject to the reduction of his superannuation benefit from age 65 on.

By eliminating clause 9(1)(1*d*) you would provide that the Public Service Superannuation Fund would have to pick up the amount of the Canada Pension Plan benefit that is suspended during the period of his employment—that is, the extra benefit that he would receive through the elimination of (1*d*)—and that would be a charge on the Public Service Superannuation Fund for which no special contribution to the fund would have been received.

Mr. KNOWLES: Dr. Davidson has put it in one way it can be put—namely, that the superannuation fund is to be called upon to pick up the Canada Pension Plan benefit this employee would not have got. I think it would be equally fair to say that the superannuation fund is being called upon to continue the superannuation pension that the retired employee was getting up to age 65.

This is a subject we have discussed and debated at great length in the last two or three days, and obviously we do not need to go over it all again now, but I am sorry that the Government has not come up with some kind of compromise such as a date beyond which this would not be effective.

If I may briefly state the argument as I see it. I think there are two sides to it. Dr. Davidson and those taking that side certainly have an argument that civil servants paying for only a 1.3 per cent pension for the Canada Pension Plan bracket as from age 65 should all be treated alike. But, on the other hand, civil servants, prior to the coming into effect of the Canada Pension Plan, had the right to retire on full pension if they made it by age 60 or age 62 and continue to draw that full pension for life, even if they worked at something else, and that right which civil servants have enjoyed up to this point is by this combination of circumstances taken away. I think the compromise which should have been worked out is one that should not be taken away from those who had it at the time this legislation came into force.

I realize the anomalies which will be created by deleting clause 9(1)(1d), but in the absence of a compromise I shall have to vote for the amendment.

Mr. WALKER: If this clause is deleted it puts the superannuants in two different classes. There are different benefits depending on the choices they make about working. There will be inequities in connection with people who have paid in the same amount of money.

Dr. DAVIDSON: To the extent that the civil servant, after 65 years of age, continues in the fund and his Canada Pension Plan benefit is suspended, the continuation of the amount of his Canada Pension Plan to that person as a charge upon the Public Service Superannuation Fund would constitute an additional benefit to that working civil servant which would not be available to the retired civil servant of the same age under the same circumstances.

Mr. WALKER: So it puts them in two different classes.

Mr. CHATTERTON: Dr. Davidson rightly pointed out that the Advisory Committee had approved this provision, but the witnesses from both the Civil Service Federation and the Civil Service Association said, in effect, that they had missed this point—either they had missed it or they had not considered it. It is my opinion that the Advisory Committee in this respect did not reflect the opinions of the Civil Service in general. That is all I have to remark on that point.

The CO-CHAIRMAN (*Mr. Richard*): Is the committee ready for the question? Mr. Chatterton's motion has been heard. All those in favour? Those against?

I declare the motion lost.

Shall clause 9 carry?

Mr. KNOWLES: Before clause 9 carries, Mr. Chairman, I should like to draw the attention of the committee to the fact that there does seem to have been some confusion in the minds of the staff side people who agreed to all of this with respect to what they agreed to. I suppose the most precise statement we had on this matter was that of the Civil Service Federation who said that they did not agree to integration in principle but that they agreed to this particular set of figures, and that if there were any changes later in the rates of the Canada Pension Plan contributions they would reserve the right to reopen the whole question. I think that that should be part of the record—the fact that there was confusion in the minds of those who were present at those meetings at which agreement was reached.

Mr. MCCLEAVE: Before you put the clause to the committee, Mr. Chairman, perhaps we could appeal to the minister, or to his parliamentary secretary who is here. He was good enough to bring in remedies in respect of the other clause, and he might be good enough to look at this clause in the light of the compromise suggested by Mr. Knowles.

Mr. WALKER: I will bring this point up. I might say that there are many of these clauses, and I preesume that a lot of amendments that are going to be proposed have to do with tapping this mythical surplus that is there for additional benefits. But, it has been mentioned many times in this committee that we, in fact, are not in possession of all the facts from the officials as to the danger to the actuarial soundness of the Superannuation Fund if it keeps getting tapped. This is one of our dilemmas, Mr. Chairman, with respect to these amendments. We really do not know, and many of the witnesses who suggested that there were great surpluses that could be used to give additional benefits did not know. This committee has not had the facts or the benefit of advice directly from the officials who are responsible for the actuarial financial soundness of the Superannuation Fund. I shall certainly bring this to the

attention of the minister, and I think it is a point that we could look at very closely in the future.

Mr. KNOWLES: Mr. Walker's point might apply to some of the amendments that will be proposed this morning, but I suggest it is still a question of terminology or semantics. However, the clause simply provides that the status be maintained.

The CO-CHAIRMAN (*Mr. Richard*): Shall clause 9 carry?

Hon. MEMBERS: Carried.

The CO-CHAIRMAN (*Mr. Richard*): We come now to clause 40.

Mr. MCCLEAVE: We are dropping our objection to this. This is the one dealing with service in other than the Canadian Forces. We are satisfied that there is protection under the existing law for those who have served in other forces friendly to Canada.

The CO-CHAIRMAN (*Mr. Richard*): Shall clause 40 carry?

Hon. MEMBERS: Carried.

The CO-CHAIRMAN (*Mr. Richard*): The two clauses that remain are 51 and 89. Mr. Knowles had some comments to make with respect to those.

Mr. KNOWLES: Mr. Chairman, when I asked you to stop clause 53, that was really not the clause I was referring to. I was really referring to clause 22, but I am in your hands. I can raise in connection with clause 53 the question I had in mind, or I can wait until we get to clause 1 and then talk about clause 22.

Mr. WALKER: Which will take the shortest amount of time?

The CO-CHAIRMAN (*Mr. Richard*): Clause 22 was carried last night.

Mr. KNOWLES: If there is no objection, clauses 22 and 53—clause 53 deals with death benefits, and clause 22 deals with a number of things including death benefits. I wonder if in the hours that were left free to them last night, Dr. Davidson and Mr. Clark have been able to come up with any figures about any of the suggested improvements in the death benefit provision. Personally, I think it is quite an interesting change in attitude. When this provision was first brought in there was quite a row about the dictatorial way in which this provision seems to have been applied, but now the Civil Service Federation seems to like it and wants improvements in it. One improvement requested is in addition to what has been provided in this bill, and that is that the death benefit should never drop below $1,000. Then there were other improvements suggested, such as doubling the amount, and so on. Have Dr. Davidson and Mr. Clark been able to come up with any costing on one or more of the suggested improvements not yet proposed by the Government?

Mr. Hart Clark, Director, Pension and Social Insurance Division, Department of Finance: Mr. Knowles, since the meetings which took place yesterday we have consulted with our actuarial advisers. The one amendment which was proposed, and which was most closely related to the type of plan that we have at the moment, was that suggested by the Civil Service Federation on the doubling of the minimum benefit from $500 to $1,000. You may recall that it

was suggested that this might be done without any additional contribution, or, as I think they suggested, the surplus in the fund might be applied for this purpose.

The last actuarial report indicated that there was a relatively small contingency reserve which one might say was a surplus. Mr. Clark of the Insurance Department has advised me this morning that the application of this increase in the minimum benefit from $500 to $1,000 for those who would qualify now would immediately remove this surplus. In other words, this increase could be provided, say, for those who are already of age 65, but then on a continuing basis to provide this benefit to those that would qualify every year would require an increase in the contributions of approximately 7½ cents per $1,000 for everyone—not just those who would qualify. But, to spread the cost over the whole Civil Service, as it were, would require an additional 7½ cents per $1,000 of coverage. In other words, the 40 cents which is now being paid would have to go up to 47½ cents. For various arithmetical reasons it is very convenient to work in terms of multiples of ten, and it is felt desirable also to continue to build up a little contingency reserve, so that the recommendation which would be made to implement this suggestion would be an increase in the rate from 40 cents to 50 cents per $1,000.

Mr. CHATTERTON: Perhaps you could discuss this the next time you meet with the Civil Service on these matters. There does seem to be an interest in improving this provision in this way.

I am glad clause 53 was stood because I received a letter this morning which, as I understand it, is from a chap who has been in the Armed Forces and then retired, and who retained the right to the supplementary death benefit. Is that correct?

Mr. CLARK: Yes.

Mr. CHATTERTON: Then he joined the Civil Service but by virtue of his terms of employment he had to pay the $2 a month out of his salary. When he was fired from the Civil Service he could not be reinstated because he was not on superannuation from the Civil Service. In other words, he has lost the opportunity of being covered under the SDB.

Mr. CLARK: Yes. The problem there is cured by one of the sections that we did not specifically mention. You will remember that in regard to paragraph (4) of the explanatory notes, facing page 1, we made reference to several amendments which were to remove anomalies, and so on. This is one of the areas that is cleared up by the amendments to the death benefit part of the plan.

In this particular case, this is a man that is retired already from the armed forces with an armed forces' pension, who came to the Civil Service. I think that if you look at page 30 at clause 23, subclause (5), commencing at line 12, you will find that the situation is described there. It says that such a person

> shall, subject to such terms and conditions as are prescribed by the Governor in Council, be deemed to have elected to continue to be a participant under Part II of the said act.

That is, this re-instates him. He would, in all fairness to others, have to pay these contributions.

Mr. CHATTERTON: But he would get re-instated?

Mr. CLARK: Yes.

Mr. CHATTERTON: I am glad.

The CO-CHAIRMAN: (*Mr. Richard*): Any other questions on this? Mr. Knowles, have you any other comments?

Mr. KNOWLES: That is all.

The CO-CHAIRMAN (*Mr. Richard*): Shall clause 53 carry?

Carried.

The CO-CHAIRMAN (*Mr. Richard*): Shall clause 22 carry again?

Carried.

The CO-CHAIRMAN (*Mr. Richard*): Now clause 89.

Mr. KNOWLES: I ask that clause 89 stand, Mr. Chairman, merely so that I can make a brief statement, before you rule me out of order. It is the one clause of the bill that makes reference to railway workers. I know it is a particular group of railway workers, but I would just like to remind the committee that when we argue that something should be done about the pensions of retired civil servants we have other people in mind as well, including the particular retired empolyees of the CNR. Just as we are going to get back to civil servants retirees in this committee, I hope some day soon we can deal with the other people as well. Perhaps Mr. Orange will support me in my contention that we should consider all retired people.

The CO-CHAIRMAN (*Mr. Richard*): Shall clause 89 carry?

Carried.

The CO-CHAIRMAN (*Mr. Richard*): Shall clause 1 carry?

Mr. KNOWLES: Mr. Chairman, with regard to clause 1, I would like to ask again what happened to the consideration that was presumably being given to approving the formula regarding the pensions of widows of civil servants. I regret that I did not ask this while the Honourable Mr. Benson was still here. Of course, I can ask him back in the house. But may I say just a word at this point? As all of us around the table know the people concerned in these matters do a good job of keeping us informed. I am sure that many of us around this table have corresponded with people such as Mr. Fred Whitehouse, National Secretary Treasurer for the Superannuates National Association. Not long ago he sent me a Government letter that he had received from the Minister of Finance. It is a public document, as most of Mr. Sharp's letters are, and it had in it this paragraph:

> The other question of an increase in the basic formula for the benefits payable to widows of former civil servants under the Public Service Superannuation Act is one which has been considered in the overall picture of contributions and benefits under the act. The Government's decision in this regard will be indicated when the amending legislation is given first reading by the House of Commons.

That letter was written on May 25, 1966. Now, knowing the date of that letter, and knowing that that resolution preceding Bill C-193 was then on the order paper, and knowing of course that the passing of that resolution preceded

first reading of this bill, I assume it was with the first reading of this bill that we would learn the Government's decision.

It sounded to me from that paragraph as though serious consideration, perhaps favourable consideration, was being given; and it was a bit raw to tell this association that the matter was being considered and the decision will be indicated when the amending legislation is given first reading if the answer was still going to be "No".

Mr. CHATTERTON: Speaking on the same point, Mr. Chairman, as members know, under the Canada Pension Plan one of the chief benefits of the plan is the surviving benefits. However, there are certain widows who do not qualify under the Canada Pension Plan; for example, those who become widows before age 68 get no benefit under it; those under 35 years of age who have no dependents get no benefits; those now 35 and 45 years of age receive a diminishing amount depending on the age. In many cases the combination of the survival benefit under P.S.S.A. and the Canada Pension Plan is very, very generous; and I am not one who does not wish to see widows well provided for. However, it is anomalous in quite a number of cases that the pension the widow would get is greater than the salary her husband had been earning.

It seems to me, keeping this in mind, that when we have people like Mr. Clark and Dr. Davidson who draft the intricacies of legislation, they could have come up with the ingenuity of some formula that could perhaps have increased the widows' benefit with the P.S.S.A., and then introduce another formula to say that such widow's pension should not exceed a certain percentage of the salary. In other word, give something more to those who get nothing out of the Canada Pension Plan, and something less to those who would get excessive benefits. It seems to me it might have been possible to balance this with regard to the fund. I know it would be complicated, but it would have brought in a little more equity in the combining of the two plans.

The CO-CHAIRMAN (*Mr. Richard*): Before I call clause 1 for adoption—

Mr. KNOWLES: One further word on the subject, Mr. Chairman. We have had representations before this committee that varied all the way from 75 per cent to 100 per cent as to what the widow's pension should be in relation to the pension of the civil servant. It does seem to me that the least the Government should do under the present circumstances is to raise it to 60 per cent. I quote that figure because it is the figure in the Members of Parliament Pension Act.

The CO-CHAIRMAN (*Mr. Richard*): You can hardly hold that up as a model.

Mr. KNOWLES: I think if we have made provision that our widows get 60 per cent of what our pension would be at the time, that is the least that civil servants should get. I would say to those that have asked for more, God bless them. However, in any case, the combination of the Canada Pension Plan benefit with a 60 per cent arrangement would probably come pretty close to what they are asking for under the Superannuation Act alone.

In other words, Mr. Chairman, I am putting a very strong plea that this issue not be regarded as closed. I think it is unfair to leave this figure of 50 per cent. Make it more if you can, but certainly raise it to the 60 per cent.

The CO-CHAIRMAN (*Mr. Richard*): Thank you.

Mr. LEBOE: Mr. Chairman, I support Mr. Knowles on that point. I think it is very important.

Mr. WALKER: May I just say, Mr. Chairman, that I intend to speak just personally as a member of Parliament without any question, as times goes on, that amendments possibly along the lines of suggestions that have been made here, and amendments in the future, will automatically have to be considered and thought about, to the present act that we are passing.

My own personal view is that this is a good step forward. It may not have gone as far as anybody would like, but I will certainly be bringing the views that have been expressed to the attention of the minister, and I know that Dr. Davidson and Mr. Clark have these thoughts in mind.

I would stress once again the point that all these suggestions that have been made always seem to be coming in at the place where we are not sure on this whole question of the so-called surpluses in the Superannuation Account. If this committee meets say a year from now, and we are together again, I hope we shall go into this whole question of whether there is the necessity for having these very large amounts left available in the Superannuation Fund to pay out future benefits, or if some of them can be released now to take care of some of these increased benefits for the present superannuates.

Mr. KNOWLES: Will you bring this suggestion to your minister for his consideration, for his attention and endorsement?

Mr. WALKER: Yes. My dilemma is that of all members. In this whole area of argument, on the surpluses in the fund, as to whether they are absolutely necessary, that they must remain there, to maintain actuarial soundness, I am not clear on this point.

Mr. CHATTERTON: As to the concern about the balance of the fund, every time the Civil Service get an increase, the consideration is not how much is in the fund but what is a just increase and if it is a just increase and there is not sufficient in the fund the Government has to pay out of general revenue and make a contribution to the fund. By the same token, if we think something is right, the Government should contribute to the fund.

Mr. WALKER: I am concerned about the fund and the so-called surplus.

The CO-CHAIRMAN (*Mr. Richard*): It would be difficult to call another committee on superannuation without adopting some of the suggestions made and which no doubt would be part of a proper superannuation act in 1966.

Under clause 1, I would remind members of the committee that I made a suggestion yesterday to make a change in the title in French, so that the words "service public,"

(*Translation*)

In any of the clauses, or in any one of the appendices of the said Act, or in any rules or regulations enacted under the provisions of the said act are hereby repealed and replaced by the words "fonction publique".

(*English*)

Mr. CARON: I move that amendment.

The CO-CHAIRMAN (*Mr. Richard*): The effect of this is simply to translate the words "Public Service" in the proper manner.

Mr. CARON: It is more in conformity with the language. It means the same thing but it is better French.

Hon. MEMBERS: Agreed.

The Co-CHAIRMAN (*Mr. Richard*): Shall the title carry?

Hon. MEMBERS: Agreed.

The Co-CHAIRMAN (*Mr. Richard*): Shall the bill carry?

Hon. MEMBERS: Agreed.

The Co-CHAIRMAN: (*Mr. Richard*): Shall I report the bill?

Mr. KNOWLES: Before it is reported, may I remind the committee that, if it were in order to do so—which it is not—I would move that we include in our request a request for a term of reference to enable us to go into the question of payments to retired civil servants. The Honourable Mr. Benson has given us what I think is a commitment, that we will have such a term passed in the House. Therefore, after the other bills are through, I hope we shall be back soon dealing with this important question.

The Co-CHAIRMAN (*Mr. Richard*): Shall I report the bill?

Hon. MEMBERS: Yes.

Mr. MCCLEAVE: I move that we request permission to reduce the quorum to ten members and to sit while the House is sitting.

First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 6

Respecting

BILL C-170

An Act respecting employer and employee relations in the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

TUESDAY, JUNE 28, 1966
THURSDAY, JUNE 30, 1966

WITNESSES:

Hon. E. J. Benson, Minister of National Revenue and President of the Treasury Board; Dr. G. F. Davidson, Secretary of the Treasury Board; Messrs. J. F. Mazerall, President, and L. W. C. S. Barnes, Executive Director, The Professional Institute of the Public Service of Canada; Messrs. A. Croteau, Vice-President, and A. Violette, Member of the Administrative Council, L'Association des Fonctionnaires Fédéraux d'Expression Française; Messrs. T. F. Gough, National President, and Wm. Doherty, National Secretary, Civil Service Association of Canada; Mr. J. M. Poulin, President, Ottawa Local 224, Lithographers and Photoengravers International Union; and Messrs. C. A. Edwards, President, W. Hewitt-White, Executive Secretary, Civil Service Federation of Canada.

INCLUDING SENATE THIRD REPORT ON BILL C-193

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

24557—1

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
on employer-employee relations in the
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate Senators	*Representing the House of Commons*	
Mr. Beaubien (*Bedford*),	Mr. Ballard,	[1]Mr. Langlois (*Chicoutimi*),
Mr. Cameron,	Mr. Bell (*Carleton*),	Mr. Leboe,
Mr. Choquette,	Mr. Caron,	Mr. Lewis,
Mr. Croll,	Mr. Chatterton,	Mr. McCleave,
Mr. Davey,	Mr. Crossman,	Mr. Munro,
Mr. Deschatelets,	Mr. Fairweather,	Mr. Orange,
Mrs. Fergusson,	Mr. Faulkner,	Mr. Ricard,
Mr. O'Leary (*Antigonish-Guysborough*),	Mr. Hymmen,	Mr. Simard,
	Mr. Isabelle,	Mr. Tardif,
Mr. Hastings,	Mr. Keays,	Mrs. Wadds,
Mrs. Quart,	Mr. Knowles,	Mr. Walker—24.
Mr. Roebuck—12.	Mr. Lachance,	

[1] Replaced by Mr. Émard.

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

REPORT TO THE SENATE

WEDNESDAY, June 22nd, 1966.

The Special Joint Committee of the Senate and House of Commons on the Public Service makes its third Report as follows:

Your Committee to which was referred the Bill C-193, intituled: "An Act to amend the Public Service Superannuation Act, the Canadian Forces Superannuation Act, the Defence Services Pension Continuation Act, the Royal Canadian Mounted Police Superannuation Act, the Diplomatic Service (Special) Superannuation Act, the Intercolonial and Prince Edward Island Railways Employees' Provident Fund Act and the Canadian Corporation for the 1967 World Exhibition Act", has in obedience to the order of reference of May 6, 1966, enquired into the said Bill and now reports the same with the following amendment:

1. Amend the French version of the said Bill by striking out the words *"Service public"* and substituting therefor the words *"fonction publique"* in the Title and wherever those two words appear in the said French version of the said Bill.

(*Presented June 27, 1966.*)

TUESDAY, May 31, 1966.

Ordered,—That Bill C-170, An Act respecting employer and employee relations in the Public Service of Canada, be referred to the Special Joint Committee on the Public Service.

MONDAY, June 6, 1966.

Ordered,—That Bill C-181, An Act respecting employment in the Public Service of Canada, be referred to the Special Joint Committee on the Public Service.

Ordered,—That Bill C-182, An Act to amend the Financial Administration Act, be referred to the Special Joint Committee on the Public Service.

MONDAY, June 27, 1966.

Ordered,—That the quorum of the Special Joint Committee on the Public Service be fixed at ten (10) members, provided that both Houses are represented.

Ordered,—That the House of Commons section of the Special Committee on the Public Service be granted leave to sit while the House is sitting.

24557—1½

WEDNESDAY, June 29, 1966.

Ordered,—That the name of Mr. Émard be substituted for that of Mr. Langlois (Chicoutimi), on the Special Joint Committee on the Public Service.

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

REPORT TO THE SENATE

WEDNESDAY, June 22nd, 1966.

The Special Joint Committee of the Senate and House of Commons on the Public Service makes its fourth Report as follows:

Your Committee recommends that its quorum be fixed at ten (10) members, provided that both Houses are represented.

All which is respectfully submitted.

Maurice Bourget,
Joint Chairman.

(*Concurred in June 27, 1966*)

MINUTES OF PROCEEDINGS

TUESDAY, June 28, 1966.
(9)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 3.40 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Croll, Deschatelets, Fergusson, O'Leary (*Antigonish-Guysborough*) (6).

Representing the House of Commons: Messrs. Bell (*Carleton*), Caron, Crossman, Faulkner, Hymmen, Isabelle, Keays, Knowles, Lachance, Ricard, Richard, Simard, Tardif, Walker (14).

Also present: Messrs. Émard, Régimbal.

In attendance: Hon. E. J. Benson, Minister of National Revenue and President of the Treasury Board; Dr. G. F. Davidson, Secretary of the Treasury Board; Messrs. J. F. Mazerall, President, and L. W. C. S. Barnes, Executive Director, The Professional Institute of the Public Service of Canada; Messrs. A. Croteau, Vice-President, and A. Violette, Member of the Administrative Council, L'Association des Fonctionnaires Fédéraux d'Expression Française.

The Joint Chairmen invited Hon. E. J. Benson to make an initial statement on Bills:

C-170, An Act respecting employer and employee relations in the Public Service of Canada,

C-181, An Act respecting employment in the Public Service of Canada,

C-182, An Act to amend the Financial Administration Act.

A discussion ensued as to the approach to be taken in presenting questions to the witnesses. The Committee agreed to hear all briefs first. Witnesses will be recalled at a later date, if necessary, for questioning.

The Professional Institute of the Public Service of Canada was requested to present its briefs on Bills C-170 and C-181.

L'Association des Fonctionnaires Fédéraux d'Expression Française then presented ashort brief with additional comment respecting Clause 16 of Bill C-181.

On a motion of Mr. Tardif, seconded by Mr. Crossman, the meeting adjourned at 5.30 p.m. to 8.00 p.m. this same day.

EVENING SITTING
(10)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 8.20 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Deschatelets, Fergusson (3).

Representing the House of Commons: Messrs. Bell (*Carleton*), Caron, Lachance, Lewis, McCleave, Munro, Richard, Tardif (8).

Also present: Mr. Émard.

In attendance: Messrs. T. F. Gough, National President, Wm. Doherty, National Secretary, Civil Service Association of Canada; Mr. J. M. Poulin, President, Ottawa Local 224, Lithographers and Photoengravers International Union; Mr. R. Faulkner, Member of the Executive Council of Union Employees, Canadian Government Printing Bureau.

The Civil Service Association of Canada presented a brief on the three bills before the Committee.

Following this presentation, the Lithographers and Photoengravers International Union, Ottawa Local 224, read a short brief respecting Bill C-170.

On a motion of Mr. Caron, seconded by Mr. Tardif, the meeting adjourned at 9.10 p.m. to the call of the Chair.

THURSDAY, June 30, 1966.
(11)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 1:10 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Deschatelets, O'Leary (*Antigonish-Guysborough*) (3).

Representing the House of Commons: Messrs. Bell (Carleton), Caron, Hymmen, Isabelle, Keays, Knowles, Lachance, McCleave, Richard, Simard, Tardif, Walker (12).

In attendance: Messrs. C. A. Edwards, President, W. Hewitt-White, Executive Secretary, Civil Service Federation of Canada.

The Joint Chairmen invited the representatives of the Civil Service Federation of Canada to present their briefs on Bills C-170 and C-181. Ensuing from this presentation, the Committee agreed to accept a supplementary brief from this organization.

The Committee instructed the Clerk to obtain a memorandum from the Civil Service Commission covering the basic research material available on the subject of political activity (participation) of government employees.

The meeting was adjourned at 1.55 p.m. to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(*Recorded by Electronic Apparatus*)

TUESDAY, June 28, 1966.

• (3.30 p.m.)

The JOINT CHAIRMAN (*Mr. Richard*): The Committee is now considering three bills which have been referred to it, namely Bills C-181, C-182 and C-170. It was agreed at the last meeting that at the first meeting of this Committee today we would hear a broad outline from the Minister of National Revenue with regard to the legislation contained in these bills. Is it the pleasure of the Committee to hear the Minister?

Mr. KEAYS: I trust, Mr. Chairman, that the Minister has made arrangements to be notified of when the superannuation bills will be called in the House. It would be a shame to have them passed in his absence and also in our absence.

Hon. EDGAR JOHN BENSON (*Minister of National Revenue*): I have made arrangements for myself to be notified and arrangements that you will not be.

Mr. Chairman, honourable members of the Joint Committee, you are meeting today to begin your examination of Bills C-170, C-181 and C-182, three measures which, taken together, propose the introduction of reforms in the internal administration of the public service which have only one parallel in our history, I believe, namely the reforms brought about by the Civil Service Act of 1918.

It is apparent from the character of the proposals contained in Bill C-170 that many administrative arrangements will remain to be completed after Royal assent before bargaining relationships can be established. The staff relations board will have to be manned, and it will need time to develop and promulgate many rules and regulations before it will be feasible for it to begin to receive applications relating to the determination of bargaining units and the certification of bargaining agents. If the Committee's study of the legislation cannot be completed and the legislation given third reading before the summer recess, then everyone concerned must be prepared to endure another considerable delay; that is, if it is put off until next fall, for after the legislation is passed it is going to take some additional time in order to set up the three bodies which are involved.

Turning now, Mr. Chairman, to matters of substance, I would like to review, if I may, those issues in the proposed legislation which evoked analytical comment in our consideration of the three bills during second reading.

Perhaps I could begin with a brief review of the legislation as a whole, attempting to clarify if I can the problem of comprehending the inter-relationship of the three measures, and the inter-relationship of the three institutions

which will play leading roles in its administration; namely the Public Service Commission, the Treasury Board and the Public Service Staff Relations Board.

The proposed Public Service Employment Act vests the commission with authority for all matters related to the staffing of the public service, including initial appointment, promotion, and all matters related to the determination of qualifications for appointment and promotion; in sum, those matters which are clearly related to the preservation of the merit system in the public service of Canada. Although the Public Service Commission would be responsible for the administration of the Public Service Employment Act, it would have a capacity to delegate authority to deputy heads in all areas except appeals. The intent is to provide for a working partnership of the commission and departments in the area of staffing of a kind that has not hitherto been achieved. This kind of relationship was identified by the Glassco Commission as a desirable objective and I believe that this legislation would permit the realization of that objective without any encroachment on the merit system which must, in all cases, be preserved.

The effect of the proposed Public Service Employment Act and the proposed amendments to the Financial Administration Act, taken together, provide for the consolidation in the Treasury Board—as the representative of the employer in most of the Public Service—of authority relating to such matters as classification, pay, hours of work and leave, which are now regulated by the Civil Service Act and, in one way or another, by the combined authority of the Commission and the Board. A patchwork quilt of minor authorities, related to terms and conditions of employment which have been granted by many statutes to a variety of departments would, under the proposed amendments to the Financial Administration Act, be brought within the authority of the Treasury Board. This consolidated authority for the determination of terms and conditions of employment, which under Bill C-182 would be vested in the Board, would be exercised subject to the provisions of Bill C-170, that is to say, in a collective bargaining relationship wherever employees had met the requirements for certification and had been incorporated in bargaining units.

The Treasury Board's role as employer embraces and includes the familiar employer role of departments, and it may be expected that in its discharge of these more comprehensive responsibilities the board will establish to a considerable degree the kind of "general manager" relationship to departments in matters of administration which was envisaged in the Glassco Report.

Finally, Bill C-170, which is concerned exclusively with the regulation of the employer and organized employees in collective bargaining and with the processing of grievances, is in essence a conventional labour relations act, modified in some areas to conform to the special requirements of the Public Service. This Bill provides for a new administrative body, the Public Service Staff Relations Board, together with adjudicators and arbitration tribunal, which although totally independent of the Public Service Staff Relations Board in the discharge of their operational responsibilities, would fall within the administrative purview of the Board. Together, these bodies would administer the provisions of the proposed act and assume a regulatory role in relation to the rights and obligations of the employer, employees and employee organizations in the collective bargaining relationship.

Before turning to more particular matters, I would like to say, if I may, that to those of us who have spent a great deal of time in the development of the legislation, the comments of honourable members in the House appeared exceedingly perceptive. The issues raised were for the most part important issues, frequently touching upon areas in the legislation where no wide and well marked road stretched out before us. We have been conscious, as I am sure all members of the Committee are, of the protection afforded by the application of conventional solutions to difficult and contentious problems. However, in the largely uncharted area of public service collective bargaining, conventional solutions are not, in all circumstances, capable of dealing with certain unique aspects of Public Service relationships. To meet these new and unique circumstances we have had to develop new and unique solutions.

For the most part the comments of honourable members in the House relate to matters where conventional ways and means did not appear to provide acceptable solutions and where innovation, of one kind or another, appeared to be necessary. The government has proposed solutions to these kinds of problems which it believes are reasonable and workable in the context of the basic objectives of the legislation. I make no claim that the solutions proposed in these difficult areas are the only possible solutions. There are undoubtedly other ways to deal with these issues, and I would like to reiterate what I said in the House, that we will give very careful consideration to alternative proposals advanced by this Committee. However the ultimate test of any proposal must be its capacity to support the objectives of the legislation. I think I may say on behalf of the government that we will support alternative proposals that we believe are consistent with the basic objectives of the legislation, but that we will be bound to oppose proposals for changes in the bills which fail to take account of the total objective.

Perhaps the point most frequently mentioned by honourable members during second reading was a concern for the detailed character and complexity of Bill C-170. First, as to its length, our experience suggests that to provide for a genuine system of collective bargaining for 200,000 employees, it is necessary to regulate the same elements of the employer-employee relationships that are regulated in legislation that governs a much broader jurisdiction. If I may make a generalization, it seems to me that a short and simple collective bargaining statute is, in fact, unlikely to provide for a genuine collective bargaining relationship. To provide some meaningful comparisons let me refer to three statutes which clearly provide for genuine collective bargaining: the Ontario Labour Relations Act which contains 96 clauses; the Alberta Labour Act which contains 126 clauses; and the Industrial Relations and Disputes and Investigation Act which contains 71 clauses. By comparison, Bill C-170 contains 116 clauses.

The number of clauses in an act is of course not a very precise guide to the character of the legislation, but it has some relevance to the problem. Bill C-170 deals with a number of matters which are not familiar elements of most labour legislation. The most important of these are what might be called the "transitional provisions", many of which are contained in clause 26. Other provisions of an exceptional nature include the two separate and distinct dispute settlement processes, and clauses which establish a uniform system of grievance procedure

and grievance arbitration applicable to all employees who would fall within the jurisdiction of the proposed statute. One or two other clauses deal with special matters, such as national security and the safety of the public.

The transitional provisions, it must be remembered, will lapse and have no effect after thirty months. The clauses relating to the arbitration of disputes, and to grievance procedures and adjudication, together with the few other clauses that deal with exceptional matters, add up, I believe, to about 28 clauses, which, if subtracted from the total, would leave us with a conventional labour relations act of 88 clauses; that is a little longer than the IRDI Act, a little shorter than the Ontario act, and a good deal shorter than the Alberta Act.

Let me hastily add to this numerical analysis my own regret that this legislation is so long, so full of detail and so complex and difficult to comprehend. I hope that the prediction of one honourable member, that this legislation will provide a rich harvest to lawyers, is not borne out in practice. On the other hand, I would not wish to leave many important issues of right and practice in doubt, or limbo, simply to reduce the length of the statute.

There was a hope, I think, in all of those associated with the early preparations for collective bargaining, that we could establish bargaining relationships in the public service within a relatively simple structure based on broad statutory guidelines. However, as the objectives of the legislation were analyzed, it became obvious that the same matters that are dealt with in the statutes that govern employees in the private sector must also be dealt with in this legislation, and as well, certain additional matters that are unique to the Public Service. Confronted with that fact, the choice became one of providing the Public Service Staff Relations Board with extraordinary and unprecedented authority, or producing an act comparable to other labour acts in size and complexity. Confronted with this choice the preparatory committee recommended an approach directly comparable with time tested practices in the private sector, and the government has endorsed this recommendation.

The heart of the matter, as I see it, is that a genuine system of collective bargaining confers substantial rights on individuals and parties, and it is difficult to provide these individuals and parties with any assurance about these rights without providing for them in statute law.

There is of course the special problem posed with respect to the responsibilities normally assumed by the Minister of Labour in the area of dispute settlement. Commenting on this problem, the preparatory Committee said:

> Under the provisions of industrial relations law applying generally, responsibility for "third-party" functions (such as the certification of bargaining agents and the provision of conciliation services) is normally divided between a Minister of Labour and a labour relations board. Although quite satisfactory in the private sector, where a government can stand between an employer and a group of organized employees in a position of impartiality, such a division would be open to question in the public service system because the government is the employer and the Minister of Labour is a member of the government. For this reason, the preparatory committee concluded that the administrative responsibility for the system, including responsibility for the provision of all "third-party" services, should be concentrated in an independent body.

The solution proposed by the Preparatory Committee to the problem seemed to the government to be a viable solution. It was suggested in the debate that a clear separation must be maintained between the authority of those concerned with the certification of bargaining agents, and the authority of those concerned with the day to day resolution of problems arising out of the on-going relationship of the parties. So far as I have been able to determine, this kind of separation is not reflected in any precise fashion in the labour relations statutes in Canada. The Canada Labour Relations Board, in addition to dealing with questions, relating to certification, has authority, upon application, to prescribe a clause to be included in a collective agreement, providing for the final settlement by arbitration of differences arising out of its meaning or interpretation. It also has the capacity to consent to terminate a collective agreement within a period less than the prescribed one year minimum. Perhaps more important, it is vested with authority to investigate complaints alleging failure to bargain in good faith, and to issue orders requiring the parties to do such things as in the opinion of the board are necessary to secure compliance with those provisions of the act which require the parties to bargain collectively with a view to reaching collective agreements.

The Ontario Labour Relations Board enjoys even wider authority relating to the on-going relationship. In the area of collective agreements the Ontario boards exercises the same kind of responsibility assigned to the Canada board by the IRDI act. In addition it has the capacity, upon application, to add to a collective agreement a clause clarifying the exclusive authority of a bargaining agent. The Ontario board may enquire into the status of Locals under trusteeship and extend their jurisdiction beyond the prescribed one-year limit. It may also enquire into complaints of unfair labour practices and direct the manner in which unlawful actions are to be redressed. It has considerable authority and responsibility in jurisdictional disputes and is empowered to issue declarations with respect to unlawful strikes and lock-outs. It is also vested with authority to rule on application for consent to prosecute for offences under the Act.

The British Columbia Labour Relations Act reflects a similar involvement of the labour relations board in the post-certification relationship of the parties. The British Columbia board has an important role in dealing with complaints of unfair labour practices; it may consent to the alteration of terms and conditions of employment during negotiations; it is involved in the establishment of grievance arbitration boards when the parties cannot agree on their membership, and may rule on the jurisdiction of such a board; it has one or two other responsibilities unrelated to certification, which, with those I have mentioned, reflect, as in the case of the other two boards, an important role relating to the on-going relationships of the parties.

My own conclusion, based on this limited analysis, is that the important distinction is between the role of the Board and between the role of the Minister, rather than between the certification and post-certification responsibilities of the Board. If I were to attempt to sum up the situation as it appears to exist in most jurisdictions, I think I would say that the Board is always the responsible authority in certification, and may also be involved in almost any other area, except dispute settlement. On the other hand, the Minister is always

involved in dispute settlement, is never involved in certification, but may, depending on the particular jurisdiction, have some limited responsibilities in other areas.

If this analysis is correct, in this area of dispute settlement, there appears to be three choices: first, to vest the Minister of Labour, in this system, with his traditional authority and responsibility in the dispute settlement process, ignoring his role as a member of the government, which is also the employer; second, to find or create a third-party, other than the board, to discharge this responsibility; and third, to vest this responsibility in the board or its chairman. The first course was rejected by the Preparatory Committee for the reasons that I referred to earlier. It seems to me that the Committee was right, and that it would be quite wrong to expect the Minister of Labour to act as a third party in a dispute between the government and its employees. The second approach which was, I believe, suggested during the debate on second reading, is one that the Committee might wish to explore, although I confess that at the moment it appears an awkward way to handle the problem. The third course of action is reflected in the bill, the authority being vested in the person of the Chairman rather than the Board. Although I have no firsthand knowledge or the way in which a Minister of Labour discharges his responsibilities for the settlement of disputes, it seems to me that the Preparatory Committee was right in concluding that it is not a task that could be undertaken by nine persons as effectively as by one, and for that reason the responsibility has been given to the Chairman rather than to the Board.

The obligation of an employee organization to elect one course of dispute settlement, or the other, before being certified, and the fact that employees in the bargaining unit would be bound to that process for three years was criticized during second reading. It might help to throw some light on this problem if I were to reconstruct the problem, and the various facets of the solution as it appeared to the government.

The preparatory committee, in its July 1965 report, recommended a process of dispute settlement which would remove from the government its traditional authority for unilateral determination of the terms and conditions of employment of public servants, by providing employee organizations who had won bargaining rights, with the right to invoke arbitration which would be binding on the employer, the bargaining agent and the employees concerned. This, was precisely the kind of dispute settlement process that most employee organizations had sought for many years, and which the principal associations continued to endorse. The government's response to the proposal of the Preparatory Committee was positive. In the view of the government the proposed approach to dispute settlement would provide the majority of employees with the kind of system they had asked for and the Canadian public with the optimum protection against the disruption of public services. The basic concept appeared to be a good one, requiring only a slight amendment to make it quite clear that the government as employer would, in fact, be bound by the awards of the Arbitration Tribunal.

At about the same time that the Preparatory Commitee reported, it became increasingly clear that members of employee organizations in the Post Office department opposed the recommended system of dispute settlement as a

matter of principle. In this position they were supported by spokesmen for organized labour in other areas of the community.

In the circumstances, the Government decided to accommodate the views of those who were opposed to arbitration in principle by including in the legislation an alternative process of dispute settlement directly comparable to that provided in the Industrial Relations and Disputes Investigation Act. The basic decision to provide for two separate and distinct dispute settlement processes created a new and unprecedented situation. Ordinarily, labour legislation binds the parties, by law, to a single process of dispute settlement. The provision for a second process of dispute settlement created a situation in which one of the parties—the employee organization—was to have the opportunity to choose one of two alternative systems of dispute settlement. The employer was to have no say in the matter. On the face of it, there existed an imbalance in favour of employee organizations which was not to be found in other labour legislation. This imbalance was further exaggerated by provisions for a system of dispute settlement in which strikes were to be lawful in prescribed circumstances, while the employer's traditional sanction, the lock-out, was not to be available.

If there was to be a choice between two processes of dispute settlement, and if the employee organization was to make that choice, the time at which the organization concerned would exercise the option and the period during which the employees concerned would be bound by that choice had to be settled.

I would like to emphasize the point I made earlier, that the purpose of the exercise was not to provide the bargaining agent with a unique tactical advangage—of a kind unknown to bargaining agents in other jurisdictions. The idea of permitting the bargaining agent to exercise his option during the process of negotiations was simply not thought to be in keeping with the original intention. Indeed, to leave this decision to be made at the point where a dispute was declared would require the employer to conduct negotiations without knowing what set of rules would govern a dispute if agreement could not be reached. The result would be a situation in which the bargaining agent would be free to threaten one sanction or another to meet his tactical needs in the negotiations.

If the legislation were to provide a solution to the problem of timing consistent with the original intent, it was clearly necessary to provide that the option should be exercised prior to the establishment of a negotiating relationship. To accommodate the "safety and security" clause, and in recognition of the impact that it might have for an employee organization choosing the conciliation process, it was necessary to provide the employee organization with the ability to determine the probable effect of that clause on its capacity to impose sanctions at the time of a dispute. The most appropriate time to deal with both of these matters appears to be at the point of certification, and Bill C-170 so provides.

The remaining question was, how long should the option bind the employees concerned? Three years appeared to be sufficient to provide a reasonable degree of stability in the employer-employee relationship while at the same time reducing the chance that the choice of option would become a continuing bone of contention within employee organizations. The proposals contained in

Bill C-170 are based on such a model—which seems to me to represent a series of consistent and reasonable solutions to the several problems created by the decision to provide for a second process of dispute settlement.

In referring to the exceptional length of the Bill, I mentioned that it was due in part to certain additional matters which are dealt with in Bill C-170 which do not ordinarily constitute a part of labour legislation. I have dealt with one of these at some length, the optional dispute settlement process. It might be useful to say a few words as well about the reasons for providing for uniform grievance procedures throughout the service, rather than leaving them to be bargained separately in each collective agreement.

Honourable members will recall that the Preparatory Committee placed considerable emphasis on the value of service-wide grievance procedures with common basic characteristics. The government concurred with this point of view for two reasons. First, unlike most situations in the private sector where a single bargaining unit embraces almost all the employees in a given location, we may expect in the Government service to have many offices in which employees from several bargaining units, governed by separate collective agreements, work side by side. In these circumstances it seemed desirable to ensure that the basic rights of employees to process grievances should be similar, and there could be no assurance of this if these rights had to be determined and secured at the bargaining table. Second, not all public servants will seek certification and the establishment of a bargaining relationship with their employer at the same time. Indeed, some groups may not wish to deal with the employer in a collective bargaining relationship at all. Taking all of these aspects of the situation into account, the proposal to provide for grievance procedure in the legislation appeared to us to be a good one.

Some concern has also been expressed about the relationship of the appeal processes prescribed in the proposed Public Service Employment Act to the adjudication processes prescribed in Bill C-170.

In considering the question as to whether the Commission or the adjudicators should hear appeals, there is an important distinction to be made between the role of the Commission in dealing with appeals, and the role of the adjudicator in dealing with grievances. The Commission is an administrative body, vested in law with responsibility to determine and protect the standards and procedures that are necessary to ensure the maintenance of the merit system. Under the provisions of the proposed legislation—which in this area is wholly consistent with the Civil Service Act of 1918—the Commission stands between employees and the employer, accountable only to Parliament for the discharge of its function as protector of the merit system.

The adjudicator, on the other hand, has no administrative responsibility. The standards which he adjudicates are created not by himself but by the parties. His prime function is to enforce rules which the parties themselves have determined appropriate to their relationship. To involve him in the administration of the merit system, as a final authority on what is merit and what is not, would not only constitute a direct challenge to the authority of the Commission, but would also involve the adjudicator in responsibilities which are wholly foreign to his role in the arbitration of grievances.

There will admittedly be borderline problems between the two review systems. However, assuming a reasonable measure of common sense on the part of those responsible for the respective systems, I would not anticipate any great difficulty in the resolution of such problems.

There was some suggestion, I believe, that the appeal and grievance processes might lead to substantial delays in the resolution of grievances. It is not apparent to me why that should be so, but if that is likely to be the case, the government would be glad to make appropriate changes in the legislation to provide clear assurance against inordinate delay in the disposition of grievances. It is possible that this comment arises out of an interpretation placed on clause 23, which states as follows:

> Where any question of law or jurisdiction arises in connection with a matter that has been referred to the arbitration tribunal or to an adjudicator pursuant to this act, the arbitration tribunal or adjudicator, as the case may be, shall refer the question to the Board for hearing or determination in accordance with any regulations made by the Board in respect thereof, and thereupon any proceedings in connection with that matter shall, unless the Board otherwise directs, be suspended until the question is decided by the Board.

As I read this clause, the Board has clear authority to provide that adjudication hearings will continue where the jurisdiction of the adjudicator is contested. If it is the Committee's wish that the intention of the legislation in this area should be clarified by amending this clause to provide that arbitration or adjudication proceedings are to continue pending determination of the question of law or jurisdiction unless the Board otherwise directs, the government would be pleased to propose such an amendment.

I have not dealt with the problem of the political activity of public servants, which is a problem that relates to the proposed Public Service Employment Act and to clause 39 of Bill C-170. If I could make a suggestion, I think the Committee might find it desirable to come to grips with this problem first in relation to the provisions of clause 32 of Bill C-181. As I indicated in the debate on second reading, that clause is identical in substance to the clause that deals with this question in the present Civil Service Act. If the Committee can reach a consensus on this problem as it relates to individuals, I do not think that it will be difficult to adjust the relevant provision of the collective bargaining bill, which relates to the political activities of employee organizations. I do not know how the Committee will wish to tackle this problem, but in view of the responsibilities of the Civil Service Commissioners for the protection of public servants from political bias, either positive or negative, I would hope that they would be given an opportunity to contribute their point of view to our analysis of the problem.

It was suggested, I believe, in the debate on second reading, that clause 7 of Bill C-170 is too restrictive, and that it should be phrased in such a way as to permit its abridgement by the parties in collective bargaining, if the employer agreed to such an abridgement. It seems to me that a statutory removal of these particular responsibilities from the area of collective bargaining is wholly justified, having regard to the Government's traditional responsibilities for the

organization of government. To assume participation of employees in the determination of the matters contained in this clause is to assume a reduction in the Government's accountability to Parliament in an area which, in the Government's view, is of great constitutional importance.

It was suggested during our consideration in the House of the proposed amendments to the Financial Administration Act—Bill C-182—that section 7, as amended, appeared to provide the Treasury Board with authority to determine terms and conditions of employment without reference to the obligations imposed upon it as an employer by the collective bargaining legislation. Although the intent of the legislation is, I think, clear to all members of the Committee, and although I am informed that from a strictly legal point of view, the law as written would clearly oblige the Treasury Board to discharge its responsibilities in accordance with the provisions of the Public Service Staff Relations Act, to resolve any doubts that may exist in this regard, the Government will explore the possibility of an amendment to this clause which would more readily communicate the intention of the legislation.

Turning now to an entirely different matter, a question was raised in the earlier debate concerning the apparent power of the Chairman of the Public Service Staff Relations Board to specify in writing the matters which are to be dealt with by a conciliation board. This was seen by the speaker as an exceptional and unnecessary authority. It was our intention to give the Chairman of the Board precisely the same authority and responsibility in this matter as that vested in the Minister of Labour in section 31 of the IRDI Act. I have asked the legislative draftsman to look at the wording of this clause, and I shall be in a better position to discuss this criticism at a later stage in the proceedings of the Committee.

It would be useful, I think, to explain in more detail the intentions of the Government relative to the various matters which are to be determined by the Governor in Council during the transitional period. For the most part, these transitional matters are dealt with in clause 26 and in one or two subsections of other clauses of Bill C-170. These provisions are intended to facilitate what the Prime Minister described in his statement in the debate on the resolution as "an orderly change to the collective bargaining relationship".

The several proposals in Clause 26 are designed to serve a number of separate and distinct purposes. The first of these is to carry forward into bargaining the present occupational approach to pay determination by relating bargaining units to occupational groups in the reformed system of classification during the transitional 30-month period. A variety of other approaches to the determination of bargaining units was considered, including the familiar method in the private sector which permits employee organizations to propose the definition of the bargaining unit and gives the labour relations board complete freedom to accept, reject or modify the proposal of the organization seeking certification. However, given the unitary character of the Government as employer, the long tradition of regulating the pay of employees by occupational classes, and the complexity and overlapping jurisdictions of the employee organizations which have for many years represented the interests of public servants, an approach linked at the outset to the revised and simplified

classification grouping seemed to provide the best means of establishing genuine communities of interest for the purpose of bargaining.

It must of course be remembered that most restrictions on the character of bargaining units are to be removed twenty-eight months after the Act is proclaimed. The Public Service Staff Relations Board will at that point in time have authority to establish new units or revise those that have been defined in accordance with the apparent requirements of the situation, and without reference to the provisions of clause 26.

Clause 26 also places a number of other restrictions on the parties during the transitional period. It vests the Governor in Council with authority during a two-year period to establish the dates upon which employees in different categories would be eligible to be included in bargaining units and it restricts the freedom of the parties to enter into collective agreements before a prescribed time.

It is proposed to bring different occupational groups into bargaining at different times so that the existing pay review cycle may be carried over into the bargaining relationship. The entire classification revision program was scheduled to support and maintain this cycle, and to permit employees in the new groupings to come into bargaining at a time appropriate to their place in the pay cycle.

The limitation imposed on the freedom of the parties to enter into collective agreements, even though the employees concerned may be included in a bargaining unit and represented by bargaining agents, also relates to the desire of all concerned to retain the existing pay review cycle in the first rounds of collective bargaining. In line with this objective is the intention to preserve the pay review date as the effective date of pay revisions, the intention to continue the practice of discussing pay only after the pay research data is available to the parties—that is, about six months after the pay review date—and of course, the intention to retain the Pay Research Bureau as an independent agency securing and tabulating data on the rates of pay of persons employed in the private sector.

Mr. Chairman, and members of the Committee, I am most grateful to you for your patience in listening to what has been a rather disjointed review of the major issues identified during the debate in the House—issues on which I thought I had an obligation to comment at the first opportunity.

If it is the Committee's wish I would be happy to clarify any of the points I have made, but if possible I would like to avoid any definitive exchange of views on these issues until all of us have had an opportunity to listen to and assess the views of employee organizations and others who may appear before the Committee to present briefs, and to otherwise express their views.

Mr. Chairman, it is my intention, subject to my other obligations as a Minister, to keep in close touch with the proceedings of the Committee. I will be pleased, whenever it is convenient for you and possible for me, to place myself at your disposal. In the meantime, officials of the Preparatory Committee on Collective Bargaining, the Civil Service Commission and the Treasury Board

who have been closely associated with the development of this legislation will be on hand to provide technical guidance to the Committee in its analysis of the legislation.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Benson.

Before proceeding, do all the members have a copy of the bill or bills? If not, I would ask the clerk to distribute some copies because I noticed some members did not have any.

Mr. BELL (*Carleton*): Mr. Chairman, I am sure that all members of the Committee are grateful to the Minister for his comprehensive, and, I thought, objective statement of the principles of the legislation and of the problems which are inherent therein.

I am sure that every member of the Committee has a multitude of questions that they would like to ask at this time—certainly I have—and I think we should consider how we can have the most orderly proceeding without any individual nonopolizing the questioning before the Committee. I personally would like to commence questioning the Minister on the subject of the actions which are now being taken preparatory to the institution of the new system, and then, secondly, in respect of the time schedule which is involved and what can be done to compress the time schedule.

I think everyone of us is very sensitive that there should be the least possible upset within the public service during the transitional period. The whole approach is one which is very far reaching and, indeed, may be even revolutionary in nature, and I think we want to make certain as a Committee that there is as little anxiety and unrest in the public service during this transitional period as possible; that the change from the existing system to the collective bargaining system is on the most orderly possible basis. On that note of orderliness I wonder, Mr. Chairman, if you have considered what is the best technique whereby we can come to grips and proceed so that each one of us will take our part in the Committee, no one monopolizing it, and stay to a more or less consecutive line of questioning.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Bell, and members of the Committee, I hope that no member will monopolize the time of the Committee, although it would be the wish, I am sure, of everyone to have the opportunity to speak as much as possible. I had thought to start with that the Chairman would call on those who indicate they want to speak in order, and that any member would not take more than a limited time at once, say, ten minutes to start with, so that other members may have an opportunity to question the witness. If there is an opportunity to come back to a member who has already questioned, that is quite proper. Is this agreeable?

Mr. KNOWLES: Mr. Chairman, rather than going from member to member, could we not go from subject to subject?

The JOINT-CHAIRMAN (*Mr. Richard*): I was speaking about dealing with the same subject, of course, providing one member does not take 25 to 30 minutes on the same subject. We could go from member to member on the same subject.

Mr. KNOWLES: But how do we decide in what order we take the subject or the aspects of this matter?

The JOINT-CHAIRMAN (*Mr. Richard*): At the present time it is very difficult to have an order about subjects. We are now talking, as I understand it, on collective bargaining and there was no order about the manner in which the presentation was made this afternoon, I mean according to sections. I would like to suggest that Mr. Bell should pursue one problem at the present time, and if other members have question on the same problem it should be exhausted, and then we should proceed to another matter.

(*Translation*)

Mr. CARON: This would be for today only?

The JOINT-CHAIRMAN (*Mr. Richard*): Yes, for today only.

Mr. CARON: We will start on C-170 now and will consider it in detail later on once we have questioned the Minister. We will have to take the bill and consider it in detail there is no sense in jumping from one to another so long as we have not considered the bill in detail.

(*English*)

Mr. KNOWLES: Mr. Chairman, with all respect to your comment on Mr. Benson, and I am not always his defender, I think his paper did deal section by section—I do not mean sections of the bill—I mean aspect by aspect with the major issues that were raised in the debate on second reading. I think Mr. Bell has put in another subject which Mr. Benson did not deal with in full, that is the transition problem. I would think that we could perhaps take what Mr. Bell has opened up, namely the question of transition, and then take Mr. Benson's paper and take those subjects seriatim.

The JOINT-CHAIRMAN (*Mr. Richard*): Well, I agree with you, Mr. Knowles, that that would be quite easy if we had Mr. Benson's paper before us, and if you wished to proceed in that manner. But Mr. Bell did open in some manner outside of the remarks which Mr. Benson had made, and if you wish to dispose of Mr. Bell's questions now, then I would be quite happy to proceed in accordance with that.

Mr. KNOWLES: Does Mr. Benson have spare copies of his paper?

Mr. BENSON: No, I have not. I would be quite willing to come back and answer questions on the particular paper after it has been printed and you have it in your hands.

Mr. KNOWLES: That will be a week.

Mr. BENSON: Well, I am just expressing my own opinion now, but I believe it is vital that this Committee hear representations from the civil service associations as soon as possible. I do not know what is going to happen in Parliament any more than anyone else for here does, but I think it would be very useful for the Committee to hear representations from the major civil service associations, which will cover many of the points I have raised. Then I would be quite willing to go into the particular points in more detail.

Also, I am willing to be here—my officials will be here in any case—but I am quite willing to come back on each of the bills as you consider them, if you want me at any particular point, or to have you build up questions that you want to ask based on the legislation as it has been presented and the

representations you are going to receive from the various civil service associations. When the Committee has had the opportunity of analyzing both what I have said this afternoon, and the representations of the associations—and I know that they are all familiar with the bills already—then I would be very pleased to come back and give further views on the points which are outstanding and are causing difficulty.

Mr. TARDIF: Then, Mr. Chairman, if the Minister cannot be here all the time, would it not be a good idea to question him on his presentation this afternoon? After we have studied the bill we can gather the questions which we think the Minister should answer, and ask him to come back on another occasion to answer all those questions in order.

Hon. Mr. CROLL: Mr. Chairman, we are at some disadvantage. I did not get here on time and it is my own fault, but the Minister gave us a considered statement. Surely we should have that in front of us before we start questioning the Minister, or we will be talking about half a dozen things at the same time and at various times. I think the suggestion which the Minister made, namely that he will come back in due course, is a good idea. In the meantime, let us hear representations from the other associations and then we will have a better understanding of the bill.

Mr. BENSON: I am told that I can have enough copies of my paper for all members of the Committee by Thursday.

Mr. KNOWLES: In both languages?

Mr. BENSON: No, I am sorry; it will only be in English.

An hon. MEMBER: Can it be translated?

Mr. BENSON: Well, I am not sure it can be translated by Thursday, but I will do my best.

Mr. BELL (*Carleton*): In order to make some progress, Mr. Chairman, suppose I start off with things which are directly within what the Minister said this afternoon. What I really would like to start off with is the actual time schedule, and the priorities, the commencement of collective bargaining and the time lag between certification and bargaining, which were dealt with very specifically in the Minister's statement.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Bell, you will understand that if we are to start in that fashion we will have to listen to other members ask questions about other features of the brief which they recall.

Mr. BELL (*Carleton*): I am only suggesting this as a technique of getting ahead.

Mr. WALKER: Well, just to clear the air, Mr. Chairman, are there representatives of staff associations here today prepared and ready to make presentations.

The JOINT CHAIRMAN (*Mr. Richard*): I understand that there are. The "Association des Fonctionnaires Fédéraux d'Expression Française" and the Professional Institute of the Public Service of Canada are here this afternoon.

Mr. WALKER: Well, may I suggest that we hear these other briefs right now and then we can make a study of the matters. If these people have been invited

here, I do not think it quite right that they should sit through this meeting and subsequent meetings waiting for their turn. If the Committee agrees I suggest that since we have had one presentation, let us have as many presentations as are available right now.

Hon. Mr. DESCHATELETS: I would second that motion. I think we will be able to proceed more orderly if we have all the representations before us.

The JOINT CHAIRMAN (*Mr. Richard*): Is that the pleasure of the Committee.

Mr. WALKER: I so move.

Hon. Mr. DESCHATELETS: I second the motion.

Motion agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): There are two briefs on the three bills.

I should say that the Professional Institute of the Public Service of Canada is making representations on two bills, namely C-170 and C-181, not on C-182.

Mr. L. W. C. S. Barnes, Executive Director, the Professional Institute of the Public Service of Canada: Mr. Chairman, hon. members of the Committee, the Professional Institute welcomes this opportunity to present its comments on Bill C-170 to the hon. members of this Committee. Before undertaking a detailed review of the proposed legislation, we should like to express the great satisfaction felt by the members of the Institute with the action which has been taken by the government in presenting this bill to Parliament. For many years the Professional Institute has expressed its belief that the well-being and efficiency of the public service would be greatly enhanced by the introduction of a system of staff relations based on negotiations backed by binding arbitration. The comments which we shall make on the details of this particular bill will, we hope, be regarded as constructive proposals aimed at improving points of detail in a piece of legislation, the principles of which have our very sincere endorsement.

In reviewing Bill C-170 one's attention is drawn repeatedly to the very marked influence which current practice in the North American industrial relations scene has had on the drafting of this legislation. A good deal of this is perhaps inevitable, having regard to the political and economic background against which the statute will eventually operate, but, on the other hand, the institute believes that analogies between industry and the civil service can be drawn too far. It is for this reason that we believe that somewhat more attention should be paid to the experience which has been gained in collective bargaining in the public services of the major commonwealth countries. In this connection, we would refer particularly to New Zealand and Australia and, of course, to the Whitley Council system in the United Kingdom.

In the proposals which it placed before the House of Commons Committee which studied the bill which subsequently became the present Civil Service Act, the Professional Institute recommended the establishment of a system of negotiation and arbitration on the general Whitley pattern to be based on a minimum of legislation, merely one or two permissive clauses in the Civil Service Act. These proposals were not accepted and the consultation concept was introduced. We realize that the eventual failure of this consultation concept

has accelerated the demand for something rather more formal than the proposals which we made in 1961. On the other hand, the present legislation appears to swing to a rather far extreme; in places it contains areas of extremely rigorous definitions while in others it contains wide generalities. The former may well prove to be unduly restrictive in the light of developing experience while the latter could perhaps open the door to unnecessary friction in interpretation. The proposals which we shall make are aimed in part at providing some relief in these particular areas.

Another aspect of the bill in respect of which we shall be making detailed proposals is that concerning the rights of members of the Professional Institute who might eventually be designated as management. As the legislation presently stands, a large number of senior professional personnel who now enjoy the limited advantages provided by the consultation system may well find themselves in a very dubious situation. The concepts of management in the bill are capable of extremely wide interpretation and persons exempted under this or other headings from the provisions of negotiation and arbitration might well find themselves dependent entirely upon state paternalism and possibly without the rights of staff association membership. The Professional Institute is strongly of the opinion that exclusions from the act must be restricted to those employees who are directly involved in the development of the government's personnel and financial programs. Furthermore, such persons as are of necessity excluded from the provisions of the act should not be barred from those advantages of staff association membership which are not in significant conflict with their direct official responsibilities.

Finally, we believe that the act should contain provisions for the establishment of an independent review and advisory body which would make recommendations on the pay and conditions of service of excluded personnel either on its own initiative or at the request of the government or the relevant staff association. We believe that the precedent established by the British government in the creation of the Standing Advisory Committee on the Pay and Conditions of Higher Civil Service is extremely relevant and should be reflected as an integral part of the present legislation.

In legislation as complex and detailed as that which we are presently considering the interpretation to be applied to the terms employed is a matter of major significance. In the light of this fact the Professional Institute believes that certain of the definitions given in Section 2 of the act require further examination.

In defining "bargaining unit" the act refers to "a unit of employees appropriate for collective bargaining." Having regard to the close dependence of this legislation on industrial precedents, we believe that this definition should be enlarged by the inclusion of an admonition to have regard to the special organizational features of both the civil service and its professional employees. It may be argued that such a phrase would be redundant but in practice all labour boards in Canada have shown a proclivity to think in simplistic dichotomies such as "plant" or "office" or "blue" or "white-collared" workers.

In connection with the word "dispute" defined in subparagraph (*l*), we believe that the opening phrase should be amplified by the addition of the word "apprehended" to read "means a dispute or difference or an apprehended

dispute or difference. . . ." In subsection (vii) of subparagraph (*m*) reference to a person employed in a managerial capacity should be enlarged to read "a person employed in a managerial capacity, on behalf of the employer." This would reconcile the definition with the right of managerial employees to elect to be members, with qualification, of any employee organization which may accept their membership. We further believe that an extra clause should be added at this point to state that no person shall cease to be an employee within the meaning of this act by reason only of his ceasing to work as the result of a strike contemplated by this act or by reason only of dismissal contrary to this act.

In referring to occupational categories in subparagraph (*r*), we note that the executive category has been completely omitted. We do not believe that any complete category should be totally exempt from collective bargaining, but rather that exemption should be on an individual employee basis. This becomes even more significant when it is realized that the present procedure for the allocation of employees to categories is, in effect, a unilateral decision by the employer.

The Professional Institute has significant reservation about the definition of "person employed in a managerial capacity" contained in subparagraph (*u*). In subsection (i), the institute prefers the phraseology employed in the Heeney Report in referring to a person who is "employed in a position confidential to and directly under the Governor General, a Minister of the crown, et cetera." In subsection (ii), we believe that the reference to a legal officer in the Department of Justice should be amplified by the addition of the following words:

> And whose assigned duties calls him to be directly involved on behalf of the employer in the process of collective bargaining and/or is required on behalf of the employer by reason of his assigned duties and responsibilities to deal formally with the dispute or grievance under the act.

We further believe that subsection (iii) should be amended to read "who has senior executive duties and responsibilities in relation to the development and administration of government financial or personnel programs." Again in subsection (v) we recommend the following wording:

> Who is required by and on behalf of the employer and by reason of his assigned duties and responsibilities to represent and act formally for the employer, in matters relating to his own bargaining unit, at any of the last two levels of the grievance procedure and/or before the adjudication board or an adjudicator and/or before the board.

It is our belief that the use of the term "confidential to" in this section of the act needs further clarification. This again is a term around which jurisprudence has been created which cannot be fairly applied to the public service position. For example, the Canada Labour Relations Board has held that access to any information which might, by any stretch of the imagination, be of value to a union creates confidentiality. The implication of such a definition amongst the Professional Public Service is, of course, obvious.

We believe that the definition in subsection (vii) is far too general and would suggest that it be re-worded to read:

> Who is not otherwise described in subparagraph (iii), (iv), (v) and (vi), but for whom membership in a bargaining unit would create a clear and irreducible conflict of interest by reason of his assigned duties and responsibilities to the employer when acting for and on behalf of the employer.

In connection with the application of the act as defined in paragraph 5, the institute believes that the powers of the Governor in Council to delete the name of any portion of the public service from Part 1 or Part 2 of Schedule A should be subject to the recommendation of the Public Service Staff Relations Board.

Moving on to the question of basic rights and prohibition covered by paragraph 6 of the proposed legislation, the Professional Institute believes that it would be advisable to clarify the position of public servants who may be defined as in managerial positions with regard to membership in the Professional Institute. In this connection, we would stress the fact that the Professional Institute is involved in areas of activity far wider than those of collective bargaining on behalf of its members and that membership therein has many implications other than that of representation under the proposed legislation. We would, therefore, suggest that paragraph 6 should be amplified by the addition of the following subparagraph:

(*a*) No person employed in a managerial capacity whether or not he acts on behalf of the employer may be prevented under this act from belonging to any employee organization and participating in the activities thereof. A person described in paragraph 2, section (*u*) if he holds any form of membership in an employee organization shall not be elected to any office or position in that organization or continue to hold, accept or retain any office or position in that organization where the duties of the office or the position require or subject or expose such person to be involved for or on behalf of the organization in the following processes; dealing with a dispute, collective bargaining, conciliation, grievance procedures or adjudication.

(*b*) A person described in section 2, paragraph (*u*) shall not participate in and shall abstain from any vote taken by the officers and/or the membership of the organization when such a vote deals directly with the above mentioned processes. A person employed in a managerial capacity, whether or not he acts for and on behalf of the employer, shall not contravene this act if he conforms to subparagraph (*a*) and (*b*).

Paragraph 7 states that nothing in the act shall be construed to effect the right or authority of the employer to classify positions in the public service and to assign duties to employees. It is the belief of the Professional Institute that the exclusion of bargaining agents from any rights in connection with the classification of positions and the assignment of duties to employees must be objected to on the grounds that the effect of a contract could readily be defeated by subsequent reclassification and re-assignment of duties to employees during the duration of the contract. As presently worded this very

sweeping section could have the further effect of causing the employer to limit the application of the act, especially during the grievance or adjudication process. As a minimum modification, we therefore recommend that the words "subject to the provisions of this act" should be added immediately prior to the words "classify the positions therein and to assign duties to employees."

The prohibitions contained in paragraph 8 of the legislation are again extremely wide and general, and it is the belief of the Professional Institute that significant clarification and further definition is required in this area. We believe that subparagraph 1 should be amended by the deletion of the words "whether or not" and the substitution in their place of the word "and." The preamble to subparagraph 2 should similarly be amended to read "No person acting on behalf of the employer and no employer shall, et cetera."

The institute is concerned with the presence of the words "or proposed to be employed in a managerial capacity" at the end of subsection 2 of paragraph 8. The retention of these words in the act would open a clear path for any person in management to cajole or threaten any employee on the pretext that at some time or other in the future, he or she is likely to be promoted. The Professional Institute has reservations as to the requirement for the rigid exclusions implied in subparagraph 3 of paragraph 8 and again in paragraph 10. It is felt that the obligations of the employer should not appear to be limited by such instances and that the problems of the use of billboards, meeting rooms, paid time of employees and the canvassing of employees, et cetera, should be left for discussion at the bargaining table. In making this particular comment, the institute recognizes that a great deal of case law has developed which precludes from certification those unions which have received employer support and that permission to use company meeting rooms has continually resulted in disqualification of unions. Indeed, it is a safe generalization to say that anything beyond the use of bulletin boards has had this effect, but we doubt whether, in the circumstances of the public service, these rigid adherences to the requirements of industrial practice are really necessary.

Moving on to Part 1 of the proposed legislation dealing with the Public Service Staff Relations Board, it is suggested that paragraph 11(1) should require both the appointment and maintenance of the board membership to be on a basis of equality as between representatives of the interests of employer and employees respectively. The Professional Institute is concerned to note that no provisions are made for insuring that members of the board appointed as being representative of the interests of employees are, in fact, so representative. Furthermore, the legislation does not provide for a means of determining that the chairman and vice chairman are acceptable to both sides. To this end, we would suggest that paragraph 11, subparagraph 2, should be amended by the addition of the words "after consultation with the official side and the staff side of the National Joint Council and shall" immediately after the words "shall be appointed by the Governor-in-Council."

Similarly we believe that subparagraph 3 should be amended to state that each of the other members of the board appointed to represent the interests of the employees shall be drawn from a panel of not less than six and not more than twelve names nominated by a majority decision of the staff side of the

National Joint Council, and that they shall hold office during good behaviour for such period not exceeding seven years as may be determined by the Governor in Council.

In connection with the head office and meetings of the board as dealt with in paragraph 16, we believe that the division of the board as defined in subparagraph 2(b) should always contain an equal number of members representative of the two sides.

The authority contained in paragraph 19 for the board to make regulations of general application is welcomed, but the institute believes that a section should be included requiring or permitting consultations with the staff association in the promulgation of these rules. This viewpoint is based on the facts that, while the regulations will doubtlessly embody the results of case law already established, there are variations in the existing law, there is a necessity for a continual change in rules (albeit slow) and finally, existing rules were developed against industrial union-management background.

Paragraph 22, subparagraph (*e*) limits the right of the board to enter any premises of the employer where work is being done if such entry is defined by the Governor in Council as being contrary to the interests of defence or security. This section, we believe, is unduly restrictive and it is difficult to imagine a practical situation where a member of the board with appropriate security clearance should not be permitted to enter an establishment and study the work of an employee under the traditional "need to know" criteria of security operations. On the other hand, in this subparagraph we have doubts as to the real requirement for members of the board to "interrogate any person respecting any matter." We feel that the right of interrogation should be limited to matters pertaining to the scope of the legislation.

Paragraph 23 has 19th century overtones which the institute believes to be somewhat unnecessary. As it stands, questions of law being numberless and questions of jurisdiction completely vague, the processes covered by this act could grind to a standstill if it were applied literally. In most cases such questions can be answered quickly by the person in charge of the hearing. There should be, however, the possibility of some inter-relationship at the discretion of the persons holding the hearings and we, therefore, propose that this section be changed from a mandatory to a permissive clause.

Moving next to Part 2 of the legislation concerning collective bargaining and collective agreements, the Professional Institute would suggest certain amendments to paragraph 26. In the case of subparagraph 2, we believe that the requirement for a minimum of 60 days notice concerning the specification and definition of the occupational groups is unduly restrictive on the activities of staff associations, and we would suggest that this should at least revert to the 90 days suggested in the preparatory committee report. In the case of subparagraphs 2 and 3 we do not believe that separate employers should be exempted from the general requirement concerning the definition of occupational categories and units.

We suggest that there is a case for the addition of a new subparagraph 4 stating:

> With respect to any portion of the public service which would come under Part I of Schedule A of the act but for the fact that it has been

specified in Part 2 of Schedule A or that it comes under Part I of the Industrial Relations and Disputes Investigation Act, the board may receive requests in writing from an employee organization or a council thereof or from the employer or from a separate employer that this portion of the public service be subject to the act and included under Part I of Schedule A. The party making the request shall specify in the notice to the board the occupational groups which would become eligible for collective bargaining under the act. The board shall proceed immediately to hear the parties and review the request under Section 18 and within 90 days of the receipt of the notice shall transmit to the Governor in Council the full record, including notices, objections, summary of evidence and findings and its own recommendations as to the disposal of the request.

Paragraphs 32 and 33 deal with the determination of appropriate bargaining units, and here again the Professional Institute would recommend certain amendments to the legislation as presently drafted. Subparagraph 2 of paragraph 32 makes it quite clear that the duties and classification of the employees in the proposed bargaining unit are factors relevant to the constitution of such a unit. This further strengthens the case which was made at an earlier stage in this brief against bargaining agents being specifically excluded from the consideration of matters involving classification. We believe that classification must be a subject amenable to the full range of collective bargaining procedures.

In subparagraph 3, paragraph 32, the institute recommends the deletion of the words "or whose duties or responsibilities are such that in the opinion of the board his inclusion in the bargaining unit as a member thereof would not be appropriate or advisable." We believe this wording to be of dubious value and contrary to the desirable concept that the board should always follow clear cut criteria.

In paragraph 33, the institute has decided reservations about the appropriateness of the board acting as the determining agent in questions involving the inclusion or otherwise of employees or classes of employees in an already defined bargaining unit. It is our view that once the bargaining unit has been clearly defined it is a question of law for the parties. This question would seem to fall clearly and largely within the ambit of the adjudication procedure. It would otherwise be possible for conflicting organizations and even for the employer to disturb the actually defined unit before, during and after negotiations. It could in effect amount to a revocation or partial revocation of certification of employees without regard to the processes and procedures laid down in paragraphs 41 and/or 32.

On the question of certification as dealt with in paragraph 35 of the bill, the institute suggests that, having regard to the fact that certification is the only thing in question at this stage subsection 1(*a*) and the first part of 1(*b*) together with a new paragraph to read "make or cause to be made such examination of membership records as seems necessary" might be considered sufficient to safeguard the determination of the representative character of the organization and/or its officers. The remaining portion of subsection (*b*) and subsections (*c*)

and (*d*) might reasonably be eliminated and the responsibility for managing their own internal affairs in a democratic manner be left to the members of the staff association.

In the case of subparagraph 5 of paragraph 38, the institute would suggest the following re-wording to follow "section 37":

> "If another employee organization is certified after that period, the board shall record as part of such certification the process for resolution of a dispute as provided in paragraph 36 and paragraph 37 that shall apply to that newly certified organization. However, the formal process of resolution of a dispute shall continue to apply to the bargaining unit until proper notice is given to commence bargaining collectively under paragraph 49. If the same organization of employees continues to be certified for the bargaining unit after that period, the board shall not alter the existing process for resolution of the dispute unless
>
> (i) where a collective agreement or an arbitral award is in force, within the period of two months before the agreement or award ceases to operate or is to be reviewed
>
> (ii) the board shall not record an alteration of the existing process once the bargaining agent has notified the employer under section 49.

Paragraph 41 deals with the revocation of certification on application and the institute would suggest that in subparagraph 1 the words "any person" be deleted and replaced by "any organization of employees." Our belief is that the law should avoid the interference of individuals as such whatever their representative claims.

The institute has one comment relative to that portion of the act dealing with negotiation of collective agreements and particularly the notice to bargain collectively, and this pertains to paragraph 52. We suggest that this section might be deleted in its entirety as situations may well arise where there is a need to negotiate with management at any time. Many aspects of the conditions of employment could change during the term of a collective agreement, and it is at this point that bargaining with management should be possible. As an example, the introduction of automation in the second month of a two year agreement could mean that for 20 months, management could legally avoid discussing the impact of this development on the employees with inevitable repercussions in terms of morale and efficiency. It would seem obvious that this should immediately become a negotiable item as should any item not covered in an existing agreement and, even in this latter case, subject to a test of reasonableness, such matters should be open for discussion.

Paragraph 53 deals with the conciliation procedure. Here perhaps it should be stated that while the Professional Institute does not formally oppose the inclusion of a conciliation process in this legislation, it has very real doubts as to the significance or usefulness of such a process in the civil service as opposed to the industrial arena. In all events, we feel that there must be adequate safeguards against any attempt to use the conciliation process as a delaying tactic. To this end, we believe that a request for conciliation should only be acted upon if it is made by both parties. We furthermore believe that the conciliator should be appointed by the board and not by the chairman alone.

Similarly, we believe that paragraph 54 should be amended to provide that if a conciliator, within 14 days from the date of his appointment, is unable to report success the extension of his functions should only be made by the chairman on the joint request of the two parties.

Paragraph 56 deals with the provisions of collective agreements and the Professional Institute questions the desirability of the absolute bar against inclusion in collective agreements of matters which are presently governed by independent legislation. To this end, it is suggested that subparagraph 2 of paragraph 56 should be re-worded along the following lines:

> Subject to the overriding authority of Parliament, the Governor in Council will give effect to the provisions of a collective agreement entered into by the parties under this act and will, therefore, if necessary request Her Majesty in right of Canada to submit to Parliament any legislation or amendments to any existing legislation which may be required to give effect to a collective agreement under this act. Any clause in a collective agreement the implication of which would, except for the appropriation of money by Parliament, require the enactment or amendment of any legislation by Parliament binds the employer, but will become operative on both parties 30 days from the date of the approval of the law to that effect.

Paragraph 57 deals with the duration and effect of collective agreements. The Professional Institute suggests that subparagraph 3 might be unduly restrictive with regard to the length of initial and subsequent agreements. This is particularly significant under conditions where three-year agreements are now becoming standard practice in many areas. To this end, it is suggested that the following re-wording of paragraph 3 is worthy of consideration:

> The first collective agreement or award entered into after the date fixed under subsection 1 of section 26 shall not extend over a period of more than three years if it is entered into within the period of a year from the above mentioned date and notwithstanding any terms to the contrary will terminate at that time. The term of a collective agreement or award will be reduced by an exact number of months if it is entered into after a period of a year from that date so that no first collective agreement may extend beyond 48 months from the date mentioned above.

Part 3 of the bill deals with the provisions applicable to the resolution of disputes and in the opening paragraph, number 59, it would seem that there might well be grounds for questioning the desirability of including the very vague concept of "good faith" as a criteria for determining the effectiveness of bargaining prior to the invocation of further procedures for the resolution of disputes. While this term has a great deal of ritualistic significance in industrial labour-management relations, there is growing doubt as to whether or not it is capable of effective definition and whether it is a truly meaningful yardstick.

The processes of arbitration are dealt with in paragraph 60 and subsequent paragraphs and the main comment of the institute on this section concerns the selection and appointment of members to the Public Service Arbitration

Tribunal. To this end, we suggest that the following should be added to the end of subparagraph (*l*) of paragraph 60:

> Each of the members of the panel appointed to represent the interest of the employees shall be drawn from a list of not less than four and not more than eight names actually nominated by a majority decision of the staff side of the National Joint Council.

Similarly, subparagraph (2) might open with the following words:

> The board shall consult with the official side and the staff side of the National Joint Council concerning the appointment of the Chairman and the alternate chairman of the arbitration tribunal.

The question of the true relevance of the words "good faith" also arises in connection with paragraph 63.

Paragraph 70 deals with the subject matter of arbitral awards. The Professional Institute believes that the limitations proposed in subparagraph (3) on the scope of such awards are altogether too restrictive. As the bill is presently drafted staff associations choosing the arbitration technique for the solution of residual disputes would be placed in a significantly more difficult position than those choosing the line of more militant action. The institute doubts whether this situation is desirable from any viewpoint. We would accordingly recommend that paragraph 70 should be re-written in the following terms; subparagraph (1):

> Subject to this section an arbitral award may deal with any term or condition of employment that could be referred to a conciliation board if the employee organization had so elected under section 36 of this act.

Subparagraph (2):

> No arbitral award shall deal with any terms and conditions of employment that could not be the terms and conditions of employment agreed to by the parties through a collective agreement signed under this act.

It will be noted that the proposed revision excludes the provision in subparagraph (4) of the existing paragraph 70 which seeks to prevent the publication of reasons or material for informational purposes relevant to an arbitral award. We believe that in some cases general comments by the writers of the award have an instructional value in their administration and should not be barred by legislation.

In accordance with the institute's views on the essential scope of arbitral awards, we would also recommend that the first three lines of paragraph 74 be replaced by the following "Terms and conditions of employment that are the subject of an arbitral award, et cetera."

The subject of conciliation is dealt with in paragraphs 77 to 89 of the draft legislation and the Professional Institute proposes certain minor amendments. In order that there may not be any possibility of conciliation being looked upon as a delaying procedure, it would seem advisable to modify subparagraph 1(b) of paragraph 78 to read "both parties having requested the establishment of a conciliation board the chairman shall, within 7 days of the receipt of such notice in writing, establish a conciliation board, etc." Again, in accordance with the

institute's belief that all processes for the resolution of disputes should be equally effective, we would recommend that subparagraph (3) of paragraph 86 which limits the contents of the report of a conciliation board should be deleted.

Part 4 of the legislation concerns grievance procedure. Subparagraph (3) of paragraph 90 states that an employee who is not included in a bargaining unit for which an employee organization has been certified as bargaining agent may seek the assistance of and, if he chooses, may be represented by an employee organization in the presentation or reference to adjudication of a grievance. The Professional Institute is unable to agree with the implications of this provision which would seem to permit an employee to make unilateral demands on the services of an association of which he may not even be a member for assistance and representation during a grievance procedure. We believe that this subparagraph should be amended to read in part "may be represented by an employee organization of which he is a member in the presentation or reference to adjudication of a grievance."

Subsection (*b*) of subparagraph (2), paragraph 94, as presently written, would appear to provide the employer with a veto against the establishment of a Board of Adjudication. The institute believes that the chief adjudicator should be able to override the employer's objection and still appoint a board of adjudication if, after consideration of the facts, he considers this to be a desirable procedure.

Subparagraph (2) of paragraph 97 dealing with the expenses of adjudication would appear to place the responsibility for the costs of adjudication on the person whose grievance is involved whatever the outcome of the investigation. If a grievance is eventually upheld it is the belief of the institute that the employer should carry responsibility for any payments which may be involved and that this subparagraph should be amended accordingly.

The institute does not believe that a satisfactory grievance procedure can be based on the unilateral right of the employer to designate the person whose decision on a grievance constitutes the final or any level in the grievance procedure, and we would accordingly propose that subparagraph (2) of paragraph 99 should be re-written as follows:

> If both parties cannot agree on the persons or the levels to be designated as constituting the final or any level in the grievance procedure, the board will, upon receipt of a notice in writing by either party that such a person or level has not been designated, designate that person and/or level.

Part 5 of the legislation covers residual general matters. Paragraph 102 extends the liability for calling, authorizing, etc., illegal strikes to situations where strikes would be likely to occur. This is contrary to usual labour legislation and common sense, buttressed by general practice, would indicate that these particular phrases might well be omitted from the legislation.

Finally, with regard to the schedules, we believe that consideration should be given to including the Farm Credit Corporation and the National Harbours Board in either Part 1 or Part 2 of Schedule A as may be most appropriate.

The JOINT CHAIRMAN (*Mr. Richard*): Is that all, Mr. Barnes, on Bill C-170?

Mr. BARNES: That is all, Mr. Chairman, on Bill C-170. We also have a brief on Bill C-181.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Mazerall will present the brief on Bill C-181.

Mr. J. F. Mazerall, President, Professional Institute of the Public Service of Canada: Mr. Chairman and hon. members, the Professional Institute welcomes this opportunity to comment on the proposed legislation in Bill C-181 respecting employment in the public service of Canada.

In essence the Institute welcomes the new development under which the chief functions of the Civil Service Commission, henceforth to be known as the Public Service Commission, will be those related to the implementation and safeguarding of the merit system. We believe that the establishment of a clear and effective division between the control of those functions which are involved with the maintenance of the merit system on the one hand, and those which are concerned with the development and implementation of matters falling within the ambit of collective bargaining on the other hand, is essential. The fact that this provision will now be made by means of the proposed legislation, in conjunction with that in Bill C-170 will, we feel, be a matter of satisfaction to all concerned.

In studying the general philosophies embodied in Bill C-181, attention must ineviably centre around the numerous provisions made for the Public Service Commission to delegate its functions and authorities to the departmental level. This trend is not, of course, a new development and both the advantages and dangers associated with it have become increasingly clear in recent years. In April 1961, the Professional Institute had the honour of presenting a brief to the special committee established by the House of Commons to consider the existing Civil Service Act. In commenting on the presently proposed legislation, we feel that we should repeat the words which we used five years ago. Referring to the trend toward the delegation or transfer of authority from the Civil Service Commission to deputy heads in matters concerning personnel selection, establishments, et cetera, as proposed at that time, we said:

> The Professional Institute believes that certain rearrangements along the lines indicated could well result in increased efficiency and therefore welcomes the proposals from this viewpoint. It has, however, become increasingly apparant to the institute over the years that even the existing degree of local autonomy within and between departments has markedly affected conditions of employment. It is felt that any further decentralization of authority in the fields of personnel management must be accompanied by a system of monitoring and control which is more effective than that presently existing. Lacking such a system, the advantages of increased departmental initiative could be negated by damage to morale and even to the merit system itself.

The experience of the Professional Institute in the five years which have elapsed since these words were written has been more than sufficient to justify our view that decentralization of authority and effective monitoring must grow together. As simple examples of the developments which we have in mind, it has been observed that open competitions have been held to fill vacancies when the availability of adequately qualified employees within the service has been

demonstrated by the fact that civil servants have won the competition. Similarly, classifications which fail to represent current job requirements have been retained for departmental convenience and other classifications have sometimes borne but little relationship to the professional nature of the jobs in question. We have some doubts as to whether the present legislation contains the necessary means of guaranteeing the effectiveness of the essential control system.

Another aspect of the question of decentralization which has long been of concern to the institute involves the importance of maintaining a service-wide career potential for professional employees. This problem was dealt with in our 1961 brief and the similarity of the problem today is such that we cannot do better than to quote from the statement which we made at that time:

> The possibility of the selection functions of the Civil Service Commission being performed on a departmental basis is an example of the delegation of powers which could offer advantages in terms of rapidity of action. On the other hand, effective monitoring would be essential to ensure that local departmental convenience did not limit the possibilities of career development and advancement in the service as a whole. In limited professional fields any attempt to restrict selection to small units would ultimately be very undesirable from the viewpoints of both the service and the employees.

The scope provided by the proposed legislation when viewed against the background of experience in the last five years again underlines the importance of ensuring that departmental convenience does not become an overriding factor in the operation of the staffing system. Generally then, it is the considered opinion of the Professional Institute that the new legislation should require the Public Service Commission to satisfy itself, both regularly and effectively, that all those to whom it may delegate authority exercise their powers in strict accord with the requirements of the merit system and the principles embodied in the legislation.

It may be argued that the bill as presently written provides the Public Service Commission with authority to safeguard its delegated powers. This fact the institute accepts, but being realistic, and having had nearly half a century of experience of the variations in interpretation and application which can result from broadly permissive or general directives of this nature, the Professional Institute believes that the act which ultimately reaches the statute book should be stronger and more precise in its requirements in this vital area. Certainly the merit system would not be damaged by such strengthening of the requirements and there may well come a day when its effective protection might depend on some clearer statutory requirements.

In commenting on certain more specific points of the legislation, the Professional Institute suggests that the Committee may care to give further consideration to the following:

Paragraph 6(2): The institute supports the right of the commission to rectify an erroneous appointment made as a result of delegated authority, but we suggest that the employee concerned should have the opportunity of presenting his case through a formal appeal procedure in which he might be appropriately represented. We also believe it relevant to note that while the employee concerned may well be reappointed at a

lower level or discharged as a result of a department's inefficiency or abuse of delegated powers, there is no apparent provision for an automatic review of the department's role in the development of the situation.

Paragraph 11: The Professional Institute doubts whether the commission should be authorized to delegate to departments the right to determine "the best interests of the public service" in so far as they relate to making appointments from outside the service. During recent years the institute has been concerned about a growing tendency towards recruiting professional personnel through open public competitions for intermediate and senior vacancies in the service. While the influx of new blood is obviously highly desirable, the open competition system can tend to become an attractive alternative to the normal internal promotion competition in departmental esteem due to factors such as the absence of an appeal procedure and more rapid action than that which normally results from the holding of a series of promotion competitions.

Paragraph 21: The institute believes that this paragraph should contain provisions which will ensure that unsuccessful candidates in a closed competition, or persons whose opportunities for advancement have been prejudiciously affected by promotions without competition, are advised by the commission of the outcome of any such competition or promotion and informed of their rights to appeal. As the paragraph presently stands there is no assurance that the persons concerned would become aware of the situation within the time limit prescribed for the receipt of appeals. We further believe that the paragraph should contain specific authority for appellants to be represented by the staff association of which they may be a member during all appeal procedures. We suggest that a case also exists for ensuring that the commission does not delegate to departments the procedure for notifying unsuccessful candidates, particularly in the case of promotions without competition. As was mentioned in our opening statement, we have reservations concerning the effect on over-all career prospects for professionals in the public service unless adequate steps are taken to ensure that promotion opportunities are made available within the service without undue consideration being given to departmental boundaries.

Paragraph 45: The Professional Institute believes that it would be desirable for the annual report of the Public Service Commission to contain a statement listing all appointments made from outside the public service without open public competition.

In conclusion the Professional Institute desires to reiterate its belief in the fundamental importance of the merit system of appointment and promotion as the keystone of the internationally recognized quality of the professional public service of Canada. We are accordingly most appreciative of having been provided with this opportunity of placing before honourable members of this Committee our thoughts on methods of further safeguarding and developing this great concept within the framework of a public service constantly attuned to the needs of its day and generation.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Mazerall. On behalf of the Committee, I am sure everyone would like to tell you that we appreciate the presentation of such an excellent and professional brief. I am sure we will have an opportunity at a later date, after having studied these briefs, to ask you to come back before us if the members of the Committee wish to question you, which no doubt they will. Thank you.

(*Translation*)

Gentlemen, we have here a rather short brief submitted by L'Association des Fonctionnaires Fédéraux d'Expression française, and I thought that perhaps we might hear it read before adjourning the meeting this afternoon.

Mr. LACHANCE: How many pages?

The JOINT CHAIRMAN (*Mr. Richard*): Three pages. The representative, Mr. Croteau.

(*English*)

We have the translation from French to English.

(*Translation*)

Unfortunately, it was not possible to obtain the services of an interpreter from English to French. There are so many committees sitting this afternoon that it was impossible to satisfy everyone's needs. Mr. Croteau, if you please.

Mr. CROTEAU (*Vice-President, l'Association des Fonctionnaires Fédéraux d'Expression Française*): Mr. Chairman, members of the Committee, I thank you for the opportunity that you are giving me to present the brief of the Association des Fonctionnaires Fédéraux d'Expression Française. I would like to make an observation as to the nature of this association. It is an association which represents French-speaking public servants and which, according to its charter, is designed to promote their development within the federal Public Service. It has existed for the past two years.

The brief which it is now giving the Joint Committee on the Public Service in Canada refers to a restriction contained in paragraph 2 of Clause 16. The brief is being submitted to members of the Committee in order to stress some consequences of the restriction contained in paragraph 2 of Clause 16 of Bill 181, that is an Act respecting employment in the Public Service of Canada.

Article 16 and the aforementioned restriction are, respectively, in so far as sub-paragraph 2, an examination, test or interview under this section shall be conducted in the English or French language or both at the option of the candidate except where an examination, test or interview is conducted for the purpose of determining the qualifications of the candidate in the knowledge and use of either or both languages. And the restriction is—and I quote—"except where an examination test or interview is conducted for the purpose of determining the qualifications of the candidate in the knowledge and use of either or both those languages."

Our association is convinced that the present form of paragraph 2 will, in practice, invalidate (*a*) *The right of a candidate to be evaluated in the language of his choice.* This is especially important to the French-speaking candidate. The rating of this candidate's English language proficiency should not degenerate into using English exclusively in conducting the examination, test or interview. This basic right of the unilingual candidate—this applies both to the candidate who speaks English only and to the candidate who speaks French only—has been recognized and granted in practice only very recently.

(*b*) The provisions of paragraph 2, will in fact, invalidate the practice which had been established of evaluating a candidate using a board. The majority of whose members are fluent in the language that the candidate requested for the examination of his application form.

The negation of this practice which was recently adopted is a return to the previous procedure. This procedure resulted in decreasing the presence of French-speaking public servants in the Federal Public Service. It was recently adopted and has been a true progress in so far as the association is concerned. The preceding remarks take on their full impact within the context of a federal administration supposedly committed to the two official languages of Canada. The right of the candidate to be evaluated in the language of his choice results in the need to recruit or train qualified bilingual personnel available for sitting on boards. Without this powerful stimulant for the daily use of the two official languages, it will be impossible to have dynamic bilingualism and biculturalism in the Federal Public Service. Consequently, our Association would like to suggest the following. First of all, the removal of the restriction contained in the last part of paragraph 2, Article 16, Bill C-181; that is "except where an examination, test or interview is conducted for the purpose of determining the qualifications of the candidate in the knowledge and use of either or both of those languages".

The Association would also like to suggest that you consider the adoption of the remaining part of the revised paragraph 2, Article 16, Bill C-181; that is, "an examination, test or interview under this Section shall be conducted in the English or French language or both, at the option of the candidate". The Association would also like to add a comment on paragraph 2. As suggested by the Association, it is, of course, exactly as the text which was contained previously and which still is in Chapter 57, that is, the Civil Service Act of Canada. The practice of the Civil Service Commission, that is, certain boards, of proposing an interpreter for French-speaking candidates so as to allow evaluation of the candidate, was carried on for a rather considerable time and was only recently abolished. We believe that this was a giant step forward, and secondly, the practice of giving a right to a board whose majority will be composed of the language of the candidate was another step forward, and the Association believes that the negation of both these rights by the restriction included in the Act will be a retrograde step in so far as the establishment of bilingualism and biculturalism in Canada is concerned. Thank you, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you, Mr. Croteau.

(*English*)

I think it is in order now to suggest that someone move for the adjournment of this meeting until this evening at eight o'clock when we will hear a brief from the Civil Service Association who have indicated they are ready, and they have already submitted briefs to the members.

Gentlemen, this meeting is adjourned.

EVENING SITTING

The JOINT CHAIRMAN (*Mr. Richard*): Order. We have representations made in a brief submitted by the Civil Service Association of Canada and I would ask the representatives to come forward, Mr. Gough and Mr. Doherty whom we saw recently on another bill on superannuation. How would you like to begin, Mr. Gough, in the order you have it on the Financial Administration Act?

Mr. T. F. GOUGH (*National President, Civil Service Association of Canada*): I think perhaps the bill in connection with the Public Service Staff Relations.

The JOINT CHAIRMAN (*Mr. Richard*): If you want to start with that, all right, sir.

That will be in the last part of the submission on your views, the Public Service Staff Relations Act by the Civil Service Association of Canada. Does everybody have a copy? This is the third brief in the booklet.

Mr. GOUGH:

> The Association appreciates the opportunity of expressing its position with respect to the proposed Act now under examination. The Bill in general concept reflects our policy position adopted at National Conventions for many years, and although perhaps long aborning we are disposed to look to the future without regret for the past.
>
> We would also wish to record our appreciation of the manner in which the Government has so scrupulously observed its committment to the Public Service to provide a system of Collective Bargaining. It has clearly been the intent of Government not only to live up to the letter of its undertaking, but also the spirit. The fact that we shall critically examine this Bill should not be allowed to detract from our appreciation of its enlightened concept. In this regard we would also wish to note that the Bill in major part is due to the minute and exhaustive examination of the probelm by the Preparatory Committee on Collective Bargaining for the Public Service, under the direction of the Chairman, Mr. Arnold Heeney. No Committee and Staff could have approached its task with more sympathy, responsibility and dedication. Anticipating, as we do, a satisfactory relationship under the Bill between Employer and Employee, this will be due in large measure to the work of this Committee.
>
> As we have indicated, the Bill in concept does provide the climate necessary for the proper respect of employer and employee in a bargaining relationship. In certain detail, however, it is our view that the scales are not even. These in part lie in the area of administration, and in part, more seriously, in the area of definition. We are seriously concerned as to the effect of these considerations in the operation of the Act, and request

that this Committee give careful review to our recommendations. It would be a grave mistake at this point to load in any way the scales in favour of the employer.

Authority of Chairman

Public Service Staff Relations Board

In our consideration of this bill we have been mindful of the provisions in effect governing the labour relations boards, and particularly of federal legislation in this field. We have particularly examined the duties of the chairman of the Canada Labour Relations Board. This examination seemed necessary due to the somewhat extraordinary powers of the chairman of the public service staff relations board, in that it appeared that board members were, in major part, unnecessary.

The bill has been carefully examined to determine if there were elements in this measure affecting public servants that required difference in the powers of the chairman from those delineated for the Canada Labour Relations Board. We can determine no such elements. While there is naturally areas for judgment, the board is largely administrative. If this is a proper assessment of intent we see no reason for powers that provide for decision only by the chairman. On the contrary we see many cogent reasons why all decisions should be those of the Board.

We are not unmindful that in legislation governing labour relations in the private sector the Minister of Labour is the final authority and exercises single judgment. This, of course, is neither possible nor desirable in this Bill, but the concept has been carried forward and the Chairman is provided with the authority of the Minister. The need for such powers under this Act is strongly questioned.

We would draw your attention to those areas providing for the unilateral decision of the Chairman, which are of critical importance to employees. These control functions would tend to inhibit the proper development of bargaining, arbitration and conciliation. As has already been noted, the rationale for Board members is difficult to appreciate if many significant powers of decision reside unilaterally in the Chairman. All of this leaves the employee with a strong feeling that he is being short changed, and he is being denied full value of those Board members who are appointed in the "interests" of the employees (Section 11 (1) 1). Section 51 (b) (iii). Section 78.

These sections are interrelated and establishes the power of the Chairman to exercise judgment on whether or not a conciliation board should be established. This is a critical point in the bargaining, and a refusal to appoint a board would accelerate a strike. Undoubtedly there could be occasion when one side will refuse to be moved and abortive conciliation will only delay the issue. It is still a delicate area for judgment, and it is our view that this should be a Board decision.

Section 75. As with Section 65 the Chairman may only be required to act on a matter of fact. However, in Section 75 the issue is neither obvious nor clearly delineated, in that it "appears" to the Chairman. Once again we believe it would be the part of wisdom to bring more than

one mind to bear on the issue, and we therefore recommend this be a Board decision.

Section 80 (2) (3). This section provides that if either or both parties to a dispute fail to nominate a conciliation board member, the Chairman shall appoint a member. It is our view that a valuable contribution could be made in such a choice by other members of the Board. We recommend that this subsection be amended accordingly.

Section 83. The powers conferred by this section are fraught with the possibility of error or misjudgment, and again, should not be a matter for unilateral decisions. This is surely not a routine matter, where there would be no purpose or value in consultation with members of the Board. We repeat therefore our fundamental position, that where there is value in consultation, power should reside in the board.

Section 86 (1) (4). It is not clear in sub-section (1) as to whether the Chairman steps into a vacuum, or whether he exercises the final judgment on possible extension of the period provided for a Conciliation Board to produce its report. In any event, appraisal of the findings of a Conciliation Board should be the responsibility of the Staff Relations Board, with authority only to seek clarification.

We cannot stress too strongly that areas for unilateral decision are undesirable, with the Chairman becoming so dominant as to render Board members relatively ineffective. Even if we may assume that a wise Chairman would seldom act unilaterally, such authority cannot but weaken the concept of the Board as an entity. We must repeat that we can determine no cogent or overriding argument for areas for unilateral decision.

We recommend that all sections and sub-sections providing for unilateral decision by the Chairman be so amended as to provide for authority to reside in the Board.

Appointment of Chairman and Certain Board Members

Section 11.

We suggest that it is of the utmost importance that the Chairman be acceptable to both employer and employees. The early years of the new system will no doubt be ones of some stress and strain, and this will require a Chairman who has the confidence of both parties. While it could very well be that this government has every intention of consulting staff organizations on a suitable appointment, there is no continuing certainty of such consultation. It is our opinion that in a position that requires the impartial adjudication of events, both sides should have an official voice in the selection of the incumbent.

We find it strange that in the provision for appointment of Board members the concept of sovereignty is maintained. It is obviously inconceivable that a Board member appointed as "being representative of the interest of the employees," should be so designated without the recommendation of employees.

We also wonder at the differing terms of office and the provisions for removal for cause. Continuity of experience for Board members

is a matter of importance and we therefore cannot approve the difference in period as between the Chairman, Vice Chairman, and Board members.

It is recommended that Section 11 be amended where necessary to provide the following:

(a) That the Chairman be appointed after consultation with recognized employee organizations.

(b) The Board members appointed as being representative of the employees' interest be so appointed on nomination by recognized staff associations who are members of the National Joint Council.

(c) That the initial terms of appointment be for five years for all without exception.

That cause for removal for all, Chairman, Vice Chairman, and members shall be by joint address of the Senate and the House of Commons.

Membership in Employee Organization

Membership in the organizations of the Public Service of Canada has traditionally been open to any Public Servant, up to and including the rank of Assistant Deputy Minister. As a result, the organizational pattern in the Public Service has not been restricted as in private industry, consequent of the recently developed labour legislation. All levels of officers have and do belong to staff organizations, and so participate in the various benefits arising from such membership. These may range from salary adjustment consequent of organization activity to participation in insurance plans.

We are greatly concerned with the present sections of the Bill which provide for exclusion from the bargaining unit. This is undoubtedly the most fruitful area for conflict between the employer and employees, since any tendency to apply a narrow interpretation would bring the strongest possible reaction. In this regard we would draw your special attention to sub-section (*u*) (vii) of Section 2 as a clause which could decimate membership in many staff organizations to a corporal's guard. It must be said quite clearly and categorically that in this matter we are not prepared to take anything on faith, as the issue is too fundamental.

Having stated our firm position let it then be said that insofar as "participation" in the bargaining unit is concerned, we freely recognize that there must be exclusions under the broad definition of management. However, management in the Public Service can conceivably be much wider than is the case in the private sector. This in part is due to the traditional nature of the service, and in part due to the fact that much of the service falls more naturally under the category of office rather than plant employees.

Whole classes of employees could be excluded, as for example, Postmasters of any grade: Managers of Employment Offices; Officers in charge of Radio Stations; Clerical employees level 3 and up. Under the provisions of subsection (*u*) (vii) Section 2 there are many others that

could be excluded, and unless the Bill is amended there will be the most prolonged argument when the first groups become subject to bargaining.

As has been indicated, we recognize the right to exclusions from "participation" of certain employees, but not the right to exclude from membership in the bargaining unit. All employees benefit in collective bargaining, and present membership should not lose present direct benefits, such as participation in insurance plans. It may also be noted that, under present provisions, subsection 3, of Section 90, one excluded from the bargaining unit, of presumably any rank, may seek and use the services of an employee organization in the processing of a grievance.

We therefore recommend that the Bill be amended, in Section 2, so as to provide for membership in a staff organization, of those excluded from the bargaining unit. And that these employees be prohibited from any manner of participation in matters concerning collective bargaining. We would further recommend that homogeneous groups of supervisory officers, such as Postal Officers, be given the full rights of the Act for collective bargaining.

Further Views

Section 2 (*m*) (v).

In the past, certain administrations, due to establishment restrictions, have retained casual or temporary employees indefinitely. By the device of breaking service periodically they have maintained the necessary work force. This constitutes an obvious injustice, in that little of the normal privilege is provided for these so called temporaries. In other cases the positions have been seasonal, in that the same employees have been hired every year, but in succeeding years there was no carry-over of credits.

It is our view that if such practices are to continue the section should be amended, so as to provide that those who have continued service broken only by involuntary periods of lay-off shall be eligible to belong to the appropriate bargaining unit.

Section 2 (*t*) (ii).

This section makes no provision for the bargaining agent to be defined as a "party" in the grievance procedure. Since it is clear that there will be such participation we suggest "parties" should be defined as "the employer and the employee or his organization."

Section 2 (*u*) (v).

In the present absence of a formal step by step grievance procedure we can only assume that this section would deem the immediate supervisor as one who deals formally with a grievance. If this assumption is correct it serves to bear out our disquiet of the many low level positions that are encompassed by the phrase "persons employed in a managerial capacity." If we should be wrong it points to the urgent need for clarification and amendment. This is too serious and fundamental a matter to be left for Regulations.

Section 2 (*u*) (vi).

Once again we feel that the provision can be subject of too broad an interpretation. We would welcome official assurance that this subsection would not be used to exclude many employees who are privy to the processing of a grievance, but who are not particularly or immediately involved.

Section 19 (1) (*b*).

The Board has the authority to determine "units of employees appropriate for collective bargaining." This authority, however, is absolute and not subject to any appeal. This would seem undesirable as cases will no doubt arise where the matter is in dispute. In the absence of a logical authority to consider any appeal we make no concrete proposal. The possibility of hearings before the Canada Labour Relations Board may be considered.

Section 19 (2).

Certain Regulations may be considered as restrictive or unfair, and as is the case in the previously noted sub-section, there is no provision for appeal. In this case the appropriate appeal authority might be the Governor in Council.

Section 23.

This section provides that the Board shall determine questions of law or jurisdiction. In the event that there is no lawyer on the Board we would have to question the competence of the Board to adjudicate. Otherwise we would suggest that a definite time limit be set for the consideration.

Section 28 (2) (*b*).

We must express some concern at what appears to be "big brother" legislation. It appears that no such special control has been found necessary in the private sector, where the Council concept is not unkown. The greatest protection to all concerned lies in the need to maintain certification once granted. Unless the Council produces results it will not retain the confidence of its members. It would only be a matter of time before another organization replaced the unsatisfactory organization. The Canada Labour Relations Board does regulate, but in a relatively limited area. Certified Councils will be formed from responsible organizations, who we believe will continue to be responsible, and fully capable of policing its operation.

Section 32 (4).

We are not clear on this sub-section and would welcome clarification.

Section 35 (1) (*d*).

We can only note that this would appear to be a further example of "big brother" legislation. The Constitution or Bylaws, as required in sub-section (c) would provide information on election procedures, and the "representative character of the officials" should be well, and we would hope, favourably known to the electing unit.

Section 36 (1) and Section 37.

We are unable to determine the motivation of this sub-section, and for Section 37. Pending clarification of the underlying reasons it would seem more appropriate to allow a bargaining unit to reach its decision on the "process for resolution of a dispute" at the point of impasse in bargaining. The employer will have a psychological advantage at the bargaining table in knowing the outcome of disagreement. In addition, the possibility exists, that the Board could be influenced in certain decisions, by a declaration of intent at the time the bargaining agent is seeking certification. The question of "safety and security" having been established for the bargaining unit, matters should then be allowed to run their proper course.

Section 44 (b).

We must protest most strongly against an authority that is far too broad, and which could become an oppressive piece of legislation. It is clear that in a desire to cover all eventualities the draftsmen have provided unlimited authority. The Board could use any reason that it alone considered valid for the decertification of a Council, and under the present Bill there is no avenue for appeal. Either "circumstance" should become specific or the clause be deleted.

Sections 45 and 47.

We would ask for clarification of these sections. They would appear to provide for a vacuum, in the cancellation of what was, nothing is substituted. Employers in the private sector are prohibited from reducing wages or altering conditions pending renewal or revision of the contract. We feel this same condition should apply where a bargaining agent is decertified before the expiration of the contract.

Section 57 (3).

We are unable to determine the full intent of the draftsmen in this sub-section, and request clarification.

Section 60 (1).

Provision should be made in this sub-section for the nomination of panel members by both employer and employees. Appointments could be made by the Board from such nominations.

Section 60 (2).

We have recommended earlier that the term of office for the Chairman and members of the Board, PSSRB, be five years, and we so recommend a similar period for the Chairman of the Public Service Arbitration Tribunal.

Section 70 (3).

This clause deals in broad terms with rights being reserved for exclusive management decision and administration. The view must be expressed that there will be some aspects of these areas where the employee has reason for concern. For example, in the matter of lay-off or release, fruitful areas of industrial dispute, any autocratic insistance of

unilateral decision or "method" would give rise to the strongest resentment. It is therefore recommended that this clause be amended to provide that such matters could be subject to arbitration, on agreement of the parties concerned.

Section 71 (2).

We wish to be advised as to why the Chairman of the Arbitration Tribunal will make the award in the event of difference of opinion among members of the Tribunal. The concept of a Board is meaningless, where it is known that the opinion of the Chairman is the one which must prevail. We cannot agree to any other than majority decision, with, where necessary, the Chairman having a casting vote.

Further, we believe that the possibility of provision for majority and minority reports should receive the attention of the Committee.

Section 74.

In our view the ninety days (three months) is now overly long in giving effect to the Arbitration Award, and we are therefore not favorable to any authority which would increase the waiting period. Any extension should be subject to the concurrence of both parties.

Section 79 (1).

It would seem clear that the vague generality of "safety and security" needs clarification, and this at the Committee level where we can advance our case. As the Bill now stands there can be no appeal against regulations promulgated by the Board. "Safety and security" could become a strait jacket, inhibiting the proper development of the system. We therefore recommend a criteria be developed that will reflect a mutual and reasonable position.

Section 94 (1).

This whole section does give rise, once again, as to the proper place of the Bargaining Agent in the Grievance Procedure. Section 90, sub-section 2, does provide that the Agent is in effect the intervenor where the grievance arises out of a collective agreement. However, in Section 94 there is no provision for the aggrieved person to have the agent act for him. We take the view that if grievances are to be properly processed they should in most cases be through the Agent.

Section 97 and 98.

These sections refer, in part, to the obligation of the Agent to pay half the cost of adjudication. This we cannot object to, but it necessarily follows that there must be specific provision in the Act for the Agent to participate in the nomination of the Adjudicator.

Section 99.

Regulations relating to the grievance procedure are a matter of importance to staff organizations. It is therefore our view that there should not be finally approved by the Board without an opportunity having been given to the organizations to express their views on the proposed regulations. We therefore recommend this section be amended

to read, "The Board, after consultation with recognized staff organizations, may make regulations . . ."

Finally we are greatly concerned that employees of the Senate and the House of Commons are excluded from this act. There is surely no fundamental difference between Public Servants as now covered and those who now fall under the authority of the Speakers. The fact that the authority and the jurisdiction are traditional is neither a valid nor a sound reason for its perpetration. The present Bill indicates that ours is a viable society and to allow tradition to override a matter of equity would suggest that the issue has not received full consideration. It would be the part of grace to now agree that no citizen should be deprived of his rights as a worker, to organize freely without fear and to bargain with his employer on the terms and conditions of his employment. There is no full citizenship dignity in being administered by grace and favour.

This Committee now has the opportunity of bringing the Public Service without exception into the twentieth century. We would hope that it will take this opportunity.

On behalf of the Civil Service Association of Canada.

The JOINT CHAIRMAN *(Mr. Richard)*: Mr. Doherty, would you read the other brief, please?

Mr. W. DOHERTY (*National Secretary, Civil Service Association of Canada*): Views on an Act Respecting Employment in the Public Service of Canada.

Mr. LEWIS: Mr. Chairman may I ask a question for clarification? At the top of page 11 of the brief that Mr. Gough just read, the suggestion is made that the bill be amended so as to provide for membership in a staff organization of those excluded from the bargaining unit. Is there a section in the bill that now excludes such employees from being members of an organization?

Mr. GOUGH: Except by inference and the usual industrial practice where management are excluded from the bargaining units. I think I am correct on that, am I not, Mr. Lewis?

Mr. LEWIS: Not entirely. At the moment I just want to establish whether you are asking that something which is there be taken out or whether you are merely—

Mr. GOUGH: We just wish to assure ourselves that no matter what the levels or what the office of the public servant be, that she should be allowed to be a member of a staff association.

Mr. LEWIS: But there is nothing in the bill which prevents that?

Mr. GOUGH: That is right.

The JOINT CHAIRMAN (*Mr. Richard*): I might say for Mr. Lewis' information, we agreed this afternoon that these briefs would be read and questions will be asked at a later time; otherwise we would break our routine very quickly and our timetable would be disrupted. Will you proceed, Mr. Doherty?

Mr. DOHERTY:

Views on an Act Respecting Employment in the Public Service of Canada.

The Act, embodying as it does a completely new concept of the powers of what was the Civil Service Commission, requires a complete re-evaluation of traditional attitudes of staff associations. The Civil Service Commission under the Civil Service Act, both old and present has, in great measure, given force and meaning to a career service based on merit. An Act, more enlightened than most, has developed a service second to none. We would be remiss, therefore, if we did not at this time extend our thanks to the distinguished public servants who, over the years, have served so well.

The broad solid base of merit in the Civil Service will be extended to the Public Service. This we view as a logical and welcome extension. But conditions of employment will be the responsibility of another authority. Our comment, therefore, in this Bill will, in recognition of the changing facts, relate only to this bill. In this certain of our comments may properly be regarded as a matter for regulations, as authority for such is provided under Section 33. We make them, however, as matters of some substance and as a record of views.

Section 6.

Our major cause of concern lies in Section 6, providing the power for delegation of authority. Let it be said, first of all, that it is recognized that it would be almost impossible for the Commission to directly administer its full authority. There is, however, a very prevalent suspicion among public servants that departmental authority in promotion would result in favouritism and nepotism. The Bill gives some recognition to both these propositions, but in seeking a middle way simply proposes that abuse would result in the withdrawal of the delegated power.

We make no suggestion that abuse would be universal, but it will occur, and the deterrent is without teeth. It is our firm belief that the Commission should be required to make a full report, naming the department or departments involved, in its annual report to Parliament. This requirement should be embodied in Section 45.

Section 10.

This Section provides for selection by competition, "or by such other process as the Commission considers in the best interest of the Public Service." In our view "process" is too vague in term, in what is a very fundamental matter. It could, without some limiting clause, provide over time for an erosion of selection by competition. Therefore unless "process" is subject to definition, we strongly oppose this aspect of selection.

Section 17.

It has been noted that there is no requirement that eligible lists be published in the *Canada Gazette*, and we would assume that this is a departure from present practice and intentional. We would be interested in the reason for the decision, since we believe such publication useful. In many instances a successful candidate can ascertain his progress by knowing the names of those ahead on the list.

Section 25.

This Section is specific, and while technically an extension could be approved by a new appointment no provision is made for such cases.

Section 26.

The previous Act required that the deptuy head acknowledge the resignation in writing, and it would seem desirable that this procedure be continued.

Further since it is presumed that notice will involve a period of time the deputy head should, unless there is special reason, indicate in writing in the acknowledgment that separation will be effective as indicated in the notice.

Section 27.

This Section makes no provision for special circumstance. It recalls the case of the civil servant who had a serious accident at the end of leave and was unconscious in a hospital for several weeks. If this Section is to stand as printed, a clause should be added for reappointment, with no break in service, to cover special circumstances.

Section 28.

(1) The present Act sets a limit of one year, and it would seem desirable that this Bill establish a maximum period.

(3) The authority to reject an employee for "cause" does not require, as does the present Act, that in so advising the deputy head shall detail the reasons (cause) for the decision. We strongly recommend that this requirement be incorporated in the present Bill.

Section 29.

Lay-off procedures are of great importance in the employer-employee relationship. Since the previous Act is more definitive in this matter than the present Bill, we sould ask to be advised the reasons for the present form. Subject to acceptable exception the Bill should provide the last off should be the first re-hired. Prevailing rate employees are particularly susceptible to lay-off and general industrial practice is in accordance with the above recommendation.

Section 31.

(1) This sub-section is also less definitive than was the case in the previous Act. Incompetence should be capable of definition, and therefore should be in the Bill.

(3) This appeal provision is unsatisfactory in that it makes no provision for an appellant to be represented by an officer of a staff organization. It is the exception rather than the rule for the employee to properly present his case. He will be emotionally involved and unable to approach his superiors without a nervous tension that weakens his presentation of the appeal. This sub-section should be amended to provide the employee with the right to be represented, if he so desires.

(4) We would wish to support and commend this sub-section.

Section 32.

The matter of political partisanship, with its rigid prohibition of participation has been receiving increasing attention in recent years by public servants. In this regard it should be noted that there has been no legal provision of this nature applying to prevailing rate employees. The large majority will have no desire to participate actively in politics, but it is questionable as to whether the right should be denied the few. We suggest that a public servant should be as free as any other citizen to make his own decision without hindrance.

We do strongly object to any employer dictating to an employee as to what he may not do with any portion of his take-home pay. This is an infringement of his liberty that should not be tolerated in a free society.

The JOINT CHAIRMAN (*Senator Bourget*): Do you have another brief?

Mr. DOHERTY: Yes, Mr. Chairman, this is the association's view on an Act to Amend the Financial Administration Act.

During the discussions with the Preparatory Committee the conception of "enshrined rights" came under close scrutiny. These enshrined rights were considered to be those benefits embodied in the Civil Service Act and the Public Service Superannuation Act, and the question at issue was whether or not these should initially be placed outside of the area of bargaining. Apparently the issue has been decided in that there is no provision for such in the three Bills now under consideration. However, we have noted that the Treasury Board under Bill No. C-182, Section 7, sub-sections (d) to (i) will be invested with authority to determine conditions of employment, it being noted at the same time under Section 18 that the "Act or any of its provisions thereof, shall (only) come into force on a day or days to be fixed by proclamation of the Governor in Council."

We would express our grave concern to the Committee on the determination of conditions of employment during the transitional period. For some groups of public servants this period could conceivably be a matter of months, for others at least two years, and for a large number of others, longer. The first group which qualify for bargaining on October 1, 1966, would not be in a position to do so before the Pay Research Bureau data becomes available in March or April 1967. The last group will not so qualify until approximately two years later. In addition to these there will be a number of groupings which will not be able to meet the requirements of Bill No. C-170, on the numbers of members in the bargaining units. For these employees it will be over two years and up to four years before bargaining can take place. These circumstances must raise the question of what may be proposed to meet the exceptional conditions.

We believe this issue to be too fundamental to "wait and see," and to find out at a later date that our expectations are not the same as the intentions of Treasury Board. This is not intended to reflect on the good will of the Board but we should know just what may be expected. Both parties will enter into the new regime determined to make it work, but it

must be recognized that any new system takes time to shake down to smooth operation.

It is our opinion that the authority to provide and determine conditions of employment should be limited by transitional provisions. These to provide that present conditions shall continue until changed by collective agreement or agreements. Thereafter in accordance with the provisions of subsection (*d*) the Board would "determine and regulate—pay—and hours of work," in accordance with collective agreements negotiated with duly certified bargaining agents of public servants; or in accordance with the awards of arbitrators; or which may be determined through conciliation. In this regard we would also note that the subsections which follow can be subject to agreements and awards.

We continue to be gravely disturbed on the abrogation of a citizen's right of appeal, as provided for by Sections 7 and 8. Such is contrary to common law and principles enshrined in our democratic and parliamentary process. We opposed Section 50 in the Civil Service Act and we continue to be of the opinion that every citizen has the right of appeal. We know of no sound reason why the right of private appeal, before a Tribunal, should not be provided. An officer in the Public Service, or a staff association officer, should be thoroughly screened for security, and be allowed to act as the amicus curiae of the suspected employee.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much Mr. Gough and Mr. Doherty. I am sure the Committee appreciates the presentations that you have made. They are very clear and concise and we will have the benefit of your experience, no doubt, at a later date. Thank you very much.

We have a short brief here from the Lithographers and Photoengravers International Union which was filed some time ago and I think, every member of the Committee has a copy before him. We have invited Mr. Poulin, President of the Ottawa Local 224 to present this brief tonight. Mr. Poulin.

Mr. J. M. POULIN (*President, Ottawa Local 224, Lithographers and Photoengravers International Union*): The Lithographers and Photoengravers International Union are pleased to have the opportunity to appear before the Committee. Due to the short notice on the submission of briefs, the document I will read is not a qualified clause by clause analysis of Bill No. C-170, but rather it deals only with one or two points pertaining to the appropriate bargaining units by classification with reference to skilled craftsmen and with what we believe, in an industrial operation of the federal government, which is in competition with similar operations in the graphic arts industry and that is the Canadian Government Printing Bureau and its units across the country.

We do have other views on Bill No. C-170 but these will be expressed in the brief which will be submitted by the Canadian Labour Congress. The French translation of the document that I am going to read will be in the hands of the Committee by Thursday next.

Brief of the Lithographers and Photoengravers International Union in the Matter of an Act Respecting Employer and Employee Relations in the Public Service of Canada (Bill C-170).

Mr. Chairman and Members of the Committee, the Lithographers and Photoengravers International Union—AFL-CIO, C.L.C. (hereinafter referred to as the L.P.I.U.) are representatives of a large majority of lithographic workers in Canada, which includes a majority of lithographic workers employed by the Government Printing Bureau located in units in Ottawa and Hull as well as right across Canada. The L.P.I.U. wish to submit for your consideration the following as it pertains to the matter of Bill No. C-170, commonly known as the Public Service Staff Relations Act.

The L.P.I.U. negotiate three basic contracts in Canada.

1. *EASTERN CANADA* (Ontario, Quebec and the Maritimes) covering some 150 contracts employing over 4,000 members.
2. *WESTERN CANADA* (Manitoba, Saskatchewan and Alberta) covering some 30 contracts employing over 300 members.
3. *BRITISH COLUMBIA* covering some 30 contracts employing over 700 members.

This constitutes a total of over 210 contracts employing over 5,000 members.

The Lithographers employed in the Government Printing Bureau and outside units across Canada enjoy the wages and conditions of work of one of these three basic contracts dependent upon the geographical area of Canada in which they are employed. We can assure the Committee that there is anxiety on their part that Bill C-170 might take away from them these conditions of pay and work that they have enjoyed due to their affiliation with the L.P.I.U., in some instances dating back to pre-war No. II days. Our association has been making semi-formal representations to various Government Agencies for many years as it concerns employees in the Lithographic Departments. Although it has been on a semi-formal basis, this can now be formalized to conform to the rules and regulations of the Public Service Staff Relations Act, providing these rules are patterned on industry practices within the Graphic Arts Industry of Canada.

With the advent of collective bargaining, it seems inevitable that more formal machinery will be required if only to make the process an orderly one and to avoid jurisdictional problems within the Government work force.

Collective Bargaining comes under the following headings:

1. Recognition of appropriate bargaining agents.
2. Formal machinery for processing Collective Bargaining.
3. Bargaining itself.
4. Signed Collective Agreement.

It is apparent now that the right of association is recognized in the Government Service. Many trade unions have membership in Government Service. Our association is one of such unions with a history of semi-formal bargaining by representation for a great number of years.

There are many ways of determining an appropriate bargaining unit. We would recommend the simplest form and that is recognition to any body of employees which can establish a majority in any department or trade according to the rules established by the Government. As you can ascertain, we are not suggesting that it be on an all encompassing type of recognition (known in trade union circles as an industrial type of union) but rather it should be established in a manner to protect the number of Government employees who are working at a skilled trade. It would not be right or possible for the Government to ignore the facts that certain organizations now exist among Government employees, particularly in the prevailing rate area of Government Service.

We would submit that the Government look seriously into representation on a craft basis. The Graphic Arts Industry of Canada has recognized individual crafts as requiring special wages and conditions of work over these many years and look to the Government to follow this established pattern of appropriate bargaining agents and collective bargaining.

The Canadian Labour Congress, of which the L.P.I.U. is an affiliate, in their brief submitted to the Preparatory Committee on Collective Bargaining in the Public Service stated the following: "We would assume that bargaining on behalf of employees in the Department of Public Printing and Stationery would be conducted by the Government with representatives of the Printing Trade Unions affiliated with this Congress".

One of the ways of resolving this problem of craft unions within the Government Printing Bureau would be to change the Government Printing Bureau in Schedule A from Part No. 1 to Part No. 2. This is permissible under Sections 4 and 5 of Bill C-170. If this was done then the Government Printing Bureau would be considered a separate employer under the Act and would then be able to negotiate with the representatives of the skilled trades employed within the Government Printing Bureau on a separate basis, similar to industry within the Graphic Arts.

Failing the above, then we would respectfully submit that Bill No. C-170 be clarified and changed to conform to Graphic Arts Industry as it concerns Craft Unions and their desire for certification on a craft oriented basis and allow them bargaining rights so that they may continue to enjoy wages and conditions of work that prevail in the skilled classification to which they belong. This could be done on an individual craft union basis or through the Council of Union Employees as presently constituted in the Government Printing Bureau. We feel and recommend that the final choice should be made by the majority of the individual employees employed in a particular skilled trade: i.e.—Lithographers —Bookbinders—Compositors, et cetera.

In summation, we would suggest that the Committee give serious consideration to the following:

1. The Committee seriously consider the problems inherent in the transferring of semi-formal discussions between the various craft

unions and the Government Printing Bureau to a formal arrangement.

2. Make certain that Craft Unions be given the same consideration as they receive at the present time in industry, particularly within the Graphic Arts Industry.

3. Study the feasibility of transferring the Government Printing Bureau in Schedule A, Part No. 1 to Part No. 2.

4. We would like to draw to the attention of the Committee the short period of time allowed for preparation of briefs. Notice was received on Friday, June 24th and briefs had to be received by the following Wednesday, June 29th. In addition, 50 copies were required in English and 25 copies of a French translation. This does not allow for sufficient time for the necessary research required for such a serious matter affecting a hundred thousand Government employees. We would ask the Committee for an opportunity of submitting additional documents if necessary and also for the opportunity of appearing before the Committee in order to make an oral presentation as well.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Poulin. I might assure you that you will have an opportunity either through the C.L.C. or directly, if you want to, to present a further brief and to also have an opportunity, either yourself or a representative of the Lithographers and Photoengravers International Union to appear before the Committee and to make any other submission and to be subject to examination. Thank you very much.

Just in passing, I understand that our superannuation bill which was reported earlier, has passed third reading in the House.

Mr. BELL (*Carleton*): It passed through committee and had third reading about ten minutes ago, with the amendments which were agreed upon in this Joint Committee.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much for your co-operation and your work.

The intention of the Chair is to have one other meeting on Thursday evening because the only brief now to be submitted at the present time is that of the Civil Service Federation who have indicated, through Mr. Edwards, that they will be available for that meeting on Thursday evening. It will be either at 7 or 8 o'clock, whichever suits the members.

Some hon. MEMBERS: Eight o'clock.

The JOINT CHAIRMAN (*Mr. Richard*): It is agreed it will be 8 o'clock.

Mr. MUNRO: Mr. Chairman, do you have any idea how many more briefs there are to be presented?

The JOINT CHAIRMAN (*Mr. Richard*): I thought I made myself clear, Mr. Munro, that that is the only brief that is left to be presented at this time. The C.L.C. have a brief which will not be ready until some time late in July. The Union of Postal Workers and others will come at a later time. So, the only

meeting scheduled for this week is the meeting on Thursday evening to hear the Civil Service Federation.

Mr. BELL (*Carleton*): Are we pressing the federation on unnecessarily now, having regard to the briefs?

The JOINT CHAIRMAN (*Mr. Richard*): No, Mr. Bell. The Civil Service Federation has a brief and they had it all completed but it has to be mimeographed or copied and it will be ready by tomorrow morning, I understand, or tomorrow afternoon. It is a matter of copying. Mr. Edwards indicated that he would like to come here on Thursday.

Mr. TARDIF: If that is the case, Mr. Chairman, could we not have the meeting on Thursday afternoon?

The JOINT CHAIRMAN (*Mr. Richard*): We might, if we had a room but there are no rooms and there are no rooms next week either, because the Caribbean conference it taking over all these rooms.

Mr. CARON: Let us use room 33, for secretaries, to be able to keep on going and reduce the member of committees from 25 to 15, and have a quorum of 8.

Mr. BELL (*Carleton*): We were glad to welcome them, Mr. Chairman, in the conservative caucus room today, and we felt quite at home.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much. There has been a motion to adjourn until Thursday evening.

THURSDAY, June 30, 1966.

● (1.00 p.m.)

The JOINT CHAIRMAN (*Mr. Richard*): We reserve this afternoon's meeting to hear the brief presented by the Civil Service Federation of Canada, and I understand Mr. Claude Edwards and Mr. Hewitt-White will share the responsibility of presenting this briefs. Which one will be first? Mr. Edwards?

An hon. MEMBER: Which bill?

The JOINT CHAIRMAN (*Senator Bourget*): Bill No. C-170—collective bargaining.

Mr. C. EDWARDS (*Civil Service Federation of Canada*): The Civil Service Federation of Canada welcomes the opportunity of presenting the viewpoint of the federation on Bill No. C-170—"An act respecting employer and employee relations in the Public Service of Canada." We wish at this time, to commend the government for the action they have taken in introducing this legislation. It is a most comprehensive piece of legislation and we believe that, with some necessary amendments, it will place the employees of the government of Canada in a collective bargaining relationship with their employer which will compare favourably with any collective bargaining relationship available to employees of other government services. Although we find areas of the bill that we wish to see amended, and this, of course, is our main objective in making this presentation to you; we can pledge the government our full support in making employer-employee relations in the Federal Service of Canada a model

to which other governments may aspire. With good faith and responsibility by all parties involved in this new formal system, we believe the relationship between management and staff of the public service can be a satisfactory and ever improving one.

In this brief to your committee, Mr. Chairman, we will confine ourselves to certain areas of the bill where we are vitally concerned as to the effectiveness of the legislation in regulating the process of collective bargaining in the public service and the impact it may have on our existence as a staff association. Although there are many clauses in the bill where we believe the language might be improved or where the intent of the legislation might be more clearly or appropriately expressed, we have refrained from commenting on these areas in this brief because we believe your committee should be concerned primarily with the broad principles of the legislation. As stated above, it is important that the good faith of the participants and the good judgment of the Public Service Staff Relations Board ensure that the intent of the legislation will be honoured at all times.

We also believe it is important to proceed with this legislation as quickly as possible giving, of course, at the same time, due regard to the representations of interested parties. It is perhaps unnecessary for us to point out to the Committee that the Preparatory Committee on Collective Bargaining was established in August, 1963. The third anniversary of the formation of that committee will soon arrive. This has been a long period of incubation. We hope that the legislation will be available to enable certification and bargaining to commence with the operational category this year.

Before proceeding with our comments on the amendments we propose to the bill, we would like to relate briefly the history of the Civil Service Federation as the representative of employees in its relationship with the government of Canada.

The Civil Service Federation was founded in 1909. Its formation resulted from the desire of the organized service in Ottawa to consolidate 23 different organizations into one group to make effective representations on the need for civil service reform in those days. Its membership then was slightly over 5,000. Today, the federation represents 80,000 civil servants from 15 national associations and 89 directly-affiliated public service groups. Its members are located in all departments and branches of the Canadian government in Canada and throughout the world. Its basic aim has continued to be the protection of the interests of Canadian civil servants as a whole. This brief is, in effect, a practical example of this very aim.

Bargaining Units

One of our principal concerns is that the system of collective bargaining will work. We mean by this that it will function properly in that representatives of employees and management in a bilateral process will determine the working conditions and pay of the civil service. We do not believe that this system can function properly, however, with many different representatives of employees acting on behalf of various occupational groups. In our opinion, where the demands of one group will constantly be compared with the demands of others, chaos will develop. These comparisons will be truly odious since they can presage many difficulties caused by one organization trying to outdo the accomplishments of another. Although we do not wish to impugn

in any way the motives of government, it is possible that the system of bargaining as proposed in this legislation may place the government in a position where it could bargain with the weaker groups first and thereby establish a pattern of contracts that would be difficult to break.

We do not believe the government wishes to deal with 66 separate and distinct representatives of employee occupational groups. We do not believe the government wishes to develop different fringe benefits within occupational categories. If these premises are correct, we are of the opinion that the government should be prepared to establish bargaining units on the basis of occupational categories, with bargaining agents certified on the basis of majority representation within the categories. If this were done it would not preclude bargaining of rates of pay and certain conditions of employment on the basis of occupational groups but central issues that should be uniformly dealt with on a category basis would not be variously dealt with in the bargaining process. We would ask the Parliamentary Committee to consider the situation that would be created if the telephone operators in a government office worked 30 hours per week while the clerks worked 37½. Obviously the government would hope that general working conditions covering at least a category would be the same. The proposals to divide the service into bargaining units based on 66 occupational groups can certainly defeat that objective.

Industrial style bargaining units are certainly the pattern in labour relations in the private sector. Whereas certain established craft unions do continue to represent employees in a specific trade or craft, most labour relations boards tend to consider all employees in the plant or office of one employer as an appropriate unit for collective bargaining.

The Civil Service Federation recognizes that mail handling employees of the Post Office Department have been represented for many years by separate associations within the Post Office. We accept the fact that for historical as well as political considerations the desire of these associations to represent their members, must be recognized. For this reason we propose that a separate category of employees that should be identified as the mail handling category should be formed. This category might be divided in occupational groups for the purposes of pay determination.

In essence we are proposing that the public service be divided into seven occupational categories, namely, Executive, Scientific and Professional, Technical, Administrative, Administrative Support, Operational and Mail Handling. Each of these occupational categories, with the exception of the Executive Category, would be a bargaining unit and the certified bargaining agent would be the organization which represented the majority of employees in any one unit.

Certification Delays

The Civil Service Federation is very concerned with the provisions of clause 26 in Bill No. C-170 which determines the commencement of collective bargaining and permits the Governor in Council to fix the day, not later than two years after the coming into force of the act, on which employees within each occupational group become eligible for collective bargaining. When this clause is read in conjunction with clause 29, which provides that no employee organization may apply for certification prior to the date on which the employees comprised in the proposed bargaining unit become eligible for collective

bargaining it means that certain employees will be denied certified representation in collective bargaining until possibly two years after the system is instituted. This built-in discrimination will simply add to the incidence of unrest, uncertainty and disorganization among public servants during the implementation period.

These delays are unfair and unnecessary. There is no reason why immediate certification of bargaining units, even in the absence of bargaining rights, should not be permitted. Such a provision would ensure that all employees would have the assurance of effective and legally sanctioned representation immediately upon bargaining rights being granted to them. It would appear to be in the interest of both employer and employees to correct this apparent deficiency in the bill by permitting associations to seek certification when the bill is proclaimed without any waiting period.

We can appreciate that the concern of the government that may have prompted this requirement of phased-in collective bargaining was a wish to retain the cyclical approach to salary determination. We support this concept of cyclical reviews and have already informed the government that we would be prepared to enter into any necessary agreement that would permit certification without undue delay while at the same time defer the right to bargain collectively on salaries until the date coincident with the cyclical review date for that category.

Dispute Settlement

We are concerned with the provisions of section 36 which require an employee organization seeking certification to declare, before it is certified, which of the dispute settlement processes it will select. We fail to understand the reason behind this. We believe that it is unnecessary and unreasonable to expect an employee organization to declare itself in reference to dispute settlement before it has achieved the legal status that only certification can provide. It may not be able to accurately determine the wishes of its members who are not yet seized of the problem and the merits of which might only be defined when collective bargaining is about to commence. Section 39 provides a formula to enable a bargaining agent to change the method of dispute settlement prior to subsequent rounds of collective bargaining. We strongly suggest that this principle should be made equally applicable at the initial stage and enable the agent to exercise his choice just prior to the commencement of bargaining.

Arbitral Matters

It is our understanding that the subject matter of collective bargaining is in no way proscribed by this legislation. However, under the provisions of clause 70, an arbitral award may only deal with rates of pay, hours of work, leave entitlements, standards of discipline and other terms and conditions of employment directly related thereto. There is no provision for arbitration of disputes that may arise on many other items that may be the subject of bargaining. Of particular interest to employee organizations is the question of union security. Inability to process a dispute on this question to arbitration leaves a bargaining agent in the unenviable position of having to accept whatever an employer may be inclined to grant.

We believe that all matters that are subject to bargaining should be subject to arbitration. We would particularly stress that the classification of employees should be subject to collective bargaining and arbitration. Only in this way can we be sure that gains at the bargaining table on pay are not unilaterally negated by the employer through classification action.

The Civil Service Federation takes exception to the limitations expressed in section 56(2) of the bill. We believe that this section could be deleted since the government should be prepared to bind itself to introduce necessary legislation. It may be required to implement any terms or conditions of a contract that it has negotiated with its employees.

With reference to section 68 of the bill, the federation believes that the arbitration tribunal should have broad powers to consider the matters placed before it. We suggest that more appropriately this section should confine itself to a statement that the arbitration tribunal shall consider and have regard to:

(a) the conditions of employment provided in similar occupations by good employers outside the public service,

(b) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered, and

(c) any other factor that to it appears to be relevant to the matter in dispute.

Adjudication of Grievances

With respect to the matter of grievance procedure, the federation's general view is that the act should simply have provided for a grievance procedure and that the parties to an agreement should have been free to negotiate the procedures.

In addition, we object to the principle that certain grievances may go to adjudication and others may not. Our view is that all grievances should be capable of third party adjudication. We believe that section 91 should be amended to provide for adjudication of grievances with respect to the interpretation or application in respect of the employee of a provision of a statute, or of a regulation, by-law, direction or other instrument made or issued by the employer dealing with terms and conditions of employment. It seems appropriate to us that if interpretation or application of the terms and conditions of a collective agreement or arbitral award are subject to adjudication all matters that are codified in statute, regulation, by-law, et cetera, should be equally capable of adjudication in the grievance process.

Processing of Grievances

We further believe that no employee who is a member of a bargaining unit represented by a bargaining agent should be permitted to process a grievance without the support of his bargaining agent. In this way frivolous grievances can be prevented from cluttering up the grievance process and conflict between certified and non-certified associations can be avoided.

The bill continually refers to an employee being the originator of a grievance. Our view is that grievances can be submitted either by the individual

or the bargaining agent, that is, a grievance involving check-off may not concern the individual, but it would be important to the bargaining agent.

Departmental Associations

Last, but by no means least, we would like to place before you our arguments in regard to the place in the collective bargaining process of the Departmental Staff Associations. The Departmental Staff Associations of the Federal Public Srvice have a long and honourable tradition of representing their members vis-à-vis the government or the various departments of government. Many departmental staff associations within the ranks of the Civil Service Federation were formed more than half a century ago. The departmental associations fought for collective bargaining as the appropriate way to improve their representations on behalf of their members. They now find that the legislation they helped create provides neither recognition nor rights. We believe that there is a vital need for staff organizations that are related to departments. The employee tends to consider himself an employee of a department first and the government of Canada second. More and more authority is being placed in the hands of departmental managers and undoubtedly as departmental managers acquire and develop this additional authority the requirement for a collective relationship at the departmental level will increase. We believe it will be appropriate for representatives of employees at the departmental level to negotiate subsidiary agreements on such matters as shift schedules, commencement and finishing times of work, provision of protective clothing, local work rules, et cetera. We believe the employee organization that represents the majority of employees at the departmental level should be certified as the bargaining agent with exclusive jurisdiction to deal with local departmental matters that are not prescribed by collective agreement bargained at the centre.

Summary

In conclusion, we would like to state that although there are sections or clauses of the bill that might be improved with slight amendment, we have refrained from making observations on such clauses. We believe that good faith and just cause should be, in essence, the cornerstones on which this legislation is based and will provide the means whereby through time and experience amendments or modification of the processes may be in order. The concerns we have expressed in this brief to you are genuine and sincerely held. We believe that your concurrence with our suggested amendments will not only strengthen and improve the legislation but will enable us to do a more satisfactory job of representing the interests of our members.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Edwards. I understand Mr. Hewitt-White will now proceed with the balance of the brief on Bill No. C-181.

Mr. BELL (*Carleton*): Mr. Chairman, before we do go on with that, might I just mention one problem in connection with this brief. On page 2 there is an indication from Mr. Edwards that there are many clauses in the bill where they believe that the language might be improved and where the intent of the legislation might be more clearly or appropriately expressed. On page 13 the brief says that there are sections or clauses of the bill which might be improved with slight amendments. Mr. Edwards has said he refrains from making an

observation on that clause and he says the role of our Committee, and I quote: "Your Committee should be concerned primarily with the broad principles of the legislation."

Now, we are not only concerned with the broad principles of the legislation, we are concerned with making this legislation and reporting it to the House in its detail. I think Mr. Edwards has raised on page 2 and page 13 a number of issues upon which I am sure, at some stage, the Committee would wish a supplementary brief. I certainly do not want to report to the House when as important an organization as the Civil Service Federation has said that there are many clauses in the bill where the language might be improved and where the intent of the legislation might be more clearly or appropriately expressed.

I would like to know, as soon as is possible, which are those clauses, and I venture to suggest, with respect, that we should ask Mr. Edwards to present us with a supplementary brief on these as soon as is convenient.

The JOINT CHAIRMAN (*Mr. Richard*): I think the Committee will agre, Mr. Bell, that Mr. Edwards should present a supplementary brief because of the allusions he referred to. I suppose that Mr. Edwards was under the impression that he might have the opportunity to be present at the time when we would be on individual sections to make that type of suggestion. But I agree with you, Mr. Bell, that it would be much better if we knew in advance what suggestion he has to make because we might cover an awful lot of ground before we come to the right one.

Mr. WALKER: Mr. Chairman, I agree with the association that Mr. Bell is representing, if in fact, they are interested at this time—

Mr. BELL (*Carleton*): I am not representing any association.

Mr. WALKER: No, Mr. Edwards. Excuse me.

Mr. BELL (*Carleton*): Bell is just representing all civil servants—the mayor of all the people.

Mr. WALKER: If, in fact, Mr. Edwards, this particular sentence is just in here with a view to expressing an opinion at some time, there are other things in the bill that might be looked at. But, for now, let us get the basic things done. I would be interested in knowing if this really was what Mr. Edwards had in mind or if, in fact, there was a definite reason why it was put in this general language.

Maybe the association does not want to get down to the specific things that are of interest, but may it not be of the utmost importance to the legislation right now, particularly, if it is going to hold it up another month.

Mr. EDWARDS: I think you have expressed our point of view very well, Mr. Walker, this was what we were concerned about. We knew that there was a need for some speed in getting this legislation through. As we have pointed out, it has been three years in the incubation process. We were not prepared to hold this up on the basis of deciding whether it should be this word or that word in reference to a clause. We have given you what are our basic and fundamental observations and concerns about this legislation; the things that we would particularly like to see changed. We think that we can live with the other parts of it that we may not be quite ready to accept word for word, but if the opportunity is there and if the Committee wishes it, we would be prepared to

put in a supplementary brief in reference to clauses that we think might be more appropriately expressed and we can let you have this as soon as possible.

Mr. WALKER: Mr. Chairman, if I may I would like to draw this to the attention of the Committee. This piece of legislation, in my judgment, as the months and the years go on, will be amended, as the experiment shows it needs amendment. Does it serve your purpose just as well, having put this wording in your brief, to simply have served notice on the Committee that at some time there are other matters of a detailed nature you would like to talk about, but let us not hold up the legislation?

Mr. EDWARDS: This is essentially it.

The JOINT CHAIRMAN (*Mr. Richard*): I would draw to your attention, Mr. Walker, however, that we have had one brief of the Professional Institute which does suggest a great number of changes, which we will not be able to avoid studying, at least. I would personally think that it might be a very good thing for Mr. Edwards and his association to submit to us a supplementary brief as soon as possible on the more particular changes which he has in mind.

Now, Mr. Hewitt-White.

Mr. W. HEWITT-WHITE (*Executive Secretary, Civil Service Federation*): This is our brief on Bill No. C-181, the Public Service Employment Act.

The Civil Service Federation of Canada, as a major representative of civil servants, is vitally concerned, not only with the implications of the bill providing collective bargaining to the public service; but, equally, with the bill setting out the residual jurisdiction exercised by the Civil Service Commission over the public service.

We are convinced that the Civil Service Commission should exercise full and complete jurisdiction in matters related to recruitment and the protection of the "merit" principle in appointments. In general, we find that the Public Service Employment Act has been designed to provide substantial flexibility to the Civil Service Commission in coping with future and changing conditions in the service. We note also that the act permits the Civil Service Commission to make its own regulations. In general, we agree with this approach because we recognize the limitations with regard to taking corrective action that could result from spelling out circumstances and corrective action in too great a detail in legislation.

Delegation of Powers of Appointment

We note that the bill provides for substantial delegation of powers of appointment of deputy ministers, and the national employment service. While we are not against such delegation, we are concerned, however, that the commission should maintain an adequate audit and control system that would prevent any abuse of the powers of appointment and any departure from the merit principle as the essential basis on which appointment may be made. We believe that audits by the commission under any system of delegation of powers should not be confined solely to post auditing of appointments; but should also include spot checks in regard to the pre-auditing of competitions and the inspection or observations of actual competition procedures.

With regard to section 6, subsection 2 of the act, we feel that substantial difficulties might occur in implementation of such a section, stemming from the fact that the action contemplated would take place after the appointments have been made. We feel that this section should make it possible for the commission to conduct pre-audits and thus not be placed in the position of having to revoke an appointment already made. We feel that the insertion of the words "or is about to be" after the word "been" in the second line of the subsection would correct the situation.

Appointment and Selection Standards

We heartily agree with the principle established in section 10 that appointments to the public service shall be based on selection according to merit. In our opinion, however, this section could be interpreted to apply only to new entrants to the public service, and we feel that this principle should apply to those within the service as well as to those entering the service and we would, therefore, suggest the insertion of the words "or within" after the word "to" in the first line. We also feel that safeguarding of the merit principle requires that, wherever possible, all appointments should be by competition and that only in the rarest of circumstances should there be a departure from this practice. We are concerned, therefore, at the inclusion of the words "or by such other process as the commission considers is in the best interests of the public service" at the end of this section following the words "by competition". We believe there should be a clear definition, in the interpretation section of the bill if necessary, spelling out what the commission has in mind by the words "or by such other process—".

We also consider that it is extremely important to ensure that adequate protection is given to employees in the public service who aspire to normal career progression. We believe it is important that the commission ensure that qualified people in the service should have the first opportunity for promotion. If qualified people are not available, then there should be provision for appointment from outside the service and we consider, therefore, that section 11 is not adequate. In our view, the principle just enunciated should be clearly stated in this act rather than have appointments within the service depending entirely on the opinion of the commission as to whether or not it is in the best interest of the public service. In other words, in any given situation, the commission should be required to demonstrate that qualified people are not available in the service before resorting to appointments from outside the service. We feel that the following wording could be used in place of the present wording of section 11 to accomplish the necessary objective: "Appointments shall be made from within the public service. Where no qualified candidate is found, the commission shall proceed to make the appointment from outside the public service."

Eligibility Lists

Section 17 deals with the subject of eligibility lists. We feel that once such lists are established for any particular class or grade, they should be established for a minimum period. Subsection 2 of section 17 states that "an eligibility list is valid for such period of time as may be determined by the commission in any case or class of case". We fully agree that the Civil Service Commission is probably in the best position to determine the maximum length of time beyond

which an eligibility list need not be continued. We feel, however, that a minimum period of time should be spelled out and recommend the inclusion of the following words: "but in any case, for a period of not less than one year", following the words "or class of case" in the last line of subsection 2.

Appeals

It has long been recognized that an employee had the right to nominate the staff association to which he or she belonged, to represent such employee at an appeal board. Section 21 of this act is silent in this regard and we strongly urge, therefore, that a provision by added to this section that would clearly indicate that an employee organization could represent an appellant before an appeal board if so designated by the employee concerned.

Probation

We note that section 28, subsection 3 entitles deputy heads to give notice of rejection to employees for cause at any time during the probationary period. This is in line with the present act and regulations and while we do not feel that the various causes for rejection need to be spelled out in the legislation, we do feel that they should be spelled out in the regulations pursuant to the legislation.

Priority on Re-Appointment

We consider that it is extremely important to establish an order of priority with regard to re-appointment. In our opinion, this priority should be as follows:

(1) A person on leave of absence

(2) A lay-off

(3) A ministerial assistant who was, prior to such appointment, employed in the public service.

(4) A ministerial assistant who became qualified in the normal way for the public service for a public service position while employed as a ministerial assistant.

As a result of the foregoing, we suggest the deletion of the words "and 37" in section 29, subsection 3, line 11. We also suggest, for the same reason, that section 29, subsection 4 be amended by adding the words "by regulation" after the word "determine" in line 16 and the insertion of the words "for which he is qualified" after the word "competition" in line 17, and the deletion of the remainder of that subsection. We respectfully suggest that the necessary changes also be made to section 37 of the act to reflect the principle established by the order of priority for re-appointment referred to above.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, gentlemen. I think the Committee will agree that this is an excellent presentation. It reflects the knowledge and the experience of your officers over many years of association with the problems with which we are going to deal.

I note that you have no presentation to make on one of the bills—the treasury bill. You do not intend to file any other supplementary brief on that bill particularly?

An hon. MEMBER: The Financial Administration Act.

Mr. HEWITT-WHITE: It was in our title because we did the title page before we realized that—

The CHAIRMAN: Thank you very much.

Mr. KNOWLES: May I ask Mr. Edwards or Mr. Hewitt-White if they have any comment to make on the references in two of the acts and the comments of the Minister on this question of political freedom.

Mr. EDWARDS: We do not have any comments to make at this time. We might like to make a comment when the Committee is interviewing witnesses at some time later.

Mr. BELL (*Carleton*): I wanted to raise that matter, Mr. Chairman, from the point of view of our getting as much basic research information available to the Committee as possible. I believe that the Civil Service Commission probably have available a full survey of the position on political participation of civil servants in other democratic jurisdictions including the provincial jurisdictions.

I wonder if it would be possible for the joint Chairmen or for the Clerk of the Committee to ask the Civil Service Commission if a full memorandum covering this situation might be made available to the Committee and at an early date? I think if it could be made available on an objective basis—we will not call it dignified with a White Paper—but in that objective way, for example, that the material on capital punishment was presented to the House, shall we say. I think all members of the Committee do want to have the basic research material. I have undertaken some of it myself and I do not really want to go any further if it can be done for us in a central way.

Mr. KNOWLES: I would also like to urge the federation, if I may, to give us the benefit of their thinking on this question. Perhaps I might make the point that with respect to most of the bill you are presented with the government's draft and, while the government is willing to consider changes, this is the quintessence of its thinking. But in respect of the political activity question, though there are precise words in two of the bills, the government, I think, in all fairness, has said this is wide open for discussion. I think, if I may say so, does it not give you a little more freedom to comment. I would hope that you might give us a brief on this subject.

Mr. EDWARDS: Well, we would be happy to comment on this, Mr. Knowles, but we were not really aware of the government's position until Mr. Benson made his statement on this, and this was a matter of a couple of nights ago. As you probably know, it has been a very hurried attempt to meet the Committee's objectives in having this material placed before them so it could be on the records.

We felt that we would have an opportunity to appear before the Committee when your Committee meets again to discuss various aspects of the proposed legislation and certainly I hope at that time—I know at that time—we will be quite prepared to discuss this very important question with you.

Mr. BELL (*Carleton*): I think that same invitation ought to be made, Mr. Chairman, to the association and to the Professional Institute. I am sure the Committee would like to hear all the representative staff associations on this very important subject.

The JOINT CHAIRMAN (*Mr. Richard*): Well, I think I indicated that after each brief the members of the associations would be invited to come back at future sittings when we are considering this legislation. And by no means did we consider that this was the last presentation. They were only reading their briefs and we would want the opportunity to question them on the contents of their briefs or any other remarks which they may want to make on the legislation in the future.

But I do agree with your suggestion about political partisanship. At your suggestion, a few weeks ago I started to try and find the legislation which related to political activities of civil servants in other provinces, and that is quite a job if you do not know how to go about it.

The Civil Service Commission or some other agency have already gathered some information. I think we should ask our clerk to obtain all that information and submit it to the members of the Committee so that we may be better informed when the time comes to study this particular feature of the legislation.

Mr. WALKER: Mr. Chairman, I do not think we should ask an association to put it in the form of a brief at all.

The JOINT CHAIRMAN (*Mr. Richard*): No, no, we are not. It would be the Civil Service Commission. We would have to ask the Commission.

Mr. WALKER: All right.

Mr. BELL (*Carleton*): Well, personally what I would like to see is to get our basic research material before the Committee and then I would like to have the federation, the association and the institute comment on the basis of that knowledge which, I think at the moment, may not be available to all of them.

The JOINT CHAIRMAN (*Mr. Richard*): I quite agree, Mr. Bell.

Mr. KNOWLES: I would also hope that the federation, the association, the institute and others, would feel free at some future time to comment on what Mr. Benson has said about some of the matters covered in your brief, in the statement he made after you had prepared the brief. I have in mind, for example, your statement about the dispute settlement on page 8 having to do with section 36. Mr. Benson dealt at some length with this in his statement to this committee a couple of days ago. I assume that this was prepared before he made that statement. I have some comments to make on what Mr. Benson said, and I think we would be glad to have further comments from your federation and the others on this.

The JOINT CHAIRMAN (*Mr. Richard*): Well, gentlemen, I think we have concluded this meeting. I want to thank once again the repesentatives from the Civil Service Federation.

Mr. BELL (*Carleton*): When will we be meeting again, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): You might appreciate, Mr. Bell, that at the present time we cannot hope to meet immediately because next week, for one thing, there are no rooms available for any committee.

An hon. MEMBER: Why not?

The JOINT CHAIRMAN (*Mr. Richard*): Well, those are the instructions I have received. For one thing, the rooms are taken up by the Caribbean Ministers

Meeting, and the two or three committees which are meeting, I understand are on estimates. Secondly, we have no more briefs available at the present time.

Mr. BELL (*Carleton*): Well, I appreciate the importance, Mr. Chairman, of the Caribbean Ministers Conference, but these are the Parliament Buildings in which the business of the Government of Canada is conducted and I would suggest that the Caribbean Ministers go to the Chateau Laurier or some other place and let the Government of Canada be carried on in the place where it is supposed to be carried on.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Bell, I did not say that in that manner and I am sure it has nothing to do with my decision. I would be quite willing to have meetings as long as the House is sitting but, at the present time, there are other briefs to come which are not ready and I do not think it would be wise to start on some other angle of our presentations without having had all the briefs before us.

Mr. KNOWLES: Cannot other organizations—

The JOINT CHAIRMAN (*Mr. Richard*): Well, apparently the CLC is one and the postmasters—

Mr. KNOWLES: I just wanted that on the record.

The JOINT CHAIRMAN (*Mr. Richard*): The Union of Postal workers. Pardon me?

There are at least three now who have indicated that they will have briefs.

Mr. WALKER: Did they give the dates when they will present their briefs?

The JOINT CHAIRMAN (*Mr. Richard*): Well, late in July. Some time after the middle of July. The CLC consider this a very serious matter, so Mr. Jodoin told me in his letter. He will try to have the brief ready sometime in the middle of July. Since he considers that this is a very serious matter he would like to take sufficient time to prepare the kind of brief he wants to submit. At the present time there is nothing further that can be done.

Mr. BELL (*Carleton*): Well, we have put pressure upon the staff association to be here this week. So far as I am concerned, if the House is sitting next week, I think we should go ahead.

The CHAIRMAN: On what, Mr. Bell?

Mr. BELL (*Carleton*): On detail. Let us bring Mr. Benson back and examine him. I venture to suggest that this is a matter which is too important just to be left over for the fall.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Bell, I am going to suggest that what we are doing now should be done in a steering committee. I am quite willing, as a result of your representations, that we should call a meeting of the steering committee. I think that is the proper place for everyone to be in a position to say what they have to say on the order of business in the future.

I will not make my own comments and that is why I am suggesting that it should be before a steering committee.

Mr. KEAYS: Mr. Chairman, are we going to have copies of the Minister's opening statement?

The CHAIRMAN: The Clerk has informed me that we will have a copy of the statement in a day or two.

May I have a motion to adjourn?

Mr. KNOWLES: The way Mr. Bell was speaking it looks as though we should keep the House going another two or three weeks.

An hon. MEMBER: You seem to be able to handle that very well.

Mr. BELL (*Carleton*): I would suggest that we keep the House going till the end of July and finish off the business and get the Government of Canada up to date for a change.

The JOINT CHAIRMAN (*Mr. Richard*): I am sure you are not the only one who feels that way; we all feel the same way. We all want to stay until the end of July and finish the business of the government in an orderly manner.

First Session—Twenty-seventh Parliament
1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget

and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 7

Respecting

BILL C-170

An Act respecting employer and employee relations in the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

THURSDAY, OCTOBER 6, 1966
FRIDAY, OCTOBER 7, 1966

WITNESSES:

Mr. C. A. Edwards, President, Civil Service Federation of Canada; Mr. James P. Dowell, Director of Education, Canadian Union of Public Employees; Messrs. Claude Jodoin, President, and A. Andras, Director, Government Employees Department, Canadian Labour Congress; Messrs. W. Kay, National President, and R. Otto, Vice President, Canadian Union of Postal Workers; Mr. J. M. LeBoldus, National President, Canadian Postmasters' Association; Messrs. R. Decarie, National President, J. Colville, Secretary-Treasurer, Letter Carriers Union of Canada.

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

24640—1

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
ON EMPLOYER-EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate Senators	*Representing the House of Commons*	
Mr. Beaubien (*Bedford*),	Mr. Ballard,	Mr. Lachance,
Mr. Cameron,	Mr. Bell (*Carleton*),	Mr. Leboe,
Mr. Choquette,	[1]Mr. Caron,	Mr. Lewis,
Mr. Croll,	Mr. Chatterton,	Mr. McCleave,
Mr. Davey,	Mr. Crossman,	Mr. Munro,
Mr. Deschatelets,	Mr. Émard,	Mr. Orange,
Mrs. Fergusson,	Mr. Fairweather,	Mr. Ricard,
Mr. O'Leary (*Antigonish-Guysborough*),	Mr. Faulkner,	Mr. Simard,
	Mr. Hymmen,	Mr. Tardif,
Mr. Hastings,	Mr. Isabelle,	Mrs. Wadds,
Mrs. Quart,	Mr. Keays,	Mr. Walker—24.
Mr. Roebuck—12.	Mr. Knowles,	

[1]Replaced by Mr. Hopkins

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

ORDER OF REFERENCE

WEDNESDAY, October 5, 1966.

That the name of Mr. Hopkins be substituted for that of Mr. Caron on the Special Joint Committee on the Public Service.

Attest.

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

24640—1½

REPORTS TO THE HOUSE

THURSDAY, June 23, 1966.

The Special Joint Committee of the Senate and the House of Commons on the Public Service had the honour to present its

FOURTH REPORT

Your Committee recommends that its quorum be fixed at ten (10) members, provided that both Houses are represented.

Respectfully submitted,

Concurred in June 27, 1966
See Order of Reference Page 193

THURSDAY, June 23, 1966.

The Special Joint Committee of the Senate and the House of Commons on the Public Service has the honour to present its

FIFTH REPORT

Your Committee recommends that the House of Commons section be granted leave to sit while the House is sitting.

Respectfully submitted,

JEAN-T. RICHARD,
Joint Chairman.

Concurred in June 27, 1966
See Order of Reference Page 193

MINUTES OF PROCEEDINGS

THURSDAY, October 6, 1966.
(12)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 11.20 a.m., the Joint Chairman, Mr. Richard, presiding.

Members present:

Representing the Senate: Nil.

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Fairweather, Hopkins, Hymmen, Keays, Knowles, Leboe, Orange, Richard, Tardif, Walker (12).

In attendance: Mr. C. A. Edwards, President, Civil Service Federation of Canada; Mr. James P. Dowell, Director of Education, Canadian Union of Public Employees.

The Chairman, Mr. Richard, opened the meeting by indicating which organizations will be presenting briefs to the Committee.

On a request from Mr. Fairweather, the Clerk of the Committee was instructed to obtain a copy of the Final Report of the Governor's Committee on Public Employee Relations for the State of New York, published 31 March, 1966.

The Committee agreed with a suggestion from Mr. Bell that the memorandum dated 15 August, 1966, submitted to the Committee by the Civil Service Commission on the Subject of Political Activity of Public Servants, be printed as an appendix to the proceedings of this day. (*See Appendix I*)

The Chairman invited the Civil Service Federation of Canada to present its supplementary brief on Bill C-170 and Bill C-181. The spokesman then presented two additional briefs representing the resolved differences between the Civil Service Association of Canada and the Civil Service Federation under the merging of the two groups into the Public Service Alliance.

The Committee heard a brief presented by the Canadian Union of Public Employees.

On motion of Mr. Orange, seconded by Mr. Hopkins, a letter from the Montreal Regional Council of the Civil Service Federation concerning bargaining at the regional level concerning local matters, was accepted by the Committee as an appendix to this day's proceedings. (*See Appendix J*)

The meeting was adjourned at 12.30 p.m. to 3.30 p.m. this same day.

AFTERNOON SITTING

(13)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada resumed its meeting this day at 3.37 p.m., the Joint Chairman, Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Deschatelets, O'Leary (*Antigonish-Guysborough*) (2).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton Hopkins, Hymmen, Isabelle, Keays, Knowles, McCleave, Munro, Orange, Richard, Tardif, Walker (13).

In attendance: Messrs. Claude Jodoin, President, A. Andras, Director, Government Employees' Department, Canadian Labour Congress.

On a motion of Mr. Chatterton, seconded by Mr. Tardif, the Committee unanimously agreed to ratify the proceedings of the morning sitting.

The Committee heard the Canadian Labour Congress brief on the three Bills before it. The CLC undertook to provide a listing of government employee groups which are affiliated with the Congress.

At 4.55 p.m., the Chairman, Mr. Richard, adjourned the meeting to 9.30 a.m. the following day.

FRIDAY, October 7, 1966.

(14)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 9.42 a.m., the Joint Chairman, Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Deschatelets, O'Leary (*Antigonish-Guysborough*) (2).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Faulkner, Hopkins, Hymmen, Knowles, Leboe, McCleave, Ricard, Richard, Tardif (11).

In attendance: Messrs. W. Kay, National President, R. Otto, Vice President Canadian Union of Postal Workers; Mr. J. M. Le Boldus, National President, Canadian Postmasters' Association; Messrs. R. Decarie, National President, J. Colville, Secretary-Treasurer, Letter Carriers Union of Canada.

Following the reading of the briefs from the Canadian Union of Postal Workers, the Chairman, Mr. Richard, at the request of CUPW and the Committee, read into the record an exchange of telegrams between the group and the Prime Minister concerning the Montpetit Commission of Inquiry into Working Conditions in the Post Office. (*See Evidence*)

The Committee was presented briefs by the Canadian Postmasters' Association and the Letter Carriers Union of Canada.

At 11.20 a.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, October 6, 1966.

• (11.20 a.m.)

The JOINT-CHAIRMAN (*Mr. Richard*): Order. I see a quorum. Before proceeding with the regular business which is the—

Mr. KNOWLES: Where is the Senator?

The JOINT-CHAIRMAN (*Mr. Richard*): I did not expect that you would bring this matter up, Mr. Knowles, but I have been advised that we can get this meeting at least ratified at the next meeting when the Senator will be here, if you agree?

Mr. KNOWLES: If you will support my bill to abolish the Senate, I will agree!

The JOINT-CHAIRMAN (*Mr. Richard*): Well, I will do that after I get in there.

Order. Since the last meeting we have received a number of briefs from different organizations, which were sent to all the members of the committee, and also the secretary to the committee has prepared an index of recommendations or services which was also forwarded to the members of the committee for their scrutiny, examination and assistance.

I understand Mr. Fairweather and Mr. Bell have a few questions which they want to put before we proceed with the meeting.

Mr. FAIRWEATHER: Mr. Chairman, I just have a request.

There is a special report which has been prepared by a group of university people for the Governor of New York on collective bargaining in the public service of New York State. I understand it is a very interesting and definitive work, and I would request that the secretary write to the officials in Albany and get a copy. I do not say it should necessarily be tabled, but it would be nice to have it as part of our record, if that is agreeable.

The JOINT-CHAIRMAN (*Mr. Richard*): Is that agreeable?

Agreed.

Mr. BELL (*Carleton*): At the last meeting, as appears at page 255, I made a request that the Civil Service Commission should prepare basic research material on political activity of public servants. A document was prepared by the secretary of the Civil Service Commission, and distributed. It is dated August 15. I think this should have as wide circulation as possible early in our proceedings, and I would like to propose that the memorandum prepared by the secretary of the Civil Service Commission, dated August 15, 1966, on the subject of political activity of public servants, be made an appendix to today's proceedings.

The JOINT-CHAIRMAN (*Mr. Richard*): Is that agreeable?

Agreed.

The JOINT-CHAIRMAN (*Mr. Richard*): Are there any other preliminary matters to be discussed?

I might say, for the information of all the members, that after the briefs listed for this morning and this afternoon have been read, we will proceed with hearing a brief presented by the C.L.C. through Mr. Andras this afternoon instead of next week because that date is not suitable to them.

The first brief to be presented this morning is a supplementary brief from the Civil Service Federation. Mr. Claude Edwards.

Mr. C. Edwards, President of the Civil Service Federation: Thank you, Mr. Chairman. Honourable members, I would like to make just a short supplementary statement—and we seem to be using the term supplementary in briefs and so on, all the time. Since we last met with your committee, the Civil Service Federation and the Civil Service Association of Canada have agreed to merge and form a new organization—a new body—called the Public Service Alliance, and as a result of that the representatives of the two organizations on the provisional committee of the Alliance have examined the provisions previously put forward by the two organizations separately and we have prepared short papers giving the position now of the new organization, as closely as we can develop it, in reference to any areas that might be considered areas of disagreement previously between the two organizations.

The first brief which I would like to read is the supplementary brief which was spoken of at the last committee meeting when the Federation was asked to prepare some supplementary material in regard to areas of the bill on which we had not previously commented. We have done this and this was delivered to the committee, I believe, early in August. The other three supplementary bills you have have just received today. Unfortunately, we have not as yet received the French translation of the last two; we apoplogize for this, and we will have the French translation in your hands within a matter of a day or two.

The attached supplementary brief on Bill C-170—"An Act respecting employer and employee relations in the Public Service of Canada" and on Bill C-181—"An Act respecting employment in the Public Service of Canada" is submitted further to the brief presented to the Parliamentary Committee on June 30th, 1966, by the Civil Service Federation of Canada.

The original intention of the Civil Service Federation, as noted in the initial brief, was to refrain from commenting on those clauses of the Bill where it is believed the language might be improved or the intent of the legislation more clearly or appropriately expressed. The view taken was that the committee would be concerned primarily with the broad principles of the legislation and in consequence the brief then presented reflected this expectation. The Chairmen of the joint committee did, however, particularly invite the submission of a supplementary brief by the Federation of observations in the former area.

It was also suggested that the Civil Service Federation might wish to express an opinion on the subject of participation by public servants in the field of political activity. The views of the Federation in response to this suggestion are also contained in this supplementary brief.

Bill C-170—Remaining Areas of Principal Concern.

1. Section 2(*p*) "*Grievance*"

For the reason stated on page 12 of the initial brief under the heading "Processing of Grievances", it is recommended that after the word "employee" in the third line, the following be inserted, "or by the bargaining agent of an employee or group of employees".

2. (*a*) Section 2(*u*) (iv) "*Persons employed in a managerial capacity*"

Because of the broad meaning associated with the term "Personnel Officer", it is recommended that the words "Personnel Administrator" be substituted in lieu.

(*b*) Section 2(*u*) (vii)

The words "tend to" in the fourth line are considered superfluous and should be deleted. The duties and responsibilities of the individual to the employer will indicate whether a conflict of interests exists.

3. Section 7 "*Right of Employer*"

As worded, this section is too restrictive and prohibits any objections being raised by the bargaining agent to possible unrealistic groupings of employees by the employer. It is recommended that the phrase "Subject to the provisions of any collective agreement" precede this section as now worded.

4. (*a*) Section 8(2) (c) (ii) "*Discrimination against members and intimidation*"

The phrase "or proposed to be employed" in the penultimate line of this sub-clause is considered to be too indefinite and in consequence, open to misapplication. It is recommended that these words be deleted.

(*b*) Section 8(2) (c) (i) and Section 8(2) (c) (ii)

Membership in an employee organization should be a bargainable issue and not just a continuance. It is recommended that the referenced sub-section be re-structured, as follows:

After the word "employee" in the fourth line of sub-section (3) (2) (c) add the words "except as otherwise provided in a collective agreement"

(i) to continue to be, or

(ii) to become, refrain from becoming or cease to be a member of an employee organization, or to refrain from exercising any other right under this Act; etc.

5. Section 20(1) "*Complaints*"

As worded, this sub-section infers permissive action by the board whereas it should be mandatory. It is recommended that the word "may" in the first line be deleted and the word "shall" inserted in lieu.

6. Section 23 "*Questions of law or jurisdiction to be referred to Board*"

To emphasize a degree of urgency and to obviate untoward delay in the action by the Board, it is recommended that the word "forthwith" be inserted after the word "determination" in the sixth line of this section.

7. Section 41(4) *"Revocation of certification of employee organization"*

In our view, the Board should not be empowered to revoke the certification of an employee organization, on application of another person, until a representation vote is taken. In consequence, it is recommended that this section be amended, as follows:

> "After hearing any application under sub-section (1), the Board shall *not* revoke the certification of an employee organization as bargaining agent for a bargaining unit *until* it is satisfied, *through the taking of a representation vote*, that a majority, etc."

8. Section 43(1) *"Certification obtained by fraud"*

Inasmuch as fraud should be clearly established before certification of a bargaining agent is revoked, it is recommended that the words "it appears to the Board that" in the first line be deleted.

9. Section 53 *"Request for conciliation"*

To avoid any delay in the appointment of a conciliator, a reasonable time limit should be established. Accordingly, it is recommended that the word "may" in the sixth line be deleted and the words "shall, within seven days or within such other period as is agreed on by both parties", be inserted in lieu.

10. Section 70(3) *"Matters not to be dealt with by award"*

This subsection is considered to be too restrictive in content. It is believed that the standards, procedures or processes governing the appraisal, promotion, demotion, transfer, lay-off or release of employees should be subject to negotiation and therefore also arbitrable. It is recommended that the words "appraisal, promotion, demotion, transfer, lay-off or release" be deleted from the third and fourth lines.

• (11.30 a.m.)

11. Section 73(2) *Limitation on term of award.*

It is considered that both limits of time on the term of an award should be specified. It is recommended that the words "not more than two years" be inserted after the words "one year" in the fourth line.

12. Section 73(3) *Term of award made next following initial certification.*

Because the initial period may not apply as in subsection 73 (3), in that certification may only take place several years hence, it is important that subsection 73 (2) modify subsection 73 (3). It is recommended that subsection 73 (3) be renumbered as 73 (1) (c) and thus have the limitation in subsection 73 (2) contain the reference "paragraph (a), (b) or (c) of subsection (1)."

13. Section 75 *Reference back to arbitration tribunal.*

As it is considered that the decision to refer any matter in dispute back to the arbitration tribunal would be quite properly made by the board, it is recommended that the words "to him" in the third line be deleted and the words "the board" be inserted in lieu.

14. Section 86 (3) *Matters not to be dealt with by report.*

For the reasons given in recommending the amendment to subsection 70 (3), it is again recommended that the words "appraisal, promotion, demotion, transfer, lay-off, or release" be deleted from lines three and four.

15. Section 86 (4) *Reconsideration of matters contained in report.*

It is suggested that this subsection be based on section 29 (4) of the Ontario Labour Relations Act. Accordingly, it is recommended that the words "reconsider and" be deleted in line four.

16. Section 90 (3) *Right to be represented by employee organization.*

It is considered that representation must be made by a certified bargaining agent and it is recommended that the words "employee organization" be deleted in lines four and five and the words "bargaining agent" be inserted in lieu.

17. Section 96 (5) *Action to be taken by employee or employee organization.*

It is considered that the employee organization referred to would be acting in the capacity of the bargaining agent. In consequence, it is recommended that the words "employee organization" be deleted where they appear in two instances in this subsection and the words "bargaining agent" be inserted in lieu.

18. Section 97(2) *Where no adjudicator named in agreement.*

In respect of the costs payable by the person presenting the grievance, it is recommended that the maximum costs be specified. It is considered that costs should not exceed $250.00 for any one action.

19. Section 99(1) (h) *Authority of the board to make regulations respecting grievances.*

It would appear that the word "employer" in line two is a typographical error and should be "employee". Assuming this is the case, it is considered that the reference to "employee organizations" is incorrect and should be replaced by the term "bargaining agents".

With reference to Bill No. C-181, section 32 political partisanship.

The following comments reflect the opinion of the Civil Service Federation on the subject of participation by public servants in the field of political activity.

The Civil Service Federation of Canada supports a relaxation of the prohibition against partisan political activity by public servants.

In the view of the federation, permissive political activities by public servants should include the right of the individual, on behalf of his own candidacy, to participate in municipal and local politics without restriction and subject only to a code of conduct and ethics for government employees.

In the realm of provincial and federal political activity, we are of the opinion that the public servant should be permitted to proceed on leave of absence without pay in order to be a candidate in a provincial or federal election.

In the event a public servant is elected to a provincial or federal office, we believe the regulations requiring his resignation from the public service must be attended with a provision which permits his re-appointment on ceasing to be an elected political representative.

The federation is also of the opinion that, except on leave of absence without pay, a public servant should not: (a) canvass on behalf of a candidate in a provincial or federal election, or (b) speak in public or express views in writing on behalf of a provincial or federal political party.

I would like to deal first with the supplementary brief to the parliamentary committee on Bill No. C-170.

As members of the parliamentary committee are aware, the Civil Service Federation and its affiliates and the Civil Service Association of Canada, during the past few months have agreed to merge and form a new organization called the Public Service Alliance of Canada. As a consequence of this merger, the two organizations making up the Public Service Alliance, the Civil Service Federation and the Civil Service Association, have agreed to resolve differences in their position with respect to Bill No. C-170. This brief presents the new single view of the two organizations with respect to those sections of the bill where the two organizations had previously expressed some difference of opinion.

Section 11—The Public Service Alliance is of the opinion that the matter of consultation with the government on the appointment of chairman of the board, vice-chairman of the board, chairman or members of the arbitration tribunal or adjudicators, should be an informal one and not covered in the legislation as a requirement. We do not believe the government would appoint people to these positions without consultation and we believe an informal system of consultation is preferable to a formal one.

Section 11(c)—The Public Service Alliance agrees with the provisions of the bill that provide for a longer term for the chairman than the members of the board. They also believe that the chairman, vice-chairman and members of the board, should be subject to removal without a joint address of the House and Senate, since there well may be circumstances where we may petition for removal by the Governor in Council on a confidential basis because of inability of a member to carry out his duty. It might be well nigh impossible to remove a member for just cause if it could only be done by a joint address of the House and Senate. Removal by the Governor in Council, however, should only be for cause and after consultation with the interested party.

Section 19(1) (d)—In its brief to the Parliamentary Committee, the Civil Service Association of Canada suggested an amendment to this section so that a decision of the Public Service Staff Relations Board should be appealable to the Canada Labour Relations Board. The C.S.A.C. is now prepared to withdraw this view in favour of that of the P.S.A.C. which believes that the Public Service Staff Relations Board should be the final authority in the making of regulations governing its powers and duties.

Section 19(2)—The Public Service Alliance does not support the position that appeals should be made to the Cabinet and with this the Civil Service Association of Canada now concurs. The Public Service Alliance believes that the Public Service Staff Relations Board should review its own decisions.

An appeal with reference to the board exceeding its authority should be through the courts.

Section 23—The Public Service Alliance agrees with the section of the act as worded with the addition of the word "forthwith" following the word "determination".

Section 28—The P.S.A.C. agrees with this section of the bill as presently worded.

Section 35(1)(d)—The P.S.A.C. accepts this section of the bill as presently worded.

Sections 36(1) and 37—The P.S.A.C. concurs in the position of the Civil Service Association of Canada with regard to this section. We believe it is appropriate for the bargaining agent to signify the option for dispute settlement at the time there is an impasse in bargaining and not before.

Section 44—The Public Service Alliance accepts this clause as presently worded.

Sections 45 and 47—The Public Service Alliance agrees with the Civil Service Association's request for clarification of both these sections.

Section 51(b)(iii)—The Public Service Alliance accepts the proposition of the appointment of a conciliation board or conciliation by the chairman. We believe a request for a conciliation board should be acted on with despatch and making the appointment a requirement by the board could delay the process.

Section 71(2)—The Public Service Alliance has reviewed the concept of minority or majority reports and believes that decisions should be a decision of the board or arbitration tribunal and should be over the signature of the chairman. The Civil Service Association now supports this view.

Section 74—The Public Service Alliance is prepared to accept the 90-day period for implementation providing this does not preclude any agreement or retroactivity of the award.

Section 75—The Public Alliance supports the position of the Civil Service Association in this clause, namely that the board, rather than the chairman, should refer a matter back to the arbitration tribunal.

Section 78—The Public Service Alliance is prepared to accept the decision of the chairman with regard to the appointment of a conciliation board but believes section 25 should be amended to permit the board to review, not only its own decisions, but decisions of the chairman, members and officers of the board.

Section 79(1)—We agree that "safety and security" should be defined.

Section 80(2) and (3)—Once again we accept the decision of the chairman, provided that section 25 is amended to permit a review by the board of the chairman's decision.

Section 83—The Public Service Alliance accepts this clause, subject to the power of review by the board.

Section 86—The Public Service Alliance is quite prepared to accept the decision of the chairman but, again, would make his decisions subject to review by the board.

Section 97—The Public Service Alliance position in respect of this section is that since provision can be made in the agreement for the appointment of a conciliator and in the event of a conciliation board, both parties may nominate a member, if the parties fail to make provision in the agreement, or do not want a board, they should not have a choice in the assignment of a negotiator. Departmental Components. Since the Alliance will be composed of components within a department that differ in some respects from the former Departmental Associations of the Federation, the references to Departmental Associations should be somewhat modified. The Alliance believes that Departmental components that represent the majority of employees in a department should be given exclusive rights to deal with departmental matters that are not prescribed by a collective agreement bargained at the centre.

• (11.40 a.m.)

Reference to Bill No. C-181. Both the Civil Service Federation of Canada and the Civil Service Association of Canada presented their views on Bill No. C-181. There is no conflict in these views. Each of these organizations supports the views already put forward to the Parliamentary Committee by the other organization. There are, however, certain sections of the Bill where both organizations, while agreeing with the views put forward by the other organization, have referred to different aspects or parts of these sections. In order that there may be no misunderstanding in the minds of the members of the Parliamentary Committee as to our agreement on these sections, we wish to refer briefly to them here.

Section 6 Re: Delegation of Authority on Appointment

The Civil Service Association of Canada (C. S. A. C.) states that, should this delegation of authority be abused, then the Civil Service Commission should be required to make a full report, naming the department or departments involved, in its annual report to Parliament. The Civil Service Federation of Canada (C. S. F.) has stated that, in its view, potential abuses of the delegation of authority might be averted if the Civil Service Commission were required to conduct pre-audits as well as post-audits of appointments by departments. Both organizations support the view enunciated by the other with respect to this section.

Section 10 Re: Appointments and Selection Standards

The C. S. A. C. proposes that the word "process" as used in this section should be subject to clear definition. The C. S. F. also stated that there should be a much clearer definition of the words "or by such other process", and also suggested that wherever possible all appointments should be by competition. Both organization are, therefore, of a common view on this section.

Section 11 Re: Appointments and Selection Standards

The C. S. F. considers that section 11 as worded in the Bill is inadequate and states that the Civil Service Commission should be required to demonstrate that qualified people are not available in the Service before resorting to appointments from outside the Service. The C. S. A. C has made no specific recommendation on this section in its brief but agrees with the view expressed by the C.S.F.

Section 17 Re: Eligible Lists

The C. S. A. C. objects to the fact that there is no requirement in this section that eligible lists should be published in the Canada Gazette. The C.S.F. believes that eligible lists should be valid for a period of not less than one year although agreeing that the maximum length of time for the continuance of eligible lists might well be determined by the Civil Service Commission. Both the C.S.A.C. and the C.S.F. support the views put forward by each other.

Section 21 Re: Appeals

The C. S. F. objects to the fact that this section makes no provision for the right of appellants to be represented by their staff associations. The C. S. A. C. does not refer to this section in its submission to the Parliamentary Committee but supports the objection expressed by the C. S. F.

Section 26 Re: Resignations

The C. S. A. C. points out that, unlike the corresponding section in the previous Civil Service Act, this section makes no provision for Deputy Heads acknowledging in writing notices of resignation given in writing by employees. The C. S. A. C. considers that such a provision should be included in this section. It also proposed that the written acknowledgment by the Deputy Head should indicate that separation will be effective as indicated in the employees' notice. With these views, the C.S.F. wholeheartedly agrees.

Section 27 Re: Abandonment of Position

The C. S. A. C. points out that this section makes no provision for special circumstances by which an employee may involuntarily have vacated his post for a period of one week or more. It refers to cases such as those of a civil servant who may suffer a serious accident while on leave in some distant city or part of the country. The C. S. F. agrees with the C. S. A. C. that this section should make provision for such special circumstances.

Section 28 Re: Probation

The C. S. A. C. points out that the present Civil Service Act sets a time limit of one year as a maximum period for employees to be on probation and suggests that subsection 1 of this section include a similar provision. The C.S.F. agrees with this view.

The C.S.A.C. points out that subsection 3 of this section does not require, as does the present Civil Service Act, that Deputy Heads should detail reasons for decisions to reject employees for cause during the probationary period and recommends that this requirement be incorporated in the present bill. The C.S.F. agrees with the recommendation of the C.S.A.C. in this respect. The C.S.F. does not believe that the reasons for cause need to be spelled out in the legislation but they should be spelled out in the regulations pursuant to the legislation.

Section 29 Re: Lay-Offs

The C.S.A.C. recommends that this section should specify that with respect to lay-offs and rehiring the policy of "last off first on " should prevail. The C.S.F. agrees with this point of view.

The C.S.F., in looking at this section and also at section 37, proposes that, with respect to re-appointment, the following order of priority should be adopted: (1) persons on leave of absence, (2) lay-offs, (3) ministerial assistants previously employed in the Public Service, (4) ministerial assistants not previously employed in the Public Service. The C.S.A.C. agrees with this point of view.

Section 31 Re: Incompetence and Incapacity

The C.S.A.C. proposes that incompetence should be capable of definition and should be so defined in the legislation. The C.S.A.C. also points out that the appeal provision as proposed in subsection 3 of this section is unsatisfactory in that it makes no provision for appellants to be represented by their staff associations and proposes that this subsection be amended to provide that employees should have the right to be represented if they so desire. The C.S.F. agrees with the proposals of the C.S.A.C. and, in addition, considers that any action which may give Deputy Heads the right to recommend release for alleged incompetence or incapacity should be subject to grievance procedure as provided for in the Public Service Staff Relations Act.

Section 32 Re: Political Partisanship

Both the C.S.F. and the C.S.A.C. have expressed their views on this matter. Both support the view of the other that public servants should be as free as any other citizens to take a normal interest in the political affairs of their country and to support whatever party or candidates they desire saving only that they should not, while occupying posts as public servants, speak openly or canvass openly on behalf of a particular provincial or federal candidate or a particular provincial or federal political party.

BILL C-182

Introduction

While the C.S.F. has not yet made specific representations to the Parliamentary Committee on Bill C-182 the C.S.A.C. has expressed some concern about section 7, particularly subsections (d) to (i), which invest the Treasury Board with the authority to determine pay and conditions of employment, particularly during the transitional period before the actual commencement of collective bargaining. The C.S.A.C. proposes that the authority of the Treasury Board to determine pay and conditions of employment during the transitional period should be limited by transitional provisions which would provide that present conditions shall continue unchanged until changed by collective agreements under collective bargaining. The C.S.F. agrees with the view expressed by the C.S.A.C. in this respect. The C.S.F. is also concerned that section 7 specifically provides for the determination of pay and conditions of employment under subsections (d) to (i) inclusive "not withstanding any other provision contained in any enactment". The C.S.F. feels that such powers of determination should be subject to the provisions of collective bargaining as spelled out in the Public Service Staff Relations Act. The C.S.F. proposes, therefore, that in subsection 1 of section 7 there should be inserted following the words "contained in any enactment," the words "except as contained in the Public Service Staff Relations Act,". The C.S.F. feels that it is most essential that the Financial

Administration Act should not contain provisions which might be in conflict with those contained in the Public Service Staff Relations Act. The C.S.A.C. agrees with the views of the C.S.F. in this respect.

The C.S.A.C. has also expressed concern about the lack of right of appeal, particularly with reference to subsection 8 of section 7, which states that any order made by the Governor-in-Council is conclusive proof of matters stated in relation to the suspension or dismissal of persons in the interest of the safety or security of Canada or allied states. The C.S.F. endorses the concern expressed by the C.S.A.C. in this connection and suggests that subsection 8 of section 7 be amended to provide that following the words "Canada or any state allied or associated with Canada" there should be the following inserted, "except that any employee may, in person, or through his designated representative, appeal to the Governor-in-Council to review his dismissal". This merely requires that, upon request of a person affected by this section, the Governor-in-Council should be required to review its own decisions. This appears to both the C.S.F. and the C.S.A.C. as nothing more than a right which is already guaranteed under mandamus to every citizen under our common law.

• (11.50 a.m.)

The JOINT CHAIRMAN: Thank you very much, Mr. Edwards. As members will appreciate, my task will be made a little easier due to the fact that these two large organizations, the Civil Service Federation of Canada and the Civil Service Association of Canada, are now united in their views on the amendments which have been presented this morning.

Just for the information of the committee I was going to ask Mr. Edwards how many members does the Public Service Alliance of Canada represent now.

Mr. EDWARDS: It represents approximately 112,000 members.

The JOINT CHAIRMAN (*Mr. Richard*): One hundred and twelve thousand members. We will have the opportunity to hear you later when you come before us for questioning. Thank you very much, Mr. Edwards.

Mr. KNOWLES: Are questions not in order at this moment?

The JOINT CHAIRMAN (*Mr. Richard*): The next brief will be the brief of the Canadian Union of Public Employees, presented by Mr. Dowell, Director of Education. Has everybody got a copy of the brief?

Mr. J. P. Dowell (Director of Education): The brief of the Canadian Union of Public Employees.

Mr. Chairman, and members of the committee, may I extend my regrets that the National Clerk of the Committee of the Canadian Union of Public Employees is unable to attend today. He is bedridden with a serious bout of the 'flu. I have been assigned the task, and without any further ado I will get right into reading the brief. I assume that the gentlemen here like to eat on time, so I will try to read as quickly as possible.

Mr. Chairman and honourable members of the Committee, the Canadian Union of Public Employees submitting this brief appreciate the opportunity to express their views on Bill 170, respecting employer-employee relations in the Public Service of Canada.

CUPE has constantly supported and sought the introduction of collective bargaining for employees in the Public Service. This submission is, therefore, an extension of our views expressed at different times and on different occasions.

We recognize the fact that this special joint committee is not a forum for voicing our union policy and we wish to touch only upon matters covered by the terms of reference of the Committee studying and considering Bill C-170 which has been referred to it.

At the outset we should perhaps explain the make-up of our organization and how it functions.

The Canadian Union of Public Employees, an affiliate of the Canadian Labour Congress, is devoted exclusively to protecting the rights and improving the working conditions of Canadian Public Service employees. The largest Canadian Union, CUPE has a membership totalling more than one hundred thousand in seven hundred locals in all ten provinces. Our members are employed in hospitals, nursing homes, homes for the aged, public utilities, school boards, provincial governments, municipalities and their local boards, and commissions, Crown corporations, social agencies, penal institutions, libraries, universities, and other institutions under provincial and federal labour jurisdiction.

The Union has a long experience with labour-management relations in the Public Service and has been able to check in its daily experience the advantages and disadvantages of Canadian labour legislation and other related acts. The main objectives of the union under its constitution are: (1) the organization of workers generally, and in particular all workers in the Public Service of Canada: (2) the advancement of social, economic and general welfare of public employees; (3) the defence and extension of the civil rights and liberties of public employees and the preservation of free democratic trade unionism from attack or infiltration by communists, fascists or other hostile subversive influences.

(d) The improvement of the wages, working conditions, hours of work, job security and other conditions of public employees.
(e) The promotion of efficiency in public service generally.

(Article 2—Section 1)

Section 2 of the same Article provides, inter alia, that the objectives of the Union are to be accomplished through the following methods.

(a) Establishing co-operative relations between employers and employees.
(b) Promoting required desirable legislation.

We are therefore committed under our Constitution to make representation to the special joint committee of the Senate and of the House of Commons on employer-employee relations in the Public Service of Canada.

Changes are taking place in the last few years in public administration as a result of the progressive transformation of our country. These changes are reflected both in the psychological aspects of public administration as well as on the legal side.

By undertaking increasingly heavy and varied responsibilities in the economic and social fields, the federal government is assuming more and more the

character of an employer towards its employees. The government has become the largest employer in Canada and its work force comprises almost every occupation, trade and profession. Therefore, the effect of any system of collective bargaining which is established will have a sharp impact on employer-employee relations in all public enterprise, in the private sector of the economy and on labour relations legislation.

It is an error to suppose that public service is sealed off from the rest of the labour force of the nation. It is a large and integral part of this force.

Traditionally, all labour legislation is predicated on the concept that orderly collective bargaining is in the dominant public interest as well as that of the employer and employee, and that this can be best facilitated through the provisions of the Labour Relations Act.

I might clarify this reference to the Labour Relations Act. We are talking in federal terms, such as the Industrial Relations and Disputes Investigation Act.

If these provisions are considered to be beneficial to the ordinary employer and employee, it would appear that they would also be beneficial to employees subject to the Public Service Act.

The ILO Committee of Experts on Conditions of Work and Service of Public Servants, during its meeting in Geneva in November and December 1963, noticed, that "the rapprochement between labour law and public administrative law was more pronounced in some countries than in others". We do not intend today to dwell on the sometimes complex causes of these changes, the different forms in which they manifested themselves and their effects on the attitude of the State towards its employees.

In view of our previous remarks, we just wish to express our regrets that the Canadian Government did not suitably amend and overhaul the Industrial Relations and Disputes Investigation Act to cover the federal Public Service rather than to create separate machinery under this proposed legislation. The Industrial Relations and Disputes Investigation Act badly needs a thorough overhaul anyway and so evidently our legislators could have modernized our basic labour Law which predominantly affects an industrial sector of our economy and at the same time they could have extended the coverage of this Act to embrace "mutatis mutandis" employer-employee relations in the Public Service of Canada.

Instead, the Public Service Staff Relations Act emerged on the old and already outmoded basis of the Industrial Relations and Disputes Investigation Act as a new superstructure well fed again by an old-fashioned philosophy that relations of public employees to their employing agencies are different from those between employees and employers in the private sector. Many of us in the trade union movement see the proposed Act as a peculiar blend of areas of extremely rigorous legalistic definitions and wide generalities which may provide a rich field day for the lawyers.

• (12 noon)

Be it as it may, we expect and hope that the present legislation will be subject to changes as time goes on and until further changes are made then we have to live with Bill No. C-170 as amended by this Committee.

We believe that our comments are aimed at certain improvements so that the proposed law be freed from its major defects. To these ends, we respectfully submit this brief.

The proposed legislation is long, full of details, complex and difficult to comprehend. However, to all of us, familiar with the labour legislation in Canada, it is clear that it follows quite closely a pattern of our existing labour Laws.

The same matters that are dealt with in the Labour Acts and govern employees in the private sector, are also dealt with in the PSSR Act as well as some other additional matters that are "unique" to the Public Service.

Before we turn to individual sections of the Bill C-170 seriatim, we wish to make one general observation. Undoubtedly, the key person in the proposed legislation is the Chairman, of the Public Service Staff Relations Board. In addition to the normal duties and heavy responsibilities of a Labour Relations Board chairman, on his shoulders will fall the functions normally assigned to the Minister of Labour in industrial relations in the private sector. Throughout the bill, there is a tendency to grant abnormal powers to the Chairman. It is our recommendation that all provisions of the act dealing with unilateral decisions of the Chairman be so amended as to provide for authority to reside in the board. Other matters of a purely administrative nature, or routine business and some cases requiring quick action, such as appointment of members of conciliation boards and so on, should be left in the hands of the Chairman.

Bill No C-170 is excessively restrictive on both the employer and employee to work out their collective bargaining relations. It eliminates entire areas of conditions of employment from the realm of collective bargaining and restricts those areas in which collective bargaining may be exercised.

Section 7 (management rights) is too restrictive. We think that an amendment is needed to communicate clearly the intention of the legislation which is not to provide the Treasury Board with unilateral power to determine terms and conditions of employment without reference to the obligations imposed upon it as an employer by the collective gargaining legislation.

The prohibitions contained in Section 8 are rather wide in general but we are here mainly concerned with the words "or proposed to be employed in a managerial capacity" (section 8, subsection 2). This may be used as an excuse in certain cases of intimidation and discrimination against members.

Section 11(1) may indicate that an employee organization will be consulted about appointment of board members "of the interest of employee (employer)". However, subsection 3 is not specific enough and we would recommend an appropriate amendment to make sure that the board members are appointed after consultation with the employer and the employee organization.

It is our opinion that the appointment of the Chairman and the Vice-Chairman for ten (10) years as provided in section 11 (2), is too long and should be reduced to a maximum of seven (7) years. By the same token the appointment of members of the board should not exceed a period of five (5) years.

Section 13(1) and section 61(1) and section 80(6) involving the eligibility of board members are unduly restrictive.

Section 19(1)(k) in conjunction with section 28(1)(b): Powers and duties of the board are wide-reaching and it seems to us that any interference by the board regarding the relationship of employee organizations to each other and to the employees therein would be an unwarranted intrusion. It may be argued that the meaning of section 19(1)(k) is rather specific, as it says "for the purposes of this act", but then this provision is superfluous and should be deleted.

We submit that Section 22(e) should not allow members of the board to "interrogate any person respecting any matters", but this right should be strictly limited to matters pertaining to employer and employee relations in the public service.

Section 23: Arbitration and adjudication procedures should continue pending determination of the question of law or jurisdiction unless the board otherwise directs. In other words, we suggest that the procedure in the present section 23 should be reversed. This is to avoid inordinate delay in the disposition of grievances.

Section 36: We are opposed to arbitration of economic disputes in principle and we prefer and advocate a process of disputes settlement directly comparable to that provided in the Industrial Relations and Disputes Investigation Act. However, if we have to live for some time to come with two alternatives, separate and distinct dispute settlement processes, namely compulsory arbitration or the right of strike action, we would respectfully suggest that the choice should be made by the employee organization prior to the establishment of negotiations and not prior to the establishment of bargaining relationship.

Section 37(2):The restriction of three (3) years waiting before allowing for a change in the process of resolution of disputes seem unnecessary. It would appear to be more reasonable to limit it only to the life of a current collective agreement or arbitral award or leave it to a vote directed by the board any time following the application of the employee organization.

Section 38(5): There is no reason for the board to be compelled to wait 180 days before granting a request for a change in the process. There will be enough unavoidable delays in administering the act without inserting unnecessary, frustrating delays on a compulsory basis.

Section 39(2) (a) (b) and (c): Our union has constantly pressed for the grant of political rights for civil servants. Our argument is that public employees should enjoy full political rights as one of the fundamental social rights enjoyed by the rest of citizens of this democratic country.

In support of this argument, we deliberately quote the United Kingdom as an example in view of the adaptation of their methods in most of our public matters. The State employees in the U.K. enjoy the right of participation in national and local political activities and the right of joining and financially supporting political parties (with certain limitations in respect of the higher ranks of the administration). There is absolutely no restriction on the public servants contributing to the political fund of any political party if the trade unions desire to have such a political fund by majority decisions. In fact, the Union of Post Office Workers has a political fund from which they contribute to the labour party, and so on. In all advanced countries of Europe, Norway,

Sweden, Denmark, West Germany, France, Italy, Switzerland, Austria and Belgium, the State employees are granted full civil liberties and political rights.

We therefore urge most emphatically the deletion of Section 39(2).

Instead, we recommend inclusion of check-off privileges for all certified employee organizations.

Section 41(1): We would suggest to delete the words "any person" and replace them with "any organization of employees". This would be in conformity with the collective and representative nature of the proposed legislation.

Section 44(b): In view of what we said with regard to section 28 we suggest this sentence be deleted.

• (12.10 p.m.)

Section 56(2)(a): As it stands, this provision constitutes an absolute bar against inclusion in collective agreements of matters which are presently governed by independent legislation. It would also make it impossible for the bargaining agent to seek to effect legislative changes leading to improvement in the conditions of employment. The result would be a serious restriction of free collective bargaining. It is our belief that the Government should submit to Parliament any legislation or amendments to any existing legislation which may be required to give effect to a collective agreement. Of course, we realize that the action of the Government would be subject to the overriding authority of Parliament.

Section 57(3): If we understand correctly the language of this section, it provides for unreasonable time limits requiring that first collective agreement if entered into within 30 months after eligibility for collective bargaining shall expire no sooner and no later than at the end of that 30-month period.

Section 63(1)(b) provides for unresolved items to be referred to arbitration within seven (7) days after the signing of a collective agreement. We suggest that this paragraph be deleted because no arbitration should be granted after signing of a collective agreement unless the agreement specifically provides for the reference of such matters to arbitration. The amendment would avoid misunderstanding or even bad faith by either party which could appear to have dropped a request during negotiations without specifically agreeing to withdraw such request and, on conclusion of an agreement, surprises the other party by applying for arbitration on matters apparently dropped.

Section 70 (3-4) is too restrictive. We believe that although the arbitration in this sense is a substitute for collective bargaining, an arbitral award may deal with any term or condition of employment that could be referred to a conciliation board if the employee organization so elected under the act.

We suggest a deletion of the provision in the proposed subsection 4 of Section 70 which seeks to prevent the publication of reasons or material for information purposes relevant to an arbitration award. Such provision is unfair to the parties and encourages autocratic approach by an arbitration tribunal. It also deprives the parties of a possibility to study the award from technical and instructional point of view.

Section 71(1): Much of a value would be lost should the legislation bar the members of the tribunal from writing minority reports or making any com-

ments. We suggest a deletion of the words "and no report or observations thereon shall be made or given by any other member".

Section 74: Implementation of the award should not be extended beyond the 90 days except at the request of both parties.

Section 75: We would propose a deletion of the words "it appears to him" because it gives the chairman unprecedented power to have a second look at the arbitration award or a power to have the award reviewed at his sole discretion. This power, we recommend, should be given to the board.

Section 79(5): This subsection requires that the bargaining agent notify all employees in the unit who are designated employees. We propose a minor amendment. The board (or the employer) should notify these employees, as all of the employees in the unit are not necessarily members of the organization that is the bargaining agent.

Section 83 in conjunction with Section 86(4): We wish to express an objection to this Section. Actually this requires that the chairman of the board draw up the terms of reference on the items in dispute for the conciliation board. Where or how the chairman is to obtain his information on the items in dispute is not clear. Section 53 does not require the applicant for a conciliation to specify the item in dispute or the proposals of the parties. Even if this were required, some of the items could be resolved through the assistance of the conciliator. Again it could be that the information of the chairman would come from an application under Section 77 or consultation with the parties under Section 78. In any event it would seem that to define the terms of reference is a dangerous and unecessary function for the chairman in this instance. We suggest that the parties themselves should define their terms of reference and proposals and that the chairman should have no function in this matter other than ruling in accordance with the limitations of the act whether or not the items in question were appropriate for collective bargaining. The power of the chairman to amend, add thereto or delete from the terms of reference would be unnecessary if the conciliation board was empowered to rule on the terms of reference based on the submissions of the parties and subject only to the restrictions contained in the act.

Sections 90, 91 and 94(2) deal with the right of employee to present grievances on his own behalf and to refer same to adjudication. We wish to point out that in collective employee-employer relationship this right is normally reserved to the bargaining agent under the terms of a collective agreement. On the other hand, we would have no objections that an employee who is not included in a bargaining unit, may seek assistance of any employee organization in processing of his grievance and presentation of his case. (Section 90, subsection 3).

Section 94(2)(b) would appear to provide the employer with a veto against the establishment of a board of adjudication. The chief adjudicator should have the power to appoint the board, when he finds the grievance properly placed before him.

Section 97 (2) makes a grievor liable to pay the cost of adjudication. It is a recognized fact and a well established procedure in labour relations that the

employer and the bargaining agent assume responsibility for such costs. This subsection of Section 97 should be abandoned accordingly.

Section 99(1)(j): This gives the board the power to refer back for reconsideration and allows for a different adjudicator. In other words, the employer has a second chance to have the grievance heard and the board actually acts as an agent for the employer. This paragraph should be deleted.

Last, but not least, we wish to question certain definitions in Section 2 of the bill. The present concept of management and exclusions is capable of extremely wide interpretation, and according to our opinion must be restricted to those employees who are directly involved in the development of the Government's personnel and financial programmes.

We further suggest an amendment of Section 2(m-v). Casual or temporary employees should also be considered "employee" within the meaning of the Act and be eligible to belong to a bargaining unit, especially when they have continued service.

Section 2 (t)(ii): In view of our argument regarding Sections 90 and 91, the definition of "party" should be amended to read "the employer and the employee or his organization".

A special comment is with regards to bargaining units. Unlike the report of the preparatory commission, Bill No. C-170 does not make any provision for a specific number of bargaining units. However, we note that there is a reference to five occupational groups in Section 2(r) of the bill. In our view, the 66 groups proposed by the preparatory commission are somewhat excessive and could lead to a multitude of bargaining agents. On the other hand, if the certifications issued by the public service staff relations board were limited to the five occupational groups, these groups would be too large to provide the community of interest and identity which is necessary for a group that are joined together for collective bargaining. We would, therefore, recommend that the board's powers be left as at presently indicated, but that it be the understanding that the board should take these matters into consideration in defining appropriate bargaining units. In conclusion we wish to paraphrase what we have said at the outset of this brief. We in the trade union movement contest a concept of the government being so sacrosanct that a kind of special sovereignty attached to government is considered compromised if the government bargains collectively with an organization of its employees.

We claim there are advantages both to governments and employers in recognition of and negotiation with employee organizations. Collective bargaining with employee organizations does not diminish the authority of the government, but rather assures the government of the loyalty and support of its employees.

By and large, Bill No. C-170 comes close to our concept and we wish the new collective bargaining law in the public service of Canada a fast and healthy development which would harness the talents, experience and knowledge of public servants for the benefit of our society and for economic and social progress of Canada.

On behalf of our president, Mr. S. A. Little, I submit the foregoing brief, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Dowell.

Mr. BELL (*Carleton*): Mr. Chairman, before we hear the next brief I wonder if we could put to Mr. Dowell the same question you put to Mr. Edwards, namely how many employees of the Crown in the right of Canada are members of the Canadian Union of Public Employees.

Mr. DOWELL: I do not know the exact figure, Mr. Chairman, but we talk about employees; we have the Saskatchewan mental hospitals.

Mr. BELL (*Carleton*): Crown in the right of Canda, not that have been taken off.

Mr. DOWELL: We do not have any. We have provincial and the Crown corporations.

Mr. CHATTERTON: Is there any affiliation between your organization and the Alliance or the previous Civil Service Federation?

Mr. DOWELL: None whatsoever.

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, I did receive a letter during the month of August from Mr. Durocher on behalf of the executive of the Montreal region of the C.S.F.—the Civil Service Federation—in which he wanted the committee to recognize the right of regional councils to negotiate on regional matters such as hours of work, language, stationing of cars, cafeterias, et cetera. It is a French letter and I was asked that it be included in the record if somebody would so move.

Agreed.

Now, this afternoon we will hear the representative from the Canadian Labour Congress, Mr. Andras, who will read their brief. That is the only business for this afternoon. We will meet after orders of the day.

Mr. KNOWLES: May I point out that we may have some difficulty today. The debate in the house may not last very long, and when we get to medicare, who knows what can happen.

Mr. WALKER: In other words, Mr. Knowles does not want to be here when the medicare debate is going on in the House.

The JOINT CHAIRMAN (*Mr. Richard*): I do not think that is the way you would like to put it but we hope to be here because it is very difficult to ask these people—

Mr. KNOWLES: Will you try to get Jim Walker appointed to the Senate, before this afternoon?

The JOINT CHAIRMAN (*Mr. Richard*): No, there is no room for him.

Mr. KNOWLES: No room for him?

The JOINT CHAIRMAN (*Mr. Richard*): Thank you, gentlemen. We will adjourn until after orders of the day.

AFTERNOON SITTING

• (3.40 p.m.)

The JOINT CHAIRMAN (*Mr. Richard*): Order. Gentlemen, before we begin the proceedings I would like to have a motion to approve the proceedings of this morning, which were held without the presence of the Senators.

Mr. CHATTERTON: I so move.

Mr. TARDIF: I second the motion.

The JOINT CHAIRMAN (*Mr. Richard*): It is moved by Mr. Chatterton and seconded by Mr. Tardif.

Motion agreed to.

This afternoon we will proceed with the submission of the Canadian Labour Congress. I have with me at the table the president, Mr. Claude Jodoin and Mr. Andras, the director of the legislative and government employees department.

(*Translation*)

Mr. JODOIN: Mr. President, may I say first of all that we are very happy to have the opportunity to present a submission from our labour organization to the joint Committee of the Senate and House of Commons on the Public Service of Canada. I will ask immediately, if you think it necessary for us to read the document, since it was tabled some time ago. (Monsieur le Président je voudrais vous remercier. . .)

Mr. JODOIN (*English*): Mr. Chairman, I wish to express my appreciation, on behalf of the Canadian Labour Congress, of the opportunity to appear before your joint committee of the Senate and the House of Commons on the Public Service Canada and to present our submission to you. As you know, we made representation on July 25, 1966 to your Committee. I would like to know if you would prefer us to read the document itself or would you consider it officially as read, if you so desire; we are at your disposal.

The JOINT CHAIRMAN: The purpose of your coming here this afternoon, Mr. Jodoin, was to hear you read it, because it was understood that you would come back at a later date. I am sure the members would appreciate hearing you express your views, although I suppose most members have read the document some time ago.

Mr. JODOIN: We will do that, sir. My colleague and I have always worked in co-operation in the past and I presume if we share the reading of it it will not disturb the procedure.

Mr. Chairman and members of the committee, this submission is made to you by the Canadian Labour Congress, the major trade union centre in Canada. The Canadian Labour Congress represents some 1,286,000 members, a considerable number of whom are engaged in the public service, whether municipal, provincial or federal. In the federal field specifically it represents about 75,000 members. Some of these belong to what are commonly known as staff associations consisting exclusively of government employees; others belong to trade unions with members both in private industry and in the public service.

• (3.50 p.m.)

Regardless of the extent of its representative nature in the public service, the Canadian Labour Congress appears before you today because it has a very direct interest in any legislation which has to do with collective bargaining. Any such legislation passed by the Parliament of Canada is bound to have an influence beyond the federal jurisdiction. A considerable number of whom are engaged in the public service whether municipal, provincial or federal. In the federal field especially it represents about 75,000 members. Some of these

belong to what are commonly known as staff associations consisting exclusively of government employees, others belong to trade unions with members both in private industry and in the public service. Regardless of the extent of the representative nature in the public service, the Canadian Labour Congress appears before you today because it has a very direct interest in other legislation which has to do with collective bargaining and if such legislation is passed by the parliament of Canada, it is bound to have an influence beyond the federal jurisdiction.

We believe, moreover, that we are further justified in appearing here if only because we have very extensive experience with collective bargaining and with the legislation under which it is conducted in Canada today. Our views may, therefore, be of value to you in your deliberations.

Your terms of reference include Bills C-170, C-181 and C-182. Taken together, they will when enacted establish the frame of reference for the employer-employee relationship in the public service of Canada. For the first time, employees in the public service will enjoy the right to engage in collective bargaining, and to establish jointly with their employer the conditions of employment under which they are to work. This right is abridged in certain respects as we propose to indicate below.

The enactment of these bills and more particularly of Bill C-170 represents a landmark in the history of the public service of Canada. It is in its way comparable to the introduction of the merit principle in 1918. That legislation like Bill C-170 should be so long in coming is a matter of regret but its introduction is to be commended. It is in principle a progressive measure and we recognize it as such.

Broadly speaking, the purpose of labour relations legislation is to establish the rules under which labour and management are to deal with one another. Restrictions are imposed on both parties, the general purpose being to preserve and protect the right of association, to make for orderly relationships and to minimize the incidence of industrial conflict. Bill C-170 would seem to have the same purpose. It is, however, unique in one very important aspect and this, in our minds, raises very fundamental issues. In all the jurisdictions in which labour relations legislation is to be found, it is directed primarily at the private employer and his employees. The rules, therefore, have been written by a government to control the conduct of others but not of itself in its capacity as an employer, except where it has so decided. In the case of Bill C-170 there is in fact only one employer—Her Majesty in right of Canada as represented by the particular government holding office at any given time. Thus this bill, which also sets out to provide ground rules, is written by the employer to govern his conduct with his own employees and to establish the norms of an employer-employee relationship between them.

In effect, therefore, while Bill C-170 undertakes to provide the public service for the first time with a collective bargaining system, it is the employer who is determining beforehand how the system is to work. It is therefore, a matter of some concern to use, as we think it ought to be to you, to prevent the rules from seeming to favour the employer more than the employees. If such an imbalance is in fact written into the legislation, then the legislation itself will be more the shadow than the substance of genuine collective bargaining and of a sound employer-employee relationship.

6. It is not enough that there should be a free trade union movement as indeed there is in Canada. If the trade unions, including in this term the public service staff associations, are to operate freely and to develop sound labour-management relationships, they must enjoy a degree of flexibility which will allow for initiative and the opportunity to evolve those relationships along lines which are mutually satisfactory to the unions and to the employer. If both sides are compelled to conduct their affairs within a narrow and restricted frame of reference, the kinds of relationships which will emerge will themselves be restricted. They will produce side effects which are undesirable as well and which the restrictive rules may ostensibly have set out to avoid.

We cite as an example of this the imposition of compulsory arbitration which by definition should preclude the use of a strike. Yet any student of the labour movement must be aware that while compulsory arbitration may prevent the occurrence of what are known in Canada as legal strikes it has never prevented the outbreak of what are known as wildcat strikes.

Our first criticism of Bill No. C-170 is that it is excessively restrictive and that it unnecessarily limits the opportunities of the employer and the employees to work out their own collective bargaining relations. The fact that the employer is in this instance the government proposing this legislation indicates an unwillingness on its part to allow for the freeplay and the give-and-take which are essential ingredients of a good labour-management relationship.

We do not venture to suggest an absence of good faith on the part of government, I assure you. We perceive, however a lack of confidence by the government in the process of free collective bargaining as applied to its own employees. The government simply does not seem to believe that it, as an employer, and the staff association and trade unions, as agents of its employees, can be relied upon to work out a viable relationship without what seems to us an unnecessary amount of regulation.

8. But the government has gone even further and this brings out sharply the anomaly which may occur when the legislature and the employer are one and the same entity. An examination of bills C-170, C-181 and C-182 reveals quite clearly that the government has eliminated entire areas of conditions of employment from the realm of collective bargaining and has furthermore even restricted those areas in which collective bargaining may be exercised. The government would seem to have stacked the cards in its own favour but we prefer to think that it was merely being unduly cautious about imposing on itself what it has by law established as the code of behaviour for other employers.

9. Stated briefly, our principal criticisms of Bills C-170, C-181 and C-182 may be summarized as follows:

10. (1) the legislation, particularly Bill C-170, is unnecessarily complex and restrictive;

11. (2) the legislation places arbitrary barriers around the area of collective bargaining and thereby reduces the opportunity of the employees to participate in the determination of their own conditions of employment;

(3) the projected Public Service Staff Relations Board and its chairman are given powers beyond what is either necessary or desirable;

(4) the procedures for disputes settlement are unduly involved and interfere with the freedom of action which exists in private industry and in the public service elsewhere;

(5) Bill C-170 removes, even if only temporarily, the right of employees to seek to establish bargaining units and bargaining agents of their own choosing and otherwise interferes with the right of employee organizations to determine their own internal systems of government;

(6) the proposed legislation fails to provide adequate appeals procedures;

(7) Bill C-170 includes a gratuitous interference with the right of the employees to make political decisions;

8. Bill C-170 fails to include provisions for an already existing form of union security, namely, the check-off, and fails, furthermore, to anticipate the possibility of other forms of union security provided for in other labour-relations legislation.

We propose, Mr. Chairman, to deal with each of the foregoing in turn and in greater detail below, with specific reference to those provisions of the three bills which are to us open to question.

We submit that Bill C-170 is excessively complex and restrictive in its requirements. Little room has been left for the parties to develop their own procedures and to solve their own problems within the framework of the proposed legislation. From the point of view of the government, this is, of course, a very great convenience since it is able to carry forward in large measure the uniltateral control which it has hitherto exercised over the public service. From the point of view of the employee organizations, however, many of the provisions of the bill constitute a limitation of their freedom, or are simply a nuisance. To give examples of this we point to:

(a) the restrictions on qualifications for membership of the Public Service Staff Relations Board, the Public Service Arbitration Tribunal, a Board of Conciliation or a Board of Adjudication (clauses 13(1), 61(1), 80(6) and 92(6)).

(b) the interference by the Board with the internal government of a council of employee organizations (clauses 19(1)(k) and 28(2)(b)).

(c) the requirement, for certification purposes, that the Public Service Staff Relations Board, may be satisfied that the persons representing the employer organization "have been duly authorized to act for the members of the organization.." (clause 34);

(d) the requirement that the applicant for certification must determine beforehand the choice of process for resolution of disputes referred to in section 2 (w) (clause 36 (1);

(e) the freezing of the decision made under section 36 (1) for the three years and then for at least another 180 days (clauses 37 (2) and 38 (5));

(f) the delay in entering into a collective agreement (clause 57 (4));

(g) the requirement to spell out the award desired in advance where arbitration is undertaken (clauses 63 (2) (a) and 64 (2));

(h) the requirement that the Public Service Staff Relations Board is to make regulations concerning grievance procedures (clause 99).

In some instances, the provisions referred to above are simply superfluous and could have been omitted without damage to the process of collective bargaining; the parties could have worked out procedures by themselves. In others, there are clear restrictions. In still others there are invasions of the freedom of the employee organization to be represented by representatives of their own choosing in disputes settlement procedures and in deciding for themselves how their own council of employee organizations are to be established for collective bargaining purposes.

We tend to ask ourselves why is it necessary for the government to develop such elaborate and complicated procedures for the public service when it had evidently found a far less complex statute like the Industrial Relations and Disputes Investigation Act satisfactory where the industries which come within the domain of the Parliament of Canada are concerned. The Industrial Relations and Disputes Investigation Act has remained unamended since 1948 despite the changes of government since then. Without prejudice to our own views on this act, we are bound to comment that if it was deemed capable by all those governments of handling labour-management relations in such industries as railways, air transport, shipping and others, it should have been just as capable of regulating the relations between the Government of Canada and the employee organizations in the Public Service of Canada. It is worth noting that when the province of Saskatchewan decided to provide for collective bargaining for its own public service it did so by including the simple phrase "and includes Her Majesty in right of Saskatchewan" under the definition of "employer" in section 2 (f) of the Trade Union Act. In other words, servants of the Crown in that province were treated in the same way as any other employees and the labour relations which have existed in Saskatchewan between the government of the province and the Saskatchewan Government Employees' Association are a tribute to the wisdom of that action. In the province of Quebec, where civil servants have also been given the right to engage in collective bargaining, the provisions, while more elaborate than in Saskatchewan, are nonetheless a model of precision and simplicity compared to what confronts us in Bill C-170.

The bill is excessive and anomalous in other respects as well. We draw your attention, for example, to section 8 (3) which has to do with the use of bulletin boards by employee organizations on the employer's premises. As a trade union centre representing many trade unions holding thousands of collective agreements, it seems to us extraordinary that so simple a matter, which is ordinarily a minor item in a collective bargaining, should be deemed sufficiently important to have a place in a collective bargaining statute.

Again, to illustrate our objection to this bill, we point to section 36 (1) and section 38 (4). Under section 36, an employee organization wishing to be certified must decide beforehand which process of disputes settlement it prefers but the employee organization is not obliged in any way to establish that its option reflects the wishes of the majority of its members. Apparently its word is good enough. Under section 38, however, the Board cannot grant the application to change the option unless "it is satisfied that a majority of the members in the bargaining unit support the proposed alteration . . ." Evidently the democratic process within the employee organization is presumed to exist under section 36 but not under section 38.

We turn to section 23 as another, and, in our opinion, extremely important instance of excessive zeal in anticipating circumstances which may arise. This section has to do with questions of law or jurisdiction which may arise on an issue which has been referred to an arbitration tribunal or to an adjudicator. The section has superficial merit since it seems to preclude arbitrators or adjudicators from being involved in issues which do not come within their purview. But the section is just as likely to be an open door into endless delays and procrastinations. It would be far better to let arbitrators or adjudicators cope with problems of the kind contemplated here as those problems arise. It may well be that they will adopt rough-and-ready means for resolving them, but they will have proceeded with the true purpose which is to bring in an award. But with section 23 before them, arbitrators and adjudicators will have an open invitation to shift responsibility to the Public Service Staff Relations Board and the parties to the dispute will similarly see opportunities to use this section to avoid conclusions which might otherwise be unpalatable to them.

We consider that the legislation would not lose any of its value or its effectiveness if section 23 were to be removed, and we would ask you to so recommend. Although arbitration of grievances as the final step in the grievance procedure is mandatory in Ontario under the Labour Relations Act, and the same is true elsewhere, the act does not contain a provision similar to section 23. On the contrary, the act includes a model arbitration clause under section 34 (2) which stipulates that "*where a difference arises between the parties relating to the interpretation, application or administration of this agreement, including any question as to whether a matter is arbitrable...*", of course, the underlined part, as we indicate is ours—it is our emphasis—in other words, the Ontario legislation considers it is quite feasible for an arbitration tribunal to determine matters which in Bill C-170 might be deemed to come within the scope of section 23. We cite Ontario because it is a highly industrialized province, with a high degree of union organization and a long experience with industrial relations.

• (4.00 p.m.)

The long history of collective bargaining in Canada has disclosed one very significant development. Over the years the issues involved in the collective bargaining process and the subjects forming the contents of collective agreements have expanded both in number and in extent. At one time collective bargaining typically concerned itself with rates of pay and hours of work and the collective agreement consisted of a few sheets of paper. It is now a lengthy document dealing with a wide variety of issues, including not only rates of pay and hours of work but such matters as pensions, life insurance, health and welfare plans, technological change and the by now more conventional matters such as seniority, grievance procedure, union security, and the like. In effect, what we are trying to say to you here is that there has never been any prescribed or circumscribed area of collective bargaining. Trade unions have consistently taken the position that any condition of employment which affects their members is a legitimate matter for collective bargaining. The historical correctness of this approach is verified by the fact that employers have been prepared to bargain over more and more issues. That they have done so reluctantly is beside the point. The Freedman Commission Report indicates that

employers will have to adjust to even greater extensions of the area of collective bargaining in the future.

I will ask my colleague, Mr. Andras, to please continue.

Mr. A. Andras (Director of Legislation, Canadian Labour Congress): In view of this, we take strong exception to the numerous provisions in the three bills before you which have circumscribed collective bargaining in the Public Service. There are large and important aspects of the Public Service which directly affect the livelihood and the job security of the government employee and which have quite deliberately been excluded from the purview of Bill No. C-170. We refer you to clauses 56 (2), 68, 73 and 86 (2) and (3). These clauses must be read in conjunction with clauses 28, 29, and 31 of Bill No. C-181, and clause 7 of Bill No. C-182. Taken together they represent a very large and imporant aspect of the conditions of employment which have been removed from the context of collective bargaining. The government is, in effect, seeking to retain powers of unilateral decision-making even while it is ostensibly surrendering them. The obvious state of unrest which exists in the Public Service at the present time makes it clear that the power of the government to make arbitrary decisions is resented in the Public Service and is a cause of disquiet and dispute. If unilateral decision-making is to be replaced by a system of collective bargaining under which the employees are to have a voice in determining their conditions of employment, there should be no such artificial barriers erected as have been included in the proposed legislation.

We object to clause 56 (2) because it makes it impossible for the bargaining agents to seek to effect legislative changes leading to improvement in their conditions of employment. Since the employer has the power or at least the opportunity to introduce such changes in parliament we cannot see why it should not be possible for the employer to be found in a collective agreement to propose a change, agreement on which has been established at the bargaining table. While we have great respect for the sovereignty of parliament, we see in clause 56 an opportunity for that sovereignty to be abused in the employer interest. We fail to see why a certified bargaining agent cannot lay on the bargaining table a demand for changes, for example, in the Public Service Superannuation Act. It does not follow that the employer will agree to make such changes, and the bargaining agent may withdraw this demand, but if the employer does agree to it, it should be possible under this legislation to write into the collective agreement an undertaking by the employer to follow through with appropriate legislative action. We have conceded above that the employer in Bill No. C-170 is unique, but it does not follow from this that such uniqueness should become a rationalization for the avoidance of what would otherwise be a legitimate contractual undertaking with a bargaining agent. These remarks apply also to clause 86 (2).

Clause 68, while different in character from clause 56, is nonetheless similar in its effects; it establishes a statutory limitation on the arbitration tribunal in making an award affecting conditions of employment. Obviously, every employer would like to be able to instruct the arbitration board dealing with the dispute between him and his employees as to how it should proceed. This is precisely what the government as employer is doing here. In so far as it is possible to do so, it is writing the arbitration award even before the arbitration

tribunal holds its first hearing. The restrictions which have been placed on the appointment of employee representatives to arbitration tribunals compounds a bias against employee organizations.

Clauses 70 (3) and 86 (3) respectively prohibit an arbitration tribunal and a conciliation board from making an award or a recommendation, as the case may be, dealing with or concerning "the stndards, procedures or processes governing the appointment, appraisal, promotion, demotion, transfer, lay-off or release of employees. . ." This is to us perhaps the most extraordinary of the many features of Bill C-170. This twofold prohibition sets aside and removes from the area of collective bargaining all those matters which together form what is commonly known as job security. Trade unions have fought hard battles with employers not only for the economic improvements which are expressed through wage increases and fringe benefits, but for the protection of the employee against arbitrary decisions by the employer in connection with security of tenure as an employee. There are thus to be found within the field of collective bargaining and in the collective agreements such arrangements as seniority rules governing promotions, demotions, transfers, lay-offs and recalls and also safeguards to protect the employee against dismissal without cause or against other disciplinary measures. But under Bill C-170 and by virtue of the provisions contained in Bill C-181, the opportunity to install these protective devices has been swept away, and the government has once again given itself an entrenched right to do as it pleases with its employees in the matters set out in clauses 73 and 86 (3).

We cannot accept the proposition that this employer and the proposed Public Service Commission are either infallible or so objective as to make it necessary for these matters to be taken out of the realm of collective bargaining. On the contrary, based on our extensive experience we assert that these are the very matters where abuse is most likely to occur. There is an old legal saying that not only must justice be done, it must appear to be done. We are convinced that the inclusion of clauses 73 and 86 (3) in the legislation will provide neither justice nor its appearance in so far as the subjects contained in it are concerned. We ask that these clauses be removed from the bill and that the matter contained therein be left to be decided through the process of collective bargaining and the inclusion of suitable provisions in the collective agreement, excepting, however, appointments to the Public Service since the merit principle must clearly be preserved if a reversion to patronage is to be avoided. Consequential amendments would have to be made in Bill C-181.

We take exception to the conditions laid down regarding membership on the Public Service Staff Relations Board. Clause 13 (1) (c) provides that "A person is not eligible to hold office as a member of the Board if he is a member of or holds an office or employment under an employee organization that is a bargaining agent." We are not aware of any similar restriction on membership in the case of Labour Relations Boards. Clause 13 (1) (c) effectively limits the opportunity for the employee interest on the board to be properly represented. The intent seems to be either to compel those who might be appointed to the Board to sever all their relations with their employee organization, whether as a member or officer, or, alternatively to obtain employee representatives from outside the ranks of the employee organizations themselves. We consider this

to be a deplorable approach. There is no justification for it. It points, as we suggest elsewhere to the desire by the government to have a board which is more a high court than an administrative tribunal. It also seems to indicate somewhat less than full confidence in the integrity of members and officers of the employee organizations.

Similar restrictions exist with respect to appointments to arbitration tribunals, to boards of adjudication and boards of conciliation. They are even less justified there since they deprive the employee organization of appointees of their own choosing in these areas of dispute settlement. Here, too, the proposed legislation flies in the face of well-established practice. We ask you to recommend amendments which would remedy the situation.

• (4.10 p.m.)

40. We turn now to the powers of the board itself. In each of the labour relations laws of the 11 jurisdictions which have enacted them, there is provisions for a Labour Relations Board. Under the Industrial Relations and Disputes Investigation Act it is known as the Canada Labour Relations Board. The Public Service Staff Relations Board is to all intents and purposes an equivalent body. The purposes of a Labour Relations Board are by now well established not only in law but in practice. Basically, such a board deals with applications for certification of bargaining agents. It hears the applications, and determines whether the applicant represents the majority of the employees concerned, determines also whether the unit for which the application is made is an appropriate bargaining unit and then, if it is satisfied that the evidence so merits, certifies the applicant as the bargaining agent. Conversely, it has the power to reject applications or to modify the unit proposed by adding to it or taking from it classes of employees. The Labour Relations Board also has the power to decertify a bargaining agent where it has been established that the agent no longer represents a majority of the employees concerned. The board may also be given other responsibilities. For example, under the Industrial Relations and Disputes Investigation Act, the Minister of Labour may refer to the board for investigation complaints of failure to bargain and the board may issue orders to effect compliance with the act.

41. In Bill No. C-170, the powers of the Public Service Staff Relations Board are so extensive as to raise questions as to their need or desirability. In clause 18 of the bill the board is given powers stated as a generality. This is followed by clause 19 under which the board may make regulations. We have already expressed concern about clause 23 and this is reinforced by the inclusion in clause 19(1) of paragraph (d). We are also concerned about the implications of paragraphs (f) and (k) of the same section. We have already taken exception to clause 28(2)(b) under which the board determines the "appropriate legal and administrative arrangements" that have been made in the formation of a council of employee organizations. We do not think it is the function of a board of this kind to determine the appropriateness or the arrangements which have led to the formation of a council. This should be a matter to be determined by the employee organizations themselves. We take exception to clauses 34(d) and 35(1)(d) as indicating unwarranted and excessive authority on the part of the board not to be found in labour relations

legislation generally. Under clause 60, the members of the Public Service Arbitration Tribunal are to be appointed by the board. We believe it would be more equitable for the arbitrators representing the employee interest to be nominated by the representative employee organizations in the public service.

42. Clauses 63, 64, 65, 66, 67 and 75 place very considerable powers in the hands of the chairman of the board regarding the administration of the arbitration process. We believe that such elaborate authority is unnecessary and that the parties to a dispute could quite well be left to work out their arbitration arrangements without such intervention. Apart from any other consideration, all the requirements which are involved here and others with which we deal below must inevitably lead to complications and delays in the settlement of disputes under this particular process of disputes settlement.

43. When the preparatory committee on collective bargaining in the public service was first established, the Canadian Labour Congress expressed its objection to the fact that the committee had already been instructed to include in its terms of reference the settlement of disputes through compulsory arbitration. In our appearances before the committee we took strong exception to compulsory arbitration as we have done elsewhere on numerous occasions. When the committee's report was published (commonly known as the Heeney report) we again expressed our objection to the fact that government employees were being deprived of the right to strike which was available to workers in industry both private and public and to government employees in other jurisdictions. The fact that Bill No. C-170 now contains alternative forms of disputes settlement procedure would appear to be a vindication of our position. Bill No. C-170 in its present form envisages a system of options whereby bargaining agents may choose the right to strike or the right to arbitrate a dispute with the employer. It would appear, therefore, that arbitration as now proposed is voluntary rather than compulsory since no employee organization will be compelled to make use of it against its will. But the situation is not quite as simple as stated here so far. Once again, the government, in anticipation of its role as the employer, has arranged the rules of the game to suit itself.

44. Reduced to its most elemental terms, collective bargaining between an employer and a trade union is a contest of strength which may be mitigated by good faith, experience, maturity, mutual acceptance and a sense of responsibility. Canadian labour relations legislation by and large determines that this contest shall be carried out within certain prescribed bounds. Thus, for example, an employer may not wish to have a union but neither may he resist it through methods which are listed as unfair labour practices in the legislation. He may be required to recognize a union of his employees and bargain with it but the law does not compel him to conclude a collective agreement with it. He may lock out his employees regardless of the consequences to them of his action. The union for its part may not strike during the life of a collective agreement, one of the most serious restrictions to be found against trade union freedom of action. It is also faced with time-consuming and often frustrating conciliation procedures before it finally reaches the point where it can take strike action. But within these and other confinements, the parties are free to work out their strategies and develop a line of action which

seems to suit each one's particular interest. The employer does not have to advertise the fact that he intends to lock out his employees. The trade union does not have to (although it may) serve notice long in advance that it will resort to strike action or that it will seek some other means of settling the dispute with the employer.

45. Not so with the procedures outlined in Bill No. C-170. In this proposed legislation, the bargaining agent must declare in advance even of certification which of the disputes settlement procedures it opts for. No sooner is the bargaining agent certified, therefore, than the employer is already aware of the strategy chosen by the employee organization and is able to make plans accordingly. The legislation goes even further. Under clause 37(2) the particular option chosen remains in effect for a period of three years "immediately following the day on which the first collective agreement or arbitral award binding on the employer and the bargaining agent that specified the process comes into force.." To make matters worse, no change can be made in the option except on application to the board under section 38 and until the board has satisfied itself that a majority of the members in the bargaining unit supported the proposed alteration. The change then takes effect only after at least 180 days have elapsed since the receipt by the board of the application. In effect, therefore, the option is frozen for at least 3½ years. It must be obvious that unless collective agreements are written for periods of three years or more, the option will overflow from one agreement into another regardless of changes in circumstances and the wishes of the members of the employee organization. Clauses 36, 37 and 38 when taken together represent a flagrant interference with the democratic right of the members of an employee organization to decide for themselves how and when they will choose a particular means of settling their dispute with their employer.

46. We would be inclined to question the whole process of option in any event. Under the Industrial Relations and Disputes Investigation Act, for example, the right to strike is established but it is not mandatory. There, as in the comparable provincial legislation, there is implicit the right to use other means and the parties are free at any time to convert a board of conciliation into a board of arbitration or, for that matter, to move directly to a board of arbitration. We fail to see why Bill No. C-170 could not have followed a similar line. In view of the fact that Bill No. C-170 contains clause 89, under which a board of conciliation may by mutual agreement be converted into an arbitration board, we fail to see why the very elaborate process of options is required at all. We feel in any event that the right to make a decision as to how to seek to effect settlement of a dispute should be made when a dispute is either imminent or in effect, not three years in advance.

47. We turn now to an examination of the two methods of disputes settlement. We wish at the outset to take exception to the very fact that the proposed legislation includes provision for the establishment of a Public Service Arbitration Tribunal. We do so on a number of grounds. In the first instance, we note that a permanent tribunal is envisaged. It would be better, in our opinion, to allow for some experimentation in arbitral methods for the first few years until experience indicated whether or not an arbitration tribunal as described in Section 60 was necessary. We wish to make it clear that we are not opposed to

systems of permanent umpires or arbitration boards. These are by now a familiar and accepted feature of collective bargaining relationships in Canada. But we wish to emphasize that where they exist they have been established voluntarily by the parties themselves, not by a statute. Furthermore, the umpire or arbitration board has been selected by the parties. Under Section 60(4), the employee organization is denied the right to choose its own representative. The choice is made by the Chairman of the Board from a permanent panel which ostensibly represents the employee interest. Here again it would appear that the government has drafted legislation to predetermine its own convenience.

48. We wish to express our reservations about the Public Service Arbitration Tribunal in connection with the appointment and tenure of its members. If we understand Section 60 correctly, it would be very difficult to remove a member of the Arbitration Tribunal regardless of how unsatisfactory one side or the other would consider him to be. We are furthermore concerned about the power given to the Chairman of the Board to select the two other members who are to sit with the Chairman of the Arbitration Tribunal as provided for in Section 60(4). Where arbitration takes the form of a tripartite tribunal, the right of selection of the employer and employee representatives should be vested in the parties themselves and not in the Chairman. As your Committee is undoubtedly aware, the process in private industry is precisely the reverse; it is the two nominees who select their chairman. We are also apprehensive at what we consider to be a possibility of conflict of interest on the part of tribunal members bearing in mind the provisions of Section 60(8).

49. We are at a loss to understand the requirements set out in Sections 63(2)(a) and 64(2). We cannot see why it should be necessary for the party making the request to indicate in advance "its proposals concerning the award to be made by the Arbitration Tribunal" with respect to the issues in dispute. Surely this is an needless limitation on the parties and an unnecessary restriction on the party seeking arbitration. It may furthermore lead to unwanted legalistic argumentation as to whether or not the proposal concerning the award to be made coincided with the position taken by the party beforehand. Since arbitration is over issues in dispute during negotiations, it is surely in the public interest that the parties should be free to use the arbitral process to resolve any issues which may have become more susceptible to settlement as a result of further confrontations. This requires flexibility rather than rigidity in procedural matters. In our opinion there is no room in this proposed legislation for the type of requirement called for in Sections 63(2)(a) and 64(2).

50. We have already made reference to Section 70(3) in another context. We raise it here in connection with the latter half of the paragraph. This states that "No arbitral award shall deal with...any term or condition of employment of employees that was not a subject of negotiation between the parties during the period before the negotiating relationship between them was terminated." We regard this too as an unnecessary restriction since there should be no bar to the parties enlarging the area of arbitration if they are both agreed that this is what they want.

51. We are also inclined to question the power given to the Chairman of the Board under Section 75. The Chairman may refer back to the Arbitration

Tribunal any matter in dispute "where it appears to him" that the matter at issue has not been resolved by the arbitral award. We have already complained about the excessive powers given to the Board and its Chairman and we believe Section 75 justifies our complaint. If the parties to an award are satisfied with it, it would seem not unreasonable to suppose that this is where the matter should end. It should not be necessary for the Chairman to review each and every award with a view to seeking out possible defects. It is worth noting that it is the Chairman alone who has the power to decide whether or not the award has resolved the issue. Apparently neither one party nor the other to the dispute may seek to have a review of an award if it is dissatisfied with its effectiveness.

52. With regard to the process of conciliation, we are immediately struck by the requirements under Section 79 dealing with designated employees. We are at a loss to understand why it should be necessary to make a determination of this kind at the very time that collective bargaining begins. Such a procedure is hardly conducive to collective bargaining in good faith. It is, on the contrary, an invitation for the bargaining agent to begin to establish strike machinery, since the first order of business confronting the parties is a determination of who are the designated employees. No only is there bound to be delay in the collective bargaining process, there is likely to be a further delay if the Board must ultimately make the decision because of disagreement between the parties. We are naturally concerned about how broad an interpretation is likely to be given to the term "designated employees", since too broad a definition may make a mockery of the whole process of conciliation and of the right to strike.

53. We question the need for the inclusion of Section 83 in the Bill. On the basis of our experience we consider it quite unnecessary for the Chairman to provide the conciliation board with a statement of the matters at issue. We also consider it unnecessary for the Chairman to have the power to amend such a statement at any time. Anyone conversant with the procedures of Boards of Conciliation in the various jurisdictions knows that a Board of Conciliation works best when it is free to deal with the parties directly and to learn from them what are the matters in dispute and how to assist them in reconciling their differences. If a board is to be subjected to instructions from the Chairman from time to time so that its terms of reference are constantly changing, it can hardly be expected to carry out its functions properly. To our minds, Section 83 represents an excess of zeal on the part of the government and failure on its part to assume that the people who are to live under this legislation will possess sufficient common sense to work some problems out for themselves. We consider Section 86(4) to be similarly objectionable.

• (4.30 p.m.)

54. Bill C-170, in addition to providing for arbitration and conciliation, also anticipates the need for a grievance procedure and the adjudication of grievances which cannot otherwise be resolved. We refer first to Section 2(p) and (t) and thereafter to Section 90 to 99 inclusive. We are immediately concerned when we read in Section 2(p) and (t) that the term grievance is confined to "an employee" or "the employee". Apparently no consideration has been given to the possibility that a grievance might be filed by the bargaining agent itself. This is brought out again in Section 90(1) which specifies "where any employee

feels himself to be aggrieved" but does not provide for a situation where the bargaining agent may consider that the contract has been breached in a way which affects it as an entity whether or not it affects any specific employee. Similarly the various provisions do not provide for a group grievance, that is, a grievance simultaneously affecting more than one employee. These are deficiencies in the legislation which we feel should be corrected and we ask that your Committee make the necessary recommendations to do this.

55. The terminal point of the grievance procedure is what is identified in the proposed legislation as adjudication but which is more commonly known as arbitration. In order to avoid confusion we will use the term specified in the Bill. Our first objection is to the reference to "an employee" in Section 91(1) along the same lines as brought out with reference to Section 2(p) and (t) and Section 90. There is, however, an even more serious criticism to be made and we ask you to compare the language of Section 90(1)(a)(i) and Section 91(1). In the former Section, the opportunity for filing a grievance is fairly broad; in the latter the opportunity for seeking adjudication is more limited. It would appear to us, therefore, that while an employee may grieve by virtue of the interpretation or application in respect of him of a provision of a statute or of a regulation, for example, he cannot carry such a grievance to adjudication unless it flows from disciplinary action resulting in discharge, suspension or a financial penalty. Barring these exceptions, the employee may find that he reaches a dead end in the grievance procedure since third party intervention is closed to him in respect of Section 90(1)(a)(i). This is quite clearly brought out in Section 95(3). What it says in effect is that there are certain types of grievances where the final decision is to be made by the employer and by the employer alone.

56. We are concerned about the implications of Section 97(2). We are not accustomed to the notion of an individual paying the costs of arbitration (adjudication). Ordinarily and quite properly it is the employee's organization which undertakes to bear its share of the cost of the process. If an individual employee is to be burdened with the cost of adjudication, this may become a serious deterrent against the use of the grievance machinery.

57. We consider Section 99 superfluous. It should not be necessary to make regulations dealing with all these matters. They could quite properly be left to the parties to work out by themselves as is the case in collective bargaining in Crown Corporations and in private industry.

58. A matter which has caused considerable concern to the various staff associations and trade unions is the procedure outlined in Section 26 of Bill C-170. As we understand it, in the first instance the bargaining units are to be determined unilaterally by the employer over a two-year period. Such units will then remain in effect for 28 months and it is only then that the employee organizations may seek a restructuring of the units to suit their own understanding of the needs of their members. This is a most unusual procedure and it reflects, as so much else in the proposed legislation, the determination of the government to assure its own convenience and to establish procedures which will fit into its previously established decision as to how the public service should be operated. We take strong exception to the whole notion of such prior unilateral decisions being made and thus depreciating the whole collective

bargaining purpose. For some groups of employees it may take more than four years before they can hope to see established bargaining agents which they want to have. In the meantime, they must wait their turn. They must accept bargaining units established on their behalf by the government in its sole wisdom. They must accommodate themselves to institutional changes in the making of which they have no part.

59. We do not propose to make a case here for the particular forms of organization which have grown up among government employees in the public service. There are historical reasons for this and there would be no point in trying to rewrite the past. But the fact remains that Section 26 in its present form and as its operation has been explained to us is likely to produce a multiplicity of bargaining units; a figure of 66 has been quoted extensively. It is not so much the number which frightens us as the prospects of what Section 26 is likely to do to the existing organizations. Some may lose any hope of maintaining their identity. Some may be forced into councils of employee organizations whether or not they wish to take such action. In a good many cases where so-called departmental organizations are concerned, members who have hitherto thought to protect their interests through a single association of this kind may find that they have been divided up among a considerable number of bargaining units into conglomerations of minority groups. From a collective bargaining point of view, this is neither a very satisfactory and efficient procedure for the employer but it leaves much to be desired for the employees.

60. When we appeared before the Preparatory Committee on Collective Bargaining in the Public Service, we suggested that there be an initial shakedown period during which the various existing employee organizations should continue to be recognized. At the end of that period we thought that there might be a sufficient reorganization and readjustment of the employee organizations to establish what would presumably be a more rational structure suitable for collective bargaining. We still believe that our proposal has merit and ask that you give it consideration. We recognize quite well that there would be some problems to be faced in terms of recognition and collective bargaining. But we venture to say that the procedure which is contained in Section 26 will create its own problems and they are likely to be as involved and as far-reaching as those which might occur under any alternative provision. The fact remains that Section 26 turns on its head the certification procedure to be found in the Industrial Relations and Disputes Investigation Act and in the comparable Acts of the provinces. The employee organizations have been deprived of the right of initiative in applying for certification of units as conceived by them even though the appropriateness of such units remains open to determination by the Labour Relations Boards. The prefabrication of units by the government is thus a restriction on freedom of association greater than is to be found in the legislation applying to employees in private industry or in Crown Corporations. The fact also that years will elapse before the initiative will lie with the employees makes it almost a certainty that the government is to have its way as to how employees are to be organized for collective bargaining purposes. We are not implying that the employee organizations which will emerge finally will be employer dominated, but they will undoubtedly show evidence of employer interference in their formation and structure.

61. A conspicuous omission from Bill C-170 is a feature to be found in comparable legislation elsewhere, namely, recognition of a distinguishable craft or skill for certification purposes. Such a provision is to be found in the Industrial Relations and Disputes Investigation Act, under Section 8. We cite it herewith:

62. "Sec. 8. Where a group of employees of an employer belong to a craft or group exercising technical skills, by reason of which they are distinguishable from the employees as a whole and the majority of the group are members of one trade union pertaining to such craft or other skills, the trade union may apply to the Board subject to the provisions of Section 7, and is entitled to be certified as the bargaining agent of the employees in the group if the group is otherwise appropriate as a unit for collective bargaining."

63. In circumscribing the area of collective bargaining as is proposed in the bills before you, the government as employer is not only seeking to deprive its employees of a voice in determining a considerable part of their conditions of employment but is also confronting them with the fact so far as those conditions are concerned they cannot hope to have disinterested disposition of their legitimate grievances. We have already drawn your attention to the fact that Sections 90 and 91 in their present form do not provide a grievance procedure up to and including adjudication for certain types of grievances. The disposition of certain types of grievances remains ultimately in the hands of the employer. At the risk of repetition, we wish to say that we consider this to be an unwarranted denial of justice.

64. An examination of Bill No. C-181 adds substance to our objections. Part III of that bill deals with a number of aspects of employment, including tenure, probation, lay-offs, leave of absence and incompetence and incapacity. Each of these is ordinarily a matter which is bargained about in private industry and is covered by various provisions of a collective agreement. Some have been so long a matter of bilateral agreement that they are no longer matters of dispute. Not so here. The subjects which we have just listed are to come within the domain of the deputy head. What are the rights of appeal? They are few, if any. We find no reference to appeal in Section 22 to 30 inclusive. The right of appeal is contained in Section 31 dealing with incompetence and incapacity but the appeal is from the deputy head to the commission and goes no further. In other words, the aggrieved employee is confronted by an establishment which to him appears monolithic and from which he has no recourse. We think this is wrong. We most certainly believe that all those matters which have to do with employment should be subject in the first instance to bilateral agreement and beyond that to grievance procedure which will, if necessary, terminate in what is here called adjudication but what is elsewhere known as arbitration. It is worth noting also that Bill No. C-181 provides for appeals under Section 21 in connection with appointments. The appointment is made by the commission. The appeal is made to the commission. The appeal is heard by the commission. The finding is made by the commission. The commission obviously can do no wrong.

65. We have the same reservations about the new Section 7 of Bill No. C-182. If we understand it correctly, the Treasury Board has been given very

great powers in relation to personnel management in the public service. We refer you to paragraphs (*a*) to (i) in sub-section (1) of Section 7. It is not clear to us that all these powers vested in the Treasury Board are in any way affected by the proposed collective bargaining legislation. We draw your attention particularly to paragraph (*d*) which empowers the Board to determine and regulate rates of pay, hours or work and other matters; to paragraph (*f*) regarding standards of discipline, including financial and other penalties, suspensions and discharge; to paragraph (*g*) dealing with standards regarding physical working conditions and health and safety of employees. There is a question whether this seeming unilateral authority vested in Treasury Board will leave much room for collective bargaining or any scope for an effective grievance procedure. This ambiguity can be removed and the legislation clarified by a change in Bill No. C-182 which would indicate that the powers vested in Treasury Board are subject to the collective bargaining process contained in Bill No. C-170.

66. We wish to express our strong objections to the new Section 7(7) and (8) of Bill No. C-182. Under these provisions, any employee in the public service may be dismissed at any time "in the interests of the safety and security of Canada or any state allied or associated with Canada . . . ." The public of Canada had been given assurances that this arbitrary power would be circumscribed and the employee affected would be given an opportunity to seek redress, but apparently these assurances will not materialize. We find these two paragraphs repugnant to our concept of Canadian justice. While the Government of Canada has every right, indeed the obligation, to protect the security of Canada as a state, it surely should not have the right to do so without allowing the accused to have his day in court. We are not proposing here that security cases should necessarily be held in open court but we do believe that anyone who is accused should have the right to challenge his accusers. We ask for modifications in Section 7 to this effect.

67. We wish to express our opposition to Section 39(2) of Bill No. C-170 and Section 32 of Bill No. C-181 which is similar in nature. In effect these provisions deny certification to an employee organization which is involved in receiving or handling either directly or indirectly contributions to a political party and make liable to dismissal an employee who is involved in political activity whether by participation or financially. As it happens, the Canadian Labour Congress has since 1958, as a matter of policy, encouraged its own affiliated staff associations to maintain their tradition of political non-partisanship. The Congress felt that such a position was appropriate for them to take. It did not at any time, however, prohibit them from deviating from this policy and indeed they are as autonomous in this regard as they are in others within the constitutional framework of the Canadian Labour Congress. But we distinguish between the policy position taken voluntarily and the prohibition embedded in the legislation.

68. We think the time has arrived when this trepidation concerning political involvement by civil servants should be re-examined. But in any event we do not see why any employee organization should be denied certification merely because it acts as a channel for political contributions on behalf of employees. It is worth noting that the Parliament of the United Kingdom suffers from no

apprehensions in this regard. Regardless of which party has held office, British civil servants have since 1945 been allowed to be identified with a political party through affiliation and hence they have been permitted to make contributions to a political party. There are at the present time two civil service associations in Great Britain affiliated to the Labour Party, the Post Office Engineering Union and the Union of Post Office Workers, with a combined membership of close to 192,000. There are in addition a number of trade unions with members both within the public service and elsewhere which are affiliated to the Labour Party as well. We consider it appropriate that Section 39(2) should be deleted from Bill No. C-170 and ask you to recommend accordingly. We ask also that you recommend changes in Section 32 of Bill No. C-181 to make the blanket prohibition more limited in scope.

69. At the present time, all those staff associations which are members of the national joint council of the public service of Canada enjoy a check-off privilege for the payment of union dues by their members. This has been the situation for some time. While, in our opinion, the check-off privilege has been unduly restricted to organizations in the national joint council, the fact remains that it was there. We would have expected Bill No. C-170 to include a provision making the check-off available to any employee organization which becomes certified, if it so desires. To have omitted it places a burden on the bargaining agents to have to bargain for something which is by now so well established that it is no longer a matter of controversy. We ask that you recommend a change accordingly. In addition to the check-off, labour relations legislation in this country recognizes the fact that there are other forms of what is known as union security. Such legislation makes permissive the inclusion in collective agreements of such provisions as the closed shop, the union shop and the like. We consider that Bill No. C-170 should have a section not only on the check-off but on this as well. We go further and ask that the reference to the check-off go beyond the voluntary revocable type of check-off which now prevails and make possible the kind of check-off arrangement which is commonly known as the Rand formula.

70. There are a number of other matters which we wish to draw to your attention and which are not contained in the foregoing. We deal with them briefly here now, not because we consider them unimportant, but we do not consider it necessary to make elaborate arguments in their connection.

71. Sections 8 (1) and (2) and 9 (1) of Bill No. C-170 contain a number of prohibitions which are commonly known as unfair labour practices. The reference is to "person" which in this context would be a public servant acting in a managerial capacity and therefore representing the employer. It is obviously impossible to impose a fine on the employer but it should be possible to provide for penalties where such a "person" engages in activities which are clearly contrary to the legislation. What we are suggesting is that no managerial employee in the public service should be able with impunity to engage in any of the activities described in these Sections.

72. Section 9 (2) runs counter to our concept of the exclusive bargaining agent. The right of minority employee organizations to make representations may lead to unnecessary disputes.

73. We believe consideration should be given to treating the Post Office Department and the Printing Bureau as separate employers under Schedule A, Part II, of Bill No. C-170. We have in mind the postal operation group in the former and the printing trades in the latter. In both instances, the work performed and the services rendered are sufficiently distinct from other government functions to merit such consideration.

74. There are other matters of detail in Bill No. C-170 to which we would take exception. These are, like others we have already identified, restrictive in nature or open to grounds.

(*Translation*)

The JOINT-CHAIRMAN (*Mr. Richard*): Thank you very much, gentlemen.

(*Translation*)

Hon. Mr. DESCHATELETS: Excuse me, Mr. Chairman, did I understand that we cannot ask questions on the brief today?

Mr. JODOIN: No, not today, Senator. This is what we have been asked to do. I can assure you we will be at your disposition at the next meeting.

FRIDAY, October 7, 1966.

The JOINT-CHAIRMAN (*Mr. Richard*): Order, please. This morning we will hear first from the Canadian Union of Postal Workers. I understand the National President, Mr. Kay, is here with us and I would ask him to come forward.

Mr. W. Kay (President, Union of Postal Workers): Mr. Chairman, this is the Canadian Union of Postal Workers submission on Bill No. C-170, an act respecting employer and employee relations in the public service of Canada to the Joint Committee of the Public Service of Canada.

We commend the government for its decision to introduce collective bargaining in the public service even if this action is, in our opinion, belated. We welcome the fact that civil servants in the federal domain will at last enjoy the same rights which have for so many years been afforded to wage and salary earners in private industry, in crown corporations, to civil servants in certain of the provinces and in municipal government. We look forward to a change, and an improvement in the relationships which have existed between the government as the employer and government employees as represented through their various trade unions and staff associations. In particular, the Canadian Union of Postal Workers regards the advent of collective bargaining legislation with keen anticipation in view of the difficulties which postal workers have encountered as employees of the Post Office Department.

In our opinion, a case can be made, and is made here, that federal government employees should be brought within the purview of the Industrial Relations and Disputes Investigation Act. We express this viewpoint for a number of reasons. One of them is the fact that the I.R.D.I. Act is a statute covering employees within the federal jurisdiction for collective bargaining purposes. It covers a variety of industries, including crown corporations. It has worked reasonably well during the eighteen years in which it has been in effect,

although it is in some respects out of date and in need of amendment. It would therefore have been appropriate to have included federal government employees within the act as simply another group of employees working within the federal jurisdiction. The machinery of the act is such that it could, without major dislocation, assume the additional burden of supervising the labour-management relationships within the government of Canada and the associations and unions of its employees. There would undoubtedly have been some difficulties during the transitional period in view of the sudden influx of a very considerable number of employees covered by a number of organizations but this would have adjusted itself in due course.

An examination of Bill No. C-170 indicates that there are a number of similarities between it and the I.R.D.I.A. Both include a Labour Relations Board or its equivalent. Both provide for certification procedures. Both establish exclusive bargaining agents. Both provide for the arbitration of grievances during the currency of a collective agreement. Both provide for conciliation and both make possible recourse to arbitration. Under those circumstances we question the wisdom of Bill No. C-170 and consider that the I.R.D.I. act should have been suitably amended to take in Her Majesty in Right of Canada for those employees not already covered under the I.R.D.I. act. A further reason for proposing this is that the I.R.D.I. act is, in a number of respects, a more flexible instrument than Bill No. C-170. It provides greater latitude in bargaining and, consequently, more freedom of action to the parties both in negotiations and in the terms to be included in a collective agreement.

It may well be that our views here are not shared by government employees who are not members of our union or who are not employees in the Post Office Department. Be that as it may, we would argue that what we have proposed in the foregoing is applicable at least to employees in the Post Office Department. This department is unique in a number of ways. Those employees who handle mail or engage in other directly associated functions occupy classifications which are not to be found elsewhere in the government service. Postal employees, therefore, form a unique group. The Post Office Department, furthermore, conducts a quasi-commercial function which makes it more closely akin to a crown corporation than is likely to be the case for any other department of government. It would therefore not be inappropriate for the Post Office Department at least to be placed within the scope of the I.R.D.I. act even if similar action is not taken with respect to the employees of other government departments.

This is a matter of such grave importance to postal workers that if no other procedure is made available to us, allowing us to bargain under the I.R.D.I. act, then we would urge that the Post Office Department be legislated into a crown corporation. We are certain it is no secret to the Hon. members of this Committee that a majority of the members of the Canadian Union of Postal Workers are prepared on very short notice to withold their labour power in order to achieve one or the other of these two objectives: either that the I.R.D.I. act be opened to permit postal workers to bargain under its procedures by direct amendment of that statute, or, the conversion of the Post Office Department to a crown corporation. We would not pretend to influence this Committee by threat, and we want it clearly understood that no threat is being

made; we are merely informing the Committee of the deep and abiding sincerity in which postal workers approach the issue of full and free collective bargaining.

It would seem to us completely unnecessary to itemize in great detail why we consider the provisions of the I.R.D.I. act appropriate and viable as an instrument for collective bargaining in the public service. The legislation speaks for itself and we are confident the hon. members of this Committee are thoroughly familiar with its provisions.

With all due respect to the sincerity of the preparatory committee on collective bargaining, who after all could not deviate from their terms of reference as laid down by the Prime Minister and his Cabinet, we look upon the activities and results of the Committee for the most part unnecessary, although we recognize that their extensive research produced a useful compendium of the pros and cons of a great variety of collective bargaining systems. The Committee need only have concerned itself with a thorough examination of the tried and tested statute known as the Industrial Relations and Disputes Investigation Act, having as their objective the amendment of those clauses which would open it for collective bargaining for federal public employees. In addition to the fact that the prolonged activities of the preparatory committee were obviously quite costly, delaying collective bargaining for public employees for at least two years, we find that the draft Bill No. C-170 which was born out of these activities has produced a procedure which, because of its complicated mechanisms, would inevitably result in hamstringing full and free collective bargaining. In their zeal to provide for any and every contingency, they produced a bill, the provisions of which would try the best legal minds in the country. Simply stated, the I.R.D.I. act should be amended to accommodate all federal public employees for the purposes of collective bargaining.

• (9.50 a.m.)

In addition to the above objections we have to Bill C-170 we raise the following: While Bill C-170 apparently contains provisions for conciliation and strike action, it also contains provisions for compulsory arbitration. We are unalterably opposed to compulsory arbitration in any form and we would resent bargaining under a statute which would allow large groups of organized public employees to shirk their responsibilities under full collective bargaining. The provisions in a statute purporting to provide collective bargaining for public servants which allows both types of disputes settlements (compulsory arbitration on the one hand, and conciliation leading to possible strike action on the other hand) leaves the statute wide open to abuse by the employer. Since it appears quite obvious that the majority of organized civil servants will opt for compulsory arbitration, postal workers would become a minority group under the bill, subject to the many pressures which a minority group could expect in these circumstances. Since the government as employer also favours compulsory arbitration, we are convinced that the best way to settle the serious impasse which this creates, would be to allow postal workers to bargain under the I.R.D.I. Act.

Turning now to specific sections of Bill C-170 which strike us as inordinately giving the employer the advantage to such a degree as to completely

upset the balance between the two sides at the bargaining table, we refer you to the following sections of the bill:

Section 7:

This section extends to management a prerogative to which management does not have an inalienable right. The exclusive right or authority of the employer to determine the organization of the Public Service, to group and classify positions therein and to assign duties to employees, while we admit should be initiated by management, should nevertheless be bargainable, and this section should so specify.

Section 9:

Subsection (1) of section 9, in seeking to legislate against the possibility of discrimination by a person employed in a managerial capacity, nevertheless appears to take it for granted that discrimination is permissible if this Act is opened to it or if any regulation, collective agreement or arbitral award is open to discrimination. We maintain discrimination should not be possible in *any* circumstances and we look upon this subsection therefore as being badly constructed.

Subsection (2) of this same section 9 compounds the ambiguity and incongruity of subsection (1) in that it allows a person in a managerial capacity, whether or not he acts on behalf of the employer, to bypass the bargaining agent in order to receive representations from or hold discussions with representatives of *any* employee organization. We believe this clause should state in unequivocal language a clear and unmistakable principle against the possibility of any person employed in a managerial capacity from taking any action whatever against an organization which can be construed as discriminatory.

The provisions of Part I of Bill C-170, sections 1 to 25 inclusive, describing the constitution, qualifications for membership, remuneration and powers and duties of the Public Service Staff Relations Board contain the most compelling reasons why we would prefer to bargain under the I.R.D.I. Act. The Canadian Union of Postal Workers is unable to make a distinction between the Governor in Council and the employer. It therefore seems incongruous that the PSSRB under this bill would not only be selected and appointed by the employer but would also be beholden for tenure, remuneration, re-appointment and in fact all of the terms and conditions of such appointments would be the employer's prerogatives. We would feel extremely uncomfortable in the knowledge that those members of the Board who would be representative of the interest of the employees would be appointed by the employer. And even if the regulations governing such appointments contained a liberalization of Part I of Bill C-170 to a degree permitting participation by staff organizations in the selection of Board members, the C.U.P.W. as a minority group opting for conciliation and the right to strike, could not hope to expect to have a discernible voice in the selection of such appointees.

Selecting one or two sections of Part I at random, we find under section 19 that the regulation-making powers of the Board are exorbitant beyond reason. Subsection (b) of this section which gives the Board power for making regulations to determine units of employees appropriate for collective bargaining is a prime example. Under this section the objectionable proposal that

occupational categories be the basis for establishing bargaining units, that is, 6 occupational categories instead of 66 occupational groups, could be imposed. The C.U.P.W. takes the strongest exceptions to the possibility of a statute providing collective bargaining for public servants being wide open for such marriages of convenience which would literally legislate public service employee organizations of long standing out of existence and catapult them into the arms of a group with which they have very little affinity and whose philosophy is employer-orientated.

Another example is paragraph (k) of section 19 which would permit the Board to make regulations on the terms and conditions relating to the certification of a group of employee organizations, and worst of all, would have power to make regulations literally describing the relationship of such employee organizations to each other, to the employees therein and the employer. The more we study the powers and duties of the Public Service Staff Relations Board, the more we come to the conclusion that the employer intends to control every minute activity of staff organizations and unions with whom they purport to bargain collectively. This throws into a cocked hat any claim that the two sides at the bargaining table could enjoy equal status. And then, as though to close any possibility of leaving any initiative whatever to staff organizations, paragraph (1) of section 19 places under control of the Board the power to make regulations on "such other matters and things, etc." And finally, section 25 allows the Board to have as many second, third and fourth thoughts as it pleases because under this section it may review, rescind, amend, alter or vary any decision or order made by it. The remainder of this section is so promiscuous, vague and confusing that it is inconceivable how this section could possibly contribute anything to the process of full and free collective bargaining, except to make it even more unworkable.

We particularly deplore the provisions of section 26 which empowers the Governor-in-Council to specify occupational categories and to fix the date of eligibility for collective bargaining. The C.U.P.W. does not see the need for these transitional provisions, being fully prepared on very short notice, to bargain under the provisions of the I.R.D.I. Act—an Act which is tried and tested since 1948 and which is supported by voluminous precedent to meet almost any situation, and this of course brings us back once again to the question we have asked ever since the Preparatory Committee came into being: why ignore a perfectly good piece of legislation for a brand new untried instrument spelled out under Bill C-170. It is like throwing away a perfectly good outboard motor and subsituting paddles.

Paragraph (*b*) of subsection 2 of section 28 clearly empowers the Board to meddle unduly in the affairs of the employee organizations allowing it to decide what could be an appropriate legal and administrative arrangement between, of all things, employee organizations. We doubt if any hon. member of this committee would deny that the foundations for certification must be based on the wishes of the employees. In addition, the employee organizations concerned could not help resenting the intrusion of the Board into passing judgment on the adequacy of the administration of their organization in the matter of representation.

The proposed bill contains very few clauses which do not lend themselves to employer control; however, some clauses are more extreme than others and we offer as an example section 31. Under this section we can visualize the C.U.P.W. applying for certification as bargaining agent, and being met with refusal by the Board. At this point the Board would be unable to certify the C.U.P.W. as bargaining agent for the same or substantially the same proposed bargaining unit before at least six months had elapsed since the date of refusal (unless the previous application was refused because of technical error or omission). It seems to us that an organization such as ours which has been accustomed to settle its own affairs satisfactorily over the years would lose patience at this point and would seek to establish itself as the bargaining agent by the simple expedient of withholding its labour power.

The procedures under section 32 providing for the determination of appropriate bargaining units is clearly Procrustean in that the Board must take into account the duties and classification of the employees in the proposed bargaining unit as these relate to the prescribed plan of classification which is presently being whittled into shape by the Bureau of Classification Revision. Thus, once again, we find the provision in this bill which allows the employer and his representatives to remould the composition of employee organizations to suit their own particular ideas of what they consider to be prerequisites for entering a collective bargaining regime in the Public Service. Glancing for a moment at the private sector we find that this preoccupation with prerequisites played no part whatever in the struggle for recognition during the early days of the trade union movement.

• (10.00 a.m.)

Carrying this argument a step further, we find clause 33 which purports to provide powers to the Board for the determination of membership in bargaining units, wide open for the possibility of being absorbed by a large and more powerful group whose philosophy goes contrary to the aspirations and goals of the aforementioned minority group.

Under paragraph (*d*) sub-clause (1) of clause 35, while conceding that the Board should have the power to ascertain the wishes of the employees as to a bargaining agent by way of a supervised vote, we consider it most unusual and in fact unacceptable that the Board should have the power to pass judgment on the "representative character" of the officers of a staff organization, nor should the Board have any powers in prescribing the process by which such officers should be elected.

Mr. KAY: At this point, Mr. Chairman, I would like to have Mr. Otto read the remainder of the brief, and if the committee agrees he will also read our brief presentation on Bill C-181.

Mr. Otto (Executive Vice-President, Canadian Union of Postal Workers): Mr. Chairman, the policy of the C.U.P.W. is for a single dispute settlement procedure, namely conciliation and the right to strike. The dilemma of a Statute which provides a choice between compulsory arbitration and conciliation leading to the possibility of strike action is graphically illustrated in the provisions of Section 36 which lays down the incongruous provision that before an employee organization can be certified by the Board as bargaining agent for

any bargaining unit, the said employee organization must specify which of the two dispute settlement procedures it wishes to operate under in the collective bargaining regime described in this Bill. Here we reiterate again that those employee organizations who claim to be bargaining agent for any bargaining unit must accept full responsibility for the agreements reached at the bargaining table. The possibility of settling an impasse by being allowed to resort to a third party settlement under compulsory arbitration procedures would in a very short time make a shambles of the entire relationship by allowing one side or both sides to shirk their responsibilities. In this regard we note according to newspaper accounts that the merging staff associations who support compulsory arbitration and who abhor industrial action for disputes settlement have received a solid vote of confidence from the Prime Minister, the Revenue Minister and the Works Minister! For the sake of avoiding the suspicion of "company unionism" we sincerely hope that these honourable gentlemen will overlook us when they feel the urge to shower praise and blessings on public service organizations. As a matter of fact, the entire bill aids and abets "company unionism" by its inordinate emphasis on compulsory arbitration as a means of settling an impasse in a dispute. Therefore, for Bill C-170 to even come close to measuring up to the provisions of the I.R.D.I. Act Sections 63 to 76 would have to be eliminated and Sections 77 to 89 could be described as meeting the goals of the C.U.P.W. on the question of disputes settlement. This of course is in addition to the criticism we have made earlier with regard to the restrictive and employer-oriented clauses providing for the transitional period.

Continuing our criticism of the Bill: under paragraph (b) of sub-clause 1 of clause 56, we cannot visualize the P.S.S.R.B. in the role of adjudicator because in such circumstances the Board could be placed in a position of partiality for one side or the other, destroying the alleged neutrality of the Board. Where no period is specified for implementation of a collective agreement, this question should be resolved by submitting it to binding arbitration because such a function is not in keeping with the functions of the Board. Further under sub-clause (2) of the same clause 56, the C.U.P.W. would be unable to negotiate a large number of improvements it is contemplating in the Public Service Superannuation Act. Likewise, we see no reason why it should not be possible to negotiate improvements in the Government Employees Compensation Act under legislation which purports to provide collective bargaining for public servants and thus we reiterate our belief that all terms and conditions of employment of public servants should be negotiable.

We consider the time limits of sub-clause (3) of clause 57 which requires that first collective agreements, if entered into within 30 months after eligibility for collective bargaining, as unreasonable, in that it specifies that the agreement shall expire no sooner and no later than the end of that 30-month period. In our opinion, long before the 30-month period ended, the employees represented by the C.U.P.W. would surely become disenchanted with the long awaited Statute providing collective bargaining for public servants. Here again, we reiterate that the organization we represent is prepared to bargain collectively immediately upon certification, another reason why we prefer the I.R.D.I. Act. The Minister of National Revenue in his opening statement refers to "the desire of all concerned to retain the existing pay review cycle in the first rounds of

bargaining." We respectfully submit that the C.U.P.W. has no desire whatever to retain any part of the cyclical salary review system from this date on.

Clause 57, sub-clause (4) provides that no collective agreement may be signed within six months of eligibility for collective bargaining. Again, we have unreasonable time limits. In actual practice, due to the process of certification, naming of designated employees, definition of bargaining units, selection of the process of resolution of disputes, examining the representative character of the representatives of the employee organization, the conciliation procedures, the inexperience of employer negotiators, the inexperience of some employee organization negotiators and the backlog of problems resulting from the absence of collective bargaining over the years,—it would be a miracle if a collective agreement could be concluded in six months. All of these unnecessary and aggravating delays need not plague us at all if the I.R.D.I. Act is opened to public employees.

Mr. OTTO: I would like to point out to the Committee that the next sentence is a typographical error, and I will begin reading the first paragraph, page 10.

Having stated previously that it is essential to eliminate clauses 63 to 76 in order to make this Bill an acceptable substitute for the I.R.D.I. Act, it naturally follows that we want no truck with clauses 60 to 62 inclusive, which define the terms of reference of the Public Service Arbitration Tribunal. We note that even those organizations who openly elect for compulsory arbitration nevertheless find some of the terms of reference of the Tribunal obnoxiously undemocratic, and we point to clause 71 dealing with the Chairman's exclusive right to sign arbitral awards, without the right of other members of the Board to submit minority opinions.

We have indicated earlier in this statement that we could live with clauses 77 to 89 because of the similarity of the provisions thereunder with the Industrial Relations and Disputes Investigation Act: we make one important exception, and that is with reference to Sub-clause (3) of clause 86: We do not consider the standards, procedures or processes governing the appointment, appraisal, promotion, demotion, transfer, lay-off or release of employees as the exclusive domain of management. Since the remaining provisions do not deviate too greatly from the I.R.D.I. Act, we ask again, why introduce a new instrument when a satisfactory one was already in existence?

The criticism we have offered of various provisions of Bill C-170 does not mean we would be satisfied with those clauses we did not mention. We have simply pointed to the worst features of the Bill. The experience under the I.R.D.I. Act is on record and therefore verifiable; we know we could live with our employer under that Act. The claim that Bill C-170 closely parallels the I.R.D.I. Act is in our view spurious. If this were so, then surely the Preparatory Committee would have sought to open that Act to federal public employees. The truth of the matter is that the I.R.D.I. Act does not contain enough employer control devices to satisfy the Preparatory Committee and thus they devised a separate statute in order to make certain that federal public employees would not fall under the influence of the legitimate trade union movement of the country.

All political parties in Canada are on record as supporting a system of 'collective bargaining'. We need hardly point out to the Hon. gentlemen of this Committee that they are not necessarily talking about the same thing. The passage of this bill would have the effect of protecting the Government of the day from criticism regarding adequate machinery for salary determination. Quite obviously, the same applies to staff associations in that the vast majority appear to regard compulsory arbitration as a satisfactory dispute settlement procedure, whereas postal workers have their eye on the procedures governing the private sector. This is their goal and they are not likely to settle for less.

Working conditions and other conditions of employment would have little chance of improvement because of deliberately obstructive provisions of this bill. This is not too important for the average federal public employee; however, for employees of the Post Office Department, conditions of employment and methods of discipline are often as important as any shortcomings in remuneration. As the bill presently stands, most of these conditions of employment and methods of discipline will be outside the scope of bargaining and arbitration, leading eventually to another Royal Commission of Inquiry into working conditions in the Post Office Department.

Thus we complete our presentation with a plea that postal workers be allowed to bargain collectively under the I.R.D.I. Act either through the simple expedient of opening the act to them or by making the Act available to them through the medium of converting the Post Office Department to a Crown Corporation.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Otto, will you please read the next brief.

Mr. OTTO: This is the submission of the Canadian Union of Postal Workers on Bill No. C-181 to the Joint Committee of the Public Service of Canada.

The following is our submission on the provisions of Bill No. C-181, the act respecting employment in the Public Service of Canada. We do not believe that the principle of appointments based on merit can be preserved under clause 10 because of the power of the commission to delegate authority to deputy heads in all areas except appeals. We say this because the role of "guardian of the merit principle" is completely unsuitable for deputy ministers because of their close involvement in the political decisions of their ministers. This type of working partnership between the commission and the departments will inevitably result in the establishment of a multiplicity of definitions of the merit principle.

We take exception to clause II which allows the commission to make appointments from outside the public service whenever they deem it in the best interests of the public service to do so. We believe the "best interests" of the public service need to be clearly defined in this section.

We do not agree that the commission and Treasury Board should have exclusive jurisdiction over appointment, appraisal, promotion, demotion, transfer, lay-off or release of employees. In our view all of these should be negotiable under collective bargaining.

We especially deplore clause 31 entitled "Incompetence and Incapacity" because of the ease with which an employee can now be released. Where

formerly the final decision to release for cause rested with Governor in Council, we have a procedure in this bill which could degenerate into a perfunctory role in the commission, leaving the deputy minister in a position of setting his own standards for dismissal and thus we could end up with as many varieties of dismissal procedures as we have deputy ministers. Although there is a right of appeal and the commission apparently has the final say, we cannot conceive of very many instances where a recommendation by a deputy minister to dismiss an employee would not be accepted by the commission.

We find no evidence in this bill that an appellant has a right to be represented by a competent person from his staff organization. This was spelled out in the regulations under the Civil Service Act but under clause 21 of this bill no such provisions are made, and the impression is left that only the person appealing and the deputy head concerned will be given an opportunity of being heard.

We have one final point to make and that is with clause 32 entitled "Political Partisanship". It seems quite obvious that this clause is simply a carry-over from the old Civil Service Act and it amounts to an outright prohibition of political activities on the part of public employees. If Revenue Minister Benson was serious when he stated this bill initiates a totally new era in the relationship of the Government of Canada with its employees, then we feel certain he is also prepared to grant them first class citizenship rights, and we believe, along with a vast preponderance of supporters, that these full rights as Canadian citizens include not only the right to belong to unions and organizations of their choice, free to engage in full collective bargaining but also free to enjoy full political rights. It is time we matured in this respect, and we submit that the prohibitions in clause 32 will continue, as they did under the old Civil Service Act, to create more headaches than freedoms.

Mr. Chairman, before I close I would like to draw to your attention the fact that we have made a submission to the Prime Minister asking for the privilege of appearing before this Committee again after the Judge Montpetit Commission Report is circulated. I have a copy of the telegram signed by the Prime Minister, which indicates that it might be the policy of the government. I will turn this over to you now.

The JOINT CHAIRMAN (*Mr. Richard*): I have a copy, Mr. Otto, with reference to this request and I understand the Montpetit report is being translated and will be made public within the next 10 days. You will, no doubt, have an opportunity to make your submission before this Committee.

Mr. KNOWLES: Could these extraneous telegrams be read to us so they will be on the record?

The JOINT CHAIRMAN (*Mr. Richard*): We could make them part of the record if you wish.

Mr. KNOWLES: Are they that long?

The JOINT-CHAIRMAN (*Mr. Richard*): Yes, they are very long. If Mr. Otto wants to read them, it is quite all right. We received copies this morning but if Mr. Otto will read them, it will save time, rather than talking about them.

Mr. TARDIF: Could copies be distributed?

The JOINT-CHAIRMAN (*Mr. Richard*): We will have them read and then they will be on the record.

Mr. OTTO: Mr. Chairman, I will read a copy of the telegram that was originally sent from Winnipeg:

> Mr. Prime Minister:
>
> The following resolution was unanimously passed at a joint mass meeting of postal workers in Winnipeg Sunday October Second 1966:
>
> Whereas the Judge Montpetit Commission of Inquiry into working conditions in the Post Office Department completed its investigation during the early part of 1966 and whereas assurances were given that the findings of this commission would be made available to all interested parties including the people of Canada, at the earliest opportunity and whereas we are firmly convinced that the findings of this commission will fully substantiate the numerous complaints submitted to the Commission by postal workers from every part of the country therefore be it resolved that the joint Senate House of Commons Committee on Bill C-170 be instructed by the Prime Minister that they do not finalize their proceedings until after Montpetit Commission Report is made public and be it further resolved that the Letter Carriers Union of Canada and the Canadian Union Postal Workers be granted the privilege of making further submissions to the parliamentary Committee on Bill C-170 in the light of the Montpetit Commission Report.
>
> R. Otto, Vice-President CDN Union of Postal Workers;
> J. Colville, Sec.-Treas., Letter Carriers Union of Canada;
> Y. Gatehouse, Field Officer CDN Union of Postal Workers;
> D. Mowat, District 7. Rep., Letter Carriers Union of CDA;
> Grant McLeod, President, Winnipeg and District Labour Council.

• (10.20 a.m.)

Mr. OTTO: I don't have a copy of the reply with me, Mr. Chairman. I can get a copy to send later—

The JOINT-CHAIRMAN (*Mr. Richard*): That will not be necessary. I will read the copy which the Clerk of the Committee has.

This is the reply from the Prime Minister, which is dated October 5:

> I have your telegram of October 3, 1966, concerning the resolution passed at the meeting of postal workers in Winnipeg on October 2 relating to the Commission of Inquiry into working conditions in the Post Office Department. The Government has not yet received the Commission's Report. I am informed that it is likely to be submitted around the middle of this month. It will be made public as soon as possible after it is received.
>
> I understand that the Special Joint Committee of the Senate and House of Commons to which Bill C-170 was referred on May 31 has begun to hear representations, and I believe it is unlikely to make a final report to Parliament before the Commission report becomes public. You will appreciate that it is for the Joint Committee to arrange its business as it decides, but I shall bring your telegram to the attention of the Joint

Chairmen. They will undoubtedly report the resolution to the Joint Committee which, I feel sure, will want to give the Letter Carriers' Union of Canada and the Canadian Union of Postal Workers an opportunity to make submissions in the light of the Commission report.

I understand that representatives of the postal workers are to meet the Joint Committee later this week. They could of course raise at that time the points made in the resolution.
L. B. Pearson

I have no doubt this Committee will take notice and will, of course, want to hear the postal workers after the Montpetit Report is out.

Mr. KNOWLES: I think we should give them that assurance now. I am sure they understand that the Prime Minister does not instruct this Committee, but we wish to do it anyway.

Mr. BELL (*Carleton*): I am sure it is the wish of everyone to hear them at the appropriate time on our own initiative and not on the instruction of the Prime Minister.

The CHAIRMAN: I think the Prime Minister made that clear that it was our business to do so.

Mr. LEBOE: If you would permit me, I realized later that we were under a misapprehension about the powers of the Committee. It is your business to arrange the proceedings and it is our intention to give you full opportunity at the proper hearing.

The JOINT-CHAIRMAN (*Mr. Richard*): I would like to thank Mr. Kay and Mr. Otto for their very complete submission and very forthright and colourful language.

Mr. BELL (*Carleton*): Could we know how many members there are of the Canadian Union of Postal Workers?

Mr. KAY: There are eleven thousand.

The JOINT-CHAIRMAN (*Mr. Richard*): The next brief comes from the Canadian Postmasters' Association. Mr. LeBoldus.

Mr. John M. LeBoldus (National President, Canadian Postmasters' Association): Mr. Chairman, this is my first appearance before a committee of the House of Commons and I would like to express my gratitude to you, Honourable Senator Maurice Bourget and Mr. Jean-T. Richard for giving me this opportunity to be heard. I represent the Canadian Postmasters' Association. We are here alone. We do not have the benefits of association with any labour movement in Canada. We are not able, for financial reasons, to bring with us experts in the field of labour law, or research scientists or counsellors of any description. We are an association comprising the postmasters of Canada and their assistants. Your postmaster, gentlemen, whether he comes from town or hamlet, has been over the years, and still is, our major concern.

As I said, we represent the postmasters of Canada and their assistants. The Canadian Postmasters' Association was organized over sixty years ago, in 1902. It was at first representative of only a few postmasters in restricted areas of the country. Today it is organized in every province of Canada, with the provinces of Nova Scotia, New Brunswick, and Prince Edward Island welded into one

group known as the Maritime branch. Of the 8,478 postmasters in the country, 6,061 are members of our association. I would venture to say, of the balance, a great percentage of them are too poor to join. Further, we number among our members 1,063 assistants. These two groups, assistants and postmasters, have been inseparable down through the years in Post Office operation and in fraternal association. We are primarily an association of small town postmasters and assistants.

Upon studying the legislation now before this Committee, we find ourselves in agreement with the contents of Bill No. C-170. Under Section 26 we are assured the right to meet with our employer to discuss proposed changes in salaries and working conditions. The bill also makes provisions for resolving grievances between ourselves and our employers. With this we are satisfied. What we are concerned about, however, is the category into which we are to be placed for purposes of collective bargaining. Postmasters are in a group by themselves within the public service. They cannot be compared or aligned with any other group. This is also true of their assistants. We cannot, for example, compare postmasters to postal clerks, mail handlers or letter carriers. While a postmaster may sell stamps, write money orders, sort mail and despatch and deliver it, he must also interpret all directives and regulations emanating from the Department or the district office. In hundreds of towns and villages throughout the country he is the sole representative of the federal government. He is a unique combination of manager and employee that is to be found nowhere else in the entire service. He is in direct daily contact with the public as is no other type of public servant. His daily contacts are the people whom you gentlemen assembled here represent in the parliament of Canada. The post office is the window of the public service of Canada. In many communities the postmaster is the banker, the confidante of his patrons and the liaison officer between the government of the country and the public. The same, to a great extent, can be said of his assistant. Once a week the assistant is, in effect, the postmaster in full charge of the office. The same is true during the postmaster's vacation or when he is on sick or special leave. This combined group has for years stood together in the public service, banded themselves together in a free and democratic association known today as the "Canadian Postmaster' Association", an association that has always enjoyed the confidence of the Post Office Department. This confidence was earned through sensible, fair and open negotiation. If we are classified with a group whose methods and interests are not identical with ours, we stand to lose something which we hope to maintain as bargaining agents for our group.

Over the years, resulting from the efforts of the Canadian Postmasters' Association, the lot of postmaster and assistant has improved immensely. Many of us are now enjoying vacation with pay, sick leave benefits, promotion opportunities. The rest, while still being denied the latter, do receive gratuity in lieu of vacation, and those who are contributing to superannuation may compete in promotional competitions. As we go forward to collective bargaining, postmasters, together with their assistants, must go together, separate and distinct from any other occupational group. As a separate and distinct group alone, will the interests and the welfare of this branch of the Public Service be best taken care of.

Respectfully submitted this 23rd day of June 1966 when this was originally prepared, Mr. Chairman, John M. LeBoldus, National President, Canadian Postmasters' Association.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. LeBoldus. I am sure the Committee is very glad you came here this morning to present this brief.

We have now the Letter Carriers' Union of Canada represented by the President, Mr. Roger Decarie. Mr. Decarie will read his brief in French.

(*Translation*)

SUBMISSION BY THE LETTER CARRIERS' UNION OF CANADA TO THE JOINT COMMITTEE OF THE SENATE AND HOUSE OF COMMONS ON THE PUBLIC SERVICE OF CANADA

Messrs. Chairmen, and Members of the Committee:

This brief is submitted to you by the Letter Carriers' Union of Canada, which includes some 9,000 members, representing nearly all the Letter Carriers in every town across Canada where the delivery of the mail is the responsibility of the Post Office Department. Our Union being affiliated to the Canadian Labour Congress, and being very active particularly in the larger concentrations of trade unionism in Canada, our members have acquired a sense of responsibility, both as Workers and as Canadian Citizens.

We have tried, in our analysis of Bills C-170, C-181 and C-182, to make use of our experience and our knowledge of relations between employer and employees in the Public Service.

We are appearing before you with no intention of reminding you of past history, but simply because it is in everyone's interest that the employees of the Public Service should be able to determine their working conditions jointly with their employer.

Once Bills C-170, C-181 and C-182 have been adopted, they will then constitute the law governing the relations between employer and employees in the Public Service. For the first time, after a long wait, Federal civil servants will be entitled to take part in collective bargaining. There must be good faith on both sides, and we trust that the negotiations will be carried out with due regard to the Bill of Human Rights.

It would seem, however, upon reading those three Bills, that some of these rights were overlooked, as we will set out to prove. Nevertheless, the fact remains that in the history of the Public Service, the adoption of these bills will mark an important step forward, and we have no hesitation in admitting that this is, on the whole, a progressive measure.

Any Act is a legislative measure which defines the relations or the restrictions between parties. In the case of labour legislation, the general aim is to defend and protect the right to organize, and to regulate relations between employer and employees in private industry in such a way as to keep to a minimum the disputes that might arise. This objective however, which one would expect to find in Bill C-170, is not fully present because in terms of the Act under discussion, the legislation fulfills all the functions of employer, arbitrator, conciliator and judge at the same time. Bill C-170 which, for the first time, should make it possible for employees to negotiate in good faith with

the employer, is weakened at the outset, because it is the employer who determines the rules under this law. The provisions of Bill C-170 tend to favour the employer, and this imbalance which is inherent in the Bill will provide less than full collective bargaining and sound relations between employer and employee. If this proposed Bill is passed in the form in which it is now before you, it will fall short of providing Government employees with the system of collective bargaining they have a right to expect.

To achieve sound relations between employer and employees, it is important for the associations representing Public Service employees to enjoy a certain amount of latitude and initiative, and to be given the opportunity of building up a relationship that is satisfactory to the associations as well as to the employer. If they are going to be forced to adhere to rigorous and narrow rules, the relations between employer and employees will suffer thereby, and this will result in undesirable side-effects which those very restrictions were ostensibly designed to prevent.

We cannot help but criticize the all too large number of restrictions in Bill C-170 in its present form. It would seem that the Government, in its capacity as employer, affirms by means of this legislation that it has no intention of allowing a full and free exchange of viewpoints, nor the reciprocal concessions which are so necessary to any good relationship between employer and employees, in a collective bargaining framework.

We feel that the Government does not want to establish such a set-up, or that it doubts whether it is possible to establish a system of free relations in the Public Service, without padding this law with inexplicable restrictions.

What gives us more concern than anything else is the fact that the Government, being at the same time the employer, has, in this legislation, eliminated from the field of collective bargaining many of the working conditions affecting its employees, and has taken it upon itself to dictate the subjects on which we will be able to negotiate. The Government strikes us as an expert poker player who has himself shuffled the cards and dealt himself all the aces. It cannot lose. It evidently does not want to impose upon itself a low governing collective bargaining and rules of conduct such as it has established for employers and employees in private industry.

We believe that Bills C-170, C-181 and C-182 are needlessly complicated and too restrictive. There are too many arbitrary and unilateral barriers which prevent the employees from taking part in the determination of their own working conditions. The means of settling disputes and other differences are unnecessarily complicated. The bills fail to provide the freedom of action to the employee associations which is present elsewhere in the Public Service and particularly in the crown corporations. The powers conferred upon the Public Service Staff Relations Board will create a monster of authority which is neither necessary nor desirable.

Bill C-170 eliminates at the start the right of employees to form bargaining units and appoint bargaining agents of their own choice, and it tramples underfoot the right of staff associations to manage their own internal affairs. No appeals procedure has been provided. Bill C-170 contains no provisions to safeguard those rights which employees elsewhere already enjoy, such as, for example Union security and deduction of dues at source. By preventing the

employees from making decisions of a political nature, Bill C-170 implicitly amends the Bill of Rights. In effect, the Government seeks to maintain in large measure that which it has hitherto practised in the Public Service—a unilateral system of regulation. There is little opportunity left to either party, employer as well as employee, to determine their own procedures with a view to solving their problems within the framework of the proposed legislation. The limitations of Bill C-170 being much too complex and restrictive, they have the effect of hampering the freedom of action of the staff associations.

We should like to enumerate some of these:

(1) The restrictions imposed with regard to the qualifications required of the members of the Board, of the Arbitration Tribunal and other bodies, (See Articles 31(1), 61(1), 80(6) and 92(6));

(2) The interference on the part of the Board in the internal affairs of a Council of employee organizations, (See Articles 19(1) (k) and 28(2) (b));

(3) The requirement for the Board to satisfy itself, for certification purposes, that the association representatives "were duly authorized to act on behalf of the members of the Union", (See Article 34):

(4) The obligation to choose beforehand the method by which disputes are to be settled, (See Articles 2(w) and 36(1));

(5) The forced preservation of decisions taken under Section 36(1), for three years, followed by a period of 180 days, (See sections 27(2) and 38(5));

(6) The time it takes before a collective agreement can be concluded, (See Article 57(4));

(7) Laying down beforehand the desired decision in case of arbitration, (See Section 63(2)(a) and 64(2)); and

(8) Requiring the Board to make rulings on grievance procedures, (See Article 99).

We sincerely believe that the provisions we have mentioned in the aforegoing are most certainly unnecessary. All they do is complicate Bill C-170. What it amounts to is that the rights of staff associations to be represented by representatives of their own choice and to establish their own councils for collective bargaining, are being disregarded.

The Government appears to give its employees the means of settling differences through this legislation, but the trade unionist sees in it only Utopia, which cannot fail to lead to general discontent and disorder in the Civil Service.

We wonder why the Government resorted to such elaborate and complicate procedures for the Public Service, when a much more straightforward formula was already in existence, namely the Industrial Relations and Disputes Investigation Act, which it deems satisfactory for industries under the jurisdiction of Parliament. This Act, which has not been amended since 1948, is regarded as satisfactory for the purpose of governing employer-employee relationships in the industries under the jurisdiction of the Canadian Parliament, such as the Railways, Airways, Radio and Television, Navigation, Harbours etc. Therefore it could likewise serve to govern the relations between the Government and the employees engaged in the handling of mail.

When the Province of Saskatchewan decided to grant collective bargaining to its own employees, it contented itself with including the words "Her Majesty

in right of Saskatchewan" in the definition of the word "employer" in Article 2(f) of its Act on Trade Unions, and the civil servants were placed on the same footing as any other employees.

Section 2(h) is much too vague to our way of thinking. The omission of rates of pay and hours of work leads us to believe that the employer is not anxious to discuss these most important points in a collective agreement. The fact remains that wage rates and working hours must needs be an integral part of the collective agreement, and should have been mentioned in this section. We are pledged to have the words "and related matters" deleted from this section, for these few words give the Board extraordinary powers which are not needed and which will hamper free negotiations considerably, for an indefinite period might well elapse before the Board defines what it understands by "related matters". To this day, the Postal Authorities have not yet defined satisfactorily this term which the Post Office Department has been using for many years.

In paragraphs (P) and (T) of section 2, the term "grievance" is used only as it applies to an employee. The Bill does not take into consideration that grievances might also be submitted by a group of employees, or by the bargaining agent itself. This oversight becomes noticeable again in section 90, and we would request the Committee to make recommendations to correct this.

The part of paragraph (*aa*) of section 2 which mentions a "slow-down or any other concerted activity on the part of employees designed to restrict or limit output" would mean, in the eyes of the Board, a work stoppage, which it might well regard as a strike. Such determination on the part of the Board could have serious consequences for the employees, for alleged action of this sort on the part of employees can only be assessed by their immediate superiors. This could easily lead to discrimination, and would, without a shadow of doubt, cause countless almost insoluble differences which no collective agreement could safely endure.

Section 7 provides that the employer has authority to group and classify positions. The employer could well interpret this to mean that positions may be reclassified to a lower level, which would entail a "freezing" of the salary of the employees affected thereby. This could lead to a breach of the agreement. These words are much too vague, and what is more, they are superfluous, inasmuch as the employer is in a position to determine how the Public Service is to be organized, since he is entitled to assign the duties to the employees. This task of grouping and classifying positions should be left to the negotiators.

Sections 8 (1) and (2), and 9 (1) refer to prohibitions with regard to activities commonly referred to as unfair labour practices, such as when a person employed in a managerial capacity and therefore representing the employer, participates in the formation or administration of an employee organization. Since it is impossible to impose monetary penalties on the employer, provision should be made to discipline or otherwise penalize such a person who is part of management, if his activities were clearly contrary to the provisions of the Act. No person who is employed in a managerial capacity should be able to indulge, with impunity, in unfair labour practices.

Sections 11 (2) and (3) came as a surprise to us, because of the thought that the Chairman and the Vice-Chairman could be dismissed from their post because of misconduct. We find it difficult to understand the reasoning of the

legislator in this connection, on a question which can be interpreted in a thousand different ways. Is this supposed to mean that if the Chairman or the Vice-Chairman, under circumstances which would fully warrant such a decision, should pronounce themselves in favour of the employee, the employer could then accuse them of misconduct, for the simple reason that the employer does not share the views of the Chairman. This could give rise to conflict of interpretation and jurisdiction. These words should be amended, and we request you to make a recommendation to this effect.

Section 13, (1) (c) is objectionable. We protest strongly against the conditions to which the appointment of the members of the Board is made subject, by specifying that "a person is not eligible to hold office as a member of the board if he is a member of or holds an office or employment under an employee organization that is a bargaining agent". To the best of our knowledge, members of labour relations boards are not subject to such restrictions. In incorporating this sub-paragraph into section 13, the Bill eliminates with one stroke of the pen anything which might, at first glance, seem to give the staff associations equal representation on the Board.

Not satisfied with limiting the possibilities of the employees being represented on the Board, the Bill goes further by requiring that anyone wishing to hold office as a member of the Board must sever any links he may have with his staff association, be it as a member or as an official. It follows that the representatives of the employees would have to be from outside the staff organizations. This is a measure which we deplore, and for which we can find no justification. It suggests that the Government intends to make the Board a Court of Law rather than an administrative body, where the employee and the bargaining agent would feel as lonely as "Daniel in the Lion's den" when appearing before the Board to apply for certification. Such restrictions with regard to the requisite qualifications apply alike to members of the Arbitration Tribunal, the Board of Adjudication and the Conciliation Board. (See Sections 61 and 80).

Sections 18, 19, 23, 28, 34, 35, 60, 63, 64, 65, 66, 67, and 75 deal with the powers and duties of the Board. The interest of the Letter Carriers' Union concerning the mandate of the Board is to see that it is established in a democratic manner, and that both employer and employee are given equal representation on it. We want this mandate to be concise, and we want the powers of the Board to be limited to what a labour relations board should be, in the accepted sense of the term. We object to it being made a court of justice, or a legal enquiry with the object of interfering in the internal conduct of staff associations, to the point of subjecting the very conscience of members of our Union to scrutiny. We want both the employer and the bargaining agent to enjoy the same maximum measure of initiative and freedom of action, so that they may negotiate a collective agreement unfettered and in good faith, and so that they may resolve, by arbitration or by conciliation, any disputes that may arise. The Board, as instituted in Bill C-170, is a far cry from the Canada Labour Relations Board, but it should nevertheless fulfil the same function.

Section 23 deals with questions of law or jurisdiction which may be referred to an Arbitration Tribunal or to an Adjudicator. At first sight, this article appears inoffensive and seems to make sense, since the Arbitration

Tribunal or the Adjudicator *must* refer the question back to the Board if it is of the opinion that it is a matter of law or jurisdiction. However, having been referred back to the Board any procedure in connection with the matter in question is then suspended until the Board has decided the question. This can cause endless delays. It would be far more practical for the arbitrators themselves to come to grips with the problems as they arise. Their competence having been established, they could avail themselves of the means then at their disposal to solve the problem, whilst at the same time remaining within the confines of their mandate, which is to hand down a decision on the matter under arbitration.

We are firmly convinced that Section 23 should be eliminated, and we ask that it be dropped, for the simple reason that the adjudicator and the parties to the dispute may use Section 23 to shirk responsibility, and leave it up to the Board every time a dispute appears to them to contain elements of law or jurisdiction. We are of the opinion that the Act would lose none of its value or effectiveness if Section 23 were to be deleted altogether.

According to Section 28 (2) (b), tie Board may certify a Council of employee organizations as bargaining agent only after having satisfied itself that "appropriate legal and administrative arrangements have been made". We feel it is not up to a Board of this kind to determine the suitability of the measures that precede the formation of a council; this should be left to the staff associations to decide.

Sections 34 (d) and 35 (1) give the Board an inflated and unwarranted authority, such as is found nowhere else in labour legislation. We consider this unsound.

According to Section 60, members of the Arbitration Tribunal are appointed by the Board, including the employees' representatives. This again is a case of flagrant injustice, for the members who represent the employees should be chosen by the latter.

Sections 63 to 67, and 75, grant the Chairman of the Board wide discretionary powers ranging from settlement of disputes to arbitration. The conditions set out in these sections give rise to certain drawbacks which we will discuss further on in this brief, which have the effect of delaying the settlement of disputes, not to mention the fact that they are going to cause complications which are as inevitable as they are unnecessary. We feel that the parties to a dispute could very well settle it without interposing these provisions which deal with arbitration. The Letter Carriers' Union has in the past repeatedly protested against any form of compulsory arbitration for the settlement of disputes in connection with a collective agreement. In incorporating in Bill C-170 alternative ways of settling disputes, the Government seems to have proven us right when we envisaged an optional formula, under which the bargaining agent may have recourse to strike action in case of a dispute.

Collective bargaining is a contest of strength between the employer and the employees which can only become less sharp by experience, maturity and good faith, to say nothing of the mutual acceptance of the responsibilities which labour legislation may prescribe. Those labour laws do not, at any time, deprive either the employer or the employee of their freedom of action or initiative.

This way, however, the employer can simply close the door if he does not wish to negotiate with one or the other staff association, even if the law obliges him to recognize such an association, and it is not obliged to sign a collective agreement, but neither can it fight it, by unethical methods or practices. The employer is not, according to the agreement, obliged to give advance notice of his intention to close his door. The Union, for its part, should not be obliged to announce well in advance its intention to resort to strike or to any other means of settling disputes. Both parties are free to determine their own strategy and to set up any programme of action that may best be suited for each one's purpose.

The Government, remembering that it is the employer, has again dealt itself all the aces in the game of negotiation. It wants to give the employee nothing which might enable him to fight with the same weapons, and deprives him of the opportunity of working out his own strategy. According to Bill C-170, the bargaining agent must, even before being certified as such, let the employer know which of the procedures for the settlement of disputes it is going to choose. In other words, the employer must be made aware of the strategy the Association is going to adopt before entering the bargaining arena, and this enables him to work out elaborate defensive measures, which leaves the association little opportunity to use its arguments to best advantage. This is a battle the outcome of which is pre-arranged, which certainly cannot be described as fair play. But the Government does not stop there; it then fetters the bargaining agent with a restriction that we can only describe as undemocratic. Section 37 (2) imposes a duration of 3 years with regard to the choice the association makes, and to complicate this even further, the bargaining agent may change the method only when the Board has satisfied itself, in terms of Section 38, that the employees support such change. And in order to render this concession even less accessible, it is necessary to wait 180 days after so having satisfied the Board. What this amounts to is that the method cannot actually be changed for at least 3½ years.

Fundamentally, sections 36, 37 and 38 are a flagrant denial of the democratic right of the employees to decide for themselves by what means and at which moment they may choose the method they prefer in case of a dispute with their employer.

Since section 89 of Bill C-170 gives the employer and the bargaining agent the right to transform a Conciliation Board, by mutual consent, into an Arbitration Board which binds both parties, we cannot understand nor do we see the need for sections 36, 37 and 38.

Perhaps the Government, by wanting to give itself the advantages under Bill C-170, wanted to convey the impression that it was giving the associations a right for which they had been clamouring for years, but put it in such a way that it would be complicated and impractical enough to discourage the less experienced, so that they would relinquish the right to strike as prescribed under the Industrial Relations and Disputes Investigation Act (1948—C.54)

We believe that the way to settle a dispute should be decided at the time when a dispute breaks out, or threatens to break out, and not 3 years beforehand. We request you to ask, in your recommendations, that articles 36, 37 and 38 be deleted in favour of article 89, which is similar to section 38 of the Industrial Relations and Disputes Investigation Act.

In considering section 60 of the proposed Bill, we do not raise any objection against the appointment of adjudicators or arbitration Boards. This is current practice, and is accepted in all collective bargaining agreements in Canada. But it must be said that those arbitration boards, even when permanent, were created voluntarily by the parties concerned, and not by means of a legislative measure, and the adjudicator or the members of such arbitration boards were chosen by the parties in question.

Paragraph 4 of section 60 denies the associations the right to choose their own representatives. Here again, the Government seizes for itself a right which should be available to the employees. Furthermore, we disapprove of the powers bestowed upon the Chairman, who is authorized, by virtue of paragraph 4, to select the other two members who are to make up the tribunal together with the Chairman. The members of the Committee must surely be aware that in terms of the Industrial Relations and Disputes Investigation Act, the representatives themselves choose the chairman. There is no doubt whatsoever that conflicts of interest are bound to arise among the members of the tribunal.

Sections 63 (2) (a) and 64 (2) are beyond us. Why must we specify beforehand our proposals with regard to the award to be made by the Arbitration Tribunal? This could conceivably lead to arguments of a legal nature and to unnecessary delays. These sections 63 (2) (a) and 64 (2) should not be incorporated in Bill C-170.

At the outset of this brief, we voiced objections with regard to the excessive powers vested in the Chairman of the Board. Article 75 bears out our fears, inasmuch as the Chairman may again refer back to the Arbitration Tribunal any arbitral award that has been made, if "it appears to him" that the arbitral award that was made has failed to settle the dispute. It seems to us that if the parties are satisfied with an arbitral award that should be the end of the matter, and should be treated accordingly.

Analysis of article 26 of Bill C-170 reaffirms our impression that the Government wishes to conduct collective bargaining as it chooses. It reserves for itself the right to make unilateral decisions with regard to bargaining units. The civil servants will be obliged to accept against their will the bargaining units that their employer is willing to grant them. Whether they like it or not, these units will remain in force for 28 months. After this period, the associations may make other arrangements, with a view to serving the needs of their members more effectively, provided they are still in existence and provided they still have enough strength left. This method is really extraordinary in a country like ours, where progress is making itself felt in every field. This is a retrogressive and highly undemocratic measure.

We obtain a strong impression that the Government is fearful of facing up to its responsibilities as an employer, and of giving its own employees those very rights which it demands that employers in private industry and Crown corporations give to theirs. We do not wish to find fault with the various other staff associations in the Public Service. But the Letter Carriers' Union of Canada cannot remain passive in face of section 26. We see in it a danger for all staff associations, no matter which, of losing their identity, or of being forced to form councils whether they want to or not. This policy is neither very

satisfactory nor very efficient from the employer's point of view, and it leaves much to be desired from that of the employee. We concede that problems might arise when it comes to recognition of one or another of the associations as bargaining agent, but we would point out that the policy expressed in section 26 will create much more serious problems, problems as far-reaching as any other difficulties that could arise from any other procedures. Section 26 reverses the method of certification laid down in the Industrial Relations and Disputes Investigation Act and in corresponding provincial laws. The prefabrication of bargaining units by the Government restricts the freedom of associations more than does the Act governing Crown Corporations. We may have to wait for years before the Letter Carriers are going to be free to choose their bargaining unit for themselves. It is almost certain that the Government will end up doing just what it likes with regard to the organization of employees for the purpose of collective bargaining.

In terms of paragraph (1) (a) of section 26, the Governor-in-Council shall, by order specify and define the several occupational categories in the Public Service, enumerated in sub-paragraphs (i) to (v) of paragraph (i) of section 2. A certain detail in this section is conspicuously absent. We refer to recognition by the Governor-in-Council of a trade or specialized job which would set the employees apart for certification purposes by specifying and defining the various bargaining units of employees who belong to a category engaged in a trade or who exercise technical skills by dint of which they can be set apart from an occupational category as a whole.

We believe that Letter Carriers should be recognized as doing a skilled, technical job which distinguishes this group completely from the rest of the Staff employed by the Post Office Department. We ask you to recommend that section 8 of the Industrial Relations and Disputes Investigation Act be incorporated into Bill C-170.

We strongly protest against section 39 (2) of Bill C-170, which robs the civil servant of the sacred right of any Canadian citizen to play an active part in the political life of his country. This dictum which lays down that a civil servant loses his freedom the moment he signs his letter of appointment, is given expression in this section. He thereby becomes a second-class citizen, since he can no longer fulfil all of his duties and enjoy all of his rights like any other Canadian citizen. The Letter Carriers' Union of Canada has always thought that civil servants would obtain full franchise when the Canadian Parliament adopted the Bill of Rights. In Great Britain, which the Canadian Government often holds up as a model, the Union of Postal employees is affiliated to the Labour Party, and the members pay contributions to it. In France, the Government does not raise any objections either. In the United States, the Civil Service associations openly support candidates for Congress.

By introducing proposed legislation like Bill C-170, Bill C-181 and Bill C-182 the Government, whether it wants to or not, inevitably pushes the civil servants into becoming involved in politics, if only as a means of asserting their viewpoints.

When a Government introduces undemocratic legislation, it is the duty of every honest citizen to oppose it, regardless of whether he is a member of an association or not. We cannot quite understand the Government's fear to give its employees full franchise. We live in a democracy, and every Canadian is

entitled to have his say in the politics of the country. We are of the opinion that section 39 (2) should be omitted altogether from Bill C-170, and we would ask you to make recommendations to this effect. Still along the same lines, section 32 of Bill C-181 should likewise be changed with a view to having this deprivation or rights eliminated.

● (11.10 a.m.)

(*English*)

The JOINT CHAIRMAN (*Mr. Richard*): It is 11 o'clock. I do not know whether it is the wish of the committee to continue? There are still about seven pages to be read. If we could finish these pages this morning—

Mr. TARDIF: We might finish these seven pages.

The JOINT CHAIRMAN (*Mr. Richard*): —we might not have to come back this afternoon.

Mr. TARDIF: I would suggest that we finish them off.

Some hon. MEMBERS: Agreed.

Mr. KNOWLES: You will not notice if some of us go to the House, though?

The JOINT CHAIRMAN (*Mr. Richard*): No. Do you have any objections, Mr. Knowles, if we proceed?

Mr. KNOWLES: No.

The JOINT CHAIRMAN (*Mr. Richard*): We will then proceed.

(*Translation*)

It did not take us long to find, when reading Bill C-170, that certain important subjects had been excluded from collective bargaining. The Government has deliberately omitted from the scope of Bill C-170 certain elements which have a direct bearing on the living conditions and the job security of its employees. Sections 56 (2), 68, 70 (3) and 86 (2-3) of Bill C-170, 28, 29 and 31 of Bill C-181, and 7 of Bill C-182, together represent the elements pertaining to working conditions which the employer does not wish to negotiate with the employees. What we want to establish here is that the scope of collective bargaining has never been delimited or circumscribed. We maintain that negotiations could legitimately cover any conditions that may be of mutual interest to the employer and the employee. Whilst not wishing to repeat ourselves, we must again express our anxiety at finding that the Government is trying to hold on to its unilateral power to make decisions, whilst at the same time creating the impression that it is relinquishing it. This is the source of the uneasiness and friction prevailing in the Civil Service at present. We had always believed that the proposed legislation was introduced with the specific object of replacing these unilateral decisions by a system of collective bargaining, to enable the employees to participate fully in determining their working conditions. That being so, why then put up artificial barriers like the ones provided for in the above-mentioned paragraphs? The bargaining agent should not be prevented from obtaining legislative alterations which would have the effect of improving working conditions. We cannot see why the employer, who has the power to do so, could not propose to Parliament alterations which were previously agreed upon at the bargaining table. It is our considered opinion that by introducing section 56, the employer has permitted himself to take unfair advantage of his absolute power, to further his own interest. We cannot see why

the certified bargaining agent could not propose at the bargaining table, changes to be made with respect to the Civil Service Superannuation Act, and even to the Act respecting employment in the Public Service in Canada when this is passed. If an understanding is reached at the bargaining table, it should be possible for the employer, in terms of the above Acts, to undertake to follow this up with legislative measures. We realize that the position of the employer is a unique one, but this should not be used as a pretext to evade a rightful obligation towards the bargaining agent.

Section 68 imposes a policy on the Arbitration Tribunal. In its capacity as the employer, the Government gives the Tribunal directions and powers which enable it to make decisions on an arbitral award even before the Arbitration Tribunal goes into session. This again is stacking the cards in favour of the Government.

Sections 70 (3) and 86 (3) are in our opinion the most startling aspects of Bill C-170. They forbid the Arbitration Board and the Conciliation Tribunal from handing down an arbitral decision or a recommendation, as the case may be, on "the standards, procedures or processes governing the appointment, appraisal, promotion, demotion, transfer, lay-off or release of employees" which constitute what is termed job security. The Government once again claims for itself the absolute right to treat its employees at will in the matters mentioned above. The Letter Carriers' Union of Canada does not believe that our employer, nor the proposed Board for that matter, is infallible, or objective when it comes to eliminating these items from the scope of collective bargaining. Our 75 years of experience enable us to state that it is precisely in this field that abuse is most likely to occur. With the exception of appointments, in order that the merit principle be upheld, we ask that these sections be withdrawn from the act, that these questions be left open to collective bargaining, and that suitable procedures be subsequently included in the collective agreement.

Section 79, which refers to designated employees, has aroused our curiosity. We wonder why it should be necessary to impose this restriction at the very time when collective bargaining is due to start. This most certainly does nothing towards building up confidence. While the parties in question are going to waste precious time determining who those designated employees would be, the bargaining agent will feel tempted to make plans for strike action. Not only will this have the effect of delaying collective bargaining, which will only accentuate whatever differences may exist between the parties, but what is more, the Board will have to cut this Gordian knot. There is a danger of all of this making a mockery of the whole system of collective bargaining and the right to strike.

Sections 83 and 86 (4) confirm the point we made, that the Chairman of the Board is the victim of excessive zeal on the part of the Government, inasmuch as his powers enable him to deliver to the Conciliation Board a statement setting forth matters under dispute, and inasmuch as he is furthermore authorized to alter such statements as he sees fit. How is this Board going to operate if its mandate is constantly changed. A Conciliation Board should be constituted by the parties concerned, according to prior agreement, and it should be able to deal directly with the parties in order to ascertain the underlying causes of the disputes and in order to bring about a conciliation. We feel here that the

Government does not credit the parties with enough common sense to settle certain problems among themselves.

With regard to Section 90, our first criticism is directed against the use of the expression "an employee" in the same way as in the case of sub-sections (p) and (t) of Section 2. Perusing Articles 90 and 91 we find a much more serious fault still. According to the provisions in section (1) (a) (i) of section 90, there are hardly any restrictions with regard to the presentation of grievances, but this is not the case when it comes to applying for arbitration in terms of article 91 (1). Whilst one may complain, in terms of this section, concerning the interpretation or the application of an Act of a regulation, one may not, on the other hand, submit the grievance to arbitration unless one has been subjected to a disciplinary measure involving dismissal, suspension or a monetary penalty. Apart from these exceptions the grievance procedure would end in deadlock.

Article 97 (2) worries us because of the effect it may have on the employee. It may discourage employees from having recourse to the grievance procedure.

The Letter Carriers' Union does have a grievance procedure which was established a few years ago in several locals across the country. We find it unnecessary for the Board to enact regulations in this connection. We feel that we could jointly with our employer set up a grievance procedure which could doubtless be to the advantage of both parties.

Before making a study of Bills C-170, C-181 and C-182, we thought that one of the provisions would surely grant all certified staff associations the right of deduction of union dues at source. But to our great surprise there was no such provision. Does this mean that the bargaining agents are going to have to negotiate in order to obtain a privilege which has long since been granted elsewhere? We request you to recommend an alteration accordingly. Labour relations legislation elsewhere makes provision for what is known as Union security. These acts make it possible to incorporate into the collective agreement provisions such as the Union Shop. We feel that Bill C-170 should include such a provision, and the Letter Carriers' Union of Canada urges you strongly to recommend this for all the staff associations in the Civil Service.

We are not submitting this brief to you with the sole object of tearing down this proposed legislation, but rather because we believe that Bills C-170, C-181 and C-182 indicate certain apprehensions on the part of the Government with regard to their application. We know only too well that in order to be clearly understood one must dot the i's and cross the t's. But what amazes us is that the Government, in its eagerness to leave nothing to change, has even put dots where there is no "i". Everything is so codified that there will be tremendous difficulties putting their legislative measures into effect. It would have been wiser to have made fewer specifications and for the Government to have sought to legislate only on the broad principles of collective bargaining, as does the Industrial Relations and Disputes Investigation Act, whilst allowing details in connection with the Act to be based on regulations which could easily be changed upon recommendation by the Board or by any other executive body specified in the legislation. This is what we believe to be the greatest weakness of these bills.

The functions of the Public Service Staff Relations Board in the Public Service are far too numerous, over and above having to certify the bargaining agents. Not only is it within its province to grant certification, but in addition it must direct arbitration and conciliation, and it must furthermore appoint the adjudicators, and process grievances. Putting it in a nutshell, it must look after certifications on the one hand, whilst on the other hand making full use of its powers to direct labour relations throughout the entire course of collective bargaining. It follows that it must eventually become involved in a maze of details concerning relations between employer and employees, and that rigidities will set in. The certification of bargaining agents could have been left to the Canada Labour Relations Board, which already has all the requisite qualifications. We feel it is undesirable that the body which creates the bargaining units should at the same time act as the body which in effect controls the day-by-day exercise of collective bargaining rights. The functions should be strictly separated, and we cannot see why this is not done. We are convinced that the Government is on the wrong track if it believes that it is easier to run just one Board instead of dividing its authority.

A major flaw in Bill C-170 is undue interference by the Board in the composition of the bargaining unit. The Board should have authority and flexibility to grant certifications in the most reasonable sense of the word. The Letter carriers' Union of Canada objects to this procedure in the Bill which deprives the employee of the opportunity to choose the organization he prefers, and we believe this to be a point of cardinal importance for us as well as for the other staff associations. We cannot see why we should be forced, after having worked as an organization for 75 years, to become submerged, against our will, by order of the all-powerful Board.

Bill C-170 does not mention anywhere the part to be played by the Pay Research Bureau, and we wonder what the Government has in mind for it in the long run. Although the Bureau has, in the past, always been rather restrictive in the distribution of its findings, and although its data have always had to be treated as confidential, we consider that the Pay Research Bureau deserves a place in this proposed legislation. We do believe that with the advent of collective agreements, the statistical data furnished by that office should be made available to both parties before negotiations commence.

In view of the fact that the Post Office Department operates a service and a kind of work which differs drastically from that of any other Department, it should be considered as a separate employer under Schedule A, part II of Bill C-170.

In this connection we draw to your attention a suggestion made by Judge J. C. Anderson in his capacity as a commissioner of inquiry into conditions in the Post Office Department in 1965. In his report he referred to the possibility of the Post Office Department being converted into a Crown Corporation and thereby enjoying a degree of independence of action which it does not have at present. This may perhaps be beyond your own terms of reference but we consider it worthy of reference here nonetheless. If the Post Office were to become a Crown Corporation, it would undoubtedly come within the purview of the Industrial Relations and Disputes Investigation Act, under Section 54. Our Union would be eligible for certification under that Act by virtue of its dominant position as the representative organization of letter carriers. This adds

substance to our proposal that the Post Office Department should be treated as a separate employer and that Bill C-170 should make provision for a craft type of organization for certification purposes.

We think we may safely claim that the relations between our employer, the Post Office Department and the representatives of our Union have been, on the whole, cordial and constructive. It would be a matter of serious concern if they were to deteriorate, as we fear they may, as a result of the too rigid provisions of this legislation.

We believe we have made a realistic appraisal of Bills C-170, C-181 and C-182, and the amendments we have suggested in this submission represent a genuine effort to improve this proposed legislation. It is our very sincere desire to ensure that the Letter Carriers, as well as all other employees in the Public Service, obtain the right to embark upon collective bargaining in the fullest sense of that term.

We have endeavoured to prove that in certain respects the proposed legislation falls short of its avowed aims. If we have, in some parts of our brief, appeared to be excessively bold in putting forward our arguments, we offer our sincere regrets, but you will no doubt appreciate our anxiety to make ourselves clear beyond any possibility of misunderstanding.

The value of the legislation which will eventually be passed will depend in a large measure on the conclusions and recommendations of your Committee. We ask you to give your earnest attention to the opinions we have expressed. It is imperative that the employees of the State be given a statute which is in no way inferior to that of other workers in Canada.

Respectfully submitted on behalf of

THE LETTER CARRIERS' UNION OF CANADA.

ROGER DÉCARIE
President.

J. B. COLVILLE
Secretary-Treasurer.

• 11.10 a.m.

(English)

The JOINT-CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Decarie, for a very complete submission. I might say that it parallels a little in my opinion the presentation of the C.L.C. yesterday.

Gentlemen, our next meeting will be on Thursday at 10 o'clock and on Friday of next week. On Thursday we have some small groups, very small, and the Civil Service Commission, the Treasury Board and the Heeney committee, I call it, will present their briefs, and then we will be through with the briefs Thursday and I would suggest that on Friday next we start questioning in the order they came in, probably starting with the Professional Institute, and from then on we are on the questioning, beginning the Monday following and so on. However, you will be advised in plenty of time.

I might say that the New York University papers which I think Mr. Fairweather asked for will be available. Thank you.

Civil Service Commission Commission du Service civil

August 15, 1966.

"APPENDIX I"

MEMORANDUM TO THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE PUBLIC SERVICE OF CANADA

SUBJECT: POLITICAL ACTIVITY OF PUBLIC SERVANTS

This memorandum is submitted in compliance with the request made by the Special Joint Committee to the Civil Service Commission for a summary of the provisions governing political activity of public servants in other jurisdictions. The situation currently prevailing in this regard in France, the United States, the United Kingdom and several Canadian provinces are summarized very briefly hereunder.

In view of the remarks on this subject made by the Minister of National Revenue in his statement to the Committee on June 28, 1966, this memorandum concludes with the broad outline of a system under which some latitude with respect to political activity might be accorded to public servants of Canada.

France

Most public servants in France are allowed to be candidates in local and national elections. Exceptions include departmental "préfets" and other specified employees who are not allowed to be candidates in the constituency to which they are assigned as public servants. Public servants elected to offices which do not carry obligations deemed to be inconsistent with their responsibilities as state employees maintain their status as public servants but are given special leave. If, on the other hand, a public servant's electoral mandate is inconsistent with the proper discharge of his duties as a state employee, he is placed in "détachement", that is, in a rather unique statutory situation whereby he ceases to be an employee for a specified period of time, but continues to benefit from seniority and retirement rights.

More generally, French public servants enjoy nearly full political rights. They may join political parties, write for political publications, and participate in political meetings and congresses. It is expected, however, that their behaviour will be characterized by a degree of restraint and moderation commensurate with the social responsibilities which they assume by virtue of their rank in the executive hierarchy.

United States

In the United States, employees in the competitive service may have a normal but unobtrusive political life. They may express their opinions on all political subjects and candidates, make voluntary campaign contributions, participate in non-partisan local elections, sign petitions, attend political rallies and join political clubs, as long as they do so in such a way as not to take an "active part in political management or political campaigns". Employees are specifically prohibited from running for state and national office. The United

States Civil Service Commission enforces the provisions on political activity for employees in the competitive service. In communities where the majority of voters are civil servants, application may be made to the Civil Service Commission for partial exemption from these provisions.

United Kingdom

In the United Kingdom, the public service is divided into three groups with respect to regulation of political activity.

(1) All service, maintenance and manipulative classes are given the same freedoms in relation to political activity as are enjoyed by all citizens of the country.

(2) An intermediate group, roughly corresponding to the entire technical and clerical categories and the lower levels of the professional and administrative categories of the Canadian service, are prohibited from being candidates in national elections, but are permitted, at the discretion of their Departments, to engage in political activity, including the handling of funds.

(3) Members of the third group, corresponding to the remaining, or more senior, elements of the service, are prohibited all political activity, and like all others, must resign if they wish to become candidates.

Canadian Provinces

All Canadian provinces except Saskatchewan, Ontario and Quebec have statutory provisions or follow practices that are identical or very close to the present situation in the federal Civil Service.

In Ontario, the situation follows the federal practice on all points with two major exceptions. Contributions to a political party are not prohibited and leave of absence may be granted to any employee, except senior officials designated by the Civil Service Commission, who wishes to be a candidate in a federal or provincial election. Those defeated may resume their positions, those elected must resign from their positions but may resume them within five years (see attachment for details).

In Quebec, all civil servants are prohibited from engaging in partisan work in connection with a federal or provincial election, but provision is made that a defeated candidate in such an election (who had to resign from the Public Service in order to be a candidate) is entitled to resume his position.

In Saskatchewan, the situation is slightly different as contributions to a political party are not specifically barred and political activity is prohibited only during working hours. In addition, as in Ontario, a public servant is given leave of absence to be a candidate for public office.

A Possible Change

Members of the Committee may wish to consider an arrangement for the Public Service of Canada inspired by practices prevailing in France, the United Kingdom and the United States, but which would also reflect, those emerging in the Canadian provinces. Under such an arrangement, positions in the Public Service would be assigned to one of three groups.

The Civil Service Commission, as an agency independent of the government of the day, might be given a primary role in the administration of the provision on political activity of public servants. The Commission, or any other administering body decided upon, would be charged with the responsibility of designating the positions or classes of positions that would fall in each of the three groups described hereunder, and it would also be the body which would hear appeals against dismissals for contravention of the provision.

(1) In the first group, comprising the more junior positions in the Public Service, there would be no prohibitions outside normal working hours, and all applications for leave to be a candidate would automatically be approved by the administering body.

(2) In the second group, the administering body would be responsible for delineating the type of political activity in which various employees, or classes of employees, could engage outside normal working hours, either during or between elections, and would also be responsible for granting special leave to those who, in its opinion, could be eligible to resume their position if they were unsuccessful candidates in a federal or provincial election. In this respect, the rule would be that the actual political activity permitted should not be such as to impair the continued usefulness of the person in the position in which he is employed.

(3) In the third, or more senior group, the situation that prevails at the moment in the Canadian service would continue, that is, a total prohibition on political activity.

Respectfully submitted,

Jean Charron,
Secretary.

PROVISIONS
governing the political activity of Public Servants in Ontario
taken from:
Government of Ontario, *Working Together for Ontario*, Toronto 1966, p. 31

KIND OF POLITICAL ACTIVITY	Deputy Ministers & Designated Officers	Civil Servants (classified)	Public Servants (unclassified)	Commission and Board Employees
* Candidate for, or Support in Municipal Election Sec. 9a	■	1	1	1
* Candidate for, or Support in School Board Election Sec. 9a	■	1	1	1
* Candidate for Provincial Election Sec. 9b(1) & (2)	■	2	2	2
* Candidate for Federal Election Sec. 9b(1) & (2)	■	2	2	2
* Solicit Funds for Political Party Sec. 9b(1)(b)	■	◢ 3	◢ 3	◢ 3
* Speak or Write on Platform Policy of Political Party Sec. 9d	■	◢ 3		
+ Speak or Write on Political Subjects				
* Associate Position with Political Activity Sec. 9b(1)(c)	■	◢ 3	◢ 3	◢ 3
* Engage in Political Activity During Working Hours Sec. 9e	■	■	■	■
+ Engage in Political Activity When Off Duty	■			
* Canvass for Political Party Candidate Sec. 9c(1)	■	◢ 4		

* Provision in Bill
\+ No Prohibition in Bill

Reference:

1. Except when conflict of interest, or affiliation with Provincial or Federal Political Party.
2. Leave of absence granted, with right to return to position in five (5) years.
3. When a candidate on leave during elections.
4. During elections.

This Bill does not affect employees of:

The Hydro-Electric Power Commission of Ontario
The Workmen's Compensation Board
Ontario Northland Transportation Commission

■ Prohibited
□ Permitted

"APPENDIX J"

Montreal, 23 Aug. 1966

Mr. Jean Richard M.P.

Sir:

Resulting from a meeting of the Executive of the Montreal Regional Council of the Civil Service Federation of Canada (CSF), held in Montreal, herein we call to the attention of the members of the Parliamentary Committee on the Public Service in Canada the case which we are submitting.

That the right be acknowledged to negotiate at the regional level all items concerning local affairs. We have in mind such things as: hours of work, bilingualism, parking problems, cafeteria, etc.

In the hope that the above will have gained your support sir, please accept our thanks.

The Executive Committee
Per:
(sgd) Roger Durocher
4900 Taillon
Montreal 5, Que.

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

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

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

First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 8

Respecting

BILL C-170

An Act respecting employer and employee relations in the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

THURSDAY, OCTOBER 13, 1966

WITNESSES:

Mr. J. A. Taylor; Mr. James P. Duffy, President, Ottawa Typographical Union; Mr. A. D. P. Heeney, Chairman, Preparatory Committee on Collective Bargaining in the Public Service; Mr. J. J. Carson, Chairman, Civil Service Commission; Dr. G. F. Davidson, Secretary of the Treasury Board.

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

24642—1

SPECIAL JOINT COMMITTEE
OF THE
SENATE AND OF THE HOUSE OF COMMONS
on employer-employee relations in the
PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate	*Representing the House of Commons*	
Senators		
Mr. Beaubien (*Bedford*),	Mr. Ballard,	Mr. Leboe,
Mr. Cameron,	Mr. Bell (*Carleton*),	Mr. Lewis,
Mr. Choquette,	Mr. Chatterton,	Mr. McCleave,
Mr. Croll,	Mr. Crossman,	Mr. Munro,
Mr. Davey,	Mr. Émard,	Mr. Orange,
Mr. Deschatelets,	Mr. Fairweather,	Mr. Ricard,
Mrs. Fergusson,	Mr. Faulkner,	Mr. Simard,
Mr. O'Leary (*Antigonish-Guysborough*),	Mr. Hopkins,	Mr. Tardif,
	Mr. Hymmen,	Mrs. Wadds,
Mr. Hastings,	Mr. Isabelle,	Mr. Walker—24.
Mrs. Quart,	Mr. Keays,	
Mr. Roebuck—12.	Mr. Knowles,	
	Mr. Lachance,	

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

THURSDAY, October 13, 1966.
(15)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.05 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Fergusson (2).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Emard, Fairweather, Hopkins, Hymmen, Knowles, Leboe, Lewis, Orange, Richard, Tardif, Walker (13).

Also present: Messrs. Dinsdale, Enns, Forbes.

In attendance: Messrs. C. C. Devenish, J. A. Taylor; Mr. James P. Duffy, President, Ottawa Typographical Union; Mr. A. D. P. Heeney, Chairman, Preparatory Committee on Collective Bargaining in the Public Service; Mr. J. J. Carson, Chairman, Miss Ruth E. Addison and Mr. Sylvain Cloutier, Commissioners, Civil Service Commission; Dr. G. F. Davidson, Secretary of the Treasury Board.

The Committee heard briefs from an independent group and the Ottawa Local of the International Typographical Union.

On a motion from Mr. Bell (*Carleton*), seconded by Mr. Walker, the Committee agreed to accept a letter dated October 6, 1966, from the International Printing Pressmen and Assistants' Union of North America as being read into the record. (*See Evidence*)

Copies of the final report of the Governor's Committee on Public Employee Relations for the State of New York, requested at the morning sitting of the Committee on October 6, 1966 (see page 261), were distributed to the members.

Statements were then made to the Committee by the Chairman of the Preparatory Committee on Collective Bargaining in the Public Service re Bill C-170, by the Chairman of the Civil Service Commission re Bill C-181, and by the Secretary of the Treasury Board re Bill C-182.

The Clerk of the Committee was instructed to prepare a list denoting the order of appearance of witnesses who presented briefs. The Sub-Committee on Agenda and Procedure is to determine the order of appearance of these witnesses for questioning.

24642—1½

On a motion of Mr. Knowles, seconded by Mr. Orange, the meeting adjourned at 12.30 p.m. to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, October 13, 1966.

The JOINT-CHAIRMAN (*Mr. Richard*): Order. This morning the first group to be heard is an independent group represented by Mr. Taylor and Mr. Devenish. Mr. Taylor, I believe, will present the brief. Mr. Taylor.

Mr. John A. TAYLOR: Mr. Chairman and hon. members of the Committee, it is a pleasure to be permitted to appear before you this morning.

This submission is to the joint Commons-Senate committee on collective bargaining in the public service of Canada, dated July, 1966, presented by John A. Taylor and Clement C. Devenish.

SUBMISSION

This is a request that a "conscience clause" be included in the proposed legislation establishing collective bargaining in the federal public service. We suggest the following wording:

> "No public servant shall be bound arbitrarily by conditions of employment which may be imposed as a result of collective bargaining, where the Public Service Staff Relations Board (or other designated authority) finds that the said public servant objects, as a matter of conscience based on religious training or belief, to such conditions: Provided that: (i) such objection is not contrary to the public interest or safety and security of Canada, and (ii) if the public servant is thereby relieved of payment of dues or other financial obligations, he shall pay at least an equivalent amount to the Federal Treasury or to a mutually agreeable charity."

We are encouraged to make such a request, because, in the goodness of God, the lawmakers of this land have provided traditionally for the protection of a sincere conscience.

The Canadian Bill of Rights states that, "The Parliament of Canada, affirming that the Canadian nation is founded upon principles that acknowledge the supremacy of God... Affirming also that men and institutions remain free only when freedom is founded upon respect for moral and spiritual values and the rule of law... Part I: 3—The Minister of Justice shall, in accordance with such regulations as may be prescribed by the Governor in Council, examine every proposed regulation submitted in draft form to the Clerk of the Privy Council pursuant to the Regulations Act and every bill introduced in or presented to the House of Commons, in order to ascertain whether any of the provisions thereof are inconsistent with the purpose and provisions of this part and he shall report any inconsistency to the House of Commons at the first convenient opportunity."

We also quote from the United Nations "Universal Declaration of Human Rights" as follows:

Article 18. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 20. (1) Everyone has the right to freedom of peaceful assembly and

(2) No one may be compelled to belong to an association.

Article 23. (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

In addition we are attaching examples of precedents and other pertinent material for your perusal. These include a statement of the principles governing our conscience and a copy of the letter which we submitted to all members of parliament and other interested persons on January 10, 1966.

This is submitted to you in the recognition that you are "the powers that be" which are ordained of God. (Romans 13:1)

John A. Taylor
66 Eldorado Avenue
London, Ontario.

Clement C. Devenish
37 Frontenac Road
London, Ontario.

OUR CONSCIENCE

We are Christians—believers in and followers of our Lord Jesus Christ, the Son of God. As such we seek to maintain in our lives, principles established by an enlightened conscience before God. "And herein do I exercise myself, to have always a conscience void of offence toward God, and toward men." Acts 24, verse 16.

While not seeking to impose our beliefs on others, we ourselves cannot conscientiously belong to staff associations or trade unions. We must heed the injunction of Holy Scripture, particularly second Corinthians 6, verse 14 which says, "Be not unequally yoked together with unbelievers."

It is reasonable to assume that, under collective bargaining, certain conditions of employment may be agreed upon which would violate the conscience and jeopardize the livelihood of certain sincere Christians. These may include features such as compulsory membership, automatic checkoff of dues or other similar arrangements.

We wish to emphasize that we in no way seek monetary advantage in this matter. We are willing to pay at least equal amounts to those assessed to other public servants. These may be paid to the federal treasury, to a mutually agreeable charity or to any recipient as directed by the government except for an avowed purpose incompatible with our conscience.

We pray constantly for the government and those in authority. Included in our prayers is that the government may do what is right in the sight of God and guarantee freedom of conscience in Canada and, in particular, in its public service.

EXAMPLES OF RECOGNITION OF CONSCIENCE IN VARIOUS ACTS GOVERNING EMPLOYMENT IN SASKATCHEWAN, CANADA AND IN AUSTRALIA AND NEW ZEALAND. (EXCERPTS)

SASKATCHEWAN, CANADA

The Trade Union Act—Being Chaper 287 of the Revised Statutes of Saskatchewan, 1965, as amended by Chapter 83 of the Statutes of 1966. (Effective May 31, 1966.)

2. (b) "board" means the Labour Relations Board . . .;

5. The board shall have power to make orders:

(a) determining whether the appropriate unit of employees for the purpose of bargaining collectively shall be an employer unit, craft unit, plant unit, professional association unit or a subdivision thereof or some other unit;

(1) excluding from an appropriate unit of employees an employee where the board finds, in its absolute discretion, that the employee objects:

(i) to joining or belonging to a trade union; or

(ii) to paying dues and assessments to a trade union;

as a matter of conscience based on religious training or belief during such period that the employee pays:

(iii) to a charity mutually agreed upon by the employee and the trade union that represents a majority of employees in the appropriate unit; or

(iv) where agreement cannot be reached by these parties, to a charity designated by the board;

an amount at least equal to the amount of dues and assessments that a member of that trade union is required to pay to the trade union during such period;

STATUTES OF NEW ZEALAND:

Industrial Conciliation and Arbitration Act 1954.

175: Exemption from union membership on religious grounds—

(1) Any person who objects on religious grounds to being a member of a union may apply to the registrar of industrial unions for a certificate of exemption from membership of any union covering the calling in which the applicant is for the time being employed.

(4) If, after hearing any such application, the Conscientious Objection Committee is satisfied that the applicant's religious objections are genuine, the committee shall notify the registrar and the secretary of the union accordingly, and, on payment by the applicant to the credit of the social security fund of an amount equal to the subscription fixed by the union, the registrar shall issue to

the applicant a certificate of exemption from membership of the union for the period specified in the certificate, and may from time to time, if he thinks fit, issue certificates for subsequent periods without further reference to the committee.

(5) A certificate of exemption issued to any person under this section shall, while it continues in force, permit the employment or the continuation of the employment of that person in any position or employment as if he were a member of the union to which the certificate relates.

Also see: New Zealand 1958 (2 Oct. 1958) No. 70—An Act to amend the Industrial Conciliation and Arbitration Act 1954.

COMMONWEALTH OF AUSTRALIA:

Conciliation and Arbitration Act 1904-1961.

47 (3) Where—(b) a person, upon application made to the registrar in the prescribed form and manner, satisfies the registrar that the person's conscientious beliefs do not allow the person to be a member of such an organization, the registrar shall.....issue to the person a certificate to the effect that, while the certificate.....is in force, an employer.....is not required.....to give preference to members of the organization over the person.....

Also see: Subsections (4), (5), (6) and (7).

NEW SOUTH WALES:

Industrial Arbitration Act, 1940-1961.

129B (2) (b) Any person who—(i) objects on the grounds of conscientious belief to being a member of an industrial union of employees; and (ii) applies in the manner prescribed to the registrar for a certificate of exemption from membership of any such union; and (iii) satisfies the registrar that his objections on the grounds of conscientious belief are genuine; and (iv) pays to the registrar an amount equivalent to the subscription prescribed by the rules of the industrial union for membership of such union; shall be issued by the registrar with a certificate of exemption from membership of the industrial union.

Also see: 129B. (1) (b); (2) (a), (c), (d) and (e).

• (10.20 a.m.)

NOTE: In addition to the above examples some other Acts which make similar provision are:

New Zealand: 1959, No. 86—Pharmacy Amendment Act 1959 (22 Oct. 1959) An Act to amend the Pharmacy Act 1939.

New Zealand, 1960, No. 91—Surveyors Amendment Act 1960 (25 October, 1960)—an act to amend the Surveyors Act, 1938.

New Zealand, 1959, No. 7—Valuers Amendment Act, 1959, (24 September 1959)—an act to amend the Valuers Act, 1948.

I have a copy of a letter addressed to all members of parliament. This letter was submitted in English and also in French to those we knew to be French speaking members of parliament.

66 Eldorado Avenue,
London, Ontario,
January 10, 1966.

Dear Sir:

It has been indicated that the Government intends to introduce legislation to bring federal and public civil servants under collective bargaining.

We, the undersigned, are employees of the Canadian Government who, as private citizens, are writing this letter in an endeavour to ensure that such legislation does not violate our conscience before God. "And herein do I exercise myself, to have always a conscience void of offense toward God, and toward men." (Acts 24, verse 16).

While not seeking to impose our beliefs on others, yet, as followers of the Lord Jesus Christ, the Son of God, we ourselves cannot conscientiously belong to staff associations or trade unions. We must heed the injunction of Holy Scripture, particularly Second Corinthians 6, verse 14 which says, "be not unequally yoked together with unbelievers."

This legislation may, in result, involve features such as compulsory membership, automatic checkoff of dues or other similar arrangements. These, if no exemption clause is provided, would be incompatible with our maintaining a good conscience. However, with regard to the payment of dues, please be assured of our willingness to pay a like amount into either the Federal Treasury or a mutually agreeable charity.

We respectfully draw this to your attention with a view to the inclusion by Parliament of a "conscience clause" in any bill covering collective bargaining in the federal public service. Our request is consistent with the principles enunciated by the United Nations, and precedents have been established already in other Commonwealth countries for such recognition of a genuine conscience before God.

We request your support that freedom of conscience will be guaranteed and the livelihood of sincere Christians protected.

Yours very truly
F. J. Allan, 432—51 Ave. S.W.,
Calgary, Alberta.
C. C. Devenish, 37 Frontenac Road,
London, Ontario.
J. A. Taylor, 66 Eldorado Avenue,
London, Ontario.

I will read the list of certain federal employees supporting submission.

1. Dr. Frederick J. Allan,
Veterinarian in Charge,
Dvorkin Meat Packers Ltd.,
Calgary, Alberta.
Home address: 432—51 Ave. S. W., Calgary, Alta.

2. Clement C. Devenish,
District School Superintendent,
London Education District,
Indian Affairs Branch,
Department of Citizenship and Immigration,
(Department of Indian and Northern Affairs),
London, Ontario.
Home address: 37 Frontenac Rd., London, Ont.

3. W. Donald Pallister,
Administrative Officer I,
Taxation Division,
Department of National Revenue,
Victoria, British Columbia.
Home address: 2408 San Carlos Ave., Victoria, B.C.

4. (Miss) Elizabeth Scott,
Clerk IV,
Income Tax Division,
Department of National Revenue,
Regina, Saskatchewan.
Home address: 1436 Minto St., Regina, Sask.

5. John A. Taylor,
Immigration Officer V,
Senior Job Settlement Officer; Special Inquiry Officer,
Immigration Branch,
Department of Citizenship and Immigration,
(Department of Manpower),
London, Ontario.
Home address: 66 Eldorado Ave., London, Ont.

6. (Miss) Mary Taylor,
Clerk-Typist,
Department of National Revenue,
Calgary, Alberta.
Home address: 432—51 Ave. S. W., Calgary, Alta.

7. (Miss) Mabel F. Woolsey,
Clerk III
Poultry Division,
Production Marketing Board,
Department of Agriculture,
Regina, Saskatchewan.
Home address: 1436 Minto St., Regina, Sask.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Taylor. While it is not my intention to ask any questions, I am sure members would like to know how many people fall into the category that is represented in your brief?

Mr. TAYLOR: Well, sir, I know of approximately 12 persons, but I am sure there are other Christians who share similar feelings.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Taylor.

The next brief to be presented is from the Ottawa Typographical Union. Mr. Duffy, would you please proceed.

Mr. James P. Duffy (President, Ottawa Typographical Union): Mr. Chairman and hon. members of the Committee. This is a brief of the International Typographical Union on Bill No. C-170, an act respecting employer and employee relations in the public service of Canada presented to the special Joint Committee of the Senate and of the House of Commons on employer-employee relations in the public service of Canada.

The International Typographical Union welcomes the opportunity to present its comments on Bill No. C-170 to the special Joint Committee of the Senate and of the House of Commons on employer-employee relations in the public service of Canada.

The I.T.U. is an international union with membership in Canada and the United States totalling more than 125,000. Throughout its 114 years of democratic leadership in the trade union movement, this union has consistently worked for the betterment of the members of its craft and the Ottawa records of the I.T.U., dating back before January 1, 1876, show that our members staffed the Government Printing Bureau from its very inception.

For this reason, the particular area of collective bargaining that the I.T.U. is concerned with under Bill No. C-170, is the composition department of the Government Printing Bureau. In this department the proper unit for collective bargaining consists of more than 400 personnel, of which this union represents the majority.

Through more than 90 years the ledgers and record books of Ottawa Typographical Union tell the story of a constant pressure placed upon the branches of government responsible for the Government Printing Bureau in matters of wages, hours and working conditions. These records contain briefs to the Secretary of State and the Treasury Board presented by this union, by the Council of Union Employees of the Government Printing Bureau, of which we are members, and through the Prevailing Rates Committee of the Canadian Labour Congress of which we have representation.

Throughout these briefs runs a steady request for shorter hours, increased hourly rates and improved working conditions, but above all the demand for the right to bargain for these with the Government's representatives in the same manner as our counterpart in private industry.

Upon the eve of the granting of collective bargaining we are not likely to be too critical of Bill No. C-170, but rather are we hopeful that its arrival will bring about a new era of fair and equitable treatment of employees within the relationship of employer and employee in the Government Printing Bureau.

This is not to say that Bill No. C-170 is all that we would like it to be nor that the methods of collective bargaining under the bill could not be improved to the satisfaction of all parties.

To this end we would like to emphasize the following points:

(1) The pattern of collective bargaining established in private industry should be maintained.

(2) Bargaining should be on a craft union basis preferably, but failing this, on the basis of a council such as the Council of Union Employees in the Government Printing Bureau.

(3) Consideration should be given to transferring the Government Printing Bureau from schedule A, part 1, to schedule A, part II, creating the status of separate employer.

• (10.30 a.m.)

Point 1: For its part the International Typographical Union would prefer to see collective bargaining in the public service follow the pattern established in private industry rather than have two sets of rules, one for public service employees and another for those employed in private industry, prevail. This is particularly true in the area of dispute settlement.

Obviously both employers and employees in any industry have a community of interest and desire to see the industry prosper. To obtain higher wages, better working conditions and a shorter work week, labour in our industrial form of enterprise has been compelled to organize and to bargain collectively with the employers. We believe that the best to be had from negotiation and conciliation can come only from conferences that are free from any compulsory method of settlement if negotiation and conciliation fail.

If, during negotiation, it is known that arbitration will follow if no agreement is reached, the odds against a fair settlement are tremendous.

In this connection we view with alarm the suggestion in Section 36 (1) that failure to agree to compulsory arbitration could result in not being certified by the board.

Point 2: Certification on a craft union basis is preferable to the International Typographical Union. However, failing this, the next step would be certification on a council basis such as the council of union employees in the government printing bureau.

Point 3: Due to the exceptional set-up in the government printing bureau, where the employer is in direct competition with private industry in the production of printing, the union feels that the industry-wide effect of bargaining would be kept on a more equitable basis if the government printing bureau had the status of a separate employer.

In conclusion the International Typographical Union would like to commend the government for taking the necessary steps to implement collective bargaining within the public service. Thank you, Mr. Chairman.

The JOINT-CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Duffy. Your group represents how many people, four hundred?

Mr. DUFFY: There are four hundred in the bargaining unit and we represent 275.

The JOINT-CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Duffy. We had a representation from the International Printing Pressmen and Assistants Union of North America. It was a letter addressed to the clerk of the Public Service Committee. These gentlemen have not elected to appear but this letter should be placed in the record.

Mr. BELL (*Carleton*): It could be printed in our proceedings at this point today.

The JOINT-CHAIRMAN (*Mr. Richard*): Thank you very much. Will somebody so move?

Mr. BELL: (*Carleton*): I will so move.

Mr. KNOWLES: Is this to be considered a brief?

The JOINT-CHAIRMAN (*Mr. Richard*): Yes, as read.

Mr. KNOWLES: I second the motion.
Motion agreed to.

The JOINT-CHAIRMAN (*Mr. Richard*): The letter reads as follows:

October 6th, 1966.

Mr. Edouard Thomas,
Clerk of the Public Service,
Committee and Private Legislative Branch,
West Block, Ottawa, Ontario.

Dear Sir:—

In view of our inability to present a brief in connection with Bill C-170, due to lack of sufficient notice, we would like to bring to your attention the following, which is presented in support of other Printing Craft Unions, which have had the opportunity of presenting a brief covering Bill C-170.

The International Printing Pressmen and Assistants' Union of North America, AFL-CIO, C.L.C., (hereinafter referred to as the I.P.P. & A.U. of N.A.) represents a large majority of workers in every phase of the printing industry across Canada, with 59 Locals representing over 12,000 members, which includes a majority of letterpress pressmen and assistants employed by the Government Printing Bureau of Hull, Quebec.

The I.P.P. & A.U. of N.A. wish to submit, for your consideration, the following:—

The Letterpress employees in the Government Printing Bureau enjoy the wages and conditions of work based on letterpress contract prevailing in the City of Montreal. It is necessary to inform your Committee that there is anxiety on their part that Bill C-170 might take away from them these conditions of pay and work that they have enjoyed due to their affiliation with I.P.P. & A.U. of N.A., dating back for many years.

Our International Union has been making semi-formal representations for many years as it concerns employees in the letterpress department. Although it has been on a semi-formal basis, this can now be formalized to conform to the rules and regulations of the Public Service Staff Relations Act, providing these rules are patterned on Industry practices within the Graphic Arts Industry of Canada.

Many trade unions have membership in Government Service, and it is evident now that the right of association is recognized in Government Service. For many years our organization is one of such unions with a history of semi-formal bargaining by representation.

The Graphic Arts Industry of Canada has recognized individual crafts requiring special wages and conditions of work, and look to the Government to follow seriously this established pattern of collective bargaining.

The Canadian Labour Congress, of which the I.P.P. & A.U. of N.A. is an affiliate, in their brief submitted to the Preparatory Committee on collective bargaining in the Public Service, stated the following:— "We would assume that bargaining on behalf of employees in the Department of Public Printing and Stationery would be conducted by the Government with representatives of the Printing Trade Unions affiliated with the Congress."

In summation, we would suggest that the Committee give serious consideration to the Graphic Arts Industry as it concerns Craft Unions and their desire for a certification on a craft oriented basis, and allow them bargaining rights, so that they may continue to enjoy wages and conditions of work that prevail in the skilled classification to which they belong. This could be done on an individual craft union basis or through the Council of Union Employees, as presently constituted in the Government Printing Bureau. We feel and recommend that the final choice should be made by the majority of the individual employees working in their particular skilled trade, and that the Craft Unions be given the same consideration as they receive at the present time within the Graphic Arts Industry.

The foregoing is respectfully submitted to the Special Joint Committee of the Senate and of the House of Commons on Employer-Employee relations in the Public Service of Canada for its consideration.

Respectfully yours,

Signed Roger J. Gagnon
Representative.

We are nearing the end of statements. This morning—

An hon. MEMBER: Just a minute, if I may, Mr. Chairman. Was the brief that has just been tabled presented on behalf of people who are employed in the public service?

The JOINT-CHAIRMAN (*Mr. Richard*): Well, I would not know that.

Mr. LEWIS: Possibly they represent some of the people in the 400 that Mr. Duffy talked about.

Mr. KNOWLES: Well, Mr. Duffy talked about 400 personnel in the composition department of the bureau. I believe that this group is concerned with those in the press section at the bureau. In other words, there is no conflict between the request of the I.T.U. for the composition department to be under their jurisdiction and the request of these people for the pressmen to be under their jurisdiction.

Mr. WALKER: This is not the remainder of the 400.

Mr. KNOWLES: No. There might be a few in there, but in the main this will refer to the pressmen.

The JOINT-CHAIRMAN (*Mr. Richard*): The statements to be presented this morning are as follows: first is Mr. Heeney; he will be here a little later. I see Mr. Carson is here, Chairman of the Civil Service Commission. I would ask Mr. Carson to come forward. In the meantime the clerk could distribute amongst the members the public employee relations final report from the state of New York which was requested last week. I see Mr. Heeney has arrived. I would be very pleased to follow the order. When you are ready you can proceed, Mr. Heeney.

Mr. A. D. P. Heeney (Chairman, Preparatory Committee on Collective Bargaining): Mr. Chairman, I think I ought to begin by, if not an apology, at least an explanation for having one other vast document to read to this Committee, which I understand has already been subjected to quite considerable length in the way of briefs. But on reflection, and talking to my colleagues of the preparatory committee about this situation, we came to the conclusion that inevitably, I am afraid, some one of us—and I being the chairman of the preparatory committee, was given the task—should seek to put the legislation which is presently before you in the perspective of, I am afraid, the last two and a half years and indeed, more, because it seemed to us and I hope, Mr. Chairman, that this will also appeal to the committee, that the history of this affair, if I might call it that, is directly relevant to the decisions which you will be called upon to make and the recommendations which you will be making to parliament after your deliberations are over. This really meant that I should seek to give you as cogently as possible a summary of the course of our examination of this problem, particularly over the two years prior to the submission of the preparatory committee's report last July, and draw attention to some of the principal factors which, in our judgment—and mind you this is a historical exercise in a sense—are of particular importance to the regime which parliament will determine for the public service in this exceedingly important element in the whole administration of the public service.

You may regard that as an apology if you like, but it really is, Mr. Chairman, more of an explanation, and I would be prepared to argue that I am justified in asking the Committee to bear with what is, inevitably I am afraid, a rather long presentation.

Mr. BELL (*Carleton*): Mr. Chairman, I do not think Mr. Heeney needs to justify himself at all; I think we are all very delighted to have him here and we are looking forward to his presentation.

Mr. HEENEY: Mr. Chairman, it is more than three years since the preparatory committee on collective bargaining was established to make preparations for the introduction of collective bargaining to the public service. During the previous three years, the whole administration of the public service of Canada had been subject to the most exhaustive examination of its structures and processes that has been undertaken since Confederation. So really I am going back over six years. This study by the royal commission on government organization—I am talking about the Glassco commission now—although it said very little about the matters that are presently before this Committee and very little about the task which was committed to the preparatory committee, did

have this effect upon our work: it created an atmosphere which was favourable, a climate which was favourable for our work and favourable, as I contend, for the veritable revolution involved in the measures which are now before you.

• (10.40 a.m.)

The statutory base and the administrative methods which regulated personnel administration in the service when I joined it in the late 1930's, if I may be allowed to make a personal reference, were no longer adequate obviously to the pressures of government business. During the war years, the emergency powers possessed by the government permitted many of the conventional procedures to be modified or to be set aside to meet the new and heavier demands. In the event, the experience of this period—and I am speaking now of the war period plus the reconstruction period—contributed a great deal to the improvement of administrative processes in the period which followed that. However, the Civil Service Act of 1918 severely limited the scope of innovation and change. Although important amendments to this statute were made in 1961—and members of the Committee will remember the debates which took place on the bill to amend the Civil Service Act on that occasion—the roles of the Commission and the Treasury Board, as they had been assigned in 1918, which is, of course, one of the great watermarks, in the development of the Canadian Civil Service, remained essentially unchanged after the 1961 amendments. The role of employees in the procedure by which their terms and conditions of employment were established, had no statutory base whatever until 1961; that is to say, there was no provision at all in law, for bringing the employees' organizations into the process by which pay determination and condition determination was accomplished. Federal Government employees were, in law, petitioners at the foot of the Throne.

Since 1961 their established organizations have had the statutory right to be consulted by the Civil Service Commission and by the Treasury Board in the two-step process by which the rates of pay of civil servants are presently changed—a cumbrous process, if I may say so, but at least the beginning of wisdom in bringing the employee organizations into the process by which their pay and conditions were determined. But, the authority to initiate a review of rates of pay has remained, as it has since 1918, with the Commission. The final determination of those rates continues to be by a unilateral decision of the Treasury Baord. Under the present regime, other terms and conditions of employment are either prescribed in law, or determined by the Commission by the Treasury Board or by departmental management.

The three measures before this Committee are very much more than mere amending legislation, and I would like to emphasize that. This really is a revolutionary concept or series of concepts. It is something quite new in the Canadian experience. These measures are as different in concept and purpose and effect from the act of 1918 as the public service of today is different from the public service of 50 years ago. These measures would vest new and important responsibilities in employee organizations and in the Treasury Board—the two sides, management and the organized employees. They would remove from the Civil Service Commission all responsibility for terms and

conditions of employment, except those—and this is an important exception —directly related to appointments. These bills are positive documents which would give the Commission and the Treasury Board greater latitude and authority, within their respective jurisdictions, to respond appropriately to the emerging requirements of an expanding and rapidly changing public service. At the same time—this would be an essential, balancing provision, and I would put a great deal of emphasis on this,—if you are going to give management these great new powers, there is only one possible way of balancing the employee situation, and that is to provide for genuine negotiation and collective bargaining. The Glassco Commission said very little about this, and this was a gap. But I am not criticizing royal commissions, because I am much too well trained a civil servant to do that. At any rate the powers they would have attributed to management, in my judgment at least, could not, in a Canadian society, be conveyed to management without providing for genuine collective bargaining on the part of organized employees the right to participate, as an equal, in the determination of their pay and conditions. At the same time they would confer on organized employees a capacity—I am talking now of the present legislation before you—unmatched, I believe, in any public service, of comparable size, to protect their interests and improve their conditions of employment. Many public service traditions of long standing will be set aside by this legislation, if it is enacted by Parliament, but they will be replaced by a regime, in our judgment, much better suited to our contemporary needs and conditions.

Mr. Chairman, because the preparatory committee made a considerable contribution to both the substance and the detail of these three bills—I must emphasize that these are not the preparatory committee's bills, as you understand, but our labours did make an important contribution to both their substance and some of their detail—it might be useful for me to provide the Committee with a very brief outline of the way in which we went about our work two years ago last spring, and to comment on one or two of the more important and contentious aspects of the proposed legislation which have their origins in the report of the preparatory committee.

The preparatory committee was established by the Prime Minister in August of 1963. It was composed of nine senior government officials, from as many departments and agencies of government, who brought to their task a wide variety of experience in different areas of public administration. The committee was asked by the Prime Minister—I am quoting now it is important that members of the Committee should bear this in mind—"to make preparations for the introduction into the public service of an appropriate form of collective bargaining and arbitration, and to examine the need for reforms in the systems of classification and pay applying to civil servants and prevailing rate employees."

We were assisted in our work by what I regard as an unusually able and experienced group of staff officers, who were drawn not only from government departments but from the private sector. The committee also consulted, from time to time, with recognized experts in labour relations and employee classification, from industry and from the universities. If you would permit me, Mr. Chairman, I would like to pay a tribute not only to those civil servants who

provided the principal staff for this preparatory committee, but also to those who we brought in from outside and who made great contributions over this period of two years.

The procedure which we followed in the discharge of our responsibilities may be summarized in this way:

(1) a comprehensive program of research relating to developments in employer-employee relations and employee classification in the private sector and in public services in Canada and other countries; (2) continuing consultations with employee organizations throughout the course of our deliberations;

Here again, our consultations was a very warm and gratifying experience. Not only did we receive, in a semi-formal way, the employee organizations with interests in the public service, but we were able to maintain a continuing conversation with them as our own studies proceeded. I do not mean to imply by that, Mr. Chairman, that any of the employee organizations most of whom you have now heard, have any responsibility for the recommendations of the preparatory committee's report. It is quite clear, no doubt, from what some of them have said that there is disagreement with what we recommended. Unfortunately for you, Mr. Chairman, their disagreements do not coincide.

(3) the identification of modern problems, major problems, followed by a careful search for alternative courses of action. (4) the formulation of tentative conclusions and their evaluation through discussion with representatives of employee organizations, with public service officials on the management side and with outside experts; (5) the determination of our recommendations and the preparation of our report submitted to the Prime Minister, I think in July of last year, and tabled immediately in parliament.

Most of the employee organizations that represent employees in the public service presented briefs to the preparatory committee, setting forth their views on the type of legislation that, in their judgment, should govern the collective bargaining relationship. Most of them met with us and our advisors on many occasions for discussion of difficult points. This consultative process quickly revealed the very different views held by the various employee organizations of the kind of system which would be appropriate for the public service. It was soon apparent that no one approach would satisfy all the organizations concerned, and that, consequently, our recommendations would have to stand or fall on their own merits, as these might be demonstrable to the government and, eventually, to this committee and to parliament.

It is, perhaps, in the nature of things that each of the employee organizations that made representations to the preparatory committee, sought to preserve or enhance its traditional position vis-a-vis the employer, and to add to the rights and privileges it already enjoyed, the authority to deal with the employer in a collective bargaining relationship. I am not saying this by way of criticism; this is a very natural posture for them to adopt before us. However, there was, as you might expect, some concern in the preparatory committee about the effect that any new system of employer-employee relations might have on the future of these organizations, and here again is a point, I think, of

great importance for your committee to appreciate. The structures and the constitutional characteristics of these various employee organizations had been determined in a relationship in which bargaining units, majority representation and exclusive jurisdiction—which are the fundamental components of any genuine system of collective bargaining—played no part whatever. And this is very important. For many years the Treasury Board, the Civil Service Commission and representatives of departmental management had listened to and consulted with any employee organization that appeared to represent a substantial group employees. Although a few public service staff associations operated within clearly defined and uncontested jurisdictions and were alone in their field—for example the postal associations—the three service-wide associations—that is the Civil Service Federation, the Civil Service Association and the Professional Institute—had, in many circumstances, organized and represented the same classes of employees. While the service-wide associations and the departmental affiliations of the Civil Service Federation had achieved a kind of formal recognition from the government through membership in the National Joint Council—I think many members of the committee will be familiar with that body established during the war; they were referred to in some circles as the "recognized associations". It is important to remember that the National Joint Council had no control and no authority in the essential matters which we are talking about now, terms and conditions of employment—and that recognition did not grant any exclusive rights to represent particular groups of employees.

In the processes of pay determination the service-wide staff associations had, for many years, made representations to the commission and the Treasury Board—you will remember the annual hoop-la that went on—on behalf of any and all classes of employees with little regard for the number of employees in any particular class which organizations were able to count as members.

Although at the departmental level the service-wide associations made representations on behalf of their members, with a similar disregard for the extent of membership among the employees concerned, in some departments, departmentally based associations which had been able to organize a substantial majority of employees in the departments concerned, secured a privileged position in relation to matters within the jurisdiction of departmental management—and that was, and is still, a very restricted area. Conversely, these same associations were seldom directly involved in the process of pay determination at the centre.

The preparatory committee concluded very early in its deliberations that, notwithstanding its concern that traditional organizational patterns of the associations might restrict their capacity to secure bargaining rights in a system based on bargaining units, majority representation and excluded jurisdiction such considerations must not be permitted to divert us from our primary objective. During the course of our studies and consultation with the existing associations, although we tried, indeed, to steer between these two horns of the dilemma, of having consideration for those organizations of employees which existed and which had discharged very important obligations on behalf of their

members, and the new situation with which we were confronted, where their form, structure and organization really could not be expected to be appropriate. The creation of a structure of employer-employee relationships that, having due regard to the special responsibilities of a national public service, would conform as far as possible to the norms of labour relations law and practice in Canada; this was our objective.

I think I might, Mr. Chairman, state succinctly our objectives, and I think the best way to do this is to quote from the report of the preparatory committee:

(1) to recommend a system which should permit agents of the employer and representatives of designated groups of employees to discuss rates of pay and conditions of employment, at regular intervals, with a view to reaching agreements that are binding on both parties for a specified period of time.

(2) that the system should make available for use at the initiation of either party under prescribed conditions, machinery for the arbitration of issues on which agreement cannot be reached in negotiation.

The committee will recall that arbitration was in our terms of reference.

(3) the system should provide for the prompt implementation and effective administration of agreements reached and arbitration awards rendered.

(4) the system should have the capacity over time to adapt to changes in the character of the service and in the requirements and forms of organization of employees.

(5) subject to such qualifications as may be necessary to protect the public interest and the sovereignty of parliament, of course, it should adhere as closely as possible to the principles and processes already established by law to govern relations between employers and employees.

That is the end of the quotation from the preparatory committee's report.

The system of collective bargaining recommended by the preparatory committee, as it turned out, was neither destructive nor protective of the existing patterns of employee organization in the public service. Our recommendations, which are reflected in the provisions of Bill No. 170, before you provided no basis for a distinct and separate employer-employee relationship at the departmental level—and this is a point which caused us a good deal of difficulty both with the members of the preparatory committee and the existing associations, because this was a traditional means of organization—nor, on the other hand, did these recommendations provide in any way for employee organizations to secure rights in the system except as exclusive agents for a defined group of employees, which is essential to the operation of any system. The effect of our recommendations, though not their intention, was to put a good deal of pressure on almost all of the associations to adjust to the demands of the proposed system, so that they would be in a better position to secure bargaining rights by the process which we recommended be laid down in the law.

• (11.00 a.m.)

It can also be said, I think, that the system we recommended placed no roadblocks in the way of any employee organization that might wish to secure the right to bargain for employees in the public service, provided the organization was able to meet the same kind of tests that employee organizations are normally required to meet, as a condition of certification in the outside world, if that is an appropriate expression.

I am, of course, aware that this Joint Committee of the House of Commons and the Senate, was not established to review the report of the preparatory committee, which is now merely an historical document. Nevertheless, since a number of the more important issues in the proposed legislation are issues which arise out of recommendations of the preparatory committee, it would, I think, be helpful to your deliberations if I were to review some of the arguments which influenced our thinking on certain of the more contentious areas.

One of the most important aspects of the report was our endorsement of a merit system—now I pause there for emphasis—and the historic role of the Civil Service Commission as the guardian of the merit system. From this conclusion derived directly the proposal to leave outside the bargaining relationship and outside the scope of arbitration, a number of matters that in the private sector may be dealt with at the bargaining table and incorporated in collective agreements. This is a very essential distinction, if I may say so, Mr. Chairman, to be made between the system which we recommend and the normal situation outside the private sector. We believe there are good reasons for this distinction and I shall now give the principles of our line of argument.

This decision to maintain the Civil Service Commission, to maintain the merit system, as far as appointments were concerned, was taken notwithstanding a parallel conclusion that the authority of the commission in such essential matters as pay, hours of work, leave and holidays, should be transferred to Treasury Board and be bargainable. Our position was not dictated by any sentimental attachment to the Civil Service Commission, despite my historic attachment to that organization, but, I believe, by an objective and careful analysis of the alternative courses of action and their probable consequences. We really tried very hard to look at this objectively and coldly and see what the alternatives were to retaining the merit system and retaining, in the statutory right of the Civil Service Commission, the appointments, and what flowed from appointments under the new system.

In our analysis of this problem we noted two fundamental differences in appointment and promotion between the private and the public sectors. First we noted and endorsed the widely held view that the employees of a national public service should be broadly representative of the entire community and that Canadian citizens, wherever they live, should have equal right of access to employment in their public service. Mr. Chairman, we have all made speeches about this and this is like motherhood, no one can be against this as a proposition. We also noted that these considerations did not ordinarily apply to either employees or employers in the private sector.

Secondly, we noted, as a unique characteristic of the public service, that those who discharged the highest executive responsibilities of the employer, were elected to office in part by the employees themselves, and, in part, by persons who might wish to become their employees. These two considerations were paramount considerations in the creation of a Civil Service Commission of Canada in 1908, and the assignment to the Commission of responsibility—

Mr. LEWIS: What people were elected to office?

Mr. HEENEY: I am speaking of the ultimate executive authority being in the Cabinet and the relationship of Parliament to the Cabinet and the right of every Canadian, who is an elector, in another aspect to be a contender for appointment by the Civil Service Commission on the basis of his merit. This was the argument that was made in 1908, when the Civil Service Commission was set up and it was the principle which obtained when the 1918 statute was enacted.

The question which faced the preparatory committee was: Do these considerations cease to have relevance upon the introduction of collective bargaining? This, I think, Mr. Chairman, with respect is the question your Committee must answer in relation to its decision on whether or not the merit system and the retention of the power of appointment in the commission is to be retained or not.

We concluded that these propositions did not cease to have relevance. We concluded that although both employees and the government, as the employer, did have an interest in these matters, it was a third party, the Canadian community as a whole, whose interest was paramount. On the basis of our analysis of the patterns of collective bargaining elsewhere, we were not persuaded that the parties in bargaining could always be depended upon to preserve the public interest in these two vital areas—I am now talking about appointments primarily. We therefore recommended that a Civil Service Commission responsible to Parliament and independent of both the government of the day and of employee organizations, should continue to regulate the entry of Canadian citizens to their public service and to establish and control the standards by which public servants would be promoted, demoted or released.

Another important recommendation of the preparatory committee, which is reflected in the provisions of your Bill No. C-170, is that relating to limitations on the authority of the Public Service Staff Relations Board, limitations on the board to determine bargaining units during the first two years after bargaining rights become available to employees. This has been the subject of criticism and it is only after very deep study, if I may say so, and reflection, that we came to the conclusion that there was no alternative, no orderly alternative, no viable alternative to what has been criticized as a statutory proposal to provide by statute, the bargaining units. I am going to say more about this.

In its report the preparatory committee said this: "The history and existing pattern of employee representation was such as to make it inevitable that bargaining units based on a variety of conflicting principles would be proposed by organizations seeking certification. All kinds of principles would be involved here. The existing classification system, lacking order and a clearcut set of underlying principles,"—and this is another story which you all know a good

deal about—"the sheer size and organizational complexity of the service would add its own complications." I am tempted to stop there and parenthesize, but I will resist the temptation. "In the absence of statutory guidelines, the board could find itself faced with a prolonged period of controversy and litigation and the result could be a patchwork of bargaining units offering little hope of a stable and productive set of relationships and serving in the long run to introduce serious inequities in the rates of pay and conditions of employment."

There has been much criticism of the recommendation to limit the authority of the Public Service Staff Relations Board which, as you know, is the principal body proposed in Bill No. C-170—much criticism of the recommendation to limit the board's authority in this area, during the initial period of collective bargaining—and it is only for the initial period that predetermination is proposed—and to require that all bargaining units be consistent with occupational groups.

Mr. Chairman, I am sure all members of the Committee will recognize that the occupational group is the best which we propose. It was the only test that seemed to us to result in any sensible kind of regime at all.

• (11.10 a.m.)

Identified in the reform system of employee classification was this occupational criterion. But the fact is, that no viable alternative has yet been advanced. As far as I know, Mr. Chairman, not one of those who have criticized this proposition as being inconsistent with the philosophy of collective bargaining have advanced a proposition which, by any practical test, could be called viable. To thrust the responsibility to determine bargaining units, at the beginning, on this new public service staff relations board,—and without statutory direction—of any kind, is not, in my judgment, a viable alternative. Surely no labour relations board in the history of labour relations in Canada has ever been faced with such a confusion of conflicting demands as would, in that circumstance, confront the Public Service Staff Relations Board. With only the precedents of the private sector to guide it, the board would inevitably be caught in a cross fire of demands from hundreds, perhaps even thousands, of local employee organizations, seeking the right to represent a narrow occupational group in a particular locality or establishment. The employee organizations that have so long represented the interest of employees in the public service would almost certainly be torn asunder by geographic and other jurisdictional disputes. Such a road would lead, not to collective bargaining, but to chaos. I am emphatic on this, Mr. Chairman; this is the united opinion of the preparatory committee, right or wrong, and these are the reasons for it.

The proposals of the preparatory committee for bargaining units directly related to the occupational grouping of the reformed system of classification were designed to provide public service employees with the fullest measure of collective bargaining rights as soon as possible after the passage of the legislation with a minimum of disruption to existing patterns of employee representation. Although some adjustments in the parameters of bargaining units will undoubtedly be necessary after these limitations on the board's authority are removed—I mean the limitations in time—I am as convinced now

as I was when we sent our report to the Prime Minister that this is a reasonable approach to the introduction of collective bargaining in the civil service.

Another issue of great importance to this committee, Mr. Chairman, and to the Canadian public, is the manner by which disputes are to be settled in the public service. It was not within the terms of reference of the preparatory committee to debate this question, except with respect to the mechanisms by which disputes might be arbitrated. As I reminded the committee at the opening of my remarks, our mandate was to devise a system of collective bargaining and arbitration. Our recommendations in this regard were influenced by our familarity with the arbitration mechanisms of the British Public Service—I suppose it is the experience of Britain, with which we were most familiar, which has been the largest single influence in giving the flavour to our recommendations—and by the record of the successful resolution of disputes on the whole which the British Tribunal has built up over a period of more than 40 years. The lack of precedents in our own country for the resolution by arbitration of disputes of interest in jurisdictions of comparable size and complexity—and the lack is pretty evident—made it necessary to look beyond Canadian experience for appropriate models. Both the Australian and the British Public Service experience in arbitration was carefully reviewed.

Our expert advisors and those employee organizations who had been calling for third-party arbitration of disputes in the public service for years and years favoured the mechanisms of the British tribunal. This was the traditional position which was pressed in season and out by the largest of the employee organizations in the service. The preparatory committee ultimately concurred in this view and in its recommendation proposed arbitration machinery and procedures that in all essential characteristics conformed to the British model, although I will make a distinction in a few moments to that proposition.

Mr. Chairman, before concluding I think that I should make some reference to the fact that the preparatory committee considered it necessary to recommend the enactment of a new statute to provide for the regulation of employer-employee relations in the public service, rather than proposing, as some have suggested—and I think Mr. Chairman continues to suggest before your committee—the application to the public service of the Industrial Relations and Disputes Investigation Act. As a matter of record, Mr. Chairman, we in the preparatory committee did, in fact, consider this possibility very carefully indeed.

The difficulties that we felt would have to be overcome if that course were to be followed, are too numerous to deal with in detail at this time, although no doubt you, Mr. Chairman, and members of the committee will be doing so. I will, therefore, limit my observations to one or two of the major problems that we encountered, and one or two of the other difficulties that we found would have to be dealt with in any system that provided public servants with the right to strike, whether under the I.R.D.I. Act or by another provision.

Once more I remind you that the mandate of the preparatory committee was "...to make preparations for a system of collective bargaining *and arbitration.*" If we had concluded that employer-employee relations in the

public service should be regulated by the I.R.D.I. Act then the first thing that we would have had to do, having regard to our terms of reference, would be to recommend the inclusion of a section in that act which would provide for binding arbitration of public service disputes in contradistinction to those in the private sector.

I think perhaps at this point I should add, parenthetically, that if our mandate had not stipulated arbitration—and now I am speaking personally and not for the whole committee—there is little doubt in my mind that the demand of the large majority of organized employees in the public service for binding arbitration and the larger and more evident protection which that method—that is, arbitration—of resolving disputes would provide for essential public services, would, almost certainly in my judgment, have led the preparatory committee to propose provision in the Industrial Relations and Disputes Investigation Act itself for the arbitration of public service disputes. That is purely a personal opinion, but I think that even had there not been this limitation on our terms of reference, from the course of our discussions and studies, that we would have made a recommendation along that line. But as I say, it is parenthetical and said on my own responsibility only.

Our conclusion, to which I referred earlier, that the merit system should be preserved, and that it should continue to be administered by the Civil Service Commission, would likewise have called for special provision in the I.R.D.I. Act. Clearly, this would have had to be looked after. Now we already have three pretty important changes in the I.R.D.I. Act which would have to be dealt with.

Turning now to the kinds of problems that would have to be taken care of if the right to strike provided under the I.R.D.I. Act were to be made applicable to public servants, the precise implications to that situation can be seen by looking at the bill before you, where alternative courses would be made available.

I would note particularly the problem of ensuring the continuity of public services, not essential public services but services where the public safety and security is involved. This again, Mr. Chairman, is a distinction which I am sure you will be making in the committee. Some such provision would certainly be required in the I.R.D.I. Act if the public service were to be brought under it. The problem also arises as to who should discharge the responsibility for the regulation of conciliation procedures which, as you are aware, under the I.R.D.I. Act resides in the Minister of Labour. Are you going to have the Minister of Labour making these determinations when the Minister of Labour is in effect the employer? Surely not. It will therefore be necessary where the employees of the public service were concerned to assign this responsibility to some other party, and our solution to this is a board in a separate statute. I hope I have made my point clear. You have a different situation, and many of those who, in perfectly good faith, have suggested that the public service be simply moved over into the existing law—"Who needs this big, new complex legislation?" —have not really, I think, understood this point because if you are going to give the employer the kind of authority that the Minister of Labour has in relation to the Canada Labour Relations Board, you produce a situation which, if I were an officer of an employee organization, I would not be willing to tolerate.

I would also note, in relation to my earlier remarks about the determination of bargaining units, that under the I.R.D.I. Act the Canada Labour Relations Board would, unless some changes were made again in that regard, be obliged to respond to the initiative of individual employee organizations in the determination of bargaining units, and would presumably—that is, the board—be guided in these matters by their own conventions and industrial precedents, many of which it seemed to us are not applicable.

• (11.20 a.m.)

Now these examples by no means exhaust the problems that are inherent in the proposal to bring the public service under the existing federal labour law. However, they do provide, I think, a clear indication of why we concluded that it would be unwise to encumber the I.R.D.I. Act with provisions that have no relevance and no application to the private sector, and why it seemed to us the better part of wisdom to continue to deal with employer-employee relations, and other matters involving the internal administrative processes of the public service, with legislation designed specifically to meet the requirements of the public service.

Finally, a short comment on the complexity of the legislation that we proposed and the even more complex character of Bill No. C-170, which is before you. I am sensitive on this point and I think I can say—and other members of the preparatory committee will bear me out—that when we started our work, no one was more anxious than I, and my colleagues shared this view, to produce a simple proposition. When we first met to assess the nature of our task, and to establish our objectives, we solemnly concluded—and we have this down in our minutes—that the statutory expression of the system, whatever its characteristics, should be short, flexible and a model of simplicity.

Mr. Chairman, we instructed our staff in very categorical terms, that only proposals leading to this kind of legislation—as I have described as short simple and flexible—would have any chance of getting support from the preparatory committee.

At intervals, as our proposed legislation began to take shape, we expressed concern at the way in which the matters with which we were obliged to deal, were being compounded. Frankly, however, we did not succeed in identifying many matters, that, on reflection, we thought could be disregarded in the statute. More and more we found that we were in uncharted seas and without giving to the Public Service Staff Relations Board almost a blank page and a freedom which we thought in principle for the public service it should not possess, we decided in many instances to make a statutory provision.

So much for our good intentions. I am bound to say this in further defence. The model bill which we included in our report contained 88 clauses. The only possible way in which it might be regarded as short and simple, is by comparison with the bill that is now before you, that contains 116 clauses. The president of the Treasury Board, in a statement that he made at the commencement of your proceedings, had some remarks to make in defence of the complexity of his bill, and I am happy to leave the defence of the bill to the

Minister in this particular instance, seeking only to share with you the dilemma that we seem to face in this regard as we move through the different areas of examination.

On many occasions when we attempted to simplify our approach to one or another area of the proposed legislation, we seemed to place in jeopardy a fundamental right of one party or the other, rights which we were often forced to conclude, deserve protection in the statute. This is the most important of the considerations which led to what many may regard, Mr. Chairman, as a kind of plethora of provisions. In many circumstances the only real alternative to a statutory provision, was the assignment of additional discretionary authority to the Public Service Staff Relations Board or its Chairman, and already the bill has been a great deal criticized on grounds that there is too much authority and discretion given to the board or its chairman. We went as far in this direction as we thought desirable, which was in the view of quite a number of people, a good deal too far.

It is obvious from my remarks that I make no attempt to refute the contention that the legislation we recommended was indeed complex. "Was", because I am speaking of the 88 clause model bill. I can only offer for your guidance in this matter a personal conclusion, that the regulation of employer-employee relations, especially in a public service, is a difficult and complex business. I venture to think, if it is not impertinent of me to say so, that your deliberations, Mr. Chairman, in this Committee, may well lead you to a conclusion not too far off that which I have just stated as being that of the preparatory committee.

I am really very close to the end, Mr. Chairman. The recommendations of the preparatory committee were seen by its members as imaginative and even bold and radical proposals for a modernization in one critically important part of the administrative process of the Public Service of Canada. I would like to give emphasis to this. We do not feel that we have produced a reactionary document. We feel that we have produced a document which deserves a place in the progress of the Public Service of Canada, which is progressive and which does introduce, or would introduce, if accepted, a new relationship between the government as employer and its employees, which would be healthy, consistent with the principles of the outside sector and in every way constructive and advantageous to the employees. Notwithstanding imperfections in matters of detail, and no doubt in some matters of substance, which may be attributed to our report, it remains, I believe, in its basic characteristics, a workable blueprint for the regulation of organized human relations in an especially sensitive and difficult area of our society.

Like the preparatory committee when it had the responsibility, this Joint Committee of the House of Commons and the Senate, now finds itself the beneficiary of a great deal of excellent, if sometimes conflicting advice. You will, no doubt, take into account, as we tried to do, not only the contending views presented to you, and the various special points of view and interests which inevitably exist, but also those of the larger Canadian community which is deeply and directly involved in the legislation which is before you.

All members of the Public Service of Canada, whether employees or representatives of the employer on the management side—all members of the

Public Service—are eagerly following the deliberations of this Committee in the confident hope that you will strengthen and improve these measures and, because we have so long been suspended between the past and the future, that you will be able to proceed with all deliberate speed to your conclusions and recommendations to Parliament.

The JOINT-CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Heeney. I think this is a very useful contribution you have presented this morning.

Mr. CHATTERTON: I did not hear the difference between the British tribunal system and your proposal.

Mr. HEENEY: The difference really is in the paragraphs about complexity of legislation. The principles are the same and I would stand by that simple statement. But they, in a British fashion open to them and as a result of a process which has grown over the years, have been able to do with very little in the way of legislation. Indeed their whole system is based upon an agreement between a government and the organized employees. I do not want to go into the other distinctions now, Mr. Chairman, but our principle is the same; we found for the reasons that I attempted to give, that it was necessary for us to define in law, many of the things that have been developed by precedent in Britain because we were trying to do at one fell swoop what in Britain has been built up over 40 years.

The JOINT-CHAIRMAN (*Mr. Richard*): Mr. Heeney, have you any copies of this brief?

Mr. HEENEY: No, Mr. Chairman, I am afraid I have not, but there will be very shortly.

The JOINT-CHAIRMAN (*Mr. Richard*): It would be very useful for members of this Committee to have copies of this brief as soon as possible, to help us in our deliberations and in our questioning next week. I understand Mr. Heeney will be available before we start the examination of the bill itself. Is that agreeable to the Committee?

Some hon. MEMBERS: Agreed.

Mr. LEWIS: There will be no questions this morning?

The JOINT-CHAIRMAN (*Mr. Richard*): No, because I think we should wait until we are through with the other briefs.

Mr. CHATTERTON: Will we have copies of the brief before the next minutes are published?

The JOINT-CHAIRMAN (*Mr. Richard*): I hope so. Yes, we will have copies of the brief within the next day or so.

Mr. HEENEY: We can have them by tomorrow morning.

• (11.30 a.m.)

The JOINT-CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Heeney.

We have with us the chairman of the Civil Service Commission, Mr. Carson.

Mr. BELL (*Carleton*): Mr. Chairman, I see Mr. Carson's colleagues here also. Could they not have a place of honour at the head table. We always feel better when we have Miss Addison at the table.

The JOINT-CHAIRMAN (*Mr. Richard*): I would be very happy if the other two members of the Commission were to accompany Mr. Carson to the table.

Mr. J. J. Carson (Chairman, Civil Service Commission): Thank you, Mr. Chairman. Thank you, Mr. Bell.

The JOINT-CHAIRMAN (*Mr. Richard*): I think they should be identified.

Mr. CARSON: This is Miss Addison, Mr. Chairman, and Mr. Sylvain Cloutier. Mr. Chairman, could I direct the committee's attention to Bill No. C-181, an entirely separate piece of legislation from the one that Mr. Heeney has spoken about so admirably this morning; in his remarks he has really set the stage for the reasons that there had to be a Bill No. C-181 as a companion piece to the bill providing for collective bargaining in the public service.

Bill No. C-181, the proposed Public Service Employment Act, will permit the achievement of several important objectives which, in the view of the Commission, are most important in the efficient conduct of the nation's public business. During the next few minutes I should like to review these objectives and comment on their implications for personnel administration in the service at large.

The first major objective that would be served by the proposed bill is the reaffirmation of the merit principle as embodied in previous legislation, and the extension of its application to certain groups of employees that are now exempt from the provisions of the present Civil Service Act. The traditional and proven philosophy of appointment and promotion on the basis of merit is fundamental to Bill No. C-181, and the security of this policy is again assured by the explicitly stated authority of the Commission for appointment of persons to the Public Service.

Bill No. C-181 makes possible the achievement of another important objective. It provides the necessary statutory framework and inspiration for the development and maintenance through changing circumstances of an effective and efficient staffing agency, which is what the Commission sets out to perform. The labour market in which we operate is characterized today by intensive competition, increasing specialization and above all rapid change. The methods used to supply the human resources for Canada's largest employer must be adapted to the characteristics of the milieu in which they are applied. They must be efficient and devoid of red tape; they must be simple and capable of application by a variety of public servants; finally, they must result in equitable and fair decisions. We feel that the proposed bill that is before you makes all this possible.

Thirdly, the legislation has to take into account a new dimension:—the proposed system of collective bargaining for public servants. It is expected that organized employees will negotiate with their employer to arrive at mutually satisfactory conditions of employment and pay. This is a situation that precludes the participation of a third body independent of the organized employees and of the employer, at least at the outset of their negotiations. Bill No. C-181 accommodates the requirements of collective bargaining in that it relieves the

commission of its traditional responsibility for recommending rates of pay and certain conditions of employment. Furthermore, Bill No. C-181 removes matters of discipline from the jurisdiction of the commission so that these can properly be the subject of debate and discussion between the employer and employee representatives.

Mr. Chairman, I should now like to talk briefly about some of the implications of the objectives I have mentioned for personnel administration in the public service.

Bill No. C-181 makes possible the extension of the commission's jurisdiction to groups of employees that are now exempt from the provisions of the Civil Service Act. The net effect of this change will be a far greater sense of unity within the public service. As you know, we have had classified civil servants working alongside prevailing rate employees and other exempt employees with different conditions of employment, different rates of pay and different methods of appointment. I think this has been an entirely unsatisfactory and unfair situation. I would like to underline that the objective, however, is not greater uniformity or rigidity within the public service, as it might tend to be if the present act were extended. The proposed legislation will establish fundamental principles and guidelines rather than specifying the various circumstances in which exceptional procedures may be used, thereby imposing limitations upon the appointment of the best talent available.

Under the proposed Public Service Employment Act, all departments and agencies will enjoy certain freedom of action in staffing matters with a view to facilitating efficient and effective operations in an age characterized by rapid change. And yet at the same time a greater number of employees will benefit from the basic guarantees of fair-play and equity inherent in the bill.

Specifically, Bill No. C-181 allows the commission to delegate any of its powers, functions and duties, except the hearing of appeals—and I think this is a very fundamental safeguard that remains with the commission. This, in fact, is the basis of the desired flexibility of operation that I mentioned earlier. The current administrative reforms in other areas of the public service are based on a new concept of management. Inherent in that concept is the conviction that well-motivated and competent men and women can make decisions reflecting the best interests of the service—more accurately the public interest—if they are encouraged to make these decisions and if they are held accountable. This new concept permeates our whole approach to personnel administration in the service. Moreover, it must commence with personnel administration if the broader administrative reforms aimed at decentralization are to succeed. It is the intention that deputy heads and their officers should have delegated authority for making appointments to and within the public service. They would, of course, have delegated authority for the processes leading up to appointments, namely recruitment and selection. The commission intends to maintain centralized staffing operations for a number of groups of employees whose occupations are common to all departments and closely related to the management functions. This will be the case with personnel and financial administrators along with executive personnel. Depending upon prevailing conditions of the labour market and the nature of the demand of the public

service for certain specialized and professional classes of employees, the commission will also retain centralized staffing operations for such classes in order to ensure their most effective deployment throughout the various departments.

In the support groups, however, where there are roughly 75 per cent of the public service, the ability of the commission to delegate its authority will have a marked effect in that it will greatly reduce the time involved in making appointments, particularly at the regional and local levels.

• (11.40 a.m.)

Mr. Chairman, delegation of the Commission's authority, if this bill secures your support and that of Parliament, will not be achieved overnight. First, deputy heads must be willing to accept the delegation. Second, the Commission must be satisfied that the departments have the necessary competency to make appropriate decisions in accordance with the provisions of the act and to administer efficiently the processes of recruitment and selection. In this respect, the Commission's training and development resources are being augmented. Intensive training courses for personnel administrators have now been going on for two years. The result has been, and continues to be, the upgrading of departmental personnel resources. In general administrative courses, the Commission is stressing the new responsibility of administrators for personnel management and their skills in this area are daily being developed. Third, delegation of the Commission's authority, particularly as it relates to processes of selection, must rest on the existence and availability of well-defined and periodically revised standards of selection for the various occupational groups and levels within them. These standards are now in the process of being developed.

Mr. Chairman, I would like to assure you and the members of your Committee that delegation of authority by the Commission does not mean abandonment of responsibility. The bill clearly holds the Commission responsible for appointments, whether made by its own staff or by departmental officials, and explicitly requires the Commission to report annually to Parliament on the discharge of this responsibility. To this end, the Commission will expand its monitoring system along the following lines:

First, there will be a systematic analysis of the results of all staffing appeals to identify and isolate any cases of misinterpretation or misuse of selection standards by Commission or departmental officers.

Second, there will be a periodic statistical analysis of the distribution of employees by occupation and level to identify shifts that may be attributable to the improper application of standards.

Third, there will be a systematic spot-checking or post audit of individual cases selected at random in each occupation and level to ensure that the provisions of the act and regulations are being met by officials holding delegated authority; and fourth, there will be a periodic review of staffing processes in the Commission's own organization and in departments to develop increasing competence of staffing officers in the application of the Commission's selection standards.

In this connection, it must be remembered that for a good many years the Commission's staffing functions have been decentralized in part to its own field

officers across Canada, and in recent years there has been considerable delegation of the selection function to certain departments. While there have been minor problems, the Commission is confident that it has continued to fulfil its responsibility for preserving the merit principle, even under the limited delegation which has existed to date. The possibility of further delegation envisaged by this bill is, in our view, a natural extension demanded by the growth in size and complexity of the service; it does not present any insurmountable obstacles to the maintenance of a fair and consistent application of the merit principle in the staffing process.

Finally, Mr. Chairman, and still with respect to the delegation of the Commission's authority, we will not hesitate to rescind or modify the extent of delegation in any given case if there is evidence to support such a decision. Nor will the Commission hesitate to report to parliament and identify to parliament those persons who have abused their delegated authority under this act.

I should now like to say a word about the use of other processes of selection, which are referred to and provided for in the act. This is another essential requirement for a modern and efficient staffing agency. Bill No. C-181 requires that the Commission make appointments based on selection according to merit and gives the Commission discretion as to the use of competitions or other processes of selection. The important point here is that whatever processes of selection are used they must be consistent and defensible with the merit principle, but at the same time they must be capable of adaptation to changing circumstances if we are going to maintain any degree of efficiency and effectiveness in staffing this complicated service that we have today.

My colleagues and I do not see any conflict here. Efficiency and merit need not be inconsistent with each other, and to the extent that we have tried out alternative methods of selection, continuous appraisal, executive search and other devices of selection that are consistent with the merit principle. We are satisfied that we have plenty of safeguards to be able to defend alternatives to the normal and historic competition process.

Sir, there is another element of Bill C-181 that I would like to mention and that is provision of authority to the Commission for the making of regulations. Under the present Civil Service Act, regulations have been rightly and logically made by the governor in council, as they often deal with matters that have direct financial implications for all or large sectors of the civil service. Under the proposed legislation all matters having significant financial implications will be transferred to the Treasury Board. Consequently, the commission would be limited to making regulations for their own subject matter, namely, the making of appointments in accordance with merit and directly related issues.

Before closing, Mr. Chairman, I should like to mention briefly that the Commission began a detailed study of its operation and the statute that governs it at the time of the publication of the report of the Preparatory Committee on Collective Bargaining in the Civil Service to which Mr. Heeney just referred. There was a need to remove from the jurisdiction of the commission, all matters that would be directly or indirectly the subject of bargaining. This along with the requirements to adapt personnel operations to present day conditions, about which I have spoken earlier, clearly indicated that an entirely new piece of legislation was needed. Amendments or modifications to the old

Civil Service Act in our opinion would not prove workable. In the process of developing our recommendations to the government, we consulted with deputy heads in all the departments and all of the employee organizations. The comments and criticisms from these sources were extremely useful and Bill No. C-181 reflects the majority of their proposals. The comments of the employee organizations made before this Committee have also been of great interest to us. Mr. Chairman, when the Committee is considering the bill clause by clause we will be happy to make further suggestions to you.

The JOINT-CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Carson and thank you Miss Addison and Mr. Cloutier for being with us. We will have the opportunity of hearing you and questioning you in the near future.

The next witness this morning is Dr. Davidson of the Treasury Board.

I suppose at this time it might be well to tell the committee the reflection I was just making that it would be a good thing for me, in any event, and maybe for other members of the Committee, to get the Heeney Report and to read it.

Mr. HEENEY: I am sorry I gave that impression.

The JOINT-CHAIRMAN (*Mr. Richard*): I do not want to get into a discussion.

Mr. George F. Davidson (Secretary, Treasury Board): Mr. Chairman, members of the joint Committee, my task this morning is in terms of the relative importance of the three pieces of legislation that have been referred to the Committee, a relatively simple one. It is not my intention to go over again the various matters that have been covered in the presentations of Mr. Heeney and Mr. Carson, in the reviews that they have made of the issues contained in Bill No. C-170 or in Bill No. C-181. My task is rather to direct your attention to the third companion piece of legislation, Bill No. C-182. I propose, therefore, for the purpose of this presentation this morning, to assume that we are at the point in time when the two bills that you have already had under discussion suitably amended where necessary, have been enacted by parliament. I am making that assumption, and I am asking that we now turn our attention to the problem of the legislation and the machinery that will be required and that will make it possible for the government to act in its capacity as an employer rather than in its capacity as a government, in the effective discharge of the duties, authorities, and responsibilities which fall upon it, in its role as employer, as a consequence of these enactments.

I would draw your attention, Mr. Chairman, to one interesting, and I think, significant point in reference to the two bills that you have had under discussion thus far this morning. It is a fact that the two bills referred to, reviewed by Mr. Heeney and Mr. Carson, Bill No. C-170 and Bill No. C-181 contain in themselves little or no reference to the role and function of the Treasury Board. In fact, if you look at Bill No. C-181 which is the Public Service Employment bill, there is not a single reference to the Treasury Board in that piece of legislation. In Bill No. C-170, the Public Service Staff Relations bill, the expression Treasury Board appears in a number of places; but each one of these places is by way of an incidental reference to the Treasury Board,—a rather passing and insignificant reference to the Treasury Board,—with the possible exception of section 55, where reference is made to the authority being given by that section

to the minister who presides over the Treasury Board to enter into a collective agreement on behalf of the Treasury Board with the approval of the governor in council.

• (11.50 a.m.)

Now, I make this point for the following reason. It seems clear to me, in the absence of any elaboration in Bill C-170 or Bill C-181 of the role of the agency designated by the government as the representative of the employer, that if the Treasury Board is to be established as the instrumentality of the government, with the authority that is required in order to enable it to assume and discharge the responsibilities in the fields of personnel management and collective bargaining which are normally the prerogative and the responsibility of the employer in the non-governmental sphere,—if the board is to be given that role and that responsibility, then it must be done by legislative enactment other than, and supplementary to, the provisions of the two bills that you have already discussed this morning.

The fact is that the board does not have the authority under existing laws to assume and discharge all of these responsibilities. The fact is also that it cannot assume them without the specific legal authorization to do so. That in essence, Mr. Chairman, ladies and gentlemen, is the explanation of the need for legislation such as that which is contained in Bill No. C-182 an act to amend the Financial Administration Act to which my further remarks this morning will be directed.

May I, in this connection, refresh the memories of the Committee members by quoting two brief paragraphs from the statement that Mr. Benson made to the Committee on June 28, 1966, in which he summed up, in concise fashion, the purposes and the rationale of the provisions contained in Bill. No. C-182.

> The effect of the proposed Public Service Employment Act and the proposed amendments to the Financial Administration Act, taken together, provide for the consolidation and concentration in the Treasury Board, as the representative of the employer in most of the public service of authority relating to such matters as classification, pay, hours of work and leave, which are now regulated by the Civil Service Act and, in one way or another, by the combined authority of the commission and the board. A patchwork quilt of minor authorities, related to terms and conditions of employment which have been granted by many statutes to a variety of departments would, under the proposed amendments to the Financial Administration Act, be brought within the authority of the Treasury Board. This consolidated authority for the determination of terms and conditions of employment, which under Bill No. C-182 would be vested in the board, would be exercised subject to the provisions of Bill No. C-170, that is to say, in a collective bargaining relationship wherever employees had met the requirements for certification and had been incorporated in bargaining units.
>
> The Treasury Board's role as employer embraces and includes the familiar employer role of departments, and it may be expected that in its discharge of these more comprehensive responsibilities the board will

establish to a considerable degree the kind of "general manager" relationship to departments in matters of administration which was envisaged in the Glassco Report.

That is the end of the quotation, Mr. Chairman. You will note that at two points in that quotation reference is made to the fact that what is involved here is essentially a consolidation of authorities vested by existing legislative enactments in a number of different agencies throughout the public service. These authorities are at present, in some cases, vested in the Treasury Board itself, and in other cases under existing law in the Civil Service Commission; in still other cases they are vested in individual ministers, in boards and agencies, and in departments. It is against this background, Mr. Chairman, that I would like now to turn to provisions of the bill before this Commitee.

The bill consists of 18 clauses, and its purpose is essentially to empower the Treasury Board,—which I would remind the members of the Committee is a committee of ministers, headed by the president of the Treasury Board established under the newly enacted Government Organization Act,—to act for the governor in council in all matters relating to personnel management, financial management, general administrative policy, the organization of the public service, and the determination and control of establishments as well as a number of other subject matter areas that are more particularly set out in the subparagraphs of the first amending clause.

What this clause of the bill does essentially is, as Mr. Benson made clear in his original statement to the Committee, to consolidate in the Treasury Board authorities which are now dispersed rather widely through a number of agencies throughout the service. It concentrates these authorities in a designated agency, the Treasury Board which, under the provisions of the Financial Administration Act is given authority to act for the Queen's Privy Council of Canada, but which under the provisions of the Government Organization Act continues to be subject to the overriding veto, or the final decision of the governor in council, on any matter on which the Treasury Board has taken an initial decision.

If you look at Bill No. C-182, you will find that most of the amendments in this bill do not, at least in my opinion, need to detain the Committee very long at this point. There are 18 clauses in the bill, but from clause 4 on, the provisions of the bill are in almost every instance essentially procedural changes that are consequent upon the separation of the Treasury Board from the Department of Finance that has been provided for and authorized by parliament in the Government Organization Act. The need for these changes from clause 4 on, results from the enactment of the Government Organization Act and the separation of the Treasury Board from the Department of Finance. As a consequence of this, there is a need to distinguish between those responsibilities and functions which are to remain with the Minister of Finance, and the Department of Finance, on the one hand, and those which are to be transferred to the President of the Treasury Board and to the new Department of the Treasury Board on the other. Clauses 4 to 18 of Bill No. C-182, deal almost entirely with this problem. I suggest, Mr. Chairman, that we can safely set aside these clauses which relate in effect to the separation of these two

departments and deal with them at a later stage in the committee, if it is the wish of the members that we do so. At this stage I shall concentrate my further remarks on the provisions of the Financial Administration Act amendments which are germane to the questions of personnel management, and to the preparations for collective bargaining in the public service which are the subject matter of the two other bills that we are discussing this morning. If that is agreed, Mr. Chairman, I would like then to turn your attention to the following considerations.

• (12 noon)

In the past, as members of this Committee well know, the Treasury Board has had considerable authority, derived indirectly from the authority vested in the governor in council, in matters relating to the field of personnel policy. This authority that has been vested indirectly in the Treasury Board has been, however, a rather uneven patchwork of separate authorities, affected in some degree by other authorizations given to a variety of different departments and agencies. Some of these other authorities have remained with the governor in council; others were vested through the existing and earlier versions of the Civil Service Act in the Civil Service Commission; other authorities were vested directly in the hands of individual ministers and still other authorities were vested in boards and agencies which in varying degrees have enjoyed a quasi-independent status in so far as certain aspects of personnel policy and administration are concerned.

The Treasury Board's ability, therefore, to act as the representative of the employer in all matters affecting the total mass of the public service, some 200,000 employees who will not be under what the act refers to as separate employers, has been uneven and uncertain; it has not had the ability in certain areas, or in respect of certain groups of employees to discharge all of the responsibilities which it will be its duty to discharge in a collective bargaining relationship. It will not be firmly established as possessing this ability until the authorities that have been dispersed in the numerous directions which I have referred to are by the provisions of this bill concentrated for the first time and consolidated in the hands of a single agency recognized by the government as the chosen instrument for the conduct of the employers' relationship with the employees in the collective bargaining context.

I can elaborate on this by pointing out for example the difference between the authorities and the responsibilities now resting in the hands of the Treasury Board in so far as the civil service proper is concerned, and the authorities that rest with the Treasury Board in so far as certain groups of exempt employees are concerned. With respect to the civil service proper, the Treasury Board as a result of existing provisions in the Civil Service Act and elsewhere, has the authority to establish rates of pay and to determine other conditions of employment on the basis of recommendations made by the Civil Service Commission. But this is a divided function at the present time as between the commission and the board. The commission has the right to initiate and to recommend with respect to rates of pay but has not the right to make any decision. The Treasury Board has the authority to make the decision but has no authority to initiate and is obligated in all circumstances to act only upon the receipt of recommendations from the Civil Service Commission. In fact, prior to

the 1961 amendments to the Civil Service Act, the situation was even more clearcut in the separation of the relative responsibilities and roles of these two agencies, in that, until the amendments of 1961 were enacted, the Treasury Board could only accept or reject any recommendations of the Civil Service Commission in the field of pay. It could not in any way amend those recommendations.

I give this illustration in order to indicate the extent to which there is a divided responsibility in this field which, as long as it remains, would make it difficult for an employer's designated agent to represent effectively at the bargaining table the employer's responsibilities and to enter into agreements that could effectively be carried out. It is necessary in the judgment of those of us who have worked on this legislation to consolidate effectively the responsibility of the employer in the hands of one agency, so that one agency will be in a position to carry out the responsibilities which the collective agreements which it negotiates place upon it.

In contrast to the situation with respect to the civil service proper, so far as prevailing rate employees and other groups of employees not covered at the present time by the Civil Service Act are concerned, the Treasury Board has here the full authority to establish directly both rates of pay and policies with respect to other conditions of employment. So far as employees lying outside the scope of the Civil Service Act are concerned the position of the board is, therefore, unimpaired with respect to its ability to discharge the obligations falling on the employer in the collective bargaining context.

It is necessary to reconcile these two positions and to ensure that the board has the effective authority which the legislation and the accompanying administrative arrangements envisage for the board in carrying out its employer's role in the collective bargaining relationship. Consequently, although the board has had in the past considerable authority in these fields, either acting in its own right or acting on behalf of the governor in council, there is at this point in time, with the advent of collective bargaining, a need for a clear definition in statute law of the responsibilities and the authority of the Treasury Board, if it is to effectively discharge the role which is being placed on its shoulders as the central management agency for the public service both in the personnel management and in the collective bargaining context.

This central management role of the Treasury Board that is envisaged in this legislation covers areas such as financial management and administrative improvement that go beyond the personnel management or the collective bargaining fields. I propose to leave those aside for later discussion; if it is the wish of the members of the Committee at a later stage to examine the proposals contained in this legislation that would establish the role of the Treasury Board as the central management authority in the fields of financial management and the field of administrative improvement, I would be glad to make myself available, Mr. Chairman, to go into those questions with the Committee at that time. But concentrating for this morning on the position of the Treasury Board with respect to this legislation, in so far as it relates to the field of personnel management, it seems to me self-evident that in the establishment of an effective instrumentality to act in the capacity of the employers' representatives with ability to carry out the obligations which result from the negotiation of

collective agreements, we must ensure, through the enactment of proper legislation that we place in the hands of the Treasury Board as the chosen instrument of the government the necessary powers to carry out whatever obligations it may undertake to assume.

The importance of vesting this clear and unequivocal authority in a single employer's representative can hardly be exaggerated. It is difficult to see how one could have an effective regime of collective bargaining in the public service unless somebody, some authority, some agency, whether it be the Treasury Board or some other designated instrumentality of the government, has the authority to represent the employer at the bargaining table, to make commitments and to enter into agreements on behalf of the employer and to ensure the carrying out of those agreements and arbitral awards.

The obligation resting upon the Treasury Board to carry out these agreements will extend not only to the obligations resting upon the central authority itself but also to the measures which are necessary to ensure that the departments and separate agencies of government, in so far as they have a responsibility to carry out obligations that are set out in the collective agreements or arbitral awards, are placed in a position where they have not only the authority but also the staff and other means to carry them out.

• (12.10 p.m.)

As I said, Mr. Chairman, there are really only three clauses of the Bill No. C-182 which is now before us which need to concern the Committee in so far as the relationship of this legislation to the other two bills are concerned. In fact, from the point of view of the joint Committee I suspect that the most important part of Bill No. C-182 is clause 3 which describes in both general and also in specific terms the authority in the field of personnel management that the Treasury Board will be obliged to assume and which it will be enabled to exercise subject to the terms of any collective agreement or arbitral award. In this connection, I would like to make reference to a comment that was made at the time of the second reading of the bill when attention was directed to the opening words of section three, amending section 7 of the existing Act which, if I may be permitted to read, Mr. Chairman, are as follows:

> "Subject to the provisions of any enactment respecting the powers and functions of a separate employer but notwithstanding any other provision contained in any enactment, the Treasury Board may, in the exercise of its responsibilities in relation to personnel management in the public service and without limiting the generality of sections 5 and 6"—take action in a whole range of fields.

The wording of this opening portion of this section of the amending bill was criticized in the debate on second reading, as I recall Mr. Chairman, on the grounds that it seemed to provide that the Treasury Board could exercise its responsibilities under this legislation, notwithstanding any other provision contained in any enactment. It was suggested at the time of the debate that this appeared to give the Treasury Board the authority to set aside and to disregard completely the provisions of Bill No. C-170 relating to collective bargaining in

the public service. We have had the legal officers of the Crown examine this proposition, Mr. Chairman, and I can only say to the Committee as a non-legally qualified person that, first of all, it was clearly never the intention of any members of the Preparatory Committee or of those who drafted this legislation, to include a provision containing such an interpretation in the legislation. It is clearly not the intention to try to give to the Treasury Board authority in this particular section that will enable it to set aside or disregard the provisions of the important collective bargaining legislation which is contained in Bill No. C-170. I can only report to the Committee at this stage that in the view of the law officers of the crown, the wording that I have referred to does not have that meaning in effect, is not subject to that interpretation. I will ask the members to accept this statement at the moment and to return to it at some later stage when we get to a clause by clause discussion of the bill, if there is need for further examination on this particular point. I am not qualified to argue the legal points beyond stating that in the first place it was never the intention, I can assure the Committee, that any such interpretation should be applicable to this provision and, secondly, it is the view of the law officers of the crown that the provision is not subject to this interpretation.

Mr. LEWIS: Could you give us a short summary of the reasons for that view?

Mr. DAVIDSON: Mr. Chairman, I am sure Mr. Lewis will understand my position. I am not competent to give the detailed reasoning which is the basis for the opinion of the law officers in this regard. It is, of course, open to the members of the Committee at a later stage, when we get to a clause by clause discussion of the bill, to call upon the law officers of the crown and to obtain their evidence directly on this point. I am afraid I would only confuse the issue further if I tried to give a detailed explanation as suggested by Mr. Lewis. But I did want to give unqualified assurance to the members of the Committee as to the intent of the provision and as to our concern which led us, on the conclusion of the discussion on second reading, to take this back to the law officers and assure ourselves, on the basis of their judgment, that the interpretation which was suggested as being applicable here, was not, in fact, applicable.

Going on from that point, Mr. Chairman, and dealing further with the provisions of clause 3 of the amending bill, I emphasize the point that the provisions of this enactment do not extend the authority of the Treasury Board beyond the authority which is vested in the Governor in Council itself. What the provisions of this bill in fact accomplish or are designed to accomplish is a concentration in the hands of the Treasury Board in order to enable it to discharge its collective bargaining responsibilities, of the authorities which, under a variety of enactments, is now vested or rests in a number of agencies of the government. Under the provisions of this clause, therefore, the Treasury Board would be authorized, first of all, to determine the manpower requirements of the public service, sub-clause (a); secondly to establish policies and programmes with respect to the training and utilization of manpower in the service, clause (b); thirdly, to establish classification standards and a classification structure for the public service, clause (c); fourthly,—and here we come to the heart of the collective bargaining function—to establish rates of pay, hours

of work, leave, standards of discipline and so on. I pause here to make the point again that it would obviously be incongruous, to say the least, for two pieces of legislation to be presented simultaneously, one in the form of collective bargaining legislation, purporting to establish collective bargaining as a viable regime in the public service and another, at the same time, in complete contradiction to the first, which would give to the Treasury Board the authority, without regard to the collective bargaining bill to determine and regulate the pay to which persons employed in the public service are entitled for services rendered. I assure the members of the committee that such is not the intent or the purpose,—nor I believe the effect,—of this clause in Bill C-182. Our legal officers tell us that it is understood that this provision in Bill C-182 is subject, in areas where collective bargaining is in effect, to the provisions of the collective bargaining legislation.

I go on then, Mr. Chairman, to list the further authorities that are concentrated in the hands of the Treasury Board in this important section. The section refers next to standards of discipline. Clause (f) of the bill provides that the Treasury Board shall have the authority to prescribe standards of discipline that will be applicable and will be applied throughout the public service.

Finally, of the important issues that are set out here as being authorities vested in the Treasury Board, we have the authority also of the Treasury Board to establish standards governing physical working conditions, occupational health and safety, as well as other conditions of employment. There are a number of other provisions which are either already vested in the Treasury Board or which, by the provisions of this amending bill will henceforth be vested in the Treasury Board. I think however that I have given the most important ones for purposes of our discussion this morning.

Having vested and concentrated these various authorities in the personnel management field in the Treasury Board,—subject, where applicable, to the provisions of the collective bargaining legislation and to the provisions of the agreements that will arise as a result of that collective bargaining legislation, —sub-section two of clause 3 of the bill proceeds to do with respect to the Treasury Board's powers in relation to departments what the new provisions of the Public Service Employment Bill do in the civil service context. Sub-section 2 provides authority for the delegation to department heads and to heads of agencies of such portions of the centralized authority that the Treasury Board has acquired under sub-section 1 as, in the light of administrative experience, seems to be desirable and appropriate. It follows, I think, logically that with a service as far-flung and as widely decentralized both geographically and functionally as is the public service of Canada, it would not be a workable proposition to concentrate the actual implementation of all the detailed personnel management authorities or of all the detailed authorities for the administration of the employer's responsibilities in the collective bargaining field, to a central agency. Therefore, while the authority must be vested in a central agency if there is to be orderly collective bargaining, the provisions of sub-section 2 of section 3 provide the circumstances under which Treasury Board may delegate to the departmental and agency heads such portions of the responsibilities vested in the Treasury Board as seem to be appropriate in the circumstances. There are safeguards provided in the legislation by which this delegation of authority will

be regulated. Treasury Board itself establishes, first of all, the standards under which this authority will be delegated; secondly, the provision in the collective bargaining legislation for the processing of grievances provides a means by which an individual employee, through his properly authorized employee organization, may grieve against any improper use of the delegated authority as it appears to the aggrieved person; and thirdly, as in the case of the Public Service Employment Bill the Treasury Board, by this legislation, is given the right to withdraw the delegated authority if improper use is made of it in circumstances which seem to dictate such drastic action.

• (12.20 p.m.)

These then, Mr. Chairman, are the two essential provisions of the relevant clauses of the amending bill that we have before us. There is the provision, first of all, for the concentration of a considerable number of authorities in the personnel management field in the hands of the Treasury Board in order to enable it to discharge effectively the responsibilities which will be resting on the shoulders of the employer's representatives when we get into the era of collective bargaining. Without that concentration of authority the employee organizations and their representatives will not know, will not have any clear picture, as to where they should turn for the settlement of the matters which they believe require effective collective negotiations between themselves and their employer's representatives. With this concentration there will be no doubt in anyone's mind as to where the responsibility for meeting the obligations of the employer rests in the future. The second feature, having concentrated that authority in the Treasury Board, will be the administrative delegation of authority to enable effective decentralization of the actions that will necessarily arise in the administration of these collective agreements. The responsibility for that effective discharge of the employer's obligations under collective agreements will remain with the Treasury Board, but the operating responsibility will, for purposes of administrative convenience, be subject to such delegation to departments and agencies as seems, in the circumstances, to be appropriate.

I would like to conclude my remarks, Mr. Chairman, having given the essence, of the provisions in the bill itself by giving a brief explanation of how the Treasury Board is preparing itself to discharge the responsibilities which, by this legislation, will be vested in it.

We have had in the Treasury Board for a good many years a unit known as the personnel policy branch. This unit will, of course, have to be very considerably strengthened and enlarged if it is to be enabled to carry out the obligations which fall upon it as the result of this legislation. The personnel policy branch, headed by Mr. Love, the assistant secretary, is being organized now in five separate divisions: a planning and co-ordination division; a manpower planning division; a compensation and conditions division; a classification division in anticipation of the transfer of this function to the Treasury Board and, for purposes of our discussion this morning—and perhaps most immediately significant of all—a staff relations division. In this division will be vested the responsibility, so far as the staff is concerned under the direction of the ministers on Treasury Board, to carry out the employer's role at the bargaining table in the negotiation and conclusion of agreements and in the administration,

either directly or through authority delegated to the departments and agencies, of the obligations of the employer under these agreements. We have begun to assemble a staff for this staff relations division. We are in the process now of establishing task forces corresponding to each of the thirteen occupational groups in the operational category since this will be the first category under the collective bargaining timetable to qualify for collective bargaining. These task forces, corresponding to the occupational groups that will be the bargaining units if the collective bargaining legislation goes through as contemplated, include not only personnel drawn from the Treasury Board staff itself, but also experienced members of the departments most directly concerned with the problems of this or that particular occupational group in the operational category. To illustrate, in respect of the printing trades group, which was the subject of some representations this morning, the task force established or being established will comprise members of the Treasury Board staff and members of the printing bureau management team. This task force will direct its attention particularly to the problems which may arise in the collective bargaining context when we sit down at the bargaining table with representatives of the printing trades occupational group in the operational category.

We hope that, as soon as parliament has passed this troika of legislation and as soon as the public service staff relations board has completed the essential process of certification of bargaining units and bargaining agents, the Treasury Board, for its part, will not be laggard in demonstrating its ability to discharge the responsibilities which this legislation will place upon the government as employer, upon the Treasury Board as the designated agency of government and upon the staff members of the Treasury Board who, in their own way, will have to do their part to ensure that this legislation becomes the success that we all devoutly hope it will become.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Dr. Davidson.

Mr. WALKER: Obviously, there will be some employees of the Civil Service Commission whose work is now being transferred to the Treasury Board. Do these people move over?

Dr. DAVIDSON: There is a considerable exchange of personnel, even in ordinary times, between the commission and the departments and the Treasury Board. We have been trying to recruit the personnel that we will require for the staff relations branch and for other branches from whatever sources we can; but it would be short sighted of us to deprive the Civil Service Commission of the strength of staff in the places where they may need it most, and we are trying to work out an orderly procedure for the transfer of staff as and when the responsibilities are transferred over to us.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Dr. Davidson.

After consultation with the members of the Committee, our next meeting will be on Monday. I do not know what time would suit members best. I had in mind 10 o'clock but some members think we should not start until 11 o'clock. Would anyone care to express a view.

Mr. WALKER: I have just one comment. I think that two hours is a good length for a session. Maybe some of the other members are mentally brighter

than I am, but I get a little dull by the end of 3 hours. I think if we should hold our sessions down to—

The JOINT CHAIRMAN (*Mr. Richard*): We do not want you to get dull progressively.

Mr. WALKER: —a maximum of 2½ hours.

The JOINT CHAIRMAN (*Mr. Richard*): Would the members be agreeable to come at 10 o'clock?

An hon. MEMBER: Make it 10.30.

The JOINT CHAIRMAN (*Mr. Richard*): It will be 10.30. The Confederation of National Trade Unions will be before us on Monday, with their brief. After their brief is presented they will make themselves available for questions. Then, we revert to the Professional Institute and all the others for questioning. The last brief will be presented on Monday and this will be followed by questioning.

Mr. LEWIS: Mr. Chairman, could you give the members the order in which the various organizations will be called back so that one may re-read their briefs, assuming one has read them already, and be prepared.

The JOINT CHAIRMAN (*Mr. Richard*): The secretary will send a list this afternoon to each one of the members.

Mr. KNOWLES: Will you continue to consult with the members of the steering committee as to the times the others come back.

The JOINT CHAIRMAN (*Mr. Richard*): Perhaps we should have a meeting of the steering committee Monday evening, if that is agreeable. I think, since we will have completed hearing briefs on Monday we should have a meeting because this will conclude the business that has been arranged by the steering committee, namely the reading of briefs. Thank you very much.

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

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

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

First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean-T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 9

Respecting

BILL C-170

An Act respecting employer and employee relations in the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

MONDAY, OCTOBER 17, 1966

WITNESSES:

Messrs. Marcel Pepin, President, Robert Sauvé, Secretary General, Confederation of National Trade Unions; Mr. Raymond Parent, Vice-President, Provincial Confederation of Trades Unions of Quebec.

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

24644—1

SPECIAL JOINT COMMITTEE

OF THE

SENATE AND OF THE HOUSE OF COMMONS

on employer-employee relations in the

PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate *Representing the House of Commons*

Senators

Mr. Beaubien *(Bedford)*,	Mr. Ballard,	Mr. Knowles,
Mr. Cameron,	Mr. Bell *(Carleton)*,	Mr. Lachance,
Mr. Choquette,	Mr. Caron,	Mr. Leboe,
Mr. Croll,	Mr. Chatterton,	Mr. Lewis,
Mr. Davey,	Mr. Chatwood	Mr. McCleave,
Mr. Deschatelets,	Mr. Crossman,	Mr. Munro,
Mrs. Fergusson,	Mr. Émard,	Mr. Orange,
Mr. O'Leary *(Antigonish-Guysborough)*,	Mr. Fairweather,	Mr. Ricard,
	Mr. Faulkner,	Mr. Simard,
Mr. Hastings,	Mr. Hymmen,	Mr. Tardif,
Mrs. Quart,	Mr. Isabelle,	Mrs. Wadds,
Mr. Roebuck—12.	Mr. Keays,	Mr. Walker—24.

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

ORDER OF REFERENCE

FRIDAY, October 14, 1966.

Ordered,—That the name of Mr. Chatwood be substituted for that of Mr. Hopkins on the Special Joint Committee on the Public Service of Canada.

Attest.

Léon-J. RAYMOND,
The Clerk of the House of Commons.

24644—1½

MINUTES OF PROCEEDINGS

MONDAY, October 17, 1966.
(16)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.42 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Fergusson, O'Leary (*Antigonish-Guysborough*) (4).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Émard, Faulkner, Hymmen, Keays, Knowles, Lachance Lewis, Orange, Richard, Tardif, Walker (13).

In attendance: Messrs. Marcel Pepin, President, Robert Sauvé, Secretary General, Confederation of National Trade Unions; Mr. Raymond Parent, Vice-President, Provincial Confederation of Trade Unions of Quebec.

The Joint Chairmen invited the Confederation of National Trade Unions to present its brief. Part I of the brief was accepted as being read into the record. The representatives of CNTU were questioned on their brief at this same sitting of the Committee.

The CNTU undertook to supply the Committee with exact figures on the number of governmental employees represented by that Union.

The Committee was advised that copies of the Industrial Relations and Disputes Investigation Act would be distributed to the members.

At 12.30 p.m., the meeting was adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

• (10.40 a.m.) MONDAY, October 17, 1966.

The CHAIRMAN: Order.

(Translation)

The JOINT CHAIRMAN (*Mr. Richard*): Order. This morning we have a brief from the Confederation of National Trade Unions; Mr. Pepin, Mr. Sauvé and Mr. Parent, would you be good enough to come to the table, please. I think Mr. Sauvé is going to read the brief.

(English)

This is the brief of the Confederation of National Trade Unions which will be read by Mr. Sauvé, the Secretary, who is accompanied by Mr. Marcel Pepin, the President, and Mr. Parent.

(Translation)

The JOINT CHAIRMAN (*Mr. Richard*): Are you ready, Mr. Sauvé?

Mr. SAUVÉ: Yes.

Mr. PEPIN: I would just like to say a few words by way of introduction, Mr. Chairman, before our Secretary General Mr. Sauvé, begins to read our brief, I would like to remind the members of the Committee of the existence of the CNTU. We thank you for the fact that you have been willing to recognize that existence as a very important trade union organization in the province of Quebec. It may be possible that certain members of this Committee have not heard too much about it, but I would remind them that the Confederation of National Trade Unions has about 200,000 members, including employees in the Federal and Provincial Public Services. The Confederation of National Trade Unions is represented in practically all sectors of industry and service activities, practically all activities where there are wage earning employees. There are also different large organizations, at the leadership level. I think that is what you call "middle management" among professional people and among many groups of wage and salary earners. The brief which you are going to hear this morning is of very great importance to us because depending on the decision of your Committee, and ultimately that of the House of Commons, it could have an influence on the rate of the development of relations between the Government and its employees for many years to come. We have very serious criticism to put before you regarding Bill C-170 and this criticism and these reservations are concerned with the establishment of orderly relations between the Government as employer, and its employees, and they are also concerned with establishming freedom of choice of the wage earner; even if he is a wage earner, we, in the Confederation, feel that the question of freedom of choice among wage earners is of very great importance, and if no attention is to be paid to it,

the day will come when we are faced with a totalitarian kind of trade unionism which will certainly not be to the benefit of the nation. I would remind you we have had much debate recently regarding so-called national unity for example in the CBC affair, and these problems are not just superficial problems for us, they are very real problems, and we have very considerable apprehension about the passage of Bill C-170 as it is at present worded, that it might lead to results similar to those we have had in such a case as I have just mentioned. And so, gentlemen, Messrs joint chairmen, and members of this Committee, we have prepared this brief and we hope that your Committee will make a thorough study of it. I now call upon the Secretary General to read the brief.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Keays?

Mr. KEAYS: Before you read the brief, could Mr. Pepin tell me how many of the employees in the Federal Public Service belong to the Confederation?

Mr. PEPIN: There are two groups. There is a group at the National Film Board. I have not the exact figures. It may be between 300 or 350, perhaps 400. There is another group at the Queen's Printer, and I have not the exact figure. There are no other groups apart from that. But we would still have something to say even if we had no affiliates. At the Queen's Printer, there may be 200 or 250 members, I am not sure. If I am wrong about these figures, I hope, at any rate, that they are more or less right.

Mr. SAUVÉ: Ladies and gentlemen...

Mr. ÉMARD: I am sorry to interrupt the reading but I have a question to ask. I will wait until afterwards.

Mr. SAUVÉ:

> The parliament of Canada has been recently presented with a Bill (C-170) aimed at regulating labour relations in the public service. The Confederation of National Trade Unions (CNTU) feels it is its duty to intervene in the debate, mainly because of its mandate as a Canadian labour organization, and of its natural interest in all labour legislation. The some 200,000 workers it represents rely upon its vigilance to safeguard their rights and interests whenever these are directly or indirectly involved. The purpose of the CNTU's intervention is to emphasize before the federal legislators its objections and suggestions following a thorough study of Bill C-170. The CNTU also wishes to enlighten public opinion, and more particularly federal public servants, on the upsetting implications of the proposed legislation.
>
> As a first general observation, the CNTU draws the attention of all concerned to a number of basic differences, which it finds rather puzzling, between the new legislation and the federal industrial relations act, principally as regards collective bargaining, conciliation and resort to strike. The CNTU is well aware of the existence of particular characteristics inherent in the public service, as well as differences between manufacturing industries and public services. It nevertheless remains—and we are going to illustrate this—that Bill C-170, while worded in the vocabulary of industrial relations, is firstly a compulsory

arbitration legislation, with a restricted field of action. It would seem that collective agreements will be more easily concluded with those described as "separate employers" than with the government itself.

The CNTU's brief is divided into three parts:

I. A short history of the evolution of collective bargaining in Canada;
II. Study and criticism of Bill C-170;
III. Suggestions offered by the CNTU

—I—

A SHORT HISTORY OF THE EVOLUTION OF COLLECTIVE BARGAINING IN CANADA

This first part of the brief is a very schematic and simple retrospection of labour relations in Canada.

Industrial workers have won their right of association and their right to collective bargaining through strikes and imprisonment, and by bursting a number of obsolete legal structures. In Canada, it is in 1872 that the existence of labour unions was officially recognized by law (a precedent which followed a definite "fait accompli"), when amendments to the criminal code stipulated that a labour union was not a criminal coalition, and its aims, including the resort to strike, were not illegal from the sole fact that they could hinder the trade. This meant a reluctant recognition of trade-unionism by the State, but not by the employers.

As of that date, and until the start of the second World War (1939), apart from the odd resort to conciliation, collective bargaining was conducted, generally, according to the law of the jungle, that is, rule by strength. About 1925, and after that date, the right to collective bargaining was included in the text of various legislations, but remained on a voluntary basis. No obligation. A union could group almost the whole of the workers in a firm and yet not be recognized, while another one, without a single employee of an enterprise among its membership, could be recognized. For a long time, negotiations lead to some sort of gentlemen's agreements, until finally came the written collective agreement, binding on both parties, as it is known today.

At the beginning of the war, in 1939, salaries and other working conditions were governed, in Canada, by organizations set up under the provisions of the Emergency War Measures Act.

In 1944, following inquiries on the serious industrial unrest prevailing at the time, and to which a remedy had to be found, (federal McTague inquiry, 1943, and Quebec Prévost inquiry, 1943), new legislations were adopted in Ottawa (P.C. 1003) and in the provinces, which created the obligation for an employer to negotiate in good faith with the negotiating agent representing the majority of his employees in an appropriate unit. Then followed the requests for certification, issuing of union recognition certificates, negotiations and signature of collective labour agreements. These legislations, federal as well as provincial, were inspired from the American Wagner Act, in force since 1935. In Ottawa,

the wartime legislation (P.C. 1003 of February 1944) was replaced in 1948 by a peacetime industrial relations legislation, restricted to enterprises falling under federal jurisdiction. This legislation is still in force.

With the exception of Saskatchewan where, later, the industrial relations act has applied entirely to provincial public servants, and more recently Quebec where, with some restrictions, a special legislation on collective bargaining has applied to the public service of the province, all other provinces, as well as the federal government, have never accepted, as employers, to assume the same obligations as they have imposed, through legislation on industrial relations, on all employers in common enterprises falling under their respective jurisdictions. In Ottawa, in spite of the existence of several public servants' associations, the public service falls under a certain form of government regulation, that is, unilateral. What changes are intended to that situation which has already lasted too long? This is what a study of Bill C-170 will reveal.

- II -

STUDY AND CRITICISM OF BILL C-170
(federal public service)

1. *Collective bargaining*

Should Bill C-170 get royal assent, what would be the method of collective bargaining used in the federal public service? And when could the first negotiations begin? Leaving aside the secondary methods of application surrounding these subjects, the CNTU intends to study them in the light of the basic provisions of the bill. The texts are self-explanatory. We shall quote in the first place the definition of the collective agreement, article 2, paragraph (h):

> Art. 2-(h) "collective agreement" means an agreement in writing entered into under this Act between the employer, on the one hand, and a bargaining agent, on the other hand, containing provisions respecting terms and conditions of employment and related matters;

Considered by itself, this definition could strictly be understood as extending to all matters which are generally found in a private enterprise collective agreement. But after reading other specific provisions of the bill, the restricted scope of that definition can easily be seen.

If we refer to the list of functions excluded from the bargaining units, it seems that a great number of federal public servants will not benefit from the advantages of collective labour agreements. The definition of "employee", "designated employee" and "person employed in a managerial capacity" leave the parties with little scope for discussion, and the Public Service Staff Relations Board with very little discretion. The federal industrial relations act is a lot more flexible on these questions.

Another restriction to collective bargaining lies in the fact that the general structure of bargaining units is set up in the Act, and the institution of occupational groups shall be decided on by the government.

With the exception of units negotiating with "separate employers" whose enterprises are restricted to one locality, it seems that all other units shall be considered as national units. The Minister of Revenue stated recently that there will be sixty-seven (67) of them in the whole of the public service sectors not falling under separate employers. The Minister has obviously sought inspiration from the Heeney report.

What does the Bill say on the subject, and what will be the mandate of the federal government when the legislation comes into force? In order to throw some light on the debate, we must quote here the definitions of "occupational category" and "occupational group", as well as the text of article 26:

Art. 2-(r) "occupational category" means any of the following categories of employees, namely,

(i) scientific and professional,

(ii) technical,

(iii) administrative,

(iv) administrative support, or

(v) operational,

and any other occupationally-related category of employees specified and defined by the Governor in Council by any order made under sub-section (1) of section 26 or thereafter determined by the Board to be an occupational category;

(s) "occupational group" means a group of employees within an occupational category;

Art. 26 (1) Within thirty days after the coming into force of this Act, the Governor in Council shall, by order,

(a) specify and define the several occupational categories in the Public Service, including the occupational categories enumerated in sub-paragraphs (i) to (v) of paragraph (r) of section 2, in such manner as to comprise therein all employees in the Public Service; and

(b) fix the day, not later than two years after the coming into force this Act, on which the employees within each occupational category become eligible for collective bargaining.

(2) At least sixty days before each day fixed under paragraph (b) of sub-section (1) on which the employees within an occupational category become eligible for collective bargaining, the Governor in Council shall, for all portions of the Public Service other than separate employers, specify and define the several occupational groups comprising that occupational category.

(3) With respect to any portion of the Public Service other than a separate employer, the Board shall not consider as a unit of employees appropriate for collective bargaining any group of employees, other than those comprised in an occupational group and defined pursuant to subsection (2), until twenty-eight months have elapsed from the day fixed under paragraph (b) of sub-section (1) on which employees in the occupational category to which the employees in any proposed bargaining unit belong became eligible for collective bargaining.

In short, the main occupational categories are described in the Bill. Other occupational categories, and all occupational groups, shall be set up by decree of the Governor in Council, that is, by the federal cabinet. It is hard to see what will be left for collective bargaining in those fields. True, the Board's mandate gives it a theoretical control over occupational groups, and unions of federal public servants will no doubt be able to discuss specific cases, as well as to question for instance the exclusion of a function from a bargaining unit. This might provide some sort of consolation. The government will have arbitrated in advance all structures in the federal public service, with the exception of the groups of employees falling under the jurisdiction of separate employers.

Article 7 also tends to restrict seriously collective bargaining, mainly with regards to grouping and classifying positions in the public service. This will be seen at once after a quick glance at the text.

> Art .7 Nothing in this Act shall be construed to affect the right or authority of the employer to determine the organization of the Public Service, to group and classify positions therein and to assign duties to employees.

It is the opinion of the CNTU that the grouping and classification of positions should not be done unilaterally, but rather be the subject of standard negotiation. Furthermore, there is reason to wonder what resort will be left to the recently reclassified federal public servants, whose salaries have been "frozen" in red circles, as is the case for customs and excise agents, as well as administrative employees falling in the auxiliary groups.

One further point. "National units" shall not mean that the federal government is prepared to pay equal salaries for the same functions all across the country. The Minister of National Revenue, speaking for the government, has definitely ruled out such a proposition at the end of May before the Defence Committee of the House of Commons. If the unions of federal public servants intend to bring up this point, they will learn that such is not the government's policy, but that they may resort to arbitration (or conciliation). The arbitrator's mandate is provided for in the Bill (art. 68). The Arbitration Tribunal, when dealing with rates of pay, shall consider and have regard to

> Art. 68 (b) the conditions of employment in similar occupations outside the Public Service, including such geographic, industrial or other variations as the Arbitration Tribunal may consider relevant.

It is not likely that the conciliators' criteria will differ from those of the arbitrators.

The second paragraph of article 56 should also be mentioned in connection with collective bargaining. It reads as follows:

> Art. 56 (2) No collective agreement shall provide, directly or indirectly, for the alteration or elimination of any existing term or condition of employment or the establishment of any new term or condition of employment,
>
> (a) the alteration or elimination of which or the establishment of which, as the case may be, would require or have the effect of requiring the

enactment or amendment of any legislation by Parliament, except for the purpose of appropriating moneys required for its implementation, or

(b) that has been or may be, as the case may be, established pursuant to any Act specified in Schedule B.

It is obvious that such unprecise wording can greatly reduce the scope of collective labour agreements for federal public servants. Paragraph (b) above refers to Schedule B of the Bill, hence it forbids collective bargaining on subjects, among others, which have already been dealt with in the following legislations:

—Civil Service Act

—Government Employees Compensation Act

—Public Service Superannuation Act

We could quote more excerpts from the Bill, but the above should throw sufficient light on the restrictions imposed on federal public servants in their negotiations with the government; they also emphasize the extent to which the latter strays from the provisions of its own industrial relations act.

The CNTU now comes back to its question at the beginning of this second part of the brief: when could collective bargaining begin, should Bill C-170, with or without amendment, become a law?

We should first point out that this is not a legislation that would come into force on the day of its approval. Article 116 is very explicit on that point:

Art. 116 This Act shall come into force on a day to be fixed by proclamation of the Governor in Council.

There is no way of determining what will be this first delay imposed on the federal public servants. We hope it will be short, but also that the Bill will have gone first through a series of important amendments.

Article 26, already quoted, foreshadows a second delay. We repeat the following provision:

Art. 26 (. . .) the Governor in Council shall, by order,

(b) fix the day, not later than two years after the coming into force of this Act, on which the employees within each occupational category become eligible for collective bargaining.

We should also quote, on this question, article 29 of the Bill:

Art. 29 No employee organization may apply to the Board for certification as bargaining agent for a bargaining unit prior to the date on which the employees comprised in the proposed bargaining unit became eligible for collective bargaining under sub-section (1) of section 26.

Certification

Independently from the very questionable method used by the federal government in the setting up of bargaining units, and on which we shall not comment at this point, one provision that should definitely be deleted from Bill C-170 is the obligation, for a union, to choose, before applying for certification, the method which it intends to follow in the

settlement of its disputes with the employer: arbitration or conciliation. Why should a union have to be placed before this kind of dilemma? The CNTU feels that this is a choice which is very hard to make before certification. No one knows at that time how the negotiations will progress. The following shows how the matter is dealt with in article 36 of the Bill:

> Art. 36 (1) No employee organization shall be certified by the Board as a bargaining agent for any bargaining unit until the employee organization has specified, in such a manner as may be prescribed, which of either of the processes described in paragraph (w) of section 2 shall be the process for resolution of any dispute to which the employee organization may be a party if it is subsequently certified by the Board as bargaining agent for that bargaining unit.

At this time, we might say that the provisions dealing with arbitration and with conciliation would lead public servants towards arbitration. Then, they would have waived their right to strike. Besides, after studying the texts, the CNTU is not afraid to state that the conciliation procedure will not be satisfactory to the federal public servants, and the resort to strike will prove mostly illusive after a close look at the structures of bargaining units as meant by the government.

Arbitration and conciliation

The mandates of the arbitrators and conciliators should leave the federal public servants somewhat disturbed. The Bill leads them towards arbitration, and yet, if they take arbitration, it will probably be because they are choosing the lesser of two evils.

Paragraphs (1) and (3) of article 70 are particularly enlightening as to what an arbitral award should or should not deal with. The provisions read as follows:

> Art. 70 (1) Subject to this section, an arbitral award may deal with rates of pay, hours of work, leave entitlement, standards of discipline and other terms and conditions of employment directly related thereto.
>
> (3) No arbitral award shall deal with the standards, procedures or processes governing the appointment, appraisal, promotion, demotion, transfer, lay-off or release of employees, or with any term or condition of employment of employees that was not a subject of negotiation between the parties during the period before the negotiating relationship between them was terminated.

We shall now quote article 68 to learn the criteria that should be used by arbitrators when rendering their awards. Paragraph (b) of this article has already been quoted.

> Art. 68 In the conduct of proceedings before it and in rendering an arbitral award in respect of a matter in dispute the Arbitration Tribunal shall consider and have regard to
>
> (a) the needs of the Public Service for qualified employees;

(b) the conditions of employment in similar occupations outside the Public Service, including such geographic, industrial or other variations as the Arbitration Tribunal may consider relevant;

(c) the need to maintain appropriate relationships in the conditions of employment as between different grade levels within an occupation and as between occupations in the Public Service;

(d) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered; and

(e) any other factor that to it appears to be relevant to the matter in dispute.

The least that can be said, after reading this, is that the government shows as much suspicion towards arbitrators than it had shown, in other texts, towards trade-unionism in the federal public service. In addition, it is to be noted that in defining the mandate of the arbitrators, the government has completely ignored the recommendations of the Freedman report.

As for the conciliators' mandate, it is, if we may say so, even more restrictive than that of the arbitrators. Article 83, and more particularly paragraphs (1) and (3) of article 86, are most revealing on the subject. Here is how they read:

Art. 83 Forthwith upon the establishment of a conciliation board, the Chairman shall deliver to the conciliation board a statement prepared by him setting forth the matters on which the board shall report its findings and recommendations to the Chairman, and the Chairman may, either before or after the report to him of its findings and recommendations, amend such statement by adding thereto or deleting therefrom any matter he deems necessary or advisable in the interest of assisting the parties in reaching agreement.

Art. 86-(1) A conciliation board shall, within fourteen days after the receipt by it of the statement referred to in section 83 or within such longer period as may be agreed upon by the parties or determined by the Chairman, report its findings and recommendations to the Chairman.

(3) No report of a conciliation board shall contain any recommendation concerning the standards, procedures or processes governing the appointment, appraisal, promotion, demotion, transfer, lay-off or release of employees.

The right to strike

In principle, according to Bill C-170, a union which has chosen conciliation as the method for the settlement of its disputes with the employer, may resort to strike if the recommendations of a conciliation board are not satisfactory. This brings a first question: could a union

resort to strike on a question which does not fall under the competence of a conciliation board? There is reason to be doubtful. By the way we must point out here that a union may not bring itself its dispute before a conciliation board. The dispute must be submitted to the Chairman of the Public Service Staff Relations Board, who in turn refers to the conciliation board the questions on which recommendations may be made. Article 83 quoted above is very specific on that point. Since, on the other hand, the third paragraph of article 86 lists a few very important matters in the field of working conditions which escape the jurisdiction of a conciliation board, one wonders what subject of dispute could, after conciliation, warrant a resort to strike.

Let's say, however, for the sake of argument, that a union, with the support of its members, authorizes a strike. We are talking here of a certified union representing one of the 67 bargaining units mentioned by the Minister of National Revenue. At this point, one may assume that a number of these unions have chosen arbitration as a method for the settlement of their disputes, and others, conciliation. Units performing functions that are, to a certain extent, inter-dependent, may have chosen different methods of settlement. Hence the stopping of one unit may partially cripple the next one, or at least affect a number of its employees. These employees would then, unintentionally, participate in the strike. If such were the case, then the union having the right to strike could not use that right without openly breaking the law. Article 102 of the Bill is very explicit on that point.

> Art. 102 No employee organization shall declare or authorize a strike of employees, and no officer or representative of an employee organization shall counsel or procure the declaration or authorization of a strike of employees or the participation of employees in a strike, the effect of which is or would be to involve the participation of an employee in a strike in contravention of section 101.

Now who are these employees affected by article 101 who are not allowed to resort to strike or take part in it? They are employees

1. who are not included in a bargaining unit;
2. who belong to a unit for which the settlement of disputes is referred to arbitration;
3. who are "designated employees";
4. who belong to a unit where a collective agreement is in force;
5. who belong to a unit where no collective agreement is in force and there has not been a report from a conciliation board, if such a method is to apply.

The above may leave some doubts in mind. Then, the employer (either the government or a "separate employer") has a very effective and conclusive means for clearing up the whole thing, as is explained very ingenuously in paragraph one of article 103:

> Art. 103-(1) When it is alleged by the employer that an employee organization has declared or authorized a strike of employees, the effect of which is or would be to involve the participation of an employee in a strike in contravention of section 101, the

employer may apply to the Board for a declaration that the strike is or would be unlawful and the Board may make such a declaration.

One would no doubt be wise to await the Board's declaration in order not to break the law. This is the advice given to all concerned in article 104:

Art. 104-(1) Every employee who contravenes section 101 is guilty of an offence and liable on summary conviction to a fine not exceeding $100.

(2) Every officer or representative of an employee organization who contravenes section 102 is guilty of an offence and liable on summary conviction to a fine not exceeding $300.

(3) Every employee organization that contravenes section 102 is guilty of an offence and liable on summary conviction to a fine not exceeding $150 for each day that any strike declared or authorized by it in contravention of that section is or continues in effect.

It is true that no legal action can be taken without the consent of the Board, but there is reason to believe that the Board will support its own declaration.

The CNTU feels it is not exaggerating when it affirms that in Bill C-170, the resort to strike is purely illusive for those who will not have chosen arbitration as a method for the settlement of their disputes.

Union representation

The CNTU notes with complete astonishment that the public servant unions could not be represented on the Public Service Staff Relations Board nor on the Public Service Arbitration Tribunal. We are not aiming here at the functions of president or vice-president, but at membership in these organizations. We learn, in Bill C-170, that in order to represent organized public servants, one should not be a union member. Article 13 of the Bill states, among other things, the following:

Art. 13-(1) A person is not eligible to hold office as a member of the Board if

(*c*) he is a member or holds an office or employment under an employee organization that is a bargaining agent;

Members of the Public Service Arbitration Tribunal are appointed by the Board. The chairman of the Tribunal is appointed by the Governor in Council. As is the case for members of the Board representing the organized public servants, the members of the Arbitration Tribunal, appointed in the same right, are entitled to membership only if they do not belong to a union (Art. 61).

Before closing this part of its brief, the CNTU draws the attention of the competent authorities to the great number, the excessive number, of organizations and individuals who will supervise the Public Service, not only under the provisions of Bill C-170, but also keeping in mind all other organizations and individuals appointed under some other legislation. One may seriously wonder how the federal public servants will find their way in such a maze.

III

SUGGESTIONS OFFERED BY THE CNTU

1. The CNTU suggests that Bill C-170 be amended, for a large part in the spirit of the federal industrial relations act, in matters of collective bargaining, conciliation procedures and resort to strike. Thus the government would clearly show that it is willing to assume itself, as an employer, the same obligations which are imposed by the Canadian Parliament on employers whose enterprises fall under federal jurisdiction. It would by the same token show some trust in the federal public servants, who would certainly appreciate being treated as adults.

2. The CNTU is of the opinion that Bill C-170 shows an unacceptable preference for extremely rigid, and even totalitarian, union structures, and leaves in the background the right of association and freedom of union action. The bill appears to have originated from the concept that Canada is a unitary and homogeneous country. It seems that the government would tend to set up a system of so-called "national bargaining units", when such a system has never existed in our country. There are not even fifty such units across Canada, and those existing have been certified without any objection because the employees concerned have agreed, at the time, to have it done. This will not always be in the future, because freedom of union action includes the right, for the employees, to change their allegiance and give preference to efficient bargaining units, which does not mean necessarily "national units". The CNTU is only being realistic when it states that the very serious conflict existing at this time between, on the one hand, a number of obsolete and often empty structures, and on the other hand, the right of association and freedom of union action, could shake the very foundation of the Canadian confederation. It is therefore of the utmost importance that there should not be imposed by law unacceptable union structures, and that we should not restrict ourselves to a single type of bargaining unit. Such structures and units may prove discriminatory, and could constitute a flagrant violation of a well conceived freedom of union action.

3. The arbitration system can be justified during the period covered by a collective labour agreement. In all other cases, the CNTU feels that the resort to arbitration should be optional, and its scope should not be restricted as is the case with Bill C-170. It should be possible to submit to arbitration, if this is agreeable to both parties, any working or employment condition, when collective bargaining has not been successful, except perhaps in the case of the requirements for admission in the Public Service. The same should apply to matters dealt with in the recommendations of the Freedman report, when both parties cannot reach agreement, especially if the dispute arises from automation or technological questions which could not have been foreseen at the time of signature of a collective labour agreement.

4. The CNTU is of the opinion that public servant unions should be represented on the Public Service Staff Relations Board and the Public Service Arbitration Tribunal. Otherwise, the implication is that only non-organized people can deal objectively with matters such as working and employment conditions of the federal public servants. Finally, the

CNTU feels that all officers and members of the Board and the Tribunal should be bilingual, out of respect and consideration for the two nations which, nearly a century ago, have undertaken jointly the building of Canada.

5. In the CNTU's view, it should be clearly established that employees of "separate employers" are in no way connected with categories or groups falling directly under the Treasury Board in its capacity as negotiating agent for the federal government.

6. The second part of the present brief includes further suggestions on specific points which need not be repeated.

7. Finally, the CNTU has noted that a number of methods of application appearing in Bill C-170 should rather be included in regulations or rules of procedure. These are details that should be subject to change according to circumstances, without requiring amendment to the law itself. Such changes might be done through an order-in-council.

The CNTU's criticism of Bill C-170, in this brief, may seem harsh. This is because of its belief that, according to the Bill, a number of matters are arbitrated from the start by the government. Besides, it sets bargaining units where, for all practical purposes, the government will be the sole arbitrator. In too many cases, the final decision of the Board, as provided for in the Bill, can only hinder negotiations. Arbitration criteria are set by law, which leads to believe that these criteria represent the policy which the government intends to follow in the course of negotiations. Finally, the Bill is conceived in such a way that public servants must almost inevitably accept arbitration as the sole method for the settlement of disputes, and this choice must be made before certification. For these reasons, the CNTU feels that Bill C-170 is firstly a compulsory arbitration legislation, leaving little scope for collective bargaining, except perhaps in the case of "separate employers". Should it be adopted in its present form, this Bill could become, before very long, the strait-jacket of the federal Public Service.

CONFEDERATION OF NATIONAL TRADE UNIONS

Marcel Pepin,
président général.

Robert Sauvé,
secretary general.

Montreal, July 1966

The JOINT CHAIRMAN (*Sen. Bourget*): Thank you, Mr. Sauvé, for your very interesting brief. And as you can well understand, this brief falls into three distinct parts, first of all the historical background of collective bargaining, secondly, a critical study of Bill C-170 and three, the suggestions offered by the CNTU.

I wonder, if we are to have a question period, if we should not restrict our questions to the second part, because the first part is simply an account of the

evolution of collective bargaining and I think we should perhaps choose the various sub-sections on certification, conciliation, the right to strike and so forth under part two and then part three might also be ta[illegible]

(*English*)

I was just saying that the brief is divided into three parts. I do not think there will be many questions on the first part, the history of collective bargaining. The second and third parts are the most important. So as to have an orderly period of questioning, I wonder if the questions should be limited to the four or five subtitles of Part No. II and then on Part No. III which represents the suggestions that are made by the union. Is that agreeable to the members?

Mr. KNOWLES: Mr. Chairman, before we do that I wonder if some of us or one of you could ask for the kind of information we have asked from other bodies appearing before us, namely—

The JOINT CHAIRMAN (*Sen. Bourget*): If you have some more questions I think we could handle questions of a general character before we have studied the brief part by part.

Mr. HYMMEN: Mr. Chairman, in regard to Mr. Knowles question which was asked before, I thought the representative was a little vague. Surely he must be able to give more accurate information than the information which was given.

The JOINT CHAIRMAN (*Sen. Bourget*): I think you are right in your idea to permit a certain period for questions of a general character.

Mr. KNOWLES: Mr. Chairman, I am sorry that I was not here when the questions were asked. I have now been filled in as to the answers. I wonder if Mr. Sauve could give me a breakdown of the 200 members I understand he said they have at the Queen's Printer's establishment.

(*Translation*)

Mr. PEPIN: This trade union is a local union affiliated to the CNTU, has been affiliated for many years. I said it had about 200 members, but I was not entirely precise because I was not completely certain of the number. Now, it has been affiliated to us since the end of the forties, or the beginning of the 1950's.

Before that, I think the Queen's Printer was at Ottawa, subsequently it was rebuilt in Hull and our Local is still there. It has no right to collective bargaining but it has been consulted, I believe, when the law was amended providing that in cases of wage determination, there would be consultation with existing unions. I wonder if that answers Mr. Knowles' question adequately.

(*English*)

Mr. KNOWLES: I am interested in this figure of 200 which you say is not to be pinned down. Can you say how many of them are in the composition department? We had a figure from another union the other day—I am trying to get the total picture—or if not in the composition department, in what departments are they?

(*Translation*)

Mr. PEPIN: I am sorry I cannot give you the answer this morning. If you will allow me I will give you a written answer later. I do not have the figures for the composition department at the moment.

Mr. LEWIS: Does the union also include employees of other employers, such as *Le Droit*, or something like that?

Mr. PEPIN: No, it is a separate local.

(*English*)

Mr. KNOWLES: That will be satisfactory, Mr. Chairman, if Mr. Pepin will give us that information in writing later.

The JOINT CHAIRMAN (*Sen. Bourget*): Is that agreeable to all members? Are there any other questions of a general character?

Mr. WALKER: You are just speaking now of this one particular local. In the confederation do you represent other federal employees?

(*Translation*)

Mr. PEPIN: Yes, at the National Film Board, I think we have between 300 and 400 members. I, again, don't have the exact figures. If the members of the Committee are interested in having them, I will do the same thing as for Mr. Knowles' question; I will forward the answer in writing.

(*English*)

The JOINT CHAIRMAN (*Sen. Bourget*): Is that agreeable? Are there any other questions of a general character?

Mr. HYMMEN: I have a general question. I do not know whether it comes under section II particularly but the question is raised by these gentlemen, and also by others regarding the comparison between the IRDIA legislation and private industry. I would like to ask Mr. Sauvé or Mr. Pepin how far do you think the analogy can be taken between the public service and private industry? Where does the public interest come into this, in their estimation?

(*Translation*)

Mr. PEPIN: There are certain differences between the public sector and the private sector, such as the industrial sector, among others. I think it would be inconceivable under present circumstances to negotiate or to be able to negotiate a clause of collective agreement which would provide for the closed shop where the Government would be forced to go through a union to recruit its members.

The Public Service, in its present state, could not accept such a conception in the way in which it is accepted in the private sector, for example for longshoremen or any other field of economic activity. But apart from that, I do think there are considerable similarities between the status of an employee who works with the Government and one who works for a private contractor, work on the same bridge or in the same workshop.

If you refer to the public interest, I understand that the federal Parliament, and the provincial Parliaments likewise, in similar situations, do have certain rights, so when we have the right to strike in the public service on

the same basis as the right to strike in private business, then, the authority of Parliament may be used, but if we want to have orderly relationships between the Government as employer and its employees, then, I think it is most unhealthy to consider the employees of the public sector as if they were not employees in the same way as people employed in the private sector. So, certain provisions of a collective agreement might be examined and accepted in a different manner, but regarding the position as we know it, both inside and outside the public service so far as everything else is concerned, people should be treated on the same basis both in the private and the public sectors. I do not know whether that answers your question.

(*English*)

The JOINT CHAIRMAN (*Sen. Bourget*): Does that answer your question, Mr. Hymmen?

Mr. HYMMEN: That will do for now, thank you.

The JOINT CHAIRMAN (*Sen. Bourget*): Do you have another question on this? Do you have a supplementary question of this?

An hon. MEMBER: Not on that level.

The JOINT CHAIRMAN (*Sen. Bourget*): Are there any other questions of a general character because I think Mr. Hymmen's question related to Part II which has to do with study and criticism of Bill No. C-170.

Mr. WALKER: Mr. Chairman, I thought that we had not really started Part II as yet.

The JOINT CHAIRMAN (*Sen. Bourget*): No, but I was just saying that if there are—

Mr. WALKER: But if we keep the theme as we go into the—

The JOINT CHAIRMAN (*Sen. Bourget*): If we are through with questions of a general character, I think we should now look into Part II, study and criticism of Bill No. C-170 and starting with sub-title 1, collective bargaining. Are there any questions?

(*Translation*)

Mr. ÉMARD: It seems to me that the definition of "employee" is rather restrictive. It seems to me that there are many employees who might benefit from collective bargaining. I am referring to page 5, the last paragraph.

Mr. PEPIN: What are we criticizing here, Mr. Émard, is that the definitions leave very little latitude for discussion between the bodies, the kind of normal discussion in industrial relations when the parties can discuss who should be included or excluded. It leaves very little discretion to the Public Service Staff Relations Board because when we study the bill, in our opinion, it is up to the Governor-in-Council to decide who is going to benefit and who is not going to benefit from the collective labour agreements. This is the basis of our criticism. It seems to be the employer who is going to take the initiative in deciding which particular class of employees can be included and which cannot be. I feel that this is a function which ought to belong to the parties themselves or to the specialized body that is to say, the Public Service Staff Relations Board.

(*English*)

Mr. LEWIS: I have several questions I would like to ask Mr. Pepin. If Mr. Sauvé will forgive me, we will be bilingual when he answers my questions; he will answer in French.

I have, as my colleague suggests, a great deal of agreement with their criticisms of the way, in the early stages, of setting up this board. My first question is for a practical suggestion, if they have one, as to how this collective bargaining regime could start without the government designating the bargaining units. I would like to remind them, Mr. Chairman, that at the present time the scheme is that the government designates the bargaining units to start with. There are then two years in which organizations apply for certification, I suppose, presumably, either on the basis of the bargaining unit established by the government or on some other basis which they would present to the staff relations board. That means—and I want to explain my question, and I agree with it, Mr. Pepin and Mr. Sauve—that essentially the government will be setting up the bargaining units and once they are set up all this talk about changing them later will be pretty meaningless. What is another way in which this law could be put into operation?

(*Translation*)

Mr. PEPIN: I feel the government takes two stands. First of all, it is going to wait for two years before we can come into the picture and be certified, and moreover, it is provided that the government will itself draw up the lists of professional categories—the sixty-seven categories which are provided for. They are not referred to in the bill, but in a speech of Mr. Benson. So the government leaves two ways open for itself. It says: "I am going to decide for sixty-seven groups and for two years I am going to wait until you are able to intervene".

Mr. LEWIS: Sixty-seven groups?

Mr. PEPIN: I am speaking of categories.

Mr. LEWIS: Groups, since there are more categories than that.

Mr. PEPIN: You are right. Sixty-seven groups and five great categories. It seems to me first of all that it should not be the Governor-in-Council who should decide what are the professional groups. It ought to belong to the Public Service Staff Relations Board. That is my first point. And secondly, as this happens every time there is new legislation. For example, just under Order-in-Council 1003 in time of war, there was a period of groping, if I may so say, affecting the application of the law. And likewise, in the federal code of 1948, when that was brought in, the fact that there was some experience under the wartime regulation meant there was less groping in the application of the federal code brought in the provincial field. When we had the Labour Code, it certainly took us some time before we could establish case law in the matter. And certainly under Bill C-170 or any other, the Staff Relations Board will be called upon to establish what are the units without the criteria being too loose in the bill, but subsequently there would be petitions presented by the associations, and in this way a body of precedents would be built up. What I am afraid of is this—and we have said it in our brief—if this bill is adopted as it is, we will have an organization which is already known in advance regarding the

organizations of the employers, so, to give you the most exact answer possible I would like the bill to be more flexible than it is at the present time. It should give more authority to the Staff Relations Board so that there can be a real effort made to discover, through that Board, what are those groups which are fit for negotiation with due respect for freedom of association. If I can speak on this a little further, when I refer to this idea of freedom of association, I of course do not want to say that every single individual, for example me, in the name of my own freedom, should be able to say I don't want to belong to this or that group. What I call a natural unit is, I try to bring together people who never meet one another, who cannot do it in the exercise of their normal duties; extreme example—it I live in Newfoundland and if another person lives in Vancouver, the chances of meeting one another are extremely remote, just because of distance. It is not a question of language here, but if we are going to associate with people we never see, it seems to me that the structure will be imposed by law but it will not correspond to a social fact, if you like, so to put it.

(English)

Mr. LEWIS: Well, Mr. Pepin, it is not entirely so. You could have, could you not, a national unit where the negotiations take place on a national basis and yet groups at various locations discussing their problems. Because what concerns me about your general proposal on this score—may I put it in the form of a question: Is it conceivable that the government of Canada should negotiate one agreement with the members of the Department of National Defence in Nova Scotia, giving them certain terms and conditions of labour, and certain salaries, and negotiate an entirely different agreement with the employees of the Department of National Defence doing the same work in Alberta, giving them different terms and conditions or higher or lower wages than you give the employees who do the same work in another part of Canada. Is that possible for a government?

(Translation)

Mr. PEPIN: I will attempt to answer. In the bill before us, the government tells us that this will be possible, and I refer to the particular section—

(English)

Mr. LEWIS: If I may interrupt you, that may be interpreted—I mean per se the law does not require these criteria. I think putting the criteria into the law is a mistake, and when the time comes I shall say so. I think it is unnecessary. I think whenever you put criteria into a law by implication you exclude other criteria which narrow the field of negotiation. But, I think, this particular criterion was put in not for the purpose that you are trying to make of it: I think it was put in for the purpose of saying to the conciliator or to the arbitrator that in arriving at one way across Canada, the differentials across Canada would be taken into account; that is, the differentials of private industry would be taken into account as they are on the railways and similar national union negotiations. I do not think it is there for the purpose that your people suggest, namely, that the government envisages different results in different parts of the country.

(*Translation*)

Mr. PEPIN: But I saw a nice way of illustrating the intentions of the government. I think the Minister of National Revenue has already stated—we refer to this on page eight,—to the National Defence Committee that the same salaries will not necessarily be paid for the same duties across the country. But I do share your opinion, Mr. Lewis, that it is desirable for wage rates and conditions of employment to be identical from one end of the country to the other. But that does not change the contention of association. There is not just one means of achieving the purpose. I can speak of other industries, in reference to what a member of the committee said just now. When there are several bargaining units in an industry and Canadian labour legislation is founded on the enterprise as a bargaining unit—take the paper industry where the rates in the Western region, Vancouver and environs, for reasons you know better than I do, are fixed at a certain figure. There are maybe seventy-five or a hundred different negotiations and the result, in other words, is the same. And the wage rates, I know very well what they are in Quebec. Ontario seems to proceed in a very similar way. We have several mills in Quebec and other unions negotiate for other companies, but may negotiate for the same companies but other mills. This does not mean to say that you get different wage rates from one mill to another, but it is quite possible for things to evolve in this way. A union may desire a certain wage but may wish for a certain means of proceeding in conciliation disputes, whereas another union is less interested because it does not have the same problems. It may just be a question of mentality. The bill seems to provide for the easiest solution itself; that is to say, you have one single unit across the country; there is no problem there. But a unit based on industrial relations cannot try to eliminate problems because this may be a much more difficult way of proceeding. A law must give freedom to the worker, the wage earner, to choose his union. I doubt very much that this is the kind of choice which is offered here.

(*English*)

Mr. LEWIS: Your example of the paper industry is a very good one, and I am sure you know the history that they have had. It took the union many, many decades—not merely many years, but many decades—to establish the kind of relationship among them that has created some kind of stability of conditions and wages across the industry, and even at that, they have not yet achieved it. But the point I want to suggest to you, with great respect, is that you are confusing two things, are you not? You are confusing unity, or unité de négociation, or what we call in English a bargaining unit, with the bargaining representatives.

If you suggested, as, again, when the time comes, I would like to suggest to this Committee, that the law provide—as the Industrial Relations and Disputes Investigation Act provides—that more than one bargaining agent may be in the same bargaining unit and have two or three bargaining agents certified for one bargaining unit, I would follow you—I would have no difficulty—because then the liberty of the employee to choose his bargaining agent would be protected. But when you say that the bargaining unit should be scrapped, that is a different story, because then you have different sets of negotiations for the same

classification of employees, and you have the danger, if not the certainty, that there will be different results in terms and conditions and in wages.

I cannot see at the moment how a provincial government across the province and the federal government across the country can have people doing the same work under different conditions and at different wages. You would not agree to that in the province of Quebec, I am quite certain. You could not agree that a clerk in Trois Rivières be paid less than a clerk in Montreal, both working for the province of Quebec. That is why you represent, if I remember correctly, almost a totality of the public servants in the province of Quebec.

Mr. PEPIN: Not only almost.

Mr. LEWIS: Entirely; all right. You represent, in one bargaining unit, all the employees in the province of Quebec, and you are able, therefore, to set a pattern of conditions and of wages which treats all members of the bargaining unit employees of the province of Quebec the same. If you do not have that across Canada, you would have the same, it seems to me, difficult result that you would have in Quebec if you had a bargaining unit in Trois-Rivières, and a bargaining unit in Montreal, and a bargaining unit in Hull, each negotiating its own terms, conditions and wages. Is that not right?

(Translation)

Mr. PEPIN: On the second point, when you talk about Quebec and you want to assimilate it to the rest of Canada, it does seem to me that this is a false point of view because in the Province of Quebec, you can at least understand that there is more homogeneity, a great deal more homogeneity, much more than in the whole of the country, which covers a much vaster territory and which has a social background involving various ethnic groups. Note that when I raise this question I am not raising it because there are French-speaking and English-speaking Canadians. I think this would not reflect the view of the C.N.T.U. in a proper manner. It might be looked at as a purely linguistic matter, but there is a problem of the worker. The worker wants to exercise his freedom of association, and in the present state of social reality, he is in a situation where while it is possible to exercise it, it would be much more difficult. So when you bring up Quebec, I thought that this might very well be brought up this morning, but you might very well share my point of view on this matter. It is very difficult to compare Quebec's situation to that of the entire Canadian sphere. Now, on the same point about Quebec, there are certain groups which are not linked with the provincial employees' union, but which fall under the scope of the general law on labour relations. I am referring, for example, to the provincial Liquor Control Board. The employees there come under the normal labour code and have the same rights as any other employees. But in that it is not a separate employer. But there are complete rights there. But in Bill C-170, a separate employer has got more rights, many more than the separate employer in the Province of Quebec.

But you said that I was confusing certain things together. That may be. But it is possible that if this bill is passed, you will have various councils covering various units and who will seek common certification, but not separately. I do not think that it is possible to obtain a separate certification by saying I will link up with other groups and these groups would link up together for joint

certification. It is possible that I am wrong; I am not a lawyer, but I do not think that I have actually confused something here.

The JOINT CHAIRMAN (*Sen. Bourget*): On the same subject, Mr. Keays.

Mr. KEAYS: Yes, on the criticism—

Mr. Pepin, in your brief you are dealing with designated employees and with those concerned with administration. I think you want to ensure the right of negotiation. In your brief you are attempting a solution to this problem. What kind of solution?

Mr. PEPIN: The reply is that it should not be for the Governor-in-Council to give the answer. It should be for the Staff Relations Board to give the answer. It should determine who are to be the employees, who are to be represented, and who cannot be, and this can be dealt with under the Industrial Disputes Investigation Act which does set up criteria, and it is for the Staff Relations Board to apply them. In the other legislation, the act does not try to regulate everything in detail because if you want an amendment, it becomes much more difficult. So, for this reason, you have a specialized agency and there are excellent people in positions of authority, for example, members of the Cabinet. But nevertheless, they are not specialists in every one of the fields involved. They cannot determine whether this or that category should be capable of unionization and others not be. I think this should be within the ambit of the Staff Relations Board and it should have a part of decisions.

The JOINT CHAIRMAN (*Sen. Bourget*): Mr. Émard.

Mr. ÉMARD: Mr. Chairman, there is another problem which Mr. Lewis wanted to discuss. I am glad to hear Mr. Pepin wants to have uniform rates of wage across the country for identical work.

Mr. PEPIN: The highest possible, too.

Mr. ÉMARD: Now, regarding the geographical factor, I think in industry, the geographical factor, "Area differential" can lead to lower wage rates, you may have a lower wage rate in many cases for plants situated outside certain areas. But I wonder what is the position of the employer in the case where the wage paid by industry seems much higher than in the rest of the country. I would remind you that in certain committees we have had discussions about industrial concentration such as those at Windsor, Sarnia and Vancouver and there we have been told the federal employees were not paid enough because the local wage rates were much higher there than in the rest of the country. Do you think that the geographical factor should be brought in here so it would make it possible to pay higher wage rates in such places as the ones I mentioned? Or do you think that ought to be eliminated completely?

Mr. PEPIN: The law should not deal with this. The law, if it accepts collective bargaining should not set up the criteria which will be used in negotiations. The law, if it does that is deciding very largely for the Arbitration Board in advance and leaves no latitude. But I know from my own experience just how difficult it can be to negotiate for a province. I would certainly hardly expect it to be easy for the whole country.

(*English*)

The JOINT CHAIRMAN (*Sen. Bourget*): Are there any other questions on collective bargaining?

Mr. WALKER: You are in disagreement with the bargaining units or the categories being named ahead of time. You are suggesting this should be left to the Staff Relations Board to decide. Well, in practical terms this would mean setting up the Board first before anything was done about legislation. Is this correct?

(*Translation*)

Mr. PEPIN: Yes. The bill can lay down the broad principles, it can see that the Staff Relations Board has the authority to decide what should be the bargaining unit, that is the present federal law of the matter and it does seem to me this could be done in the same way within the public service.

(*English*)

Mr. WALKER: Would this not be postponing something that has taken ten years to achieve, the actual starting point? We have to get this off the ground some time. I hate to think of the confusion and the infighting, if you will, for the establishment of these units, if we have to go another year or two years before the Staff Relations Board can do the naming of these bargaining units. There has been great pressure and the Government has certainly acceded to this pressure and, as a matter of fact, has given some leadership in this matter of collective bargaining for the public service. We are moving along to the point now where, if Parliament so decides, it can be a fact. My view is that your suggestion would simply postpone this whole procedure for quite some time.

(*Translation*)

Mr. PEPIN: I do not have the same point of view as you have regarding our brief. There is not one law in this world which should decide that somebody is going to be in a union unless you can have a law to make union membership compulsory. Let us take this Bill 670. For many groups it might take months and years before they take anything out of the bill. I say that may be so, but it might depend on the degree of unionization of the employees. Since we, ourselves, believe that the law should rather be a general piece of legislation laid on broad principles. Those employees themselves who believe that they should have a valid responsibility of the solution of their problems will see to it that they join a union.

I feel the act should lay down the broad principles, and that the employees who want to make use of it can do so, and then, the law will apply just as other industrial relations legislation applies. There are many employees outside unions. There are 70% or 65% of employees who are outside unions, but the law is there for those who want to use it. Those who do so do so. If Parliament wants to say, "you've got to organize yourselves in this or that way", it seems to me that this is acting like grand-daddy, it seems to me that employees should decide this and make their own representations. They should decide what kind of unit they want, and it should be their own representation. It should be their own decision, so that you get a minimum of order in the Public Service.

Mr. ÉMARD: On page 13, you refer to the fact that "conciliation procedures will not be satisfactory to the federal public servants, that then the right and the resort to strike will prove mostly illusive". Do you mean that then the law will not be obeyed and that ultimately legislative measures will be brought in to regulate disputes?

Mr. PEPIN: Do you mean that in this part of our brief we deal with a purely theoretical choice that you make when you ask for certification, that it is a strike as means or arbitration. We say it is a theoretical choice because when you try to bring your choice into effect, there are so many obstacles that it would be practically impossible to use a strike. Among other things, a strike can refer only to certain specific matters. Just suppose I represented a group of public servants and suppose I was in disagreement with the government as employer. I report to the Board, the Board refers me to the Conciliation Board, and the Conciliation Board tells me what I can strike about. Once the report is published, let us suppose that it gives good grounds for strike. Suppose that it is not really satisfactory. Then I check under Article 101 as we quoted it in our brief, if it affects the work of other employees who have chosen some other means of settling the dispute who are not even eligible for unionization. With all those obstacles, you can say that the right to strike is quite theoretical. It would be practically impossible to make concrete use of it because you do not strike just for the fun of striking. I am quite sure that that is well understood by all the members of this committee. If I have the right to strike, then I ought not to be put in a position which is such that it is impossible to use it, and if we are going to have compulsory arbitration, let it be said in the law and let it not be said there are two or three choices when there is only one way which can be used.

Mr. ÉMARD: When you say that you must not affect some other group of employees who are not unionized, who use some other means of negotiation, does that mean that you are responsible if you call a strike? Are you responsible for the other employees being out of work?

Mr. PEPIN: I think that the interpretation of the law could go so far as that, Mr. Émard. Maybe I am wrong. I say again, I am not much of an expert in the law, but it might go as far as that, judged from what is written in the bill.

(*English*)

Mr. LEWIS: May I suggest what you are saying is that even if the law does not mean that it will mean that no other Government employee who is not in the particular bargaining unit on strike would be able to stay away from work in solidarity with the strikers? If your strike induces others to support you then you are violating Sections 101 and 102 of the Act. That is what you are saying, I think.

(*Translation*)

Mr. PEPIN: I believe so, yes.

(*English*)

The JOINT CHAIRMAN (*Sen. Bourget*): Mr. Hymmen?

Mr. HYMMEN: Mr. Chairman, the brief gets rather involved on pages 17 and 18 with regard to this situation. The brief suggests there should be more

trust between the employer and the employee on a unilateral direction. I suggest that it could be the other way too, because in introducing this bill, I am quite sure it was not the intention to provide the right to strike before certification and then to take it away afterwards. I rather question the interpretation here, and I think our legal advisers could correct that at a later date.

Another question in the brief is the two year period that is objected to. Since, at the moment, we have at least 700 groups and 1,700 classifications, and since this bill in itself is a revolutionary move regarding federal civil servants, would you not agree that the two year period or the gradual implementation of this over a period would not be in the interest of the employee as much as it is in the interest of the employer?

(*Translation*)

Mr. SAUVÉ: It is not said that the law will take away the right to strike, but what we are saying is that the right to strike is purely illusory in practice. It is quite different under section 101 as well as under the decision which has to be taken even before you are born, so to speak.

So I think you ought to be very careful about the interpretation of our brief. We are not saying that the bill removes the right to strike, but we are saying that practically speaking the right to strike is illusory.

(*English*)

Mr. HYMMEN: On a related question, Mr. Chairman, at the middle of page 18 you suggest that the board would support its own declaration in regard to these other matters. You are assuming the board would make an arbitrary decision without going to the various parties and reviewing the situation before.

Mr. SAUVÉ: Is that page 18 of the English text?

Mr. HYMMEN: Yes.

The JOINT CHAIRMAN (*Sen. Bourget*): Would you repeat the question, Mr. Hymmen.

Mr. HYMMEN: The brief says, after referring to section 104 and others:

> It is true that no legal action can be taken without the consent of the board, but there is reason to believe that the board will support its own declaration.

In other words, if the board would just act without reviewing the situation at the time.

(*Translation*)

Mr. PEPIN: What we are trying to say is this, the employer, which is the government, or a separate employer, may ask for statement from the Board before the strike is called. Once this statement is made, the employer can take any proceeding without the authority of the Board, which means that the Board will actually stand by the consequences of the first reference to it, according as to whether it is a yes or no. That is—unless I have not understood the question too well—

(*English*)

The JOINT CHAIRMAN (*Sen. Bourget*): Does that answer your question, Mr. Hymmen?

Mr. HYMMEN: Perhaps the brief is not understood too well.

Mr. PEPIN: I will be glad to clarify further.

Mr. WALKER: If I may just elaborate, Mr. Chairman, on your suggestion that the board have the right to name categories. I suggest there would be great confidence displayed in the board if they are going to be given this authority. But over on page 17, your confidence in the board, in the one instance, is not borne out in the second instance, when you have the feeling that they will not, after a thorough examination, give an impartial view on the subject referred to. I am talking about article 103(1) at the bottom of page 17. It says:

> the employer may apply to the board for a declaration that the strike is or would be unlawful and the board may make such a declaration.

Surely if there is confidence in the board, it would be looking into all aspects of this. They may, or you could have it read "may not" make such a declaration.

Mr. Chairman, I would like to compliment Mr. Pepin and his officials on this brief. It is a good brief and this is what causes such discussion in a Committee of this kind. Do not feel you are being shot down in flames.

Mr. LEWIS: He does not look at it in that light.

(*Translation*)

Mr. ÉMARD: Mr. Pepin, you say the right to strike is illusory for those who don't choose arbitration.

Mr. PEPIN: Yes.

Mr. ÉMARD: The Civil Service Act in the province of Quebec forbids strikes where you have essential services, unless there was an agreement on the maintenance of these services etc. etc. I think you know more about this than I do. This affects the right to strike. Do you feel that restriction based on public security as in the present bill does not give more freedom than restrictions based on essential services?

Mr. PEPIN: If you are going to make a comparison, I can easily explain to you that the provincial law is rather dubious on this point. If you will give me a moment. We negotiated last year with the Government of Quebec, and we asked what are essential services. We were given as an example that of somebody "who occupied a very high position". We eventually discovered that this person had been dead for six months and had not been replaced, and yet the Government said it was a very important matter.

I think it is quite important that we understand this. We were not entirely in agreement with that either, but we are now considering the possibility of the right of strike under Bill C-170. We are here faced with a straitjacket, how do you get out of it?

How do you deal with dismissals, for instance? These are normally part of collective agreements in private industry. You have been in industry. You would

not have readily accepted the idea that dismissals should be excluded from the purview of the arbitration board? There may be cases arising where there has been undue use of the power of a superior and this should be part of a collective agreement. It could be part of a collective agreement if there is agreement between the Government and the employees, but if there is not to be any agreement, there is not one conciliation board or one arbitration tribunal which might right the wrong.

The classification of employees is another matter. It is to me perfectly normal that that should be a matter for collective agreement and not for a unilateral decision. Arbitration is arbitration, the right to strike is right to strike, these are two different things.

Mr. LACHANCE: Mr. Pepin, do you really think that the government, any government does not really intend to implement the results of collective agreements and not to favour in every way possible collective agreements and the bringing together of the parties involved?

Mr. PEPIN: I am sorry I gave that impression. But what I meant to say was that there appeared to be some subjects which are not negotiable, and that some of these, in my opinion, should be negotiable. When I spoke about dismissals, just look at Bill C-170, it defines the collective agreement in a wide manner. If there is to be agreement between the state and the employees, there is no problem, you can have an agreement on anything. But if the Government comes along and then decides that dismissal is not to be dealt with by collective bargaining, it is no use going to conciliation or arbitration. I, myself, was considering a possible means of dealing with problems of dismissals and so forth, and if this means is not agreeable to the Government, if I want to go into conciliation with the methods which I would like to propose, I am convinced that the government is willing to respect its own law, I am sure of that, certainly in the case of an act which it introduces itself into the House, but I do not consider that conciliation is going to be the answer.

Mr. ÉMARD: In reference to the opinion of your organization on page 20, paragraph 4, that employees' unions should be represented on the board. Now what about this organization of an independent chairman, a representative of the employers and a representative of the union? In your opinion, is it not always the independent member who decides?

Mr. PEPIN: First of all, I feel that the employees, or their representatives should be present on the Staff Relations Board, and likewise on the Arbitration Board. It seems to me that in many cases, it is the chairman who, for all practical purposes, is the one who has to give the ruling and to take the decision. This is what you said. But it is for the parties to put forward their opinion to make it possible for the other party, interested party, to know what their positions. It seems to me that there should be no *a priori* exclusion of those who are members of an association or who are its direct representatives. But here again, this is not the essential point of our brief. It is an important point but it is not the most important point we present. It is not the most important point I have to discuss wih you this morning.

Mr. ÉMARD: A final question. Does the fact that your organization presents no brief on the other bills mean that you are pleased with them?

Mr. PEPIN: That means...Have you got copies of the other bills, Sen. Bourget?

The JOINT CHAIRMAN (*Sen. Bourget*): I will see that you have copies of Bills 181 and 182 so that you know what they are about.

Mr. PEPIN: We are not usually very shy. If we have anything to add, Mr. Émard, we will let you know.

(*English*)

The JOINT CHAIRMAN (*Sen. Bourget*): Are there further questions, Senator Fergusson?

Senator FERGUSSON: I have a question I would like to ask. In the brief comparisons have been made with the Industrial Relations and Disputes Investigation Act. On page 6 of the English version it says: "If we refer to the list of functions excluded from the bargaining units, it seems that a great number of federal public servants will not benefit from the advantages of collective labour agreements." Then it goes on to some of the definitions and then at the end of the paragraph it says: "The federal industrial relations act is a lot more flexible on these questions."

I do not have a copy of the Industrial Relations Act with me but I am under the impression that under that act professionals are excluded and this is not the case in Bill C-170, so would you not say that Bill C-170 is more inclusive and broader in relation to that?

(*Translation*)

Mr. PEPIN: The first thing I would like to say, Madam, is this: when we speak of great flexibility in Industrial Disputes Act, we mean the Board has more authority than what is given under Bill C-170. Now my colleague has the bill to which you refer and I think that professional people are not excluded because they are professional but because they are confidential employees.

(*English*)

Mr. LEWIS: Not as professionals. They are excluded as management or as employees and are engaged in a confidential capacity with relation to labour relations.

Senator FERGUSSON: Thank you. I am sorry, I misunderstood.

The JOINT CHAIRMAN (*Sen. Bourget*): Are there any other questions.

(*Translation*)

Mr. LACHANCE: You are speaking of what the government can do respecting the determination of categories for the purposes of collective bargaining, and if I understand you said that it should be the Staff Relations Board which should do this. I am sorry that I came along rather late. I think that you did have some suggestions to make about how the Staff Relations Board could do this?

Mr. PEPIN: No, I did not make any very precise suggestion. I will try to give you the best possible answer I can. I think that the law should simply state certain broad principles and it should leave it up to the Board to decide what should the collective bargaining units which are fit to bargain. In this respect

the bill is rigid. There should be an attempt to establish the natural units. I gave an example of somebody working in Newfoundland who would have to exercise his right of association with another employee of the same category in Vancouver. This is the sort of thing I had in mind. I am considering a bill which would simply be a kind of master plan governing legislation which would leave it up to the employees and associations to solve their own problems.

Mr. LACHANCE: On the request of the employees themselves?

Mr. SAUVÉ: On the request of the Staff Relations Board, there can be representations made in accordance with the Act. The Act should establish the criteria.

Mr. LACHANCE: If each party comes before the Board stating various points of view, then this may lead to considerable dispute.

Mr. PEPIN: Yes, certainly. Of course if you are trying to set up a law to eliminate disputes, you are going to eliminate freedom itself.

Mr. LACHANCE: Are you suggesting that the government is going to select the groups which suit it?

Mr. PEPIN: Yes. I am suggesting that the 67 national units provided for each professional group, do not respect the liberty of people to choose their own association and this is the basis of our position. I repeat it.

(English)

The JOINT CHAIRMAN (*Sen. Bourget*): Are there any other questions or suggestions on the other subtitles of Part II or Part III? If not, this will conclude the brief presented by the CNTU.

(Translation)

May I thank you, Gentlemen, for your excellent brief. I thank you in the name of the Committee and for your clear answers. Once again thank you very much.

Mr. PEPIN: Thank you.

(English)

The JOINT CHAIRMAN (*Sen. Bourget*): I have been informed by the Clerk of the Committee that a copy of the IRDIA will be distributed in French and in English. Is that agreeable?

The JOINT CHAIRMAN (*Mr. Richard*): The next meeting will be tomorrow morning at ten o'clock and there is a Steering Committee meeting this evening in Room 112N at eight o'clock.

First Session—Twenty-seventh Parliament
1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:
The Honourable Senator Jean-Paul Grégoire
and Mr. Jean T. Richard, M.P.

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

No. 15

Respecting

BILL C-170
An Act to provide for collective bargaining and employee relations in the Public Service of Canada.

BILL C-181
An Act respecting employment in the Public Service of Canada.

BILL C-182
An Act to amend the Financial Administration Act.

TUESDAY, OCTOBER 18, 1966

WITNESSES:
Mr. E. L. Harrison, Chairman, Fisheries Association of British Columbia; Messrs. J. F. Mazerall, President, and L. W. C. S. Barnes, Executive Director, The Professional Institute of the Public Service of Canada.

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

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

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

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

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

First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget

and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 10

Respecting

BILL C-170

An Act respecting employer and employee relations in the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

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

25018—1

SPECIAL JOINT COMMITTEE

OF THE

SENATE AND OF THE HOUSE OF COMMONS

on employer-employee relations in the

PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate — *Representing the House of Commons*

Senators

Mr. Beaubien (*Bedford*),	Mr. Ballard,	Mr. Lachance,
Mr. Cameron,	Mr. Bell (*Carleton*),	Mr. Leboe,
Mr. Choquette,	Mr. Chatterton,	Mr. Lewis,
Mr. Croll,	Mr. Chatwood,	Mr. McCleave,
Mr. Davey,	Mr. Crossman,	Mr. Munro,
Mr. Deschatelets,	Mr. Émard,	Mr. Orange,
Mrs. Fergusson,	Mr. Fairweather,	Mr. Ricard,
Mr. O'Leary (*Antigonish Guysborough*),	Mr. Faulkner,	Mr. Simard,
	Mr. Hymmen,	Mr. Tardif,
Mr. Hastings,	Mr. Isabelle,	Mrs. Wadds,
Mrs. Quart,	Mr. Keays,	Mr. Walker—24.
Mr. Roebuck—12.	Mr. Knowles,	

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

Addendum (Issue No. 6—June 28, 1966)

The following paragraph should appear on page 220—Brief of the Professional Instutute of the Public Service of Canada on Bill C-170.

Para 42—Paragraph 42 dealing with the revocation of certification for abandonment or other cause clearly involves a potentially delicate situation and it would appear to the Institute advisable in such cases to convene a board of five members and to require the unanimous vote on at least one of the two panels. To this end, it is suggested that the following wording should be added to sub-paragraph 2 of paragraph 42, "A decision by the Board under the presnt section is a decision signed by the Chairman himself and supported by a minimum of either the two members of the panel representing the employer or by the two members of the panel representing the interests of the employees."

MINUTES OF PROCEEDINGS

TUESDAY, October 18, 1966.
(17)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.10 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Fergusson (3).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Émard, Fairweather, Hymmen, Keays, Knowles, Lachance, Lewis, McCleave, Orange, Ricard, Richard, Tardif, Walker (15).

Also present: Mr. Rapp.

In attendance: Mr. E. L. Harrison, Chairman, Fisheries Association of British Columbia; Messrs. J. F. Mazerall, President, L. W. C. S. Barnes, Executive Director, The Professional Institute of the Public Service of Canada.

On request from the Joint Chairman, Mr. Richard, it was moved by Mr. Tardif, seconded by Mr. Walker, and adopted that the brief dated October 17, 1966, submitted to the Committee by the International Printing Pressmen and Assistants' Union of North America, be substituted for their letter dated October 6, which was accepted into the record at meeting (15) October 13. (*See Evidence*)

The Committee heard brief remarks from the Fisheries Council of Canada, then passed to the questioning of the Professional Institute of the Public Service of Canada on their various briefs.

The Committee agreed to accept as an addendum paragraph 42 page 14 of the Professional Institute's brief on Bill C-170 which was omitted from the English version. (*See back of frontispiece*)

The Professional Institute was permitted to present an additional short brief relative to Bill C-181.

The Clerk of the Committee was instructed to obtain a copy of the terms of reference of the British Government's Standing Advisory Committee on the Pay and Conditions of Higher Civil Service as well as the by-laws of the Professional Institute.

At 12.15 p.m., the questioning of the witnesses concluded, the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

25018—1½

EVIDENCE

(Recorded by Electronic Apparatus)

TUESDAY, October 18, 1966.

● (10.10 a.m.)

The JOINT-CHAIRMAN (*Mr. Richard*): Order. Gentlemen, yesterday we were given a brief from the International Printing Pressmen and Assistants' Union of North America and they have asked that this short printed copy be substituted for that which they had presented before in mimeographed form. I understand there are some corrections they wish to make.

Mr. TARDIF: Substitution of submission?

The JOINT-CHAIRMAN (*Mr. Richard*): This is a substitution.

Mr. TARDIF: I so move, Mr. Chairman.

Mr. WALKER: I second that motion.

Motion agreed to.

The JOINT-CHAIRMAN (*Mr. Richard*): The brief reads as follows:

Honorable Sirs.

We would like to bring to your attention the following, which is presented in support of other Printing Craft Unions, which have had the opportunity of presenting a brief covering Bill C-170.

The International Printing Pressmen and Assistants' Union of North America, AFL-CIO, CLC, (hereinafter referred to as the I.P.P. A.U. of N.A.) represents a large majority of workers in every phase of the printing industry across Canada, with 59 Locals representing over 11,000 members, which includes a majority of pressmen and assistants employed by the Government Printing Bureau of Hull, Quebec.

The I.P.P. & A.U. of N.A. wish to submit, for your consideration, the following:—

The Printing Pressmen employees in the Government Printing Bureau enjoy the wages and conditions of work based on printing contract prevailing in the City of Montreal. It is necessary to inform your Committee that there is anxiety on their part that Bill C-170 might take away from them these conditions of pay and work that they have enjoyed due to their affiliation with I.P.P. & A.U. of N.A., dating back for many years.

Our International Union had been making semi-formal representations for many years as it concerns employees in the printing department. Although it has been on a semi-formal basis, this can now be

formalized to conform to the rules and regulations of the Public Service Staff Relations Act, providing these rules are patterned on Industry practices within the Graphic Arts Industry of Canada.

Many trade unions have membership in Government Service, and it is evident now that the right of association is recognized in Government Service. For many years our organization is one of such unions with a history of semi-formal bargaining by representation.

The Graphic Arts Industry of Canada has recognized individual crafts requiring special wages and conditions of work, and look to the Government to follow seriously this established pattern of collective bargaining.

The Canadian Labour Congress, of which the I.P.P. & A.U. of N.A. is an affiliate, in their brief submitted to the Preparatory Committee on Collective bargaining in the Public Service, stated the following:—"We would assume that bargaining on behalf of employees in the Department of Public Printing and Stationery would be conducted by the Government with representatives of the Printing Trade Unions affiliated with the Congress."

In summation, we would suggest that the Committee give serious consideration to the Graphic Arts Industry as it concerns Craft Unions and their desire for a certification on a craft oriented basis, and allow them bargaining rights, so that they may continue to enjoy wages and conditions of work that prevail in the skilled classification to which they belong. This could be done on an individual craft union basis or through the Council of Union Employees, as presently constituted in the Government Printing Bureau. We feel and recommend that the final choice should be made by the majority of the individual employees working in their particular skilled trade, and that the Craft Unions be given the same consideration as they receive at the present time within the Graphic Arts Industry.

Respectfully submitted,

ROGER J. GAGNON.
Representative.

I also received a request from the Chairman of the Fisheries Association of British Columbia on behalf of the Fisheries Council of Canada to be heard this morning. It is a short presentation from Mr. E. L. Harrison. If it is the wish of the committee we will hear him now.

Mr. E. L. HARRISON (*Director, Fisheries Council of Canada*): Mr. Chairman, Honourable Senators, members of the House of Commons, my name is E. L. Harrison. I am a Director of the Fisheries Council of Canada. I am representing the national trade association here today. We appreciate very much, Mr. Chairman, the arrangements which you have made, on such short notice, to fit us in.

As you are aware, the Fisheries Council of Canada is a national trade association representing the commercial fishing industry. I will leave a file here

and an appendix indicating the membership of this Council which is comprised of some 17 associations covering Canada from coast to coast.

The Fisheries Council of Canada normally deals directly with subjects related to the fishing industry on both coasts and in the interior, and primarily with matters directly related to the production, sale and marketing of its products.

Because we are a national industry geared to the export market, our future is directly related to our ability to compete in the markets of the world and control our costs accordingly. Two phases of our current Canadian economic scene caused us a great deal of concern in recent months. One was the alarming rise in the wage pattern, the effect of which could not be restricted to the industries involved. The other was the effect of strikes which strangle the arteries of commerce, such as we saw in connection with the railways.

We found that the proposals that this Committee is studying here today in the form of Bill No. C-170 added to our concern immeasurably with respect to the effect on what I have termed the arteries of commerce, because, as we read Bill No. C-170 it includes as a means for bargaining in the public service the introduction of the strike. Accordingly, we wired the Minister of Labour and others in the Cabinet advising of our concern. This, Mr. Chairman, was expressed as follows:

"The Honourable J. R. Nicholson:

The Fisheries Council of Canada representing trade which largely dependent on export markets greatly concerned about inflationary effects of recent wage increases in which the government was involved (Stop) Precedent set will result in severe labour problems in this industry and impairment of comparative positions in export markets (Stop) Recent disruption of rail service was costly to this industry and deplore government apparent intent to give civil servants right to strike thus opening way for successive tie-ups of vital services and further inflationary settlements. Situation is serious and Bill C-170 will aggravate it to frightening proportions if this bill permits strikes in the Civil Service (Stop) Urge government to hold up Bill C-170 and to enact legislation to guarantee continuance of all vital services"

We received acknowledgment from members of the Cabinet and particularly from the Minister of Labour in which he commented more fully about the recent wage settlements and went on to say:

"You have said that the enactment of Bill C-170 which concerns collective bargaining in the public service of Canada will permit strikes in the civil service. The bill does provide that employees may take strike action in certain circumstances but as the bill presently reads the employees can elect to have arbitration for the settlement of disputes. I would advise you that this bill will be considered by a committee of the house and you may wish to make representations on behalf of your council at the appropriate time."

Hence, Mr. Chairman, when the directors of the Fisheries Council met in Ottawa yesterday, the president requested that we appear before this committee

to do as suggested by the Minister of Labour and state specifically our position before you.

The nature of the bill as we read it appears to conform to what the minister has said and that is, that the option of arbitration or conciliation and strike action is up to the employees in almost all cases, or at least in most cases. This does appear to be in contradiction of the situation that the government has just had to handle. We have seen the economy disrupted by a railway strike, and the government passed legislation in order to get the railway employees off strike. While they are doing that, they are presenting a bill, which I gather was supported by all parties, to make it permissible for other large segments of civil servants to go on strike and the effect of this, I think, would be very difficult to underestimate.

Mr. Chairman, our position is very simple and straightforward. The conditions as set forth here are alarming. In our opinion, and we have a great deal to do with members in the public service, these people are entitled to be treated with all consideration and all fairness. I think this is all they expect. To introduce another facet in bargaining will, I feel sure on the basis of history alone, indicate that this is an introduction to a form of chaos that this country cannot afford.

Mr. Chairman, that is all we have to say at this time.

The JOINT-CHAIRMAN (*Mr. Richard*): Are there any questions?

Mr. LEWIS: Where is Mr. Harrison from?

Mr. HARRISON: I am from Vancouver.

The JOINT-CHAIRMAN (*Mr. Richard*): Any other questions? Thank you very much, Mr. Harrison.

Mr. HARRISON: Thank you, Mr. Chairman.

The JOINT-CHAIRMAN (*Mr. Richard*): This morning we are to have questioning of the representatives from the Professional Institute of the Public Service of Canada. Mr. Barnes and Mr. Mazerall are both here this morning again.

Mr. Barnes, you have before you a supplementary brief from the Professional Institute of the Public Service of Canada; perhaps you would comment on it before proceeding.

Mr. L. W. C. S. BARNES (*Executive Director, Professional Institute of the Public Service of Canada*): Mr. Chairman and members of the Committee, if it would be your pleasure, may I introduce a slight correction to the English version of the brief on Bill No. C-170 which we had the honour of presenting in June. The French version is correct. Unfortunately, one section was omitted from the English version. It should be on page 14 of the English version and it refers to paragraph 42 of the bill. We would ask whether we could add the following with reference to paragraph 42.

• (10.20 a.m.)

'Paragraph 42 dealing with the revocation of certification for abandonment or other cause clearly involves a potentially delicate situation, and it would appear to the institute advisable in such cases to convene a board of five

members and to require the unanimous vote of at least one of the two panels. To this end, it is suggested that the following wording should be added to subparagraph 2 of paragraph 42. 'A decision by the board under the present section is a decision signed by the chairman himself and supported by a minimum of either the two members of the panel representing the employer or the two members of the panel representing the interests of the employee.'

And secondly, Mr. Chairman, if we may read a short supplementary brief in respect of Bill No. C-181.

Mr. KNOWLES: Mr. Chairman, in view of the fact that that is a correction to a brief that already has been printed in our minutes, I wonder if it could not appear as an—what is the Latin word for it—"corrigentem" or something? —addendum or corrigentem on the front of today's minutes.

The JOINT-CHAIRMAN (*Mr. Richard*): Yes, I think that would be a good suggestion.

Mr. KNOWLES: If it is just buried in the text it is lost.

The JOINT-CHAIRMAN (*Mr. Richard*): Yes. The correction just made should be included at the beginning of the presentation as an addendum to the prior brief. Is that the wish of the committee?

Mr. BARNES: To the brief in respect of Bill No. C-181, Mr. Chairman, we would submit the following which is actually an addition dealing with three sections which we did not include in our original brief,

This amendment refers to clause 21. The importance of the appeal procedure in the operation and safeguarding of the merit system is widely recognized and accepted. In this regard the professional institute believes that the provisions of clause 21 of Bill C-181 call for reconsideration. As presently written, this clause does not seen to satisfy the requirements of natural justice in that it permits the Public Service Commission to act as judge in its own case. It is therefore considered that it would be preferable if an independent public service appeals tribunal or judge was established. It is believed that persons appointed to this office should enjoy the status and protection afforded to the judiciary and that appeal hearings should be conducted in general accord with procedures applicable in a Canadian court of law.

In respect of amendments to clauses 28 and 31, Clause 28 of this bill deals with promotions and provides that employees who have been transferred or promoted are to be subject to a probationary period within which they may be notified by the deputy head that they have been rejected and that at the end of the notice period they will cease to be employees.

This procedure discourages initiative and places in hazard the pension and other rights earned by an employee during satisfactory service in his previous grade or location. In view of this, it is felt that an appeal provision should be incorporated in clause 28. This provision would be of the same nature as subclause 3 of clause 31 which deals with dismissal for incompetence and incapacity.

The professional institute's recommendation in this regard relates only to promotional or transfer appointments from within the public service and not to new appointments made by open public competition. It is further recommended

that the words: "in writing" be inserted after the word "notice" in the second line of subclause 3 of clause 28. Acceptance of the professional institute's previous recommendation with regard to the establishment of an independent appeal procedure would necessitate minor amendments to subclause 3 and 4 of clause 31. Thank you.

The JOINT-CHAIRMAN (*Mr. Richard*): Now, gentlemen, we are ready for a period of questioning I suggest that we should begin on Bill No. C-170. Are there any questions?

Mr. BELL (*Carleton*): There are two or three principles or matters of a general nature upon which the briefs are silent. I would like to ask Mr. Barnes about them. The first is, what is his opinion as to the future role or status of the Pay Research Bureau? Should that be continued, and if it is to be continued, should its structure to be provided for by statute?

Mr. BARNES: The institute is very concerned that the role of the Pay Research Bureau should be defined and defended. We feel that it is essential that if we are to have meaningful collective bargaining there should be a neutral and accepted source of data and I think we would accept the fact that the Pay Research Bureau has, by and large, met this requirement in the past.

We would look to a continuation of the Pay Research Bureau, possibly under the general supervision of the Public Service Staff Relations Board, as that supplier of data. The precedent has been established in the United Kingdom, as I am sure Mr. Bell knows, of a Pay Research Bureau operating under a collective bargaining regime and we should look to a very similar situation in Canada.

Mr. BELL (*Carleton*): Should that data of the Pay Research Bureau in your opinion, be made publicly available or made available only on a confidential basis to the negotiating parties?

Mr. BARNES: Essentially, Mr. Chairman, we feel that there should be more public release of basic data. We realize that there are limits to this. It may be very difficult to permit that fine degree of subdivision of data which might enable an astute observer to trace back the companies of origin and, obviously, companies would not be willing to release their pay data if they could be directly traced back. But there is an intermediate level of data in terms of means, medians, quartiles, and other statistical measures of a general nature which we feel definitely should be made available on a much wider basis than it is today.

Mr. BELL (*Carleton*): Then, Mr. Barnes, may I direct your attention to page 3 of your brief where you suggest the establishment of an independent review and advisory body which would make recommendations on the pay and conditions of service of excluded personnel. Would you like to expand on what you have in mind there? What type of independent review or advisory body would it be? Should this be put in the statute? What are your general views?

Mr. BARNES: We have been concerned for a long while. Mr. Chairman, with this point which Mr. Bell has raised.

As the bill stands, there can be a significant degree of exclusions. We hope that when the committee has considered our brief, the resultant bill will have

less scope for exclusion than it has at the moment; but inevitably there will be some. The machinery of consultation as presently established will no longer exist, and the excluded higher civil servants will be left in a very difficult situation. They will depend entirely, as we see it at the moment, on government decisions, and the precedent which we have drawn is again from the British experience in this field where they have established a standing advisory committee on the pay and conditions of the higher civil service. It is not quite a royal commission but it is a standing committee composed of eminent people in the academic and industrial fields in the United Kingdom who are available either at the request of the government or at the request of our colleagues in the Institution of professional civil servants, our British opposite numbers, to make recommendations on pay of the higher civil service. We feel very strongly that this is necessary in Canada, not only to protect the interests of the people who are excluded but also to protect the interests of other professionals, because relativity in the service in terms of pay is a yardstick which is laid down in this legislation. All too often in the past, in endeavouring to obtain justifiable salary adjustments in the professional ranks, we have been faced with ceilings formed by the salaries of either order in council appointees or other senior officials whose salaries are fixed. These have very definitely influenced salary adjustments which otherwise, I am sure, would have been looked on with more favour. We feel that the establishment of a committee of this sort is very important from the point of view of the excluded people and of the professionals immediately below them.

• (10.30 a.m.)

Mr. BELL (*Carleton*): How are the terms of reference of the advisory committee in the United Kingdom set out? Is this by order in council?

Mr. BARNES: I am not completely certain, Mr. Bell. I believe it is by order in council because, of course, the whole British collective bargaining structure was built rather loosley on precedents and exchange of memoranda and not based on statute. I think the advisory committee is based on an order in council.

Mr. BELL (*Carleton*): Mr. Chairman. I would like to see those terms of reference at some time. I wonder if the Clerk could by communication either with the Civil Service Commission or the British High Commissioner see whether those terms of reference of that committee could be obtained.

The JOINT-CHAIRMAN (*Mr. Richard*): Is it the wish of the committee that we obtain those terms of reference as mentioned by Mr. Bell? Agreed.

Mr. BELL (*Carleton*): Pursuing this matter further, Mr. Barnes, I wonder if you could indicate whether you think in the new atmosphere of collective bargaining there will be any role for the National Joint Council?

Mr. BARNES: I am a great believer, Mr. Bell, in the National Joint Council having had the honour of serving as a member of the Council for some years, and I believe there is a very real and important role for the National Joint Council under the conditions of collective bargaining.

I believe there is a place for a forum, for what in industrial terminology would be a labour-management body, dealing with areas which do not fit in with the rigid structure of collective bargaining, and also taking on the management of projects or decisions which have been arrived at as the result of

collective bargaining. I think the Group Surgical-Medical Plan which was fostered by the National Joint Council and is still monitored and watched by the National Joint Council is very typical of that sort of management role which a continuing N.J.C. would be able to accomplish.

Mr. BELL *(Carleton)*: Should that be provided for by statute or is the informal basis it has at present sufficient?

Mr. BARNES: I have no very strong feelings on this, Mr. Bell. It does presently stand by order in council. Its constitution, of course, would need to be amended. As you are perhaps aware. N.J.C. itself has been working on this for many years and has at last produced recommended amendments to its constitution. Perhaps Mr. Mazerall would have some thoughts on that?

Mr. J. F. MAZERALL (*President, Professional Institute of the Public Service of Canada*): I agree, Mr. Chairman, that there is certainly a place for the National Joint Council. I would hate to see it disappear, but I do not think it should be under legislation. I think that an order in council is quite sufficient.

Mr. BELL (*Carleton*): Thank you. I will have some other questions later on, on the other bill, Mr. Chairman.

Mr. HYMMEN: Mr. Chairman, I do not know whether this question was asked previously when Mr. Barnes was here before. How many employees does the professional institute represent and are these all in the professional and scientific category?

Mr. BARNES: The membership of the professional institute, Mr. Chairman, is just under 10,000. The membership requirements are essentially occupation in professional areas in the public service. It is rather difficult to compute exactly how many people that does include as a potential until people have been reclassified into the new classes, but possibly in the order of 16,000. Roughly, two thirds of the total of the professional fraternity, as we look on them at the moment, are members of the institute.

Mr. HYMMEN: On the first page you make a statement which I tried to draw out yesterday in questioning another group. You say that the analogies between industry and the civil service can be drawn too fine. I think you are quite definite on that statement.

Secondly, in questioning by Mr. Bell, you seemed to favour the English system and you already established that this is a system that grew up over forty or fifty years and there is no legal statute for it. On page 4, you mention again the peculiarities of the civil service and its organization features in regard to professional employees. Since under clause 2, subparagraph (r) the occupational categories have been defined in which scientific and professional personnel are an exclusive group, do you not think that this satisfactorily isolates the professional from the non-professional?

Mr. BARNES: To a certain extent it does, Mr. Chairman, but we have seen recently transfers of people whom we regard as professional from the category labelled as professional, and we might mention foreign service officers, translators, economists, and comparable graduates employed in the field of commerce who have been moved unilaterally out of the professional and scientific category and are now in the administrative category. It is not a rigid and watertight

system as it presently stands. For that reason, we would query whether it is quite right.

Mr. HYMMEN: In your parallel, and in your consideration of the private sector, your professional and scientific people are not in large masses, they might be excluded more or less on the basis of the administrative role. I realize we are considering here something which is entirely revolutionary, but I felt that the definition of the category seemed to provide this protection.

At another point in the brief you mentioned that the institute carried on roles other than that of a bargaining unit. Do you not have, or could you not have, some associate or affiliate membership? Is that feasible?

Mr. BARNES: That is actually what we do have, Mr. Chairman. We have an affiliate membership which is available to any individual member who may be excluded from collective bargaining. It is a non-voting class of membership, but we felt the legislation should be quite clear that the holding of such an affiliate membership is still legal, because as the legislation is presently written any form of membership might possibly be regarded as contravening the legislation. This is why we are recommending in our brief that the legislation be clarified in this regard so that a non-voting and non-policy forming class of membership is acceptable.

Mr. HYMMEN: I understand your explanation but there has been some representation already to us that a union member could not be a member of the board. By the same token, a managerial on administrative person who might be in a negotiating situation could not really be a member of your group except in an advisory capacity if you are certified for bargaining purposes. That is the point I was trying to make.

• (10.40 a.m.)

Mr. BARNES: I think this is taken care of in our concepts where our by-laws provide for an affiliate membership. We would hope that the exclusions would be kept to a minimum. In fact, this July when I was talking to my British colleagues, both on the staff and on the official side, I asked them about exclusion, and they asked me what the word meant. They just do not have it, and they have run a collective bargaining system, as Mr. Bell mentioned, for forty or fifty years without actually excluding people. They worked on the basic doctrine, which the professional institute here has always worked from, of voluntary abstention in the case of potential conflict of interest, but no rigid exclusion has ever been written into any of their legislation.

Mr. HYMMEN: Mr. Chairman, maybe I am out of order. Maybe it was your intention to proceed from the front to the back of the brief rather than jumping all over.

The JOINT CHAIRMAN (*Mr. Richard*): No. I understand that at this time members would wish to ask questions of a general nature and I think you are doing that just now, Mr. Hymmen.

Mr. HYMMEN: I have one or two more questions. With regard to the terms of reference of the Canadian tribunal against that of the Wheatley system, do you not feel that the terms of reference in the bill are at least as free as, or a little more so, those of the Wheatley system. I understand that under the British

tribunal there is a limit in regard to wage classifications in which these things can be considered. Is that not true?

Mr. BARNES: This is so, Mr. Chairman, but we do not consider that the British have gone to the ultimate development in all their proposals. We feel that within the total context this is a very rigid system, there is more flexibility in other areas in the British system, and if one is going to have a rigid framework of the type proposed in this legislation, then there has to be rather more room for adjustment in the phraseology. The British system is more flexible in many places.

Mr. HYMMEN: Just one final question. As I said before, you seem to favour the system which has been developed in the United Kingdom, which certainly has considerable merit. The essential part of this system, of course, is the ability to settle problems by arbitration. You mention specifically in paragraph 70, subparagraph 3, that the limitations as proposed are too restrictive. This subsection, of course, deals with matters under the control of the Civil Service Commission. Do you wish to see these things bargained, or do you think they should be excluded?

Mr. BARNES: We feel that many of the exclusions as presently implied in the legislation could seriously restrict the reality of collective bargaining. We feel, for instance, in the area of classification that a bargained solution in terms of salary could, in effect, be nullified by unilateral change of classification, which is presently outside reference to arbitration. We feel that so many of these things are so closely intermeshed that meaningful collective bargaining might be somewhat doubtful if certain of these areas are not open to arbitration.

Mr. CHATTERTON: Is the professional institute in any way affiliated with the federation or the association or the new alliance?

Mr. BARNES: In no way whatsoever.

Mr. CHATTERTON: Do you anticipate that your institute will hope to be the bargaining agent for the units within the scientific and professional categories?

Mr. BARNES: The policy of the instutute in this regard is to seek certification for all bargaining groups that are essentially professional in content.

Mr. CHATTERTON: Can you tell me how many of your members are also members of either the federation or the association?

Mr. BARNES: We have no count on this at all, none whatsoever.

Mr. CHATTERTON: From my general knowledge, I think quite a number of your members are also members either of the federation or the association.

Mr. BARNES: There may well be some who are. I think this is perfectly true. I do not think it is a very great percentage, but there is dual membership across the whole of the civil service spectrum.

Mr. CHATTERTON: Do you anticipate any conflict between your institute and the alliance in applying for certification as the bargaining agent?

Mr. BARNES: I hope not. We have very friendly relations with the alliance and I hope that the word conflict will never enter into our relations with any of the staff associations.

Mr. CHATTERTON: May I ask what staff does your institute employ?

Mr. BARNES: We have a permanent staff at national headquarters which is 13 at the moment, and in addition, of course, we have the resources of the membership. We have a set of standing committees which are manned by the membership.

Mr. CHATTERTON: How many employees did you say?

Mr. BARNES: Thirteen.

Mr. CHATTERTON: Do you think that you would have to enlarge your staff in order to effectively act as a bargaining agent?

Mr. BARNES: Not significantly, because we have the resources of the membership. In matters of economics we have an economists group which contains the vast bulk of all the economists in the Service. In problems affecting health and welfare we have our medical group and our nursing group, and it has long been a tradition of the institute that members use their professional abilities in the service of the professional fraternity, and as such, of course, we can muster an expert from any area which happens to be under discussion. This has been the long tradition of the institute organization.

Mr. EMARD: Would you enumerate some professions that are in your institute, apart from the ones that are commonly known. Lawyers and doctors, I know, but what other professions would you have?

Mr. BARNES: All the bargaining groups which are listed in the Heeney Report. One could start from architects and go through to veterinarians, via archivists, historians, scientific research workers, economists, statisticians, foreign service officers, and translators. Roughly, we count about forty professions. You will realize that it is difficult when one comes to some of the new emerging professions to say quite what a man is. For instance, a man may have a degree in economics but he may be practising management analysis work, and so there comes a stage where it is rather difficult to say whether he is a management analyst or an economist. It is rather difficult always in a dynamic situation to say just how many professions one does recognize.

Mr. CHATTERTON: A supplementary question, Mr. Chairman; is a university degree or equivalent a prerequisite to membership in your professional institute?

Mr. BARNES: The basic requirement for full membership in the institute is university graduation or an equivalent qualification, for instance, a chartered accountant, and also the practice of the profession in the service. The mere holding of a qualification itself is not enough.

Mr. EMARD: Would it be possible to have a copy of the bylaws of your institute?

Mr. BARNES: Yes, certainly.

Mr. ORANGE: Just one question, Mr. Chairman: I would like to ask Mr. Barnes if there are members of the professional institute in other occupational groups, such as administrative or technical groups?

Mr. MAZERALL: We have members, Mr. Chairman, in the administrative and foreign service, and in the technical category as presently established under the Heeney Report and under this legislation.

Mr. ORANGE: Would you see the institute acting as the agent for your membership in these groups?

Mr. MAZERALL: Yes, if the bargaining group is a complete entity which we can describe, then there is no reason whatsoever why the professional institute cannot act for them.

Mr. KNOWLES: I have just one question, Mr. Chairman. Mr. Barnes, you have indicated that you felt there was a continuing role for the Joint Council. In view of the fact, that in various ways the scope is being broadened, more people are being brought into the civil service classification and everybody being included in the collective bargaining, would you favour broadening the membership of the Joint Council to include representatives of prevailing rates, in the various groups that are not now represented on the Joint Council?

• (10.50 a.m.)

Mr. BARNES: I think the point which Mr. Knowles made is essential, that the membership on the National Joint Council will eventually have to parallel the certified bargaining agents. I think that, in the end, the yardstick, should be that membership on the National Joint Council goes with certification as a bargaining agent in respect of one or more bargaining groups.

Mr. KNOWLES: If this is left as an ad hoc body, not provided for by statute, this will have to be effected by the present members of the Joint Council.

Mr. BARNES: Account of this has been taken, Mr. Knowles, in the recommendations for amendments to the constitution of the National Joint Council. I think it could be looked after in that way. but I certainly agree that the objective has, in the end, to be a council which is synonymous with the bargaining agents.

Mr. KNOWLES: Very good.

Mr. LEWIS: Mr. Chairman, I would like to discuss with Mr. Barnes a few matters which I think are dealt with in the brief but it might be worth while discussing them for a moment.

Like the institute, I am personally concerned about the exclusion of classification, promotion, demotion, transfer, and discipline, from the bargaining area. Could you perhaps help me by giving me any reasons you can think of why these areas should be excluded from bargaining?

Mr. BARNES: I find it difficult to find any reasons, Mr. Chairman, why they should be excluded. I feel that the preponderance of the argument is in favour of their not being excluded.

Mr. LEWIS: You will agree I suppose that the initial appointment cannot be subject to bargaining.

Mr. BARNES: No, this is the merit system. The initial appointment must be the subject of the merit system and I doubt whether there is any question about this. Then promotion again must be in accordance with the merit system,

but suitably safeguarded by an appeal system. This is one of the recommendations in the brief which I presented a short while ago; that this appeal system should not be operated by the appointing agency.

Mr. LEWIS: I was going to ask about this in my next question. I noticed in your supplementary brief you suggested a special appeal system. Why could you not include in a collective agreement the usual grievance procedure and the usual form of resolving disputes on promotion, or demotion, or transfer?

Mr. BARNES: I would suggest, Mr. Chairman, that our answer to that question would be an illustration of where the civil service and the industrial arena are not strictly in parallel. We feel quite strongly that there is a case for the preservation of the present basic approach to the system of appointment and promotion, which we all regard as the merit system, operating through a central organization applying control standards but safeguarded by independent appeal procedure. This, we feel, is particularly important in view of the powers which are to be given to the Public Service Commission to delegate its responsibility. This delegation is an area which obviously needs very careful monitoring if there is really to be a single policy that is being implemented, and not multitudinous departmental approaches to a common policy.

Mr. LEWIS: The point I have in mind, Mr. Barnes, and I am trying to understand it, is this. When you have the Public Service Commission, a body responsible for implementing the merit system, with which everyone of us agrees, and then you have an appeal procedure under that system, the appeal is made by the employee himself or herself. The difference between that and having it in the collective agreement is that the employee instead of being on his or her own, having to process this appeal, has an organization which takes up his or her cudgels.

In my rather long experience in labour matters I have always felt that the union's place in that appeal is really ever more important than in the field of getting another ten cents an hour. The fact that the member of the bargaining unit, when he feels aggrieved on any matters, is able to go to his organization and say, will you please take up my fight is very important. He has an organization with funds, staff and experience to take up his grievance. That is much the most important aspect of trade union organization of any form, whether it is in the public service or anywhere else.

This is my difficulty. I cannot quite accept your proposal, because of this difficulty, and I speak for myself. Like all members of parliament, and I am perhaps the junior at this table in the sense of service in parliament, I have frequent complaints by people, and the thing that always strikes me is that they just go it alone. No one person in a huge organization is able to do that effectively. I do not see why you cannot have the merit system, the criteria which govern it, established by the Public Service Commission, but the watchdog to see to it that the criteria are properly and fairly applied, made the organization that represents the employee.

Mr. BARNES: Mr. Mazerall is an expert in appeal procedures.

Mr. MAZERALL: Mr. Chairman, the reason that we have not suggested that both of these be combined is that, first of all, they are written in two different bills and we have accepted these as being reasonable. There is a grievance

procedure embodied in Bill No. C-170 and the appeal procedure is embodied in Bill No. C-181. The present system of appeal is under the Civil Service Act and the new system will be under the Public Service Act.

The institute does have a system of representation for all of its members before an appeal board so that the appellant does not go alone before the Civil Service Commission Appeal Board. He is represented, and we think ably represented, by the staff association of which he is a member.

Mr. LEWIS: But now that you have a legislative framework, what rights would you have to represent a member either before the commission in appeal or before the special appeal tribunal that you represent?

Mr. MAZERALL: My understanding is that it is granted in the legislation.

Mr. LEWIS: I do not recall that.

Mr. BELL (*Carleton*): I think that is one matter upon which we are going to have some clarification when we come to it.

Mr. LEWIS: Could I take you one other step in this? You agree that classification ought to be a matter of bargaining.

Mr. MAZERALL: Yes, definitely.

Mr. LEWIS: May I suggest to you that in many instances it is very difficult to draw lines between the classification and the opportunities for promotion that your classifications set up.

Mr. BARNES: Yes. I think this would certainly be accepted, Mr. Lewis. It is one of these difficult areas. For instance, this is one of the areas where we are a little concerned about the possibility of delegation of authority to departments, particularly in some of the smaller professional fields. There might be an almost inevitable conflict of departmental interest on the one hand and career development for the professional on the other. I can think of professions, such as historians, that number about a dozen or two in the whole of the public service, and the only way in which a career can be developed is across the service at large and for this reason, we feel it is quite important that this aspect be negotiable, and that the departmental convenience of having a quick promotion internally in order to fill a job does not blight the opportunities of perhaps some better qualified man in some other department.

Mr. LEWIS: I will take you one more step in this discussion and come back again to my suggestion.

• (11.00 a.m.)

Demotion occurs of course. Do you think that that should be a matter for your separate appeal tribunal or should that not be a matter for the ordinary grievance procedure of the collective agreement? If I feel aggrieved by the demotion, which is the better road, the more protective road, for the employee to be able to follow?

Mr. BARNES: I think there will be much to be said on either side. It does depend to a certain extent, I think, on the ground rules and the system under which the appeal procedure is being operated. We should not like to see something embodied in a statute where the ground rules for operation of the

appeal procedure are in all ways the same as the ground rules for operation of the present Civil Service appeal structure. Given the choice of those two, I would think possibly the grievance procedure is the most fruitful, but on the other hand, I think that the present appeal system, with some modifications, and put into the hands of an independent body would possibly be as effective as the grievance procedure.

Mr. LEWIS: Would you say that is true of the transfer of an employee, or the discipline of employees generally? All of these things are now excluded from the collective agreement. It may be that I am limited by my own experience, most of us are, but it seems to me that if any of these aspects of the treatment of the employee should form part of the collective agreement, then logically all of them should. I cannot imagine a person disciplined not having the right of the grievance procedure under the collective agreement, or demoted which is a form of discipline of course, or transferred to a job which he or she does not think he or she ought to be transferred to. If you wrote into the collective agreement that promotion is to be governed by the merit system, as set out by the Public Service Commission, so that it is clear that you are not interfering with that—and it is easy to provide for that—do you not think that the whole bundle of the sort of status of the employee in classification, in promotion, in demotion, in transfer, in discipline should be in the collective agreement, subject to the grievance procedure of the agreement, and with the organization statutorily entitled, as of right, to take up the cudgels on behalf of an employee who feels aggrieved?

Mr. BARNES: On the first part, Mr. Chairman, I would certainly agree with Mr. Lewis that this general bundle of conditions of employment should be subject to the collective bargaining process. I think we are completely in parallel in our thoughts on that. I am not sure that we feel that there is a great deal of difference as between the grievance procedure and the appeal procedure in safeguarding these, provided the appeal procedure was a completely impartial machinery, completely removed from all other aspects of the employment picture.

Mr. LEWIS: If I am not taking too much time, may I go to another subject.

Mr. HYMMEN: Mr. Chairman, I have a supplementary question. On this question of the matters which are excluded in the bill, Mr. Barnes mentioned initially and I think Mr. Lewis substantially supported this, that the merit system should hold in regard to appointment. Then, I believe, Mr. Barnes subsequently qualified the statement regarding promotion. Can a case not be made for the proposition that the whole question of appointment, promotion, transfer, demotion, is related to the merit system, some of these being the negative aspect of the merit system. A man could be transferred to his advantage because he has certain capabilities in a different field. I believe that this is all involved in the merit system which under the bill is under the control of the civil service. In regard to the question I asked before you felt that these things should be put into the arbitration procedures and you would restrict then, in essence, the duties and control in the operation of the civil service.

Mr. BARNES: As I was trying to make clear to Mr. Lewis, appointment and promotion are essentially things which we feel should be the field of operation

of the Public Service Commission. But demotion is in effect, discipline. Transfer may or may not be within the merit system as it is defined. Transfer can in some cases be a disciplinary act. I think that one must differentiate between appointment and promotion and some of these other aspects of what could perhaps in some very general form be called the conditions of service, but I think demotion and transfer are not exactly to be paralleled with promotion and appointment.

Mr. LEWIS: Mr. Chairman, one aspect of Bill No. C-170 that concerns some of us is the following, if I may outline it and ask whether Mr. Barnes has any suggestion on it.

The bill provides that the government will initially establish the bargaining units, and the explanation which was given by Mr. Heeney the other day, which is not an unreasonable explanation, was that you are not starting with a *tabula rasa*. You have had organizations in existence; you have had a relationship in existence and you have to start somewhere under the new regime. I am paraphrasing not quoting, if you left it to applications for certification only and you started with nothing, then you would not quite know where you would end up, because you do not know what the board might do, what the demands of the various organizations might be, and so on. I repeat that this is not an unreasonable explanation but it worries me, as I am sure it worries you, that initially the bargaining units are set by the government.

Again from experience, I know that once a bargaining unit is set it is extremely difficult to get it changed because the lines become very rigid. Is the fear that if you left it to application for certification and left it with the staff relations board to make decisions progressively, that that might result in a chaotic condition, or have the relations between the various organizations of civil servants been such in the past that that fear is not justified.

Mr. BARNES: Mr. Chairman, I think I would tend to lean towards Mr. Heeney's empirical approach, to the situation that we are starting off with a system which is at least there in embryo, provided it is amendable. We do not have too many restrictions. As you so rightly say. Once a thing is there it does tend to be rather rigid, and for this reason we do not want too many more rigidities built into the act as well, to make it even more difficult to change. Nevertheless as an initial situation and to get the thing on the road on a service-wide basis, as far as it concerns the professionals, and I must emphasize that this is the only field in which the institute is concerned, we would accept, at least initially, the Heeney approach to the problem, but we do not want any more rigidity built in than is absolutely necessary.

Mr. ÉMARD: Mr. Barnes, do you think that there should be a clause authorizing the association representatives to take up grievances on their own for the workers. I am thinking of these grievances where a group of employees may be affected or in some cases where the employees are afraid to take up grievances. I know that we had such a clause in my union and we had many opportunities to use it.

Mr. MAZERALL: Mr. Chairman, we had this suggestion brought to our attention when we had consultants help us in examining the act. This suggestion was certainly brought forward to us. If we have not suggested it in our

brief then it is because we feel that the association that we now have with the government and with the Civil Service Commission would enable us to do this in any event. Of course, it would be the intention of the professional institute to bring forward such a grievance as you may have in mind. The institute has in the past presented many briefs to the government and I do not see under collective bargaining any prevention built in to prevent us from doing this in future.

• (11.10 a.m.)

Mr. ÉMARD: With your present coverage, would you be entitled to take these grievances to conciliation? I am not thinking of general conditions now, I am thinking of specific grievances. For instance, as I have mentioned before, take the case of an employee who has worked for a boss who is very domineering and scares everybody, I know some even in the federal service. Do you think with your present coverage you would be entitled to take these personal grievances to conciliation?

Mr. BARNES: I think that in the case of professionals one would always have to have the request of the individual involved to process it. I do not think one could envisage a situation where one is making representation on behalf of a group of professionals who had not at least expressed their desire that one should do this. If they had expressed the desire that the institute should take this action, then I would not see that there is anything in the bill as it presently exists that would stop us doing this. This is what we have always done in the past, and as a matter of fact, this is what I would expect we should be able to do in the future. I hope this is so because if it is prevented in the bill, then I would certainly feel there should be an amendment. As you say, it is a very real problem. Fortunately, it is not too frequent in the professional field but it does exist and when it does exist there it can be quite a problem.

Mr. ÉMARD: As general information, could you tell us what is the most important change which you have suggested in your brief? Perhaps to put the question in another way, what are your strongest objections?

Mr. BARNES: I think possibly exclusions; it is rather like comparing apples and oranges, but if I had to pick one I think possibly I would say exclusions.

The JOINT-CHAIRMAN: (*Mr. Richard*): Are there any other questions?

Mr. HYMMEN: I have a question and it has to do with one that Mr. Émard asked before. You say on page 20 of your brief, paragraph 97 subparagraph 2, "If a grievance on behalf of an employee is eventually upheld it is the belief of the institute that the employer should carry the responsibility for the payment of expenses." If the employer is upheld, who should pay the cost in this case?

Mr. BARNES: As we read it, it appears to indicate that there is a fifty-fifty splitting in the situation as it exists at the moment. If a grievance is upheld, then we feel the employer should pay it: if it is not, then we thought the fifty-fifty situation might not be unreasonable.

The JOINT-CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. KEAYS: Mr. Barnes in answer to a question of Mr. Émard you specified that one of the important grievances that you had was exclusion. By that do you

mean exclusion of employees from bargaining in units? I think you also say that you are of the opinion that the exclusion from the bill must be restricted to those employees who are directly involved in the development of the government's personnel and financial problems? We have had other briefs presented to us and they claim that it is not large enough; that there should be more people allowed to belong to the bargaining unit and that the measure is too restrictive. Can you help the Committee by defining more precisely people involved in the personnel and financial programs who must be excluded from the bargaining unit?

Mr. BARNES: We feel that exclusions as they are presently listed could be interpreted on a very sweeping basis. There is one clause, I do not have my finger on it at the moment, which refers to people who might become management, or might be promoted. If one accepts the philosophy that every office boy has a deputy minister's warrant in his brief case, then this clearly could exclude almost anybody. It is terribly sweeping. Again, looking at the experience in New Zealand, Australia, and United Kingdom in the public service area we feel that if there must be exclusions at all, then they should only be people perhaps at Treasury Board level, a very small minority in the departmental level, who are actually forming or playing a part in the formation of policy.

The mere fact that a man is in charge of a technical directorate should not automatically exclude him because he does not have any significant influence on the pay of the chemists, or the engineers and the conditions of service of the chemists or engineers who may be in that technical directorate. This is a matter of policy decision in a very limited sphere, and we feel that if there must be exclusions they are the people who should be excluded. But certainly the vast majority of supervisory and directory personnel in the professions should not be excluded.

Mr. KEAYS: Who do you think should specify and define those who are to be excluded?

Mr. BARNES: I would say that there must be again a reference to the P.S.S.R.B. in this. It should not be a unilateral decision. If the employer wishes to designate Messrs. A. B. and C. as exempt because they hold appointments x, y, and z, and this is not acceptable to the bargaining agent covering that particular field, this should be capable of reference to an impartial body such as the P.S.S.R.B.

Mr. LEWIS: Under most circumstances. It is under the bill.

Mr. BARNES: Yes.

Mr. LEWIS: I have a supplementary question. The objection on exclusions I imagine that you have most in mind is subparagraph (vii). —There is a general phrase which I found rather offensive. It says "who is not otherwise described in subparagraphs 3, 4, 5, or 6, but for whom membership in a bargaining unit would tend to create a conflict of interest by reason of his duties and responsibilities to the employer". They cover nearly every other aspect in the earlier subparagraph. This might exclude a girl who has an opportunity to see someone's personnel file or something.

Mr. BARNES: We would agree, Mr. Chairman, with this problem that Mr. Lewis has outlined. If one applies the whole family of these exclusion clauses

rigorously, I think you could exclude just about everybody in the public service. Certainly in the professional field you could exclude almost everybody.

Mr WALKER: Mr. Chairman, a supplementary, if you please. You do not, of course, think that this is the purpose of these clauses.

Mr. BARNES: No, it is not. We feel, however, that if one has to have rigid legislation, then that power should not be there. This, of course, was our original approach which we put forward to the House of Commons committee on the 1962 Civil Service Act. We did not originally envisage a document of this complexity. We were hoping it would grow with maturity, but in the light of what has happened since then, we realize that there has to be more statutory background than might have been acceptable in 1961, but still we do not like a set of exclusions of this potentially sweeping nature being built into statute.

• (11.20 a.m.)

Mr. WALKER: Just this one further question: Behind your objection to the possibility of wholesale exclusion, is your objection to who is designating exclusion.

Mr. BARNES: If these exclusions are laid down in law, then it might be very difficult for an impartial arbitrator, or the P.S.S.R.B. or the appeal procedure or a court of law to do anything other than accept almost any exclusion which the employer might care to put forward under one or more of these headings.

Mr. WALKER: Do you agree that a person who is not excluded one day may be the week following if he becomes attached say to personnel who at that particular time may be part of a negotiating team.

Mr. BARNES: Oh, completely.

Mr. WALKER: There has to be some flexibility. It may be necessary to make some fairly quick decisions on these things.

Mr. LEWIS: They are hardly exclusions by classification; they are not by employees. They would be by some general phrase, that would automatically exclude the person who because of promotion comes within that general phrase.

Mr. BARNES: Perhaps on a transfer, even in the same classification. We envisage the possibility that a man may at one moment be in a position where he should not be excluded and then he could be laterally transferred into an appointment where he might be. I think this is accepted, but we feel that the scope for this should be narrowed down very much more than these exclusions here because the P.S.S.R.B. offers very little protection against a rigorous plan by the employer to exclude almost anybody if the situation develops where there was a case for excluding certain people for any reason which one might imagine. It could be made I think to pass P.S.S.R.B. if they were faced with a case for applying these restrictions.

Mr. WALKER: You certainly would not want somebody who was transferred into a category that might be called management, if you will, to be privy to secrets of your unit.

Mr. BARNES: On this question of management, the mere fact that a man is supervising a group of professionals, in one sense he is management but in the civil service system he has no significant control over the pay or classification of

these people. He may be running a directorate of several hundred professionals but the pay that a chemist, grade 3, gets, and he may have a couple of dozen of them, is not a matter upon which he has any influence whatsoever. So he is management in one sense but we do not feel that he is management in the sense that he should be excluded from the bill.

Mr. WALKER: It really depends on his particular duties.

Mr. BARNES: Yes.

Mr. ÉMARD: Mr. Barnes, you mentioned that every office boy has a deputy minister's warrant in his pocket. Now that the civil servants may enter politics do you not think that it should be raised to minister's?

Mr. BARNES: This will take it even further. The ministers might then be excluded from collective bargaining.

The JOINT-CHAIRMAN (*Mr. Richard*): Are there any other questions on Bill No. C-170?

Mr. LEWIS: With that exclusion you would agree?

Mr. HYMMEN: Mr. Chairman, before we leave Bill No. C-170, I have a question which I think is a very important one. It is a leading question and since it was not referred to in the brief, the Chairman may rule it out of order or Mr. Barnes may not care to answer it. This has regard to a presentation made this morning before Mr. Barnes appeared here, and also to another brief I have which arrived in my office several days ago. This is in regard to strike provision in Bill No. C-170.

Since you represent a sizeable group of employees, who I am assuming would prefer the compulsory arbitration, since statement or statements made in the house from sometimes surprising sources suggest that the strike is outmoded and should be outlawed and the same person or persons are unalterably opposed to compulsory arbitration, do you feel that the present bill is correct or incorrect in allowing provision for certification with the right to strike, while at the same time other federal legislation provides the opportunity to other employees in the public service?

Mr. BARNES: No. The basic philosophy, Mr. Chairman, of the institute on this question of the right to strike, and you may realize that as a professional body it is a matter that receives a good deal of consideration, is that we do not believe that the civil servant per se should be differentiated against in his basic right to withdraw his labour. We feel that there is, after all, a fundamental right in the democracy in which we live for a man to be able to withdraw his labour. That is a fundamental right, but as a professional body we should not envisage ever invoking this right. So this perhaps is our position. We recognize that the bill states this right. It also gives us the alternative of using that right which we have always advocated and that is binding arbitration.

The JOINT-CHAIRMAN (*Mr. Richard*): Are there any other questions on Bill No. C-170? Bill No. C-181?

Mr. BELL (*Carleton*): I have three separate matters I would like to raise in connection with Bill No. C-181.

The first is, Mr. Barnes, that I do not think the institute has made any presentation to the committee on the subject of participation of public servants

in political activity. Would you like to outline what the views are of the institute in relation to that?

Mr. MAZERALL: Mr. Chairman, the professional institute has always maintained that certainly within the municipal sector, even in the provincial sector, there should be no reason why a federal public servant should be excluded from participation in political activities. At the same time the professional institute has recognized the possibility of involvement in the federal sector. For that reason, there have been a few members of the professional institute advocating political activity in the federal sector.

I have not examined it closely or really looked into all the possibilities of the recent suggestion of allowing civil servants to get into political activity, but I would find it a little difficult at times if my boss were of one party persuasion and I were another. I would find it rather difficult if we were both involved in party politics and attempting to do a job of work in the federal service at the same time. I say this at this time. In the future I might have a different view but perhaps I am a small "c" conservative.

Mr. BELL (*Carleton*): Have you made any analysis, Mr. Mazerall, of the situation in the United Kingdom and how it has worked there? Perhaps at the same time you might mention if you have made any analysis of the new legislation in Ontario on this subject?

Mr. BARNES: I did have some brief discussions this July in the U.K. on their approach to this problem which is based largely on classification where junior levels can engage in almost any sort of political activity; the middle bracket has certain restrictions and the senior level is virtually barred. This is a fundamental approach in the British service. This seems to be a somewhat typical empirical British approach. It seems to work there, and is not, I think, too far divorced from the sort of thing that Mr. Mazerall has mentioned, concerning local politics and so on. The institute only represents people who under the British system would probably be subject at least to certain exclusions in political activity.

Mr. WALKER: Mr. Chairman, a little supplementary. The words "political activity" mean a lot of different things to different people and I am wondering if we should not, if we are going to get into this area, sometime in the questioning, could you find out what they mean by "political activity"?

• (11.30 a.m.)

Mr. BELL (*Carleton*): I would like to pin that down as it were, to the right to participate in the activities of a political association on the one hand, and the right to stand as a candidate on the other. What differentiation is there? I think I would like to ask also if the institute thinks there should be any restrictions at all in the right of wives?

Mr. BARNES: No, none whatsoever on wives.

Mr. BELL (*Carleton*): What about the candidature for provincial or federal bodies? Do you think that such right should exist at any level,—any of the three tiers that you have spoken of in the structure, and if so, and a person is elected, ought there to be a right to return later on to a job in the unhappy event, and this is occasionally experienced by some of us, of being found unelected?

Mr. MAZERALL: With respect to standing as a candidate for a provincial or a federal legislature, I would think certainly in the federal sector it would be

difficult at the present time, but if the country is to seek the best people to aid in the government of the country, then I would say there should certainly be no reason why federal civil servants should be excluded from standing for office. I think there perhaps could be some difficulty in controlling a party itself from the point of view of the party funds, or if you will excuse a layman's view, the basic behind the scenes party policy. I think this would be difficult, but I can see no basic reason why a potential candidate should not be granted leave of absence and a defeated candidate should not be able to take up his work again in the civil service.

Mr. BELL (*Carleton*): If that is the assistance you can give us on that, perhaps I might turn to another matter.

This has been raised, to some extent at least, by Mr. Lewis already on the other bill, the system of appeals. I wonder whether you would care to outline in a little greater detail the nature of the tribunal that you think should be established. This is a matter in which, as you may know, I have a very considerable interest. I think, Mr. Barnes, you are aware that I introduced a bill, No. C-63, on this subject to set up a totally independent appeal panel from which might be drawn the actual adjudicating body for any particular appeal. Would you envisage a panel of that type, totally independent, or would you think it should be in effect, a judicial appeal to a judicial body?

Mr. BARNES: This is a most interesting question. The reason why this brief, Mr. Chairman, was not actually part of our original submission was the length of the discussions which were going on on this matter. Our legal consultants in this area actually went so far as to suggest that this appeal procedure might possibly be vested in the Exchequer Court of Canada, with a judge of the Exchequer Court of Canda being nominated on a month-by-month basis as the appeal judge, and with the full machinery of the appeal procedure being operated before that judge.

Our brief is not quite as specific as that, but we do feel that the tribunal or the judge, whichever it may be, three or one, should operate with the independence associated with the judiciary. Whether or not they are actually judges of the Exchequer Court, they should operate under all the independence associated with the judiciary. The basic ground rules for operation, for actually hearing an appeal, should be based on those normally acceptable for presentation in a Canadian court of law.

Mr. BELL (*Carleton*): Do you know what the present volume of appeals might be? Perhaps that is a question we should ask the chairman of the commission.

Mr. BARNES: I would not care to hazard a guess, Mr. Bell, in this regard.

Mr. BELL (*Carleton*): What matters in your view should be subject to appeal? Would you, for example, allow appeal in the initial competitions for appointment?

Mr. BARNES: No; we feel that initial appointment on the open public competition should not be appealable. This is a matter of the operation of the merit system and the control of appointments to the civil service by the Civil Service Commission.

Mr. BELL (*Carleton*): Is there no possibility of abuse at that level and of discrimination at that level as well?

Mr. BARNES: I suppose the possibility always exists. We have great faith in the system but there is, I think, a rider to that, if departments are given discretionary power to go to open public competition whenever they want to. We have had cases which have led us to believe that it is sometimes a very convenient way of circumventing the appeal system. In other words, the department which could possibly have filled the vacancy by an internal promotional competition in accordance with the basic philosophy of the Civil Service Act, can circumvent the appeal procedure by going to an open public competition from which there is no appeal. This is the sort of thing which I think the commission will have to monitor. If this sort of thing arises out of delegation of authority to the department, then we might well wish to reconsider whether or not the appeal procedure should be applicable to the public competition. But as it has been operating in the vast majority of the cases up to now, we would feel that there is no requirement there, but there may not be an eternal answer to this.

Mr. BELL (*Carleton*): This is my third point. What restrictions do you feel should be put upon the power of the commission to delegate the authority to appoint and to promote to a deputy head? How would you define the restriction and what safeguards do you think should be put in the legislation?

Mr. BARNES: I think, Mr. Bell, that it is most important that this power of delegation be effectively monitored. For instance, there is a phrase in the bill at the moment to the effect that one of the factors which can determine the procedure to be employed is the interest of the service. We feel that the interpretation of that phrase should not be in the hands of any one department. Only an essential impartial body such as the commission could give a meaningful ruling on the interest of the service which certainly may not coincide with the immediate interest of one particular department. These are the type of areas which we feel should not be delegated to department discretion. I do not know if Mr. Mazerall would care to add more to that, but that is an example of the interpretation of that phrase. The interest of the service should not be delegated to departmental discretion.

Mr. BELL (*Carleton*): Where the power to appoint is delegated to a deputy head, do you not think that the most salutary safeguard would be an appeal procedure?

Mr. BARNES: This may well be. We have hopes that the commission will monitor this thing so closely that outside competitions are run only under the same sort of philosophical approach as they are now, that is to say, when there is no reasonable chance of filling the appointment from within the service. But if this power to hold open competitions from the outside appears to be verging on being abused, then I would think that appeal procedures are something which certainly should be considered. I hope that the commission will monitor this closely and watch the departments and act so effectively to stop the departments that this would not be necessary.

Mr. BELL (*Carleton*): Do you think that this power to delegate to a deputy has any dangers in the relationship that exists necessarily between a minister and his deputy?

Mr. BARNES: Of course; this is perhaps why I was emphasizing the fact that the commission must really be prepared to act with its full force to stop this. If there is indication that the authority delegated to the department is being abused, then the commission must come to the defence of the deputy.

• (11.40 a.m.)

The JOINT-CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. HYMMEN: Mr. Chairman, I do not know if I am a bit confused at this stage, but on this suggestion of an appeal board and the question of promotion or demotion and designation of authority to departments, would this be entirely separate from the compulsory bargaining legislation?

Mr. BARNES: It is now, Mr. Hymmen. It is really a matter of under whose jurisdiction should this appeal procedure operate. As the lgislation presently stands, of course, it would operate under the jurisdiction of the Public Service Commission. We feel it should operate outside that jurisdiction.

Mr. HYMMEN: All right, then. Is not your position somewhat contradictory because you are requesting some of these things be in the bargaining? Promotion and demotion are definitely related. They could possibly both be considered on some other matters by this appeal board which you have suggested should be in the collective bargaining.

Mr. BARNES: In the case of promotion, one of the imaginary cases which we brought up involved a man who was promoted within the service. He was then put on probation in his new classification and if his deputy minister, or his designated officer, felt that he was not satisfactory in this new classification he could be dismissed from the service and there is no appeal from this as it stands now. This we feel is wrong. A man may have had years of entirely satisfactory service in his existing classification. Then he is transferred to some new location or promoted to some new classification; immediately the whole of his previous service and his accumulated benefits in terms of pension are put in peril. It is going to discourage him, and we made this point in 1961; it discourages initiative. We certainly do not feel that a man should be kept in his new classification if he is incompetent, but he should have at least the right to appeal a unilateral decision possibly with the view of being able to revert to his previous status.

Mr. LEWIS: May I ask a supplementary. Why do you say "possibly"? Why do you say possibly be able to revert? Why should he not as of right?

Mr. BARNES: There may be some other solution. His immediate position from which he came may be filled. Reverting to his previous actual position may be impossible but he should be able to move to some parallel position.

Mr. LEWIS: He should not be dismissed—

Mr. BARNES: No, he should not be dismissed.

Mr. LEWIS:—if he has given satisfactory service in another capacity.

Mr. BARNES: He may have had ten years of effective service as a chemist, grade 3, and then he has tried a competition and is promoted to chemist, grade 4. The deputy minister does not feel that he is quite a chemist 4, then at that point he can be dismissed from the service as the act stands.

Mr. WALKER: Then your point would be met if the commission were directed to hear any of these cases where the deputy has acted. Your point would be met there?

Mr. BARNES: Yes. But not the commission. We feel that there should be ideally an appeal procedure outside the commission because officially this act of the deputy minister is a delegated act from the commission. He is acting under the delegated authority of the commission, so therefore the commission is being called upon to judge its own act, once removed.

This is our real point. Our legal advisers have re-emphasized to us that this is in conflict with natural justice and I am sure many hon. members who are lawyers will agree—

Mr. LEWIS: May I follow this up. The appeal does not quite meet the situation. I suggest to you that I can see no reason for the dismissal of the person under any circumstances owing to his failure to meet the requirements of the promotion. If there are other reasons for dismissal, it is a different story. But your opportunity for appeal does not meet that.

The person who has been promoted from grade 3 to grade 4 chemist might find himself that he has not quite got it and might be persuaded that the appeal will not give him any satisfaction. Is there any reason why, together with the appeal, there should not be the provision by regulation or otherwise that he is not dismissed from the service?

Mr. BARNES: We feel that this should be taken care of. This is the point we made in connection with the same provision in the present Civil Service Act. We made this recommendation in 1961 in our brief concerning the present Civil Service Act and we still feel this to be so.

Mr. FAIRWEATHER: I do not understand. If a chemist goes to grade 4 on probation, does he not necessarily keep his permanent level? It seems logical because he is not confirmed in grade 4. He must have some status.

Mr. BARNES: Yes, he is confirmed as a grade 4 but in his appointment he is still under probation and he can be dismissed at the end of that probationary period for failure to meet the enhanced requirements of a grade 4 relative to a grade 3. That can be the end of the road as the legislation presently stands. He does not even have an appeal as to whether or not he has been in fact a satisfactory grade 4, let alone concerning any further rights to revert in the case of his appeal being lost.

Mr. FAIRWEATHER: Then it might be a very cynical way to get rid of people, just promote them.

Mr. LEWIS: To be fair, Mr. Chairman, the commission is given the right to appoint the employee to another position.

Mr. BARNES: The right.

Mr. LEWIS: But it is not a right to the employee; it is an option to the commission.

Mr. ÉMARD: With regard to the merit system, I may be too concerned with details but I would like to know how the merit system will work. Will it be an established system as it prevails in industry today? An employee is appraised at

regular intervals according to a very specific form, or would he only be appraised at the time when there is an opening for a promotion?

Mr. MAZERALL: Mr. Chairman, there is a standard appraisal system now available and in use in the public service that is at least on a yearly basis. This appraisal, in my understanding, is standard throughout the different departments.

Mr. ÉMARD: Is this taken into consideration at the time of a promotion?

Mr. MAZERALL: I understand that it is. In many instances as fas as the professional civil servants are concerned, and certainly in the case of research scientists this has to be taken into consideration before promotion can be available.

Mr. ÉMARD: Would you know any of the attributes that are mentioned on the forms?

Mr. MAZERALL: I am sorry; I have not seen them and I do not know just what is listed there.

Mr. BELL (*Carleton*): Should we wait until the Chairman of the Civil Service Commission is before us as a witness?

The JOINT-CHAIRMAN (*Mr. Richard*): I was going to suggest that.

Mr. ORANGE: Mr. Chairman, first of all I have one question; it is a matter of statistics. I wonder if we could obtain the figure on the number of classified civil servants dismissed for any one year period for the last two or three years. I do not think we need to go to a great deal of effort to obtain this figure, but I think it would be useful because we seem to be talking about a lot of the exceptions here, particularly with reference to chemists 3 and chemists 4. However, that really is not my question.

I would like to ask Mr. Barnes a question with respect to the provision in Bill No. C-181 with regard to war veterans. Under the present provisions in the new bill, war veterans will be given preference with regard to entering the civil service. I do not think there is any argument here at all. I just would like to find out his opinion with regard to the use of this on other occasions by war veteran's in open competitions.

In other words, a man may enter the civil service through an open competition, top the list because he is a veteran; after he is in three or four years apply in another open competition and because he is a war veteran he can still use his preference and he can continue to do this during the time he is in the service. I have heard a number of comments on both sides of the case with regard to this particular aspect, and I am just wondering whether the system, excluding initial entry, should be continued with regard to war veteran's preference.

● (11.50 a.m.)

Mr. MAZERALL: Mr. Chairman, if I might attempt to answer that. I do not believe that this is correct. It is my understanding that veterans preference is only available to be used once. It cannot be used every time that a war veteran enters into a competition.

Mr. ORANGE: An open competition. We are not talking about a closed competion; open competition only, sir.

Mr. BARNES: I think, if I might add to that, that if he is actually applying for open competition, although he is in the service, then it applies; but this would appear to be a case again of whether or not the open competition is being used propertly. If a man in the service is qualified, and a veteran must be qualified to pass, then there is a man in the service who is qualified to do that job anyhow, and the question arises why there was an open public competition to fill it. I think this is one of the reasons why we are a little concerned about the use of the open public competition in filling jobs in the service. If a man in the service, although he is a veteran, still wins it, he is qualified even without the veterans preference and therefore, that job could have been filled by an internal promotion conpetition.

Mr. ORANGE: But this still does not answer the question I raised with regard to the situation as it now stands and will continue under the new legislation, about giving the veterans second, third and fourth opportunities for preference in open competitions. I think we must be realistic enough to recognize that once there is a delegation to departments there will be a series of open competitions at least in the foreseeable future, until such time as this personnel evaluation system is brought into full effect so that a department can determine whether or not there is someone qualified in the service to apply in a closed competition. As I say, the situation is that the veteran can apply in open competitions as often as he wishes, and will obtain preference, assuming he is qualified.

Mr. BARNES: As the legislation presently stands Mr. Chairman, I would say that this is acceptable I would hope, for this very reason, that there will not be any precipitate delegation to departments until they are staffed, organized and provided with the necessary data to operate the system as it is meant to be operated. If authority is delegated to the department and they are so unprepared that the only recourse available to them is as you say string after string of open public competitions, then I would say they should not have that authority; it should have remained with the commission until they are prepared. I think this is the real answer to that particular question.

Mr. ORANGE: Another part of this particular legislation which concerns me somewhat is the commission's authority to control the area or the group that may apply in any particular competition. I am thinking again in terms of the people who are, say, in the Department of Fisheries, or a smaller government department who may be at the more junior level, who may wish to move from the west coast to the east coast but because the commission has delegated that only the chief of the registry can come from the employees in eastern Canada or the maritime provinces, this excludes the man who is qualified in that department on the west coast from applying for that particular job.

Mr. BARNES: I would agree, Mr. Chairman very much. This is the point which I think we stressed in our brief which we mentioned a little earlier this morning particularly, as you said, in these more limited professional fields, we have very real doubts as to whether the best development of a career plan is possible without central control from the commission. In the smaller profes-

sions the whole service must be their field of movement and promotion, otherwise, they are terribly restricted.

If a department has a delegated authority to fill a vacancy under almost any geographical or other limitations that it sees fit to apply, this could seriously hamper the development of professional careers in the service. This is why I say we have reservations about delegating this right.

Mr. WALKER: If I might just ask this one question. I am gathering an impression here, and I just want to nail it down, that there is a fear back to the point that Mr. Orange was raising originally. I have the impression that there could be wholesale numbers of people dismissed, because they have not fitted into the new job for which they have tried. Specifically, have there been cases like this? Do you know of any in your own categories?

Mr. BARNES: I have not a specific case list but I am sure the Chairman of the Civil Service Commission could supply this.

Mr. WALKER: I have a number of questions, rather than asking you, I want to ask the chairman.

Mr. BARNES: We feel that this sort of thing should not be written into an act. We are a little concerned about this. We hope that this entire legislation is going to be operated on a very mature basis, but we have to face the realities. We have had senior members of the official side talking about an eyeball to eyeball, claw to claw approach. As long as these expressions are used, then I think we have to be realistic and object to the inclusion in the legislation of very sharp claws, albeit they might be temporarily withdrawn into velvet.

Mr. WALKER: But your fears for the future are not based on any past experience.

Mr. BARNES: Specifically, no. We have not operated under a rigid set of legislation.

Senator CAMERON: I believe Mr. Mazerall said that a staff member was subject to appraisal once a year. I assume that this is at the time of the annual preparation of the budget when each member is assessed on whether or not he will get an increment. This would constitute his appraisal, or is there another appraisal in addition to that?

Mr. MAZERALL: My understanding, Mr. Chairman, is there is an appraisal that goes on once a year—in my particular department, it is going on right now —in respect of all of the technical and professional personnel. It, of course, does have the added advantage that it provides management with the information necessary for its next year's budget.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Thank you, very much, Mr. Barnes and Mr. Mazerall. As suggested by some members, I hope you will avail yourselves of the opportunity to be with us when there is discussion of these bills clause by clause.

Mr. KNOWLES: Not claw by claw.

The JOINT CHAIRMAN (*Mr. Richard*): No; a little velvet I hope. So that we may be able to call on you or you may want to make some suggestions.

Mr. BARNES: Thank you very much.

The JOINT CHAIRMAN (*Mr. Richard*): You are welcome. Now, gentlemen, the next parties to appear before us are the Civil Service Federation and the Civil Service Association of Canada and I would like to know your wishes, whether we should proceed now. It is twelve o'clock. Would you rather wait until four o'clock this afternoon, or this evening? These gentlemen cannot come back on Thursday.

Mr. LEWIS: I would prefer after orders of the day, because we will only have about half an hour now.

The CO-CHAIRMAN (*Mr. Richard*): Let us say four o'clock then.

Mr. WALKER: Are all members in this committee available or do they have other committees to go to?

Mr. LEWIS: I have another one to go to now.

An hon. MEMBER: Is this room available?

The JOINT CHAIRMAN (*Mr. Richard*): Yes, it is available at four o'clock.

Mr. KNOWLES: I do not want to object, but I think we should forewarn outselves that it is a day on which there might be a couple of recorded votes in the house, and a few other things; something like medicare might come up.

Senator FERGUSSON: I have another committee at 3.30, so I will not be here.

An hon. MEMBER: Why should we not take three quarters of an hour now instead of sitting at four o'clock if some members have other committees to attend?

The JOINT CHAIRMAN (*Mr. Richard*): Do members feel it would be better to take this evening?

The Clerk of the Committee will advise members of the time of the next meeting.

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OF
PROCEEDINGS AND EVIDENCE

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The Clerk of the House.

First Session—Twenty-seventh Parliament
1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:
The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE
No. 11

Respecting
BILL C-170
An Act respecting employer and employee relations in the Public Service of Canada.
BILL C-181
An Act respecting employment in the Public Service of Canada.
BILL C-182
An Act to amend the Financial Administration Act.

THURSDAY, OCTOBER 20, 1966

WITNESSES:

Mr. A. Croteau, Vice-President, L'Association des Fonctionnaires Fédéraux d'Expression Française; Mr. J. M. Poulin, President, Ottawa Local 224, Mr. Leonard R. Paquette, International Representative, Lithographers and Photoengravers International Union; Mr. J. M. LeBoldus, National President, Mr. Antoine Tremblay, Quebec President, Canadian Postmasters' Association; Mr. Francis K. Eady, Executive Assistant to the President, Canadian Union of Public Employees; Mr. James P. Duffy, President, Ottawa Typographical Union, Mr. Allan Histed, Representative, International Typographical Union, Mr. H. G. Jacobs, President, Council of Union Employees, Canadian Government Printing Bureau; Mr. C. A. Edwards, President, Civil Service Federation; Mr. Wm. Doherty, National Secretary, Civil Service Association of Canada.

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

25020—1

SPECIAL JOINT COMMITTEE

OF THE

SENATE AND OF THE HOUSE OF COMMONS

ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate	*Representing the House of Commons*	
Senators		
Mr. Beaubien (*Bedford*),	Mr. Ballard,	Mr. Knowles,
Mr. Cameron,	Mr. Bell (*Carleton*),	Mr. Lachance,
Mr. Choquette,	[3]Mr. Berger,	Mr. Leboe,
Mr. Davey,	Mr. Chatterton,	Mr. Lewis,
[1]Mr. Denis,	Mr. Chatwood,	Mr. McCleave,
Mr. Deschatelets,	Mr. Crossman,	Mr. Munro,
Mrs. Fergusson,	Mr. Émard,	Mr. Orange,
Mr. O'Leary (*Antigonish-Guysborough*),	Mr. Fairweather,	Mr. Ricard,
	Mr. Hymmen,	Mr. Simard,
Mr. Hastings,	Mr. Isabelle,	Mr. Tardif,
[2]Mr. MacKenzie,	Mr. Keays,	Mrs. Wadds,
Mrs. Quart—12.		Mr. Walker—24.

(Quorum 10)

[1]Replaced Senator Croll

[2]Replaced Senator Roebuck

[3]Replaced Mr. Faulkner

Edouard Thomas,

Clerk of the Committee.

ORDER OF REFERENCE
(Senate)

Extract from Minutes of Proceedings, Tuesday, October 18, 1966.

With leave of the Senate,

The Honourable Senator Connolly, P.C., moved, seconded by the Honourable Senator Deschatelets, P.C.:

That the names of the Honourable Senators Denis and MacKenzie be substituted for those of the Honourable Senators Croll and Roebuck on the list of Senators serving on the Special Joint Committee on the Public Service; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

The question being put on the motion, it was—

Resolved in the affirmative.

ORDER OF REFERENCE
(House of Commons)

TUESDAY, October 18, 1966.

Ordered,—That the name of Mr. Berger be substituted for that of Mr. Faulkner on the Joint Committee on the Public Service of Canada.

Attest.

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

25020—1½

MINUTES OF PROCEEDINGS

THURSDAY, October 20, 1966.
(18)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.10 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Denis, Deschatelets, MacKenzie (5).

Representing the House of Commons: Messrs. Bell (*Carleton*), Berger, Chatterton, Chatwood, Émard, Fairweather, Hymmen, Keays, Knowles, Lachance, Lewis, McCleave, Orange, Ricard, Richard, Walker (16).

Also present: Mr. Thomas (*Middlesex West*).

In attendance: Mr. A. Croteau, Vice-President, L'Association des Fonctionnaires Fédéraux d'Expression Française; Mr. J. M. Poulin, President, Ottawa Local 224, Mr. Leonard R. Paquette, International Representative, Lithographers and Photoengravers International Union; Mr. J. M. Le Boldus, National President, Mr. Antoine Tremblay, Quebec President, Canadian Postmasters' Association; Mr. Francis K. Eady, Executive Assistant to the President, Canadian Union of Public Employees; Mr. James P. Duffy, President, Ottawa Typographical Union, Mr. Allan Histed, Representative, International Typographical Union, Mr. H. G. Jacobs, President, Council of Union Employees, Canadian Government Printing Bureau.

The terms of reference of the British Government's Standing Advisory Committee on the Pay and Conditions of Higher Civil Service was tabled before the Committee which agreed to enter same as an appendix to this day's proceedings. (*See Appendix K.*)

There were no questions put to the representative of L'Association des Fonctionnaires Fédéraux d'Expression Française.

The Committee questioned representatives of the following groups in turn: Lithographers and Photoengravers International Union, Canadian Postmasters' Association, Canadian Union of Public Employees and the International Typographical Union.

Members of the Committee were advised that a copy of the By-laws and Regulations of the Professional Institute of the Public Service of Canada is now held by the Clerk of the Committee.

At 12.53 p.m., the questioning of the witnesses concluded, the meeting was adjourned to 8.00 p.m. this day.

EVENING SITTING

(19)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada reconvened at 8.09 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Denis (2).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatwood, Émard, Hymmen, Keays, Knowles, Lachance, Leboe, McCleave, Orange, Richard, Walker (12).

In attendance: Messrs. C. A. Edwards, President, and J. F. Maguire, Director of Research, Civil Service Federation of Canada; Mr. Wm. Doherty, National Secretary, Civil Service Association of Canada.

The Committee questioned representatives of the Civil Service Federation and the Civil Service Association on their various briefs.

The Clerk of the Committee was instructed to prepare a list of employee associations showing the membership for each one.

At 9.38 p.m., the Joint Chairmen adjourned the meeting to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, October 20, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): Order. Before opening the proceedings formally, I think all members of the Committee would like to take notice of the fact that this is Senator Bourget's birthday and to wish him a happy birthday.

The JOINT CHAIRMAN (*Sen. Bourget*): Thank you very much, Mr. Chairman.

An hon. MEMBER: Maybe we should sing Happy Birthday.

The JOINT CHAIRMAN (*Sen. Bourget*): We will sing to-night.

The JOINT CHAIRMAN (*Mr. Richard*): The terms of reference of the standing committee on pay and conditions of higher civil service are available and could be included as an appendix to to-day's proceedings. Is that the wish of the committee?

Mr. LEWIS: We did not hear you, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): The terms of reference of the standing committee on pay and conditions of the higher civil service—

Mr. BELL (*Carleton*): That is in the United Kingdom. Yes, that is what I was aking about the other day.

The JOINT CHAIRMAN (*Mr. Richard*): That is what Mr. Bell was asking about the other day.

Mr. WALKER: I suggest we do as you suggest.

The JOINT CHAIRMAN (*Mr. Richard*): Agreed? A copy of the Industrial Relations Disputes Investigation Act has been mailed to all members. I suppose you all have a copy. English copies only are readily available. Copies of the Montpetit Report, of course, are in the hands of all members at the present time. This morning—

Mr. KNOWLES: We have all read it! Did you read it?

The JOINT CHAIRMAN (*Mr. Richard*): I stayed up late last night for that.

Mr. KNOWLES: Double all the Post Office, with two or three hundred recommendations.

The JOINT CHAIRMAN (*Mr. Richard*): L'Association des Fonctionnaires, Fédéraux d'Expression Française. Have the members of the Committee any questions to ask the representatives who presented that brief?

Mr. WALKER: Is there a spokesman here?

The JOINT CHAIRMAN (*Mr. Richard*): Have you any further comments to make?

Mr. WALKER: Mr. Chairman, I would just like to say this. I would like the representatives to know that—maybe other members of the Committee have as well—I have taken note of your main objection or suggestion that there appears to be a denial of right to be examined in both languages, either /or, but depending on the language of the person being interviewed. I just want to say that I have taken note of this particular thing. This was one of the main points, was it not, in your brief?

Mr. LEWIS: I think the committee as a whole should take note that they have that right.

The JOINT CHAIRMAN (*Mr. Richard*): The next brief is from the Lithographers' Union. Mr. Poulin. Have the members of the committee any questions to ask as a result of reading this union's brief?

Mr. LEWIS: I cannot remember whether the brief gives us the information as to how many they represent.

Mr. BELL (*Carleton*): I think the brief does state this. Eastern Canada, 4,000 members; western Canada, 300 members; British Columbia, 700. British Columbia is apparently differentiated from western Canada.

Mr. KNOWLES: How many of these are working for the federal government?

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Poulin is here. I think it would be much better if he gives the answers. Mr. Knowles, did you want to ask a question of Mr. Poulin?

Mr. KNOWLES: I was asking if he could tell us what proportion of the membership which Mr. Bell just quoted worked for the federal government?

Mr. J. M. POULIN (*President, Ottawa Local 224*): We have 245 members employed in the federal government. This would be out of a potential of approximately 325. This just covers the lithographic industry.

Mr. KNOWLES: And where are they employed?

Mr. POULIN: The Canadian Government Printing Bureau and in the units right across the country.

Mr. Bell (*Carleton*): Amongst your recommendations, Mr. Poulin, I notice your suggestion that the Government Printing Bureau should be transferred from Part 1 of Schedule A to Part 2. Would you like to expand on that to indicate how you think that would improve conditions in so far as your employees are concerned?

Mr. POULIN: Yes. I think that under collective bargaining, if the Printing Bureau were placed in Part 2 of Schedule A, they would be more comparable to the graphic arts industry. We feel that the Canadian Government Printing Bureau is unique, in that it is in competition with the graphic arts industry, and also the fact that they are different from any other government department; they produce a manufactured product; they sell a product even though it is sold for cost and it would set them on a more competitive basis with the graphic arts industry.

Mr. BELL (*Carleton*): The net result of your proposal would be to make the Printing Bureau a separate employer. Then you would seek to come under the Industrial Relations and Disputes Investigation Act.

Mr. POULIN: Yes. This is true. If this is impossible we feel that the bill in its present form could revolutionize the printing industry as far as recognition of craft certification is concerned. There are many different crafts in the graphic arts, and these have been recognized on an individual basis. With Bill No. C-170 not having any provision for craft certification, they feel that this would take away something that we feel very strongly about in the graphic arts industry.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions? Mr. Lewis.

Mr. LEWIS: Mr. Poulin, in the present set-up, is there any conflict between the lithographers and the pressmen, which is your traditional area of conflict?

Mr. POULIN: No. Most people who are familiar with the graphic arts are aware, I think, that merger discussions are taking place. Part of the reason for asking for a separate employer also is the fact that we feel it is the only way we are going to maintain a par with industry as far as our membership in the Government Printing Bureau are concerned, because we have mainly different termination dates in the collective agreements and that. And this we would like to maintain.

Mr. WALKER: This is a supplementary. Do you feel that Bill No. C-170 might depreciate the position you now have?

Mr. POULIN: Yes, we do.

Mr. WALKER: I am referring to holding things on a par with industry. You are doing this right now, I take it?

Mr. POULIN: Yes, we are.

Mr. WALKER: And you feel that Bill No. C-170 may reduce this position?

Mr. POULIN: Yes, we do.

Mr. WALKER: Can you explain how?

Mr. POULIN: If we have all of the graphic arts involved as one group—at the present time there are different termination dates on all of our contracts—if we had some, depending on the mechanics for negotiations that will be adopted under Bill No. C-170, we could maintain this if the proper mechanics were adopted. If they were not adopted, when you signed one collective agreement, then you would have the people who are employed in the lithographic industry starting a contract in advance of the people in the Government Printing Bureau, or vice versa. And I think you would create a differential between the wages in industry and the rates that exist in the Government Printing Bureau, either one way or the other.

Mr. WALKER: And your suggestion, as far as Bill No. C-170 is concerned, to correct this, is to do what?

Mr. POULIN: Either to have craft certification recognized in Bill No. C-170 or have the government classed as a separate employer—the Canadian Government Printing Bureau, that is—classed as a separate employer and put into Part 2 of Schedule A.

Mr. LEWIS: You seem to agree with Mr. Bell that that would mean you would come under the I.R.D.I.A. How is that?

Mr. POULIN: Well,—

Mr. LEWIS: Part 2 of Bill No. C-170 still brings those units under Bill No. C-170, not under another act.

Mr. POULIN: All right. You may be confusing me. Part 2 deals with the crown corporations. I think this is where the—

Mr. LEWIS: That is why I could not follow your agreement with Mr. Bell that that would be the result. It would not be if you put it in Part 2. The Queen's Printer would be made a crown corporation like Polymer of Air Canada or the CNR.

Mr. POULIN: Yes; also, we feel under Part 2 there would be more autonomy as far as the Government Printing Bureau is concerned, probably not as much as a crown corporation but there would be more autonomy rather than coming under the bill itself.

Mr. KNOWLES: This would be a half way proposition as between being included with everybody and working for a crown corporation?

Mr. POULIN: Yes.

Mr. KNOWLES: It would still come under Bill No. C-170 but you would have negotiations with the bureau as a separate employer?

Mr. POULIN: Yes, the Government Printing Bureau would have the autonomy to conduct their own negotiations.

Mr. L. R. PAQUETTE (*International Representative Lithographers and Photo-engravers International Union*): May I add that this is exactly what is happening right now, at the bureau. Over the years, the Canadian Government Printing Bureau has been respecting the changes of working conditions that have been in existence in the collective agreements as we sign them now; so in fact the wage conditions and the working conditions that exist at the bureau follow parallel those changes that we receive in industry. Therefore this set-up is operating already at the bureau and we are asking for continuation of this but with the right of collective bargaining, rather than just an understanding between the Labour Board, Treasury Board and the bureau itself.

Mr. KNOWLES: I believe that in one of the statutes governing the Government Printing Bureau there is a specific reference to wage rates in Montreal, Toronto and Ottawa through which there is supposed to be some relation on the part of your rates to the bureau. Are you afraid that that special arrangement will be wiped out by Bill No. C-170?

Mr. PAQUETTE: Definitely, we feel that under the present context of the Bill what will happen is that the privileges that are now enjoyed by the employees, because of the craft representation or understanding that we have with the Treasury Board, Labour Board and the bureau itself under Bill No. C-170 where we will have to form a viable unit and break down all these classifications, that will certainly hinder the maintaining of the conditions as they exist presently and as they have existed over the years.

Mr. LEWIS: I am not questioning the suggestion that you are making, but just to understand it, and if possible, at the Queen's Printer, for the typos, the pressmen and the lithographers to form a council of unions under Bill No.

C-170 and do the negotiating together for a higher bargaining unit. Have you got a bindery at the Queen's Printer? Are there book binders at the Queen's Printer?

Mr. POULIN: Yes, there are. There is already a council of union employees in existence at the Printing Bureau and there has been for some time. This would be, I believe, our second choice if craft certification is impossible, but we feel very strongly about craft certification because you are going to put down and negotiate a contract in a group, when you have different termination dates somebody is going to miss out on as far as the industry rates are concerned in paying on a par at the time that they go into effect in industry.

Mr. LEWIS: I do not quite follow this termination date. I should know but I do not. Do all your present agreements across Canada, signed together have the same termination date?

Mr. POULIN: On the lithographers and photo-engravers, no, and on all the unions together, no. Some of the unions have two-year contracts, some have three-year contracts.

Mr. LEWIS: Are you speaking about the Queen's Printer or the scene across the country?

Mr. POULIN: Both.

Mr. LEWIS: If you had a council of the various unions at the Queen's Printer, and you had a bargaining unit under that council, then you would have one termination date, would you not?

Mr. POULIN: Yes, you would, but this is where we feel that it could have an adverse effect on some of the crafts who would be partial to the council.

Mr. LEWIS: In what way? I think you ought to explain this a little more so that members will know what the basis for your fears is.

Mr. POULIN: Using the L.P.I.U. as one organization, we go into negotiation at the end of 1967. I believe that the book binders go in, in the spring of '67. In industry, if they sign a three-year contract, which would end up in 1970, it might be difficult to sign a three-year contract on a council basis with the Canadian Government Printing Bureau; therefore, right away you are creating a differential between the lithographic people within the Printing Bureau and the lithographic people in the graphic arts industry. We feel it would be very difficult to maintain the very same time limits and wages and conditions that exist within the graphic arts industry, under a council set-up because you are negotiating; in effect you are negotiating one contract but it is going to cover four or five different unions.

Mr. PAQUETTE: I think also, to add to this, it would be traditionally the type of work done by the various crafts are quite different; they have been distinctive by tradition. The improvement by craft also has been different by tradition and to try to bring them together is something that as a union we have been trying to do and the merger is extremely difficult. There has been traditional jurisdictional differences between the unions and the graphic arts for years, and to try and bring them together and to move them along on the same line at this time, even at the bureau under a council of union employees has been difficult. Though I believe it is possible I still think that there certainly

would be some difficulties and may not resolve the problem to the best advantage of the Canadian Government Printing Bureau.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. ÉMARD: Unfortunately, I did not have a chance to read the brief before, and I came a little late, so I may be repeating some questions that had been asked before I came in. I see on page 2 of the brief, "we would recommend the simplest form and that is recognition to any body of employees which can establish a majority in any department or trade according to the rules established by the government." Has this been discussed before?

The JOINT CHAIRMAN (*Mr. Richard*): No.

Mr. ÉMARD: Actually what you are requesting is recognition by trade.

Mr. POULIN: Craft certification. We could have, and again speaking for the L.P.I.U., 100 per cent of the lithographic employees of the federal government in our organization, but because you take and put all of the printing trades in one bargaining unit, it could end up that these people would not have the right to have us as their bargaining agent, and this is the fear of our people.

Mr. PAQUETTE: Traditionally, in industry what has happened in the provinces of Canada is that all of the labour force has recognized this craft certification condition that exists in the graphic arts, and it is something that the labour boards across the country are used to and the workers are used to, and all of a sudden a bill comes out and says this is not to be recognized. But there is a possibility that it will not be recognized under the present format as Bill No. C-170.

Mr. ÉMARD: I do not know if it would be for the benefit of the majority of the employees that they should be cut into so many little unions, instead of being in larger groups. I see that even the professionals, which include lawyers, doctors and so on, are joined into one group, for the defence of their rights. If we start to recognize, if the government starts to recognize every individual trade, this is going to mean that there is going to be the same number of groups as we had in the past. I remember myself working for the CPR in the Angus shops at Montreal, and at this time we had I think 16 unions bargaining for us and believe me it was not for the best of our interests. I think it was exactly the opposite, so I wonder, if the trade unions in some cases are not out of date, because I think there is a tendency in most industries to put all the employees in what they call, of course, the industrial organization.

Mr. POULIN: If I might answer you, we are here as representatives of our people and we are expressing the feelings of our people. We would not want to think that it was the intent of the government, in introducing collective bargaining, to introduce something that would have an adverse effect on any group of people, and Bill No. C-170 in its present form is exactly what we feel it would do to our people.

Mr. PAQUETTE: Just one additional point on this, I think that those who know the history of the lithographers and photo-engravers union, know that our particular organization was brought together by a merger of two craft unions, lithographers union which was the former Amalgamated Lithographers of America and the International Photo-engravers Union of America. We are

now embarking upon, and we are going to have a referendum before the end of this year on the possibility of bringing a third craft union into the graphic Arts under one roof and that is the International Stereotypers and Electrotypers Union of America. We also are having merger discussions with the printing pressmen and at the present time the bookbinders, but there is one thing that we fear in the bill is that the government under the bill, in this particular case, is bringing the unions together or trying to bring these mergers about by the very form of the bill, and we believe this is the basic right of the members in those unions, to bring about their mergers rather than by legislation but by the freedom of their own vote, and we feel that this is what is happening with Bill No. C-170. Under the format that the Government is legislating what is a viable group, or telling the unions that this is a viable group, and denying the workers the right to have the unions that they feel will serve them best.

Senator CAMERON: Is it not true that if we accepted the case you are putting forward, we are in effect freezing the status quo as far as the union is concerned, and might not your stand lead to a proliferation of other groups wanting to speak directly in negotiation. In other words, the government might have to deal with more groups than they had in the past.

Mr. PAQUETTE: Not necessarily, when this is already recognized at the bureau. The bureau already has worked out and has agreed; they worked with these various crafts and their problems over many many years, and this is exactly what is in existence now at the bureau. We are not asking for anything different; we are just asking for continuation of what is in existence and what we feel is an advantage to the employees, and the employees believe that also.

Senator CAMERON: Well, is it your feeling that if the printing trades were lumped together as one bargaining unit, under Bill No. C-170, your group would lose something that they now possess in a substantial way?

Mr. PAQUETTE: They could.

Senator CAMERON: Have they ever demonstrated what they would lose?

Mr. POULIN: Lithographers employed by the federal government are working a shorter work week now than anybody else employed in the federal government, the civil service included. It is areas like this that we are concerned about. It is areas like this that our people are concerned about. If you had council certification with individual negotiations, then I do not think we would have a major problem. You would still be able to negotiate your contracts at the same time as you do in industry. You would all be able to stay on a par with our counterparts in industry. This is our concern.

Senator CAMERON: But what you have just said then implies that you are not on a par, you are in a superior position to other branches of your industry?

Mr. POULIN: I do not follow you when you say we are superior—

Senator CAMERON: Well, you said you have shorter hours now than other branches of the civil service.

Mr. POULIN: Within the civil service. We are on a par with the lithographic industry.

Mr. KNOWLES: Mr. Chairman, is it not pretty well established in this country—I know that we can alter principles of long standing—that this

question of what unions employees belong to is for them to decide? Whether or not it is a good case for my friends' union and mine to get together—I happen to belong to a union that is sometimes regarded as being in competition with yours—it is surely for us to decide, not for the government. Is that not the point you are trying to make?

Mr. PAQUETTE: Yes. This is the point we were trying to make before, the right of the employees to join the union of their choice, which has been in existence at the bureau for years, not only at the bureau but in industry. But it has been recognized; this right has been recognized for years. All of a sudden Bill No. C-170 comes out and states that these unions have to form viable groups. I do not believe it is the right of the government to decide this but rather the right of the employee. The right of association still belongs to the employees. And this is what we are attacking in this particular bill.

Mr. KNOWLES: It is a right that is guaranteed in private industry, in statutes such as the Industrial Relations and Disputes Investigation Act. In other words, maybe we should get together, but this is our business. I am speaking now as a union man.

Mr. PAQUETTE: Right. Bargaining units by the government is the same as by an employer, and I think it is contrary to everything that the labour movement stands for.

Mr. ÉMARD: Just as a matter of information, let us say, for instance, that 200 of these employees that you represent here in the civil service would like to join your union and 300 would like to join a rival union. Now, what would happen with your group? Would you let them join the other groups so that they would all be represented by one, or would you insist that they go with you also?

Mr. PAQUETTE: I believe this question would be decided by certification, would it not?

Mr. ÉMARD: Well, this is what I would like to know. You seem to insist that your union gives your members certain special privileges that they have been accustomed to and they would like to remain in the same union. Maybe I misinterpret your brief, but—

Mr. POULIN: Well, it is a question—it is hard enough to get people to pay one dues structure without paying two.

Mr. ÉMARD: No, no, I am not talking about—

Mr. POULIN: You are talking about people who belong to two organizations.

Mr. ÉMARD: And something else, too. As Mr. Knowles was saying, would it not be better for all unions to get together and then apply for certification before they make their requests of the government instead of having the government decide on how it should be—

Mr. KNOWLES: Is it not the right of the employee to decide?

Mr. POULIN: This is the right of the union to decide, not the right of the government to decide.

Mr. ÉMARD: Well, it is the right of the employee to choose the union of his choice, but when it comes down to certification, then it is the Labour Board that chooses which union has got the majority and is going to represent the

employees in a certain industry. Sometimes there are three or four unions trying to get certification in the same industry.

Mr. PAQUETTE: Then we get down to the argument. This is what we have been trying to say. Right now what the bill is stating is that under the laws for certification it seems that all these unions are going to have to apply as one. And this is not the case at all in Canada that is recognized. The unions have always had the right to apply individually, and they have been recognized as craft unions. We do not feel that this certification right, the determination of who can apply for certification, what groups have to get together to apply for certification, belongs to the government, but rather it belongs to the workers.

Mr. LEWIS: I think, if I may say so, that you are overstating the case, because if you had a situation where the craft union history does not apply, it is certainly the legislation which enables the board to decide the appropriate bargaining unit. I think, with great respect, you are overstating your case. Is this not what you are saying? That in the printing industry, as in some other industries, like the railways, the railway industry, and several other industries, there is a tradition of craft division; that the craft bargaining unit is recognized. Under the Industrial Relations and Disputes Investigation Act federally, and under every labour relations act in Canada provincially, you are able, if you have a history of bargaining as a craft, to carve out a craft bargaining unit, and you are suggesting to this Committee that this tradition, now embodied in all labour relations laws existing in Canada, be retained with respect to your craft and the other printing crafts whose members happen to work for the government.

Mr. PAQUETTE: Yes.

Mr. LEWIS: I think when you say that it is always a matter of choice for the group of employees, that is not so. Because if you have got a situation where you do not have a craft history, then, under existing labour relations laws, the appropriateness of the bargaining unit will not take cognizance of the existence of a craft, or the fact that they are carpenters or machinists, or printers even, in some box factory. If you have not had the history of bargaining, the craft situation will not be taken account of. Is not what you are saying that you want to retain here what the labour relations laws across Canada now make it possible for you to obtain outside the government service.

Mr. PAQUETTE: Yes.

Mr. ÉMARD: I said there was a long tradition of craft unions before Lewis formed the C.I.O., too.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions? Mr. Walker.

Mr. WALKER: Just one question. I wonder if you can—this may be difficult—dissociate yourself from the union, the craft you are representing here today, and very objectively tell me this. Do you feel that the Public Service Staff Relations Act, as an act affecting civil servants, not just the ones which you are representing here today, but generally civil servants, do you believe this was the next necessary step in good relations between the civil service and the government, just generally, and if it is an unfair question, do not answer it?

Mr. POULIN: I feel that the introduction of collective bargaining and I think I said in my prior appearance that the government should be commended for the principle in introducing collective bargaining. We have views on the bill itself, but I also said at that time that these would be expressed in the case submitted by the Canadian Labour Congress, and I would like, for a matter of the record, to state that we support the C.L.C. brief very strongly, but I am not qualified to answer questions on the C.L.C. brief because I did not write it.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions. Thank you very much, Mr. Poulin. The next group before us is the Canadian Postmasters' Association. Is Mr. Leboldus here? Come forward, please. I might in the meantime let the Committee know that the Professional Institute of the Public Service of Canada by laws and regulations are now in the hands of our Committee Secretary here. If anyone wants to inspect them sometime they can communicate with him. Are you ready, sir? Are there any questions.

Mr. WALKER: Mr. Chairman, is this the addendum to the bill? Has this been read into the record?

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Leboldus will read an addendum to his brief before the period of questions begins.

Mr. JOHN M. LEBOLDUS (*National President, Canadian Postmasters' Association*): With your permission, Mr. Chairman. At the time the brief was prepared in June, notice was so short and not enough time could be given to a detailed study of Bill No. C-170. We still think it is a good piece of legislation, and should not be discarded without giving it a fair trial. Even though the bill confers some unusual powers on the chairman of the Public Service Staff Relations Board, we feel certain that consultations with the various staff organizations should be undertaken and that their recommendations would be heeded.

During the entire life of our organization we have been presenting our resolutions, our views on salary revisions, working conditions and so on to the Postmaster General. We would recommend the addition of a clause to the bill making it possible for our organization to bargain direct with the Postmaster General and his deputy instead of with the Treasury Board.

We are in agreement with the provision in the bill granting all employees the right to membership in the employee organization of their choice. We strongly advocate though the application of the Rand formula. We feel too that the interests of the public would be best served and certainly the interests of the employees better protected, if the Post Office Department were operated as a crown corporation, with the Postmaster General at its head with powers to deal the employee and to set internal postage rates. Our association views the advent of collective bargaining as a milestone in its history. We intend to give the government our fullest co-operation wherever possible in an attempt to make the bill function to the best interests of both our members and the public whom we serve.

Respectfully submitted this 19th day of October, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much. Are there any questions on the brief which was presented earlier, and on this addition?

Mr. WALKER: I think the usual question is how many people do you represent?

Mr. LEBOLDUS: In our original brief, sir, we mention that we represent 7,646 as of July of this year.

Mr. ORANGE: Does this include revenue post offices as well?

Mr. LEBOLDUS: Our understanding of revenue postmasters is postmasters who used to be called 1 to 34. There has been a division now since the first of July and they are in two groups. The one is groups 1 to 23, and the others are grades 1 to 6. These grades 1 to 6 used to be called semi-staff postmasters, but the entire group is revenue, are revenue postmasters in the sense that they are paid out of Post Office revenue. I think there is a misconception even among our own members as to what the term revenue means. It does not mean the revenue of the Post Office; it means that they are paid out of Post Office revenue.

Mr. ORANGE: Are your members civil servants in the normal sense of the word.

Mr. LEBOLDUS: Not the groups 1 to 23. The groups 1 to 23 do not enjoy many of the privileges of civil servants. We get a salary; we get 4 per cent of our annual salary in what is known as vacation gratuity. We do not have time vacation. We do not have sick leave benefits. Some of us do enjoy superannuation, those who earn at least $900 a year and are not gainfully employed, and this is a phrase that has been worked to death within the office hours assigned to them. The others though, the grades 1 to 6, do enjoy all rights and privileges of civil servants and I do think in effect, sir, they are civil servants.

Mr. ORANGE: These grades 1 to 6 are people who would apply for the job of postmaster through the normal civil service process?

Mr. LEBOLDUS: Yes; in the other group from 1 to 23 those of us who are eligible for superannuation are also eligible for competitions, to apply for positions. I could talk from now to the end of the session on this question, and I do not think that I could tell you all of it.

The JOINT CHAIRMAN (*Mr. Richard*): I am glad that you fellows foresee the end of the session.

The JOINT CHAIRMAN (*Sen. Bourget*): When you say 7,000 do you include also the assistant postmasters.

Mr. LEBOLDUS: That is right, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. WALKER: If I could just make one comment. There is a lot of talk about the Post Office—you mentioned it yourself in your recommendations—and the possibility of it being a crown corporation. What would be the advantage?

Mr. LEBOLDUS: We could operate as a business; we could pay our own way; we would then know exactly who our bosses are. We do not know this way who our bosses are; we know who pays our wages, we do not know really who our employer is. We do not know whether it is the Postmaster General or whether it is the Treasury Board. We make a recommendation for increases to the Postmaster General. We are paid out of revenue; then we are told that this has to be approved by Treasury Board before they can grant us something. We have never gone to Treasury Board with any of our demands. As I have said in this addendum, we have always gone to the Postmaster General and his department head.

Mr. ORANGE: This is not unique in the civil service.

Mr. LEBOLDUS: We are quite an amateur organization as far as labour relations go. We have been sort of the poor relation in the family of civil servants all these years. In fact we have had the appellation given us that we are sort of a political football. We have been kicked around from pillar to post, and we have been accustomed in the past to accept what we get in the way of handouts; but we are trying to wake up; we are trying to make our influence felt and it was with this intention, Mr. Chairman, that I asked for and received your kind permission to appear before this Committee.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. CHATTERTON: I do not know whether Bill No. C-181 would make a change in the status of the position you describe.

Mr. LEBOLDUS: You are referring to the financial administration?

Mr. CHATTERTON: No, to the Civil Service Act.

Mr. LEBOLDUS: I am not qualified to answer that question. I have not made a study of either the old Civil Service Act or the new bill for the simple reason that it did not come into our hands until long after—the hearings were completed before I even got a copy of the amendment.

Mr. ÉMARD: I must say that when I received your brief I was appalled to find that there was an association for the postmasters because ever since I have been a member of parliament I have been working as a union steward on the grievances of the postmasters in my county. You say you have no definite wages. If I understand properly, you get paid on the basis of what the revenues of the post office are.

Mr. LEBOLDUS: Not any more. It used to be the case but not any more, not since 1948. We have what is known as a unit of work standard, and our salaries, the groups are based on the unit of work survey, and the salary then, of course, is based upon the group in which you are placed as a result of the unit of work survey.

Mr. ÉMARD: But there is a basic salary, if I understand properly. I know, because I have had some problems recently in my own county—

Mr. LEBOLDUS: About salaries?

Mr. ÉMARD: No, not about salaries, about post offices. Nobody wanted to take the post offices in the small districts because they were paying some wages like $17 a week and $30 a week for those postmasters that—

Mr. LEBOLDUS: Would it interest you to know that the lowest salary for postmaster group I is $345 a year.

Mr. ÉMARD: I know. It is a real shame. I know exactly what they were getting. There is one in Terrasse Vaudreuil actually, well, we could not find a postmaster there for about three months. Whenever I went around with the postmaster, the fellow in charge, to try to find a place, because everybody was complaining, the women where we went, said, "What is the use in working as a postmaster? I can get more money renting my room". This is true. So I think that conditions are really awful and I do not know how you could have such conditions at this time. I know it is not your fault—

Mr. LEWIS: Have you read the Montpetit report?

Mr. ÉMARD: I read only what is in the paper this morning. I know it is really awful. I wonder if it is not the fault of the unions, of the labour movement in such a case. It seems to go after all the big things, propositions, and we forget the poor people, where the conditions are very bad.

Senator CAMERON: How many hours a week, and how many weeks a year, would this $300 a year employee have to work?

Mr. LEBOLDUS: Well, weeks, as many as there are in the calendar.

Senator CAMERON: How many hours per day?

Mr. LEBOLDUS: I would say that perhaps an hour or two a day, depending on the arrival of the mail. Some of them—there is no hard and set rule for post office hours in such small communities because it depends on the mail arrival. Sometimes they have three mails a week, so that would mean that they work a couple of hours on that day. But the fact remains that they are on call every day of the week. If somebody comes in on an off-day, on a day when there is no mail and wants a five cent stamp, you have no choice but to give it to him. And this is the case in all small town post offices. Many of us live in the same house in which the post office is contained. So, someone comes in the front door; they hear you at the back; they know you are there, well, they want a parcel. If you do not give it to them, there is hard feeling. And another thing, Mr. Chairman, a member mentioned something about renting. The groups 1 to 23, the salaries that they get include the providing of accommodation, light and heat. This is all included in the salary. This is another phrase that has been worked to death over on Confederation Heights as all-inclusive. Whenever we ask for something for rent or light, "no this is all-inclusive. This is part of your salary."

Senator MACKENZIE: What hours are mandatory for the opening of post offices of the kind you mention?

Mr. LEBOLDUS: The small ones?

Senator MACKENZIE: Yes.

Mr. LEBOLDUS: I do not think there are any stated hours. They are very very small offices, sir.

Senator MACKENZIE: So if they go off on other business or activities, the services are not available for the selling of a five cent stamp.

Mr. LEBOLDUS: The usual procedure, though, is that some member of the family is in the neighbourhood.

Senator MACKENZIE: For how long?

Mr. LEBOLDUS: All day. My own office is—I am in group 23 and just in this group, so that I am very keenly aware of the problems. And my hours are from 8:30 to 12:00, from 1:30 to 5:00, five days a week. And on the sixth day, the hours are from 8:30 to 11:30. Now, that adds up—

Senator MACKENZIE: Now, what happens if your place is not open during those hours? Do you lose the job?

Mr. LEBOLDUS: Well, I am under obligation to be there or to have someone there. If one of my superiors should happen to walk in and the office is closed, well, to put it mildly, I would have a bit of explaining to do.

Senator CAMERON: You have no allowance for vacation time?

Mr. LEBOLDUS: No, except the 4 per cent by way of vacation gratuity. But if I need help in my work, except for a Christmas allowance of 55 hours, I have to supply that help too out of my own wages. I am not there to-day. The girl who is working in the post office while I am away is paid out of my own salary.

Senator CAMERON: What size community would this be in which you are—

Mr. LEBOLDUS: We have about 750 people.

Senator MACKENZIE: You can delegate your duties in terms of service.

Mr. LEBOLDUS: Yes, to an assistant.

Senator MACKENZIE: Yes.

Mr. BERGER: I would like to ask you something. I am working actually on four or five cases of postmasters in my own riding. I read your own letter, which says in part, "We intend to give the government our fullest co-operation wherever possible". That phrase "wherever possible" puzzled me a little bit. This "Christmas card" which I am receiving every day in the mail from the postmasters from Montreal does not help me too much or encourage me to keep on working trying to do something, because you are trying to give your fullest co-operation, but these "Christmas cards" come in every day and say, "Act, or otherwise". It is this "wherever possible" that bothers me.

Mr. LEBOLDUS: Do not confuse us, please, with the Canadian Union of Postal Workers.

Mr. ÉMARD: Mr. Chairman, this is not meant as a criticism, but apparently your association is very weak. Is that not a fact?

Mr. LEBOLDUS: Yes in terms of labour unions, sir, and so on, we are, as I say, the stepchild of the—

Mr. ÉMARD: Now, have you ever approached the C.L.C. or any union or the Civil Service Association with regard to joining or getting some help from them?

Mr. LEBOLDUS: Yes, we have, and I am happy to say that we have had very good relations with the Civil Service Federation and the Civil Service Association. Both their presidents have gone out of their way to help us in any way they can; especially in the past few months, our relations with the Civil Service Federation have been excellent.

Mr. ÉMARD: The past few months I can understand, but I read that you have been in operation for sixty-two years. Looking at the results, I judge, I see that the wages and working conditions that your employees enjoy, especially referring to my own county, are a shame really. I certainly hope that your association will contact some stronger body so that you can get good working conditions. I do not think that this can be done on your own to-day. It is not as easy as it was in the past to just form a union and be able to compete, especially with an employer as strong as the government that knows all the ramifications and can really put on the pressure too. Is it your intention to really join a stronger party or is it your intention to remain on your own?

Mr. LEBOLDUS: We have had talks with the Civil Service Federation with the possibility of affiliation, but there is one stumbling block and this is the

question of cost. If it is going to cost us $2 or $3 per month per member to join these associations, we do not know what to do. It is very difficult to expect a man that gets $600 or $700 a year to pay $3 of that by way of membership fees.

Mr. ÉMARD: I will tell you how you may proceed if you want to.

Mr. LEBOLDUS: I will be glad to have advice.

Mr. ÉMARD: You should offer to pay dues on a percentage basis, so that the more they raise your wages the more the unions are going to profit.

Mr. KNOWLES: How do you get these jobs in the first place?

Mr. LEBOLDUS: As a member of parliament, Mr. Knowles, I think you should know something about this.

Mr. KNOWLES: I suspect how they are got.

Mr. LEBOLDUS: In the past that was the way they were obtained all right.

Mr. KNOWLES: What does "that" mean?

Mr. BELL (*Carleton*): Was that for the benefit of the former postmaster general who has just come in.

Mr. KNOWLES: I presume that "that" refers to political patronage.

Mr. LEBOLDUS: Yes, but we have done what we can to get away from political patronage, Mr. Knowles. We feel that recent appointments are made outside of that sphere. Certainly appointments to positions in grades 1 to 6 are made outside of the sphere of political patronage. These positions are open to competition within the service.

Mr. LEWIS: Are these full time postmasters?

Mr. LEBOLDUS: Yes, these grades 1 to 6 are full time postmasters, definitely.

Mr. LEWIS: They would not, I hope, get only $700 a year?

Mr. LEBOLDUS: No; my own salary, and I do not mind telling you, my own salary is $3,805 per year.

Mr. ORANGE: Do you provide accommodation?

Mr. LEBOLDUS: Yes, I provide my keep and the space out of that.

Mr. LEWIS: And you give full time to it?

Mr. LEBOLDUS: That is right. These hours that I have mentioned to you are kept religiously. In fact, as I say, it is 5 o'clock and someone comes in and wants something, what are you going to do about it? You live in a small town; you have to live with the people.

Mr. ORANGE: What is the highest salary paid from grades 1 to 6?

Mr. LEBOLDUS: I have the president of the Quebec branch and he is a grade 6; perhaps he could give us information, Mr. Chairman, about what his salary is.

Mr. TREMBLAY: $6,020.

The JOINT CHAIRMAN (*Mr. Richard*): $6,020.

Mr. LEWIS: Is that the top of the postmasters?

Mr. LEBOLDUS: Of this revenue group.

Mr. LEWIS: Including light, heat and accommodation?

Mr. LEBOLDUS: No. Of course, there are some in the lower grades, from grades 1 to 23 that are occupying public buildings. These are little 24 x 24 or 24 x 28 that have been erected in areas of high unemployment in the past few winters, and they occupy these buildings.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Leboldus, for the information of the Committee, would you give us the name of the gentleman who just spoke.

Mr. LEBOLDUS: Mr. Antoine Tremblay, President of the Quebec Branch from La Malbaie, Quebec.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Antoine Tremblay. Mr. Knowles the same question?

Mr. KNOWLES: Is there any reason why all these appointments could not be put outside the spheres of political patronage? I ask this question because of the act. Is this not where your trouble lies, if you get a job as a result of political patronage, then you have to go to the same people who got you the job if you are dissatisfied.

Mr. LEBOLDUS: We would be very happy, Mr. Knowles, to have all appointments on the same basis as the appointments to grades 1 to 6: that is, we did ask that in a brief that we presented last August, that all postmasters be eligible for competition to positions within the service.

Mr. HYMMEN: Mr. Chairman, on a point of order here. I think we appreciate the opportunity to hear Mr. Leboldus on two occasions—this is the second occasion—who presents certain recommendations on behalf of the collective bargaining bill. I just realized that we all have just received a copy of the Montpetit Report which was tabled yesterday, which has gone into the whole matter in much greater detail than we can do in a cursory examination here. I have not heard that parliament has referred the Montpetit Report to this Committee. While I am not attempting to cut off discussion here, I wondered whether a cursory examination would put certain light on to the whole matter which is probably excellently covered in the Montpetit Report.

The JOINT CHAIRMAN (*Mr. Richard*): I have had the same feeling. I was wondering how far we would go into this line of questioning this morning. Hon. members will appreciate, however, that if we do, it is something that we will have to come back to when we do study the Montpetit Report which I suppose will be before this Committee. I would hope that we would limit ourselves to the matters involved in the bills before us.

Mr. KEAYS: Mr. Chairman, there has been a question of political patronage raised here and I think we should have it cleared up. I would like to ask a question at this time from the witness who recommends that the Post Office Department be run as a crown corporation. In a crown corporation, and in fact in any corporation, many nominations are made to any positions. They are usually the prerogative of the president of the corporation. Therefore, if in the Post Office Department the Postmaster General acts as the president of the department, what objections have you if he makes the nominations? Now, I am

sure that none of the nominations made by minister are on a political basis. On that basis, why would you be against this nomination?

Mr. LEWIS: This is quite an interpretation on political patronage, I must say.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Leboldus have you any answer to this?

Mr. LEBOLDUS: No; I just do not know how to answer that question.

Mr. FAIRWEATHER: I think we might tidy this matter up. Once patronage operates, have you not tenure on good behaviour until a certain age.

Mr. KNOWLES: Before the next election?

Mr. FAIRWEATHER: No. No, this is the point I want to make.

Mr. LEBOLDUS: I do not know of any situations in the immediate past where a man has lost his position just due solely to the change in government. I know of cases where people have lost their positions due to political activity in an election that has just gone by, and we do not stand up and fight for these people. This is their own funeral; if they do not know enough to keep their noses clean during an election that is their fault, not ours.

Mr. FAIRWEATHER: Therefore, to put it briefly, changes in government do not affect your tenure?

Mr. LEBOLDUS: Not if you stay out of political activity and tend to your business.

Mr. HYMMEN: Mr. Chairman, Mr. Leboldus has introduced this whole question of political activity. There is a report and it will be studied subsequently by the Committee. Maybe he would explain this a little further. To what extent should a postmaster, or any member of the postal department in any community, no matter whether it is a small operation in a rural area or not, take part in political activity aside from the point that they do like everyone else have the right to vote?

Mr. LEBOLDUS: Well we have no official views sir, on this question, but I can give you my personal view. If we are going to deal with members of parliament, the Postmaster General or any elected representative, when requesting salary revisions and things of that nature, I feel I have a better case by far, if I come unencumbered rather than having a man across the table from me, who worked against me or against my party in the last election. I think there are two strikes against me before I ever come to the table.

Mr. LEWIS: Do you think it is right that there should be two strikes against you? Have you not rights as a citizen?

Mr. LEBOLDUS: Well, I have rights, but I have this in my head when I go into the polling booth—and this is something that you cannot take away from me.

Mr. LEWIS: But have you not rights as a citizen? Why should it be two strikes against you if you happen to have worked against me in an election? What right have I to hold that against you?

Mr. LEBOLDUS: Well, I do not suppose you have any right, sir, but I would think that a man would have to be more than human not to have certain feelings, when he sees someone who has worked against him. Is that not a natural human reaction? There may be the odd angel among humans but I do not think that there are very many.

Mr. LEWIS: I do not agree that one has to be angelic to recognize the democratic right of a neighbour to exercise his right. Do you think that that is angelic, something superhuman?

Mr. KNOWLES: Well, every government since I have been around here, has claimed to be more than human.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Senator CAMERON: My friend here has raised the point that some of us only received this; I got this half an hour ago. All I know about it is what I read in the *Globe and Mail* this morning.

I am one who has been very critical of the postal operations for years, and I can document the case. It seems to me that a lot of the trouble that we are having today in the postal service is because of the breakdown of human relations, because of an archaic administrative organization. I would hope that after we have a chance to read this document, then we might have a further opportunity of questioning the people concerned. Will this be possible?

The JOINT CHAIRMAN (*Mr. Richard*): Well, Senator Cameron, as you know, Mr. Leboldus represents the Canadian Postmasters' Association and you will have the opportunity later on, either this day or tomorrow, to interview larger groups of the Canadian Union of Postal Employees and Letter Carriers to whom I think that type of question will be directed more usefully. Is that not correct, Mr. Leboldus?

Mr. LEBOLDUS: Well these people represent postal employees in areas other than small rural areas, and perhaps in that respect that may be so.

Senator CAMERON: Well, this is all I want to know. They will be here?

Mr. LEBOLDUS: Yes.

Senator CAMERON: I am sorry I will not be here tomorrow, although I would like to be here, very much.

Mr. HYMMEN: Mr. Chairman, there is another point, if I may be permitted to raise it. Was it not one of the postal groups that wrote a letter to the Prime Minister requesting that no decision be made until after the Montpetit report is tabled?

The JOINT CHAIRMAN (*Mr. Richard*): That is so.

Mr. HYMMEN: Now I have no objection to the delegation coming, but I assume that it is humanly impossible for any member of this committee to read the Montpetit report and become fully acquainted with it overnight. Now, we will probably have to recall these people afterward in any case.

Mr. LEWIS: Perhaps we should have them next week, Mr. Chairman. They themselves will need time to study it as well.

The JOINT CHAIRMAN (*Mr. Richard*): I think that may be the case then. If you will leave it with the steering committee, Mr. Lewis, I think we can arrange that. Are there any other questions?

Senator CAMERON: Mr. Chairman, I have one more point. I think in a report to the postal department it was stated there was some 12,000 demerits or penalties for infractions of the rules. Well, on the face of this, there is something wrong with the organization—if this is true.

Mr. WALKER: Mr. Chairman, does everybody agree with me that there is some danger, when examining witnesses who are appearing before this committee, the Public Service Committee, of getting into another field entirely, namely, the detailed examination of the conditions in the postal service as related in this Montpetit report. I think that the Chairman will have to have the wisdom of a Richard to tell us when we are getting into an area that, in fact, has not been referred to this Committee at all. We are examining public service employer and employee relations. This is a very interesting subject, perhaps much more juicy than some of the other subjects referred to us.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Walker, I would suggest that we spend as much time as possible on the bills so that we can decide about them as soon as possible. I would much prefer, providing the asides are not too many, that we not have to come back, maybe in the spring, to study those matters which we could deal with now, provided the members show a little bit of aptitude when questioning these men while they are here.

Mr. WALKER: Well, so long as it has a direct relation to the subject matter that we are discussing.

The JOINT CHAIRMAN (*Mr. Richard*): Well I think the subject matter, Mr. Walker, is pretty large, when we are studying public service bills.

Mr. KNOWLES: Well, it may well be, Mr. Chairman, that the Montpetit report does not relate to the matters that this present witness is concerned about; still it does relate to Bill C-170. It is mentioned several times, and is almost the basis of the recommendation. So when we have before us the other two postal groups or postal unions, it seems to me that at that point the Montpetit report is definitely part of our discussion.

The JOINT CHAIRMAN (*Mr. Richard*): I believe so. Are there any other questions? If not, thank you very much Mr. Leboldus.

Mr. LEBOLDUS: Thank you, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): The next group is the Canadian Union of Public Employees and I will ask Mr. Eady to come forward. Mr. Eady is ready to answer any questions on the brief that was submitted some time ago.

Mr. BELL (*Carleton*): Mr. Eady, when you were here before you told us that the Canadian Union of Public Employees had no employees in the Government of Canada or in any federal crown corporation.

Mr. EADY: No. We have some members in federal crown corporations, Atomic Energy of Canada, for example.

Mr. BELL (*Carleton*): How many?

Mr. EADY: Very few. I could not tell you the membership but it is at the Pinawa reactor in Manitoba, as certified under the Industrial Relations Act.

Mr. BELL (*Carleton*): Since you were present, have you had the opportunity of reading the brief which Mr. Arnold D. P. Heeney, Q.C., presented to the committee which dealt with some of the basic matters, I think, that you raised in your brief?

Mr. EADY: I have not read the full brief but I have read the communications that were put out and the newspaper reports on it.

Mr. BELL (*Carleton*): And have you any comment about certain of the statements which Mr. Heeney made as to the reasons it was decided by the preparatory committee to establish the collective bargaining on the basis of Bill No. C-170 rather than the expansion of the Industrial Relations and Disputes Investigation Act.

Mr. EADY: Yes, Mr. Bell. With the greatest respect to Mr. Heeney, our union does not agree with his assessment of either his own preparatory report or this bill. We see no reason why there should be a basic difference in the methods of collective bargaining for the public service, at any level, and the private sector. We have certain objections in detail to the bill which we set out in our brief, so far as I and my organization are concerned. Mr. Heeney did not make a case to say why the Industrial Relations and Disputes Investigation Act should not have been amended to make this provision. The reason we say this is twofold. First of all, our experience in other jurisdictions, and particularly Saskatchewan, has proven to us that this can be done. The second thing is that we see no reason why even some of the exemptions that have been made to people who can be represented on this bill should be made. It is kind of ironical to our organization to read that soldiers in the West German army—in 1945 we were supposed to begin lessons on democracy—can now join the Public Employees' Union which is affiliated to the international organization, to which our union is. When I was in Sweden, I was very familiar with the Swedish officers' organizations and the N.C.O.'s organizations, which are affiliated to the Labour Congress, and yet all these types of people and police and so on are exempt. Now the whole concept of this is that not only should there be something different between the public employee and the private employee, but also there is some special type of relationship for certain types of government employees which somehow take them out and, in addition to that, there are whole areas which will not be subject to collective bargaining. If you examine, as I am sure the committee has, the bill very carefully, there are whole areas which would normally be a matter of trade union negotiation which are a matter of unilateral decision by the Civil Service Commission, the Treasury Board, or the ministers involved. So, with the greatest respect to Ambassador Heeney, our union does not agree that in the case he has made that this is a superior form of collective bargaining for the Civil Service.

Mr. BELL (*Carleton*): He made two or three points on which I would like to have your opinion. He indicated, in the first instance, that the I.R.D.I. Act would have required very substantial amendment, in the view of the preparatory committee, in order to protect the merit system. Would you agree with that view?

Mr. EADY: No, I do not think so. Again, I agree partly that the act would need substantial amendment in order to make it fit because there would certainly have to be certain changes in its procedure. But we have no evidence

at all that the merit system in the Saskatchewan civil service has been altered by the fact that they are operating under the act, and I see no sign that the recent Quebec Labour Code, Bill No. 54, has had any effect on the merit system in the province of Quebec. Therefore, it seems to prove that this can be done in other jurisdictions without unduly putting the government as an employer at a disadvantage.

Mr. BELL (*Carleton*): May I understand you there. Do you believe that the method and technique of appointment should be a matter of collective bargaining?

Mr. EADY: I think that the employee organizations, if the system involves, for example, all interviews, examinations and so on, should have the right to make representation on the way this type of thing goes on. I am saying, for example, Mr. Bell, that if you, personally, were a civil servant, that we should be able to question what happened in your examination and so on, but the organization should be able to make representation on the criteria which you use, the type of examination set and their suitability for assessing. We ask this in other sections. For example, in hydro jurisdictions, we ask the hydro commissions to consult us on the methods of examination that are used for trades and office employees. These employers do this, and consult with us—but not about the individual examinations because this would infringe on the merit system, which is not our intention. So we agreed, obviously, with that system as opposed to a system of patronage.

Mr. BELL (*Carleton*): I will take you to another field in connection with this. Would you be satisfied to have the Minister of Labour carry out the duties in relation to collective bargaining in the public service that he does in collective bargaining in the private sector?

Mr. EADY: As we pointed out in our brief, at least when you operate under the Minister of Labour system, which is exactly the way it is in Saskatchewan and Quebec, you have the possibility that it is another minister who is responsible. One of our objections in detail to this bill is the power of the Chairman of the Public Service Board. He really combines the authority of a chairman of a labour board with that of the minister. We know there are disadvantages but I cannot see how you can avoid them. If you are going to ask for a system of collective bargaining which is under government regulation some minister is going to have to be responsible. We would rather see the power divided between two ministers. If I might give an example, the Quebec hospital strike involved the Minister of Labour in trying to settle it and the Minister of Health in his capacity as employer.

When we had disputes in Saskatchewan involving the employees in the government hospitals we were dealing with two ministers, namely the one who was the arbitrator and the other who was the employer. I realize, of course, that the ministers consult and it is bound to be to a certain disadvantage, but you cannot avoid this, I think, in the government service. We would rather have the function divided and take our chance with the Minister of Labour of the day rather than have the concentrated power which the Public Service Chairman has under this bill.

Mr. BELL (*Carleton*): I think, Mr. Eady, the other point is that there would be amendments required, and extensive ones probably, to assure continuity of

the public service, at least in those areas where safety and security is involved. Would you agree with him on that, and if so, what would the nature of the safeguards and precautions need to be?

Mr. EADY: I now speak, bearing in mind that our union, of course, has this problem even in a municipal strike where, for example, you have the Metropolitan Toronto Water System. We just pulled our people out of there without making any arrangements with Chairman Allen. There could be real trouble. The whole system could go out of kilter. It seems to me that what you have to do is to make agreement before there is a dispute during your collective bargaining on the arrangements that you make for safety. This is done in a much wider sense than the public realize by industrial type unions. I know, for example, that in the case of the steelworkers and the mining industry, if they are going to strike a mine, they sit down with mines management and make arrangements for safety before they withdraw the men. I think this same thing would have to be done. When we have had disputes with hydro authorities we have always made arrangements in connection with emergency service in case there is trouble, if you do not do this you are not a responsible union organization. I think you have to sit down and do it. I agree with Mr. Heeney; I think it has to be negotiated outside or before you reach the stage of the right to strike because it is very difficult to settle these matters when you are right on the deadline of a strike.

Mr. ÉMARD: Your brief mentioned that you had 100,000 members in 700 locals in all ten provinces. Would you give us a breakdown, by provinces, of your membership?

Mr. EADY: I could not do that, but I am very happy to tell you, Mr. Émard, that there are 5,000 more in the province of Quebec now because we just won the Quebec Hydro. There are approximately 44,000 in Ontario and approximately 17,000 in the province of Quebec. From memory I cannot tell you the breakdown for the other three regions. There are five regions in our union: Western, which is B.C. and Alberta; prairie, which is Manitoba and Saskatchewan; Atlantic is one region, and then Ontario and Quebec. There are 42,000 in Ontario; 15,000 to 17,000 in Quebec, and the rest divided between the other three regions.

Mr. ÉMARD: How about Manitoba and Saskatchewan?

Mr. EADY: I would hazard a guess of about 8,000 or something like that. I am fairly sure of the Ontario and Quebec figures but without reference to my records I could not tell you the breakdown for the other three.

Mr. KNOWLES: Mr. Chairman, when Mr. Bell was listing the changes that Mr. Heeney thought would have to be made in the I.R.D.I. Act to accommodate it to the public service I think he omitted one. It is not one I agree with and I dare to hope that Mr. Bell does not agree with it either but perhaps we should have Mr. Eady's comment. I think that it is fair to say that Mr. Heeney also argued that the I.R.D.I. Act would have to be amended to include provision for arbitration.

Mr. EADY: Yes, it is certainly involved. We, of course, have taken the stand against the form of compulsory arbitration that is contained in this bill. If you take the detail of the bill we object to the time the choice has to be made. I

would just like to enlarge a little on what was contained in our brief. If we start to organize a group of federal servants under this act, before we do so we have to make a decision whether we are going to accept arbitration or we are going to ask the right to strike. This is strange to us because we would expect that it would be the employees whom we organize who would be given this choice. This is why in our brief we ask that at least if you are going to give this choice that the choice be exercised after you have the employees in the group concerned organized.

The second thing is, of course, that we do not really agree with it in any case. The reason is, Mr. Chairman, that we are not a "strike happy" union. I think that the record of the Canadian union and the number of strikes we have is very, very small. The only reason we stand strongly for the right to strike, including in the public service, is that when you consider the power of a federal government as an employer, and I think this is a problem which the postal workers have had to face, the power of the union without the possibility of a last resort to strike is going to mean that the balance of power at the collective bargaining table is not going to be very equal. Therefore, we are opposed to compulsory arbitration except, of course, as is usual in all jurisdictions, for the settlement of grievances during the term of a contract.

Mr. KNOWLES: You would not agree then with Mr. Heeney that it would be necessary to amend the I.R.D.I Act?

Mr. EADY: No, because we take the position that it is not necessary. The only thing you might have to do, Mr. Knowles, through you, Mr. Chairman, is that you might include a clause in there, providing for both parties to apply for voluntary arbitration. We have agreed with individual employers in our jurisdiction to do this from time to time. When both people say: "Well this is not worth an industrial dispute", we are prepared to put it to a mediator and accept the hearing; as a matter of fact this was how the dispute in Corner Brook, Newfoundland was settled. A union and a hospital agreed that the conciliation board should in fact be an arbitration board. But it was done on that occasion by agreement between the parties.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Walker.

Mr. WALKER: This is a question subsequent to the line that Mr. Bell was speaking on. Am I interpreting your remarks correctly when I say you, basically, would trust the independent judgment of a federal minister of labour, under the I.R.D.I. You would trust his judgment more than an independent chairman of the Staff Relations Board who was in no way connected with the government?

Mr. EADY: Well, you see, Mr. Walker, I am not so sure that he is not connected with the government. We have got to see who the appointment is going to be, but it is very clear that the appointment is being made by the government.

Mr. WALKER: But there is a board.

Mr. EADY: Yes, there is a board, but the powers of this chairman are very, very large, much larger than the powers of any chairman of any labour relations board that I am aware of in Canada. Now we have watched changes of government at the provincial and federal levels of all the political parties that

are represented on this Committee. And while we might have had, on occasion, to dispute with ministers of labour, over a particular decision, over all, we have a major ground for complaints about the way we have been treated by the ministers of labour of the different political parties. Just occasionally we have had disputes for example, in naming, say, a judge, to chair a hospital board when he is a member of another hospital board; this type of thing. But otherwise, we have been reasonably fairly treated. Our main complaints have not been on this type of thing but on delays. We are a little concerned about the powers of the chairman here because, in a way, with his long tenure, which we think is too long, as we pointed out in the brief, the powers that he has in the act, and the fact that he is a direct appointee of the federal government. means that, however high the calibre of the person appointed, he is bound by the nature of things to be a government appointee who is going to have the ear of the government, in much the same way as a deputy minister.

Mr. WALKER: Your feeling, I take it, then, is that this objective person will in fact be representing the employer, even more so than the minister of labour.

Mr. EADY: Yes, because we have the advantage, gentlemen, that if the minister of labour, federally does something which we feel is grossly unfair, we can come to any one of you, or collectively, or to the Senators represented here and ask the questions in the house and so on; whereas this person is going to be quasi independent and you are not going to be able to have the same detailed control over him unless we misread the bill, as you would over the minister.

Mr. WALKER: This is an interesting point, because, I think it is completely alien to the whole philosophy of free collective bargaining, to have a representative of the employer in charge and finally ultimately responsible for what happens in negotiations; but basically, if I read you right, you would prefer to put this matter in the hands of a minister of labour who represents a government, and you would prefer to see subsequent parliamentary action—we have recently had it in Saskatchewan—you would prefer to see that rather than have binding arbitration by an independent chairman of a board whose decisions are binding on both employer and employee.

Mr. EADY: Mr. Walker, whichever bill is passed, if Bill No. C-170 is passed, it can still be changed by parliamentary action. The terms of office could be changed; the powers of the chairman could be changed in much the same way. The problem that we have is that, as a public employees union, we have to face the fact that we are going to be dealing with ministers or provincial ministers or elected mayors and reeves, and so on. And this is the nature of the animal; we can not get away from this. So that all we are concerned with—and let me say that we have some of the misgivings you say about ministers of labour, but looking at the industrial relations trade dispute act, bill 54 in Quebec, the Saskatchewan as it operated until the recent changes, we feel that on balance, this has given better collective bargaining for public employees than the bill that is in front of the Committee.

Mr. WALKER: Just one more question. You do not agree then that your members will be in a position of prejudice. I talk now of the civil service under this act. You do not agree that if we operate under the I.R.D.I. where the Minister of Labour representing the employer has a very powerful part to

play, that puts the civil service then in a different position from employees in private industry? This is why I see a split. You are trying to do two things.

Mr. EADY: Well, let me go back again, if I may, Mr. Chairman, to make the position absolutely clear. If you put him under, the way the bill is now, it is our view that there is going to be considerable government influence because of the powers and positions and methods of appointment, and the tenure of the chairman. I am making no reflection on any appointment which may be made in the future. We take that on one side; then we take the risks we take in going under the Industrial Relations and Disputes Investigation Act, and on balance we think that the possibility of interference by the Minister of Labour in an arbitrary way is less and that the collective bargaining machinery which the people of Canada would get would be better, providing the amendments are made to the legislation.

Mr. LEWIS: Mr. Chairman, unfortunately I have an appointment in my office in about five minutes. I wonder if I can get the indulgence of those who you have ahead of me to ask a question along this line before I leave?

Senator MACKENZIE: Naturally, although I would like you to hear what I have to say.

Mr. LEWIS: Then I will be late for my appointment, so go ahead.

Senator MACKENZIE: It is quite all right.

Mr. LEWIS: How can I be discourteous to you and not stay and hear?

Senator MACKENZIE: But I think you would be interested in my suggestions because if it is in order, what the witness has told us raises a basic issue in the philosophy of labour relations, to the effect that there is really no distinction between what you might describe as the public service and the private area of labour relations. I have been increasingly of the opinion that while everything should be done and must be done to ensure that the best interests of the employees be secured and protected, you are not fighting with the government in reality in terms of the public service but with the public in the community. I do not think that the public in the community can afford to be denied essential service because of the interests of two parts of the community; one the members of the union and the other the government. I think it is going to be essential in the years ahead that people like ourselves and others work out some kind of a pattern system under which the members of the unions will be ensured and assured of fair treatment and at the same time the community be protected from the damage and the hardship that can ensue from a major strike. I know this is basic philosophy and I do not want you to answer it now, but I wanted you to hear it because this will be coming up time and time again.

The JOINT CHAIRMAN (*Mr. Richard*): In other words, the witness is Mr. Eady. Have you any answer?

Mr. EADY: I am the Vice-President of the Institute of Public Affairs and Senator MacKenzie is the chairman so I have to watch what I say in my other hat. In my view, this has to be done, Senator MacKenzie, for both the whole area, because actually there are strikes that could take place in the public service that would not affect the public at all. It might be very good for the

taxpayers of Canada if the whole of the National Revenue Department were on strike.

Mr. WALKER: There would not be any money for the other 26 in the groupings.

Mr. EADY: Well, of course, there may be some pay cheques stopped. But the point I am making is that it could be very serious. There are sections of the public sector where there are essential services which could be adversely affected. On the other hand, there are also sections of the private sector that have the right to strike that are also essential services. I think that this matter has to be regulated by dealing with the problem of essential services under amendments to the industrial dispute act, and it does not make any difference whether it is public or private. May I take an example. In our jurisdiction prior to bill 54, in Quebec, if we struck Gatineau Power or Southern Canada Power or Northern Quebec Power, we were entitled to strike them because they came under the act but the old Quebec Hydro was under the public service act and, therefore, was under compulsory arbitration. The fact that one is private and one is public, does not make any difference about the essential nature of the hydro service.

The other thing is, which our union feels very strongly and I think this is something which we have got to look at in Canada, if I might say so, with respect to the new Canadian. People often ask me—I have spent some time in Sweden—why it works in Sweden? It works in Sweden because the government interferes to the minimum in both collective bargaining in the public sector and in the private sector. I think the public has an interest and the members of parliament who are here have an interest in doing it, but the policy should be to intervene when the public interest is going to be affected, for example, by a strike. I would much prefer to see—I do not like to see a bill passed to compel our members to go back to work—the parliament of Canada say, because of X and X situation, we are going to take this legislation, than to put a blanket of compulsory arbitration over a whole sector.

The other problem which concerns us, Senator MacKenzie, is that the public section is growing. Regardless of what political party is in power, the public sector is growing constantly and what we are afraid of is that if this philosophy becomes accepted, that public employees are—and I do not like to use the word because I am really against using the words "second class citizens" because they are not anymore,—at least second class in the sense of not having the right to strike, then you get a constantly expanding system until if you got a very large public sector you would have something rather like a corporate state. This is what we are opposed to. We would rather see intervention on the other and to have the employee unions take over responsibilities in recognizing that there are essential services, and that we shall have to sit down and bargain about these and settle these disputes. We have got to find some way to stop the type of strikes that have been happening.

Senator MACKENZIE: Your use of the words "essential industries" and your conclusion is that they are the matters that concern the public interest.

Mr. EADY: Yes.

Mr. LEWIS: Mr. Chairman, Mr. Eady has made a comment which I would have made without arguing with Senator MacKenzie, that to limit the question of essentiality or the public interest purely to the public service, is just not logical. The problem is wider than that. There are sections of the public service whose work might not be of very great essentiality to the people of Canada, and in the private sectors, the opposite would be the case.

I would like to put this to you, Mr. Eady. I have seen your recommendation that the bargaining would be better if it were under the I.R.D.I.A., and others have said the same thing. I do not accept most of Mr. Heeney's reasons for thinking that there should be a separate regime. I think there are other reasons, some of which he has mentioned. I am not at all sure that the Canada Labour Relations Board in its experience in other areas of labour management relationship is necessarily the best qualified to deal with the particular type of relationship that a public service necessarily is. I think a very strong case can be made out for the value of another similar board rather than the board that now exists in other spheres. Also, you have the whole question of the relationship of the Treasury Board and the Civil Service Commission in initial appointments, and so on which seems to me to make it difficult merely to state, just put them under the I.R.D.I.A. and that is the best. What I would like to ask you is this. I have, as I stated in parliament, and as I suggested here, when we go clause by clause, I will have a good many suggestions to make. I have a good many objections to the details of the bill. But if the bill were amended so that you would not have the extraordinary powers in the chairman of the staff relations board, who is not merely concerned with certification, but he is the man under the bill who sets the terms of reference for the conciliation board, who appoints the chairman of the arbitration board and so on, and I agree with your submission that that is far too large a power in one person, for various reasons, but if that were amended, if some of the exclusions were taken out, if some of the limits on the field of bargaining were removed, if, in other words, you had a bill that gave the public employees genuine collective bargaining, instead of the very severe limits that, in my opinion, the bill now contains, would you not agree that a separate regime for public servants would, on the whole, be better for them and for Canada than putting them under the I.R.D.I.A.?

Mr. EADY: If you pose the question that way, Mr. Lewis, I think I would probably say yes. The reason that we advocated the change is that we visualized that in requesting a change in the major existing legislation, the type of restructuring of the labour board itself that took place in Saskatchewan in 1944, —when the bill was rewritten, the board was reconstructed and the whole system was altered and then, again in bill No. 54 in Quebec, two of the first two major cases that have come in front of the reconstituted Quebec labour board and then again in Quebec two of the first two major cases that have come in front of the reconstituted Quebec Labour Board have involved the provincial civil servants in the case of the C.N.T.U. and the Quebec Hydro case involving ourselves, a crown corporation in the civil service. When they did this they took account in the makeup of the Labour Board of the fact that you could not just have the Canada Labour Relations Board the way it is now. You would have to change—

Mr. LEWIS: Is the principle there really not the acceptance of the fact that you need something other than what you have got. Now, whether the separate agency happened to be members of an existing board or are a separate board is surely a detail. The principle that the public service, because of its way of working, because of its relationship to the treasury, and all the rest, is best served by a separate regime, assuming the regime is adequate, is surely correct, and would you not be better off to keep on fighting to make this Bill No. C-170 a better bill than to go off on what I think may not be as valid a position of saying, just put all the public service under the I.R.D.I.A.?

Mr. EADY: I agree with you. This is basically what we did in our brief. We stated our basic position and that is why I answered Mr. Bell's original question in the way I did, but that we then go into some of the detailed criticism of the existing bill. All I can say in this case, as an official of the union, is I have to consider the policy of our union as set down at our founding convention and at our recent convention in Vancouver, and having studied all the pros and cons, as a basic position, our union would prefer to be under the same legislation, even if there may be some special clauses relating to the public service, than having a separate regime. If that is not possible, then we would like to see some changes made in the existing bill in order to provide real collective bargaining.

Mr. ÉMARD: Do you think, Mr. Eady, that the grievance procedure should be included within the bill?

Mr. EADY: The grievance procedure? No, I think the grievance procedure should be in the collective agreement which the unions concerned are going to negotiate. If I might just take an example here: if you had a unit of the type that was being discussed by the witnesses from the printing trades in the Queen's Printer, that might require a different type of grievance procedure in terms of steps from what would be needed, for example, by a nation-wide federal department like Customs and Excise, or other sections of the service. We have a basic grievance procedure which you will find in nearly all of our collective agreements, but there are differences in the way it operates and even in the way the clauses are written, depending on the size of the operation, the number of members involved, and the type of industry within the public service that these people are covering. For example, you can see without giving any further illustration, that there would be quite a difference between a grievance procedure covering a hospital, and one which is covering a provincial hydro. So that we would favour the grievance procedure being a subject of negotiation. We have no objection—and I would repeat this, Mr. Chairman—to the type of provision, which is in all acts at the moment, that the last step should be arbitration. We have no objection to the arbitration of grievances during the course of the collective agreement.

Mr. ÉMARD: On page 11 of your brief you say in U.K. and I quote:

> There is absolutely no restriction on the public servants contributing to the political fund of any political party if the trade unions desired to have such a political fund by majority decisions.

Being an old union man I have a certain experience of how majority decisions are obtained. Would you be in favour of a printed form which would list all political parties and permit each member to put a check in front of the party that he would like his contributions to go to?

Mr. EADY: No. Basically the same position applies in the British situation as applies in the Canadian situation. The setting up of a political fund by a majority of the members and the contracting in or contracting out, as the case may be, involves belonging to a party which has provision for such affiliation. The problems of a political fund in the case of the Union of Postal Workers, for example, in Great Britain, is that they must have a party with which they can affiliate, and as far as the decisions are concerned on this, there is a tendency for people to think that there is some sort of reign of terror when the political affiliation question comes up. I have been the secretary-treasurer of a local, and when people hand me a contracting out form or contracting in form, depending on what legislation we were operating under, it does not concern me a bit. Let us take a specific situation. If the local union that one belongs to affiliates to "X" political party, all you have to do is to contract out and then, of course, you can make your own contribution to any party you wish. The question of a political fund involves the question of an affiliation, and the affiliation requires that the party concerned has some system of affiliated membership.

Mr. ÉMARD: But is it not strange to find that a worker contributes to one party and then votes for another?

Mr. EADY: I am not so sure that the ones who contribute vote. Perhaps some of the ones who do not contribute vote for another.

Mr. ÉMARD: What clause in the bill do you find is less acceptable, or what do you object to the most? Is there something that is really less acceptable than anything else—something that you are very much against in the bill?

Mr. EADY: No; I think that what we have tried to do, through you, Mr. Chairman, for the members of the Committee, is to make our assessment of the bill as a whole, and the proposals that we made in our brief are sort of packaged. We have a certain pattern that we are trying to develop, and I do not think that we are trying to change anything. The only major objection, if you wish to put a major objection, is this question of the right to strike. If we have one major objection to this bill, it is the system of compulsory arbitration, and particularly the decision on that is made before the certification by the Public Service Board and not afterwards by the members involved. At least the members should say whether they want compulsory arbitration or not—not the organization which is their bargaining agent. It means that if I go out to organize a group of federal employees as the official of the union, I make the decision and not the members. But our main objection is this question of the right to strike, if there is a single issue on which we feel very strongly.

Mr. WALKER: Even for the limited period of time as spelled out in the bill?

Mr. EADY: That is right.

Mr. HYMMEN: Mr. Chairman, I have two general questions that I would like to ask Mr. Eady. He may have just answered the one, but I will direct it to him anyway. After reading and hearing the brief which you presented some time ago, and notwithstanding anything that has been discussed here today, am I right or wrong in assuming that your organization feels that Bill No. C-170, with the one strong reservation you have just given, is a reasonable bill?

Mr. EADY: In context, it is a better situation than has been in the federal service up to now. I do not think there is any organization that is going to

appear in front of this Committee that is not going to say that this is a step forward. It is. But having said that we feel that there are certain major shortcomings which were set out in our brief, and some of which I explained this morning. So, therefore, it is a step forward. We would like to have seen three or four steps forward.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you. Are there any other questions? Thank you very much for coming.

Senator CAMERON: Just one question that comes out of Senator MacKenzie's comment, and I was interested in Mr. Eady's statement very much: for example, this question of the essentiality of public service. A couple of weeks ago we had the threat of a strike on the part of the CBC employees. I would say, "fine, go ahead and strike, we can get along without the CBC for a couple of weeks", but when the Post Office people say that they are going to strike, then that is a very different picture. In other words, the question of essentiality comes in there to a very marked degree, and this illustration, I think, underlines the necessity of defining what constitutes essentiality.

Mr. EADY: I would agree with you, Senator Cameron. The only problem that we are concerned about is that in terms of a democratic society—and I am talking now a little bit from the terms of political and social philosophy—we think it is better for the system of democracy in Canada that we should occasionally have strikes of the type of the protest strike of the postal workers last year and have the inconvenience and trouble that that causes than to have a dictatorial system where there is no right to strike. I have watched this and I say this in all seriousness. Charles Daley, the former Minister of Labour in the province of Ontario, told the delegation of my union once, when we were discussing a hydro dispute: "I had representations made to me that the strike of the brewery workers, six or eight years ago, was a breaking in on an essential service for the people of Ontario." Now, I give this as a silly example, but once you agree that there is an area of essential service then, of course, it gradually becomes expanded so that you reach the point that anytime a member of the public is inconvenienced, then that is an essential service.

Our union runs very much like many paper-making organizations on the postal service, but we managed to get our pay checks out and, we manage to get our per capita in, in spite of the fact that Mr. Kay's members and Mr. Decarie's members were out on strike last year. We found other ways of doing it, and I would rather, as a person taking a postal service, have that inconvenience than restrict the right of the postal workers unduly. This is our basic philosophy.

Mr. HYMMEN: Assuming that we accept this proposition, how long would you allow a strike to carry on?

Mr. EADY: If I might pass the buck gentlemen, I think this is your decision. I think the parliament of Canada and the parliaments of the provincial provinces, have a responsibility, as elected members, collectively to decide when the public interest is involved and intervene and, I say that as a former elected councillor. I have never been a member of any parliament. When we go into disputes, we had to decide at what stage something had to be done about it. When this is done, then you get the area of public judgment. Does the public, collectively as voters, decide that you made a good judgment or do they think that the strikers had this right. I feel this is where the power rests.

Mr. HYMMEN: The comments in parliament, of course, do not always have to be made yesterday.

Mr. EADY: I am talking now of calling into special session. I think that if the government of the day calls the members of parliament into special session, as they did on the railway dispute, it is then the responsibility of the 265 members of the House of Commons and their colleagues in the Senate, to decide whether the government has made a case that this is an essential service and that the public interest is paramount in this circumstance at this time and, if they make their case, I do not think there is a union that will not accept it. They will accept it reluctantly, as you saw in the railway union strike, but nevertheless, faced with it, we have to accept that the final decision rests with you gentlemen.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Walker, you are next.

Mr. WALKER: All right then, parliament having taken its responsibility in a case like this, would you feel then that it is the responsibility of men like yourself and labour leaders to advise your men to do what parliament legislates.

Mr. EADY: I can only answer for myself, Mr. Walker, but yes, I feel very strongly that union officials have this responsibility. I would also point out that we also have the responsibility, as has been exampled in correspondence going on in the *Globe and Mail*, to counsel our members sometimes to demonstrate against unjust laws. This is not infringement on the right to demonstrate, but I think if the parliament of Canada makes a decision, we have a responsibility to tell our members to accept it and then to organize everything we can to punish the people if we do not agree with the decision. This is our responsibility and this is where the political action comes in.

Mr. LACHANCE: Do you admit that some members of the unions have the right to decide if they accept the right of strike or not. They have the right to choose compulsory arbitration or the right to strike.

Mr. EADY: It seems to me that they must have the right. It has to be a collective thing, because you cannot have a group of people in a particular area, saying that they want a right and the rest of the system—let us take the C.B.C., you could not say you were going to give the right to strike to a small group of C.B.C. employees in St. John's Newfoundland, when the rest of the employees of the system want to go out on strike. It has to be like all things in unions, a majority decision shall rule. You can lay down rules about how that majority check-off, that has come in front of the Committee, we favour the Rand formula, because there has to be a point where someone has to say that the majority decision shall rule. You can lay down rules about how that majority decision will operate, but within those limits, then the people who are in the minority have to accept it, whether it is on the question of a right to strike, on union dues or anything else.

Mr. LACHANCE: It is a matter on which the majority has a right to decide?

Mr. EADY: The majority has the right to decide.

Mr. LACHANCE: You criticized the time when unions have to decide whether they would go to full compulsory arbitration or conciliation. When do you think this option should be taken?

Mr. EADY: Bearing in mind that we object to the choice in the first place, but if this option is going to be in, we think that the choice should be made after the bargaining unit has been certified. There are 66 job families in the present proposal. We know that this may not be the final decision. If you get certified for a X number of those groups, then it should be possible to take a vote amongst those members, and it would be done in this way. At the time you asked them for their proposals for collective bargaining, which we normally do, we always ask our members, some of them being new, what they want in the new collective agreement and they tell you all the things they want. You just add one more question: Do you want the option of compulsory arbitration or, do you want the right to strike? Then when you get the answer you should inform them. We would not object and I do not think the unions who are involved would object to your consulting their members if necessary. You could actually take a ballot among the people asking, What option do you want? Basically, I think, this is really the responsibility of the organization. It is our job to ask our members.

I find travelling around on Air Canada, when I sit down that someone asks me what I do and I tell them I am a trade union official. Some reference is usually made then to bosses. Union officials who are sitting in this audience know that, you do not tell your members, you ask them. As I just said to Mr. Walker, while you are supposed to give leadership, basically if a group of members in the federal civil service think that they should have the option of compulsory arbitration, I can talk until I am blue in the face, but they will take that option, if the law gives it to them.

Mr. LACHANCE: There seems to be a conflict in your two answers. I asked you if you accepted the fact that some people should have the right to choose compulsory arbitration and then in the second answer you seem to say you are against the option.

Mr. EADY: We are against it, because our members in convention, by majority decision, have said that it is the policy of our union that we are opposed to compulsory arbitration in collective bargaining. Do not forget that I do not have a vote in our convention, it is only the delegates from our local unions who work in our jurisdiction who have votes. They decide the policy of the union, not the trade officials like myself.

In convention—we call it the parliament of our union—we have 600 or 700 delegates and they decide. It is their decision on this matter that I am giving to this Committee. They are not my personal views.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Fairweather do you have a supplementary? You are next then, Senator Deschatelets.

Senator DESCHATELETS: Supposing the members of a union are faced with this option, it is up to them to decide. If I understand it correctly, you have the right to give them any indication you wish, but the members are going to decide.

Mr. EADY: Right.

Senator DESCHATELETS: Have you any objection to this decision being taken through secret ballot?

Mr. EADY: No, none at all.

Senator DESCHATELETS: Would you have any objection that somewhere in the bill there is a provision covering this?

Mr. EADY: No, except I would point out to you the experience of the Taft-Hartley bill in the United States on the question of a secret ballot for strikes vote. The Taft-Hartley bill thought that the unions were running ballots in such a way that decisions were being made which would be different from what they would be if they were made under government votes. For many years under the Taft-Hartley bill they ran these as government votes, which involved quite a lot of expenditure. They found after a period of four or five years, when the bill came up for review, that in about 99 per cent of strike votes they accepted the recommendation of the unions. When the bill was amended they removed this provision. Therefore, if you were to put something in the bill, it would seem to me that the best requirement is, not that the government run the bill, but that you require the unions to run it by secret ballot. I will give you an example. We had an official from our union phone me up about a small municipal strike in Timmins and he said that members are insisting that there be a show of hands vote. I consulted the president and the president told me that it was the policy of their union that the strike votes, both to go on strike and to go back to work, be a secret ballot and we ordered our representative to tell the members that this is the decision of the elected officers of the union and that there must be a secret ballot to decide whether they should return to work.

Mr. LACHANCE: I have a supplementary. Is this one way of giving the members their own responsibility, instead of giving the government the obligation of taking the responsibility?

Mr. EADY: That is right. Yes, I think it should be given to the members and, as far as we are concerned as union officials, if we cannot convince them—

Mr. LACHANCE: Is this the best way to get it, by secret ballot?

Mr. EADY: I agree with secret ballot. The only question I am raising is do you need a government supervised secret ballot.

Mr. FAIRWEATHER: I am wondering, Mr. Chairman, whether the witness thinks it is realistic to assume that union membership at this stage—after certification—would vote to accept compulsory arbitration rather than to maintain the right to strike in these essential categories.

Mr. EADY: I can think, for example, of sections in the federal civil service—I would not want to name any particular section—but I know the 66 job families—where you could well have that choice made for compulsory arbitration. Without naming any categories, I can think of certain categories of federal employees who might prefer to exercise that option. I would be equally sure that the postal workers would exercise the other option. I do not think you can assume that every civil servant wants the right to strike. There is a very strong indication—and I am a resident of Ottawa—that many, many civil servants in the capital area would not want the right to strike. I think that you might get varying decisions depending on the group of employees involved. For example, members of the professional institute would not normally be expected to vote for that. They would normally want to settle their disputes professionally by some form of arbitration.

Senator DENIS: I have one more question. What is the use of employees whose services are essential going on strike when we know directly, or indirectly, or in one way or another, this service would be stopped?

Mr. EADY: Without going into a whole discussion on collective bargaining, I would say that this is a situation which our union faces on a day to day basis from one end of Canada to the other. We know that in many, many cases we have to reach a settlement because a strike will be unacceptable in that particular service. But there are also occasions where we have a good case, such as where people are under paid. I think, for example, there is widespread public sympathy for the plight of hospital workers and people working in the old peoples homes. Although this is an essential service there are people who know the conditions and are working in many hospitals in this country who say they would rather risk a strike in some of these hospitals to improve the conditions than to allow the situation to go on. I think a union by its very nature, particularly a union like ours which is made up wholly of public employees, has to take into account public opinion. If public opinion is not with us, then we are going to have to accept less than we would if we had the public on our side. This is an assessment that not only we have to make but our members have to make.

Senator DENIS: Would you know, for instance, if public opinion would be for or against strikes?

Mr. EADY: Well, Senator, let us suppose we have already put our hands behind our back and agreed to compulsory arbitration. There has been some talk about human nature in this Committee. If I was an employer, and when I first came to Canada before I rejoined the labour movement I was employed in a position as manager, I would be less than human, knowing the people on the other side of the collective bargaining table did not have the right to strike, if I did not take the very adamant attitude of saying "No," to everything.

Senator DENIS: Suppose a compulsory arbitration board could be established according to your wishes, do you not think that it would be much better than going on strike, knowing in advance that this strike would be stopped in one way or another? It is like the railway strikes, you do not know whether Parliament is going into these disputes too soon or too late. That is what happens in the House of Commons, no matter if you are a Liberal or a Conservative, if you are in power or in opposition, if it is decided that it has to be done that way. The government gets into it too late or too soon. Suppose there was a board of conciliation; the fear is would that board be composed of people who would be fair to the employees or to the union.

Mr. EADY: Let me give an example which is within the knowledge of one member of the committee, your colleague. I refer to the St. Lawrence Seaway case. Senator MacKenzie had the job of settling that. I sat on the conciliation board as the representative of the Canadian brotherhood. One of the reasons Senator MacKenzie was called in to settle the strike was because the collective bargaining which had gone on before was not very realistic. If they had done a better job of collective bargaining at the lower level and there had not been such an adamant attitude and such fantastic, ridiculous, wage offers, Senator MacKenzie might never have been called in. I had the feeling that the employer member of the board and the employee side of that conciliation board thought

that the workers would be forced back, there would be no strike, and therefore they took an extremely adamant attitude. If they had thought—as it turned out—that there was going to be a strong strike vote and these people were really serious, then we might have settled it with the aid of the chairman of the board, and Senator MacKenzie might never have had to come into the thing. But here was a case where, at the conciliation board level, we were not functioning properly because the board was not operating properly and also the collective bargaining machinery was not functioning properly. Therefore, at a later date the government had to appoint a mediator to try to straighten something out which should have been solved by the conciliation board, if the collective bargaining machinery had been functioning properly.

Senator DENIS: Could it be decided what kind of services are essential and what kind of services are not essential? I agree that there are some categories which are not essential and maybe we could get rid of them.

Mr. EADY: I think it is possible, Senator, to do that, providing you start from the base that you want to make the area of essenial services, under your definition, the minimum. If your philosophy is we want to make this essential service really essential, do not start out with the idea that the whole public service is essential and we are going to allow certain sections of it to strike. We like to start from the base that this is a very narrow group of people and that there are large sectors where it would not hurt if they went out on strike. I agree with you; I think we should be able to sit down and decide this question. In an industrial plant where you have shutting down, for example, of the galvanizing sections, you have to agree with management how you are going to pull the men out, otherwise if you let those sections of the plant go cold just by cutting the plant off you are going to be in trouble. I think the same principle can be followed in this definition of essential services. No doubt any of the civil service organizations—never mind our union—could well sit down with the government and define what are essential services.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. ÉMARD: If I can recall it properly, I think the clause in our bill says it is based on security and not on essential services. Is that correct?

Mr. EADY: Security and safety.

Mr. ÉMARD: Yes, security and safety; not essential services.

Mr. KNOWLES: Mr. Eady, I hope you will find a fair amount of support in this committee for your contention that clause 36 of the bill requires this choice between arbitration and conciliation to be made too soon. I wonder, however, and I confess I ask this question in the light of briefs from some of your labour colleagues who have appeared before us, whether you have not offered to make the choice still a little too early. You said a moment ago rather dramatically that if you were an employer and knew that the employee had already tied his hands behind his back by accepting arbitration, that you as an employer would take advantage of that. I wonder if that is not the situation if employees have to make this decision even immediately after certification. I think the brief of the Canadian Labour Congress went into some detail as to what goes on in negotiations and how each side has the right to plan its own strategy. I think the contention in that brief was that this choice should not have to be made

until the dispute is taking place. The I.R.D.I. Act, specifies certain times within which these decisions should be made. I put this to you; have you not, in the spirit of compromise, offered to accept the requirement to make this decision a little too soon for the good of the employees.

Mr. EADY: We discussed this in preparing our brief and I think that we underestimated the committee. We thought the attitude seemed so firm on this question that there would be very little likelihood of moving this clause in any major direction. We may, in wanting to make a change, put a compromise proposal into our brief which is less than we would like. If you were to ask, for the record, for the position of our union, we say once you step away from the right to strike and come to the question of compulsory arbitration, we would prefer the choice to be made approximately seven days after the report is handed down, as in industrial disputes. We made this compromise in presenting our brief because we felt this was a practical proposition to be made to the committee. But our position would be, as you have stated, that we would prefer to see it and we agree with the congress brief in this regard.

Mr. KNOWLES: What you have offered today is really just a compromise?

Mr. EADY: Yes, that is right. It is a compromise which we did not like. There are several suggestions made in this brief which are against our union policy but we felt we had an obligation to study the bill in detail and make some suggestions for improvement, and we made compromise suggestions. Now that you have raised the question, our position is definitely the same as the congress on this matter. Our proposal was made as a suggestion.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions? Thank you very much, Mr. Eady. As we have advised other witnesses, we would like to have you attend the hearings at a future date when the bill is being considered clause by clause so that we may have the opportunity to call on you. Or, you may want to give some further enlightenment.

Mr. KNOWLES: You will not be writing any letters, anyway.

Mr. EADY: Thank you very much.

The JOINT CHAIRMAN (*Mr. Richard*): We received a short brief from the typographers a short while ago and Mr. Duffy is here this morning. I do not think the question period will be long and I was hoping we could start.

Mr. KNOWLES: I think we should give as much time to the I.T.U. as we gave to the lithographers.

The JOINT CHAIRMAN (*Mr. Richard*): It all depends—

Mr. KNOWLES: Do not remind me that I am an I.T.U. member.

The JOINT CHAIRMAN (*Mr. Richard*): You seem to be a member of many things. Are there any questions for Mr. Duffy?

Mr. BELL (*Carleton*): I have one. Perhaps Mr. Duffy would refer to the bottom of page 2 of the brief and to the recommendation therein made which is similar to the lithographers, namely, that the printing bureau be transferred from Part I to Part II of Schedule A. I am still not clear in my mind how this would improve the situation in so far as this union is concerned. I would appreciate it if Mr. Duffy would outline what advantage he feels would result from that?

Mr. JAMES P. DUFFY (*President, Ottawa Typographical Union*): Mr. Chairman, we feel that the government printing bureau is in a unique position with regard to government agencies in so far as they are competitive to printing companies in the national field. In this respect they do their own printing jobs right from the process of estimating up to the point of starting production. They give the opportunity to outside interests to estimate these jobs as well. If the job can be done within the printing bureau at a reasonable figure, it is done within the plant. If it can be done outside on a competitive basis, they may frequently give it out because it costs the government less to do it this way. In this way you will see there is a direct relationship between the cost of production within the government printing bureau and the cost of production on the open market. If we do not try to maintain a level of negotiation with the government printing bureau on a par with the outside areas of printing, you can visualize a chaotic situation where the outside people might go above or below in the matter of the cost of labour; in either case creating a situation where the government printing bureau, as an employer within the structure of the civil service, would be at a disadvantage or that the union would be at a disadvantage. The best situation, in the view of the International Typographical Union, would be one in which they were on a basis of equality with outside competitors.

Mr. BELL (*Carleton*): I see that point but I do not see how you achieve that by the transfer from Part I to Part II of Schedule A.

Mr. DUFFY: It is my impression as a private employer that under Part II they would have greater scope for competitive bargaining with respect to the position they find themselves in within the government.

Mr. BELL (*Carleton*): In what particulars do you feel that scope would be available?

Mr. DUFFY: Well, merely that if the price structure of the job evaluation department indicates, let us say, that the rate for union employees in the typographical union fell below the area of the government, then it would immediately bring this work to the outside area and the need for the people within the government would diminish and the staff would be reduced. Perhaps I am not getting the point across, that it would make any difference whether it was under Section I or Section II, but we have the feeling that it would be preferable to be under Section II under these circumstances.

Mr. BELL (*Carleton*): I appreciate your point in principle but I have difficulty in seeing how the implementation of that principle would be carried out by your recommendation.

Mr. ALLAN HISTED (*Representative of International Typographical Union*): Mr. Chairman, could I just say a few words? In this particular case it is our belief that the people charged with the responsibility of the government printing bureau certainly are much better informed than someone who does not understand the printing business or the competitive position in the printing industry. As Mr. Duffy has stated in the brief, most certainly in the government printing bureau they are in a somewhat unique position in that they do actually enter into competition with the private employers. Now, certainly it is the

objective of the members of Ottawa Typographical Union, who are the representatives in this particular situation and do represent a majority of those people working within the government printing bureau that we wish to have the conditions set in the government Printing Bureau comparable to those existing in general industry. They are doing the same job and we wish to be able to bargain with people who understand that particular industry, and to be able to negotiate with some one who is acquainted with it.

We also would not like to have, and are definitely opposed to setting up, conditions that would be injurious to the private sector of the printing business, and we think, not from ego but because we have been in business 114 years, we, along with the other groups which are represented in the government Printing Bureau, know this particular business better than someone who has not had the same experience. I might add, too, just as an interjection, that in this particular instance we are unanimous, within the printing trades employed in the Printing Bureau, on this particular position.

Mr. BELL (*Carleton*): I think you have made your point very effectively. I think it is up to some of us on the committee to see, as we go through the bill, whether your point is taken care of by the particular proposal which you make, or whether there may be other more acceptable techniques.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. ÉMARD: If I understand you correctly, you mean that the wages and the working conditions in the Printing Bureau should be on the same level as the wages and the working conditions in the trade outside? Is that right?

Mr. DUFFY: Yes. Under the system of collective bargaining outside in the trade in the past, we have been able to secure, in our particular instance, the prevailing rate of the Montreal union for the employees of the government Printing Bureau. In other words, by appearing before the prevailing rate committee a number of years ago, they accepted this as the acceptable going rate for employees in the government Printing Bureau.

We would not like to see either sphere fall too far behind for similar work, mainly because, as you can see, that, with the necessity of supplying man power, if the scale in the government Printing Bureau fell drastically below that paid in private industry the securing of employees would be difficult. If it became the other way round, then it would be difficult from a pricing point of view.

Mr. ÉMARD: But if you have been able to secure the same pay and working conditions at present when you have absolutely no bargaining rights do you not think that no matter to which organization you belong you would be able to secure the same right in the future?

Mr. DUFFY: No. You are suggesting that we do not have collective bargaining?

Mr. ÉMARD: No; I am suggesting that whether you belong to your own union, or whether you belong to the Civil Service Association, or any other organization, would not make very much difference in this particular case?

Mr. DUFFY: We think it would. We had Mr. Poulin here this morning from the Lithographers Union and we had a representative of the Council of Union Employees within the government Printing Bureau present this morning. As a

council we work very well together; we are united on one thing, that, if we cannot have individual craft bargaining, as an acceptable alternative we would have council bargaining; but preferable by far to the individual unions would be the opportunity to appear and bargain for their own particular rights.

Mr. ÉMARD: I can understand your position perfectly. Everybody wishes at this time to retain the same organization as they have at present. But how difficult is it going to be in the future if we have so many organizations? The number was quoted some time ago, and I cannot recall how many employee organizations there are already working in the civil service, but there is a tremendous number of them. I think one of the objectives—not of this bill in particular—was to reduce this number. Is that not right?

Mr. DUFFY: It seems to the Typographical Union a hollow gesture on the part of government on the one hand to offer collective bargaining and then try to tell us who will represent our people.

The people who are members of the Typographical Union feel that because of the 114 years that we have been in the business we are best able to represent ourselves. For this reason, if we are lumped under, as you say, the Civil Service Association, or the Civil Service Federation, we do not feel that they could take care of the situation as well as we do ourselves.

I could point out where, even in private industry, things like this do happen. In the *Citizen*, as you know, many years ago there was a strike. The Typographical Union does not have any bargaining rights in that plant and under the set up proof readers and teletype setter people, who are traditionally under the jurisdiction of the International Typographical Union, or the Typographical Union in Ottawa, have been allowed to fall as much as $85 to $90 a month behind, because they are not being represented by typographical people at the bargaining table; they are being represented by members of the American Newspaper Guild. This is essentially a writers' and editors' group, and they look out for the writers and the editors adequately; but we find that, being part of that, people who would normally be represented by us are falling far behind.

Mr. ÉMARD: I agree; but on the other hand I could point out to you, too, some cases in industry today where the same union representing the same kind of work in different parts of Canada have altogether different working conditions and wages.

Mr. HISTED: Mr. Chairman, might I intervene? In this particular phase, we certainly I think in the brief, while we tried to be brief, have pointed out that we prefer the craft union basis, because, naturally, if a member joins our union he has one reason for it and that is, that is the group which understands his desires or her desires better than any one else. We prefer this. In other words, I do not know anything about the bookbinding trade. When I say this I mean that I have as good an idea as most people in this room and perhaps better, but I certainly know this, that I do know the desires of the members of the Typographical Union pretty well across Canada and the United States, because we know this from long experience. However, if it came down to some other group outside of this business at all, many of them do not have any sympathy with the desires that our members would have and, therefore, there is no

purpose in having an organization representing you, which does not know your desires.

We realize the complications that may result from a craft basis; we can picture this, too; but we still think this is the better way, and we still think that even on negotiations, if we were individually certified and in the printing trades, we might agree to joint negotiation.

This way your negotiations go on with the same idea of simplifying, or reducing, the amount of time taken in so far as negotiations are concerned. I could mention this—and I do not want to be too long on it—that there are many cities in Canada where in the commercial printing field the bookbinders, the pressmen and the Typographical Union negotiate their contracts on economics specifically all at the same time.

There are many deviations, but what we are primarily concerned with here, as we say in our brief, is that we do represent a majority at this time, which is still to be proven if and when the bill is passed and on whatever basis. We will still have to prove that we do represent a majority of those people, and we do not believe it is democratic that someone, in order to give us a right which we have asked for, is going to take that something away from us which we have had since 1872 or more, that is, that we have represented the people in the Printing Bureau. We do not want something taken away which we have had for a great many years. We have never had true collective bargaining.

Just to clarify one point, at one time it used to be that the rates for compositors or the Typographical Union people, or those who work in the government Printing Bureau, prior to the war, were paid on an average between the existing commercial printing trade rate with our union and the commercial employers in Montreal and that existing in the city of Toronto. But during the war years, as you all know, there were orders in council, and this got messed up, and eventually, after the war was over, through the Trades and Labour Congress at that time, it was arranged that the Montreal commercial rate by contract would be accepted in the government bureau for members of the composing room, the bookbinders, the craftsmen—whatever they secured were the basic conditions; not all of their conditions, but basically the economics. That is still in effect at this time. Even at this time, through the council of union employees in the printing trades, that group does go in on specific problems and represent the members of all the groups. So that we have that relationship at this time.

We will accept collective bargaining because we desire it, but not on a basis that would be entirely unacceptable, and we want to represent the people who are our members working in that plant.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Émard, are you finished?

Mr. ÉMARD: No, I have one more question.

I can understand that tradesmen may be best represented by the union of their particular trade, but in accepting all these certifications I think it may create difficulty. If you consider human nature, we are all the same, and every individual union is going to try to do better than the others, in order eventually to attract the membership.

I think that negotiations may be very difficult with all these special, particular trade unions. If there was a certain grouping together—I do not

know exactly how, and this, of course, is not my business—but I think negotiations would be a lot easier for the government than if every trade union were trying to do the best it could for its individual trades and not caring about the others.

Mr. HISTED: I would hate to think, Mr. Chairman, that we would want to do less than the best for our members and when we accept that position I want to go out of business. I say, with all due respect, that it is my job to the best I can for the people I represent, not the least, or get them a poor deal.

I can see, as I said before, the practical problem. Our union did say that we prefer this, but if, as an alternative, we then could have the government printing bureau as a separate employer to deal with on something they know best and we could deal directly with them, then we would take the alternative if that was the way the ball bounced.

Mr. ÉMARD: I think I have expressed myself clearly enough. What I mean is that I understand you will certainly do the best for your members, but you will probably be trying to do just a little better than the union beside you. This is where I think the problem will start.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Orange?

Mr. ORANGE: No questions.

The JOINT CHAIRMAN (*Mr. Richard*): Any other questions? Mr. Walker?

Mr. WALKER: Do you want to see this craft principle that you have been enunciating spread right through the whole public service?

Mr. HISTED: Mr. Chairman, I would have to say, in that regard, that I do not intend to represent anyone who has never consulted me and I say this with due respect. We are leaving the objections to Bill C-170, as it is now, to the Canadian Labour Congress brief on their criticisms and proposals for correction. We are in agreement with those positions. I think that is the way I would like to leave it.

Mr. WALKER: All right. Would it help your inferred problems at all if all the printing was done in the bureau rather than having some of it done outside.

Mr. HISTED: We still do not think we have the right to tell the government where they ought to have all their printing done. We have contracts with commercial employers, and this is one concern I would just like to mention here.

Certainly if the government printing bureau had an organization representing it which did not understand the printing and its competitive position with the private sector, it could injure our members throughout all of Canada. If they had substandard conditions it could be injurious to our members throughout Canada, and, also, all the printing trades. That is why we think that the printing trade should represent printing employees. Again, whatever conditions are to exist they should be not identical because we have contracts in 58 cities in Canada and you cannot have them all the same as the government printing bureau; but they should not be adversely affected.

Mr. WALKER: Yes. Would it be to the benefit of the local which is in the printing bureau—and those are the only people I am speaking of at this moment

as they are the only ones who are affected by the bill—to have the printing done as a unit rather than farming the jobs out?

Mr. DUFFY: We feel that, either way, a large share of the printing would go to shops that are represented by various locals of our union. Much of it goes to Montreal and Toronto, and for us to arbitrarily say that we do not want this system to go on, looking at the overall picture, would not be fair to anyone in the outside units. Certainly if, from a local union's point of view, all the printing were done here I would visualize an enlargement of the government printing bureau staff to be to our advantage.

Mr. ÉMARD: May I ask a supplementary question on the same matter. Is it a fact that today there are some contracts in industry which have contracting out clauses—clauses against contracting out.

Mr. DUFFY: We have not any.

Mr. ÉMARD: You have not any.

Mr. WALKER: There is one sentence in your brief which bothers me a little: "Failure to agree to compulsory arbitration could result in not being certified by the board." I do not know whether that slipped in unintentionally, but it indicates an area of deep mistrust in the independence of the board.

Mr. DUFFY: We felt there was the suggestion in this that you must do this before you become certified; that it could have a bearing on whether you were certified or not. I think this is inherent in the way you would read this.

Mr. WALKER: You certainly do not think that is the purpose?

Mr. DUFFY: I would not think it was deliberately done that way, but that is the way it reads.

Mr. ORANGE: Just one very quick question, Mr. Chairman. I think the printing bureau employees have been well represented here today.

How many employees are in the government printing bureau, and how many people are represented by the groups which have appeared before us this morning?

Mr. DUFFY: I would like to speak for our own group only. I do know that there are in the neighbourhood of 1100 employees in the government printing bureau, of which 400 approximately are in the composition area which we consider to be our jurisdiction. We represent approximately 275, give or take a few.

Mr. ORANGE: 275 out of 400.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Poulin gave us the figure of 245.

Mr. ORANGE: For his group.

Mr. DUFFY: These are all separate.

Mr. ORANGE: So then approximately half the employees at the printing bureau are represented by your union.

Mr. DUFFY: Perhaps we could break it down better if the question could be asked of the representative of the council of union employees. He may know the entire distribution of this. I just do not have the figures myself.

Mr. H. G. JACOBS (*President, Council of Employees, Canadian Government Printing Bureau*): I have a breakdown of the members of the graphic arts in the printing bureau. There are 150 members of the Brotherhood of Bookbinders;

263 members of the I.T.U.; 245 members of the L.P.I.U.; 12 machinists and 23 pressmen.

Mr. WALKER: From a total of how many employees?

Mr. JACOBS: I would say roughly about 900.

Mr. DUFFY: The figure I was giving was the over-all picture, coast to coast, involving the government printing bureau. There are a few in Halifax, and several in Trenton and other places.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. KNOWLES: Mr. Chairman, I have just one question. May I precede it with the remarks that we have had a good deal of discussion this morning, with the two unions which have been before us, about their desire to protect their craft position, and I think we understand them on this score; but I gather that both unions would like us not to overlook what is almost their major concern about the other side of the table.

Their principal request to us, so far as this legislation is concerned, is that the employees in the printing bureau continue to be in the position where they negotiate with their employers as separate employers. This is a bit of a compliment to the kind of people sitting across the table from you, but you do not mind that.

Mr. HISTED: With the additional point, Mr. Knowles, that we are seriously objecting to the requirement that any union agree to compulsory arbitration before they even become certified. This we consider—I will have to use a stronger word—very, very serious.

Mr. KNOWLES: You have two main points, then. You are against having to choose between compulsory arbitration and conciliation before you are certified, and your other main point is that you wish to clear with the bureau as a separate employer?

Mr. HISTED: That is correct.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Thank you very much, sir, and you no doubt will be around when we are studying the bill.

Gentlemen, we have scheduled a meeting for this evening at eight o'clock. We will have with us the Civil Service Association of Canada and the Civil Service Federation.

The meeting adjourned.

EVENING SITTING

The JOINT CHAIRMAN (*Mr. Richard*): This evening we are taking up the brief of the Civil Service Federation of Canada, represented by Mr. Claude Edwards, and the Civil Service Association of Canada represented by Mr. W. Doherty.

Gentlemen, will you come forward, please?

Perhaps you could explain how you are operating?

Mr. DOHERTY: It is no marriage. It is about to be a public service alliance.

Mr. CLAUDE EDWARDS (*Civil Service Federation*): We are as close to being married as you possibly can be. I think the wedding date is set for November 10.

Mr. WALKER: Are your intentions honourable?

Mr. EDWARDS: Our intentions are honourable.

The JOINT CHAIRMAN: Are we going to be invited to the wedding?

Mr. WALKER: I hope you have a marriage contract.

The JOINT CHAIRMAN: Mr. Edwards, are you ready?

Mr. EDWARDS: I do not think I have any particular preliminary statement that I wish to make.

This is my second or third appearance before this Committee. I realize that we have put forward not only the original position of the Federation, and Mr. Doherty, in turn, the position of the Civil Service Association of Canada, but we have also presented supplementary briefs; and we finally tried to put forward to you something which would give up a joint position on some of these items where we might have had some divergent opinion in our previous briefs.

Mr. BELL (*Carleton*): Perhaps you might permit me to commence by asking a couple of general questions, and perhaps Mr. Edwards might indicate, generally, his view about the future position of the Pay Research Bureau and the future position of the National Joint Council. Perhaps he would say whether he thinks that his views in relation to these would indicate that they should be imbedded in the legislation, or by what technique these bodies should either be continued or disbanded?

Mr. EDWARDS: First of all, I think both bodies should be continued. If we are going to have a satisfactory system of collective bargaining in the public service I think it is important that we both start from figures that we can argue about, in reference to, perhaps, what they mean, but we are not going to argue with reference to the figures themselves.

I think the National Joint Council should also continue. I think it should be have had so far, has provided us with accurate statistics with reference to pay and working conditions in comparable positions outside in the private sector. I think this is good because if we do not do it in this way we are going to have to argue from different positions of power, and I think it would be a constant struggle to try and determine just exactly what the conditions of the two broadened in scope. I feel that the people who will be on the National Joint Pay Research Bureau should continue.

I think the National Joint Council should also continue. I think it should be broadened in scope. I feel that the people who will be on the National Joint Council, at least from the employee side, will be representing bargaining agents in the public service, and I think that they would want to consider, in the National Joint Council, matters which normally might not be considered at the bargaining table, or at least would not be considered during the heat of contract negotiations. I think there should be a more leisurely pace for discussion in the National Joint Council on conditions that might perhaps affect the whole service: the effect of automation; general conditions of accommodation: what is good accommodation in the public service for people to work in and things like this; and matters of that type. It should be more in the line of a labour-management relations committee such as you find in some large industrial settings.

Whether or not they should be embodied in legislation, in this bill, I am not as concerned about the mechanics of how they would continue to function. I am much more concerned that they continue to function.

I think that the Pay Research Bureau itself should come under the general direction and supervision of the Public Service Staff Relations Board, because I think it has to be completely fair and neutral in servicing both sides. I feel this is the best place to have it, much more so than in some department of government. I think it should be an instrument of the Public Service Staff Relations Board for the purpose of providing information; not recommendations or anything else, but information.

As far as the National Joint Council is concerned, it has already been established. I think it should probably have its constitution changed, and as you know this is going on at the present time. I think with changes in the constitution it will certainly meet the needs of the new relationship.

Mr. BELL (*Carleton*): What degree of publicity, do you think, Mr. Edwards, should be given to the findings of the Pay Research Bureau?

Mr. EDWARDS: I think the findings of the Pay Research Bureau should be capable of being publicized much more than they are, at least by the parties.

Mr. BELL (*Carleton*): Why is it they are not now? Perhaps you could start me on that basis.

Mr. EDWARDS: The principle reason they are not now, of course, is that they are collected from a group of private employers who are rather jealous of the fact that their wage statistics are not publicly available. I think it has to be a condition of this relationship, between the Pay Research Bureau and the people from whom they gain the information, that the figures would not be released. But there is no reason why general figures could not be released with regard to general wage statistics, and they can be readily disguised so they do not reveal the actual company. Our biggest problem in dealing with Pay Research Bureau material has been the fact that it has always been confidential, and we have a difficult time appeasing our membership in regard to what is a legitimate and reasonable and responsible wage increase either to obtain or seek, because we have not been in the position where we could release factual information which would substantiate the position we have had in our presentations to the commission and the Treasury Board.

Mr. BELL (*Carleton*): This has been awkward for the association and the federation has it not?

Mr. EDWARDS: It has been extremely awkward. It puts us in the position where we may feel ourselves we have an extremely defendable case—something that we can argue—but our members may be thinking that it should be 30 per cent or 40 per cent or some other percentage that we should be being after, when, in our own view, it is not arguable on the basis of the statistical information that we have.

Mr. BELL (*Carleton*): I wonder if I might just, on another associated field, Mr. Edwards, express to you the difficulties I have with the legislation generally.

The staff associations, as they are now organized, are on what I think you would describe as a vertical, or a pyramidal, basis, but bargaining when it comes about is going to be horizontal, is it not?

Mr. EDWARDS: That is right.

Mr. BELL (*Carleton*): It is going to be in terms of groups. What is going to be the future of the public service alliance that you are just about to marry now? How is the new alliance going to fit into the bargaining units and agents as they will exist in the future?

Mr. EDWARDS: If they exist the way they are presently envisaged in the bill we are certainly going to have to make changes in our organizational practice.

Mr. BELL (*Carleton*): That is what I would like to know—the changes which you visualize you will have to make.

Mr. EDWARDS: I think we have a situation which is going to cause us to modify our structure in some way in reference to meeting the requirements of the legislation and the actual bargaining situation.

As you say, the federation primarily, before the alliance, was organized on a departmental concept. The Civil Service Association, however, of my colleague, Mr. Doherty, was organized on one large union across the whole of the public service. The alliance has tried to a degree to marry up both concepts, and we do have an organization which provides departmental components, but there is also a central body to handle the bargaining situation across the whole of the service.

Our constitution does provide that we establish bargaining committees and negotiating committees on the basis of occupational groupings. We will have to make adjustments, I think, depending on what our experience is with regard to the degree of authority that is granted to a negotiating committee representing an occupational group.

At the present time the component structures will place, on the negotiating committees, members who are in that particular group or where they have a particular group interest in the occupational group; but it has to be a flow of not only authority but information that is going to come from the bargaining unit up through to the top. I foresee there will have to be some changes and we will have to work these changes out. We think that we can accommodate the changes within the present structure of our organization. We feel there is going to be a real role, as well, for an organization in a department because the departments are going to have more and more authority. Departmental management is going to have more authority particularly if the commission delegates many of its powers with reference to promotion, demotion, lay-off, classification and so on. It will depend on departmental components to be the real watchdog of the system within departments. Therefore, we feel our component structure is necessary as well as some structure that will represent the horizontal group.

Mr. BELL (*Carleton*): What degree of autonomy do you visualize for the occupational groups within the alliance, then?

Mr. EDWARDS: I think that this is a problem which we have not fully worked out at the present time. I think it will have to be considered, because if the bargaining units are going to represent occupational groups, obviously, there will have to be some question of the autonomy of occupational groups within it.

We do not look on this as a problem because at the present time all of the components of the alliance, through this structure that we have, make the policy on the basis of a board of directors, and so on. It is not policy that is made at the top, it is policy that comes up from the bottom, and the occupational groups will certainly be represented in the component structure.

Mr. BELL (*Carleton*): Thank you, Mr. Chairman, I will defer in favour of someone else.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Knowles?

Mr. KNOWLES: Mr. Chairman, I have a general question in another area that I would like to ask, but before I do so may I ask a supplementary to one of Mr. Bell's questions?

I refer, in particular, to the references made to the National Joint Council. Mr. Edwards, you may have heard me ask Mr. Barnes this question the other day, namely, are those of you who are now on the National Joint Council from the employee side prepared to see the membership enlarged, and prepared to have, on that National Joint Council, representatives of all the various groups?

Mr. EDWARDS: Yes, I think it can only function on that basis in this new setting.

Mr. KNOWLES: That seems to make it unanimous. Mr. Chairman, I would now like to ask Mr. Edwards a question which relates, I suspect, to the first problem with which we will have to cope, as a committee, when we get down to the legislation itself. I think it has been put before us rather clearly by the different philosophies which have been before us.

Mr. Heeney, speaking for the legislation as we have it, argued the case for a collective bargaining regime in the public service different from what we have in the private sector. On the other hand, the unions, representing the postal workers, have argued for being included under the I.R.D.I. Act rather than under Bill C-170.

May I say that I do not think we should over-simplify this and say "Is there a choice between Bill C-170 and the I.R.D.I. Act?" but I think the basic problem is there: Should the civil service collective bargaining be under a regime which is like that in the private sector, where those who defend it say there is equality between the two sides, or should it be under a set up like that in Bill C-170 where, as some of us see it, there does not seem to be quite that same equality between the employer's and the employee's side.

I am sure you have heard the arguments of the postal workers. You have also heard the arguments advanced this morning by those representing the employees of the Printing Bureau. I think we can forget for the moment their concern about their crafts. The fact is that they expressed a desire for the kind of collective bargaining with their employer, namely the Queen's Printer, that they have with their employers in the private sector.

I do not think you commented on this problem when you were before us on previous occasions. I think the tendency on the part of the federation and the association was to accept this legislation and try to improve it in some detail; but, as a committee, I suspect that this is going to be our first problem—which general approach to we take?

Would you care to make a philosophical comment on that philosophical question?

Mr. EDWARDS: It will have to be a philosophical comment.

I think, first of all, I would like to say that I believe that the bill tries to satisfy widely divergent opinions in the public service, in a work force that encompasses about 200,000 people, from people at the blue collar end of the work force—and I do not say that in any disparaging way—to the upper echelon—

Mr. KNOWLES: You mean you are not disparaging the white collar people when you say that?

Mr. EDWARDS: That is right.

—to the upper echelon of the administrative classifications.

I think that when you have a problem such as this, where you are going to bring this widely divergent work force under collective bargaining, the instrument that you find in the private sector of the Industrial Relations and Disputes Investigation Act is not going to be sufficient to do the job unless you are prepared to modify that in many ways.

For example, I think the Industrial Relations and Disputes Investigation Act would prevent many of the people in some professional categories and senior administrative and supervisory categories from coming under collective bargaining in the public service. It also does not provide for an arbitration system which is binding on both parties; it provides for voluntary arbitration, if it is acceptable to the parties, but not, from the start, a binding system that is likely to continue other than on an *ad hoc* basis.

Many of the people who are likely to come under collective bargaining in the public service are quite prepared to at least try a system of binding arbitration, providing it is binding on both parties; whereas there are many people in the public service to whom the words "compulsory" or "binding arbitration" are abhorrent, and they do not want any system such as this.

For these reasons, amongst others—and I think there are many others which could be mentioned—I think that what the public service has to have is a bill that is generally tailored to the public service.

I certainly want to see amendments in this legislation, but I do not think the answer is amending the I.R.D.I. Act to make it available to the public sector.

Mr. KNOWLES: But you think it might be worth our while to try to achieve some amendments to Bill C-170, which would import into it some of the things that are now in the I.R.D.I. Act?

Mr. EDWARDS: I think that this is particularly true, particularly for the groups of people who would want that type of thing in this legislation. But I think this legislation has really tried to satisfy all of the segments of the public service which are likely to come under bargaining legislation.

Mr. KNOWLES: You said that one of the reasons that the I.R.D.I. Act—you know, we really should get a name for that that is as easy to say as ARDA—

An hon. MEMBER: It is wise to be careful!

Mr. KNOWLES: My apologies. Where was I?

An hon. MEMBER: Actually you might have been some place else.

Mr. KNOWLES: It is these people up here who are not married yet, but are living together, who put us off!

Mr. Edwards, you said that the objection of some civil servants to using the I.R.D.I. Act is because there is no provision in it for binding arbitration. I do not wish to argue with you, but, of course, you realize that this is the very reason that some sections of the civil service do not like Bill C-170, because it does

have in it what to them almost seems to be binding arbitration, notwithstanding the element of choice that seems to be in clause 36 and in other places.

We do not need to spend time arguing about this—there are points of view both ways—but I would like to move on to this question: If it is true that we have, as you say, a body of 200,000 to think about, and if it is desirable to tear our legislation to meet the needs of the public service, is there then anything wrong with having legislation which treats some sections of the public service one way and some another. In other words, is there anything in having the classified civil servants generally, the professionals and so on, under the kind of regime that is set out in Bill C-170, and having the postal workers under the kind of regime that is typified by the I.R.D.I. Act?

Mr. EDWARDS: I do not really know if there would be something radically wrong with that. What I would be concerned about is that we have spent about three years, at least the government has, in producing the present legislation which, I think, does do what you are suggesting—allows employees a choice.

I would not like to see it become another year or two year period of gestation before you finally got into collective bargaining. I think delays in the process by taking the present act and deciding to make two acts out of it would create even more difficulty.

I think that the present act does allow the choice of the bargaining unit and people will change in their opinions, and can change in their opinions, under this particular legislation. What disturbs me at times is that people who do have a choice are not only wanting to take the choice but they want to inflict on some other group or people what their decision is in reference to their own choice. I think that this bill does permit an area of choice. I admit that the provisions and how it is done is not to my liking but, at least, there are really two ways of handling the dispute machinery under this bill. One is very similar to the Industrial Relations and Disputes Investigation Act with some modifications and the other provides another system.

Mr. KNOWLES: Would you not agree, Mr. Edwards, that there are some people who seem to want to impose their way of resolving this on others, but this works both ways.

Mr. EDWARDS: Oh, yes.

Mr. KNOWLES: Those who do not want compulsory arbitration may be wanting legislation without it even though others accept it.

Mr. EDWARDS: I am not casting stones at either camp with this argument.

Mr. KNOWLES: We really need not pursue this any longer. Our philosophical points of view are clear. If I may say so, I think that your statement, which is along the lines of what is in Bill No. C-170, set alongside of the clear statements made by the postal workers unions, the Canadian Labour Congress and others, does highlight the problem for us. We have to deal with that when you people go to the back of the room and we go clause by clause.

I would like to ask, Mr. Chairman, just one other question. If you accept the general philosophy that is set out in Bill No. C-170 but at the same time think that there should be some changes, what would you say about clause 36? This is the clause that says that the choice as to whether you go for binding arbitration or conciliation including the right to strike must be made before certification is granted.

Mr. EDWARDS: This is one of the points we do not like in this legislation. We think the choice is in the wrong place. We think the choice should be made at the time of impasse. Up to that stage we think the bargaining relationship is such that you have not reached an impasse and that it is a matter of settling a dispute. So long as you have bargaining without either hands being tied on whatever the situation is, you have not made the decision as to how you are going to handle the dispute because you have not reached the dispute stage. We think that certainly the present situation of stating which way you are going to go in dispute settlement, even before you are certified, is unacceptable.

Mr. KNOWLES: I was looking around to see if my friend Francis Eady was here. I was so glad to hear you put it that way. In all fairness to him, as a witness this morning, he did admit that he was offering a compromise, namely, that this decision might be made after certification rather than later in the picture, if I may say so. This is the only statement I will make in this questioning. I thoroughly agree with your position that the time this choice should be made is when an impasse has been reached, when a dispute is on. You will agree, no doubt, that there should be some time element as to when this could be done.

Mr. EDWARDS: Oh, yes.

Mr. KNOWLES: If the two sides are going to have any kind of equality of bargaining, surely they have to have rights in terms of deciding strategy when there is a dispute on.

Mr. WALKER: I have a supplementary question. This particular subject has given me some concern but I am wondering if there is not another choice that is to be made. So far all we have been talking about is the choice of two streams, either conciliation or arbitration, and that choice to be made by the bargaining agent for a particular group of people.

I wonder if there is not a pre-choice that has to be made—and perhaps this has been overlooked—the pre-choice being the choice of employees as to who will be their bargaining agent. I wonder if the bargaining agent does not owe a responsibility to the people they are trying to organize by stating to those people their viewpoint so that employees know all the facts before they choose their bargaining agent, rather than being, if you will, captive of an agent who may decide afterward to do something that if the employees had known about early, might have had second thoughts about choosing that particular agent. This is another area, and this may be the reason the clause is in the bill—I do not know. Had you considered this at all as part of the reason it might be in?

Mr. EDWARDS: Yes. I know Mr. Doherty would like to comment on this.

Mr. DOHERTY: Yes, if you will accept an answer from me, sir.

Mr. WALKER: Oh, certainly.

Mr. DOHERTY: I think there has been a divorcing of two entities here that are really one. The people in the bargaining unit are the bargaining unit. This does not rest with anyone else. The bargaining unit will select its officers in its own way; its members will determine the policy of that bargaining unit, and it would follow that they will make the rules. There is no organization without membership.

Mr. WALKER: I agree, but how can that membership decide on which of the two bargaining agents they are going to have, if they do not know, prior to giving that control, the viewpoint of these two as to which channel they may choose later on.

Mr. DOHERTY: The viewpoint in a situation like this must come from the membership. Any organization that tries to inflict its viewpoint upon a membership is not going to last very long. What I am saying is that if the suggestions of the association are accepted here, it advocates, at a particular point in time in the collective bargaining system, that the membership will make a choice of which road they want to take, whether they want to take conciliation or arbitration. This is what we are advocating. There is no basic philosophy involved so far as our organization is concerned. We do not favour strike action and we do not favour arbitration. This would come from each bargaining unit. It would have to come.

Mr. WALKER: Mr. Chairman, might I just develop this a little bit. I am here to be educated. Is it not too late at that point because, if I may use this expression, the members are "stuck"; having made a choice of a bargaining agent, they are stuck with that bargaining agent, and if we put off the choice of those two channels until much later, those members, in choosing that bargaining agent, do not know which direction the bargaining agent may decide to take.

Mr. DOHERTY: The bargaining agent is the unit of members which will make this decision. There is no one outside that unit which will have any say in the decision. The bargaining unit itself would establish this policy. The same applies in international unions in Canada and in national unions in Canada. The strike policy or an arbitration policy is not imposed by the national membership; these decisions are taken within the bargaining unit itself. There is no policy developed outside that bargaining unit, if it is properly handled.

Mr. WALKER: The reason I am asking these questions, Mr. Chairman, is that it was my impression, simply as a member of the public—Mr. Knowles, will correct me if I am wrong in this—that a strike, when called, is called by the agent, to be ratified by the membership, certainly, but basically the decision is made by an agent.

Mr. DOHERTY: The permission to strike is first given by the membership. Let us take the industrial trade union picture in Canada generally, I do not know of any national or international organization in Canada that has within its national leadership or its local leadership the power to call its membership out on strike without first getting permission from its membership to do so.

Mr. LEBOE: I would just like to bring to your attention, sir, that in the last railway strike the operators were called out by their union without any reference to the membership.

Mr. DOHERTY: I would assume that the membership must have first cast a strike ballot in favour of a strike.

Mr. LEBOE: No, they did not.

Mr. DOHERTY: Well, this is an unusual circumstance so far as I am concerned.

Mr. LEBOE: This is the thing I wanted to draw to your attention. I have it directly from these people that they were not asked whether they should go out on a strike, they were told that they were on strike.

Mr. DOHERTY: I would not question your word, sir, I merely say that this is not my understanding. I know of no organization that has this power.

Mr. KNOWLES: It is the other way these days; the membership is forcing strikes on the leaders.

Mr. EDWARDS: I wonder if I might make a comment on this point. I think it might help clarify it for you if I said, if the present legislation goes through on an occupational group basis, we, with our present membership, will probably represent a majority of the occupational groups, and it seems quite likely to me that some of them will decide the bargaining units of those occupational groups. Some of them will make decisions to accept binding arbitration under this bill and others will want to accept the conciliation and strike process. We, as leaders of the organization, are going to be in a position where we are going to be telling some groups that we think that this is the proper machinery for them to use. We will probably be suggesting to other groups, as advice, because they expect to get advice from us, that perhaps this is the other method they should use in their situation. Obviously, if a bargaining unit is likely to have a large number of people who are designated in it as required for the safety and security of the country so that it removes the power that you might have to withdraw labour by strike action, I would think that our advice to that particular group is that the dispute settlement machinery they should seek under this bill is binding arbitration on both parties.

Now these matters will generally be known to the government, or whoever we bargain with, I think quite early on in the bargaining legislation. If there is, in any event, a period of time where after you have made a choice, you are stuck with the choice for three years and, obviously, once you have made the choice, the other party does know what system you are going to bargain under. I think so far as we are concerned in our organization, we are not going to be imposing a policy of either conciliation or strike or compulsory arbitration. We are going to point out, in all probability, what the act would provide, what their circumstances would suggest to us in reference to their bargaining power and their bargaining wishes and they are going to make the choice in the bargaining unit as to how we will act on their behalf.

Mr. DOHERTY: I would like to add, Mr. Chairman, that this is quite a usual procedure in the trade union movement; the leadership do recommend certain action for their members to take. But in the final analysis, that authority must come from membership meetings, strike ballots or whatever machinery they have.

Mr. KEAYS: Mr. Edwards has been referring to the words "bargaining unit" and I think somewhere in his brief a preference was shown for this term rather than the words "employee organizations". Could you please expand on that?

Mr. EDWARDS: It is my understanding under this bill that the occupational groups will be, in effect, bargaining units. They will be set up as bargaining units under the bill, and a bargaining agent that can represent over 50 per cent of the people in the bargaining unit would be certified as having the exclusive right to bargain for that group. In other words, the bargaining unit, as an

occupational group, would be represented by a bargaining agent which, in effect, would have exclusive rights to handle the relationships with the employer on their behalf.

Mr. KEAYS: The bargaining unit would have to have over 50 per cent of the employee organization; in other words, you could not have two bargaining units in any one employee organization.

Mr. EDWARDS: Oh, yes, you would be able to have a number of bargaining units within an employee organization. I see nothing in the legislation that would prevent that. It does not indicate that you have to have a separate employee organization for each bargaining unit.

Mr. BELL (*Carleton*): I think this may be the crux, Mr. Edwards, of some of us understanding the position in a particular department. Perhaps you could take us delicately by the hand and lead us through the situation in, shall we say, the Department of National Revenue, and tell us how you visualize the occupational groups, in that department, will be developed, who will be the bargaining units and who will be the agents. This is the problem that I have with the whole legislation. I cannot quite put it down over a particular departmental set-up.

Mr. EDWARDS: First of all, you are asking me to outline a situation that we are not solidly in support of. We have wanted bargaining on the basis of categories rather than on occupational groups, but if it should come out in the way of bargaining on occupational groups, in a department such as National Revenue Taxation, you might have a number of professional people who would be allocated to certain bargaining units composed of an occupational group. The lawyers would go into a bargaining unit composed of lawyers, as an occupational group of lawyers. The assessors would go into the auditing group and would be part of that particular group. But in some other departments, such as Customs and Excise, where you have excise tax auditors and professional accountants, they would also be in that group. And perhaps in the Department of National Defence, you might have auditors and accountants who would also be in that auditing and accounting group. And the occupational group, that the auditors and the assessors in the Department of National Revenue are in, would in effect be spread across the whole of the government surface and would take into that bargaining unit people doing similar work and with similar qualifications and similar skills.

Mr. BELL (*Carleton*): In different departments.

Mr. EDWARDS: Yes, in different departments, on the basis that the wishes, needs and the bargaining demands of a group of people who are occupationally oriented, whether they work in one department of government or another, are likely to be more clearly met in a bargaining situation on the basis of occupation. I think that this is the theory behind this. Therefore, it does mean that when you get down into the larger occupational groups, such as the clerical group, you might have some 30,000 people spread across the whole of the government service; yet it would be one bargaining unit, represented by a bargaining agent that, in turn, had in its membership at least 50 per cent of the people spread across the government service.

In our component style organization, the component would give to the central body the bargaining rights for the occupational groups in its component

structure, as a matter of constitutional right. The central organization, constitutionally, would deligate to the component in the department the right and responsibility of handling the grievance procedure and so on in the department, and the right to handle the bargaining of a particular departmental group if it were within the confines of that particular component.

This is in essence, I think, the bargaining relationship.

Mr. BELL (*Carleton*): Now you indicated that that was not the procedure which you would approve. What would your alternative be to that?

Mr. EDWARDS: Our alternative was to take the categories that were established by the preparatory committee and add one additional category of mail handling, and we would use the category approach to making category bargaining, and having the bargaining agent the employee organization that could represent the majority of people in the category. This, in effect, is the industrial style union, where you have a large group of people represented by one union, and they may consist of varying occupational trades, skills, and so on.

Mr. BELL (*Carleton*): How keen do you feel about that as opposed to the other?

Mr. EDWARDS: Well, we feel that this would have prevented a lot of difficulty in getting into collective bargaining because what we are concerned about really is that 66 occupational groups will set up a lot of rivalry in the public service—not only rivalry in reference to membership, which is one thing, but I think also rivalry with regard to achievements at the bargaining table. It is conceivable that there will be a fairly intense rivalry for the various organizations to produce, and this may cause difficulty in the two areas. You are going to have conflicts from one group trying to take over another group, and you are going to have the problem also of rivalry amongst the particular groups. I think the fact that we do have the Public Service Alliance will prevent that to some major degree because, as we are now constituted, representing over 100,000 people in the public service, we would in effect be able to represent quite a few of these occupational groups.

Mr. HYMMEN: Mr. Chairman, I presume we are going to continue with Bill C-170 first.

The JOINT CHAIRMAN: Yes.

Mr. KEAYS: Mr. Edwards, you probably have answered my question in anticipation. Do you foresee rivalry and a great selling job being done by your bargaining units, and do you foresee confusion and delay in the procedures set up.

Mr. EDWARDS: I think this can well happen because there can be delays. I think there will be intense rivalry at least up to the period of certification. Obviously once an organization is certified the rivalry will at least cease for a period of time. But what we are concerned about in this matter is that there may well be delays in certification. One aspect of the bill that bothers me is that there should be a period of delay of phasing it in over two years. If this should happen, existing organizations are going to be under extreme pressure to hold on to the membership they may have represented over long period of time.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Hymmen?

Mr. HYMMEN: I have one general question and several specific questions to ask Mr. Edwards, representing the alliance. You have told us about the impending marriage. I do not suppose it is any coincidence that it is the day before Armistice Day?

Mr. EDWARDS: I think it was a rather fortuitious date that we picked in the hope that peace will prevail on the 11th.

Mr. HYMMEN: It has been some time since we received the two briefs of the federation and the association, and we have had the supplementaries which, I do not suppose, were a resubmission. I have several questions on the original briefs.

In reading all this material, I had the impression that in the collective bargaining bill your association, the alliance, representing, I believe, some 115,000 people, felt that in spite of some strong views and reservations the legislation, when it is finally approved, should be passed at the earliest possible date, and while there were many, many problems involved I got the impression you felt these problems could be worked out in the media which would be created. Am I right on that?

Mr. EDWARDS: I think, generally, you are quite correct. We are very anxious to see the collective bargaining legislation pass. It has been a long time aborning and we want to bargain under legislation. Generally we would be quite prepared to try and work out our difficulties in the bargaining relationship. There are some areas we hope the committee will certainly change but we would be prepared to live with the legislation and make the changes accordingly as we gain experience in this bargaining relationship.

Mr. HYMMEN: It is an entirely new venture?

Mr. EDWARDS: That is right.

Mr. HYMMEN: My other question was partially answered but I would like to ask it anyway. On page 4 of the federation's brief you mentioned some concern about chaos in arranging bargaining units. Is this matter still of major concern or what is the present position?

Mr. EDWARDS: I think this is still a matter of concern, as I pointed out a moment ago, particularly if there are going to be delays in certification—and this is one matter that is likely to cause a lot of difficulty. I also believe that if you have a multitude of bargaining units you can expect that there will be difficulties. I think the situation has improved since the initial brief of the federation was written because of the fact that we have been able to iron out our difficulties in the merger of the CSAC and the federation. So, there is less likelihood of this happening now because at least two of the rivals have married.

Mr. HYMMEN: With regard to the delays which have been mentioned before, I think you, probably as much as anyone, understand the intent of the procedure. Do you support the intent?

Mr. EDWARDS: Well we believe the reason for the phase-in certification was so that it would not upset the cyclical approach to salary review. We were quite prepared to accept phasing in the pay portion of this matter and doing it on a cyclical review basis that would not upset it, but we felt that there should be a means of certification to deal with many of the problems other than pay. Other

than this you leave everybody in limbo for a period of time where there is no real way of representation at all; there is not even any provision for consultation. So, if we do not have certification and do not have recognition, who do we deal with in the way of problems other than pay? We are quite prepared to consider that pay should be a cyclical pattern and should maintain this cyclical relationship, but we feel we should be in a position to deal with these many other areas. We think the only way this can be done is through some process of recognition, preferably certification, and it would also prevent the conflict that will result from present organizations that have existed for a long time and done their best to represent their members under an old system not being able to move into the new system with some safeguards with reference to their present status.

Mr. HYMMEN: I have one final question. You mentioned—I do not know which brief it was in—that the legislation is too complex. Now I think we have to admit that the basis for the bill was certainly the report of the preparatory committee. The chairman of the committee told us that they wanted to make this as simple as possible and yet they felt various things had to be included. Now if you think it is too complex, what part would you have left out?

Mr. EDWARDS: That is an extremely difficult question when you pin it down to specifics. My colleague has told me there is an item in the bill about bulletin boards. Well, we think this is one item that might have been saved; it could have been worked out between the parties. We think also that perhaps the sections on grievance procedure might well have been worked out with the parties. I do not think it was a case of the preparatory committee putting into legislation only what they felt would protect the government; I also think they were putting into legislation what they felt might protect the employee organization. I am not going to say that all the blame is one way in this but I think perhaps they were overly concerned that the relationship between the parties might not be able to produce the things that it should produce in a good relationship?

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. WALKER: Mr. Edwards, many of the witnesses who have been here to date have put forward proposals that would practically strip the Civil Service Commission of nearly all their duties. Would you like to see this situation arise?

Mr. EDWARDS: Well, frankly, no, I would not because I think the Civil Service is different to private industry. I think one of the major concerns of civil service organizations, with all due respect to the Members of Parliament, is to eliminate patronage in the public service because we are concerned that the merit system be maintained, and I think the commission is necessary in this area. Collective bargaining is not going to take unto itself all the people that are in the public service. There are a lot of people that are left out by the terms of the bargaining bill. I think there has to be protection for those people with regard to the tenure of employment, how they are selected, promoted and so on in the public service. I think it has to be an independent commission with full independence to do this. I feel there is a real role for the commission, not only in this, but in developing more career programs for employees and things of this nature, which I think can well be done by an agency such as the Civil Service Commission.

Mr. WALKER: I am very glad to hear you say that because many of the other witnesses have put forward suggestions which would have the opposite effect—at least, this is my interpretation of them.

Mr. BELL (*Carleton*): I do not think anybody wants to strip the Civil Service Commission.

Mr. WALKER: I would recommend that all members of the committee read the minutes of today's meeting when they are printed. The question of delegation of authority appears to give you some concern. Were you here when Mr. Carson of the Civil Service Commission presented his brief?

The brief, which I have here, states: "We will not hesitate to rescind or modify the extent of delegation in any given case if there is evidence to support such a decision, nor will the commission hesitate to identify to Parliament those persons who have abused their delegated authority". Now, I think your brief had been presented before you heard his submission.

Mr. EDWARDS: I had not heard the statements of Mr. Carson. I think Mr. Carson's statements are very reassuring but I would like to be very sure, in the delegation of authority, that the commission not only post-audits something that is happening but also does pre-audits and pre-checks and does everything it possibly can to make sure that the delegation is carried out properly, and remove it immediately if it is not. I can understand that the delegation of many of these things is necessary if you are going to streamline the rather cumbersome machinery of hiring people and selecting people and promoting people, but we are very concerned that you do not put deputy ministers and heads of departments in a position where they may be under undue pressure that they cannot withstand and which could be more properly withstood by an independent commission. Our concern really is not in the delegation of power; it is in the control of that delegation, to make sure that there is absolutely no abuse of delegation.

Mr. WALKER: Just one further question. The other members of the committee may not agree with my understanding of some of the suggestions in the brief that were given earlier today, but it seemed to me—and it was so stated—there was some expressed lack of confidence in the independence of the chairman of the public service board, and the board itself. There was a lack of confidence that there would, in fact, be real independence of the board, quite separate from government. Do you have confidence in the independence of such a board? I am speaking now of independence from government, from the employer as such.

Mr. EDWARDS: I think that we have confidence that the Public Service Staff Relations Board will be established as a board that is separate from government. We want to be part of any consultation process in order to select the best person possible, without any doubt that they are fully qualified to do the job and with no thought that this is, in any way, a political appointment. It should be an appointment of the best person they can possibly find to handle that particular position. I think our concern has really been expressed in reference to the power of the board in some areas, and particularly the chariman. We feel that the chairman should not be placed in a position where his own decisions cannot be reviewed by his own board. The complete power of the chairman in some of these areas gives us some concern. We have a lot of faith in having a

good board and making sure that it is established so that it will do a good job, but we do want to make sure that too much power is not delegated in the hands of one person.

Mr. HYMMEN: Mr. Edwards, regarding the question that was asked with reference to the statement by Mr. Carson, would you feel better if there were more spellingout of the controls over this delegation of authority on behalf of the commission?

Mr. EDWARDS: I would like to see some spelling out of the delegation of authority.

Mr. WALKER: In the legislation or in regulations?

Mr. EDWARDS: In regulations.

Mr. BELL (*Carleton*): A spelling out of what nature?

Mr. EDWARDS: Provision for carrying out the auditing of the commission, how it would be done, making sure the authority to remove the delegation is there, what would happen in the event that the delegation is abused, and so on. I am not as concerned about how it is going to be done as about the fact that it is going to be done. The mechanics of doing it, whether it is in regulations or the act, is something that I do not really feel confident to comment on.

Mr. ORANGE: In that connection, Mr. Chairman, I would like to ask Mr. Edwards if, in the spelling out of the authorities he would envisage that the commission would have a role in auditing the promotion function of departments as allocated by the commissioner?

Mr. EDWARDS: Yes, I would.

Mr. ORANGE: Would you say that the bargaining unit would also be involved in this process?

Mr. EDWARDS: Under the present legislation, of course, this is removed, but I think it should be brought into the bargaining relationship. There are difficulties, I will admit, in marrying up the merit system with the bargaining relationship but I think that certainly this is something that could be done. Whether it can be done initially or not, I am not at all certain. We are concerned about the things that are left out of the bargaining relationship, such as classification, promotion, demotion, layoffs, and so on. We think some of these things can be dealt with under agreement. There are many areas, of course, where people will not come under the bargaining relationship. Of course, they have to be considered at the same time. In reference to promotion, there may well be bargaining units where seniority factors should be considered much more than they are at the present time. I think there has to be some development of this area.

Mr. ORANGE: Under the legislation which is in effect at the present time the only opportunity the employee has, in terms of promotion, when he is not successful in a promotional competition and wishes to appeal, is to call on you or some other person to act as his agent on the Appeal board, and under the new act this still exists, does it not?

Mr. EDWARDS: That is right.

Mr. ORANGE: What do you see is the difference between that system and the system we would like to see, where there would be more consultation with the bargaining unit in terms of promotions?

Mr. EDWARDS: I think some parts of these problems might well have been handled under appeal procedure, but the appeal procedure in these matters that come under the metit system is really there to provide a grievance procedure to handle matters that come within the scope of the commission in the protection of the merit principle and the merit procedure. I am not suggesting that perhaps this change has to be made now. I think it may well be a developing process under the collective bargaining relationship, but I think there is scope for moving some of these areas into the bargaining relationship through the grievance procedure and protection of the grievance procedure. I think at the present time we have not even got a grievance procedure in the public service except in one or two selected areas or departments, so I believe this will be a developing process, but at the moment I would leave them where they are and hope that we could move into this area as we develop.

Mr. ORANGE: Am I to assume, then, that you are not so concerned about the words "political patronage" as the words "administrative patronage"?

Mr. EDWARDS: I think we are concerned about both.

Mr. WALKER: You can forget about political patronage. As a member of parliament, we do not get anywhere with the Civil Service Commission.

Mr. EDWARDS: I am very happy to hear that. It is very reassuring.

Mr. ORANGE: Your concern is within the framework of certain departments —I will not mention any particular area—there can be a tendency for the departments to be inbred, and to not draw on the civil service as a unit to select the best people for the jobs?

Mr. EDWARDS: I think this can be decidedly true. I think you can have administrative patronage—if you want to use that term—equally as much as you might have some political form of patronage. I think we have to be concerned, if it is a merit type of appointment, that the best person available has an opportunity in the position.

Mr. ORANGE: Then how do you see the alliance fitting into a scheme whereby you would be involved in the promotional aspects of the civil service?

Mr. EDWARDS: I am not too sure I understand how you feel we fit into the promotional aspect. I think, for instance, we might be concerned with the standards, how the promotional competition is going to be held, who the people are who are going to be on the board, what the avenues of grievance in respect to an unsuccessful candidate are, things of this nature. I do not feel that we have a part, really, in determining who the successful candidate is. Our real role is to make sure the choice which has been made is fair and objective to all the people concerned in relation to this. I think this is our role.

Mr. ÉMARD: I have a few questions which may not be directly related to the bill but I think they may have some importance. If I understand correctly, the pay research bureau is what you might call a section of the Civil Service Commission, is that correct?

Mr. EDWARDS: That is correct. It is under the Civil Service Commission now.

Mr. ÉMARD: And no employee association is represented on that board?

Mr. EDWARDS: This is not quite correct. There are three representatives of staff organizations on the pay research advisory committee. That is a committee composed of staff side representatives and official side representatives, chaired by a commissioner, which develops general policy, and so on, for the pay research bureau respecting the types of surveys they would handle, what they would do, how they would handle them, the types of material, and so on. In other words, the general direction of projects for the bureau. There is a director of the bureau, of course, to determine how these things will be done and the priorities that can be handled and how it can be administered within the bureau. But there is some say in the area which will be handled by the pay research advisory committee.

Mr. ÉMARD: Will you have access to all the findings of the bureau? For instance, if you want to find out what a certain company is paying, will you be able to find out or will it just be what the bureau publishes?

Mr. EDWARDS: Well, it will be what the bureau publishes, but we have no reason to suspect that the bureau, if it is properly directed, will not obtain the information from whatever the selected universal companies are. When the bureau publishes its report at the present time the companies are not pinpointed so you know what company is paying what wage, but you do know the aggregates which are paid, you know the means and the various statistical measures of wages which are paid, you have geographical dispersion of people, and so on, and where these wage rates are paid. I do not think there is any attempt on the part of the bureau to withhold information from either party. I think there has to be, in order to satisfy the people from whom they obtain the information, some degree of preventing that information being misused, because if you produce information, which is readily available to a number of people, that pinpoints the wage rates of specific companies you are not going to get the co-operation of these companies in giving you that information. If the pay research bureau is going to do a good job of obtaining information, they have to protect the companies from which they are obtaining the information. I think they have built up this relationship over the past and I see no reason why it would not continue.

Mr. ÉMARD: Is it correct in some cases you can obtain the average pay for three companies of comparable size?

Mr. EDWARDS: Yes, you can obtain the average of a number of companies depending on whether it is manufacturing, service industries, and so on.

Mr. ÉMARD: Do you intend to have a research office in your organization?

Mr. EDWARDS: Yes, we do. We have one now.

Mr. ÉMARD: You have one now? This is what I would like to know: how many full time officers do you have in both organizations?

Mr. EDWARDS: In the research department?

Mr. ÉMARD: No, full time officers in both organizations?

Mr. EDWARDS: We now have in the Civil Service Federation a staff of about 37 people and the Civil Service Association, I believe, has 30 people?

Mr. DOHERTY: About that. A substantial number of these are field staff.

Mr. EDWARDS: A substantial number of these are field staff because we have offices across the country. We have a research department consisting of a research director, two assistant research directors and, at the present time, three research officers. We will be expanding this under the alliance in order to do the work of preparing arguable submissions on a factual bais.

Mr. ÉMARD: How many of these officers are elected?

Mr. EDWARDS: How many officers are elected? At the present time in the Civil Service Federation the president, two vice presidents and the treasurer are elected officers to the federation. All the people on the national council representing presidents of various associations are elected. The paid staff of the component organizations quite often represent their component organizations on the executive committee of the federation. The management committee of the federation is composed of an executive secretary, who is not elected, a president, two vice presidents and a treasurer. These four others are elected.

Mr. ÉMARD: When officers lose their elections are they returned to their jobs in the civil service?

Mr. EDWARDS: Well, this has happened in the past. There is no assurance under the present Civil Service Act that they will return to their own job or previous job. The only thing that the Civil Service Act provides at the present time is that if there is a position in the public service for which they are considered qualified they may be placed in that position. They are on a leave of absence basis but there is no assurance given by the commission, or asked for by the employee, that there is a specific job available to him. I do not think it should be on that basis. I think the way the present regulations apply are good as far as the employee is concerned and as far as the government is concerned. It really allows an employee who is on leave of absence from the government portability of pension and portability of group surgical and medical insurance plan, but not too much else. There is an assurance he can go back into a job if they consider he is qualified for the position and if there is a position vacant.

Mr. ORANGE: There is no guarantee of permanent employment at a salary regardless of where he goes?

Mr. EDWARDS: There is no guarantee. When he leaves a position on a leave of absence basis that position is filled. It is not a case where the position is held for him to go back. He has, perhaps, the same type of situation as a parliamentary assistant, or someone such as this.

The JOINT CHAIRMAN (*Mr. Richard*): Let us go back to Mr. Émard, please, Mr. Orange.

Mr. ÉMARD: Are all the present officers of the association former civil servants or did you hire them from outside?

Mr. EDWARDS: Do you mean the paid staff?

Mr. ÉMARD: Yes, the paid staff.

Mr. EDWARDS: We have brought the paid staff in from various places. Our executive secretary in the Civil Service Federation, who has been executive secretary for about the last seven years, and before that was with one of the organizations, has never been a civil servant. We have on our research staff people who were outside the civil service in various occupations when we brought them in. We have not made it a point of just hiring people from the civil service.

Mr. ÉMARD: You can hire somebody from outside?

Mr. EDWARDS: Oh, yes. There is nothing to prevent us from doing that.

Mr. ÉMARD: If your organization should choose the strike option, do you intend to have a strike fund? There may be a more polite word I could use.

Mr. EDWARDS: I think if you are going to effectively handle a strike situation and if it is going to be over any length of time, you must be prepared to build up some form of strike fund in order to provide something to your members. Mr. Doherty has pointed out that this is convention policy. Convention, of course, would have to decide that because it is really a matter of dues. At the present time we do not have any such thing as an established strike fund.

Mr. ÉMARD: One thing we have not talked about, and I consider very important, is that once a contract is signed you must have a staff which is prepared to police this contract. The policing of the contract usually is not done by the head office, this is done through the field. Now, do you intend to have some training for your stewards all across the different—

Mr. EDWARDS: Yes, we do. We have already been discussing this. In our new establishment there is a position for a senior person who will have the direct responsibility of training, legislation, and so on, for stewards and shop steward training. We have already discussed this with many of our organizations. As we pointed out, we have a field staff which we have now brought together. We have district officers in all of the capital cities of the provinces across Canada and we would be broadening out that particular field service and actually training stewards in how to handle the problems of grievances and police contracts and deal with the actual terms and conditions of contracts.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Knowles?

Mr. KNOWLES: Will your new building on Argyle be large enough for your larger family?

Mr. EDWARDS: No, it will not, Mr. Knowles. We are already thinking in terms of other space. At the present time under the alliance we will actually be using the space at 88 Argyle as well as the space at 1312 Bank, the offices of the Civil Service Association.

Mr. KNOWLES: That kind of a marriage, is it?

Mr. EDWARDS: We have to use all the facilities of each party.

Mr. ÉMARD: May I ask an embarrassing question—well, not too embarrassing.

The JOINT CHAIRMAN (*Mr. Richard*): If it is too embarrassing we will rule it out of order. Are you through, Mr. Knowles?

Mr. ÉMARD: Do you intend to ask for the Rand formula or compulsory membership?

Mr. EDWARDS: We intend to ask for the Rand formula in areas where we have a bargaining unit relationship and we are asking as the bargaining agent. We think that this should be negotiable under the terms of a contract and certainly we would ask for an application of the Rand formula.

Mr. KNOWLES: Mr. Chairman, in that connection, I wonder if there is some way that we can get figures of the present membership of public servants in the various organizations. We have been asking each body that comes before us how many members they have and Mr. Edwards tells us the alliance has something over 100,000. We have had figures from the postal workers and other unions, and so on. There is a long list, the Public Service Alliance, the Professional Institute and various craft and industrial unions, prevailing rate employees, the Christians and various other groups. It is not fair to ask Mr. Edwards for the total; he can give us his but—

Mr. DOHERTY: Mr. Knowles, before you go on I would like to introduce another biblical remark here because I think you have already had one. I think it should be "Bear ye one another's burdens" in case you are thinking of another organization.

The JOINT CHAIRMAN (*Mr. Richard*): Yes, Mr. Knowles, I think the secretary might have to do a little research work on this.

Mr. KNOWLES: I am not suggesting that this makes the picture for the future rigid but I think it would be useful for us to know how the 200,000 civil servants line up at the present time.

The JOINT CHAIRMAN (*Mr. Richard*): It seems to add up to at least that now, from the figures given by the parties.

Mr. KNOWLES: From the figures we have been given we have probably got 400,000, members of various unions out of about 200,000 employees.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. EDWARDS: Did you want an answer to this? The figure that we have been using is approximately in the area of 105,000 to 110,000 at the present time.

Mr. KNOWLES: That is the joint figure?

Mr. EDWARDS: This is between the Civil Service Federation and the association. Now there is some fluctuation here. There is some dual membership throughout the whole of the organization because we do have people that belong to unions as well as belonging to the Civil Service Federation or the association. It is a fluctuating membership, of course, as you know, because there are about 25,000 separations every year in the public service and about the same number of people coming in. Also we have the difficulty that we have not really had an accurate count of membership in the last three years since it was last done by the preparatory committee. They prepared a machine run of membership statistics for the various organizations. Most organizations have not had their card systems set up so they can make an accurate total count. We do it by pay roll check-off. Payroll check-offs sometimes vary and it takes months to catch up and you will have duplications and it becomes an extremely difficult

job to do a completely accurate count of membership in a large group. But I think the figure we have been using of over 105,000 is quite an accurate one.

Mr. KNOWLES: I was not questioning your figure, Mr. Edwards; I was just interested in having the total figure.

The JOINT CHAIRMAN (*Mr. Richard*): Yes, but we are still faced with the dual relationship where some employees are members of both groups. That is why we run into a large figure. Mr. Orange did you have a question?

Mr. ORANGE: Mr. Edwards answered my question about payroll check-off. Just before we conclude, was this only on Bill No. C-170?

The JOINT CHAIRMAN (*Mr. Richard*): No, it is on the three bills.

Mr. ORANGE: Well I have a further question with regard to one section in bill 181, namely the matter of entry into the civil service. At the present time a veteran who has served overseas has priority which allows him initial entry, in preference to any other non-veteran, into the civil service. Once he enters the civil service he can move ahead in three ways: one is through promotion within the department, the second is through interdepartmental competition and the third is through open competition. I asked this question the other day of the Professional Institute. Do you have any views with regard to the use by the veteran, of the veterans preference a second, third or fourth time during his career in the civil service?

Mr. EDWARDS: I think under normal circumstances it should be a matter of entry into the civil service on an open competition. I think that you can have situations where there will be open competitions and a veteran uses it again, but sometimes I am rather concerned about having a situation develop where there is or can be a misuse of this particular thing—I do not think this happens too often—you have some selection of the type of competition which might be used, whether it is an open competition or a promotional competition, to perhaps restrict a veteran from applying. I think one of the dangers in the preference matter, as far as veterans are concerned that perhaps has to be considered, is that sometimes you will have a situation where a veteran might qualify for a position but the selection board might not want him to qualify at the top of the list and, if he is given his veteran's preference, he automatically qualifies at the top of the list. This can be a disadvantage to him in a situation like this because they might be prepared to place him on a list in somewhere other than a qualifying position and by allowing him the veteran's preference it will be the top of the list or not at all and it might well happen that it is not at all. I think this is unfortunate when it does happen. I think as we get farther and farther away from the particular requirement of rehabilitating veterans into the public service, this particular area will have to be examined to see whether there should be some change to a point system or a point system even on promotional competitions for veterans, and so on. I think it is worthy of re-examination but I am not suggesting in any way, shape or form that there should not be a preference for a veteran in getting into the public service on the basis that he has served his country. I think this requires a preferential treatment with regard to employment. I think in other areas it might well be a case of examining this in respect of seeing whether there might be some modification. Perhaps even whether a veteran should get some preferential treatment with reference to promotions on a point basis.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions? Mr. Hymmen.

Mr. HYMMEN: Mr. Chairman I have just short questions, or at least I think they are short.

You mentioned something that other groups have mentioned, namely, appeals and the right denied to the appellant to be represented by a staff association. If this wording were changed that would avoid this objection?

Mr. EDWARDS: We want to have the right for the representative of an employee to speak for him. We think this has to be in an appeal situation. Many employees, who have never been through the appeal procedure, are absolutely scared to death of what could result, what could happen to them. They need someone to be there to give them some confidence, to be able to field questions for them. I think this should be in the act. It should not be removed. They should have the right of representation.

Mr. HYMMEN: I agree.

Mr. DOHERTY: There is an indication in the present draft that this right would not be denied but quite often the employee obtains a copy of the act and uses it as a guide to determine what his step is going to be and whether he should appeal or not. In this sense alone it is of value to the employee. In addition, it is good in a situation like this to lay down the right of the employee so that he knows he has a staff association to represent him.

Mr. HYMMEN: My final question may not be as short as the first one. You suggest in your supplementary brief that the C.S.A.C. proposes incompetence should be capable of definition and yet you did not offer to define it. Would you care to enlarge on that?

Mr. EDWARDS: I am going to duck this one to Mr. Doherty; he said that.

Mr. DOHERTY: I believe, and I am drawing on my memory now, it was defined in the Civil Service Act; at least that is the impression I have. Certainly the drafters of this bill must have had something in mind when they used the words. This seems to be a management responsibility. In this case I would rather stand back and be the critic.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. KNOWLES: May I ask Mr. Edwards or Mr. Doherty if they are hopeful that with the advent of collective bargaining we will have seen the last of red circling?

Mr. EDWARDS: Very much.

Mr. BELL (*Carleton*): Mr. Chairman, I hope it will be long before that. If we have to wait for collective bargaining before we get rid of red circling, then there will be real trouble in the civil service.

Mr. EDWARDS: I share your views on that, Mr. Knowles, and I think they are shared by a lot of other people. We want to get rid of it as soon as we can.

Mr. BELL (*Carleton*): The day before yesterday.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Now, gentlemen, on Monday we will have before us the Canadian Labour Congress but I was wondering if tomorrow we could take the Civil Service

Commission because I understand—and this is informal—the members of the Civil Service Commission cannot come until some time later next week. Could we take the Civil Service Commission tomorrow only, just Mr. Carson from the Civil Service Commission.

Mr. ÉMARD: We have not had a chance to do any work in our offices this week.

The JOINT CHAIRMAN (*Mr. Richard*): One meeting tomorrow morning might do it.

Mr. J. J. CARSON (*Chairman, Civil Service Commission*): Mr. Chairman, I will be available next week.

The JOINT CHAIRMAN (*Mr. Richard*): Good. On what day?

Mr. CARSON: I will be available the first two days of the week.

An hon. MEMBER: It will take at least three days.

The JOINT CHAIRMAN (*Mr. Richard*): No, no. The first three days of next week? That is fine, then. I thought you could not be available until Thursday.

The next meeting will be on Monday at 10 o'clock.

"APPENDIX K"

Extract from the Priestley Commission pages 42 & 43.

Standing Advisory Committee

It is probably true to say that the appointment of a Standing Advisory Committee for the higher grades in the Civil Service is the most revolutionary recommendation of the Royal Commission.

The Standing Advisory Committee was appointed in February, 1957 and is now known as the Coleraine Committee after its first Chairman, Lord Coleraine. The membership is:

Lord Coleraine
Sir Alexander Carr-Saunders
Sir Geoffrey Crowther
Sir Alexander Fleck, K.B.E.
Sir Oliver Franks, G.C.M.G., K.C.B.
Lord Latham

Its terms of reference are:

"1. The function of the Committee is stated in general terms in paragraph 386 of the Royal Commission's Report—namely, to exercise a general oversight of the remuneration of the Higher Civil Service.

2. The Royal Commission defined the Higher Civil Service in paragraph 15 'as all staffs whose salary maximum or whose fixed rate exceeds the maximum of the Principal'. Under their recommendation this maximum was raised to £1,850; it has now been settled at £1,950.

3. The Royal Commission's main recommendations on the Higher Civil Service are contained in Chapter IX of its Report. Having accepted these recommendations, the Government have put into effect the rates of pay which the Royal Commission in paragraphs 367-369 regarded as appropriate for the Higher Civil Service. The rates recommended by the Royal Commission were related to conditions prevailing in the middle of 1955; they came into operation with effect from the 1st April, 1956.

4. Under the Royal Commission's recommendations the Committee will be called into action in various ways:

(a) In the exercise of its general oversight of the remuneration of the Higher Civil Service, to advise the Government, either at the latter's request or on its own initiative, on what changes are desirable in the remuneration of these officers. The Royal Commission suggested (paragraph 368) that an early review of the level of remuneration would be called for, since they had deliberately refrained from making recommendations which might suggest that the Civil Service was in any way setting the pace or being in the van of a movement for a new approach to salaries for senior staffs.

(b) Where there has been a general settlement applicable to the lower and middle grades of the Service. The Royal Commission said (paragraph 184) that it was not appropriate that the Higher Civil Service should be included in such a settlement; but they assumed that, when such a settlement was reached, the fact would be reported to the Committee, who would examine what, if anything, should be done for the Higher Civil Service in consequence.

(c) When a claim has been put forward by a Staff Association on the pay of a grade within the Committee's sphere, and it has proved impossible to reach a satisfactory solution (paragraph 387). In paragraphs 388-389 of its Report, the Commission said that minor issues of remuneration on which agreement had not been reached should not be referred to the Committee, but should, unless there were good reasons to the contrary, be allowed to go to arbitration by consent. They added that, if genuine and serious doubt arose over whether an issue was major or minor, the Committee might possibly be asked to decide the point of interpretation.

5. An immediate reference will automatically be made to the Committee under paragraph 184 following the general settlement for the lower and middle grades of the Civil Service made in 1956. A separate note on this reference will be put to the Committee."

The Coleraine Committee went to work immediately after its appointment on the question of extending to the Higher Civil Service the Pay Supplement that had been agreed for the rest of the Civil Service at the time of the Priestley package. The Coleraine Committee recommended a comparable increase in Higher Civil Service salaries up to and including the Under-Secretary grade.

The Royal Commission Report had said (paragraph 368):

> "We think, indeed it may well be, that an early review will be called for, since we have deliberately refrained from making recommendations which might suggest that the Civil Service was in any way setting the pace, or being in the van, of a movement for a new approach to salaries for senior staffs."

The Staff Side of the National Whitley Council has pressed on the Official Side that this review should be undertaken. As this Handbook goes to press, the Coleraine Committee is considering whether such a review should be undertaken in conjunction with the consideration that it must give to the Pay Supplement applied to the general Civil Service in July, 1957.

First Session—Twenty-seventh Parliament
1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS ON
EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget

and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 12

Copies and complete sets are available to the public by subscription to the Queen's Printer.
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Respecting

BILL C-170

An Act respecting employer and employee relations in the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

WITNESSES:

Messrs. Claude Jodoin, President, and A. Andras, Director, Government Employees Department, Canadian Labour Congress; Mr. J. J. Carson, Chairman, Miss Ruth E. Addison, Commissioner, Civil Service Commission.

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

OFFICIAL REPORT OF MINUTES

OF

PROCEEDINGS AND EVIDENCE

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

First Session—Twenty-seventh Parliament
1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
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MINUTES OF PROCEEDINGS AND EVIDENCE

No. 12

MONDAY, OCTOBER 24, 1966

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

25022—1

SPECIAL JOINT COMMITTEE

OF THE

SENATE AND OF THE HOUSE OF COMMONS

on employer-employee relations in the

PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate Senators	*Representing the House of Commons*	
Mr. Beaubien (*Bedford*),	Mr. Ballard,	Mr. Lachance,
Mr. Cameron,	Mr. Bell (*Carleton*),	Mr. Leboe,
Mr. Choquette,	Mr. Berger,	Mr. Lewis,
Mr. Davey,	Mr. Chatterton,	Mr. McCleave,
Mr. Denis,	Mr. Chatwood,	Mr. Munro,
Mr. Deschatelets,	Mr. Crossman,	Mr. Orange,
Mrs. Fergusson,	Mr. Émard,	Mr. Ricard,
Mr. O'Leary (*Antigonish-Guysborough*),	Mr. Fairweather,	Mr. Simard,
	Mr. Hymmen,	Mr. Tardif,
Mr. Hastings,	Mr. Isabelle,	Mrs. Wadds,
Mr. MacKenzie,	Mr. Keays,	Mr. Walker—24.
Mrs. Quart—12.	Mr. Knowles,	

(Quorum 10)

Edouard Thomas,
Cleark of the Committee.

MINUTES OF PROCEEDINGS

MONDAY, October 24, 1966.

(20)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.30 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Denis, Fergusson (3).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Hymmen, Knowles, Lachance, Orange, Ricard, Richard, Walker (9).

In attendance: Messrs. Claude Jodoin, President, J. Morris, Executive Vice-President, A. Andras, Director, Government Employees Department, D. MacDonald, Secretary-Treasurer, Canadian Labour Congress.

The representatives of the Canadian Labour Congress were questioned on their brief to the Committee.

On a motion of Mr. Bell, seconded by Mr. Knowles, the Committee agreed to record as an appendix to the proceedings a list of affiliates covering government employees. (*See Appendix L*)

The Clerk of the Committee was requested to obtain a copy of the Order-in-Council dealing with the holding of public office by civil servants.

The questioning of the witnesses being concluded, the meeting was adjourned at 12.19 p.m. to 8.00 p.m. this same day.

EVENING SITTING

(21)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada reconvened at 8.15 p.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Denis (2).

Representing the House of Commons: Messrs. Bell (*Carleton*), Emard, Fairweather, Hymmen, Isabelle, Knowles, Lachance, Leboe, McCleave, Richard, Tardif, Walker (12).

25022—1½

In attendance: Mr. J. J. Carson, Chairman, Miss Ruth E. Addison, Commissioner, Mr. Jean Charron, Secretary, Civil Service Commission.

The Committee questioned the representatives of the Civil Service Commission on their statement re Bill C-181.

The Civil Service Commission undertook to provide members of the Committee with a copy of a booklet prepared to better inform civil servants on the "Appeal" procedure.

The questioning of the witnesses being terminated at 9.55 p.m. the meeting was adjourned to 10.00 a.m. the day next following.

Edouard Thomas,
Clerk of the Committee

EVIDENCE

(Recorded by Electronic Apparatus)

MONDAY, October 24, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): Order. This morning we are proceeding with the further presentation from the Canadian Labour Congress and examination by the members of the Committee. We have Mr. Jodoin and Mr. Andras present.

Mr. CLAUDE JODOIN (*President, Canadian Labour Congress*): Accompanying me also, Mr. Chairman, are two colleagues, officers of the Congress, Secretary-Treasurer, Donald MacDonald and Executive Vice President Joseph Morris.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Jodoin did you have anything new to add before examination?

Mr. JODOIN: I do not think so, Mr. Chairman. I think the document speaks by itself as far as the general position of the Congress is concerned on the proposed legislation. In the discussion we may have some further comments.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Bell?

Mr. BELL (*Carleton*): Mr. Jodoin, quite early in your brief you come to grips with what is, perhaps, going to be the first problem with which this Committee will have to deal, namely, whether the structure proposed under this bill is the proper approach, or whether it would have been preferable to amend the Industrial Relations and Disputes Investigation Act. I think some of your affiliates have, perhaps, taken a much stronger view even than the Congress itself has taken on this, but you do have an interesting discussion of this problem, and particularly of what was done in Quebec and in Saskatchewan on the subject. Have you had an opportunity to read what Mr. Arnold Heeney, Q.C., had to say on this subject, and would you care to comment generally upon what Mr. Heeney's presentation was to the Committee in this respect of affairs.

Mr. JODOIN: Through you, Mr. Chairman, I would like to tell Mr. Bell that not only did we study the report, but we also had a meeting in camera with Mr. Heeney and his colleagues on this, with a very—excluding the one who is talking to you—highly representative organization. Our organizations were very numerous that day although they were interested parties. Now, this puts me in a rather awkward situation, in a sense, because it was understood at that time that all those who were appearing before the Heeney committee were doing so completely in camera. As as matter of fact, we had a document that was tabled and given to the chairman of that committee, Mr. Heeney himself, and his colleagues, but as far as discussing seriatim, or just one stage more than another, I do not know what my position is now. This is the kind of understanding we had with the committee.

Mr. BELL (*Carleton*): Mr. Jodoin, perhaps I can help you. I think there may be some misunderstanding between us. I was not referring to the discussions

that took place prior to the preparation of the Heeney report; that is, the report of the preparatory committee on collective bargaining. I was referring to the brief which Mr. Heeney himself presented to this Committee publicly, and perhaps I can help you by suggesting that Mr. Heeney, I think, had five reasons why the preparatory committee did not adopt the I.R.D.I.A. road, but rather took the road of Bill No. 170 that we have before us. He suggested in the first instance that the preservation of the merit system would have required so many amendments to the I.R.D.I. Act that it would, in itself, have become cumbersome, and he took a strong position that the merit system ought not to be the subject of negotiation. Have you any comment in respect of that?

Mr. JODOIN: As far as the legislation as such is concerned, I presume you have heard us say many times that we felt, generally speaking, that the civil service as well as those in prevailing rates jobs and so forth, employed by government should not be—and you have heard that many times—second-class citizens. Secondly, we felt that the government, whomever the government may be, should practise what they are preaching. In other words, if they have legislation established for industry, and so forth, which gives them the right they should have of collective bargaining, as well as the right to strike, which the bill, of course, grants under the circumstances, they should have it for pubic servants. This is the line we have always taken. As far as the structure itself is concerned, I think if my colleague Mr. Andras would not mind, because he is very hep on these matters, following every line, and checking the colons and the semi-colons too, probably he could take over here on this point that you have just suggested.

Mr. A. ANDRAS (*Director of the Legislative and Government Employees Department, Canadian Labour Congress*): Mr. Bell, if I may. Mr. Chairman, we have not received a transcript of Mr. Heeney's evidence before you. We saw it in the newspapers. It might well be that some consequential amendments would have been necessary in the I.R.D.I.A., but as we suggest in our own brief, it would have been quite feasible to have placed the civil service under the Industrial Relations and Disputes Investigation Act.

In our own brief, we make the point that we are not seeking to overthrow the merit system. What we become involved in, in our brief is the degree to which the government in sponsoring the bill is seeking to preserve it, and we quarrel with them on some aspects of it. We are particularly concerned about some of the features of Bill No. C-181, which sets out the jurisdiction of the newly titled Public Service Commission. We argue in our brief that the government in its bills goes far beyond what we consider to be the necessary jurisdiction in order to preserve the merit principle. I should say this, to start with, that we do not endorse, necessarily, the Industrial Relations and Disputes Investigation Act in its present form.

Mr. BELL (*Carleton*): I am sure you would like many amendments. So would I.

Mr. ANDRAS: Well, at one time we submitted a very expensive series of proposed changes to the legislation—that was several years ago—but without prejudice to our views on amendments, or on our views on the bill as a whole, our feeling was that since it was a working instrument with a considerable body of experience that the same instrument could have been used for the public service as well as for those industries which come under the federal domain.

Mr. BELL (*Carleton*): Then basically your position is that there is not sufficient difference between collective bargaining in the public service, as opposed to collective bargaining in the the private sector, to require separate treatment.

Mr. ANDRAS: There is one important distinction that we are very careful to make, and that is that where an act like the I.R.D.I.A. is set up ostensibly to establish the rules between private employers and their employees, in the case of Her Majesty in right of Canada the bill is written for a unique employer. This is a very important difference to which we drew attention, and we recognize that. But with respect to the forms of collective bargaining, the question of disputes settlement, the determination of bargaining units, a variety of other matters that are dealt with in the legislation, the provisions of the I.R.D.I.A. could be made operative so far as the public service is concerned.

Mr. BELL (*Carleton*): May I take you to one of Mr. Heeney's other major points, and that was that under the I.R.D.I. Act the responsibility for setting up conciliation procedures is with the Minister of Labour who, in effect, is one of the employers. Mr. Heeney felt that this would require substantial amendment. Some other witnesses who have taken the same position as I think as the Congress has, say they would rather trust the Minister of Labour than an arbitrary board. What would your view on that be, Mr. Andras?

Mr. ANDRAS: Well, I will not make any comments about the Minister of Labour. I will say that particular authority in those circumstances could properly have been transferred to the Canada Labour Relations Board, which was already seized with very important responsibilities and could easily have taken that over. As a matter of fact, I think it would be safe to say that we would prefer to have it transferred, in any event. I am going back to those amendments which we suggested some years back. I would go forward, since we are talking about conciliation. We have reservations about the present system of compulsory conciliation, in any case, which has been in effect in Canada now for over 50 years. We think it is about time it was evaluated and the government is, in fact, doing so through this task force under Professor Wood.

Mr. BELL (*Carleton*): You have mentioned the Canada Labour Relations Board and this is another point that Mr. Heeney made, and I think I can quote from his brief,

> The Canada Labour Relations Board would, unless some changes were made in this regard, be obliged to respond to the initiative of individual employee organizations in the determination of bargaining units.

He thought that necessarily was bad.

Mr. ANDRAS: Mr. Heeney has created a kind of Heeney dogma and we do not subscribe to it. Mr. Heeney has said in his own report, which apparently was persuasive, because it is in Bill No. C-170, that in the first instance, for the first two years, or two years and two months, the bargaining units would be determined by the Governor in Council. We do not subscribe to that at all. We do not agree with Mr. Heeney, we did not agree with him when we met him as the chairman of the preparatory committee. The initiative normally, in all the eleven jurisdictions, lies with the association of employees, and this is a reflection of our belief in this country in the right of association and the right of

employees to choose their own bargaining agents. Well, Mr. Heeney, and with much respect, the government, have turned this doctrine on its head, and we object to it very strongly. We object to the fact that there is a kind of extrusion here as it were—if I can use a term used in metallurgy. The employees are being compressed and extruded into the kind of association or bargaining unit that the government thinks is desirable—not the employee. And this to us is a very objectionable principle in a free society.

Mr. BELL (*Carleton*): Well, this is almost the basic objection you have to the bill.

Mr. ANDRAS: Very much so, sir, yes. We stated that very emphatically to Mr. Heeney when he was sitting as chairman of the preparatory committee.

Mr. JODOIN: It is a matter of principle.

Mr. BELL (*Carleton*): You see no necessity at all for this extrusion process you are describing?

Mr. ANDRAS: No. As a matter of fact, I was talking about this to some my colleagues privately the other day. We talk shop all the time when we meet socially and at other times.

We suggested to the Heeney committee originally that there should be a shakedown period. When we appeared before the committee two or three years ago, we said that we realized that there were a lot of organizations in the Public Service and here are all kinds and varieties of craft unions, departmental associations, industrial union types, and so on. We did not apologize for them or justify them. We simply said: "They are there. Let them shake down for two or three years. Recognize them all at the start and bargain with them, and it will settle itself."

Oddly enough, we have been vindicated because in about three weeks' time they will have shaken themselves down voluntarily into one large central trade union centre of civil servants; and these synthetic bargaining units would not really be necessary. You are going to have one large organization so structured as to form a national group with components, as they call them in the constitution. The bargaining units would have developed along rather natural lines. It would have been just as simple to leave it the way it is in the I.R.D.A. and the ten jurisdictions where there is labour relations legislation, without putting the governor in council into the position where it is going to determine, in advance, without considering the wishes of the employees concerned. It may consider them privately, but certainly not publicly.

Mr. BELL (*Carleton*): I think some of us will want to come back to this very crucial point later on, but I would like to continue with two further questions.

Senator FERGUSSON: May I ask a question here? I would like to know, Mr. Andras, how you can be sure that they would shake down. How do you know that we will not continue to have a proliferation?

Mr. ANDRAS: We were not sure at all. We were faced with the situation where there were three centres, as it were—the professional institute, the Civil Service Association of Canada and the departmental organizations in the Civil Service Federation.

We have sufficient experience, as a trade union centre ourselves, to know that the structure which existed was not really workable. We new that circumstances would drive the staff associations into new organizational forms. To us

this seemed to be an absolute inevitability, and we felt at the time that if these associations were given the opportunity to shake down, they would do it because they had no choice. As it happens, we were right. Our crystal ball, was a very effective one.

Mr. BELL (*Carleton*): Another point which was made by Mr. Heeney is that substantial amendments would be needed in order to ensure continuity of public services where the safety or security of the state, or of the public, was at stake. Do you, Mr. Andras, think that this is a problem, or is this a matter which, in fact, might be taken care of in the process of collective bargaining?

Mr. ANDRAS: It could be taken care of certainly by mutual agreement. It is taken care of in private industry in that fashion.

You are talking of the safety of the public. In private industry it is quite conventional for the union and the employer to work out arrangements whereby, a stoppage of work does not prevent the preservation of the plant, for example, in a coal mine—and I defer here to Mr. MacDonald—they will keep the pumps and other equipment operating. In some others they will see that the fire protection is maintained, and that kind of thing.

These things can be worked out by voluntary arrangement. There is no difficulty if there is a will, if there is good faith which is a very important term to us. If there is good faith on both sides these things can be worked out.

Mr. KNOWLES: Mr. Chairman, most of my questions have been picked off, either by Mr. Bell asking them, or by Mr. Andras answering them, but I have two or three more.

First of all, I believe that one of the other arguments advanced by Mr. Heeney, when he appeared before us, against putting civil servants under the I.R.D.I. Act, was that it would then be necessary to write compulsory arbitration into the I.R.D.I. Act. This is a premise some of us might question, but it leads me to ask whether you have anything further to say on the extent to which arbitration is provided for in Bill No. C-170, and, in particular, if you have anything further to say on clause 36?

Mr. ANDRAS: I think that the Congress' position on compulsory arbitration has been so extensively stated that it would be sufficient for me to say that we are very, very strongly opposed to it in principle, and have a great doubt about its efficacy in practice. We have disagreed with the Heeney Report on that from the very start.

This legislation provides for options. An employee organization, in order to be certified, must, in advance of certification, exercise a choice and make its choice known. It must decide whether it wishes to go through the conciliation procedure which may lead to strike action, or whether it wishes to submit to arbitration.

In our opinion—and I think we have said so in our brief—we consider this to some extent at least, to be the vindication of the position we originally took against compulsory arbitration, because there is a choice, and the right of strike action is preserved in the legislation.

What we take exception to is the manner in which the rights are entrenched in the legislation. We think that it is unnecessary and, in fact, unwise, to compel a would-be bargaining agent to make a decision in advance of an application for certification. After all, the applicant may not even be certified. Yet it is put to the trouble of deciding what it wants to do.

Secondly, we think it is neither necessary nor desirable that it should be required to do so so far in advance of the possibility of any action, whether it is arbitration or strike action. We think that the choice should be made when the situation arises that requires a choice.

Thirdly, we raise our eyebrows at the fact that once a choice is made it is frozen for three years, and then for an additional 180 days.

Fourthly, there is a strange paradox in the legislation. It is perfectly in order, apparently, for association "X" to come in and make application to the P.S.S.R.B. and say that they have opted for this or the other. That is enough. The board is then seized with the information, and it proceeds. However, if after three years, the association decides that it likes another system of dispute settlement, it apparently has to go through the motions of a referendum, or a convention decision, or some other mandate, and satisfy the board that it has changed its mind. We wonder why a simple assertion is good enough in the first instance, but evidence of a reason for change, or a mandate for change, is required in the second instance.

Therefore, on a variety of grounds, we object to this proposal, on grounds of principle and on grounds of practice.

Mr. KNOWLES: I think it is correct to say that practically all of the employee organizations which have been before us have criticized the necessity of making this choice so early. They have varied about when they think the choice should be made, but I gather that you stay with the position in your original brief, that this choice should not have to be made until there is an actual impasse.

Mr. ANDRAS: It would not be necessary, in our opinion, to have written in a choice in the terms in which it exists in the proposed legislation, because, in any event, an organization is always free, or could be free... in the I.R.D.I.A., for example, the trade unions which are covered by it are always free as to their choice. Nobody compels them to go on strike. It is permissive action; and section 89 of the I.R.D.I. Act, if my memory serves me right, says that the parties may mutually agree to convert the conciliation board into an arbitration board, and in any event it is implicit in the legislation, because there is no prohibition; that the employees do not have to go to conciliation at all under the Act, or to engage in strike action. They can settle their affairs privately. There is nothing to stop them. They are free agents.

Mr. KNOWLES: In other words, instead of amending clause 36 to provide some other time at which the choice is to be made, you would prefer something less rigid, you would prefer no statutory determination of when the choice should be made?

Mr. ANDRAS: That is right.

Mr. KNOWLES: I take it, of course, that you do not accept Mr. Heeney's premise that there has to be statutory provision for compulsory arbitration in this kind of legislation?

Mr. ANDRAS: You use the words "compulsory arbitration". In our brief we have said if that there was an element of choice the compulsion is removed.

Where the compulsion exists is in this respect, that once the bargaining agent has opted for arbitration, then it has, in fact, become compulsory because they cannot change their minds for three and one half years; so that an association which goes in on January 1, 1967, and finds in 1968 that it was not a wise

decision, cannot make a change until probably the second collective agreement; and in that case it is really compulsory; there is no other way out. We disagreed with Mr. Heeney right from the start on this.

Mr. KNOWLES: If I may ask a question in another field, Mr. Chairman, you commented in your brief on some of the requirements for membership in the P.S.S.R.B. This subject has come up with other witnesses before us. I am wondering if you have any other comment on it. I am thinking, in particular, of the requirement that a person who becomes a member of that Board must sever his connections with his economic organizations.

Mr. ANDRAS: When we read the brief after we got our first copies of it we checked the comparable legislation in all eleven jurisdictions and we found that nothing of this sort exists there; that, by and large, the provision is—and I am obviously quoting from memory—that the governor-in-council will appoint the Canada Labour Relations Board, or the Ontario, or whatever board it happens to be, and the legislation provides that it shall have a representative character and that the board will serve at pleasure.

No one requires, as I recall it, for a board member to burn his bridges behind him, as it were, in order to take an appointment. My good friend and colleague to my right, Mr. MacDonald, has been a member of the Canada Labour Relations Board for a number of years, and yet he continues to carry on his office as Secretary-Treasurer of the Canadian Labour Congress. Mr. Archer, President of the Ontario Federation of Labour, has been a member of the Ontario Board for many years—I cannot remember how long—but this has not precluded him from serving his Association.

You can look at any province in Canada and the same is true; but here a man must resign in order to serve and we ask ourselves why? What is there about being a member of the International Woodworkers of America, or the Canadian Brotherhood of Railway Employees, or what have you, that precludes an appointment to the Board? What stigma is there attached to this continuation of membership? When we see it carried forward into the Boards of adjudication, into the boards of conciliation and the boards of arbitration, it seems to me that the felony is being compounded, and we question it on all those grounds, in all those areas.

Mr. KNOWLES: The question is not only with respect to the P.S.S.R.B. but with respect to all these other bodies.

Mr. ANDRAS: Yes. If it had been done exclusively for the P.S.S.R.B. we might have said to ourselves: "Perhaps they have a case". I do not know that we would have subscribed to it, but we would have been less emotion-charged, shall I say—as I seem to sound, I am sure. We still would have tried to make a case against it but we see it going into a board of conciliation, or a board of adjudication. Then we wonder what is the objective of the legislation, and what is the role of the employer organization in having representatives on tribunals.

The whole essence of labour relations legislation in Canada, as I understand it, is that it has a tripartite nature. The Labour Relations Board, the boards of conciliation, the arbitration boards, are typically tripartite. I know that in arbitration we have umpires, but even there that is a voluntary decision. It is not imposed on anybody. But here, as it were, we are told: "Your members cannot serve unless they cease being members." They must sever their attach-

ments with their institution, and we question it very strongly. We just do not understand the rationale for it at all, unless the purpose is to move away from these bodies of the kind that we know—the representative bodies of employers and employees and the public—into what are, in effect, labour courts. If that is what the legislation wants, it might just as well say so. If that is the inference, we would like to know.

Mr. KNOWLES: I have another question, Mr. Chairman, but it is in another field.

I pause in case anybody wants to question Mr. Andras. I cannot question him. I agree with him.

Mr. CHATTERTON: Perhaps I should ask Mr. Heeney this question, but I would like to get your view with regard to what was in the government's mind in their provision that they required the option exercise before certification?

Mr. ANDRAS: I cannot read anyone's mind, not even my officers, but when I was packing my briefcase to come here today I put in the statement made by Mr. Benson as a preliminary statement to this Committee—

Mr. KNOWLES: In other words, you read the Committee members' minds?

Mr. ANDRAS: I would not go that far. He says here: Indeed, to leave this decision—that is the opting decision—to be made at the point where a dispute was declared would require the employer to conduct negotiations without knowing what set of rules would govern a dispute if agreement could not be reached. The result would be a situation in which the bargaining agent would be free to threaten one sanction or another to meet his tactical needs and negotiations.

It is precisely this that we seek. We say, in our brief, that collective bargaining is a form of conflict—a kind that we recognize and sanction in our kind of society.

An hon. MEMBER: A show of strength.

Mr. ANDRAS: That is right.

Mr. CHATTERTON: The argument advanced by the Minister there still does not give the answer to why this opting decision could not be made after certification, does it?

Mr. ANDRAS: Do you mean immediately following certification?

Mr. CHATTERTON: Sometime after certification, or at least following certification, rather than being prior to certification?

Mr. ANDRAS: We object to it on these grounds. We think that collective bargaining, once it has been established, should operate with a good deal of elbow room. The parties should be free to manoeuvre, to engage in bargaining, to make compromises, to make offers and counter-offers, and we are quite well aware from our point of view which, I hope and think, is a relatively sophisticated one, that there is always the element of contest. A Harvard professor, in a book on collective bargaining a good many years ago, said that back of all negotiations is always the potential exercise of force. This is recognized in modern industrial society—I am speaking of free society as in North America, Western Europe, Australasia and so on—and what we are saying is if this is so, then the developments in the collective bargaining process should colour the decision made by one side or the other with regard to the

ultimate method of dispute-settlement. If the parties get along well in their dispute they may iron out all their differences and say to one another, "We have only one or two differences left; let us arbitrate; after all we are good friends." If they hate each other's guts—if you do not mind this crude statement, Mr. Chairman—they will want to put the chips on the table and fight it out. They should be able to decide. If the parties decide well in advance of bargaining, or the possibility of a dispute, that it must be arbitration, or it must be conciliation, then this colours the whole process of collective bargaining itself; and in our view collective bargaining should be a free exercise.

Mr. CHATTERTON: Yes, I understand that; but what is the effect of opting prior to certification, as opposed to opting after certification.

Mr. ANDRAS: Whether it is 24 hours before, or 24 hours after, would not make a bit of difference.

Mr. CHATTERTON: That is what I am trying to get at. It really does not make any difference as far as the position of the employer is concerned, or of the employee, for that matter.

Mr. ANDRAS: From the point of view of the employer, if it is a question of 48 hours or 24 hours, one way or the other, it does not make a bit of difference. Under the act and I think, the timetable will be enacted by New Year's day, and the Governor in Council will begin establishing bargaining units very shortly thereafter—let us say by February 1—a unit is established for some operational group. They look around and they say, "We think we have a chance to be certified." They immediately make application to the P.S.S.R.B. for certification; but before they make application under this legislation they have got to arrive at a decision and make it clear to the P.S.S.R.B. what the option is. The employer is immediately aware of it, and at that point, long in advance of any demands being laid on the table—in advance of the bargaining, in advance of any conclusions—the union, or the bargaining agent has said, in effect "We are going to go to arbitration," or "We are going to hit the bricks."

Mr. CHATTERTON: You think the option taken might influence the question of certification?

Mr. ANDRAS: I would like to think that this would not, in. . .

Mr. CHATTERSON: Is this, perhaps, what is really in the mind of the government?

Mr. ANDRAS: Again I am not a mind reader, but I am willing to give this government enough credit and the P.S.S.R.B. enough integrity to believe that this is not the intent.

Mr. CHATTERTON: If this is not the intent what other effect could there be between opting before certification and opting after certification, before actual negotiation?

Mr. ANDRAS: My feeling is that this and a variety of other proposals in the legislation were established to make the whole process of collective bargaining and labour-management relations more convenient to the particular government which is in power.

Mr. KNOWLES: Is not the argument about opting prior or after a bit unreal?

Mr. ANDRAS: Yes; it is a question of timing. If the "after" were at say, the conclusion of collective bargaining, then it is what exists everywhere. But if it

is a day after certification, or a week after certification, or even a month after certification, before any bargaining is commenced, and knowing that bargaining may last months, then the die is cast in advance of the bargaining. This is really the point we are taking exception to.

Mr. KNOWLES: May I finish, Mr. Chairman.

Senator DENIS: I have just one small question. Does the choice work both ways? If the employers know the choice in advance, so does the employee?

Mr. JODOIN: So what?

Mr. ANDRAS: Yes, I do not follow that.

Mr. JODOIN: The question is that you put your position ahead of time when you do not have to.

Senator DENIS: What is the harm in knowing in advance in what way you are going to settle a dispute?

Mr. JODOIN: Let me put it this way, Mr. Chairman. Suppose it is a case of war. Does a general tell his opponent in advance what he is going to do?

Senator DENIS: But this is not war—

Mr. JODOIN: No, no, it is collective bargaining; but why declare your choice ahead of time—your choice between arbitration and the right to strike? Why? You do not see that anywhere else. I have not anyway. I have never seen it anywhere else before in legislation where the employee's side has to declare its position by a choice between arbitration and the right to strike.

Senator DENIS: It is just the same as anything else, in every law in Canada, or in any province. We know in advance that you are entitled to have such a thing, or you are not entitled to have such a thing, or is against the regulation, or it is against the law to do such a thing. If we decide in advance how we are going to behave in a case like that what is wrong with that?

Mr. ANDRAS: With great respect, sir, the analogy falls down. In law, of course, people are free, or not free, to make use of the law. Here the assumption is that the employees will use the law; but what we object to is the coercion in determining their strategy long in advance and making it known to the employer.

Senator DENIS: Yes; but what is wrong with that?

Mr. KNOWLES: What is right with it, if it comes to that?

Mr. WALKER: May I ask a supplementary? We have been talking so far about the contest between a bargaining agent and an employer, and the reluctance of, if you will, certain bargaining agents to advise in advance what they might or might not do. I want to go back to the other contest behind that, the contest of two or three bargaining units who are trying to win the vote of a general membership to become their bargaining agent.

I have looked at this bill fairly closely and I think I know why it might be in there. Do you not think it is a necessary part of the information needed by the employees, in deciding which of the bargaining agents they will choose, to know ahead of time what the general philosophy of this particular unit is? Is this not the contest we should be talking about? Is this not why that particular clause is in there? The employees may have made up their minds that

employees in the civil service are not quite the same as employees in the industrial world, and if this is their philosophy do they not have the right to know the thinking of the particular bargaining agent and his people?

This is the point that I would like to have clarified.

Mind you, this leads into the other question where the C.L.C. are trying to relate this public service act to their experience in the industrial field. It appears from the briefs that have been presented that many of the civil service associations feel, rightly or wrongly, that the public servant is, in fact, without any loss of liberty or freedom, in a position different from that of an industrial worker.

I have made a speech and I did not mean to. My question is: Should not this information be available to the employees in the first place when they are going to decide which bargaining agent they should choose?

Mr. ANDRAS: It really is, because they all know the mandates of the various organizations in the field right now. The postal workers, for example, know perfectly well, as a result of the last two conventions of the two associations, that they want to exercise the right to conciliation and strike action. They are aware of that. The employees, with regard to other organizations, are in exactly the same position.

Furthermore, if I may say, you have oversimplified the problem. You have suggested a rather broad area of choice, which is not quite there—certainly not the way the legislation is now written—because the governor in council is going to establish, if this thing goes through as is, the bargaining units for the first two years.

If I understand the process correctly, the element of choice is rather remote. There is going to be a bargaining unit and it will consist of employees who fall into a certain category or group of classifications. I rather suspect that in most cases it will not be a single organization but a conglomeration of associations which will be compelled—and this is another issue of compulsion which we find objectionable—virtually to form councils of organizations whether they like it or not. You talk of choices. If a man is a postal worker, or a customs and excise officer, or something else—I happen to pick these because they are fresh in my mind at the moment—he is not likely to move into an organization which consits of stenographers, or scientists, or firefighters. So that in a certain sense the proposal you put forward is not four square with the realities of civil service structure.

The Joint CHAIRMAN (*Mr. Richard*): Mr. Knowles, I am trying to get Mr. Orange on pretty soon, unless you have a related question.

Mr. KNOWLES: I am in your hands, Mr. Chairman. When I was questioning I said at that point I had another question but I was prepared to let others ask supplementaries to the ones I had asked. I would like to ask my third question at some time. It does not matter when.

Mr. ORANGE: Well, after you Alphonse!

Mr. Walker asked one of the questions I had intended to bring up. As a matter he asked a second one to which we did not get an answer, and that is with respect to the associations which have appeared before us.

They seem to take the basic premise, as part of their philosophy, that there is a difference between the person working in the public service and the person working in the industrial field. Mr. Andras made reference to a phrase, "the

trade unions of civil servants". I have noted with interest that the large group who have appeared before us and who represent the bulk of the civil servants, call themselves an alliance. I would like to hear the opinion of either Mr. Andras or Mr. Jodoin on whether or not they believe (a) that there is a basic difference between the so-called "white collar worker" and the "blue-collar worker" and (b) whether there is a difference between a person working in the public service and a person working in the industrial field, as they relate to collective bargaining and other matters of this nature?

Mr. ANDRAS: I would say in reply that the civil servants themselves, through their proposed Public Service Alliance, do not distinguish between the white-collar and the blue-collar worker, because they are going to enlist them both under the same organization.

Mr. JODOIN: Within the terms of the alliance.

Mr. ANDRAS: Yes. I might add that the last time we appeared on October 6, one of the members of the committee asked for a list of organizations affiliated with us in the public service. It happens that there are 21 of them, and a 22nd with an application pending. The majority of them are trade unions and we have at least two or three which have deliberately taken the trouble to change their names, those consisting exclusively of civil servants, which now call themselves unions of such and such. Even if they had not done that, because you do not have to use the word "union" to be a union—after all we have a Canadian Newspaper Guild, an American Newspaper Guild, we have a Canadian Merchants Service Guild, we have an International Association of Machinists and so on—it is not the word that counts.

An Hon. MEMBER: What is the difference between a congress and an alliance?

Mr. ANDRAS: It is the nature of the organization and how it operates and the kind of esprit de corps it has and what are its objectives.

As I say, regardless of their names, or what they call themselves, I think that anybody who has observed civil service organizations over the last ten years will have seen a significant change taking place in their outlook.

You might argue, sir, that there are differences between a civil servant and, say, a machinist in private industry. Yes, one works for the Crown and there is that distinction; the other works for a private employer. But the fact of the matter is this that we have at least two provinces that do not make that distinction. Saskatchewan places them right into the Trade Union Act. In Quebec they fall, for purposes of administrative convenience, I suspect, into two acts, the Labour Code and the Civil Service Act; but they are, nonetheless, treated like other people. Municipal employees have always, as far as I can recall, and certainly in my own time as a trade union official, been treated precisely as other employees.

I think this is a rather mechanical distinction, in very large measure. They work under a contract of service; they work for pay; they are subject to discipline and direction; they have the same labour management problems of discipline, of discrimination, of exploitation if you wish, because after all I saw one of the members walk in here with the Montpetit Report. If anything ever established that they have the same kind of problems it seems to me that this report did.

I do not think there are substantive difference sufficient to segregate civil servants from the rest of the labour force.

Mr. ORANGE: You made reference earlier to Bill C-181 as being a matter of major concern. There are certain aspects of that bill which I think, concern a lot of people, but one area on which I would like to hear your opinion is just how far should the employee organizations be involved in determining such matters as promotion, those areas which are now part of Bill C-181 and not part of the employees' right to negotiate?

Mr. ANDRAS: As I recall Bill C-181, I think sections 22 to 30 give the commission, or propose to give to the commission, powers over promotion, demotion, transfer, layoff, rehire, to determine incompetence and to exercise disciplinary measures. Apart from the question of appointment which, in many cases but not always, lies exclusively with the employer, because we have closed shop agreements—apart from that, and this we have conceded in our brief, should properly remain with the commission because the whole issue of merit revolves on that—beyond that there is not an area that is referred to in those sections where we do not bargain, and is strikes us as extraordinary and we say so in our brief—that a departmental division should be shut down for example, and the commission should be free to lay off, arbitrarily if it so chooses, without any regard at all for service; and it is quite conceivable that a men who has spent 25 years working for the government will be laid off while a junior with two years of service will be retained. There is no protection against this, as we see it.

Mr. ORANGE: Would you suggest that there are two alternatives? One is for the bill, or for the government, through regulation, to protect this particular group of people. I think there is another reference here to a man who is promoted from grade three to grade four in some particular category; as a grade three he might have given some 15 years of very satisfactory service; he moves up one step on the ladder, he is in there three months and the person he is working for says: "You are of no more value to me. You are not competent as a four", and therefore he is subject to being released. This, I think, is an area of concern. Would you see the federal government protecting, through legislation or regulation, people such as I have just described or would you see this just as a matter of negotiation?

Mr. ANDRAS: We think it is a matter of negotiation. We do not want it through regulation; we want it written in the collective agreement and open to the use of the grievance procedure and what is called adjudiciation in the proposed legislation.

Mr. ORANGE: I have another question, Mr. Chairman.

In your brief, you take a rather different approach to the Pay Research Bureau from what we have heard both from the staff side and also from the official side. You have suggested that the Pay Research Bureau open its records, to make the information public about where they obtain their data.

Mr. ANDRAS: I would like, if I may, sir, correct the impression you have. We are not suggesting that the employers from whom the data are derived should be identified. What we were suggesting is that if the Pay Research Bureau compiles a study of wages, say, in the metal fabrication industry for purposes of comparability that that should not be a confidential document.

Mr. ORANGE: You said it should be subject to public scrutiny.

Mr. ANDRAS: Yes, quite; because in our experience it has not been.

Mr. ORANGE: Do you not think that this would cause some friction with the agencies, or the employers, providing this information?

Mr. ANDRAS: No, because they do it now, anyhow. The Department of Labour is constantly compiling wage data obtained from employers, and the employers are never identified. If the employers are simply called No. 1, 2, 3, 4, 5 and so on, you are not identifying them. If you have only one employer in an industry, I do not care what you do, he is going to stick out like a sore thumb; but where you have 50 or 100, or even a dozen, or two dozen, then they are anonymous. We are not asking to pinpoint each employer *per se* by name.

Mr. ORANGE: What you are suggesting is that this information be available to both parties. You do not mean public scrutiny, as in the case of the auditor general's report?

Mr. ANDRAS: If it becomes available to both parties, in my opinion it is a public document. What has happened in the past in so far as we are aware was something along these lines: The P.R.B. would engage in a service, and they would compile very elaborate statistical data. They would be made available to, of course, the commission and, I presume, to the treasury board. Individual copies would be made available, on a confidential basis, to the heads of the staff associations who were sworn to secrecy with regard to their use. Therefore, no matter what critical views they had about the criteria used by the bureau—the feeling and conclusions of the bureau, the statistical arrangements of the material—they were completely inhibited from making use of it. Yet this involved the very economic lives of their members.

We would convert the pay research bureau from a quasi-secret type of organization into one whose data are available to the two parties who are involved in the collective bargaining process. Either you abolish the P.R.B. and let each side derive its data from wherever it wishes and cease this fiction that there is this impartial and objective body—I am sorry; it is not a fiction; they are impartial, and they are objective; and I have the very highest regard for the people who are there—but certainly do not treat it as though it were an atom bomb, or the formula for making bombs. If the P.R.B. is going to play a role in collective bargaining then let its material be laid on the bargaining table. That is what we mean by public. So that there will be no inhibitions about making use of it, or criticizing it, or evaluating the criteria on which the statistics are based. This is what we want. If there is going to be bargaining in good faith let it be based on information which is freely available to both sides.

Mr. KNOWLES: Before I ask the other question I wanted to ask may I make a comment which was started by what Mr. Orange said. I think his position is not very far from the position taken by the Civil Service Federation so long as the anonymity of the employers is protected.

Mr. ORANGE: Yes; this is the point. This is where there is a divergence of opinion between the two organizations.

Mr. KNOWLES: Mr. Chairman, the other question I would like to put to the congress is in fact the same question I put to Mr. Edwards the other day when

he was here: If it appears, and I think it is fair to say that it does so appear, that a very large body of civil servants, as represented by the public service alliance, is generally satisfied with the kind of regime set out in Bill No. C-170, whereas there are large groups such as the postal workers who would prefer a regime such as that in the I.R.D.I. Act, does the congress see anything wrong with our providing what the employees want, even if this means providing two regimes in the field of collective bargaining?

Mr. ANDRAS: I think intrinsically there is nothing wrong with this. You have groups,—and since you used the postal workers as an example,—they make a very good case in point for the argument that they could be separated, because it is a homogeneous group performing a unique service, working for a department unlike other departments, and it would not, I think, upset the processes of collective bargaining and decision-making if the postal unions—I am using the word "unions" deliberately because I know that is what they would want me to say—if the postal unions were placed under the I.R.D.I. Act. I think it is quite a feasible procedure, yes.

Mr. BELL (*Carleton*): To pursue this point: In your brief—I think at page 29—you do suggest that, rather than putting them under the I.R.D.I. Act, they might become separate employers under part 2 of schedule A.

Mr. ANDRAS: That is a possibility.

Mr. BELL (*Carleton*): I wonder whether you feel that that is sufficient? Do you apply this both to the post office and to the printing bureau? I have not yet been able to see that sufficiently advantageous consequences result from the shift from part 1 to part 2. Perhaps you could tell me how you would visualize it would work out in part 2—to be advantageous.

Mr. ANDRAS: From a collective bargaining point of view it would be an advantage both to the employer and to the unions concerned if they were treated as separate employers under part 2 of the schedule, because you have a very homogeneous group, sir. As my friend, Eugene Forsey, would say. "They are sui generis." They are unique animals, as it were. They have particular procedures.

In one case you have a postal service and in another case you have a printing operation. They have their own rules, their own customs; their employers have a particular kind of relationship with the employees, because they are engaged in a commercial, or a quasi-commercial, or a kind of service operation; and bargaining would be very much facilitated if the parties sitting across the table from one another were the employer of the Queen's Printer or the employer representing the postal operations—the Postmaster General or his deputy or what have you. In that respect I think you would get a more efficient operation from the point of view of collective bargaining.

Mr. KNOWLES: Even if this would be an improvement would it not still be the case, if the postal workers were put there that they would have to bargain with that separate employer under the terms of Bill No. C-170.

Mr. ANDRAS: Oh, there is no doubt about that.

Mr. KNOWLES: Well, according to the people who have been before us that might tend to satisfy the workers at the printing bureau, but I do not get the impression that that would satsify the postal workers.

Mr. ANDRAS: No, I do not think it would. As a matter of fact I cannot read the minds of printers either, but, I do not think they would break into tears if they were put under the I.R.D.I. Act. They are accustomed to working under labour relations legislation, and they would be much more at home under it than they are under this bill.

(*Translation*)

Mr. LACHANCE: Mr. Jodoin, one of the remarks made before the committee here refers to the setting up of national negotiation units. You are no doubt aware that the president of the Confédération des Syndicats nationaux—I see that you are laughing—offered some criticism of Bill C-170 over the week-end. I suppose you have made yourself aware, if not of the actual remarks themselves, at least of the newspaper reports on the matter. Now, I would like to have your opinion on this matter of the setting up of these national negotiating units when he says that the government, with the adoption of Bill C-170, is attempting to impose "union uniformity on public servants." That is my first question.

Mr. JODOIN: That is a majority matter in the democratic system. We have suggested that once the units have been chosen, the workers themselves would take their decisions. That is what Mr. Andras answered specifically. He answered all the questions which were put in that connection in your presence.

Mr. LACHANCE: But do you feel that the government is imposing union uniformity over public servants?

Mr. JODOIN: The government is imposing nothing. It will be the workers who will decide. But what we deplore—and deplore very much—is the unilateral choice as far as the units are concerned. For one thing, it is the Commission, in the first place, that will be called upon to decide. Then, the government reserves to itself the right of final decision. What happens then? Well, the final decision is left to the employer. But what I would prefer is that, at least an opportunity would be provided for discussion with the Commission itself. This should not be done unilaterally, only with the employer, with due respect to the government as employer. However, there are various ways of doing it. The Commission is not representative and we are not asking associations to be. This is not something like the Labour Relations Board. Employees are not represented there. Let us assume that for anybody to sit on that, he would have to resign from all other unions.

Mr. LACHANCE: But we are dealing here with the choice of units, are we not? That is what I would like to know. Does it put a straitjacket, so to speak, on the public servant?

Mr. JODOIN: Nationally? Certainly. Regional units in cases like that—I would not like to be the government. Yes, the point is to recognize these as national bargaining units.

Mr. LACHANCE: Therefore it does impose union uniformity?

Mr. JODOIN: In the sense in which I have just spoken. I am convinced that in the province of Quebec, for instance, the civil servants there would like to be recognized provincially. There should be, for instance, as much uniformity as possible as long as we deal with Canadians who work throughout Canada.

Mr. LACHANCE: But Mr. Pepin's union, like yours, represents a rather widely based organization, not perhaps as wide as yours, but let us assume that he represents a very widely based union. He says, therefore, that this imposes uniformity. You do not share that view, as far as the setting up of national bargaining units is concerned?

Mr. JODOIN: Let us take the example of the post office employees. I think certainly this should be dealt with nationally. This association will represent the majority of the employees for whom it will have a right to negotiate. The only difference between us and national syndicates is that we say "if you think so, you try to get all members in these negotiating units throughout the country." That is our point.

Mr. LACHANCE: Therefore you are in favour of national bargaining units in the Public Service?

Mr. JODOIN: Yes, and let the best man win.

Mr. LACHANCE: And this is a very interesting matter. I would like to know your explanations on that. He adds that it would be the negation of freedom of choice on behalf of the workers. He was dealing with Quebeckers, of course, but—

Mr. JODOIN: But that is not new, the right of association is not new. The right of association is recognized nationally. The point is to get the majority on a national basis.

Mr. LACHANCE: And they are not recognized provincially.

Mr. JODOIN: Why should they be recognized only provincially? A country is a country. I am from Quebec, of course, but I am a Canadian too. What we say is that in cases like that, the negotiating unit as such—and I will return to the post office employees—I think no negotiating unit should be anything but nationally based. And if any other independent organization such as the N.C.T.U. wants to represent employees, let them be nationally based.

Mr. LACHANCE: This is my third question. He says this would be an American-style union organization. What is that, according to you?

Mr. JODOIN: I really do not know what Mr. Pepin means when he speaks of an American-style union. The workers who belong to our Congress are Canadian workers. There is nothing new about that. Our Congress has people who are members of Canadian locals. The same thing is true of our federations. The same thing is true of our local unions and our councils. This is a myth. Because of the nature of our international unions, an attempt is being made to imply that we are dominated from the United States. This is not a fact. Our Congress is not in that position at all. There is a great deal of propaganda about. There is an attempt to convince certain government authorities that there is American domination, whereas such is not the case.

(*English*)

Mr. CHATTERTON: Mr. Chairman, I am concerned with section 39, clause (2) (c), whereby the board may not certify a bargaining agent if that agent requires a condition of membership therein, that the payment of any of its members of any moneys for activities carried by or on behalf of a political

party. Now, the Letter Carriers Union and the Postal Union are affiliated with the C.L.C., are they not?

Mr. JODOIN: Yes.

Mr. CHATTERTON: Do some of your unions have it in their constitution that of the dues paid part goes to a political party? I was wondering whether the effect of this clause could be that if, for instance, the Postal Unions were affiliated with such a union, they may not be certified by the board, or are there no such unions?

Mr. ANDRAS: Our unions do not operate that way, sir. Their constitutions do not have such clauses embedded in them.

Mr. CHATTERTON: I see. Thank you.

Mr. HYMMEN: Mr. Chairman, I have two questions, both of which are related to matters which have already been discussed. I am at a slight disadvantage because I was not able to be here for the first hour of this committee's sitting.

The first question is in regard to something that Mr. Jodoin mentioned about bargaining being a contest of strength which is, I believe, on page 15 of the brief. Of course, in the bill, there is opportunity for two different ways of proceeding. The objection to the declaration before certification is in this contest of strength, as Mr. Jodoin mentioned.

My question has to do with the public interest and public service. I believe Mr. Forsey, who is research director of the C.L.C. and certainly must speak for the congress, has suggested that even with a government presided over by Mr. Jodoin and another member of this committee who is not here today the railway workers would not be permitted to strike for any length of time. He does not say the length of time.

Many problems arise in the postal operation and, we mentioned last Friday the report by Justice Montpetit. I do not believe it has been referred officially to this committee, but I believe it is on the bookshelves, and some of us had a chance to read it over the week end, but if you presume that the right to strike is given either before certification or immediately after or immediately before enduring problems in negotiations then you assume in the postal service, which I believe to be as essential as the railway service, that eventually someone—the government or management—has to step in to control this in deference to the public interest. While the right to strike is the final action in the contest of strength, is it not a farce in this connection? I cannot refer to *Hansard* but I believe there have been statements made in the House of Commons that the strike is outmoded and should be done away with.

I am asking this question in regard to the public interest, because under the I.R.D.I.A., of course, we have provision for the right to strike in private operation and management and the union can carry on this strike and it does not directly affect the public as much as such an essential service as I believe the postal service to be.

Mr. JODOIN: Very quickly, sir, I can answer you that the right to strike should always be maintained in a democratic country. We are either living in a democratic way or we are not. You know the places in the world today where there is no right to strike; countries with a dictatorship, whether it be the

extreme left or the extreme right. You are well aware of that and I am not here to repeat the history of the whole situation.

These matters can be solved by bona fide, good faith, collective bargaining. If transportation is so essential for Canada, and I believe it is, I do not see why they should be penalized by having poorer working conditions than any other group because of their responsibilities. And they are being penalized. This is also true in the field of general public utilities, if you want to bring that in. Certainly by making comparisons in industry, and so forth, there should be a way in good faith collective bargaining for these employees to be compensated accordingly. This is especially true with competent governmental authority and, of course, this is conceded in the case of Bill No. C-170. That is the way I see the matter can be solved.

To make myself very clear on behalf of the Congress, I say the right to strike should be maintained.

Mr. HYMMEN: Just another question, sir. You do not agree that there is a better way to solve these matters than by a strike?

Mr. JODOIN: I did not say that. As a matter of fact, if you look at the record—and these are not our statistics, they are those of the Department of Labour of Canada—you will see that those who have to go on strike by comparison in numbers are very small. It is news, as a matter of fact. It is negotiated to collective bargaining.

When we have a strike we settle collective bargaining contracts with certain corporations peacefully, let us put it that way. You have to find this news near the obituaries in the newspapers because it is not news, but when there is a conflict of some sort, well, that is supposed to be news and 200 people on strike will get front page or third page coverage. That is a fact. You check back, do not take my word for it. It is easy for your committee to get the statistics from the Department of Labour, which covers all of Canada, and you can get information from provincial governments, etc. That is my answer to you on this one, sir. The right should be maintained just the same.

Mr. HYMMEN: All right. My second question had to do with the Montpetit report which I mentioned. You speak on page 12 about the merit principle which has been used in the civil service. At the same time it would appear you feel that everything with the exception of appointments—and this has been discussed before—should be discussed across the bargaining table. I feel that promotions and transfers are definitely related to this matter, which under the bill are supposed to be arranged under the commission. Now, my question is this—referring to the report which I mentioned—I understand one of the important things at the bargaining table is seniority with equivalent qualifications but in the Montpetit report, because of certain peculiarities, certain ingrown operations in the postal department, the report suggests that it might be advisable to bring some employees from outside the civil service in order to inject some new thinking into the operation. This may or may not apply to the employees who would be considered under this bill. It may be more in an administrative capacity, but this would be entirely opposed to seniority, which seems to be generally a prime consideration in bargaining methods.

Mr. JODOIN: The report of Mr. Justice Montpetit has just been tabled. I have not had the opportunity of reading it. I have it on my desk. I assure you

that will be good work for the week end, as you indicated a little while ago. I have seen some newspaper headlines about the "little tyrants", and so forth. We will scrutinize that very closely. We will have to study this report as it is. Initially I am not in favour of getting outsiders all the time. As we do in collective bargaining, I would like both parties to get together without a third party. I think, with all due respect, with those who sometimes act presumably impartially that generally speaking these matters can be settled by both parties. However, before making any commitments on this or making any statement I would have to take a look at the report itself, which I notice is quite voluminous.

Mr. BELL (Carleton): Just one question in relation to the Freedman report. I think there have been some suggestions that perhaps there is not sufficient flexibility in this bill to permit those tremendously important factors that are set forth in the Freedman report to be properly the subject of negotiations. Do you have any comment and what would you suggest should be done in relation to it?

Mr. JODOIN: Implementation of the Freedman report.

Mr. BELL (Carleton): Generally.

Mr. JODOIN: Generally.

Mr. BELL (*Carleton*): In relation to this bill what would you suggest?

Mr. JODOIN: I think you will have the same problems to a certain extent—and correct me if I am wrong—but it is a fact that you will have automation too, and many other things that might appear in the civil service itself.

We always look at the human side of these questions. We always think of the human being first and then any improved machinery because you still have to have the consumers. You have to have people who will buy postage stamps, for instance, and things of that kind. I think on the basis of the summation of the honourable Mr. Justice Freedman and the comments generally speaking, this matter should be negotiable with the employee.

Mr. BELL (*Carleton*): And specific provision to that effect should be made in this bill.

Mr. Jodoin: I would think so.

(*Translation*)

Mr. LACHANCE: Mr. Jodoin, you said a while ago that the right to strike must be maintained, and I share your view on the matter. Do you believe, however, that there is a large percentage of employees who are not in favour of the right to strike in the public service?

Mr. JODOIN: That would have to be determined. I spoke of the maintenance of the right to strike. However, I did not mean that because we have that right, we have to go on strike.

Mr. LACHANCE: Quite so.

Mr. JODOIN: This, therefore, would have to be determined democratically through the usual votes and so on. That is why we objected so much this

morning, that we were objecting very violently to stating opposition beforehand.

Mr. LACHANCE: But this is a very serious matter.

Mr. JODOIN: I agree.

Mr. LACHANCE: I know that. Do you think that there are a large number of people who are not in favour of the right to strike in advance? I speak here of employees of the public service.

Mr. JODOIN: You mean union members even in the public service? No, I do not think so. The point is whether we want to use the right to strike or not. I think generally speaking among civil servants they are not opposed to the right to strike.

Mr. LACHANCE: In the Public Service?

Mr. JODOIN: Yes, in the Public Service. There might be varying views, of course, on this matter. You know that this is the case in industry. We have minority votes on occasion. Since the opportunity to strike is there, they will decide for themselves whether to use it or not, but I cannot tell you whether in this or that government department some people are for or against. It will depend on circumstances.

Mr. LACHANCE: But do you...there are people against the right to strike. There are people like that everywhere.

I am speaking of the Public Service. Do you think it would be the only way for them to obtain satisfaction?

Mr. JODOIN: Tactically speaking, there should be freedom under this Act as it exists under the Industrial Disputes and Investigations Act nationally.

Mr. LACHANCE: We deal with the public like you do, and we know that some people are not in favour of strikes, for one reason or another perhaps because they do not understand the problem.

Mr. JODOIN: If you say there are exceptions I can see that.

Mr. LACHANCE: But this is more than an exception. If we take the percentage of the people who voted for the rail strike for instance as compared to the number of employees, there was not such a considerable difference. This is an example, of course.

Mr. JODOIN: That is not a very good example from your point of view because I think the transport workers generally were in favour of a strike at that time.

Mr. LACHANCE: But it is not a majority of the people that actually voted.

Mr. JODOIN: It depends on what is the organization. They were our friends in various associations and the percentage was very considerable, you know that.

Mr. LACHANCE: Still there are a large number of people who are not in favour of a strike.

Mr. JODOIN: Still they were in the minority.

Mr. LACHANCE: Ought they not choose an organization which would decide it did not want the right to strike?

Mr. JODOIN: The point is now to find out through you, Mr. Chairman, if you are in favour of a majority rule or of a minority rule. If there is a rule of the majority of people who say we do not want any strike, well that matter will be settled. It will be settled one way or the other. You cannot be saying to a minority party that they can go against a majority decision. We are not in favour of that type of operation.

Mr. LACHANCE: But you will agree with me that in the public service it is not exactly like in industry, is it? The public service is, in fact, the government and the interests of the citizens are at issue. The government is an employer.

Mr. JODOIN: However, from the point of view of working conditions and social benefits, there is no difference at all between any government and its employees.

Mr. LACHANCE: But there are other means of pressure which do not exist elsewhere in the private sector.

Mr. JODOIN: They are not always good, are they?

Mr. LACHANCE: I agree, but there are people who are against strikes for all kinds of reasons, possibly because they are afraid of losing salaries.

Mr. JODOIN: On that point I would like to tell you that if you had mentioned the word strike in the public service a few years ago, a large number of people would have been opposed to it. I agree, but as Mr. Andras, my distinguished colleague said a while ago, there has been a great deal of change since then. Public service would like now to be on the same footing as other employees in the country generally. A few years ago, if you had spoken of a strike in the public service it would have been quite inconceivable, but things have changed. I believe that with regard to the right to strike public servants are in favour of it. By a large majority.

Mr. LACHANCE: They want the right to strike, but will they want to use it?

Mr. JODOIN: We will find out about that; that will depend on circumstances. In some cases disputes are easily settled, in other cases, negotiations can go on for a long time and the difficulties are not easily resolved. It depends on circumstances, but according to the information we have, what was taboo before is now readily recognized by public servants.

Senator DENIS: Mr. Jodouin, you have been speaking of democracy, that is all very well, but when you use the word democracy you maintain that the right to strike should exist and that if the right to strike exists it really involves possible use of the right to strike, whatever the nature of the public service involved. What you say is that any group of public servants could go on strike for a day, a month, or a year.

Mr. JODOIN: According to the negotiating units involved.

Senator DENIS: In other words, if the employees are not satisfied with the conditions offered, you are in favour of postmen going on strike for a month even if the economy of the country suffers a very heavy blow. I would like you to answer that question. Is the answer yes?

Mr. JODOIN: No, I think the negotiations should be carried out in good faith. If the services are essential they should be remunerated in consequence and have corresponding social benefits.

Senator DENIS: That is why we are here together. We are looking for the possibility of solving a difficulty between the government and its employees. You maintain that the right to strike should continue to exist in essential services such as in police services or firefighting services. You maintain that there should be a right to strike, and if the city catches fire there will not be any firemen to put out the fire, is that your opinion?

Mr. JODOIN: You should not exaggerate.

Senator DENIS: But when we speak of democracy we should not exaggerate either.

Mr. JODOIN: Your example of the firefighters is not too good, because in their own constitution they have submitted themselves voluntarily to arbitration not to legislative action.

Senator DENIS: The reason we are here is to look for some means of agreement between the government and its employees.

Mr. JODOIN: But I think the right should exist.

Senator DENIS: I am not the witness, you are.

Mr. JODOIN: I am sorry.

Senator DENIS: In an essential service such as the Post Office Department or even in the railways, if the employees there decide to go on strike because they are not satisfied with the settlement offered, you feel then that the people should be on strike as long as they require until they obtain satisfaction in a situation where the economy of the country might be endangered. I am, just as you are, favourable to democracy, but is democracy really the word here? Should we go to the opposite extreme, should we risk endangering the economy of this country? Democracy would then become anarchy. You know that the country cannot do without its mail carriers, you know that the country cannot do without its railway workers. We are looking here for grounds for agreement between the government and its employees, and we should too think of protecting essential services. If employees decide to proceed in one way so that there can be no strike, that we go through conciliation or compulsory arbitration, what is wrong with that? Is there anything wrong with the employees acting in such a way as to protect the economy in the interests of the country?

Mr. JODOIN: In all due deference you will never make me say that the right to strike should be eliminated and that compulsory arbitration should be set up. I said a while ago that there is one way of solving the difficulty, that is by providing proper working conditions and proper marginal benefits. This is as true for railway transport workers as for post office employees. If their responsibility is so considerable, why should the difficulty be so great? But it would be protecting democracy to provide for wretched working conditions as compared to industry, because they are so essential. Is that the answer? I say, no. I say there is a way out of this difficulty, a way out without divesting the

workers of the rights I mentioned a while ago. There should be a proportion between the responsibility of the workers involved and their remuneration.

Senator DENIS: But the Act provides for the choice between the right to strike and compulsory arbitration.

Mr. JODOIN: But as far as we are concerned, we have given our opinion on the matter of compulsory arbitration. We gave our views on that matter, if it is in Bill C-170 it should not be there, and the same is true of the right to strike as such. We object to the fact that we should take up our positions beforehand. This should not be done.

Senator DENIS: But there is some kind of a relationship between a lessor and a lessee; anybody who rents something is bound by the conditions put down by the lessor, by his landlord; this is true for everybody in this country. There is a difference between the Act we are attempting to pass today and the existing situation.

Mr. JODOIN: But you don't have to rent anything from a landlord, do you?

Senator DENIS: But if the landlord does not live up to his obligations, there is a recourse, he can go before the courts. This is true from the point of view of a bankruptcy act, this is true with regard to separation as to bed and board. If you are not satisfied with your husband or wife, you can always obtain separation as to bed and board. What I mean to say is that in advance, the employer and the employee know what their rights are. There is no difference between this type of act and generally existing acts. I think this would be to the advantage of both parties because both know what are the procedures.

Mr. JODOIN: But if they know what procedures are involved, this is all in favour of the employer. Because the government would settle this out of hand.

Senator DENIS: But there has to be an end to everything.

Mr. JODOIN: Yes, but we could be looking for a reasonable end to these things.

Mr. LACHANCE: This is like separation as to bed and board, is it not?

Mr. JODOIN: That is not much of a comparison.

Mr. LACHANCE: Do you say that the government will decide?

Mr. JODOIN: Well the law is the law.

Mr. LACHANCE: In the railway business, it was not the government who took the decision.

Mr. JODOIN: You are right, I am sorry.

Mr. LACHANCE: What I mean to say is that it was not the government, it was Parliament.

Mr. JODOIN: Oh, we are coming back to C-170, are we? Are we still thinking of separation as to bed and board?

Mr. LACHANCE: No, no. What I mean to say is that you should not be saying that the government is all powerful.

Mr. JODOIN: That is not what I meant. What I said is that if decision are not reasonable in view of the employees, they should be allowed to strike.

Mr. LACHANCE: That is not what I said. You said that government has the last word as the employer.

Mr. JODOIN: Yes, I did say that. As far as formation was concerned. The governor in council. That is what I meant.

Mr. LACHANCE: You said that firemen had voluntarily foregone the right to strike.

Mr. JODOIN: Yes.

Mr. LACHANCE: As you know, Mr. Jodoin, it is very important to determine whether people will have the right to strike prior to certification, or after. What you object to is that there should be no choice.

Mr. JODOIN: That is exactly my point. It should be to the employees to decide afterwards.

Mr. LACHANCE: But when a fireman takes up service as a fireman, he has a right to decide that he won't use the right to strike, that he won't have the right to strike.

Mr. JODOIN: My point is that it is not necessary to write this into the Act.

Mr. LACHANCE: Well what about those people who don't want to?

Mr. JODOIN: What I mean is that we should not have to choose in advance, prior to any certification. This should not be in the Act. This prior choice should not be written into the Act, because we don't know the consequences.

Mr. LACHANCE: But afterwards?

Mr. JODOIN: Afterwards? I spoke of democracy, and I think Senator Denis understood me properly. It would be up to the members to decide, but it should not be done legislatively.

Mr. LACHANCE: But would you be in favour of something like that being written into the Act at some time.

Mr. JODOIN: No, it should never be written into the Act at all.

(*English*)

Mr. KNOWLES: Mr. Chairman, Mr. Andras said he had a list of the unions affiliated with the Canadian Labour Congress who have workers within the public service. Is that the type of list we could be given for the purposes of our record?

Mr. ANDRAS: Oh yes, I came here prepared to table it, Mr. Knowles.

Mr. BELL (*Carleton*): Could it not appear as part of the record at this point?

Mr. KNOWLES: That would be my suggestion.

The JOINT CHAIRMAN (*Mr. Richard*): This is a list prepared, I suppose, by the Congress?

Mr. ANDRAS: This is prepared by my department.

The JOINT CHAIRMAN (*Mr. Richard*): From your information?

Mr. ANDRAS: That is right.

The JOINT-CHAIRMAN (*Mr. Richard*): This will be added as an appendix to the proceedings.

Mr. KNOWLES: Does it list numbers of people in the various unions who are working within the federal service?

The JOINT CHAIRMAN (*Mr. Richard*): No, this is only a list of associations or organizations.

Mr. KNOWLES: I am just anxious to see how many times we can multiply that 200,000 we have in the civil service. I think we have it up to half a million now.

Mr. JODOIN: This list would represent about 85,500.

Mr. BELL (*Carleton*): That figure varies a little from what you mentioned last time.

Mr. JODOIN: That is because we are going to have a new affiliation, Mr. Bell. Last time I indicated a round figure of 75,000. Since then we have had an application from the Customs and Excise group of 6,500.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions? Mr. Chatterton.

Mr. CHATTERTON: The question of public employees holding public office will arise. Could we ask the secretary to obtain for us a copy of the existing order in council governing the holding of public office by public employees?

Mr. KNOWLES: Will you invite the economists to keep watching us while we are in committee of the whole, as you have done with the others?

The JOINT CHAIRMAN (*Mr. Richard*): Are we finished with the questioning? I do not think so. Mr. Walker.

Mr. WALKER: I have three questions, if I may. I agree with you, Mr. Jodoin, that the employees certainly have the right to make the choice whether they want to strike or not. Do you agree with me that employees should also have the right to decide not to strike?

Mr. JODOIN: They have.

Mr. WALKER: Do you have confidence in the integrity of the P.S.S.R.B. as being a separate, distinct and independent board from the employer, namely, the government?

Mr. JODOIN: You know, with the word "independent" you always have to watch its composition. Now, I would not know. The principle of the law is that it is supposed to be impartial, but the law is good only as long as it is well administered.

Mr. WALKER: But in your mind you do not co-relate the board with the employer, namely the government, do you?

Mr. JODOIN: As I say, I would like to wait until the composition of the board is announced. I presume there will be a variety of representation, at least

in my estimation there should be. If, with wisdom or lack of wisdom, Parliament should name on that board nine or ten former presidents of corporations, I would have my doubts.

Mr. ORANGE: If I could just ask a supplementary. Is the Congress satisfied with the composition of the Canada Labour Relations Board?

Mr. JODOIN: The Canada Labour Relations Board, yes.

Mr. ORANGE: Well, could this not be applied, hopefully, to the public service board?

Mr. JODOIN: In my estimation that probably could be a solution.

Mr. WALKER: What role do you envisage for the Public Service Commission, the former Civil Service Commission, if the suggestions you made are carried out?

Mr. ANDRAS: I beg your pardon. I read some place that—

Mr. JODOIN: That was already covered by Mr. Andras some time ago, Mr. Walker, when he said that you should always have the right of the procedure of grievance as far as this is concerned. I do not think it should always be unilateral.

Mr. WALKER: I am thinking of the role of the commission, if your suggestions were carried out.

Mr. ANDRAS: We would anticipate that the role of the commission would be, first of all, a recruiting agency. Secondly, it would exercise a managerial function, the perfectly legitimate and normal function of appraising and making decisions, which is a managerial function as we recognize it. What we object to is the absolute right to make the decisions. As we read bill No. C-181, sections 22 to 30, once the commission makes a decision as to promotion or demotion or layoff, or what have you, there is a dead end. The appeal would be going to the very same commission that made the decision in the first place, and this we take exception to. We say if management, and if management is represented in this instance by the commission, makes a decision that Mr. Andras should not have had the promotion, we say we reserve the right to grieve on behalf of Mr. Andras and we want to take it to third party intervention, if necessary, if in our opinion we have a case to make.

We are not trying to emasculate the commission at all from our point of view. We recognize that it has perfectly legitimate and desirable functions. We simply do not want them to be unilateral the way they are as written into Bill No. C-181.

Mr. WALKER: You feel they may be acting for management and you do not give them any—and again I use the word—area of independence.

Mr. ANDRAS: They are an independent commission, I will go along with that, but we simply are not prepared to accept their appraisals as *ex cathedra.*

Mr. WALKER: They may be acting for management, but they may be acting in error.

Mr. ANDRAS: That is right. They are not infallible.

Mr. WALKER: That is the point.

Mr. ANDRAS: This is why we look for grievance procedures.

The JOINT CHAIRMAN (*Mr. Richard*): We had better not get into too much cross fire because some it may be missed in the transcript unless you agree to give yourselves a bit more time between speakers.

Mr. WALKER: I want to get back to one point which Mr. Jodoin stressed so much. In any conciliation procedures or any sitting down at bargaining, this is strictly between two groups, the employer and the employee. This is the point I take issue with. As far as the public service is concerned, where does the national interest in safety or public interest get represented? How can two groups of people, represented by an employer and an employee, take on to themselves a national problem that may be of great public importance. How can they take that into the context of a struggle between two groups of people, an employer and an employee. This to me is the difference between the public service. Who in those negotiations, except for the Public Service Staff Relations Board, can ask and become the voice of that third group who are unheard in this fight?

Mr. JODOIN: I may not have been too clear in my remarks. I meant that this is the preferred way of doing it and this is the way it should be done, as it is done between free enterprise and free trade unions. Instead of getting a third party involved, it should be settled there and then. I indicated in answering a question a little while ago that I feel there are ways to solve these problems or these differences at that level.

When you come to the question of general public interest, that is where Mr. Lachance's parliament comes into the picture again. While representations would be made at that time, I do not think, as I indicated, that the question of compulsion, and things of that kind, solves the problem. That is the only difference of opinion you and I have on this. As far as procedures are concerned we are on the same beam. Have I made myself clear?

Mr. WALKER: Yes.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Thank you very much, gentlemen. You will be with us later in the proceedings when we come to the examination of the bill itself section by section.

Mr. JODOIN: If we are notified, sir. I assure you we will be here.

The JOINT CHAIRMAN (*Mr. Richard*): I think you should have someone follow the proceedings from now on because we will be proceeding as soon as possible with the examination of the act itself section by section.

Mr. JODOIN: On behalf of the Congress, I wish to thank you and your colleagues for having received us this morning.

The JOINT CHAIRMAN (*Mr. Richard*): May I have a formal motion ratifying all proceedings?

Mr. KNOWLES: Today's minutes will show 10 or 12 people here.

The JOINT CHAIRMAN (*Mr. Richard*): The next meeting of this Committee will be this evening at 8 o'clock. The Civil Service Commission will be available for examination at that time. Some of the members of the Commission have to leave on Wednesday and they have asked to be called as soon as possible.

Mr. KNOWLES: Subject to what is going on in the House?

The JOINT CHAIRMAN (*Mr. Richard*): Yes.

We will then meet at 8 o'clock tonight.

EVENING SITTING

The JOINT CHAIRMAN (*Senator Bourget*): I will now call the meeting to order.

This evening we are calling on the Civil Service Commission. We have already had a brief presented by Mr. Carson some time ago, and I am sure that all the members are acquainted with that brief now and would like to question Mr. Carson.

Mr. BELL: I do not want to always lead off, Mr. Chairman, if Dr. Isabelle would like to go first.

Mr. WALKER: The witnesses who have been here have been questioned on their briefs. There seems to be a general feeling, or the recommendations that have been put forward have been such, that if they were all followed Mr. Carson would be here tonight representing a very minor, small organization.

I was wondering if you have had a chance to follow the questioning that has gone on, Mr. Carson? You have heard many of the objections; that there was delegation of authority in these problems, and some of us have asked the witnesses what role do you see for the Civil Service Commission; and I think I am right that the Canadian Labour Congress this morning suggested that it was just a hiring agency.

Would you again educate me, and perhaps other members of the committee, on the role you see, in the context of this legislation, for the Civil Service Commission, more than just a hiring role?

Mr. CARSON (*Chairman, Civil Service Commission*): Mr. Chairman, I would be happy to try. I am sure my colleague, Miss Addison, needs no introduction to the committee. If I falter, I am sure she will ably support me.

Mr. Chairman, I am well aware of the fact, and my colleagues are as well, that there are those bodies, particularly, I think, trade unions outside of the public service, who would pay lip service to the preservation of the merit principle and say that you can maintain this solely by using the commission at the time of initial appointment and that all it needs to do is to certify that people enter the public service on a meritorious basis without patronage at the point of entry, and that from then on everything else should be left to the collective bargaining process.

Mr. Chairman, I do not think that the parliament of Canada, or the people of Canada, have ever accepted the fact that you could preserve the merit principle throughout the public service merely by controlling it at the point of entry. I think it has been accepted since 1918, and in 1961 when the act was revised, that if you are going to preserve the merit principle you must preserve it at every step of the staffing role.

We hired, I suppose, this last year perhaps 21,000 into the Public Service from the outside, but the number of promotions and transfers that took place were far greater than that. There were staffing actions at every level of the public service, not just at the points of entry.

Admittedly, the key place to start the merit principle is at the point of entry from outside, but I have the feeling that parliamentarians over the years have felt that it was just as important to preserve the civil service free from any kind of extraneous influence throughout the whole career pattern of civil servants; that it was not just enough to ensure the purity and sanctity of the merit principle at the point of entry. This, of course, is up to parliament to decide.

As commissioners we tend to support this view. We are thoroughly familiar with the kinds of pressures that can be exerted—patronage pressures, nepotism pressures and favouritism pressures—throughout the whole career of a public servant. I would think it is highly desirable, if you are going to say that the merit principle is important in the civil service of this country, to enshrine it in legislation throughout the whole career of a civil servant.

Does that answer your question, Mr. Walker?

Mr. WALKER: Yes.

Mr. BELL (*Carleton*): That was a good statement on the merit principle, if I may say so.

Mr. WALKER: I would like to ask one other question if I may: Do you consider the commission to be a thoroughly independent body, independent, if you will, of Members of Parliament? Do you consider that you are the good right arm of a government, or an independent commission set up for the purpose of ensuring the highest possible standards in public service throughout the country?

Mr. CARSON: Mr. Chairman, and through you, Mr. Walker, I think the Civil Service Commission is going to be in an even better position to be an independent agency if you should pass this legislation. Up until now the commission has been saddled with responsibility for pay and classification which are managerial functions really, and to the extent that we have been involved in problems of pay and classification, even if it was just at the recommending level, we have been recommending to government, through the Treasury Board, things which belong within the purview of management. Now to that extent I think we have tried to wear two hats and I think at times it has been difficult for civil servants to see how the commission could be fully independent in the area of preserving the merit principle and at the same time be really an adviser to the government in the area of pay and classification.

With pay and classification moving out of the jurisdiction of the commission into the regime of collective bargaining that is proposed, we will be able to act purely as an independent staffing agency for the sole purpose of preserving the merit principle. I think it will be a purer role for us and a much less confusing role, not only for the commission but for the civil servant and for the government itself to respect; because there is no question there have been areas in which we have had to work very, very closely with departments and with the Treasury Board, particularly in the field of pay and classification, and some years ago, prior to 1961, in the field of organization and establishment. We were deeply involved in the management process.

I think Glassco did a service to the public service of Canada by pointing out that the commission was attempting to be—if you will—a split personality. This bill, as presently before your Committee, puts an end to that split personality

and will enable it to be even more independent; not only independent in heart and action as my colleagues and I think we are, but we will seem to be more independent, and I think this is important.

Mr. WALKER: I have just one last question. Do you feel that the legislation will reduce your responsibility to government—to an employer?

Mr. CARSON: Well—

Mr. WALKER: Perhaps "responsibility" is not the right word. I will say: Your relationship to a government.

Mr. BELL: But the relationship, surely, is with parliament and not with government.

Mr. CARSON: This is what I was trying to say, Mr. Chairman.

Hopefully, under this legislation, our sole sense of responsibility is going to be to parliament. That is what it is now, but at the present time, we do so many things which are really of a managerial nature that, relieved of those, I think we can not only act and think independently, but we can honestly feel that we are reporting solely to parliament on the preservation of the merit principle.

If your question is leading up to the suggestion that this means that the commission will be performing a very insignificant role in the future, I do not think so. I think there is no more important job that can be done for the public of Canada than preserving the calibre of excellence and the quality of merit that has historically been in the Canadian public service.

There are some writers outside who feel that the golden years of the public service in Canada—which reputedly took place some time after World War II, with the advent of so many, many very extremely able people who have brought lustre to the public service of Canada—have become a little fuzzier in recent years. Whether this is true or not, I do not know; but my colleagues and I are embarked on a major campaign to try to upgrade the level of excellence in the public service from the top to the bottom, and, Mr. Chairman, I am glad to report to the Committee that we think we are making some real strides even though we are in the tightest labour market in which the government has ever been.

Mr. WALKER: One last question, if I may: Do you see any conflict developing between yourselves and the employer, through to the Treasury Board, with the whole question of establishment and the growing size of the civil service, or is this out of your field of jurisdiction altogether?

Mr. CARSON: Mr. Chairman, I see that as entirely out of our field of jurisdiction.

At the present time—ever since the 1961 Act relieved us of any further responsibility in the field of establishments—we have tended to fill vacancies when departments advised us that they had an establishement. We did not feel that it was our job to question whether Treasury Board, or the department, were in their right in having an establishment created. That is not our responsibility. We coax; we ask questions; we say, "Now, do you really feel that you want someone to do this job when this department over here has somebody who is purportedly doing exactly the same?" Very often that kind of questioning is helpful, and departments reconsider and say, "Well you know, we did not really realize that we were going to be duplicating." We have provided a kind of

gratuitous service of that kind. But when the chips are down, if the department says, "We have the establishment and we want you to fill it," we go ahead and fill it.

Mr. BELL (*Carleton*): Would you care, Mr. Carson, to identify the occasions on which you have thought that departments and the Treasury Board were out of their minds?

I gather that is something you would rather pass up?

Mr. CARSON: I think so, Mr. Chairman.

Mr. BELL (*Carleton*): One of the problems, Mr. Carson, with which you dealt rather extensively in your brief was the whole question of delegation, and the safeguards that there may be in relation to delegation. I have to confess to you—as I think I have said in the house—that this is the aspect that concerns me most about this bill. You have spoken about systematic spot checks, about periodic statistical analyses and this type of thing, but you have not yet succeeded in convincing me that delegation ought to go to the extent to which this bill contemplates.

I wonder, in the light of my reservations, whether you could express a few further views on this whole question of delegation?

Mr. CARSON: Mr. Chairman, I would be happy to. I will not admit that we are on entirely uncharted seas. We have had some limited experience with delegation; and I would like to assure the Committee that we will not be venturing irresponsibly into an era of delegation unless we are absolutely certain that we do have the safeguards.

Perhaps it would be helpful to you if I quoted a recent conversation I had with my opposite number in the United States, John Macy, chairman of the U.S. Civil Service Commission. The United States, following World War II and the explosion of their public service, recognized that they could no longer cope with the bureaucratic controls the civil service commission in that country maintained over their service. In 1948, therefore they embarked on a deliberate plan of delegation, with audit procedures, and they have worked with this now for twelve or fourteen years. I recently asked Mr. Macy if they were really satisfied that it had worked, that there had not been inroads into the merit principle that they were in no shape to discover? I was very impressed, Mr. Chairman, with his reply because he said, "Look, we were embarrassed after a few years to discover that the departmental managers were really more zealous about preserving merit in their staffing arrangements than the commission had ever been". He said "Certainly we maintain the commission, we maintain our controls—it is all on a delegated basis—and we audit, but we are auditing against only about 5 per cent of the public service, and we know where that 5 per cent is. The great majority is departmental." From their counterpart of our deputy on down they are just as concerned with preserving the merit principle and getting the very best people they can on the job as any civil service commission was. This was very encouraging to me in this day and age. I do not think that either the United States or Canada could have had this much confidence in the concern of departmental management for preserving the merit principle forty or fifty years ago—or perhaps even twenty years ago. I think there have been great strides, and I am confident that the great majority of our deputy ministers, our assistant deputy ministers, director generals, and so on

are just as concerned as we are with making sure that the best appointments, the most meritorious appointments, are made to the public service.

I set out, Mr. Chairman, with this almost as an article of faith. I am convinced that in this day and age competent managers of good intentions are going to be our greatest allies in preserving the merit principle; but I realize that I cannot ask the members of this Committee, or parliament, to take anything on the faith of the Civil Service Commission. We are going to be setting up the most thorough audit procedures, the most thorough examination of recruiting and selection procedures on a spot check basis as we know how.

I would like to mention one other control which I did not mention at our earlier meeting. One of the most effective supports that we hope to have in this respect is the calibre of the directors of personnel who are currently being appointed to various departments of government. We are embarked on a very serious programme, in collaboration with the Treasury Board and the Deputy Ministers, to make sure that each department is constantly staffed by a director of personnel who is reporting to the deputy minister and who recognizes that, although his administrative responsibility is to the deputy minister, he is also there to act as the conscience of that department. I do not like to suggest that he really get into the frame of mind where he feels that he is the presence of the Civil Service Commission and the Treasury Board as well, but, in effect, this will play, I am sure, quite a part in his thinking.

The appointments that we have made in collaboration with deputy ministers to date have been most encouraging, and if we can continue to secure the calibre of director of personnel in each department, that we have started out on this past year, I am confident that they are going to be our greatest allies.

Mr. BELL (*Carleton*): On that point, Mr. Carson, do you have any plan of systematic rotation of the personnel officers from department to department?

Mr. CARSON: Indeed; and we are making it very clear to the whole cadre of personnel officers in the public service, that they no longer belong to department A, or to department B, but that they belong to the total personnel community in the public service.

Mr. BELL (*Carleton*): I have observed, in quite a number of departments, that the same people are there as directors of personnel who were there when I first entered parliament, which is now almost ten years ago. I think it is quite possible that the departments with which I encounter most trouble are the departments where the personnel officers have been there over that long period of time.

Mr. CARSON: Mr. Chairman, I would be less than honest if I did not acknowledge that we have not made the progress in every department that we would like. I think comparisons are odious, and there would be no point in starting to enumerate them, but I think you would be impressed, Mr. Chairman, and particularly you, Mr. Bell, with your very intimate knowledge of the federal scene here within departments, at the quiet changes that we have brought about in a tremendous number of departments. We are nowhere near through, but we have made some really outstanding appointments.

We have done that both by upgrading within the service, by recruiting from other jurisdictions and by recruiting from industry; we do not want to do all of our recruitment from outside, but in a period of rapid change, and with so many demands for a new personnel face, both in the departments and in the

Treasury Board, we had to recruit from outside. We have brought in some really excellent people. I think they are going to give a completely new measure of leadership to the personnel function in departments.

Mr. BELL (*Carleton*): Would you like to indicate, Mr. Carson, what you mean by systematic spot checking of individual cases? How systematic and how spotty will this be over a period of time in the future?

Mr. CARSON: It is difficult for me to be precise. I do not want to worry you by saying that we are going to reduce this to a mechanical kind of operations research, but, in effect, we are going to draw on the experience of the operations researchers and try to get some formula that will indicate to us what are the probabilities of catching errors if we do a spot check on a time basis, or on a departmental basis, or on a percentage of appointments that are made. We will certainly be doing this continuously on a routine and recurring basis, but we also envision sending in auditors, if you will—we may call them by some more euphemistic name but that is really what they will be—to examine the department's procedures at all levels, right out to the farthest office where delegated authority is in practice. We will be checking on the methods of recruitment that they use, the methods of selection that they use, the results of those selection processes, and I am confident that we can develop the kind of skill in this sort of assessment that we can sleep well at night, feeling that we will catch mistakes, errors or outright skulduggery when it occurs; and when we do catch any skulduggery the delegated authority will be withdrawn immediately.

Mr. BELL (*Carleton*): This comes to the heart, perhaps, of this situation. We all know, when we examine the facts of life, that some ministers are more political than others, and some deputy ministers are more political than others. If you get a combination of a political deputy minister and a political minister, you may easily have a very major problem within a department.

I would not be invidious by saying anything about the Department of External Affairs, because I do not think there is such a combination—I think there is only one in that Department—but suppose there is a situation where you delegate the appointment of all the junior External Affairs officers to the Department of External Affairs. How would you, in fact, go about assuring yourself that, with his extensive contacts with all the universities across Canada, a candidate for the leadership of a political party would not be endeavouring, by some technique or other, to recruit people who would enter the External Affairs Department?

I do not want to be political, but if Mr. Carson could—

Mr. CARSON: Mr. Chairman, I wonder if we could avoid referring to any particular department, but let us talk about departments A, B, C, and D.

I am a relative newcomer to the public service, Mr. Chairman, but I am supported by a very large staff. Many of them have spent their whole lives in the staffing function in the public service, and I am constantly impressed with the shrewdness and sagacity that this group of officers have.

We are not naive about the particular ministers in this government, or any other government, or the particular deputies in this government or any other government, and their predilection to be interested in influencing appointments.

I can assure you that we have enough residual knowledge within the commission that we will not be contemplating delegation in those instances where past experience would indicate that it has not a chance of working.

Mr. TARDIF: Could you give us a definition of what a political deputy minister is? You candidly admitted that there were such things, and I was wondering whether you could give us a definition? Mr. Bell, I know, is better qualified, but he is not the Chairman of the Civil Service Commission.

Mr. CARSON: Mr. Chairman, I would like to make a sweeping generalization and say that I think the great majority of deputy ministers in the public service are political, but—

Mr. BELL (*Carleton*): Would you permit me to help you, Mr. Carson, by saying that any deputy minister who reports the senator to me is bound to be political.

The JOINT CHAIRMAN (*Mr. Richard*): Order, order.

The JOINT CHAIRMAN (*Senator Bourget*): May I ask a question following on what you have said? Does this mean that there will be some departments to which you will not delegate your authority?

Mr. CARSON: Yes. There will be some departments, gentlemen, at various times in history where not only will the Commission not even consider delegation because the risks would be too serious, but there will be situations, I am sure, in which the deputies will say, "For goodness' sake, do not delegate to me. I do not trust myself," or "I do not want to be put in the position of having this kind of responsibility."

Mr. BELL (*Carleton*): Would it be unfair to ask you to illustrate either of the extremes which you mentioned?

Mr. CARSON: Mr. Chairman, these are hypothetical cases but I am sure they will exist.

Mr. KNOWLES: If you can not find any good examples in the present government go back to the last one!

Mr. BELL (*Carleton*): I will pass to some of my colleagues. I want to come back later.

(*Translation*)

Mr. ÉMARD: My questions relate more particularly to the case of manual workers as well as office employees in the lower categories. I would like to know if, at the present time you have a system of evaluating the merits of the employees and if so, what are the attributes, how does it work, at what intervals do you rate the employees, and what can an employee do when he is not satisfied with the rating made of him?

(*English*)

Mr. CARSON: Mr. Chairman, our appraisal techniques, or performance review techniques, at the operational category level are not as well advanced as they are at our administrative, professional, and scientific levels, but we are advancing this all the time.

It is our objective to have a program of performance-review established which will be applicable at all levels of the public service. It will vary, of

course. The yardsticks, the factors which one takes into consideration, will vary enormously from craft to trade to clerical operations to technical operations, but it is our objective to have a plan of performance-review available for departments to use at all levels of the service.

At the present time there is a form of—going back to the old days—the efficiency rating which still takes place in most situations. The use to which departments put it and depend on it in their salary reviews for statutory increase purposes, or for promotions, is a very mixed bag. There is not great consistency throughout the service at the present time. It is our hope and our intent that it will become built into the public service, that a sensible, fair and equitable method of performance review, or performance appraisal, will be available for all ranks and at all levels.

At the present time the performance-reviews at the levels you have been asking about do not play a very major part in any managerial decisions. The statutory increase, for example, under the present Act is granted automatically unless a supervisor can provide justification for withholding it, and the justification for withholding it must be on the grounds that the employee is performing below average—inadequately. The department which intends to withhold an increase must advise the Civil Service Commission and the employee well in advance that they intend to withhold the increase. If they fail to give the employee and the commission the required notice then we wash out the withholding. An employee is also free to appeal against a withholding of an increase by his supervisor on the basis of a performance review.

The JOINT CHAIRMAN (*Senator Bourget*): He appeals to the commission?

Mr. CARSON: He appeals to the commission. This year there were only 25 appeals because of the denial of a statutory increase. I do not have at my fingertips the total number of statutory increases which were withheld across the service, but there were 25 that employees appealed against such denials.

Mr. BELL (*Carleton*): Do you think that is good or bad?

Mr. CARSON: That they appealed, or that there were only 25?

Mr. BELL (*Carleton*): That there were only 25. Is it good or bad?

Mr. CARSON: Well, my suspicion, Mr. Chairman, is that it is bad. I cannot really believe that there were only this few employees who were not measuring up.

Mr. TARDIF: Mr. Chairman, a supplementary question: Who appoints these boards which review these cases?

Mr. CARSON: The appeal boards?

Mr. TARDIF: Yes.

Mr. CARSON: The commission appoints the appeal boards?

Mr. TARDIF: Are some members of the appeal board made up of some of the employees of the department where the appellant is making representations.

Mr. CARSON: This may have happened in by gone days, but certainly in recent history the commission has been scrupulous about appointing one of its own officers to be chairman of the board and only to appoint two other members who have absolutely no interest in the outcome of the case.

In some instances, up until this last year, we used to draw on people from departments other than the one in which the employee worked, but we ran into some criticisms of this, and this year we decided only to appoint members of the commissions own staff, or retired civil servants who had had extensive experience in the appeal process.

Mr. TARDIF: On many occasions members of the civil service have come to see me and I have suggested that they appeal if they are not happy about what has happened to them. They have said that there was not much use appealing, that they did not have very much success because in most cases the boss, for instance, or the chief of the department where they were working, was the main witness, or was a member of the board, and the fact was that he was actually deciding on what was his original ruling. There are many more than 25 members out of 50,000 employees, I can assure you, who are unhappy. There might not be a great percentage of them, but—

Mr. CARSON: But the 25 is related only to statutory increases. There were a lot more than that. There may be 100 appeals every month, or possibly 1,200 every year.

Mr. Chairman, I wonder if I could just comment on Mr. Tardif's question. I am aware of these kinds of uncertainties. The Montpetit report hints at them, and certainly I get them in letters from individual civil servants, because I assure you, genlemen, that you are not the only ones to whom civil servants write. I keep a fairly busy correspondence myself with unhappy civil servants.

Somehow or other despite our very best efforts we have not done as effective a job of getting into the hearts and minds of every civil servant the protections and safeguards which exist for him. This year we put out a manual—a guide to the civil service appeal system—because I was so frustrated by the misapprehensions and the distortions, and in which we have described exactly what happens—the assurances, the protection which the civil servant has, and the way in which the appeal boards will be conducted, the rights that he has to representation; we laid out the whole process, short of actually filling out the appeal form for him. We have done everything else.

I do not know, Mr. Chairman, whether the members of the Committee would be interested in having copies of this manual. I am sure you must be troubled from time to time by civil servants who have confused ideas about how the appeal process works.

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, Mr. Carson—

Mr. BELL (*Carleton*): Mr. Chairman, I am sure all members would like to have this manual distributed. I would like to mention to Mr. Carson that his public relations officers have not, I think, sent copies to any of the local members, to the best of my knowledge.

Mr. CARSON: I think this was an oversight on our part.

The JOINT CHAIRMAN (*Mr. Richard*): Could we go back to Mr. Émard now, please?

(*Translation*)

Mr. ÉMARD: At the present time in the case of a promotion to a higher category in the same employment, does the Commission hold a competition or does it choose the most qualified employee within the group for promotion?

(*English*)

Mr. CARSON: Mr. Chairman, the practice varies. We have several guideposts written into the act which we look at. There is one guidepost that says that unless it is not in the public interest promotions should be made from within the public service. We feel it is our first responsibility to make sure that people within the public service are considered for positions as they become open, that would mean promotion.

In many of the shortage areas, the highly technical areas, specialized areas, we know from our inventories we do not have adequate resources from within the public service now to be able to fill the particular positions. In those instances, the commission will authorize an open competition, which means it is open to the general public. I want to assure you that our first responsibility is to provide opportunities for promotion from within the public service.

When it is within the public service then we have to sit down and look at what areas should the competition be open to, and this depends, of course, on the level of position. If it is a clerical position or a junior administrative position we tend to say that the competition should be limited to that section, division, branch or unit so that the people within that unit have an opportunity to grow and advance within their unit. On the other hand, if the unit or branch is becoming very inbred or running out of vitality, the department may ask us to advertise it on a broader basis within the whole department or across departmental lines within Ottawa, within Winnipeg or whatever the city is. In some cases, of course, we open it to civil servants right across Canada. I wonder, Mr. Chairman, if that answers the question.

(*Translation*)

Mr. ÉMARD: Could you give us a general idea of your system of job evaluation. Is it based on points or point systems. I am always referring to the clerical employees and manual employees.

(*English*)

Mr. CARSON: Mr. Chairman, I would be happy to comment. Because classification, by this act which you are considering, will be taken away from the commission, it really becomes a dying interest on our part. At the present time, as you may have read in the newspapers, we are engaged in a classification revision program in which we are trying to rationalize our whole approach to classification right across the service.

At the clerical levels and in the administrative jobs we are introducing in many instances point rating plans where these seem to be the most appropriate. In some instances we are still using the old grade description plan which it is a pretty rightful approach when beginning to categorize that this job is clearly different from that job and this is historically known inside and outside the service. But where we get into the administrative categories, for example, where there are wide variations of administrative jobs from one department to another department to another department, there we are falling back on point rating plans because it seems to be the only equitable basis on which to compare positions. Mr. Chairman, I am not sure that the committee will be interested in pursuing the classification revision program.

(*Translation*)

Mr. ÉMARD: In the United States, are civil servants represented by unions affiliated to the Trade Union Movement or are they represented by individual associations which only represent the civil service?

(*English*)

Mr. CARSON: Mr. Chairman, in a service the size of the United States you get almost the full gamut, but the great majority of them are in associations very comparable to the type of associations we have at the present time in the Public Service of Canada, limited to the public service. But this varies; when President Kennedy brought in his consultation bill a few years ago, they had a very complicated task of sorting out the wide variety of bargaining agents.

Mr. LACHANCE: You mean some are independent associations and some are affiliated with larger unions.

Mr. CARSON: Yes.

(*Translation*)

Mr. ÉMARD: Do you not believe that here in Canada, if the associations of civil servants were to affiliate to the trade union movement, which is directed by international unions, do you not believe that at one point there might be a conflict of interest between the interests of Canada and of the United States. I think that it has already been stated that Canada is the only country in the world where the labour movement is controlled by another country?

(*English*)

Mr. BELL (*Carleton*): I do not think that the witness should be asked to comment on that.

Mr. CARSON: Mr. Chairman, I really do not want to duck any question but my colleague is reminding me that I am a civil service commissioner and I have no business commenting on Bill No. C-170, which has enough very well informed commentators. I think Miss Addison feels that I should restrict my comments to Bill No. C-181.

(*Translation*)

Mr. ÉMARD: I would have liked to have posed these questions this morning when the C.L.C. was represented but unfortunately I was not in attendance.

The JOINT CHAIRMAN (*Senator Bourget*): Perhaps you will have another opportunity to do so. Do you have any others?

Mr. ÉMARD: No.

(*English*)

Mr. KNOWLES: Mr. Chairman, I would like to ask Mr. Carson one or two questions which admittedly are matters of detail and they do relate to Bill No. C-181. I am seeking information. It is one of those cases where I do not know the answer to the question before I ask it.

Mr. BELL (*Carleton*): That is the first time you have ever been in that predicament!

Mr. KNOWLES: My legal friends have told me that it is a good rule to know the answer before you ask the question.

In the present civil service act there are a number of sections that run along together: 71, ministers' staffs; 72, parliamentary staffs; 73, other public officials; 74, exclusions. Do you see them, Mr. Carson? You will note that clause 37 in Bill No. C-181 covers Ministers staffs and that it is practically the same as the old Section 71, but then there is nothing corresponding to the old Section 72. The next one is clause 38, other public officials and the next is clause 39, exclusions. Now there is one question about clause 38 that I want to ask, but my main question has to do with the section headed in the present act "Parliamentary Staff". Can you tell me Mr. Carson why that has been left out, or is it somewhere else in the act? Would you enlighten me in any way you can?

Mr. CARSON: Mr. Chairman, I am glad this question was raised. The explanation is very simple. Prior to collective bargaining being put forward, while the commission had responsibility for classification, pay, working conditions, and a number of other things, it was felt that the Civil Service Act should be used as the vehicle for getting these people on the payroll and for having some way of making recommendations affecting them. Now with the removal of the commission from the whole area of pay, leave, benefits, and all these other things that are going to be the subject of collective bargaining, it was not appropriate to have any reference to parliamentary staffs or ministerial staffs in our bill. It is not a sleight of hand, I assure you.

Mr. KNOWLES: But the section on ministerial staffs is still in the bill, clause 37.

Mr. CARSON: I beg your pardon, Mr. Knowles?

Mr. KNOWLES: The section on ministerial staffs is now number 37, but it is still in Bill No. C-181.

Mr. CARSON: Forgive me; you are correct with respect to ministerial staffs, but parliamentary staffs were taken out because they are no longer any concern of the commission and it would be improper for us to have even any reference to them. They belong to you in parliament and you will have to make your own arrangements with respect to parliamentary staffs.

Mr. KNOWLES: Does that mean parliamentary staff personnel are covered under collective bargaining or excluded from collective bargaining?

Mr. CARSON: Mr. Chairman, I would presume that this was something parliament will have to decide for itself. Nobody else can tell parliament what they should do about their own staff.

Mr. KNOWLES: But the government usually has a way of giving us a lead as to what things parliament ought to do.

Mr. CARSON: I was sure as an old political historian Mr. Knowles would be the first to be upset if the government attempted to tell parliament what it should do about its staff.

Mr. KNOWLES: I am so used to being upset by this kind of thing that I take it for granted. Then I am correct, though, in noting that it is not in Bill No. C-181 and so far as you know, it is not in any of the other bills that are now before us.

Mr. CARSON: That is correct.

Mr. KNOWLES: You see, Mr. Carson, the by-play between us just now was quite legitimate but may I point out that with respect to the question of

political action or political freedom on the part of civil servants, the government said this is up to parliament to decide. It has been made clear this is to be a free decision amongst those of us that are on the committee. Nevertheless, the government gave us something to work on by putting clauses in the bill. Now, it seems to me—the jab you took at me a moment ago notwithstanding—that the drafters of this bill should have given us some indication of what takes the place of the old Section 72.

Mr. BELL (*Carleton*): Or at least told us there was a vacuum, which there appears to be.

Mr. CARSON: Mr. Chairman, I think this is a very good point. The fact that there is a vacuum should have been pointed out.

Mr. KNOWLES: May I point out, for example, that there is a subclause in the old Section 72, the one that is still in effect, namely, subclause 4, that leaves to employees of the Senate, the House of Commons or the Library the right to work between sessions and get extra salary remuneration. Maybe that has gone by the board because there are no periods between sessions. But there is a right or a privilege or what have you that employees had under that act that now seems to be missing. Mr. Chairman, perhaps Mr. Carson could suggest with whom we discuss this matter. I suppose it would be with Mr. Benson or Dr. Davidson. I will accept that, Mr. Chairman. At least Mr. Carson has confirmed that there is a vacuum in this regard in the new legislation.

Now, looking at the old Section 73, we find it specifies that the Governor in Council may appoint and fix the remuneration of four people, the Clerk of the Privy Council, the Clerk of the Senate, the Clerk of the House of Commons and Secretary to the Governor General. Now, new clause 38 says exactly the same that far but it omits the line that was at the end of Section 73, "who shall be deputy heads for the purposes of this act". Now in our House of Commons we have known—and our colleagues in the Senate are in the same position—that the Clerk of the House of Commons holds the position of a deputy head, and we understand that the Clerk of the Privy Council holds that position. Can you explain to me, Mr. Carson, why those words have been omitted?

Mr. CARSON: Yes, Mr. Chairman, I can, if you turn to clause 2(1) (e) of the new bill you will see a revised definition of a deputy head, which means:

> in relation to a department named in Schedule A to the Financial Administration Act, the deputy minister thereof, and in relation to any division or branch of the Public Service designated under paragraph (d) as a department, such person as the Governor in Council may designate as the deputy head for the purposes of this Act.

It was felt that this provided the one clarifying definition of what a deputy head would be for all purposes.

Mr. KNOWLES: Well, Mr. Chairman—

Mr. BELL (*Carleton*): I will allow you to continue, Mr. Knowles, but I want to take exception to that at once.

Mr. KNOWLES: If I do not, you will. Well, I do take exception to that. It seems to me that these positions if they are to be recognized as those of deputy heads should be so certified in the legislation. I would not like the Governor in Council to be able to decide that the Clerk of the Senate is a deputy head and

the Clerk of the House of Commons is not. Maybe that is *reductio ad absurdum* but to leave this kind of thing to order in council is, I think, questionable.

Mr. CARSON: Mr. Chairman, may I suggest that if there has been an versight here, and this will be noted, it can be dealt with in the clause by clause study that the committee will be giving to the bill. The Clerk of the Senate and the Clerk of the House of Commons, of course, have no role under the Public Service Employment Act and for this reason this act will be of no interest and no concern and no recognition of it will be required on their part.

Mr. BELL (*Carleton*): Unless we fill the vacuum.

Mr. KNOWLES: We are back to my other question then. Who is the employer in the case of employees of the House of Commons.

Mr. CARSON: Parliament, I understand, Mr. Chairman.

The JOINT CHAIRMAN (*Senator Bourget*): The Speaker, through Parliament.

Mr. KNOWLES: Is it the Speaker or the Internal Economy Commission?

The JOINT CHAIRMAN (*Senator Bourget*): That is the way it works in the Senate.

Mr. KNOWLES: Mr. Chairman, I am prepared to accept Mr. Carson's explanation that this matter is a question for Treasury Board, but certainly I hope that Mr. Benson and Dr. Davidson will take note of this and that we can deal with it because, unless there is a better explanation, it seems to me this is a pretty serious vacuum. I quite agree with the idea that parliament should engage its own employees but I do not want that to be either under the merit system or under collective bargaining. The possibilities in that respect are ominous. It is neither of those. But I will hold that question until we have Mr. Benson or Dr. Davidson before us on behalf of the Treasury Board. I am glad to note that Mr. Carson agrees that if there is an omission at the end of clause 38 the commission will study this and give us some advice when we get to the clause by clause study of the bill.

Mr. CARSON: Indeed, Mr. Chairman.

The JOINT CHAIRMAN (*Senator Bourget*): Do you have any other questions, Mr. Knowles?

Mr. TARDIF: You said a while ago that when this bill is passed some of your present functions would of necessity have diminishing interest. But, I presume, the advertising and holding of competitions for jobs will still be of live interest to the commission. On many occasions people come to Members of Parliament—they have come to me—and state that they made an application and entered a competition for a position only to find the position had already been filled, or the selection for filling that position had already been made. In some cases into which I have checked, I have found that the competition was held after the job was filled by somebody within the department concerned, I do not know how frequent this is but we do hear about this frequently.

Mr. CARSON: Mr. Chairman, I would hope that there was always a legitimate explanation but I would like to extend a very sincere invitation to the members to draw this kind of situation to my attention or to that of my colleagues because if we are going to preserve a merit principle, people in

Canada have to believe in it. The suggestion that competitions are held that area a charade or a camouflage or window dressing disturbs me very, very greatly.

I realized that it was alive in Canada. Before I joined the public service, I was aware of this kind of rumour and innuendo that one picks up from time to time, that we run competitions for masquerade purposes to try and fool someone when really we already have the person picked out. I even heard the suggestion that we write the advertisement around the particular individual.

Mr. TARDIF: That is a regular suggestion. Do you not do that?

Mr. CARSON: Mr. Chairman, we do not. If there were a stack of Bibles, Mr. Chairman, I would be quite happy to take an oath to this effect.

Mr. TARDIF: This is not directed to you personally but there must be many people under you in the Civil Service Commission.

Mr. CARSON: I agree and this, Mr. Chairman, is why I sent out a very sincere invitation to you to draw these kinds of cases to our attention. Sometimes it does happens that a department is faced with an emergency and has to fill a job with someone on an acting basis, even though there is a competition underway. We had a recent case of this in which the department moved an individual from one city to another city because there was an urgent situation in a hospital and they had to have staff. In this case an employee appealed because he felt this was unfair and improper and the department had moved in advance of the competition and was prejudging the outcome of the competition. I have taken the position that the department will have to be prepared to move that individual back at the department's expense if they tried to prejudge the competition and to influence the rating board on the grounds that this individual was already there, that he was doing a good job, and let us not upset it. We do not stand for that kind of thing, Mr. Chairman. If there are distortions of the merit principle, if there are distortions of the ranking of people by rating boards because somebody has been sneaked in the back door to cover off, I would like to know about these.

Mr. TARDIF: Mr. Carson, as a follow up to that, do you feel that there is a fear among some members of the civil service that if they appeal to the commission on a decision that has been made, when they get back to their department it will be the end of their career, to all intents and purposes? In some cases, while the persecution may not be direct, some of them end up by having nervous breakdowns. I know of several cases about which I would be very happy to let you know about.

Mr. CARSON: Mr. Chairman, human nature being what it is, I suppose this kind of fear can be in people's minds. We make it very clear in our guide to departments and employees, with respect to appeals, that there must be no suggestion of recrimination against not only an individual who appeals but against an employee who appears as a witness for the employee who is appealing because in many cases employees feel that they want to ask fellow workers or previous supervisors to appear on their behalf.

I would like to think, Mr. Chairman, that the great majority of departmental managers believe strongly enough in the merit principle and in the appeal system that they would not run the risk of tarnishing the almost 50 years of

history that we have had with the appeal procedure and the merit principle by perverting it in this way. There will always be exceptions, I suppose, and there will always be people who try to take advantage of it. We try to police this; we move in and even though, sometimes, we uphold an appeal, we will still take the position that it would be a mistake for the individual who won the appeal to continue to be employed in the department where he has won the appeal and in those cases we would try to find him a job of comparable level in another department if feeling have been aroused to such an extent. This has happened occasionally; certainly within my knowledge it has happened.

Mr. TARDIF: I would not want to give the impression, Mr. Chairman, that it is general throughout the service that the man responsible for personnel would behave like that. But it is like weddings that work out well; you never hear about them—you only hear about the couples who wish to be divorced. It may be the exception but it does happen often enough.

Did you ever hear of a case where a man was in line for a promotion and they transfered him to London, for instance, for a year and in the meantime they put somebody else in the job for which he was qualified? When this man came back at the end of the year's service in London, he was told, "Well, it is too bad; the job has been filled and there is nothing we can do about the man who is filling it now." I have heard of a number of cases like that. I hope, with these new bills, that this will be eliminated completely.

Mr. CARSON: I would hope so, too, but it will never be eliminated entirely. I am sure, Mr. Chairman, that I do not have to tell students of human behaviour, such as members of parliament, that there is, even within the civil service, a small minority of what I suppose my legal friends would call, "litigious paranoiacs", people who are professional appealers and grievers. We have a small group of them within the service and you probably know most of them.

Mr. TARDIF: They tell me that some members of parliament are like that.

Mr. WALKER: I would not think so. Of course, it is an allergy, in itself, to go for a recount at election time.

Mr. CARSON: We will never get rid of those, and this small, small group will distort, misrepresent and misread the most scrupulous performance by an appeal board and will be convinced that there are slack hands under the table and all kinds of things.

Mr. TARDIF: Mr. Chairman, those are not the type of people who have made representations to me; their representations have been reasonable. You can tell when they are reasonable; they are not complaining about anything and they have the proof. Would you suggest they appeal in very many cases? They do not know what to do because they are scared.

I have a case right now, Mr. Chairman, of a man who works in the naval department who is caught between the new policy of integration and the navy's refusal to accept it generously, who will probably be passed over by somebody who is a member of a naval staff. It will be an injustice and I know that probably will be the end of his career.

Mr. CARSON: If he is a civil servant I hope he will appeal.

Mr. KNOWLES: Mr. Chairman, we were teasing Mr. Carson a moment ago about the drawing up of job descriptions and I think I joined in the teasing.

That may not show in the record quite in the spirit in which it was given. May I counteract it by saying that I know of a case—I will not identify the time or location—where I thought the description was written so a certain person would get the job, but he did not get the job.

Mr. CARSON: A surprise candidate appeared out of the blue.

Mr. KNOWLES: You apparently know the case.

Mr. WALKER: Following up this business of appeals, have you any idea of the percentage of successful appeals?

Mr. CARSON: Yes, Mr. Walker. We give you these figures each year in our annual report. I could give these to you under the various headings. The total number of disciplinary appeals in the calendar year 1965 was 184; the number of appeals allowed was 13; the number dismissed was 139, and the number withdrawn, 32.

Mr. Chairman, I should explain the number withdrawn. Very often we are finding, and we are trying to encourage this more and more, that the appeal process should be a preliminary hearing and should be got under way almost immediately that someone registers a grievance or an appeal. Very often the individual is appealing because he lacks information or lacks knowledge of the reason for the management action. We find that if we can provide the individual with quick and fast explanations that in some instances he does withdraw his appeal. We do not encourage people on our own initiative to withdraw appeals but very often if they get the information they do.

Mr. WALKER: What I was speaking about really was appeals of appointments, competitive appointments where an unsuccessful candidate appealed.

Mr. CARSON: I will give you those too, Mr. Chairman. On promotion, in 1965 there were 810 appeals heard and 94 were allowed.

Mr. WALKER: Very good; about ten per cent.

Mr. CARSON: That is correct, 12 per cent.

Mr. TARDIF: I wonder if that reflects the idea that a great many civil servants have, namely, that it is useless to appeal, because that is a very small percentage.

An hon. Member: I thought that was very high, frankly, 12 per cent.

Mr. CARSON: Mr. Chairman, it all depends on the way you look at these things. I would think that a ten per cent upholding of appeals would be a very fair figure. It certainly suggests that our appeal boards are honestly trying to give the civil servants the breaks. I have to ask you, gentlemen, to take something on faith.

I would like to think that most supervisors or managers, and certainly the great majority of our Civil Service Commission officers, are trying to handle promotions in such a way that there is no ground for appeal: that they have been scrupulously fair in their handling of the rating board and that the appeal would be an unusual procedure. If you accept that, as I do, then one would hope that the number of times in which an appeal was upheld would be very, very small; otherwise, it would suggest that we are not doing a good job in the first place.

Mr. WALKER: Do you feel that that 12 per cent would be exceeded if appeals were turned over to the bargaining table as a bargainable issue?

Mr. CARSON: Mr. Chairman, there have been a number of suggestions made that appeals on promotions should not be under the jurisdiction of the Civil Service Commission: that they should be housed in some other ward or should be part of the collective bargaining process with adjudication by tripartite boards. Mr. Chairman, I think that is something that parliament has to face up to and decide.

You have up to now seen fit to entrust to an independent commission of three commissioners the task of upholding the merit system. Part of the preservation of the merit system, it seems to me, is the conducting of appeals. I, for one, feel that you would be taking away from this independent commission one of its most important functions in preserving the merit principle if you relieved us of responsibility for the hearing of appeals and the adjudication of appeals.

There have been suggestions made, Mr. Chairman, that the commission should not be the adjudicator of appeals because in effect it is adjudicating its own decisions. Well, I can only assure you, Mr. Chairman and members of the Committee, that the commission is scrupulously concerned about this. Our appeals division is an entirely separate branch of the commission from the staffing branch. We make sure that both of these branches report independently and directly to the three commissioners.

There has never been any suggestion, as far as I have been able to determine and I have been assured by my colleague Miss Addison whose memory goes back a little bit further with the commission than mine does, that this has always been the case. The appeals division is extremely proud and extremely jealous of its entire independence from the commission in its staffing role. These two bodies come together at the level of the three commissioners only, and I have never found myself or my colleagues tempted to adjudicate an appeal in such a way as to justify a staffing action that the commission with its other arms has had to do.

Mr. LACHANCE: Do you feel, Mr. Carson, that the appeal machinery should be outside of the commission?

Mr. CARSON: Mr. Chairman, again I must say, with respect, that I think this is a decision that parliament must make, but I feel, personally, and I would like to say this, that I do not see very much purpose in parliament entrusting the preservation of the merit principle to three independent commissioners if it then turns around and says, we do not trust you: we are going to set somebody else up to adjudicate the independence of your decisions.

Mr. FAIRWEATHER: I just wanted to get back to the job specifications again for a minute because perhaps I have not understood the scene around Ottawa. I am new, but I have heard on more than one occasion from senior people that there are particular people with unique qualities who should be in the public service, and therefore, the departments will design job specifications for these individuals. They might speak nine languages or something. Do you mean to say this is not done? I have heard it many times from people I trust at the deputy minister level.

Mr. CARSON: Well, Mr. Chairman, I have seen no evidence of it. It may have been done, in the past.

Mr. FAIRWEATHER: I am not saying it is wrong, if it is a particularly meritorious person that would enhance the public service and therefore you design job specifications around him.

Mr. CARSON: Well, Mr. Chairman, we scrupulously examine all bulletins that go out to make sure that they are germane to the duties that have to be performed, and the inclusion of something like an individual having to speak nine languages would be scrubbed out immediately unless it were germane to the duties to be performed. We would say, "this is irrelevant, you are trying to stack the deck." Our concern is to get the very best people in Canada into the public service to perform various jobs. I think we would be misleading ourselves and the people of Canada if we were trying to draw specifications to attract individual A. Advertising is expensive. I think our budget for advertising this year is running around a million dollars. This is a very expensive proposition and we engage in advertising only in order to make sure that we ferret out everyone with talent in Canada that we possibly can. If you have noticed in the newspapers recently, our advertisements are getting briefer and briefer. There used to be a time when we gave out very elaborate advertisements. Now we are trying to get them down to be punchy and effective and dealing in the most general terms. We are trying to pitch them at the level of the person that we want in the community and at the salary level and hoping that we will attract everyone that we possibly can. Our concern is to see that not only everybody in Canada gets a fair crack at working in the public service but more importantly that we do get the best people in Canada to fill the vacant jobs.

Mr. FAIRWEATHER: Are any recruits exempt from this system of employment?

Mr. CARSON: Oh, yes. The commission does make a few appointments each year under Section 25 of our act. The commission is authorized to do so under certain special circumstances, and these I could briefly read out to you:

> "Where the Commission is of the opinion that a competition is not practical or is not in the public interest because an appointment to a position is urgently required—

Now there has to be demonstrated urgency. Second:

> The availability of suitable candidates for a position is limited—

This happens in the higher reaches of scientific positions and technical positions sometimes.

> —or a person having special knowledge or skill is required for a position involving duties of an exceptional character.

Under these circumstances the commission will make an appointment without competition. And we report each one of those appointments and the circumstances surrounding them to parliament.

Mr. WALKER: Do you feel that some of your demands for high qualifications are unrealistic as related to the amount of money that is offered for the jobs?

Let me put it another way. Are you having staffing difficulties because of the high standards you are requiring as opposed to the salary offered?

Mr. CARSON: Mr. Chairman, I find myself in a curious position here because those members of my staff in the staffing branch are going to be upset if I do not say we need more money for these positions, but on the other hand the commission still has some statutory responsibility for recommending on salaries to the Treasury Board. Hopefully we will be soon out of this. When I am wearing that hat, and going out and examining honest data across the country, I am satisfied at the present time our wage levels are at a sufficiently competitive level that our staffing branch people have got to work hard but they are not fighting a losing battle. I wonder if that describes the situation.

Mr. WALKER: Yes, that is just great. If I just might ask one other supplementary. I notice in practically 95 per cent of the advertisements a degree of some description is mentioned. This just seems to me to be par for the course now. Are there marks at all for experience, say 20 years experience as against one year at university? Are there marks at all for this or is it standard procedure now for university qualifications for practically all the jobs in the civil service?

Mr. CARSON: Well, Mr. Chairman, at the junior entry level into our professional careers or administrative careers and foreign service officer careers we are pretty well uniformly requiring university education. But, this does not mean that there is any bar to people within the public service proceeding up through the clerical and administrative branch into an administrative job.

Mr. WALKER: I am speaking of recruiting outside the service.

Mr. CARSON: If we are recruiting outside for people above the $12,000 a year level to fill in our resources in the financial management field, the personnel management field, and the public information field, there we do take experience as a substitute for educational requirements. Recently we appointed regional directors across Canada for the new Department of Manpower. At least three of the senior people who were appointed under that competition brought outstanding experience and no formal education. In those cases we are clearly happy to accept proven outside experience as a substitute for formal education. But, down at the entry level, you will understand, we are trying to improve our statistical chances of success and if the individual has an educational level that will make him immediately useful to us why we do so.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Fairweather, are you finished? Mr. Émard?

Mr. ÉMARD: Mr. Chairman, I would like to direct a question to Miss Addison. Do you believe in the old principle of equal pay for equal work for men and women?

Miss ADDISON: Naturally.

Mr. ÉMARD: Could you explain how it is that it seems in certain categories —I am speaking of the lower categories of male and female employees where I think it is more discernible—the women are getting lower salaries than those of men. I am thinking for instance of cleaning women who seems to be in certain cases getting lower salaries than men performing the same work, perhaps not in the same place but in different places. Could you explain that?

Miss ADDISON: I am not aware that they would be getting different salaries. It has always been the principle in the civil service that if they were doing identical jobs they would get the equal pay. But, the jobs that the men are doing may be somewhat different, perhaps supervisory in some cases or a different type of job. They often do a heavier type of job than some of the women do and this would account for a difference in pay. But, if the jobs are identical, then the pay will be equal for men and women.

Mr. ÉMARD: Do you not think this is done on purpose? I know it is done in industry and I have had personal experience myself where the company wanted to pay lower wages to female employees they would classify the jobs slightly differently from men to women but actually the employees eventually perform the same operation. Maybe it is something we should look into in the civil service.

Miss ADDISON: I think it is something we are conscious of some times but it is certainly something that we try to discourage wherever possible. I think in most cases you would find the jobs are classified the same. There may be a tendency in a whole area to use women entirely instead of men. This sometimes happens in certain types of jobs. Then the whole market, perhaps, is depressed but this is often the case outside as well and then when you do a comparison with outside you may find that this market is depressed. But generally speaking if the women are doing the same job as the men it is classified in the same way in the civil service.

Mr. LEBOE: Mr. Chairman, I would like to just ask Mr. Carson a question in connection with the appeals. In industry—and I have been connected with industry—we have a tremendous fight on our hands in connection with the same problem. We do not have the appeals in the same sense but it is the same problem on compassionate grounds. I was wondering if you take this into consideration at all. I know that does not explain what I mean but you understand what I mean.

Mr. CARSON: Well, Mr. Chairman, the commission has jurisdiction over appeals on disciplinary cases and there are a tremendous number of cases that cross my desk in which the Appeal Board has obviously been moved on compassionate grounds to say this suspension, this dismissal, this fine was too severe. We have modified disciplinary cases on compassionate grounds. I reconcile these in my mind with the conviction that I am sure this is what the parliament of Canada would want us to do if we thoroughly examine the circumstances and are satisfied that there were extenuating circumstances.

Mr. LEBOE: I am glad to hear that because from my experience in business it has been a real soulsearcher in carrying out your work on the humanitarian side as well as the technical side.

Senator DENIS: Mr. Carson, as my name has been mentioned by my most pure and immaculate political friend, Mr. Bell, making believe that I am a big bad wolf as far as the political field is concerned, I would like to know from you if you have had more political pressure at this time on the Civil Service Commission during this government's term than the present one?

Mr. CARSON: Mr. Chairman, I can answer this question very easily by saying that I have only been here a year. So I have nothing to compare with.

My impression from talking to my colleagues and the seasoned members of our staff is that the pressure is about equal over all the years. It seems to be decreasing every year a little bit.

Senator DENIS: When you say it is decreasing every year it means that this government is less pressuring than the other one as far as political activity is concerned.

Mr. CARSON: No, Mr. Chairman, I think the explanation has something to do with the economy of the country outside.

Senator DENIS: Now, Mr. Carson, as far as the members are concerned, we know that Mr. Tardif and Mr. Knowles both admitted having exercised political pressure, in order to help a friend; do you know if as far as the members are Liberals or Conservatives, or the N.D.P. for instance, or other persons in proportion to their number?

The JOINT CHAIRMAN (*Mr. Richard*): Senator Denis, I would like to say at the present time that there is no evidence of any political pressure that has been brought before the committee yet. I do not think—

Senator DENIS: Well, Mr. Chairman, according to what my good friend the immaculate Mr. Bell said, he seems to be the only one who has never tried political pressure. If you were a member of parliament, Mr. Carson, and you had an elector coming to you and saying, "an injustice has been done to me as an employee, and I would like you to write to the commission and see what can be done about it", what would you do?

Mr. CARSON: Mr. Chairman, I would write to the commission.

Senator DENIS: Would you write to the commission?

Mr. CARSON: Yes, indeed. And, Mr. Chairman, I would like to have this on the record, that the commission welcomes letters, telephone calls, personal inquiries of any kind by members of parliament on behalf of their constituents or people that they know, because we are interested in knowing as much about candidates as we can possibly learn. By and large, a character reference from a member of parliament is a very useful instrument for us. We welcome them and we take them seriously. I know that among some of my friends who have been members of parliament over the years, they joke that to write on behalf of a friend or a constituent does him more harm than good. Well, I would like to assure you, Mr. Chairman, and the members of your Committee and all members of parliament that it is quite the reverse. We take these seriously. I make sure that they are transmitted to the people who are going to be on the selection board so that they have this character reference or other credentials that are supplied.

Mr. LACHANCE: Does this fall into the category of political pressure?

Mr. CARSON: No, I do not interpret it that way, Mr. Chairman. I interpret this as an effort on the part of the elected public servants to be of genuine assistance to the domestic public servants in carrying out the administration of the country.

Senator DENIS: I would like to know then, Mr. Carson, would those letters received by you from members of parliament likely come more often from members whose electors are in great part civil servants?

Mr. CARSON: In terms of problems of promotion, and classification and this sort of thing, this is true. But letters about new entries into the public service come from right across the country. I would guess in terms of volume, they probably come in higher proportion from the Atlantic coast than they do from the Pacific coast. But this, I think, is merely reflecting the economy of the country.

Senator DENIS: You should receive more telephone calls or letters from Ottawa members, for instance.

Mr. CARSON: Yes, they tend to know more civil servants.

Mr. ÉMARD: Mr. Carson, do you have a retrogression plan by which you compare employees who can no longer perform their duties, especially in the case of manual employees, because they have physical defects, ill health or old age?

Mr. CARSON: Yes, Mr. Chairman, there is provision in the act for people to voluntarily accept demotion to lower levels of jobs. If you will recall, Mr. Chairman, I appeared before the Committee last June when you had the Public Service Superannuation Act under consideration and I suggested that I felt the superannuation act should be liberalized so that some of these cases could be permitted to take earlier retirement without loss of pension. I still think this would be helpful and I hope your Committee will keep prodding the Department of Finance and the Treasury Board to consider such changes. But this does go on, Mr. Chairman, and of course there are many, many efforts made by departments to find lighter work for people to do who can no longer carry the full physical burden. As I suggested to the Committee last June there is also evidence that departments actually carry people on the payroll even though they are not fully productive.

Mr. ÉMARD: Do you have a lay-off allowance plan for when somebody is laid off? I do not suppose that there are too many lay-offs but with automation coming you never know when you will have, I see that in the case of public servants they do not have unemployment insurance, so what would be the action you would take in the case of lay-offs?

Mr. CARSON: Mr. Chairman, the federal government does not yet have severance pay as such for public servants. I think, historically, it has always been felt it was unnecessary because it happened so rarely. And we do work very hard at trying to relocate people who are laid off, but if I may express a personal view, Mr. Chairman, I would think that bargaining on the subject of severance pay should be something the staff associations and the Treasury Board should take under very serious consideration in the forthcoming regime of collective bargaining. I think it is a gap in the public service fringe benefit program.

Mr. WALKER: Mr. Carson, you have had experience in the private industrial field in labour relations and now in the public service. Maybe you do not care to comment. Is there a fundamental difference in labour relations in the government service as opposed to the industrial field outside the civil service. This is a point that has come up continuously and it has to do with the whole philosophy behind the Heeney preparatory commission report. Is there an added factor?

Mr. CARSON: I do not know that one could generalize. A week or so ago I sat across the table from the Canadian Union of Postal Workers and the Letter Carriers Union in the last stages of our consultation and, as far as I was concerned, I could have been right back with the I.B.W. or the street railwaymen's union in British Columbia.

Mr. WALKER: Is that your reaction, or the reaction you got from their presentation?

Mr. CARSON: Well let us say our discussion was very reminiscent to me of my collective bargaining experience in outside utilities. But with the great majority of the public service, with whom we consult, the Public Service Alliance, the Professional Institute and the other groups that we meet with, I am impressed with the fact that the Pay Research Bureau data, which has been a keystone of consultation and wage determination in the public service since 1957, is taken very very seriously by the employee representatives. You are debating from mutually accepted facts. This is quite a different dimension that you get in collective bargaining in the private sector.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. BELL (*Carleton*): Mr. Chairman, I have many more questions I would like to ask of Mr. Carson, but I think the time to do it is on the various sections of the bill. There are obviously many gaps in our examination tonight, but I suggest we do this when we go through the bill.

Mr. CARSON: Mr. Chairman, we would be delighted to be on hand when you are doing your clause by clause examination.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Mr. Carson, and Miss Addison.

We will meet tomorrow morning at 10 o'clock and, at that time, the letter carriers will be present. If we have time during the day, we will have Mr. Heeney come back.

"APPENDIX L"

(Application for affiliation pending from Customs and Excise Officers' Association)

United Automobile, Aerospace and Agricultural Implement Workers of America, International Union

International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers

International Brotherhood of Bookbinders

United Brotherhood of Carpenters and Joiners of America

International Brotherhood of Electrical Workers

International Association of Fire Fighters

Lithographers' and Photoengravers' International Union

International Association of Machinists and Aerospace Workers

Sheet Metal Workers' International Association

International Printing Pressmen and Assistants' Union of North America

United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada

International Typographical Union

Canadian Air Traffic Control Association

Canadian Merchant Service Guild

Canadian Railway Mail Clerks' Federation

Canadian Union of Postal Workers

Civil Service Federation of Canada (directly chartered locals)

Letter Carriers Union of Canada

Canadian Marine National Employees' Association

National Defence Employees' Association

Department of Veterans' Affairs Employees' National Association

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OF
PROCEEDINGS AND EVIDENCE

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

First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 13

Respecting

BILL C-170

An Act respecting employer and employee relations in the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

TUESDAY, OCTOBER 25, 1966

WITNESSES:

Messrs. R. Decarie, National President, J. Colville, Secretary-Treasurer, Letter Carriers Union of Canada.

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

25052—1

SPECIAL JOINT COMMITTEE

OF THE

SENATE AND OF THE HOUSE OF COMMONS

on employer-employee relations in the

PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate — *Representing the House of Commons*

Senators

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Davey,
Mr. Denis,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. O'Leary (*Antigonish-Guysborough*),
Mr. Hastings,
Mr. MacKenzie,
Mrs. Quart,
Mr. Roebuck—12.

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Berger,
Mr. Chatterton,
Mr. Chatwood,
Mr. Crossman,
Mr. Émard,
Mr. Fairweather,
Mr. Hymmen,
Mr. Isabelle,
Mr. Keays,
Mr. Knowles,
Mr. Lachance,
Mr. Leboe,
Mr. Lewis,
Mr. McCleave,
Mr. Munro,
Mr. Ricard,
[1]Mr. Rochon,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

[1]Replaced Mr. Orange on October 25, 1966.

(Quorum 10)

Édouard Thomas,
Clerk of the Committee

ORDER OF REFERENCE

TUESDAY, October 25, 1966.

Ordered,—That the name of Mr. Rochon be substituted for that of Mr. Orange on the Special Joint Committee on the Public Service.

Attest.

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

25052—1½

MINUTES OF PROCEEDINGS

TUESDAY, October 25, 1966.
(22)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.13 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Fergusson (2).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Chatwood, Crossman, Émard, Fairweather, Knowles, Leboe, Lewis, McCleave, Ricard, Richard, Walker (13).

In attendance: Messrs. R. Décarie, National President, J. Colville, Secretary-Treasurer, Letter Carriers Union of Canada.

On a motion of Mr. Knowles, seconded by Mr. Chatterton, the Committee agreed to accept an oral presentation from the Canadian Merchant Service Guild at a future meeting.

On a motion of Mr. Chatterton, seconded by Mr. Bell, the Committee accepted a letter from the Vancouver Board of Trade as an appendix to this day's proceedings. (*See Appendix M*)

On a motion of Mr. Leboe, seconded by Mr. Walker, the Committee accepted a letter from the Chairman of the Public Accounts Committee as an appendix to this day's proceedings. (*See Appendix N*)

The Committee questioned the representatives of the Letter Carriers Union of Canada on their brief.

The Committee was advised that a copy of the Order-in-Council (Civil Service Regulations) requested at meeting (20) is in the Clerk's hands.

The meeting was adjourned at 11.48 a.m. to 4.00 p.m. this same day.

AFTERNOON SITTING

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada having been duly called to meet at 4.00 p.m., the following members were present:

Representing the Senate: The Honourable Senators Bourget, Denis (2).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatwood, Richard, Walker (4).

In attendance: Mr. A. D. P. Heeney, Chairman, Preparatory Committee on Collective Bargaining in the Public Service.

At 4.20 p.m., there being no quorum, the Joint Chairmen adjourned the meeting to the call of the Chair.

Édouard Thomas,
Clerk of the Committee.

EVIDENCE

(*Recorded by Electronic Apparatus*)

TUESDAY, October 25, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): Order. Members of the Committee, the Committee has received a wire from Robert Cook, National President, Canadian Merchant Service Guild, which reads:

> I would appreciate the opportunity of making oral representation to your Committee on employer-employee relations in the public service of Canada.

Should this be referred to the steering committee for their next meeting?

Mr. KNOWLES: Why not hear him today?

The JOINT CHAIRMAN (*Mr. Richard*): That would be very easy.

Mr. KNOWLES: I so move.

The CHAIRMAN: Is this a supplementary?

Mr. KNOWLES: Is he in the room?

The JOINT CHAIRMAN (*Mr. Richard*): No. We could have him here for the next meeting. Is that agreed?

Some hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): There is a letter addressed to the Clerk, from the Vancouver Board of Trade, on Bill No. C-170. Should this be made an appendix to the record of today's proceedings? It is a three paragraph letter.

Is that agreed?

Some hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): I want to bring to your attention a letter to Senator Bourget, dated October 17th, from our good friend, Mr. Hales, chairman of the public accounts committee. In short, he wants the Committee to consider some representations on the provisions of clauses 11, 12 and 13 of Bill No. C-182, in which he considers that there are some encroachments on the independence of the Auditor General. Would the Committee wish to have this letter made part of the proceedings?

Some hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): Should we ask Mr. Hales to come before the Committee? He is entitled to come anyhow, as a member, but should we invite him to come?

Some hon. MEMBERS: I would think so.

The JOINT CHAIRMAN (*Mr. Richard*): This is on Bill No. C-182. I will so instruct the Clerk.

Some hon. MEMBERS: Agreed.

The JOINT CHAIRMAN (*Mr. Richard*): The last piece of correspondence is from John Taylor and Clement Devenish expressing their appreciation for our very courteous attention to their presentation.

This morning we have the Letter Carriers Union of Canada, represented by Mr. Décarie and Mr. Colville.

Are the members ready for questions?

Mr. KNOWLES: Mr. Chairman, I believe that these gentlemen, as well as those representing the other postal workers groups, wanted a chance to appear before us after the tabling of the Montpetit report.

I wonder if they have any additional comments which they would like to make in view of the fact that this report has been tabled since they were last before us?

The JOINT CHAIRMAN (*Mr. Richard*): I suppose, Mr. Knowles, your intention is that their comments should be on the Montpetit report as it relates to these bills?

Mr. KNOWLES: I think I would be willing to say that, but I think the reference is pretty wide, or the relationship is pretty wide, is it not? As it relates to collective bargaining.

(*Translation*)

The JOINT CHAIRMAN (*Mr. Richard*): Yes. Mr. Décarie, we would like to have your comments on the Montpetit report.

Mr. DÉCARIE: Insofar as the Montpetit report on Bill C-170 is concerned, it is very explicit. First of all, it asks us in the fifth paragraph, number 1, to give a trial to Bill C-170, but on the other hand, further in his report, I have not had time to study it completely, as I was outside Ottawa for the enire week-end, but the small section I was able to read in the bill tells us that, so far as negotiation is concerned, for instance, Judge Montpetit states that among the many things that should be negotiated, some are in contradiction with Bill C-170: for instance, promotions, transfers, hirings, reclassification of employees.

I would rather wish to have the opportunity at another meeting of being able to explain more in detail the Montpetit report. Frankly, I have not had the time to study it in depth.

Insofar as relations between employer and employees are concerned, which is also a question of negotiation, the Montpetit report states there should be more dialogue between the employer and employees than at present. However, I should much prefer being able, in a couple of days, perhaps, to come back before the Committee and give more information, since the Montpetit report was only distributed last Thursday afternoon and that I have not had time to study it completely.

(*English*)

Mr. KNOWLES: Mr. Décarie, would you care to comment on Mr. Justice Montpetit's suggestion that the idea of a crown corporation for the post office be studied? I think that is as far as he goes, but he does go that far.

(Translation)

Mr. DÉCARIE: This is a very important question which concerns us very deeply, since Judge Montpetit, among other things, recommends that the Post Office Department be instituted as a Crown Corporation. This request on the part of postal employees and from the Letter Carriers' Union as well as the Postal Workers' Union of Canada, meets with our request. We would like to have the Post Office Department converted into a Crown Corporation. We are in full agreement with Judge Montpetit in this regard.

(English)

Mr. KNOWLES: Provided you had bargaining rights with the Post Office Department as a separate employer, and provided those bargaining rights were akin to those provided in the Industrial Relations Disputes Investigation Act, does it matter greatly whether it is a Crown corporation or not?

(Translation)

Mr. DÉCARIE: Yes, certainly, but it is not only a question of being able to negotiate under the I.R.D.I. Act, but also the question that the Post Office should be considered a Crown Corporation, since the employees themselves do not consider themselves public servants. Postal employees consider themselves as employees just like another employee in the industry at the present time: that is why we are asking for the Post Office Department to be set up as a Crown Corporation. This would also give us the right, it being set up as a Crown Corporation, to be able to negotiate our collective agreement a free collective agreement this time which would give us complete bargaining rights on negotiations on all subjects which are of interest to us.

That is why we are asking that there be a Crown Corporation for the good administration of the Post Office Department. Since the Post Office Department would then become a company just like an industry, it could administer itself, control its finances, it could control profits and losses and we would be considered just like industry, that is what we want, that is what we are asking for, since besides the collective agreement would also be much free than under Bill C-170 and we could negotiate freely, negotiate everything that concerns us.

(English)

Mr. KNOWLES: I gather that you do not take too kindly to Mr. Justice Montpetit's suggestion that you give Bill No. C-170 a try?

(Translation)

Mr. DÉCARIE: In one sense, no, we are not very much in agreement with Judge Montpetit that we should give it a try. After having studied the bill rather completely, we see that Bill C-170 and the collective agreement as submitted to the Government at the present time, is a unilateral bill, a bill which gives all rights to the employer. For us, there is almost nothing left. We can negotiate wages as mentioned, but on the other hand, the president of the bureau, for instance, has all powers. As for the Labour Relations Board we can name no representatives for conciliation, for arbitration, we can name no

representatives to solve our grievances, we can only suggest names and the names suggested might be refused or accepted.

Our representative on this board, will be called the employee representative, but will not be a representative of our choice. When Judge Montpetit tells us to try out a bill like this, Judge Montpetit, he having been an umpire and an expert in Labour Relations matter, perhaps believes that there might be some changes, but we know quite well that once an Act is established by the Government, it can't be changed overnight, it will be a battle lasting years and years before any changes are made.

We do not believe that we should simply try it out, we think that it should be completely changed and Judge Montpetit, even in his report, suggests changes to the bill, but he asks us on the other hand to try it out and, yet, he believes that there should be amendments to it. He wants us to give it a chance. It is all well and good to be a good fellow, but when our working conditions are involved, we must absolutely have a good bill at the outset, that is why we are trying to do so many things to amend it. We are not in agreement with Judge Montpetit to the effect that we should try it out. He says we should and, yet, on the other hand, he tells us there should be amendments.

If there are to be amendments, he should say: "Well, yes, we will try it out with the amendments proposed." Those he proposes, are the same amendments on the other hand that we are asking for.

(English)

Mr. KNOWLES: I do not wish to deflect you from the position which you quite clearly took about the Crown corporations, but I am still wondering, as a member of the Committee, whether it might not be possible to make sufficient changes in Bill No. C-170, or to get most of the workers under the I.R.D.I. Act, and, in so doing, to meet your main point?

(Translation)

Mr. DÉCARIE: That is precisely the point, yes. The bill should be amended in order to satisfy Postal employees, because postal employees don't consider themselves as public servants, they consider themselves as employees working, in a government department if you will, but in a department working with profits and losses. It is a department which could be compared to any other industry, any other industry in the country—the steelworkers, or any other—it is just a department that has profits and losses and, consequently, I don't think we should be under Bill C-170. We protest against Bill C-170. If we were to try it out, it would be practically admitting Bill C-170, which we don't. This. bill must be amended. Judge Montpetit recommends certain amendments and that is what we want.

It is not a question of being under any type of bill at all, we want one under which we can negotiate freely everything that concerns us as employees, just as any other citizen in the country.

(English)

Mr. CHATTERTON: Mr. Chairman, I would ask Mr. Décarie this question: Assuming that this Bill No. C-170 is passed without any major amendment, which seems to be the intention of the government, the postal operations group

will form, we presume, a bargaining unit? Do you expect that either the Letter Carriers Union, or the Canadian Union of Postal Workers, will be certified as the bargaining agent for that unit?

(*Translation*)

Mr. DÉCARIE: Well, we are asking for certification to be given separately to the postal workers and to the letter carriers. Now, the bill provides that those who handle the mail be certified as one unit, as one group, which means that the bill asks that all postal employees, with the exception of positions of typists or clerks, all those who have anything to do with the mail be certified as one group. We oppose this, we are asking for certification for the Letter Carriers Union, because we think that letter carriers do work which is completely different from the others. Moreover, the letter carriers' work is different from any other work in the country because the Post Office Department is, we might say, a monopoly, there is no other post office workers outside of the Government in industry.

(*English*)

Mr. CHATTERTON: If this is not granted then one or other of the organizations, or perhaps even the new alliance, might be certified as the bargaining agent for this postal operations group? Is that the way you see it?

(*Translation*)

Mr. DÉCARIE: The way we see it, is that at the present time, the bill forces us to form a council. If we are forced by the legislation, just as any other citizen in the country, we have to obey the law, we will form an employees' council, but it would be formed against our will.

(*English*)

Mr. CHATTERTON: In other words, if the bill goes through as it is you anticipate that the Letter Carriers Union and the Canadian Union of Postal Employees will form a council which could be certified as the bargaining agent?

(*Translation*)

Mr. DÉCARIE: Yes, if the law forces us to do this, we will form an employees' council, naturally. We have a joint council which is not a council of both unions, but if the law forces us to do so, of course, we will then have to do so, but this will be another argument we will have against the Government if they force the employees to go through a very small door instead of giving the employees complete control of their own union.

(*English*)

Mr. CHATTERTON: Assuming that the bill has gone through, and that you have formed this council, can you make a comment on the provision whereby the bargaining agent which is certified ought in advance to say they will go to conciliation and the right to strike, or arbitration? That is, making this option before the certification.

(*Translation*)

Mr. DÉCARIE: We are opposed to telling the Board in advance, the way in which we are going to solve our problems. Here again, it is hindering the freedom of unions to say to the employers in advance: "Well, we are going to

solve our conflicts in such and such a way". I think that this decision should be reached at the bargaining table itself. In free negotiations, the union as well as the employer is free to decide the way, and in a democracy, things will be decided by means of free discussion between both parties. We do not accept that we should tell the employer in advance that we shall take such and such a step to solve our conflicts. This would be giving the employer all the strategy which the employer does not do under Bill C-170. He is not obliged to any union, under Bill C-170, but all the associations are obliged to the employer under the Bill. It is a hindrance to liberty and we are opposed to it.

(*English*)

Mr. CHATTERTON: Yes, I understand your point that you do not want to disclose your position in advance of negotiations. That is one point. The point I was trying to get at specifically was that of having to make your decisions as to conciliation or arbitration in advance of even certification. That was the first point I was trying to cover. I accept the point that you have made. My question is certification prior to opting for one or the other alternatives.

(*Translation*)

Mr. DÉCARIE: You mean to say before obtaining certification? According to the Bill, we must tell the employer the way in which ought to be settled, grievances or conflicts. As we understand it, as I said a little while ago, we are completely opposed to saying what direction we will take. But if the Bill passes in its present form, we will fight, first of all, so that it won't pass in its present state, but if the law decides that we must do this, that we can't come under the I.R.D.I. Act, then we will have to seek other means so that the employer will know nothing. Maybe there is something in the Act which will give us the right not to tell the employer how we want to settle our disputes before certification. According to Bill C-170, we are certified by the governor in council, by the Chairman of the Canada Labour Relations Board. Here again, it is a unilateral decision. And we don't want it. These are things which are discussed among members of both unions.

(*English*)

Mr. CHATTERTON: You have indicated that you would prefer to be brought under the provisions of the I.R.D.I. Act. Mr. Heeney indicated that there would be certain weaknesses to that. In order words, there would have to be amendments to the I.R.D.I. Act. One of the drawbacks he pointed out with regard to the employees is that under that act the Minister of Labour, who has certain powers and authority under that act, he would, in effect, represent the employer in the case of public employees; whereas in other disputes he acts more or less as a third party. What is your comment with regard to that point?

(*Translation*)

Mr. DÉCARIE: Under the Industrial Relations and Disputes Investigation Act, the Minister of Labour would give us certification. Is that what you mean? That we would be certified by the Minister of Labour rather than—

(*English*)

Mr. CHATTERTON: No, not so much with regard to certification but with certain powers and authorities which the Minister of Labour has under that act,

for instance, in the appointment of conciliation boards and arbitration boards, and so on.

(Translation)

Mr. DÉCARIE: Well, our request is to the effect that we should be under the Industrial Relations and Disputes Investigation Act, Bill 152, I think, because it would give us all freedom to negotiate, even if the Department of Labour were to certify us. As we represent more than 51 per cent of our membership, we cannot be refused certification, even if the Minister of Labour has powers. I know that the Minister of Labour would have powers in this case, under the I.R.D.I. Act, as well as the Canada Labour Relations Board. In this case, if we are certified by the Department of Labour as being government employees, this bill would give us freedom to negotiate everything we want, everything that can be negotiated around the bargaining table. That is why we would rather come under the I.R.D.I. Act.

(English)

Mr. CHATTERTON: Mr. Chairman, may I turn to Bill No. C-181, or do you want to continue on Bill No. C-170?

Turning to Bill No. C-181, Mr. Décarie, what is your comment with regard to the position of the Civil Service Commission in its managerial capacity, so to speak, and at the same time being the final tribunal on matters of grievance with regard to recruitment, promotion, transfer and so on?

(Translation)

Mr. DÉCARIE: Under the new act, the Civil Service Commission retains the power of promotion, hiring, demotion and transfer. I believe that the Civil Service Commission, in this case, gives itself too much authority once again. All these things should be negotiated. I think the Civil Service Commission should only be a hiring agency for the Government, for all the departments. Now we are asking for a Crown corporation, and if that ever happens, I think that the Civil Service Commission should just retain the role for which it was instituted in 1924, I believe, and that is that of recruiting employees. But the right to decide about demotions, transfers, reclassification, this should be left up to the unions themselves to negotiate, and even how it is going to be done, not leave this to the Civil Service Commission.

Once again, it is a very important problem. It is job security which is being taken from us and given to the Civil Service Commission. They say that we can't negotiate it. I think it should be decided around the bargaining table, to decide on a transfer, promotion, reclassification of employees. It should not be left up to the Civil Service Commission. Without discussion, without bargaining it is, once again, giving outside jurisdiction over negotiations to another office which is independent of the government. The Civil Service Commission should keep to the role for which it was instituted and that is hiring of employees in the public service.

(English)

Mr. CHATTERTON: Apart from the point that you have made that these other aspects such as demotion, transfer and promotion should be non negotiable, assuming the bill goes through as it is with regard to those fields being non negotiable, what is your comment with regard to the fact that if there is a

grievance in these fields the appeal is made to the body that made the decision in the first place, rather than to an independent tribunal?

(*Translation*)

Mr. DÉCARIE: I did not mention, a little while ago, perhaps I forgot, that grievance procedure should be left to both parties involved, that is to say, the union and the employer. In our case, when I say employer, I mean the Post Office Department. The grievance procedure should be left there and should be capable of arbitration, just as in any other union in industry. Grievance Procedure is established between both parties and not left to an agency appointed by the employer. Both parties involved should negotiate the grievances, any grievance which comes up, whether it be about a promotion or a transfer, for instance, or reclassification. That grievance should be discussed and resolved by both parties. The two parties should solve all grievances, including reclassification. It should not be left up to an independent agency. It should be left to the employer and employee to solve these matters.

(*English*)

Mr. CHATTERTON: I do not think, Mr. Chairman, that Mr. Décarie quite understood the portent of my question. Assuming that the matters of promotion, demotion, transfer and so on, remain non-negotiable then, what is your opinion with regard to an appeal from a demotion, for example, having to be made to the commission itself which made the decision in the first instance rather than to an independent tribunal? In other words assuming that these fields of promotion and so on are not part of the collective agreement, what do you think of the fact that the appeal is made to the commission that made the decision in the first instance?

(*Translation*)

Mr. DÉCARIE: Now I understand your question a bit better. You mean to say that the Civil Service Commission, being responsible for hiring, promotion and so on, should also deal with appeals?

(*English*)

Mr. CHATTERTON: That is the way it is now.

Mr. DÉCARIE: That is the way it is now proposed in the bill.

Mr. CHATTERTON: Yes.

(*Translation*)

Mr. DÉCARIE: We are opposed to this. If it is to be left to an independent tribunal, it should be a board of arbitration, and not the Civil Service Commission. We are opposed to this because if it is given to an office which is independent from the bargaining—independent from the government, because the Civil Service Commission is completely independent from the government—according to the Act, the government cannot suggest anything as to what the Civil Service Commission should do and cannot undo what it has done. It is completely independent. But in collective bargaining, these things must be negotiated by an independent tribunal where a representative of the unions sits and is appointed by the union. This gives more of a chance for grievances on

promotions, classifications, and so on to be settled. But if the office is independent from negotiation, from the government, when there is a decision to be made, we have no one on the Board appointed by the union. Even the employer, through the Post Office Department, has no representative on the Civil Service Commission and will not have. It is a completely independent office and we cannot accept this. There must be someone from the union on the Board who takes an interest in the employees. Does this answer your question?

(*English*)

Mr. CHATTERTON: Well even if, let us say, the constitution of the commission is changed to provide for representation by the employee, would it not be a rather difficult position for the same agency that makes the decision on, for instance, demotion, to hear the appeal?

(*Translation*)

Mr. DÉCARIE: If, on the Civil Service Commission Board, we could have a representative of our choice on the Board, to solve a grievance about promotion, then it would become an arbitration board. We could call it by a different name, but it would amount to the same thing. That would be acceptable. But on the Civil Service Commission's Board, which is to solve the case of a demotion or transfer, we should have a representative from our union on this board. Even if the administrative procedure is carried out by the Civil Service Commission, as long as we have a representative of the union on the Board, which could be called an arbitration board, it would be acceptable in that case.

Mr. LEWIS: A permanent representative?

Mr. DÉCARIE: He could be a permanent representative of the Civil Service Commission who would represent our union and be acceptable to both parties. Then, on a Civil Service Commission board, if we had a grievance at least we would have a representative there. Otherwise we have none.

Mr. ÉMARD: Mr. Chairman, I am in agreement with Mr. Décarie when he says that if the Post Office Department were a Crown Corporation, it would be much easier for collective bargaining, grievance procedure, and so on, and that employees would be treated in the same way as in industry. However, I think we must face reality, and in the case of a strike, I do not believe—this is my own personal opinion—from what I saw during the last postal strike, I do not believe that a strike in the Post Office Department can be treated in the same way as in industry. I do not think it can last as long as it could last in industry without government intervention. It is not that the government likes to intervene in strikes like in the case of the railway workers, but I do not think there is any other solution which has been proposed at the present time to solve these problems. And even in the case of postal workers who are supposed to go on strike shortly too, public opinion would be aroused to such an extent that the government is the only one that can do anything; and in that case we have to intervene even if we are not ready to do so, even if it is against our wishes. We have to intervene to make you go back to work. Now, do you believe that in the case of a strike, if you were a Crown Corporation, you could be treated in exactly the same way as private enterprise?

Mr. DÉCARIE: I do not see why we could not be treated in the same way as in private enterprise. First of all, I am afraid that I am not in agreement with

you to the effect that there is going to be a strike in the Post Office Department, or that we are going towards a strike. This is before Treasury Board at the present time. We have demands, we want Treasury Board to come in with a counter-proposal; we have nothing for the time being in this regard. The question of a strike has not been decided. For the moment we do not know when, we do not know even if there is going to be a law.

Mr. ÉMARD: I am relying on the correspondence we get each day. Every morning I receive a Christmas card saying "Hurry up and send out your Christmas mail because the postal workers are going on strike".

Mr. DÉCARIE: This does not come from the offices of the two unions, for sure. It might be somebody in your riding, however, who is supporting the letter carriers. It might be that. However, I do not see why we could not be treated like any other industry—

(*Translation*)

Mr. ÉMARD: Could I have an answer to my question?

(*English*)

Mr. KNOWLES: I received a card too, mail early and avoid the rush.

(*Translation*)

Mr. DÉCARIE: The question was—I do not see why we could not be treated like any other employee in the country, if ever there were a postal strike. If we have a right to negotiate, if we have a right to strike, and after having negotiated, I am not saying for two days and then saying we are going on strike, but if we have a right to negotiate and discuss our things, let us say after six months' negotiation, I think the employer should have a little bit of goodwill. What happens in strikes after negotiations lasting five or six months is that the employer becomes adamant and does not want to give at least the minimum to the employees. That is why there are strikes. That is why I do not see why we could not be treated like the others.

Mr. ÉMARD: Please note, I am in agreement with you, but this will not solve the problem. Do you believe that railways are treated the same as others in the case of a strike? I do not think so, because each time the railways go on strike, there is always government intervention. And they have to go back to work. I hope that what you want will come true, but I think that in your case, what will happen is that as soon as you are on strike, if ever you do go on strike, immediately public opinion will force government intervention and we will have to intervene in the same way as we are doing at the present time in the case of the railways.

Mr. DÉCARIE: You are speaking of public opinion. Public opinion might ask the government for us to go back to work, but do not forget that in the last strike, public opinion asked the government to give us what we were asking for too. And when the government refused and became stubborn about it and the public was without mail delivery for ten days, or seventeen days as in the case of Montreal, then they asked the government to have us go back to work. But the first request of public opinion was for the government to give us what we were asking for, which was reasonable. The last time we were not asking for unreasonable things. The same thing is repeated each time. In the railways it is the same thing.

Mr. ÉMARD: What do you mean that the last time, you were not asking for unreasonable demands?

Mr. DÉCARIE: We were asking for a small increase of $600 and oh, it was quite a furore throughout the country. You said that public opinion is asking the government to have the employees return to work. But public opinion can only ask for this after having asked the employer, whether it be the government or otherwise, to meet the legitimate demands of their employees. Why does the government not follow the first recommendation of public opinion instead of the last?

Mr. ÉMARD: Here in the House, please note we are not in negotiations. This is carried on with Treasury Board and then, in the final analysis, we have to intervene at the last moment and order a return to work. But I do not think, all the same, that this would be a satisfactory solution. If postal workers eventually had to return to work as a result of government intervention, I do not know what we could do besides that, even if we wanted to say "I am in agreement with you that the Post Office Department would certainly gain if it were a Crown Corporation" and that all collective bargaining could be carried out in the same way as in industry. I think so, because the Post Office Department, as you mentioned, is a department which operates with profits and losses, contrary to most other government departments. But, just the same, there is always that problem of a strike. And while you are negotiating, if you think that if eventually you go on strike, as in the case of the railways, eventually then you will be ordered to go back to work by government intervention. I think that then both parties do not negotiate in the same way.

Mr. DÉCARIE: Both parties do not negotiate in the same way. Do you mean post office and railways, or—

Mr. ÉMARD: No. I mean the Post Office Department, for instance, with the postal workers. What we have in mind that eventually, in the case of strike which, let us say, would not last more than a week or two, they will have to go back to work. It is very important and you could not stay on strike very long without public opinion being aroused and the government being asked to have you return to work, against your wishes and against the wishes of many Members of Parliament, but at the present time there is no other solution.

Mr. DÉCARIE: I know that the pocketbook is a very important thing. It is perhaps very important for the country's economy. But in public opinion—you spoke of public opinion a little while ago—I have a little bit of experience in this regard. When the government asks the postal workers to go back to work, it is not only through public opinion that it does so, but through large corporations, for instance, because of the mail. And here again it is always the same matter. Why does the government always lean towards the big man against the little man? The same is true in the railways or in any other industry. When the government starts infiltrating into negotiations and appoints a mediator or a conciliator and everybody has to go back to work, it is always to accommodate the employer in that case, because the employee is bargaining for months and months and months. You know that it is very costly, it is a great deal of work, and then the employer becomes stubborn, knowing that the government will intervene and say the employer is right. This is what happens in almost all strikes. In the case of strikes where they have asked for

unreasonable things, if we are asking for the control of profits, for instance. But why the small employee who is paying taxes like anybody else—he might be paying much less in taxes than the employer, than the big employer, but he also has much less left than the big one—and this is the imbalance at the present time. I think that after having negotiated and negotiated and negotiated, when demands have almost been finalized, the employer stops and waits then for the government to intervene, to name a mediator or a conciliator so that everybody will go back to work. And then who profits by this? It is always the employer in almost all cases. An increase of so much is given and profits are increased by double. And this is what creates inflation. People say it is strikes that create inflation, but the reverse is true. I am not an expert in economics, but we can see through the press and through editorials that this is always the case.

Mr. ÉMARD: I do not want to belabour the point. I have finished, thank you.

The JOINT CHAIRMAN (*Mr. Richard*): At what time—immediately?

(*English*)

Mr. LEBOE: I just want to ask a supplementary question of the witness. Would you not agree, sir, that in accepting certain types of employment or occupations in the country there are certain responsibilities which go with the acceptance of that particular occupation? I am thinking of public service—railroads, post office—and I will go to the extreme to get the point home. If you have someone who is very, very ill at your place, and the doctors and nurses have taken their position in the field of medicine, health care transcends striking or saying to you, "well, I quit at 5 o'clock; therefore, I am not available and there is no one available because we quit at 5 o'clock." At 8 o'clock in the morning you can call us.

I am taking this as an extreme case because I think, personally, that if I were to hire out in any service—essential service—to the country, whether it be railroads or whether it be Post Office, I would understand that there are certain limitations that are put upon me when I accept that employment.

What I am really saying is that personally I do not believe there should be the right to strike in these particular services. There should be negotiation, yes, to the nth degree, and retroactive pay when the decision is made. If you get retroactive pay when a decision is made, then there is no money being saved by the fact that it has taken a long time. This is delay in getting the money, but there is no money being saved by the department, or the government, or the employer, as the case may be. Do you not think that there is this responsibility, when you hire on and take the job, which should be recognized? I feel very strongly, in public service of this kind, that this is a responsibility that the individual undertakes and, therefore, there should be no such thing as even the thought of a strike in such services as the Post Office or railroads, where all the people of the country are put to no end of problems and trouble which they themselves have no part in.

I think the railroad strike took place just before the people could get their children back to school and they were stranded all over the country with their families, and now we are talking about a postal strike just prior to Christmas. Why not after Christmas, when the rush is over? Why put the whole country in jeopardy to get your point home and make it that much more difficult as far as the public are concerned. I have gone a long way in explanation here, but I wanted to make sure that the point is absolutely clear, because there are not

enough people, I think, in this country who will come out and say, I do not think the public service, or these services, should be permitted to strike. I am speaking personally, not for the party.

(Translation)

Mr. DÉCARIE: To answer this, I should say that any public servant, any postal employee, is very conscious of his responsibilities to the public. I think that in the Public Service to-day, you have probably the most devoted employees, most dedicated to their work. I will not say the most honest, but the most dedicated to give to the public the best service and better service. Now, if we do have duties, we also have rights. Your suggestion to the effect that a strike could take place in January, for instance,—I will speak to my colleagues about it, surely. We do not want to attack the public. We will have it in January, in that case. But if we have duties, we also have rights, I repeat. And when a young man goes into the Post Office Department and accepts the position of either a letter carrier or a postal worker, that does not mean that all his rights have to be removed from him. He is to be given reasonable wages and reasonable working conditions. If his wages are not reasonable and his working conditions are not reasonable, he has to do something. If the only way is by going on strike, well, then, we should have the right to go on strike. If we can solve all our differences without recourse to a strike, so much the better. Nobody wants a strike. But if we cannot do otherwise, then we must have this weapon. It is the only weapon left to the union, left to the workers: the right to strike or to withdraw his services is the only weapon he has, if we cannot negotiate directly with the employer. Now, as to your suggestion for January, we will speak about it. We will discuss it surely. We do not want to deprive the public of service. That has never been our intention. We want to give the best possible service. We do it in all kinds of climate, all kinds of weather, but if we cannot reach an understanding with the employer to earn a reasonable wage, which would be about $5,000 to-day—on entering the service they only make $4,200—there is a great big margin between the two. Now, if we have to fight in order to obtain it, well then, we will fight, there is no other means. We are not making a strike against the public, I don't think anyone has any idea of striking against the public, it is against the employer always that the strike is made, it is the sovereign body of the country, we have to respect the laws, yes, but we have to find a means to do it. If it is the only one left, we will use it, but after the holidays.

The CHAIRMAN: Your comments are very useful to other parties besides those who are sitting here this morning. Thank you, Mr. Lewis.

(English)

Mr. LEWIS: I cannot help making the comment, Mr. Chairman, that a strike which would prevent the purchase and distribution of Christmas presents might be a greater halt on inflation than some other measures that have been taken.

Mr. LEBOE: I do not think it would prevent it.

Mr. LEWIS: I am not going to pursue this strike question because I would like us to remind ourselves, Mr. Chairman, that even under Bill No. C-170, it is possible for the postal unions to make the choice of conciliation and strike, so that I do not think that is relevant.

I would like to ask first, Mr. Décarie, does your union cover all the inside employees of the Post Office, or would there be some employees not in your union?

(*Translation*)

Mr. DÉCARIE: Only the outside workers, the letter carriers only. It is a homogeneous group, if ever there was one in the Government, there are only the letter carriers involved, they all do the same type of work and they work outside the Post Office, they don't work inside, we have no one else but letter carriers.

(*English*)

Mr. LEWIS: Suppose one takes the "Facteur" and the "Postier", you have the two unions. What employees of the Post Office Department would still remain outside any union?

(*Translation*)

Mr. DÉCARIE: It would then be employees, clerical workers, telephone operators, stenographers, typists, these are the only workers who would be outside the scope. Now, several of these employees belong to a union.

Mr. LEWIS: And how many employees are there in these classifications?

Mr. DÉCARIE: Oh!—

Mr. LEWIS: The proportion?

Mr. DÉCARIE: There are 22,000 employees—
Do you have any figures like that?

(*English*)

Mr. COLVILLE: No, I do not. There are 22,000 employees in the postal workers and letter carriers' union. The letter carriers' union covers all the people who make deliveries to the houses and do the sorting for their walks inside. The C.U.P.W. covers all the employees who handle the primary sorting of the mail and look after the wickets.

Mr. LEWIS: That is why I called them inside employees. I am interested in knowing what is the total work force of the department. You say there are 22,000 in your two unions. Leaving the postmasters out, what other employees are left?

Mr. COLVILLE: There are the railway mail clerks who cover about 600 employees at the present time, I think. I do not want to be quoted on this.

Mr. LEWIS: Are there stenographers, telephone operators?

Mr. COLVILLE: There are stenographers, telephone operators, and what are called Clerk 4's who are strictly in the clerical and regulatory staff now. They work in the postmaster's office.

Mr. LEWIS: How many of those would there be? I just want to get an idea. Is it in the hundreds or in the thousands?

Mr. DÉCARIE: In the thousands.

Mr. LEWIS: In the thousands, I suppose.

The JOINT CHAIRMAN (*Mr. Richard*): I understand, Mr. Lewis, that the Clerk tells me that on page 13 of the Montpetit Report that is there. I am not sure, but that is his memory.

Mr. DÉCARIE: There are also the part-time employees, women sorters.

Mr. LEWIS: There is some description of it but not in that detail.

May I go back to the question of a crown corporation, Mr. Décarie. You gave rather general reasons that you wanted the right to negotiate like all other employees. There are other factors in the public service arrangement and I would like to know as well whether those are also factors that you are not interested in or that you want to avoid. For example, you have the Civil Service Commission that would control, if you are not a crown company, and no matter what amendments are made to the act or are not made, you have the Civil Service Commission that would control presumably appointments, and above that the merit system that everybody wants to retain in the public service generally.

In trade union terms that means that no matter what amendments are made to Bill No. C-170, the likelihood is that no trade union working under it will be able to have, for example, a seniority clause for promotion because promotions will be on the merit system established rather than on seniority. Does that make any difference to the postal workers? Is there any reason why you should be governed by what in the public service is called the merit system, instead of being governed also by the seniority system in ordinary unions?

(*Translation*)

Mr. DÉCARIE: All these things should be negotiated around the bargaining table.

(*English*)

Mr. LEWIS: Yes, I understand this, but if a system does not apply to the postal workers, the question of negotiation does not follow. If we should have the merit system for these things in the Post Office Department, as we have it in any other department, for example, the Department of Trade and Commerce, then merely to say that it should be negotiated does not entirely help us. I am asking whether the Post Office is a different kind of organization. I gave you an example, the seniority system in Polymer Corporation which is a crown company where you are entitled to be promoted, assuming you are able to do the work. If there are two men, both of whom are able to do the work, the man with the senior service is entitled to the job. That is written into the agreement. Can this kind of thing be applicable in the Post Office because I can see where it may not always be applicable in other departments?

(*Translation*)

Mr. DÉCARIE: Well, this question should be applied to the Post Office. Department, we believe and I think we have mentioned in our demands to the Post Office Department, we have already mentioned that promotions should be given on a seniority basis insofar as the two or three candidates can do the work, let the one who has the most seniority obtain the position, that is one of our demands to the Post Office Department for several years, it is not mentioned in Bill C-170, we did not mention it. But we did mention it often in our appeals to the Civil Service Commission.

(*English*)

Mr. LEWIS: In other words, you say that there is no reason why this kind of ordinary trade union-management practice cannot obtain in the Post Office Department.

(*Translation*)

Mr. DÉCARIE: Precisely, and we can't see why these things which are absolute in industry, why there would not be a regulation in the Post Office Department, we have been asking for several years that seniority in the question of promotions, transfers or any other things of the type, that seniority should be the prime factor insofar as the candidate has the required qualifications, of course.

(*English*)

Mr. LEWIS: Have you thought of this, Mr. Décarie? I am just trying to learn and get information, as are all the members.

You say the Post Office is an organization which is concerned with profit and loss like ordinary industry. That would mean, that if you are negotiating, then the question of profit and loss would become relevant to your salary. If the profits are big you might ask for more salary; if the profits are small the crown company would refuse you more salary. If in some situations there is no profit and the department works at a loss before it has raised the Post Office rates, in other words, in that kind of situation you are faced with what is known in our trade, yours and mine, as you know I have done a lot of labour work, as ability to pay would enter into the picture. Whereas if you are a public servant, then what enters into the picture, or what should enter into the picture, it does not always do so, is the adequacy of your conditions in comparison with the salaries and conditions in the society as a whole. Do you follow me? You have an entirely different approach to the negotiations in one case and the negotiations in the other. Does that not make a difference in whether it is entirely wise to base yourself on the profit-loss concept of industry?

(*Translation*)

Mr. DÉCARIE: We firmly believe that if the Post Office Department were to administrate itself, and not be at the mercy of the government for instance, when the Post Office Department wanted to increase the cost of postage by one cent, this has to go through the House of Commons and has to be approved by all members of Parliament. This is a political matter. But if the Post Office Department were independent, were a Crown corporation and were to administrate itself, I am ready to take the chance on Profits and Losses for wage increases. I am certain that if the Post Office Department were to administer itself, instead of being administrated financially by a Treasury Board, and to have to rely on a budget of the Treasury Board, I am ready to take a chance on it. If the Post Office Department were to administer itself and its finances for instance, the difference between profits and losses would give us wage increases which we are asking for at the present time. You know as well as I do, Mr. Lewis, that the Post Office Department, at present, gives subsidies to large companies, large publishing firms, like newspapers and magazines. We lose $40

to $45 million a year because we are not asking for the actual recovery of what the Post Office Department has to pay to deliver and handle this type of mail. If the Post Office Department were to administer itself, if there were a loss somewhere, as good administrators they cover these losses by increasing the rates, and so on. I am in agreement with you that if the Crown corporation is still financially linked to Treasury Board, and if there is an increase in rates to be approved by Parliament, then we are taking a chance, there will always be losses. We have been asking for this for several years, and the Postal Workers Union has already presented briefs in this regard, for the last four years, to the Post Office Department. We have stated that they should not exist. These losses should be covered by the raise which companies should have to pay, so that we can deliver the merchandise.

(*English*)

Mr. LEWIS: But that is a question of policy, Mr. Décarie. I am sure you know better about it than I do. If you say that certain tariffs should be raised, certain postage costs should be raised, you may be right. I really do not know. I am ignorant in these matters. But that is a matter of policy to be decided. You are saying that it is possible to raise the price of the service in order to make a profit rather than have a loss. Now, it may well be in the public interest, if not today, then ten years from now, not to have a profit in the Post Office any more than it is in the interest of Canada that there be a profit in schools. There are certain services in a society in which profits and losses should not enter, and it may be that the Post Office is such a service. Why should you an employee of the Post Office want to be tied to the policy of raising rates in order for you to get a just salary? That is what—and I say this with great respect—seems to me an error. If you want a separate crown corporation for the purposes of bargaining, fine. But do not put it—perhaps it is because of my prejuges politiques, n'est ce pas—do not put it on the question of profit and loss because I can well see a situation where the Canadian people can better be served even if there has to be some absorption of loss. That may not be today; that there may be room for movement today, but there may not be five or ten years from now. Is it not enough for you to take the position that your function is not an ordinary public service function; it is the direct provision of a service to people in the same way as the hotels and restaurants and deliveries of all sorts. Therefore, you think that you can have a separate crown corporation to deal with the matter in the normal trade union way, seniority, wage negotiations and all the rest regardless of whether there is profit or loss in the crown corporation. Would you not agree?

(*Translation*)

Mr. DÉCARIE: Yes, I am in agreement with you in this regard that the Post Office Department should be a Crown corporation by itself. This, however, does not prevent the public from having good service even though this would be a Crown corporation, that is a Government corporation. It does not prevent us from giving good service to the public. The CBC for instance, or the CNR, these are Crown corporations, and by legislation, they have to give good service to the public. The CNR cannot remove service, so long as the Government does not say that it should remove it, because the public in that particular area has to be

serviced. The same thing is true of the Post Office Department. Now, of course, it is up to the administrators of the Post Office Department to find a way of organizing the Crown corporation in this regard, but even if we are a Crown corporation, it does not mean to say we are not going to give service. We have to give service, it is a public service and a service which the public awaits and expects. It is a public service just as any other public service, the buses or anything else in this regard. It is a service which has to be given to the public. We cannot say that we are not going to give them the service because we are a Crown corporation, we never thought of this.

(*English*)

Mr. WALKER: I think, sir, you have chosen a bad example when you mention the CBC, because if the CBC based its wages on the amount of profit it makes every year, we would have some pretty poorly paid employees in this country, and I think this is the point—

Mr. LEWIS: All poorly paid.

Mr. WALKER: All poorly paid. I think this is the point that Mr. Lewis was making.

(*Translation*)

Mr. DÉCARIE: Yes, I understood Mr. Lewis' question. It is not a matter of giving a service in a ratio to profit and loss, I am not an economist myself.

(*English*)

Mr. WALKER: Wages in relation to profit and loss.

(*Translation*)

Mr. DÉCARIE: Service has to be given at all costs and the public expects this. It is the public who is paying taxes and the public expects the government to give this service. The question is not one of profit and loss in this regard; if there is no profit, there will not be any wages and no service. If there is no profit, the service has to be given just the same, but the employees also have to be treated in a normal way, that is the question.

(*English*)

The JOINT CHAIRMAN: (*Mr. Richard*): Mr. Lewis do you have any other questions?

Mr. LEWIS: No.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Walker?

Mr. WALKER: If I could just carry on; I agree with so much of what is in the Montpetit Report. If it had come out three or four years ago would the association you represent have had a different view on the legislation that we are putting forward now? You do not feel then that the working conditions that undoubtedly have to be better in the postal service and the working conditions that are recommended here can be obtained through the present legislation that we are talking about?

(*Translation*)

Mr. DÉCARIE: If we can sit down and negotiate these things, there is nothing in Bill C-170 that does not say we cannot negotiate our working conditions and

wages. These things can be negotiated under the Bill C-170. I think that once for all we can sit down around the bargaining table, discuss working conditions with our employer, these working conditions have been abandoned more or less in the past few years. Postal officers thought they were infallible in everything and we could not discuss. Now, with the Montpetit Report which came out only last Thursday, there is a complete change in attitude since last Thursday until today, and it will continue between the high postal officials and the Postal Workers Union. It was necessary for Judge Montpetit to go across the country to see the facts and put them down in writing. Now; the changes are coming. Changes certainly will come even more with negotiation, but I think that whether it is under Bill C-170 or otherwise, changes will come in working conditions. The Montpetit report has nothing to do with Bill C-170 of course but we will be able to negotiate an agreement, and will be able to put in black and white what our working conditions are going to be that is what we cannot do at the present time.

(English)

Mr. WALKER: You used the word "employer". I was wondering if you feel that your employer is the government, or, in fact, the public of Canada?

(Translation)

Mr. DÉCARIE: Yes, we think that our employer when we mention employer I mention the government, but every time I mention the government I have always said the public because the government would not be there if there were no public. As I was saying, we have to give the service to the public. The public is the one paying the taxes, the public is the one forming the government, and in one sense it is our employer too.

(English)

Mr. WALKER: May I just ask one other question? When we think in terms of huge industries and large businesses I agree with some of your remarks, and I am wondering if you do not always end up, in these negotiations, or in any wage dispute, or in other policies, with the little guy getting hurt.

However, in the industrial and big business area I take it you thoroughly disapprove of the principle of monopolies, because it gives them an added weight, particularly if, as a monopoly, it produces a stranglehold and an unfair advantage in bargaining. Do you agree with this, talking about big business —any monopolistic group in this country that has control of a sector of our economy? Do you think this is good for the country?

(Translation)

Mr. DÉCARIE: I believe that it is not too good for any country for monopolies to exist and control prices. It is a question which is a little bit outside my sphere of competence, I am not an economist, far from it, but so long as there are monopolies and so long as monopolies have the freedom to act as they wish, it will always be something very bad for any country in the world, Canada, the United States or any other country, because a monopoly controls everything. It even winds up controlling the employees, even the good things put on the market, these are detestable things and should not exist at all.

(*English*)

Mr. WALKER: Can we turn this around the other way? Can we talk about the monopoly of a vital national service? My next question will tell you why I am asking it. Let us take the monopoly of a postal service, for instance. This is one of our problems when we are taking into account the interests of a third party, namely, the public, in this whole question of what could be considered a vital national service. The problem that we find is that, in fact, we do have a monopoly on this one service. Who else will deliver the mail except those who, in fact, have the monopoly on this very important service that is being given across Canada?

The reason I am mentioning this point is because it seems to me that not only you, but other witnesses who have been here, in discussing Bill No. C-170 have put forward the proposition that this is simply a contest of power between employees and an employer, and I do not think that we can leave it in that narrow context when we are dealing with a vital national service, and particularly when one of the parties, in fact, enjoys a monopoly.

Do you see negotiations as strictly a contest of power between two people, employer and employee, or is there not a third party interest that must become part of the thinking, particularly of the people who have the monopoly?

(*Translation*)

Mr. DÉCARIE: What is happening at the present time—to speak only of the Post Office Department—is that, as you have to admit, the Post Office Department is a monopoly. It cannot be otherwise. It cannot be otherwise for the Post Office Department to be controlled solely by the Government because it is a public service. If the Post Office Department was not a monopoly, if it was controlled by a private enterprise, what would happen is that private enterprise would not give the service that we give, that the Government can give to the public. Private enterprise could cut off service anywhere if it were not profitable for instance. Even if we say that the Post Office Department is a monopoly, it is not a monopoly in the sense of a monopoly in private enterprise. Private enterprise will sell merchandise but the public does not have to buy these goods. It can monopolize the goods, but if the public does not buy, it has to change its prices. On the other hand the Post Office Department, or Customs, or any other agency of the Government, must be at the disposal of the public, all the time.

It is not a monopoly, I would not call it a monopoly. They have a monopoly over the distribution of the mail service, but it stops there, because the public of Canada, all workers in Canada, must pay if there are deficits, so that we can give this service, whereas if there is a deficit in a private company, it is not the entire population that pays for the deficit of the company. We say that it is a monopoly because they are the only ones who control the mails, but it is not a monopoly like we have for the Combines Act for instance, it does not apply at all. It is certain that for the time being right now, there is a struggle for power between the Central Government and the unions, and the public is in the middle. The public expects to have the service, but the employee must be dealt with fairly in order to give the service. Because he is dedicated to his work, and must give this service, it is no reason for the Government, which makes

legislation so that private industry will treat its employees right, not to do so as well in the case of its own people.

(*English*)

Mr. WALKER: Do you feel that, in the past, governments, through various agencies—Treasury Board and so on—have largely taken advantage of the sense of responsibility that the people you represent have had to the public to provide a service? Do you feel that advantage has been taken of this sense of responsibility and that this report may help correct—

(*Translation*)

Mr. DÉCARIE: Yes I believe that Treasury Board has taken advantage of the conscientiousness of the public service. It is true that we say that a government employee has security of tenure of office, but on the other hand, this employee has to live too, he has to be well treated and I think that the Montpetit report will bring a great deal of enlightenment in this regard. It will open the eyes of a great many people who did not know what was going on in the Post Office Department. The letter carrier for instance who meets about 3½ million people per day will not speak against his service. He meets the public, he is in a good mood, he smiles and the public does not know what is going on. Once he gets into the Post Office they are not aware. The Montpetit report published in the press will open the eyes of the public on what is going on at the Post Office at the present time.

(*English*)

Mr. WALKER: I have just one other point. I started by saying that I agreed with a lot of the recommendations in the Montpetit report, not the least of which is the recommendation I think that, you should try Bill No. C-170 and go along with the legislation.

(*Translation*)

Mr. RICARD: Mr. Décarie, you mentioned during your remarks a little while ago that you were completely in agreement with Judge Montpetit to the effect that the postal service become a Crown Corporation. You also mentioned that you would have better chances of obtaining better working conditions and in particular better wages. Would you say, Mr. Décarie, that by becoming a Crown Corporation, the Post Office Department would, from a deficit position, be the beneficiary?

Mr. DÉCARIE: I do not know whether in the near future the Government, the Post Office Department would make money, but I am certain that if the Post Office Department were a Crown Corporation it would have a great deal more freedom to administer itself. It is subject to a budget, limited by the Treasury Board, it is subject to the Department of Public Works for all its buildings and equipment, it is subject to the Civil Service Commission to hire employees and I am certain that if the Post Office Department were a Crown Corporation under its own responsibilities, it would make money in spite of the fact that it is a government department, I am certain that financially it would be much better off. The service would be greatly improved. The employee would negotiate directly with the Deputy Minister or the Postmaster General, I do not know

how he would be called, but there would be much closer contact than between the employer and the employee in that case, and this would apply to everyone.

Mr. RICARD: You also think, Mr. Décarie, that the efficiency of your Department if it became a Crown Corporation would also be improved?

Mr. DÉCARIE: The efficiency would be greatly improved.

Mr. RICARD: At the present time do you feel in the present conditions, that you could improve the efficiency of your Department?

Mr. DÉCARIE: Under present conditions it is very difficult to improve them.

Mr. RICARD: Why?

Mr. DÉCARIE: As I said a little while ago if you want to improve the service, for instance, if you want to give service to a particular city, we cannot do so until Treasury Board gives us permission to do so. The Postmaster General is only the representative of the Post Office in Parliament.

Mr. RICARD: You say that they have to ask for permission from Treasury Board. Is it not simply a matter of time and are you of the opinion that because of these time limits you cannot give the efficiency that you would like to give?

Mr. DÉCARIE: It is not only a question of time limits, it is complete refusal on the part of the Treasury Board to give service to such and such a city, even if we want to hire an additional truck to give service to companies. This is not approved by Treasury Board, if we want to buy a pencil in the Post Office Department, Treasury Board has to approve it.

Mr. RICARD: In other words we give you responsibilities and not enough authority.

Mr. DÉCARIE: They do not have either sufficient responsibility or authority.

The Joint CHAIRMAN (*Mr. Richard*): Any other questions.

(*English*)

Mr. WALKER: I would like to just clear up this point if I may? I am sure you are not suggesting, Mr. Décarie, that those small items go before the Treasury Board. Surely these are included in departmental estimates. There may be matters of policy on capital expenditure, with regard to—whether we can build 50 new post offices across the country, but not these minor items. These are things which appear in normal estimates.

(*Translation*)

Mr. DÉCARIE: When I spoke of pencils, perhaps it is a very small item, but to give you an example—for instance, if during the year they are going to allow a certain sum of money to do a certain thing and if the budget is spent within six months then they cannot do the rest before waiting for the budget for another year, they cannot take it upon themselves to spend any money. It always has to be approved by Treasury Board because they are on a budget. Now, if the Post Office Department would administer itself financially, then it could provide much better and much more. All post offices for instance. If the Post Office Department wants a post office building of such and such a size, to have so many clerks and so many letter carriers and expects that in ten years

the space will have to be doubled, this is refused completely by Treasury Board most of the time. They have to build others and it costs much more. It is not bad administration because the Post Office Department cannot administer itself in this regard, but it becomes bad administration on the whole.

(*English*)

Mr. BELL (*Carleton*): Just one further point, Mr. Décarie. In your original brief I thought one of the most substantial points was the suggestion that there should be incorporated in Bill No. C-170 something equivalent to Section 8 of the I.R.D.I. Act, which section provides for separate certification of a group of employees who belong to a craft, or those having special skills. I am not sure that I am quite clear about the impact in the post office of putting such a section in this bill.

As you now see Bill No. C-170, it would probably require you to have a council of employees representing the railway mail clerks, the letter carriers and the inside operating staff, who are represented in the Canadian Union of Postal Workers; whereas, if you put section 8, or its equivalent, into this bill you would be entitled to separate certification, as a matter of right.

(*Translation*)

Mr. DÉCARIE: We want this certification among the letter carriers as described by Section 8 of the I.R.D.I. Act for the simple reason that the letter carrier who does work compared to that of no one else, should be enabled to negotiate everything he wants, everything he is demanding. We cannot compare the work of the letter carrier with any other work done in the Post Office Department or elsewhere. That is why we are asking for certification of the letter carriers' union alone rather than being forced to ask for certification by a council.

(*English*)

Mr. BELL (*Carleton*): As you interpret Bill No. C-170 now you would not be entitled to such separate certification?

(*Translation*)

Mr. DÉCARIE: Under Bill C-170 certification should be given only to those who handle mail, that is, the clerks the letter carriers and the mail handlers, one group.

Mr. LEWIS: A Council of the organization?

Mr. DÉCARIE: A council of the organizations, yes, who would negotiate within a council. We do not want this, because I think even the postal workers have asked for individual certification, because when you go to negotiate we will be submerged, we will be subject to demands. The agreement for instance, which would cover letter carriers and postal workers would certainly bring on a great deal of confusion.

(*English*)

Mr. LEWIS: I know I have asked Mr. Décarie questions, but may I follow this up, because I am a little concerned about the proposal of both unions?

What is the real harm in having a council of the three unions, with representatives from each of the unions on it, negotiating for all the employees of the post office at the same time?

(*Translation*)

Mr. DÉCARIE: The objection that we have to a council of unions to negotiate is that the work of the letter carrier and the work of inside employees is completely different.

(*English*)

Mr. LEWIS: That is not new, Mr. Décarie. If you take anything you like, say a steel mill, you will have one union negotiating, but you will have in the mill tool and die makers; rollermen working the rollers; semi-skilled people; you have storekeepers and you have unskilled labourers. But that does not prevent the bargaining agent from being able to bargain for each one of those classifications.

In some of the industries they have developed special arrangements to deal with the skilled people.

What I am concerned about, Mr. Décarie, is this: Is there not an advantage to the employees to bargain together at the same time with the full strength of the entire work force, protecting the interests of each group while you are bargaining, rather than have you bargain one day and reach an agreement and the other union has not yet reached an agreement; and if you decide to go the road of strike, you settle yours—you have your agreement—and as has just happened in the city of Toronto with the outside and inside workers, two weeks later the other union is unable to reach a settlement, and it goes on strike? You then have to decide whether or not you will obey their picket lines, since you have already made a settlement.

Is there not a great deal of advantage for the employees? Never mind the employer. I always see advantage for the employer if the work force is divided into separate bargaining units. The stronger bargaining unit gets something, and the weaker one gets less. Would there not be an advantage to your own people to have one bargaining unit, with the three unions represented in the bargaining? Are you not stronger that way?

(*Translation*)

Mr. DÉCARIE: You know, Mr. Lewis, that the Post Office Department operates from Newfoundland to Vancouver.

Mr. LEWIS: That I understand.

Mr. DÉCARIE: It is a very complicated thing. But we are ready to negotiate under both forms. We are asking for separate certification, but if the bill forces us to negotiate within a council, we will be ready to do so. We have already set up a joint action committee, and when the time comes to negotiate, in spite of the fact that we are asking for separate certification, we will be ready to negotiate within a council too. We are ready for any eventuality.

Mr. LEWIS: I see advantages there.

(*English*)

Mr. LEWIS: Let me take, as an example, the non-operating railway unions. They are separate certifications. For many years they had a joint negotiating

committee. This year they decided—and I am sure for good reasons, in their minds—not to have a joint negotiating committee, and they negotiated in four separate sets of negotiations. When it came to the wire, at the end, they had to get together again. They separated during negotiations, but when they came to see the government and the bill went before Parliament, they again had to meet almost as one committee.

Because you make so much of that point I would like to suggest, with great respect, that it may be that it is your organizational traditions, rather than the objective advantages, that make you prefer to go separately as against in a council?

(*Translation*)

Mr. DÉCARIE: It may be a question of tradition to want to negotiate separately. Yes, I can see the advantage of negotiating as a council through the number of employees who would be represented on the council. We would all be represented by the same council, we mean 22,000 employees would be represented instead of, if we negotiate separately, 9,000 on one side and 11,000 on the other. But, by tradition, the letter carriers' union, which has existed for seventy-five years, has asked to negotiate separately. Now it is a question which we are studying at the present time between the two unions. It is a question which is under study, which was put under study, after representations on the part of the government because the committee was formed just recently.

(*English*)

Mr. LEWIS: You are not taking an unchangeable position.

Mr. DÉCARIE: No.

Mr. LEWIS: You are ready to work through a council, assuming the law is good enough.

(*Translation*)

Mr. DÉCARIE: Yes, that is it. We expect to negotiate separately or in a council. We are getting ready for both eventualities. Most likely, according to Bill C-170, we will probably have to negotiate, be forced to negotiate, within a council.

(*English*)

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Thank you very much, Mr. Décarie.

The Order in Council with deference to Civil Service Regulations, requested by Mr. Chatterton, is in the hands of the Clerk.

It is now 11.45 a.m. and I do not think we should start with a new witness at this time. Mr. Heeney has to leave at 12.15.

Mr. A. D. P. Heeney (Comittee on Collective Bargaining): Mr. Chairman, I could extend that time about an hour, if it would be of help to the Committee.

The JOINT-CHAIRMAN (*Mr. Richard*): Do members of the Committee wish to continue this morning?

Mr. BELL (*Carleton*): Some of us could not be here that long.

The JOINT CHAIRMAN (*Mr. Richard*): When would you be available again, Mr. Heeney?

Mr. HEENEY: Immediately after lunch, or about 2 o'clock.

The JOINT CHAIRMAN (*Mr. Richard*): Would the Committee prefer to wait until 4 o'clock this afternoon.

Mr. HEENEY: Do you wish me to start now?

The JOINT CHAIRMAN (*Mr. Richard*): No; I think we will wait until this afternoon at 4 o'clock.

(*Translation*)

The meeting has adjourned.

APPENDIX "M"

OCTOBER 20, 1966.

Special Joint Committee
of the Senate and House of
Commons on the Public Service,
Parliament Buildings,
Ottawa, Ontario

Gentlemen:

The Vancouver Board of Trade urges that Bill C-170, An Act Respecting Employer and Employee Relations in the Public Service of Canada, be abandoned. In support of this position the Board offers the following observations:

1. The government, through the Minister of Labour, has announced the establishment of a task force to examine labour management relations and labour legislation in Canada, with a view to making constructive recommendations within the next eighteen months. It would be unwise, if not incongruous, for the Federal Government to enact new and significant legislation affecting employees in the public service of Canada prior to receiving the comments and recommendations of the task force.

2. If passed, Bill C-170 inevitably would have the effect of having parliament itself established as a continuing adjudicator in labour disputes within the civil service. Such a situation could only lead to an exaggeration of political considerations and a frustration of the parliamentary process.

3. The Bill provides the right for civil servants to take legal strike action. We believe it to be a completely unsound principle that those engaged in the public service should have the legal right to take punitive action against the public itself. Disputes should be settled by final and binding arbitration.

Respectfully submitted,

Sydney W. Welsh
PRESIDENT

APPENDIX "N"

HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

CHAIRMAN OF THE STANDING COMMITTEE ON PUBLIC ACCOUNTS

OCTOBER 17th, 1966

Dear Mr. Bourget:

I understand that the Special Joint Committee of the Senate and the House of Commons on Employer-Employee Relations in the Public Service of Canada is about to consider in detail Bill C-182, an Act to amend the Financial Administration Act. I am writing to you, as Chairman of the Public Accounts Committee, to advise you of my serious concern about the provisions of Sections 11, 12 and 13 of the Bill, each of which affects the Office of the Auditor General.

I believe it to be fundamental that for effective Parliamentary control of public funds, it is absolutely essential that the integrity and independence of the Office of the Auditor General be zealously guarded. It is my view, and I am sure it is yours as well, that nothing must be permitted to exist which would have the effect of subjecting or appearing to subject the Auditor General to the direction or control of the Executive. He is the servant of Parliament.

In accordance with tradition and the law, all reports of the Auditor General, whether to Parliament, the Governor-in-Council or the Treasury Board, are made through the Minister of Finance. The Minister of Finance is the link between the Auditor General and those to whom his reports are required to be made. By reason of the provisions of Sections 11, 12 and 13 of Bill C-182, however, this link would be severed and the Auditor General would be brought into a direct relationship with the Governor-in-Council and the Treasury Board. Further, the right of the Minister of Finance to request information from the Auditor General is removed. This I consider is to be an encroachment on the independence of the Auditor General.

It is my understanding that one of the prime purposes of Bill C-182 is to consolidate in the Treasury Board the detail of expenditure of the public revenues authorized by Parliament. One of the prime functions of the Auditor General is to ascertain whether expenditure of the public revenues authorized by Parliament has been applied to the purposes for which it has been so authorized. The effect of Sections 11, 12 and 13 of Bill C-182 is to require the

Auditor General to report directly to those responsible for the acts into which it is the Auditor General's duty to inquire. The anomalous nature of such a situation is obvious. Indeed, such a situation defeats the very purpose for which the Office of the Auditor General exists.

Accordingly, I strongly urge that Sections 11, 12 and 13 of Bill C-182 be deleted and the relevant provisions of the Financial Administration Act be continued.

Yours sincerely,

Alfred D. Hales, M.P.
Chairman,
Public Accounts Committee.

cc. Mr. Jean T. Richard, Chairman, Special Joint Committee on Employer-Employee Relations in the Public Service of Canada, The House of Commons, Ottawa.

Mr. A. M. Henderson, Auditor General, Justice Bldg., Ottawa.

The Hon. Mitchell Sharp, Minister of Finance, Ottawa.

The Hon. Maurice Bourget, Chairman,
Special Joint Committee on Employer-Employee
Relations in the Public Service of Canada,
The Senate.

OFFICIAL REPORT OF MINUTES
OF
PROCEEDINGS AND EVIDENCE

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

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

First Session—Twenty-seventh Parliament
1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:
The Honourable Senator Maurice Bourget
and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE
No. 14

THURSDAY, OCTOBER 27, 1966

Respecting
BILL C-170
An Act respecting employer and employee relations in the Public Service of Canada.

BILL C-181
An Act respecting employment in the Public Service of Canada.

BILL C-182
An Act to amend the Financial Administration Act.

WITNESSES:

Mr. W. Kay, National President, Canadian Union of Postal Workers; Mr. R. Cook, National President, Canadian Merchant Service Guild; Mr. A. D. P. Heeney, Chairman, Preparatory Committee on Collective Bargaining in the Public Service; Dr. G. F. Davidson, Secretary of the Treasury Board.

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

25054—1

SPECIAL JOINT COMMITTEE

OF THE

SENATE AND OF THE HOUSE OF COMMONS

on employer-employee relations in the

PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate *Representing the House of Commons*

Senators

Mr. Beaubien (*Bedford*),	Mr. Ballard,	Mr. Lachance,
Mr. Cameron,	Mr. Bell (*Carleton*),	Mr. Leboe,
Mr. Choquette,	Mr. Berger,	Mr. Lewis,
Mr. Davey,	Mr. Chatterton,	Mr. McCleave,
Mr. Denis,	Mr. Chatwood,	Mr. Munro,
Mr. Deschatelets,	Mr. Crossman,	Mr. Ricard,
Mrs. Fergusson,	Mr. Émard,	Mr. Rochon,
Mr. MacKenzie,	Mr. Fairweather,	Mr. Simard,
Mr. O'Leary (*Antigonish-*	Mr. Hymmen,	Mr. Tardif,
Guysborough),	Mr. Isabelle,	Mrs. Wadds,
Mr. Hastings,	Mr. Keays,	Mr. Walker—24.
Mrs. Quart—12.	Mr. Knowles,	

(Quorum 10)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

THURSDAY, October 27, 1966.
(23)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.16 a.m., the Joint Chairman, Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Denis, Fergusson, MacKenzie (3).

Representing the House of Commons: Messrs. Bell (*Carleton*), Berger, Chatterton, Emard, Fairweather, Hymmen, Knowles, Lewis, McCleave, Richard, Walker (11).

In attendance: Mr. W. Kay, National President, Canadian Union of Postal Workers; Mr. R. Cook, National President, Canadian Merchant Service Guild; Messrs. A. D. P. Heeney, Chairman, P. M. Roddick, Secretary, Preparatory Committee on Collective Bargaining in the Public Service.

The Committee questioned the representative of the Canadian Union of Postal Workers on the two briefs respecting Bills C-170 and C-181.

The Committee heard an oral presentation from the Canadian Merchant Service Guild re sections 26, 68(b), 70(3) and 86(3) of Bill C-170 and questioned the representative thereon.

A request was made by Mr. Lewis that the Subcommittee on Agenda and Procedure consider the feasibility of having the Chief of the Bureau of Classification Review of the Civil Service Commission appear before the Committee to explain the criteria, procedures and functions of the review programme, particularly as it affects certain portions of the bills under consideration.

The Committee questioned the representatives of the Preparatory Committee on Collective Bargaining in the Public Service.

At 12.51 p.m., the meeting was adjourned to 4.00 p.m. this same day.

AFTERNOON SITTING
(24)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada reconvened at 4.06 p.m., the Joint Chairman, Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Cameron, Denis, Fergusson, MacKenzie (4).

25054—1½

Representing the House of Commons: Messrs. Bell (*Carleton*), Berger, Chatterton, Chatwood, Emard, Hymmen, Knowles, Lewis, McCleave, Richard, Walker (11).

In attendance: Messrs. A. D. P. Heeney, Chairman, P. M. Roddick, Secretary, Preparatory Committee on Collective Bargaining in the Public Service.

The Committee resumed the questioning of the representatives of the Preparatory Committee on Collective Bargaining in the Public Service.

At 5.31 p.m., the questioning of the witnesses concluded, the meeting was adjourned to 8.00 p.m. this same day.

EVENING SITTING
(25)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met at 8.14 p.m. this day, the Joint Chairman, Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Cameron, Denis, MacKenzie (3).

Representing the House of Commons: Messrs. Bell (*Carleton*), Berger, Chatwood, Emard, Hymmen, Knowles, Lewis, Richard, Walker (9).

In attendance: Dr. G. F. Davidson, Secretary, Messrs. J. D. Love, Assistant Secretary (Personnel), W. A. Kelm, Planning and Coordinating Division, Treasury Board; Messrs. P. M. Roddick, Secretary, R. M. Macleod, Assistant Secretary, Preparatory Committee on Collective Bargaining in the Public Service.

The Committee questioned the representatives of the Treasury Board on various aspects of Bills C-170, C-181 and C-182.

Moved by Mr. Knowles, seconded by Mr. Emard,

That the Speakers of the two Houses of Parliament be asked to make provision for the Law Clerks of the two Houses to appear before this Committee, at an appropriate time, to discuss the constitutional questions involved in extending collective bargaining for the employees of the Senate and the House of Commons. Motion agreed to on division.

At 9.53 p.m., the questioning of the witnesses terminating, the meeting was adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee.

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, October 27, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, we have with us this morning the Canadian Union of Postal Workers, represented by their President, Mr. Kay. Come forward, Mr. Kay, please.

Mr. Lewis, you asked to have the opportunity to start the questioning this morning.

Mr. LEWIS: No, that was the other day with Mr. Heeney but I will start if you like.

The question I would like to ask you, Mr. Kay, with the Chairman's permission, is whether you have had time to read the Montpetit report?

Mr. W. KAY (*President, Canadian Union of Postal Workers*): Yes, I have, Mr. Lewis; I read it through, but we are giving it a close analysis right at the present time.

Mr. LEWIS: Without going into the criticisms he makes of conditions of work, and for the moment dealing with collective bargaining, he suggests that you ought to try to give Bill C-170 a chance, although he also expresses some sympathy for your request that there be a Crown corporation established for the post office. What is your position on those suggestions of the judge?

Mr. KAY: We do not accept the suggestion that we accept the provisions of Bill No. C-170. We do support the principle of, or considering a feasibility study of, making the Post Office Department a Crown corporation. The main reason we would support the principle for the post office becoming a Crown corporation is because it would place us under the Industrial Relations and Disputes Investigation Act and would exclude us, of course, from Bill No. C-170.

Mr. LEWIS: Aside from your desire to be excluded from Bill No. C-170, what advantages do you see in being under the Industrial Relations and Disputes Investigation Act?

Mr. KAY: We would come under a statute which has been tried and tested, and, although it does have some shortcomings, nonetheless it has been acceptable to the trade union movement in general. It is not as complicated a piece of legislation as Bill No. C-170. We think we could operate very, very well under the Industrial Relations and Disputes Investigation Act, and we do no think that Bill No. C-170 would give us the necessary machinery for collective bargaining.

Mr. LEWIS: Do you take that position for the whole of the public service, or can you indicate particular characteristics of the situation in the post office which make the regular labour relations act applicable to you even though it may not be applicable to the rest of the public service?

Mr. KAY: No, we do not state that the whole Civil Service should come under the industrial relations act, although we would like to see this. Nonetheless, the civil servants have indicated, by their choice of associations and their instructions to their association leaders, that they want some form of compulsory arbitration.

We, the postal workers, would not want to impose a system of collective bargaining upon civil servants—a system that was not desirable to them.

Postal workers, however, form a unique group. They are more akin to an industrial organization. Its workers look upon themselves as industrial workers. They want full and free collective bargaining under the Industrial Relations and Disputes Investigation Act for themselves, but they do not want to impose it on the remainer of the civil service, if the civil service does not want it.

Mr. LEWIS: I asked Mr. Decarie this question the other day and he did not have full information. You may not have it either. I would be very interested to know the breakdown in the post office. There is your union, which covers what I would call the inside workers, as a brief description. That is right, is it not?

Mr. KAY: Yes. That is right.

Mr. LEWIS: Then there is the union representing the letter carriers. Where do the railway mail clerks fit in? Do they have their own organization, or are they part of the letter carriers, or your organization?

Mr. KAY: They have their own organization but there are only about 350 operative railway mail clerks left.

Mr. LEWIS: What is their organization called?

Mr. KAY: It is called the Canadian Railway Mail Clerks Federation.

Mr. LEWIS: There are these three. Among them, what proportion of the work force in the Post Office Department would they represent—the three existing organizations?

Mr. KAY: The over-all percentage?

Mr. LEWIS: Yes? Have you any idea?

Mr. KAY: The non-supervisory staff, I would estimate, between 90 and 95 per cent.

Mr. LEWIS: What would be left? How many non-supervisory people would there be left outside these three organizations? I am thinking of stenographers, telephone operators and secretaries. There must be quite a number of that kind of employee. They are not part of the inside workers. They do not belong to your organization?

Mr. KAY: The ones that work in the post office do belong to our organization. We have the majority of them organized into our union. As long as they work in the post office on the inside staff, whether they are the telephone operators, maintenance craftsmen, or clerks, we organize them into our union.

Mr. LEWIS: Then you, in fact, represent all the inside employees?

Mr. KAY: Yes.

Mr. LEWIS: Not only those employees directly dealing with mail, but also all the maintenance and clerical people as well.

Mr. KAY: The ones that work in the post office, yes; except for a few that are not organized or may perhaps be organized in some other civil service association.

Mr. LEWIS: Have you any idea whether there are some? I am trying to discover if there is any overlapping between your organization and the others.

Mr. KAY: I understand the Civil Service Association of Canada has a few of the clerical people in the Post Office Department.

Mr. LEWIS: To get back to the collective bargaining machinery, have you given any thought to the post office being declared a separate employer under, I think it is, schedule 2 of the act?

Mr. KAY: Yes. I may be wrong in this, not being of a legal mind, but I would assume that if the Post Office Department became a separate employer we would still have to come under the provisions of the legislation under Bill No. C-170.

Mr. LEWIS: I think that is right.

Mr. KAY: This would not satisfy our purposes.

Mr. LEWIS: Really the only thing that would satisfy you is establishing the Post Office Department as a Crown corporation?

Mr. KAY: Yes, Mr. Lewis; either that, or, if it is not immediately possible, we are of the opinion that amendments could be made to section 54 and section 55 of the Industrial Relations and Disputes Investigation Act to place postal workers under that Act.

Mr. LEWIS: You mean you would amend it so as to take one department of government out and put that as a department, not as a Crown corporation but as a department, under the other act.

Mr. KAY: Yes; and if it cannot be done that way then, of course, make it a Crown corporation and it would come under that Act.

Mr. LEWIS: My final question on this—and I am not trying to argue with you, I am trying to find out what your thoughts are—is this. It is no mystery to the members of the committee that some of us think that Bill No. C-170 is very deficient as a collective bargaining bill.

Suppose we did succeed in persuading the powers-that-be to make it a genuine collective bargaining bill, would you still hold the opinion which you do? Suppose, in other words, that the limitations on the field of bargaining are removed and some of the other, in my view, undesirable features of the bill are removed and replaced by what I would call more genuine collective bargaining on all the matters affecting the employees in the entire public service, would you still object to being under Bill No. C-170?

Mr. KAY: If it paralleled exactly the Industrial Relation and Disputes Investigation Act there would be no purpose in having two acts for collective bargaining. If it was the same in every respect as the I.R.D.I. Act it certainly would be acceptable.

Mr. LEWIS: I think that is perhaps going a little too far. I am not sure it can be made exactly the same. However, I think, if the government were willing to accept suggestions, you could have a genuine collective bargaining regime under Bill No. C-170, including the two choices of either conciliation and the right to strike or arbitration made at the proper time and not at the time which the bill says it should be made—made at the time you reach an impasse. If that kind of

change were made would you still feel strongly about being a separate Crown corporation?

Mr. KAY: Yes, we would, because our activities would be inhibited by the remainder of the civil service who would opt for compulsory arbitration. Any time the postal workers would go after certain benefits, or wage increases, there would always be the tendency to say. "Well, the people under the same legislation as yourselves have obtained so much," and because we have opted for conciliation the government would tend to restrain us more to conform with the rest of the civil service. We feel that if we came under the I.R.D.I. Act it would separate us from the remainder of the civil service, because we are unique, I think, in this respect.

Mr. LEWIS: In short, you do not think you are civil servants at all?

Mr. KAY: No.

Mr. FAIRWEATHER: I am not discussing the merits of the I.R.D.I. Act, or Bill No. C-170, but I am interested in your plea that you are unique. I have not been provided with any information about why you are unique? Presumably, everybody on the face of the earth is unique. Why are you unique?

Mr. KAY: I think Judge Montpetit explained it quite adequately in his report, but I could say this, that the Post Office Department is just like an industrial organization. It operates seven days a week, all statutory holidays, 365 days a year. Its employees tend to be used as they would be in some industries. They are not like, say, the clerical grades in the other government departments, who might have a 37½ hour week, and whose shifts are fixed day shifts, and so on. This tends to make the postal worker a little different from the remainder of the service.

Mr. FAIRWEATHER: You have the normal protection of specific working hours per week, do you not?

Mr. KAY: Yes, we have that protection all right, but we have to work various shifts. They start any time of the day or night.

Mr. FAIRWEATHER: That is all.

The JOINT CHAIRMAN (*Mr. Richard*): Senator MacKenzie?

Senator MACKENZIE: Mr. Chairman, I was interested in the witness' statement that the post office is, to all intents and purposes, an industrial operation comparable to other industries and for that reason should come under the Industrial Relations and Dispute Investigation Act. I realize that collective bargaining exists to enable the members of unions—workers generally—to improve their conditions of labour and to increase their income. I am all for it and I am interested in it. But industry, as I understand it, exists, in the main, to make a profit and to serve a limited section of the community. Now, to the best of my knowledge public service, in whatever area you examine, does not exist to make profits. It operates at cost. It does not produce dividends or profits for any group of directors or shareholders or what you will.

There is that definite difference between the public services, including the postal workers, and practically any industrial operation. There may be some industries, although I must confess I cannot think of any at the moment, which serve the whole community and serve it in the kind of more or less essential

way that the postal services do, but, again, I am inclined to feel that because, as far as I can judge, you and the other men and women are members of what amount to government services for the whole community, you should achieve the measure of protection and ability to bargain collectively in somewhat different ways than the coal mining industry, or the forestry industries, or what you will.

This is an opinion, sir. As a matter of fact, I think there is a difference, and I think it has to be recognized that if we are to achieve, in this country of ours, decent conditions for members of government services, including adequate income and, at the same time, maintain the services that are so important and so essential, you can not put them on the same basis as the coal mining industry, or the forest products industry.

The JOINT CHAIRMAN (*Mr. Richard*): Is that a question?

Senator MACKENZIE: It is a comment, sir.

Mr. KAY: I will admit that the post office provides an essential service, the same as the railways provide a very essential service for the country, as a whole. The postal workers do not look at themselves as anything different from a service industry such as the railways, or the C.B.C., or Polymer Corporation, or any other government crown corporation, who come under the I.R.D.I. Act.

Senator MACKENZIE: The railways are a fairly good comparison. They have posed, as you know, over the years this same problem that I am raising with you. The C.B.C. is in a somewhat more questionable area. Some people—and I am not suggesting that I am one of them—can get along without the C.B.C., and certainly many of us could get along without Polymer. I think I know why the C.B.C. was organized as it is. Polymer is a holdover from the war. Therefore, they are not good illustrations. The railways, yes. However, I am not concerned with arguing this point at all, I just wanted to make it.

Mr. BELL (*Carleton*): Mr. Chairman, I would like to direct some questions to the witness.

As I understand it, the Canadian Union of Postal Workers does uphold the merit system?

Mr. KAY: Yes, we do; although we see many shortcomings in the application of the merit system.

Mr. BELL (*Carleton*): If the merit system is to be applied throughout the public service would it not be necessary to have some amendments to the I.R.D.I. Act, in order to preserve the merit system?

Mr. KAY: I think the merit system could be preserved by negotiating a system of promotions in the civil service. I do not think that the unions should enter into initial appointments into the service, but the matter of promotions, once they are in the government service, could be something that could be worked out between the unions and the departments and still preserve the merit system.

Mr. BELL (*Carleton*): You would say, then, that the matter of appointments should be removed from the area of negotiation.

Mr. KAY: The initial appointments.

Mr. BELL (*Carleton*): The initial appointments; but that promotion might properly be a matter for the collective bargaining agreement.

Does that lead you to what, in one of your briefs, you spoke of as the establishment of a multiplicity of definitions of the merit principle?

Mr. KAY: I would assume that there is a multiplicity of the applications of the merit principle now, and making it negotiable would not add to any multiplicity that exists now.

Mr. BELL (*Carleton*): Did I understand what I shall call your pink brief correctly, that you took exception to the delegation to deputy heads of the power of appointment in certain areas.

Mr. KAY: Yes.

Mr. BELL (*Carleton*): As I understood from that, you said that this would lead to a multiplicity of definitions of the merit principle, and I understood you to believe that that was bad. In other words, if different deputy heads construed the merit system differently, it was bad.

Mr. KAY: That is quite true.

Mr. BELL (*Carleton*): Now, what difference is there between a multiplicity of definition of the merit system by deputy heads and by a whole series of collective bargaining agreements?

Mr. KAY: The system that would be worked out by negotiating the merit principle would be acceptable to the people, because their unions would negotiate something for them in that respect—someghing that would be acceptable; whereas, under bill No. C-181, the employees themselves would have no say in the application of the merit principle.

Mr. BELL (*Carleton*): Mr. Kay, I want to go as far as I can with you in your presentation, but you have made this a little difficult for me. I am a believer, outright and complete, in the merit system. You indicate that perhaps merit should be differently defined in the Post Office than it is in the Printing Bureau, and differently in the Printing Bureau than it is in the Department of Agriculture on the Experimental Farm, and differently on the Experimental Farm from the laboratories and the furnace rooms of the Department of Mines. I have difficulty in understanding how you can have four or forty different definitions of merit.

Mr. LEWIS: Mr. Chairman, if Mr. Bell will forgive me, I am not entering into an argument, but it would help me, as well as the witness, if I could follow the question. The merit system is a general principle. The application of it in a given department or in a given area, will necessarily depend on the relationship of occupations and the availability for transfer, the interchange of skills, and all the rest of it. You have the merit principle as a general principle all over, but is it not a fact that in the application of it you have to make different definitions in each department.

I am trying to understand what your question is.

Mr. BELL (*Carleton*): I am attempting to use, as closely as I can, the initial language used by Mr. Kay where he took exception to the establishment of a multiplicity of definitions of the merit principle, in his original brief.

Mr. LEWIS: In his department.

Mr. BELL (*Carleton*): No, no; across the service—the multiplicity because of delegation to various deputy heads. If you can have such a multiplicity—I am using his own language in relation to this—arising out of that, and it is bad in those circumstances, then do you have the multiplicity equally bad arising out of a number of collective bargaining agreements?

Mr. KAY: Arising out of collective bargaining agreements would be more acceptable to the staff than an imposed merit system by legislation.

Mr. BELL (*Carleton*): Therefore, if the persons who are affected by any deviation from a single standard agree to that deviation there could be no objection?

Mr. KAY: No.

Mr. BELL (*Carleton*): But you would not carry that principle at all into the question of appointment?

Mr. KAY: It would not work.

Mr. BELL (*Carleton*): Appointments would be non-negotiable?

Mr. KAY: Non-negotiable, yes.

Mr. BELL (*Carleton*): Would you agree that, because appointments must be non-negotiable, an amendment to the I.R.D.I. Act would be required?

Mr. KAY: I would not know the answer to that one.

Mr. BELL (*Carleton*): I will pass to someone else.

Mr. MCCLEAVE: I want to put one question to the witness, Mr. Chairman, and to lay a very brief foundation. Every job, occupation, profession, or walk in life, has its attractions and also its disadvantages which, I think, should be seen by anybody who goes into that particular job. We have talked about third interests here, that is, the interest of the public at large, in the continuing postal service.

Is it not your opinion that a person entering the postal service should recognize that he should not have the right to withhold his services; that there may come times when he might want to better his pay but that the should not be allowed to disrupt the public service? Should this not be recognized by people, with their eyes wide open, when they enter the postal service? This is the point I am trying to make.

Mr. KAY: No; we think that the postal workers should be entitled to the same rights as any other workers in the country. They go to work in the post office, but we do not think that this is a service where the security of the state might be involved, as an example, where they would have to forego the right to take industrial action, or to strike, if you wish.

Mr. MCCLEAVE: You do not grant any exception to the public interest in this case?

Mr. KAY: Not in the case of the postal workers.

Senator MACKENZIE: On this particular point that Mr. McCleave has raised—and I ask this as a question—is it an accurate statement that the postal workers have, in a sense, a guarantee of continuity of employment throughout the year and over the years?

Mr. KAY: There is no guarantee, senator.

Senator MACKENZIE: I mean as long as the postal service is in operation and the members of the services are not under some disability they would have employment. I mean, it is not an in-and-out operation—

Mr. KAY: The security of tenure is not what it used to be at one time.

Senator MACKENZIE: I am not thinking so much of security of tenure as of continuity of work.

Mr. KAY: I am afraid I do not get the question, then.

Senator MACKENZIE: If you are appointed to the postal service you expect that you will continue to be employed and be paid whatever the rate is. The work is there and it is not seasonal, and there are no lay-offs. In this sense, again, it does tend to differ from many industries that I know in the community. The layoff is very much a matter of management, is it not?

Mr. LEWIS: Unless automation is on the way.

Senator MACKENZIE: Automation is another one, and that one is a tough one. Will it come?

Mr. LEWIS: I imagine so, in some form.

Senator MACKENZIE: It will come in the post offices, too, or at least, in my opinion it should.

The JOINT CHAIRMAN (*Mr. Richard*): Could we hear Mr. Kay now?

Mr. KAY: I agree that it is a continuing operation and that it is not something seasonal or something temporary, but there are many similar industries in Canada, which operate continually, and there is no question of layoff except as the result of automation being introduced. I do not think the post office is any different from them.

Senator MACKENZIE: There are some, however, which are very much in-and-out.

Mr. KAY: Oh, yes.

Mr. HYMMEN: Mr. Chairman, I would refer to the answer that Mr. Kay gave to a question by Mr. Lewis. He said that he did not consider postal workers collectively as civil servants. I think this is elementary. An underlying theme in this whole consideration, and one which I think the Civil Service Alliance are very much concerned about, is the public interest. Since, as a postal worker, your ultimate employers are the people of Canada, through parliament and the government of the day, I do not follow your argument that you are not a civil servant.

I have not got to the question yet. I know there is this whole question of the two courses of action, arbitration or the right to strike. You admitted a few minutes ago that the postal service was an essential service even though Bill No. C-170 defines security and safety as two matters of concern in this whole

matter. I believe I asked Mr. Jodoin, when he was here a day or so ago, this very same question; if, in the public interest, eventually—and it always seems to be yesterday that this has to be done and I am quite sure that parliament and the government of the day does not want to take the action—it is necessary to terminate a strike when it is called—and I think it has been mentioned publicly many times that there must be a better way to solve difficulties in private industry and also in the public service than by the strike—do you not think that the strike provision, even though it is allowed, and the postal workers, either at the time of certification or at the opportune time, decide to strike—do you not think, taking everything into consideration, that, in lieu of the public interest and actually involving the people from one end of this country to the other, as I said the other day that this whole provision, which has been involved in collective bargaining over many, many years, is a farce if the government is going to step in and terminate this in a matter of time anyway?

Mr. KAY: I think initially collective bargaining should be free, even where both sides meet from equal strength at the bargaining table, and I should say at this time also that if postal workers came under the I.R.D.I. Act it does not mean to say that they would just walk off the job or strike any time that they could not reach agreement with the employer. I do not imply that at all. But, if negotiations should break down and the employees go on strike, this would be the time for parliament, I think, to initiate some type of legislation to terminate the strike. But to pass legislation prohibiting the right to strike makes a farce of collective bargaining itself.

Mr. KNOWLES: I have two or three questions, Mr. Chairman, and may I intersperse a comment or two on Senator MacKenzie's remarks?

First, let me follow up Mr. Émard's questioning. Mr. Kay, when you say that as postal workers you feel yourselves to be different from other civil servants, you are not implying by that that post office work is not an essential public service?

Mr. KAY: No, I am not.

Mr. KNOWLES: You would agree, however, that there are kinds of employment outside of government employment, which also provide essential public service.

Mr. KAY: That is right.

Mr. KNOWLES: And you are asking to be assimilated to such kinds of employment for the purposes of collective bargaining?

Mr. KAY: That is right, yes.

Mr. KNOWLES: I have a comment on something Senator MacKenzie said, which may put me down as a queer animal, but perhaps I have that reputation already. Senator MacKenzie did not agree with your comparing your work with Polymer or the C.B.C. He accepted the comparison with the railway services.

Senator MacKenzie said with respect to the C.B.C. that some of us could live without it. Maybe it is the wrong thing to say in the context of what was said today but, I do not think Canada could get along without the C.B.C. I think it is—

Senator MACKENZIE: I think that as a general statement of policy and philosophy I would agree with that, Mr. Chairman.

Mr. KNOWLES: I might say, Mr. Chairman, if it is not irrelevant, that my point is that there are these kinds of services which need change and need to be improved, but nevertheless are essential to the people of Canada.

If the railways can operate as a separate employer, whether public or private, and if the C.B.C. can operate as a separate employer under collective bargaining—I am afraid I am putting words in Mr. Kay's mouth—then why should not the postal workers have the same right?

Mr. KAY: Well, sir, we think the postal workers should have the same right as a railway worker, the C.B.C people, the woodworkers, boilermakers, or any other people. We should have the same right as they have. If the time should come when the postal worker decides to go on strike because he cannot reach agreement with his employer, and when the stage would be reached where it was absolutely imperative that the government terminate this strike, that would be the time to pass the legislation terminating the strike, and not before negotiations take place.

Mr. KNOWLES: If the government and Parliament take that kind of action it should be, with regard either to private or public employees, depending on the nature of the service.

Mr. KAY: Yes.

Mr. KNOWLES: So far, Mr. Kay, I have been asking questions which obviously suggest agreement between you and me. I now have a question on which you may not agree, and I am not arguing with you or trying to force you to change your position. I would like to get something clear for the purposes of this Committee. You have said, if I may try to boil down your position, that there are two things you want: One is a crown corporation and the other is to be under the I.R.D.I. Act rather than under Bill No. C-170.

May I ask this: Are you wedded absolutely to those two propositions, or would it be fair for some of us to say that what you really want, no matter how you get it, is genuine collective bargaining, and to be regarded as having an approach to your work different from that of the ordinary, classified civil servant?

Mr. KAY: We are wedded to the proposition that we come under the I.R.D.I. Act, and even if it is necessary to make the post office a crown corporation.

We are not wedded to the fact that the Post Office Department should, or might, become a crown corporation. We only say that if it is necessary to make the post office a crown corporation in order to give us the provisions which the I.R.D.I. Act gives, then, by all means, we support the principle of the post office becoming a crown corporation.

I have heard it stated that the post office would be more efficiently operated if it were a crown corporation, and other people say that it would not be. I am not prepared to argue the merits or the demerits of the proposition; but, postal workers generally support the principle of becoming a crown corporation because we would come under the I.R.D.I. Act.

Mr. KNOWLES: You recognize that there would be problems in terms of bookkeeping and accounting if the post office became a crown corporation? The whole capital structure would have to be looked at, and the profit-and-loss picture might be a big question mark.

Mr. KAY: Yes, we are aware of that. As a matter of fact, Mr. Justice Montpetit suggested a feasibility study of the proposition of making the post office a crown corporation. It is not an easy thing to do, and we realize that.

Mr. KNOWLES: All right, Mr. Kay. I do not want to suggest that I am causing you to modify the position in your brief at all, but I think you have made this point clear, that you are not wedded to the crown corporation idea, as such, but rather you put it forward as a means of coming under the I.R.D.I. Act rather than under Bill No. C-170. That is your basic desire, namely, to be under the I.R.D.I. Act rather than under Bill No. C-170?

Mr. KAY: Yes.

Mr. KNOWLES: I am not going to go any further in trying to get you to modify your position, but you will appreciate that on this Committee we may have to do some compromising, and you will realize that we will be trying to approach your position. If, for example, we cannot get you under the I.R.D.I. Act, we will, nevertheless, try to get changes in Bill No. C-170 which would make it a little more of a genuine collective bargaining act. That would better, but you still might not be willing to give it a try.

Mr. KAY: Not really; because we would want to be separated from the remainder of the civil service.

Mr. KNOWLES: Then, if I may say so—and I was not trying to lead you in this direction—you have in effect confirmed my two previous statements, that the basic things you want are genuine collective bargaining, of the kind you get under the I.R.D.I. Act, and to be treated as a different animal in collective bargaining arrangements than classified civil servants. I am stating correctly your basic desires?

Mr. KAY: That is correct.

Mr. KNOWLES: What we do in this Committee to try and meet those is our problem.

Mr. WALKER: Mr. Kay, do you feel there is more freedom to strike action under the I.R.D.I. Act than you do under Bill No. C-170?

Mr. KAY: No, I do not.

Mr. WALKER: Oh, I thought this was the point you were making.

Mr. KAY: Bill No. C-170 provides for procedures comparable to the I.R.D.I. Act.

Mr. WALKER: I know. I thought from what you were saying—and I think you did make the statement just a few minutes ago—that there was no prohibiting the right to strike. Perhaps I misunderstood you, but I understood you to say that Bill No. C-170 would almost prohibit the right to strike. Of course, we know this is not so.

Mr. KAY: Certainly.

Mr. WALKER: There is just one other point I want to make, and I have asked other witnesses about this: On this whole question of a third party in these negotiations, in this contest of power—coming down to negotiations between an employer and an employee and the organizations representing them do you not agree at all that there is a third absent party which must be considered when it is an essential service—as a matter of fact, a monopoly because I consider the mail service in this country a monopoly—you do not consider that that third voice, that of the public interest, should be represented in this contest of power between an employer and an employee? This, in my mind, is where I make the difference between an ordinary industry and something so essential as the work that you people do.

Mr. KAY: I think the employer's interests would be protected by the employer's representatives at the bargaining table.

Mr. WALKER: Yes, I agree. I am talking about the third party.

Mr. KAY: The third party, we would suggest, should come in at the time when negotiations are not making any progress. This is the time we would think that the third party should be called in to try to resolve the disputes.

Mr. WALKER: But do you accept the principle that there is something more in this contest of power—and I will use the word because it has been used by other people presenting briefs—do you not agree that there is another principle involved besides this straight contest of power between two parties?

Mr. KAY: Not at the initial stages of bargaining. The bargaining should be left to the two parties at the table.

Mr. WALKER: To settle what question?

Mr. KAY: Whatever question happens to be in dispute whether it is wages, or working conditions.

Mr. WALKER: Whatever question comes up, should it not contain, as one of its facets, this whole question of the public interest in this particular service that we are talking about, namely, delivering the mail?

Mr. KAY: Here, again, I fail to see where there would be no protection of the public interest. The protection would be there from the employer's representatives at the table.

Mr. WALKER: No. This whole third, unheard of party, namely the public interest, simply is not represented there. Originally, the struggle is between two parties, employer and employee. What about this public interest bit out here? There are some services in this country that literally the country cannot do without, and where there is no competition on which we can rely. This is what Senator Mackenzie was saying when he was mentioning the C.B.C., and, I believe he was mentioning it in a much narrower concept than perhaps Mr. Knowles brought up, and was talking in terms of the C.B.C. which does not have a monopoly on the air waves in this country. There are other means that could be used for a short time to do the work that the C.B.C. does. But this is not the case with the particular service which your people provide. There is nobody else to do this work. This is the point I am trying to get at: Who represents the third party who may be more affected by a strike than either the employer or the employee?

Mr. KAY: I think the parties to a dispute could resolve the problem of when to call in the third party for conciliation in the dispute.

Mr. WALKER: May I put it this way: Do you feel some responsibility, in your negotiations, to represent more than just the actual claims of your own people. Do you feel a larger responsibility than that when you are negotiating? Do you feel the responsibility for providing mail service across the country?

Mr. KAY: Both parties should have that responsibility, and keep in mind the public welfare, certainly.

Mr. MCCLEAVE: A supplementary on this: We used the railway parallel here, but I think there are two groups of public servants who are very much employed, and both accept the discipline and the disability that they can never go on strike, or ever even think of strike. One is the Royal Canadian Mounted Police and the other is the armed forces of this country. There is just no thinking, in either of these groups, that they would ever have the right to strike.

Why cannot postal employees, performing the monopoly and vital service, accept the same way of thinking?

I think, in the past, everybody around this table would recognize that the mounted police and services, because of this disability, have suffered at times, that is, their pay has not been proper and so on; but, nonetheless, they accept this disability and it is a discipline with them. Why not with the postal employees?

Mr. KAY: You mention the R.C.M.P. There is certainly the safety and security of the state involved, and I believe the policemen's union, or whatever union the R.C.M.P. belong to, accept the principle that they should not go on strike. They accept the principle of compulsory arbitration from the very start. But we do not think that the post office provides such a service that the security of the state is involved.

Mr. MCCLEAVE: The fiscal operations, the business life of this country would depend on whether mail is being delivered.

Mr. KAY: It would be the same with other industrial workers also, such as the railways, or even the woodworking industry. The economy of the country depends upon these people, and yet they are permitted by legislation to go on strike.

Mr. MCCLEAVE: But are you not closer to the mounted police and the services, by the nature of your functions, than you are to woodworkers?

Mr. KAY: I would say we are closer to the railway workers than we are to the mounted policemen.

Mr. KNOWLES: May I ask a supplementary to this?

If one, like Mr. McCleave, moves this line from the army and the mounted police out to include postal workers, where does noe stop? Do you not go on until eventually you say nobody should strike because everybody is doing something the public needs?

Mr. MCCLEAVE: I am not a witness here. I wanted to get Mr. Kay's opinion, and my own opinions I will keep to myself until we get down to discussion; but

I put the question in the most provocative way I could to sound out our witness, to see if he had a philosophic base for the series of statements and pronouncements that he has made here this morning.

Mr. KNOWLES: I was putting my question to Mr. Kay, although I was looking at Mr. McCleave. My question is directed to the witness.

Mr. KAY: Certainly, it would be hard to draw the line with regard to who should be allowed to go on strike and who should not. We think that if the postal workers were to be prohibited from going on strike so should the milkmen, the wood workers, and the longshoremen, they provide a very essential service to the community.

Mr. HYMMEN: Mr. Kay, I have a couple more questions. You seem to favour the I.R.D.I. legislation for many reasons, one mentioned being the simplicity of the bill. Not being of legal background I can agree with you on that point, because you also said that Bill No. C-170 seems too involved. We had evidence by the chairman of the Preparatory Committee that in an entirely new venture, which this bill is, they tried to incorporate something which has grown over forty or fifty years, a situation similar to the United Kingdom. I am not trying to put words in your mouth, but you do not feel that this bill is intentionally involved?

Mr. KAY: We think it was designed to give the employer as much protection as possible against every eventuality. That is why the bill is so complicated.

Mr. HYMMEN: I do not think that was the intention at all, so we disagree there.

In your brief, on Bill No. C-181, you refer to something which has been brought up here many times, and that is the concern about the designation of authority—the things which might happen because the authority is being delineated. I also gather from your submission that you disagree with the bill in that certain matters exercised by the Civil Service Commission, are being taken out of the collective bargaining.

On this question of the right of the individual against the delineation of authority, assuming that the right of appeal, arbitration on matters such as hiring and firing and transfer and other matters are not put into Bill No. C-170, we again come to the right of appeal. Do you feel that this appeal, and the right of employees, should be directed to the Civil Service Commission which is presently the arrangement, or do you think this should be an outside body, say a judicial body.

This is all very involved, but I hope you gather what I am driving at.

Mr. KAY: I think the matter of firing and disciplinary action on the part of the employer should be a subject taken up by the griever and by the union with management, to try to resolve the grievance. If no agreement is reached, then it should be referred to an independent, or other body, such as an arbitrator, to rule upon whether the grievor has a legitimate grievance or not, rather than to refer it to the Civil Service Commission. It should come under a proper grievance procedure.

Mr. HYMMEN: It was explained to us last week that under the present arrangement the appeal division of the Civil Service Commission was entirely

separate from the general operation. I do not know whether the civil servants have been entirely aware of this in the past. This would be the new arrangement under which this might operate. My other question was would your group feel better if this were under another arrangement, for instance, a specially appointed judicial body?

Mr. KAY: I think we would feel better if it went to a judicial body rather than be left to the Civil Service Commission to rule upon it.

Mr. HYMMEN: I now have a third question. I do not intend to question you on the Montpetit Report; you said you read it and some members of the committee have read it as well. I believe Justice Montpetit remarked in this report that he felt that the postal service should be brought into the twentieth century. I know there are many problems regarding the rights and amenities and working conditions of the postal workers. Do you agree with Justice Montpetit's statement in this regard?

Mr. KAY: We think they are operating in about the eighteenth century rather than the twentieth, especially in the matter of staff management relations.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions? Thank you very much, Mr. Kay.

Mr. KAY: I am surprised that I was not put to the test that my colleague Roger Decarie was.

The JOINT CHAIRMAN (*Mr. Richard*): Maybe you are a more docile witness.

Mr. KAY: It might be that. Thank you very much.

The JOINT CHAIRMAN (*Mr. Richard*): Would you come back next week, or whenever we are ready to examine the bill and study the sections, so that you will be available for comment?

Mr. KAY: It will be our pleasure.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much.

We have the Canadian Merchant Service Guild represented by Mr. Cook, who wishes to make a short presentation. There is no brief. Mr. Cook requested the committee's permission to come before us. Last week the committee granted that permission.

Senator MACKENZIE: Who are they, if you do not mind me asking, Mr. Chairman?

Mr. R. COOK (*President, Canadian Merchant Service Guild*): Our organization represents the ships' officers in Canada.

Senator MACKENZIE: The Canadian Merchant Marine under the Canadian government service?

Mr. COOK: No, we are a trade union and we have been in existence for 48 years. We represent the vast majority of ships' officers in Canada, and this includes the majority of the government ships' officers.

Senator MACKENZIE: Does it also include the Canada Steamship Company's officers, and so forth?

Mr. COOK: Yes.

Senator MACKENZIE: All the Canadian registered ships?

Mr. COOK: Yes, that is right. All the Canadian ships on the west coast, the great lakes, the Northwest Territories, the maritimes, throughout all Canada.

Senator MACKENZIE: Including the government service?

Mr. COOK: Yes.

Senator MACKENZIE: Thank you so much.

Mr. COOK: Mr. Chairman, I would first like to thank the joint Chairmen and the members of the committee for allowing us to appear. We asked to attend at a rather late date. We had not originally intended to make a presentation here. The Canadian Labour Congress was drafting material and did so very adequately, I think. However, we became involved in a few meetings with the classification committee, and from some of the things we found in our meetings with them we felt that we should come before this committee and state a few of the problems, as we see them, which could well arise if this proposed legislation is passed.

Section 26(1) of Bill C-170 reads: "Within thirty days after the coming into force of this Act, the Governor in Council shall, by order,

> (a) specify and define the several occupational categories in the Public Service, including the occupational categories enumerated in subparagraphs (i) to (v) of paragraph (r) of section 2, in such manner as to comprise therein all employees in the Public Service;".

Now, when we were meeting with the committee we found that their area was much broader than we had anticipated. We found, for one thing, that what they were really doing, in so far as setting up the classifications and categories is concerned, was a job evaluation. This part where in section 26 it states that they specify categories, this committee has set it up in such a way that you have categories, groups, sub-groups and grade levels.

In some instances they have taken two or three different jobs which bear no relationship to each other and have stated that they are at this level. When we sit down to negotiate, we negotiate on the assumption that what we get for one of these groups automatically is the end result wage for all of these three groups.

We found instances where a dockyard pilot, who is fully responsible for taking 25,000 ton ships in and out of very busy and crowded harbours, is put on the same level as a relieving master of a vessel of somewhere around 1,900 tons.

We completely and utterly disagree with this but under section 26 there is nothing we can do about it. This man must be graded at the same level as the relieving master on this 1,900 ton vessel. We feel that this is an area which should be open to negotiation. We do not think that these things should be predetermined.

Also, in defining the categories, we find that not only do they define the categories they also list the duties.

Mr. LEWIS: Of each job?

Mr. COOK: Yes, of each job. When they list the duties this means now that this is not negotiable and the duty of the man on the job is no longer within the

area of collective bargaining. We have, in the maritime service of the Canadian government, situations where ships' crews are required to build forms, mix and pour cement, construct navigational aids and paint lighthouses. These things, in our estimation and, as I say, we have been in this business for 48 years, are not jobs which should be done by shipboard personnel. We asked very specifically of the members of the committee does this mean, once this is established, that we can no longer negotiate on these things? They said, "Very definitely, you cannot negotiate once that is listed". We think that the government by doing this is limiting the areas within which we can negotiate and it is our estimation from our knowledge, and it is the estimation of the trade union movement in Canada in general, that there are no areas with regard to the working conditions of the employees which should not be subject to the matter of collective bargaining. Section 68—and this pertains to arbitration—reads:

> In the conduct of proceedings before it and in rendering an arbitral award in respect of a matter in dispute the Arbitration Tribunal shall consider and have regard to
>
> (a) the needs of the Public Service for qualified employees;
>
> (b) the conditions of employment in similar occupations outside the Public Service, including such geographic, industrial or other variations as the Arbitration Tribunal may consider relevant;

If they set out the duties, how then do you compare it to the job being done by the man in the commercial aspect of the industry? I do not think this could be done. We think that they have very definitely restricted the areas within which we can negotiate.

Some hon. MEMBER: What clause is that you just read?

Mr. COOK: It was clause 68 (a) and (b).

On the matter of promotions, lay-offs, re-hires, seniority, and so on, in Bill No. C-170 it is covered by clause 73(3) and clause 86 (3). We agree with other organizations who have submitted briefs to the effect that in the case of new appointments the merit situation is fine, but the trade union movement has fought for many, many years to protect the rights of the man on the job with particular regard to his job security. We feel that seniority is one of his basic rights. This is something he has earned by virtue of putting a number of years in with his employer. He has the right to this job. He also has the right, in our estimation, to any job which is open that he can handle. The merit system does not take this into consideration. The merit system says the very best man will get the job regardless of how long he has been in the service, the man who can do that job best. Now there are many, many people working for the government and in every other industry in Canada who cannot eventually, through lack of ability, arrive at the very top positions in any industry. There is a limitation here. Some people can go so far and that is as far as they can go. In our estimation we think any man or woman who has served his company well and can perform a duty that is above the one he now does, then he has that right to this particular job. I think there are obligations on both sides. I think the man has an obligation to his company to perform to the best of his ability and I think that the company has an obligation to the man to allow him to fill the position of the very highest category that he could possibly attain.

If you were to take 100 trade union leaders who have negotiated probably thousands of agreements and say to them, "What is the most important item in your agreement?", I feel sure that nearly every one of them would say, "Seniority would be in the first four, anyway". I think this is a protection that we have found is becoming more and more necessary probably because of mechanization, automation, and so on, but we find now that seniority is becoming the key protective clause within any collective agreement.

Many people could argue—and apparently the commissioner of the civil service did so—that the merit system now in use is the best system. I will give you an example of what has taken place in the merit system within the Canadian government.

The largest new ship in the area was put into service and appointments were to be made for the various jobs on this ship. A number of people were in line for these particular jobs, many of them with from five years to twenty years' of experience with top qualifications in their field, and many of them applied for these certain positions. On one particular position I will speak of, which was a chief mate's position, not the key position on the vessel but an important one, there were a number of people who applied for this appointment with many years of service in every area of this department. They had all kinds of knowledge, plus the qualifications, the proper certificates, experience, everything they needed, and yet when the appointment was made it was made for a fellow who had not been in the government for six months, had not even served his probationary period, yet he suddenly is in a position over people who have been in the department from five to twenty years and who could very easily handle the position. This is the type of thing that has happened in the government service.

We think that this matter of promotion, and so on, causes more dissension within the Canadian Government service than any other matter.

Another thing that takes place is that reports are made out by the superiors in various departments. These reports are made and the man who has the report made about him does not have any knowledge of what is in the report. His superior could be saying that the man absolutely cannot handle men. This would be one of the key features for promotion, whether you can handle people under you. This may be in that report and it may go in that report month after month after month for five years and this man does not even know that this bad report is going in on him, he does not know why people are being promoted over his head, he has no understanding why this is taking place, but it does take place. So, he sits there and becomes frustrated and very angry with the government concerned.

In these collective agreements, as we have had them in the past, we used to have the term "merit" and, in fact, most of the clauses used to read, "Merits being equal, these certain persons shall get the job". We found that we had to eliminate this term completely because merit is generally determined by management. It causes a squabble between two people trying to determine who has the most merit for a particular job, and what we have done is substitute this particular type of clause for a clause which says, "Ability being sufficient then the man gets the job." This is the way we feel it should be handled. If you have sufficient ability to do the job, then you should receive that job.

Mr. LEWIS: Depending on seniority.

Mr. COOK: Yes, depending on the seniority. In our estimation the employer sets up the merit system, he administers the merit system, and when you make an appeal you make this appeal to the same people who set up the system and we do not think this is workable. We do not think this is fair.

In the matter of compulsory arbitration we feel the Industrial Relations and Disputes Investigation Act does handle this problem quite adequately. We think this part of the act was set up with the idea in mind of eventually arriving at a settlement. Now with this proposed system we have here you predetermine your choice; you say either we want compulsory arbitration or we want the right to strike. What happens—and this I would be interested in knowing—when you strike at a deadlock and you have chosen the right to strike and you are on strike, does this mean, if both parties are stubborn, this strike goes on forever? Perhaps the two parties may have said, "Well, we agree; let us put it to a neutral group." Even though you have chosen the right to strike, there are times when there is such a gap between the two parties on a certain issue that you need that outside group to come in and resolve the problem. This could be handled with regard to just one item or with regard to the whole agreement. I feel certain, as far as our own group is concerned, we would ask and demand the right to strike. However, it rather frightens me to realize that we may get ourselves into a strike some day and have no possible method of solving our differences after we are already on strike.

Now our organization wants to make this legislation work.

We are prepared to be as co-operative as possible with the management concerned and we certainly look forward to seeing good legislation come out. However, we do think that this should be an equal right, that we should have the same rights as the employer, and we certainly hope a great area of our bargaining rights are going to be predetermined by someone before we even start to negotiate. Thank you very much.

Mr. FAIRWEATHER: You said, Mr. Cook, that you are in the Department of Transport vessels servicing lighthouses and buoys and markers in the rivers?

Mr. COOK: Yes, this is part of their duty. The officers supervise this work.

Mr. FAIRWEATHER: You would not for one minute think that these men who work on the vessels servicing these installations on our seacoasts and navigable waters have a right to strike, would you?

Mr. COOK: We represent all of the ships' officers in Canada. I can assure you that we are responsible people. I think most trade union leaders in Canada are responsible people. I feel certain that if we did strike that we would demand of our members that they do not jeopardize the life or safety of any of the people sailing in Canada. But this is not the only job done by the groups under the federal government.

Mr. FAIRWEATHER: Oh, I appreciate that, but I for one could not imagine that the officers of these vessels that service the lighthouses and aids to navigation in this country have a right to strike. I would presume it would be a service essential to the safety of the state.

Mr. COOK: If in any way it concerned the safety of life, we certainly would make arrangements to see that this was looked after. There are other areas in which the services are not—

Mr. FAIRWEATHER: Would not the officers on these vessels expect that this was a service essential to the safety of the state and therefore there would be no right to strike?

Mr. COOK: Yes, this is fine, but how about fishery patrol vessels, for instance; they go out and act as a police force on the fishing industry and watch conservation, and so on. Is this also included?

Mr. FAIRWEATHER: No, I did not mention that. I mentioned the ships that leave our seaports to look after the aids to navigation, be they lighthouses, buoys, markers, and so on.

Mr. COOK: Well, this would depend. If there is any possibility of the loss of life because of any job they have refused to do, we would insist that they do this job, whether it is to act as a coastguard or to put in buoys or markers, or so on, in various channels. This would be determined at the time we were making preparations for a strike. You have hospital workers who have gone on strike but they do not all walk out of the hospital and say, "Well, it is too bad about the people who are sick." They certainly make arrangements to look after the people who possibly could lose their lives because of the withdrawal of their service.

Mr. LEWIS: Could you tell us first, Mr. Cook, are you the president of the organization?

Mr. COOK: Yes, I am the national president.

Mr. LEWIS: Do you mind telling us how many members you have across Canada and how many of them are employees of the federal government?

Mr. COOK: We have between 5,000 and 6,000 members about about 1,400 are members working for the Canadian government.

Mr. LEWIS: Is your organization affiliated with any of the civil service organizations or with the Canadian Labour Congress?

Mr. COOK: We are affiliated with the Canadian Labour Congress, with the I.C.F.T.U., and with the Masters, Mates and Pilots of Great Britain.

Mr. LEWIS: Do you mind outlining, by heading, the major classifications of officers in your organization?

Mr. COOK: Within the government service?

Mr. LEWIS: Yes.

Mr. COOK: There are pilots, dockyard pilots, masters, mates, engineers, radio officers and there is another point in dispute on the matter of electricians, but in the commercial area of the industry we also cover ships' electricians.

Mr. LEWIS: You told us that your organization has existed for some 48 years?

Mr. COOK: Yes.

Mr. LEWIS: Do you know how many strikes you have had in those 48 years?

Mr. COOK: I was thinking about this the other day and I think it is seven. We have, incidentally, over 100 commercial companies under contract right at this moment.

Mr. LEWIS: You have had seven strikes in the 48 years?

Mr. COOK: Yes, in 48 years.

Mr. LEWIS: You should be put up on the tower of the Parliament Building as an example.

Mr. COOK: Well, that is debatable. Maybe we should have had some strikes.

Mr. LEWIS: Mr. Cook, I was very interested in your revelation, I was almost going to say, about this classification committee. Is that what I have heard called the classification bureau?

Mr. COOK: Yes. I assume so.

Mr. LEWIS: Is that a Civil Service Commission agency?

Mr. COOK: I could not answer. Someone who is more familiar with the—

An hon. MEMBER: I stand to be corrected but it is Treasury Board.

Mr. LEWIS: I could not remember. I was asking Mr. Knowles because I thought it might be Treasury Board.

Mr. WALKER: What is the classification bureau for the Civil Service Commission?

An hon. MEMBER: It is the Bureau of Classification Revision.

Mr. LEWIS: The Bureau of Classification Revision. Mr. Cook, you say they are not in the process of setting up the new classifications and the classification categories and groups?

Mr. COOK: Yes, they have been for quite some time. Could I make a point here. First, I would like to say that the work done by this committee is fantastic and it is a good job. They have done a very good job and they have put a lot of work, thought and effort into this. We do not think this should be completely thrown away. What we say is that we should take this work they have done and use it as a guideline for negotiations. I think it would be a wonderful basis for this. But we cannot agree to something they have established, without any rights of our members to dispute what is being put in there.

Mr. LEWIS: If the Chairman will permit me, let me take you step by step on this because I may have a suggestion to make to the chairman when you have answered some of my questions. Am I correct in thinking that the committee called you in? Are they calling in the various organizations to discuss these classifications?

Mr. COOK: Oh, yes, you discuss it, but in our discussions with the committee, as far as the duties of the persons are concerned, they said, "we cannot change that because the department heads have told us the various duties that have been done in the past, and this is what we have listed, and this is what we work from."

Mr. LEWIS: On that point I was a little confused as to what exactly you had in mind. I am merely seeking information. I have the greatest sympathy with the objections that you have made to some of these things, from my own experience. But are you saying that the duties of jobs which you have seen are incorrect? If they are doing job evaluation, which is what I gather they are doing in part, in order to classify and evaluate the jobs, then obviously they

have to find out somewhere what the duties and responsibilities of the jobs, in fact, now are. Is there a dispute between you and the committee as to what the duties now are, or a dispute as to what they should be?

Mr. COOK: There is a dispute as to what they now are, and what they now are is going to be carried over as the definite duties after the collective bargaining starts. We dispute it in both instances.

Mr. LEWIS: Is this not a dispute on fact, though? I think clause 26 puts all the organizations under the act to very considerable disadvantage, but what you are saying now is a dispute on fact, is it not? Is it not possible to find out what the actual duties are? Why should there be this kind of controversy over whether or not a certain member of your organization, in fact, does a certain job?

Mr. COOK: There is no dispute that he does the job. The dispute is, on our part, whether he should be doing the job or not. I will give you an example of this. In the Great Lakes area a master of one of the coastguard vessels was told to tell his crew to go and paint a 104-foot lighthouse. When the master discussed the matter with the crew, they said, "No". The master sympathised with the crew. He agreed that this should not be part of their duties, and he went back to the district agent and told him so. The district marine agent said, "you fire the whole crew". The master said, "no, I will not fire the crew because I think they are right. I do not think it is safe for untrained people to go up and do steeplejack's work and master rigger's work. Someone could get hurt, and I am not going to take on this responsibility." So they demoted the master. The crew never was fired, and to this day they are still sailing on that vessel. But this particular job, you see, we feel is not a part of the type of job that ships' personnel should be doing. We want to negotiate this.

Mr. LEWIS: What my questions were directed to was to find out, and you have made it clear, that what the classification bureau is doing is writing down the duties that they have been told various classifications perform.

Mr. COOK: Yes, that is right.

Mr. LEWIS: But your organization is of the opinion that some of the duties are not properly assigned.

Mr. COOK: Yes.

Mr. LEWIS: And that you want the opportunity to negotiate the job content of some of your classifications.

Mr. COOK: That is true.

Mr. LEWIS: And what you are saying is that the duties the classification bureau now writing it down, in view of section 26, will become frozen for all the classifications, and you will not have anything to say about it.

Mr. COOK: That is right, exactly.

Mr. LEWIS: Mr. Cook, do you know whether this review that you were asked to come and discuss has to do also with this red circling that is going on, that part of it as well?

Mr. COOK: There was no discussion on the matter. It would not be correct for me to even venture a guess.

Mr. LEWIS: You do not know. Mr. Chairman, I have one or two other questions but—

Mr. BELL (*Carleton*): Red and green circling is an obvious consequence of what is going on.

Mr. LEWIS: That is what I thought. Mr. Chairman, I have one or two other questions, but before I ask them I would like to make a suggestion—if necessary, a motion. I think the review that the bureau of classification research is doing is absolutely essential to an understanding of the initial application of the bill before us, because it will determine, if they are no changes in section 26, the bargaining unit.

I would like to suggest that this Committee ask the head of that bureau—not the head of the Civil Service Commission, but the head of this bureau of classification review—to come here and explain to us and be subject to further questioning, as to precisely what the bureau is now doing, how it is going about its work, and what the relationship is of the work it is doing to the plan under Bill No. C-170.

If necessary, I would like to move that this suggestion be referred to the steering committee for consideration and to make the necessary arrangements. I think I ought to say that if the steering committee rejects this suggestion, I reserve the right to move it at the Committee as a whole, because I think I, as one member of the Committee, would be able to understand the application of section 26 and all the rest a great deal better if I knew directly from the bureau chief exactly what it is they are doing.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Lewis, I suppose that is a matter that should be referred to the steering committee.

Mr. LEWIS: I appreciate that.

The JOINT CHAIRMAN (*Mr. Richard*): To which of the committees should it be referred? If you wish I will do so, but I was wondering at what stage you would want Mr. Anderson to appear before the Committee?

Mr. LEWIS: Some time before we start clause by clause discussion.

The JOINT CHAIRMAN (*Mr. Richard*): I will call a meeting of the steering committee before the next meeting, then. Is that agreeable?

Mr. KNOWLES: If there is general agreement to it now, we can avoid the holding of that meeting.

The JOINT CHAIRMAN (*Mr. Richard*): I think it is a matter which should be discussed, unless there is complete agreement.

Mr. BELL (*Carleton*): I think the only issue there could be is whether, appropriately, the witness should be the chairman of the Civil Service Commission or one of the people down the line reporting.

The JOINT CHAIRMAN (*Mr. Richard*): I think it would be better to leave it to the steering committee.

Mr. LEWIS: I have no objection. I appreciate that there might be some considerations that I am not aware of.

The JOINT CHAIRMAN (*Mr. Richard*): That is what I am thinking about, too.

Mr. LEWIS: Personally, with great respect to Mr. Carson, I would much rather hear from the person responsible under Mr. Carson for this review.

The JOINT CHAIRMAN (*Mr. Richard*): I quite understand that. So we will discuss that in the steering committee. Any other questions?

Mr. LEWIS: I was going to ask Mr. Cook this. All of us, I think, have so far been in agreement at the meetings I have been able to attend, and witnesses as well, that the initial appointment is properly left to the Civil Service Commission, and should be based on the merit system. Do you agree with that?

Mr. COOK: Yes, I do.

Mr. LEWIS: As a matter of fact, I have been wanting to say several times—and from your experience with private industry as well as the federal government you are the right witness to see whether I am right or wrong in this—is it not true that, in fact, initial appointment is always left to management?

Mr. COOK: No. We have closed shop agreements and hire through our own hiring halls.

Mr. LEWIS: Yes, there may be. I should have said, with the exception of hiring halls where they exist and closed shop agreements where they exist. They are a minority of the cases, but generally, in trade unionism, management has the right, for an initial engagement of an employee, to employ anybody it likes and there is a probationary period during which, as a rule, the collective agreement does not provide grievance procedure for dismissal. It may provide other benefits.

Mr. COOK: That is right.

Mr. LEWIS: The general proposition is that you leave to management the initial engagement of an employee, but once he remains an employee he comes under the bargaining umbrella.

Mr. COOK: Yes.

Mr. LEWIS: So that really, in this respect agreement on the merit system applying to initial appointments is not terribly different from the general way in which these things are handled. I gather what you object to, as other witnesses have, is leaving promotions, transfers, demotions and discipline entirely in the hands of the management.

Mr. COOK: Yes, we think it is the fundamental right of the man working on the job to be able to protect his job. He has devoted quite a bit of his life to the company and he has some rights in the matter of promotions and lay-offs, and so on.

Mr. LEWIS: Your objection to the merit system, applied in the case of promotions, is that mangement naturally picks the best qualified rather than the person who is qualified and has seniority as well.

Mr. COOK: Yes. I can foresee in the future young fellows coming out of school and just pushing all of the older workers right out of the picture because of the fact that they have better education. There would be no protection to any great degree for the older employer.

Mr. BERGER: I would like to ask a supplementary on that point. I can hardly see why so many years of service with a company should be the main criteria for determining who is best qualified and suited for a job.

Mr. LEWIS: Mr. Cook, you did not suggest that?

Mr. BERGER: We are talking about seniority to protect the old employees. You just gave me the example which I am coming to. I had a problem about a month ago regarding a chief mate. He did not get the promotion which he thought he was going to have. A young fellow coming out of a naval school got the promotion. The reason which was given was that, of course, this mate had experience but with new gadgets, new instruments, new techniques being developed, this new man was best suited for the job. The old chap knew the channel in which he was travelling very well. He told me he could go there with his eyes closed. We have had so many accidents in the Quebec section—the St. Lawrence Seaway—I can have doubts and other people have doubts. That is why I cannot quite agree with you and I need far more information.

Mr. COOK: Where the lack here is, of course, the upgrading and training on the job. This is something which is wrong with the department involved. If they had assured the fact that the personnel who they have presently employed were kept up to date and were kept on an upgrading and training program, then this would be eliminated.

Mr. LEWIS: Well, that does not answer Mr. Berger's question. I do not agree with what Mr. Berger said for another reason, and I will come to that in a moment. But, that does not answer his question.

Mr. COOK: I could answer it.

Mr. LEWIS: Well, answer it because the fact that you want a program to upgrade the existing personnel does not touch the fact that someone else has now been appointed with the upgrading not present.

Mr. COOK: As far as the gentleman's question is concerned on the matter that seniority alone will determine whether or not a man gets a job, this is not correct. It is seniority, qualifications and ability. All of these things are taken into consideration and you must have sufficient ability to be able to do the job before you get the promotion.

Mr. LEWIS: Your point is that—see if you agree with me—my answer to Mr. Berger would be that if in fact this older service man was unable to perform the job because he was unable to deal with the new developments that the job required, then your seniority clause would not protect him, the fact that he was unable to do it.

Mr. COOK: He would not have the ability to do the job.

Mr. LEWIS: What you are saying is that if the job can be done by the old man, despite the new gadgets—if, for example, in the course of a week he can become acquainted with the new gadgets because of his long years of experience, then you say that even though he did not come out of a naval school he has a service which should enable him to improve his position and his income. Is that what you are saying?

Mr. COOK: Yes, that is correct.

Mr. BERGER: Even there I cannot quite agree with that, and that is why I am in favour of the merit system, because actually for the last two years, let us say, in order for a man to be hired as a sailor on government ships he had to have at least a ninth grade education. The big trouble up to the last few years was that men went into this service as ordinary seamen and they stayed ordinary seamen until they were 40 or 50 because they could not go any higher. Now, with this new class of young fellows coming in, studying, having a better foundation, as far as schooling is concerned, they will certainly go ahead. The proof of that is that we have had complaints from certain mates that they could not get a job. Sometimes the government had to go overseas to get, let us say, British officers to man their ships or to be first mates. The men complain about that. That is exactly why I think the government is doing it today—to have better education at the very beginning so men can advance and receive promotions. Now, I do not know, I could not give you any figures but let us say that pretty close to half of the crews we now have cannot go any higher than they are today. If we want to clear up that situation—if we want it to be better from now on—I think we have to take the right steps and then the merit system will overcome the seniority system. That is what I am trying to clear up in my mind.

Mr. COOK: I am sure that every industry in Canada, and the owners of every industry in Canada, would just love to have the opportunity to say: "We will pick and choose who we put on all jobs; who we lay off, who we keep". This is something which the trade union movement has fought against, for many, many years and they did not get it all at once—they have been getting a little chip here and a little chip there, to the point of where they have some reasonable facsimile of protection for the older employee or for the man on the job. I think that this is a fundamental right and I think that the man should have some protection. If he does not have the ability to gain promotions, then he will not get the promotions. But, if he does have the ability to do a certain specific job, then I think by virtue of his seniority with the company and the ability to be able to do this job he should certainly have it. I do not think that any young man coming out of school should walk right over his head.

Mr. WALKER: In your experience with promotions in the service has seniority been one of the factors in the merit principle of employment?

Mr. COOK: Yes, this is one of the factors.

The JOINT CHAIRMAN (*Mr. Richard*): Any other questions?

Mr. WALKER: Yes. You mentioned a case where six people had applied for a job. I do not think it was a new appointment; they were looking for a promotion. What is your procedure? You said someone who had not had finished his probation period got the job. Where do you go from there?

Mr. COOK: Well, there is an appeal system.

Mr. WALKER: Was this man, incidentally, a member of your organization?

Mr. COOK: Yes. There is an appeal system but you appeal to the same people who have made the promotion so it becomes a rather ridiculous situation. It is like a judge sentencing you and then you go and make an appeal to the same judge against a poor decision.

Mr. WALKER: Do you disagree with the appeal procedures set up in the legislation?

Mr. COOK: Quite frankly, I have not made a thorough study of it because there were only a couple of points I really wanted to discuss in the proposed legislation. It is very complex and complicated and I would not like to venture into it.

Mr. WALKER: If there is an appeal procedure in that legislation that you have confidence in at the top stage where you work your way up through the appeal system, if you have confidence in the total independence from the employer of the people who are hearing the appeal, is this attractive to you? Does this help with the type of problem you have mentioned.

Mr. COOK: No, it does not dissolve the primary problem which is that under the merit system if a man has proper seniority and enough ability to do a particular job it does not mean that he is going to get this job. The fellow with the most ability is going to get the job.

Mr. WALKER: There are only so many of them to go around.

Mr. COOK: That is right.

Mr. WALKER: There are only so many jobs.

Mr. COOK: This is the opinion of departmental heads, too, as to whether one person has the most ability rather than another.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions? Thank you very much, Mr. Cook.

Mr. HEENEY: Mr. Chairman, I wonder if it would be improper of me to make an observation on the last line of questioning of Mr. Cook. May I just make an observation?

There seems to have been no distinction between the employer and the Civil Service Commission in regard to this question of promotions. One of the basic elements in the proposition which is now embodied in the act is that there is a distinction, and an important distinction. The Civil Service Commission is not the employer. It is the government that is employer and it will be represented by the Treasury Board and under the Treasury Board, delegated from the Treasury Board, the departments themselves. If the Civil Service Commission cannot be objective and independent of the employer the system collapses. This is the proposition which existed and upon which the 1918 legislation was based, not only in relation to initial appointments but also with regard to the application of merit in promotion. If the employer is to be equated with the commission our whole cause really collapses.

You will forgive me for making that intervention but I think there was a confusion in the answers made by the last witness which seemed to be based upon the proposition that it was the employer that was administering a merit system and determining promotions according to his own wishes.

Mr. BELL (*Carleton*): Mr. Heeney, I think we should go ahead and explore this a little further. Admitting completely the validity of the statement you made and the independence of the Civil Service Commission, now to be called the Public Service Commission, is there not a point to be made that the predetermination of classification and its establishment by the governor in

council will constitute an infringement of collective bargaining; that you have a frozen area in which you can bargain collectively?

Mr. HEENEY: My answer to that is a double negative, Mr. Chairman. It is not an infringement in my judgment, and in the second place, it is the converse of my answer—

Mr. BELL (*Carleton*): Will you expand that?

Mr. HEENEY: —even if it were an infringement it is a transistory one which is only made for the initial period in the predetermination. This, of course, is a problem which I am sure the Committee will find a difficult and an anxious one. I spoke of it in part, Mr. Chairman, when you were good enough to invite me to appear before the Committee a few days ago.

This has been criticized, and I have no doubt that a number of witnesses before this Committee have criticized this predetermination as in some way an infringement of the right of association. I think it is well that the Committee should remember the kind of problem with which the preparatory committee were faced.

First of all, there was the problem to devise a system of collective bargaining and arbitration, of course, to be applicable to 200,000 public employees, who were involved in 400 or 500 different classifications.

We were asked by the government in our terms of reference to consider the relationship of classification to the introduction of a viable system of collective bargaining. We came to the conclusion during the first year of our studies that it would be necessary as a foundation for a system of collective bargaining that it would make sense, from the points of view of both the government and the associations, to simplify this system. We came to the conclusion at the same time that the only viable criterion for bargaining units was that of classification. It is important I think to remember, Mr. Chairman, that the civil service associations, which have quite a long history, and had at that time quite a long history, have been developed not to engage in collective bargaining with their employer but for other purposes, which developed gradually over the years into a consultative relationship which had a good deal of virtue but did not have what I would regard as the attribute as essential under modern conditions, namely the right to bargain equally with the employer. This was our conclusion No. 1. A prerequisite to a viable system of collective bargaining was to simplify this jungle of position classifications, with which Mr. Bell, of course, Mr. Chairman, has become very familiar over a number of years.

We have made this recommendation as an interim recommendation to the government. We recommended that the Civil Service Commission which was in charge of classification be invited by the government because the government cannot direct the Civil Service Commission, to review the whole system of classification in the light of and in anticipation of, the introduction, which was a government established intention, of a system of collective bargaining. The Bureau of Classification was then set up by the Civil Service Commission and it is an arm of the Civil Service Commission. It set about this enormously complicated and difficult and sensitive task, and from my point, of view Mr. Chairman, I am glad that the suggestion has been made that the techniques and the procedures of the Bureau of Classification are to be examined by this Committee. I think it would be a very helpful process. I hope it will not be

necessary for the Committee to get into all the detail the Bureau had to get into because it is an exceedingly difficult technical task; but it will provide in its essentials, I think, a better understanding of the sort of framework within which, the proposals or at least, the preparatory committee's recommendations were made.

I have wandered in part from Mr. Bell's question byt deliberately. May I come back to it, or will you bring me back to it, Mr. Bell?

Mr. BELL (*Carleton*): Perhaps I might say this. At the outset of your answer you said that this was transitory and perhaps you would go on and explain how it is that the several occupational categories that are laid down under section 26 are not frozen, how they are transitory, what degree of flexibility there is subsequently in collective bargaining to change them.

Mr. HEENEY: Mr. Chairman, to comment on that I would answer, transitional for a period which would be determined by law until the expiry of the first collective agreements that are contemplated under the bill. It seemed to us in the preparatory committee, and here the bill does follow in general the recommendations which we made, it would be necessary to stabilize the situation on this basis of occupation, to get genuine collective bargaining started in some sort of administrative order. When that period is over; when, in effect, the first agreements have run out, these conditions no longer obtain and a bargaining agent or an association or union may make application after the expiry of that period for certification on any other basis at all, departmental, industrial, craft, or anything else. It may be with the experience of the initial period behind them, that the Board may conclude that other criteria, other tests are more appropriate for the carrying on of the kind of collective bargaining that is envisaged in our report and by the legislation. Does this answer your question?

Mr. BELL (*Carleton*): Yes, I think it does. I wonder whether in the setting up of the classifications there ought not to be, however, some appellate procedure in the light of what we heard from the last witness. I realize how the review is being operated now but perhaps some confidence in the occupational categories established would result from some independent appeal.

Mr. HEENEY: This is, of course, an interesting question but I am not really the competent witness to enlighten the committee because I am really *functus officio*. My understanding is that is the Bureau of Classification review has proceeded and difficulties have arisen, not only has there been consultations with organizations but opportunity for review of particular cases as they have arisen. But whether this is sufficient or not, I would not be able to answer, Mr. Chairman, with confidence. The principle was all right. Perhaps I should go on, Mr. Chairman, to make a disclaimer that my relationship to these matters which are before the committee now really is a relationship founded upon the report of the preparatory committee of which I was the chairman, and although I have been connected with it somewhat, in the sense, of course, that I followed your deliberations and the debates in the house with great interest, in a sense, to put it more precisely, I am a witness on the report and the general philosophy of the report rather than on the measures and, in particular, Bill C-170 before you.

Mr. KNOWLES: You are one of these third parties, now?

Mr. HEENEY: I think, Mr. Chairman, I am a fourth party, now.

Mr. BELL (*Carleton*): We accept you as an historian and *amicus curiae*.

Mr. LEWIS: Could I follow up on section 26, Mr. Chairman? It might be useful.

The JOINT-CHAIRMAN (*Mr. Richard*): Is that the predetermination section, Mr. Lewis?

Mr. LEWIS: Yes.

Mr. BELL (*Carleton*): And it is a section of 31 of your report, Mr. Heeney.

Mr. HEENEY: Yes. I am happier there.

Mr. LEWIS: If I may, Mr. Chairman; Mr. Heeney, my difficulty about your statement is, with great respect, that it is entirely theoretical. In my experience, if you have bargaining units established and they are "in being" for two or three years, the likelihood of any substantial change being made as a result of applications for certification is extremely small. I appreciate that theoretically it is possible but in fact it becomes extremely difficult.

My objection to it is that in this case—and this would not be the Civil Service Commission because it would be done by order in council as they are the employer—the predetermination of the bargaining unit following upon the review of classifications and the grouping of classifications will be entirely made by the employer, and the employer will, according to section 26, if I remember correctly, also pass an order in council as to when a particular bargaining unit is subject to collective bargaining, so that the whole process of collective bargaining will initially be determined by the employer both as to the framework of the bargaining unit and the date on which the collective bargaining is to start. That is far too much power, in my view, to be left in the hands of the government or any employer.

I wonder whether there is not a better way to go about it. I would like to put a thought which has occurred to me because I have tried to think about it a great deal, and I appreciate, I may also say, that you have to make a start somewhere, that you cannot wipe out the history of the various civil service organizations and that the employer, in this case as in most other cases, is best qualified to begin the process of classification because he has the avenues and the means which every separate organization would not have.

Mr. Heeney, why was it not possible to suggest some kind of scheme like the following: that the employer is given the initial authority by the Act to propose to the staff relations board within a certain limited time, the bargaining units that in its opinion are appropriate respectively for collective bargaining, say within three months? This review has been going on for a long time. Say, that the law requires the government, the treasury board—I do not care who—to place before the staff relations board its definitions of the respective collective bargaining units which in its opinion are appropriate and that then within days those propositions of the government are made available to all the organizations interested—and we know who they are—and that the organizations interested are then given the opportunity to say whether or not they agree. If they agree with a bargaining unit submitted, then the staff relations board issues certification and your collective bargaining starts on the right basis with the agreement of the organization. If the organization disagrees and has alternative proposals to make, then it makes them and the staff relations board

hold a hearing within certain limits of time and makes a determination on the basis of hearing both the employer and the organization.

I am not proposing this in any final form although I must say that the more I think about it the more it seems to me a perfectly practical suggestion. It brings the union and its members—whatever its name—in right at the start, with an opportunity to say whether it agrees with the employer's proposition and, if not, in what way it disagrees and gives the staff relations board an opportunity to enter the picture right at the start of the whole regime.

Why is it impossible to devise some plan along this kind of line which would enable the organizations to take part in the determination of the bargaining units from the beginning?

Mr. HEENEY: Mr. Chairman, Mr. Lewis has made a very interesting suggestion. He has also made a number of observations and, if I may, Mr. Chairman, I would like to make one or two observations before I attempt to answer his very interesting question.

My first observation is that I disclaim the epithet "theoretician".

Mr. LEWIS: Most theoreticians do. I know.

Mr. HEENEY: Is this what makes them theoreticians?

Mr. LEWIS: So your disclaimer is not that valid.

Mr. HEENEY: I recognize that in a sense, having declaimed some parenthood for the legislation which is before the committee, and the legislation being of the complexity and the length which it is, that the preparatory committee is subject to the criticism of having produced a complicated and perhaps a theoretical document. I would like to assure the committee, first of all, that this does not derive only from back room theorizing. In the course of our examination of these very difficult problems because we were ploughing a new furrow, it is very important to remember that being given the task of introducing something quite radical into a public service context of such size and such complexity was something new, given the traditions and organizations of associations and unions which were related in some way to the civil service up to that time. We took the advice and had the experience of those who had been involved in the private sector as well as in the public sector. We did try to avoid producing something which was a blueprint derived in a back room. I know, Mr. Chairman, that Mr. Lewis will accept that.

Mr. LEWIS: I do. I never thought of any back room, Mr. Heeney.

Mr. HEENEY: I am very sensitive about this bureaucratic appelation.

The second thing I would say is that one of the principal considerations which moves Mr. Lewis to ask his question is one which was in the minds of the preparatory committee, the desirability of having as much flexibility in the system as possible, the desirability of not disturbing, any more than seemed absolutely necessary, the strength and vitality of existing organizations. What would happen if Mr. Lewis' proposal were to be embodied in law and, instead of the act providing for a predetermination which would, of course, be executed by the governor in council, what would happen if the government, as the employer, were to make proposals. I suggest to him that in the first place the delay in the introduction of collective bargaining to the public service would be a matter of years and years and years.

Mr. LEWIS: Why, Mr. Heeney?

Mr. HEENEY: I am going to go on to answer that, Mr. Chairman. Because every proposal that was made by the government would be challenged by at least two or three groups because they, within their own constitution, would have a history of quite different basic criteria for membership, and you would have, a jungle, a jungle compounded. We felt it very important that this new possibility of collective bargaining be given flesh as soon as possible—and this is not very soon in the minds of an awful lot of public servants; they have been after this for a long time. If we were going to have it put in terms of a sort of free for all before the Public Service Staff Relations Board, with no guidance in the statute, then I think the C.N.T.U., the C.L.C., the departmental associations, post office workers, everyone would be in there on every proposal of the government and the Public Service Staff Relations Board would never get off the ground. That is my judgment.

Mr. LEWIS: Mr. Heeney, I think your answer thoroughly justifies my objection to what was proposed in your report and what is proposed in the bill, because I suggest you cannot have it both ways. You say that one of the reasons you would object to the kind of approach I suggested is that there would be a challenge of every proposal. If that is the case, then I suggest to you that what you are doing is imposing or suggesting to impose, bargaining units which the unions concerned will not want. Either you are right, that every one of them would be challenged, which can only mean that the unions are in disagreement with the proposal or that what the government would suggest is acceptable, in which case you need not fear the challenge. If you are right that every one of the proposals would be challenged, then I submit to you that what you are proposing in your report and what this bill before us proposes, is that despite any merited challenge, you are going to impose the bargaining unit on it in the first place.

Mr. HEENEY: Mr. Chairman, I refuse to be impaled on this dilemma which Mr. Lewis is constructing.

Mr. LEWIS: I am afraid it is your answer that impaled you on it.

Mr. HEENEY: It is a misunderstanding.

Mr. KNOWLES: Are we in Ottawa or Oxford?

The JOINT CHAIRMAN (*Mr. Richard*): I would like to be in between.

Mr. HEENEY: This is a false dilemma that Mr. Mr. Lewis has posed, or so it seems to me. The proposition is that in the statute there should be provision for the basic framework in the initial period. Some decision has to be made if we are going to get on with it. You suggest that the government should propose and then the various parties should have an opportunity of dissenting. It does seem to me—and perhaps, Mr. Chairman, it is impertinent of me to say this in answer to Mr. Lewis' question, because he has such a long experience in this matter—that the basic tradition of organization within the various associations and unions who are interested and who would be involved is so different in so many ways that if not all unions, if one association, perhaps a dominant one, on one proposition by the government were to be satisfied, the others by definition would have to be dissatisfied. What we are trying to do is get them off to a start on a basis which seemed to us the only really viable basis, namely the

occupational one, so that all would be given an opportunity to settle down. There is, of course, the risk, as Mr. Lewis has mentioned, that having gone on for some time the difficulty of organizing some new concept, some new basis for certification, becomes more and more difficult. Of course Mr. Lewis is right in this, but I, personally, do not think that his proposed solution would really be a satisfactory one, and I can see it delaying the introduction of collective bargaining very much longer than I believe to be necessary. I do not think I could add very much to that.

Mr. LEWIS: I have one other comment and question, Mr. Heeney. I just threw out a suggestion. Obviously, if there were any merit in it, flesh would have to be put on the skeleton. For example, never in my mind, did I suggest that these proposals would go out to organizations that do not have members in the various bargaining units, and that is an easy ascertainable fact, and that is the basis for all certification proceedings. Before you have any status before a labour relations board, you must show that you have membership. Usually you must show that you have more than 50 per cent of the employees concerned as members. Therefore, your suggestion that the C.N.T.U., the C.L.C. and what not, would come into the picture, I suggest to you, is purely theoretical because, as I say, if you put the details necessary to complete the suggestion I made, you exclude those.

My second comment is that I have learned—and I am sure other members of the Committee know as well—that the Civil Service Federation and the Civil Service Association are having a meeting very shortly, November 9 and 10 I think it is, at which time they will merge into one organization.

They have even picked the name for it, the Public Service Alliance. Therefore, this fear that you are trying to build up about the difficulties, I suggest to you, may not be as real as, quite understandably, when one was initially trying to work out a regime concerned one. I am not being critical, I can well understand the fear. But I think that these discussions and the consultation of the organization at the classification table have resolved some of these areas.

Are you persuaded that the proposal of initial determination, unilaterally by the employer of the bargaining unit, is the only way to start this collective bargaining regime, or is it possible for this Committee, with your assistance and the assistance of other people, to work out and suggest a plan which would take this arbitrary—if I may say so, in my view—thoroughly undemocratic procedure, which gives the employer the unilateral right to determine the entire pattern of collective bargaining on his own, subject only to possible change—28 months, I think is the period before you can negotiate.

Mr. BELL (*Carleton*): Mr. Chairman, in fact it is not the employer, it is the Commission.

Mr. LEWIS: Oh no, no, it is the employer under section 28.

Mr. HEENEY: May I comment on that, Mr. Chairman? In the first place, in respect of the occupational groups—I come back to this—the classifications are not being determined by the employer, and if we cannot maintain this distinction between the independent Civil Service Commission and the Treasury Board as employer, as I say, in my judgment the whole Canadian tradition will fall to pieces.

Mr. LEWIS: I am not questioning the independence of the commission, and I appreciate that they determine the classifications.

Mr. HEENEY: If that is not being questioned then the occupational classifications are determined then by the Public Service Commission. All right, that is step number one. Parliament then decides, not the government, that the occupational classes are the foundation upon which the bargaining units will be determined. Is not that it? Then, thirdly, the Governor in Council acts, as he would be required to act, under Section 26. Is this not the sequence?

Mr. LEWIS: I am sure it is, but the final fact in this legislation is that within 30 days after the coming into force of this act the Governor in Council shall by Order specify and define the several occupational categories of the Public Service, including other categories, and then fix the day not later than two years after the coming into force of this act on which the employees within each occupational category become eligible for collective bargaining.

Mr. HEENEY: The Governor in Council is limited to the occupational groups, which are determined by the Civil Service Commission, is he not? This is the sequence which is contemplated?

Mr. LEWIS: I appreciate that but a bargaining unit may be composed of one occupational category and I see no reason why if you had the flexibility it might not be composed of two occupational categories or groups, or whatever it is. It is precisely this rigidity which is introduced when you have five occupational categories actually defined in the Act. Am I not right?

Mr. HEENEY: Mr. Chairman, initially during this transitional period the concept is, and I understand this is carried out in the bill, that each occupational group will be the ambit of the bargaining process, although there might be combinations later on after this transitional period. I must say I have great sympathy with the point of view expressed, the desirability of introducing more flexibility, and I assure the committee we wrestled with this over a long period. But, the difficulty and a highly practical one—not a theoretical one—is to provide a basis to get it started upon and yet provide, the means of bringing in a flexible regime later on. Now the object of the classification process was a prerequisite to providing such a foundation, as I see it. The occupational unit, based upon a classification accomplished by the Public Service Commission, is then the sole unit for the purpose of certifying the bargaining agent initially. Then, after the transitional period it is up to the Public Service Staff Relations Board to consider, in the light of their experience, whether other criteria are available. I would think, Mr. Chairman, that it would be exceedingly difficult for a majority of the associations to find themselves in the kind of situation which, it seems to me, would result from Mr. Lewis' proposal.

Mr. BELL (*Carleton*): I wonder if I might intervene just to put a question. It seems to me that actually Mr. Heeney and Mr. Lewis are not very far apart. As I understand the proposal which Mr. Lewis advances, it is based upon the necessity of some independent body predetermining the occupational categories after all the potential bargaining units have had an opportunity to be heard. Mr. Lewis suggests that that shall be the Public Service Staff Relations Board set up by this act. Now, as I understand Mr. Heeney on that, he feels that would delay and in fact this work is now going on by another independent body, the Civil Service Commission, who are engaged actually at this time in consultation with

all the potential bargaining units, giving them an opportunity to comment on all the proposals that are advanced. So, it is simply a choice between the commission doing this now and getting the collective bargaining off the ground or another independent body not basically different from the Civil Service Commission, doing it at a later time.

Mr. LEWIS: Mr. Chairman, I am sure it is my fault but I seem to have failed in getting across the basis of my objection and the suggestions I made. Forgive me if I try again.

I take for granted the completion of the classification process by the Public Service Commission and I take for granted the acceptance of the proposition that occupational categories are the appropriate framework for collective bargaining.

Mr. HEENEY: For bargaining units.

Mr. LEWIS: For bargaining units. I take those for granted. I did not think I needed to point that out. But then once that has been established in the law, what you have now is subparagraph (r) of section 2 which sets out five occupational categories: sicentific and professional, technical, administrative, administrative support, and operational. Then it goes on from here and gives the Governor in Council the authority to specify and define any other occupationally related category of employees. When you have looked at that, then go on to section 26. Section 26 then says that the Governor in Council shall—and may I parapharase—on the basis of the categories set out in (r) of section 2 and on the basis of other occupational categories that it, the Governor in Council, sets up, it defines the bargaining unit. This is what it is. This means that the employer, I suggest to you, in the initial stage is given full and unilateral authority to determine the entire framework for collective bargaining except for the area of consultation on the occupational groups by the Classification Revisions Board. Why is it not possible, taking the occupational categories for granted as I have said, to provide that the organizations concerned in these immediate, initial stages are given the opportunity to pronounce upon the government's proposals. May I say, Mr. Chairman, again to explain, this is a reverse of my experience ordinarily, let me tell you, because all the labour relations acts across Canada with which I am familiar provide that the initial definition of the bargaining unit is made by the union. When it makes application for certification it defines the bargaining unit it desires. Then, it is the employer that comes in and say no, this is not right—

Mr. HEENEY: And the board which determines it.

Mr. LEWIS: And the board which determines it.

The complexity of the public service situation, fully appreciating that the employer in this case is the only one really able to give the guidelines, as a start in my suggestion I have reversed the process. I say give the employer the first responsibility and duty and opportunity to define the bargaining units which it considers appropriate, but, before they become frozen, give the organizations concerned an opportunity to express themselves on the desirability of the bargaining unit proposed, and an opportunity to be heard on them. Then, it seems to me, you start your collective bargaining process on a proper basis, not by unilateral decision of the employer, but by the participation of the employee organizations as well. I think it is possible to work out a timetable for the

exchange of information and so on that would avoid the delays that you, Mr. Heeney, suggested.

Perhaps I have made myself a little clearer this time. I hope so.

Mr. CHATTERTON: May I ask, Mr. Lewis: All these employees having been heard, the Board would then make the final, binding decision?

Mr. LEWIS: That is right. If I may complete that, I foresee, with the civil service association and the civil service federation combining into one organization, with their long experience, and with the fact that they represent the overwhelming majority of the employees concerned that in, I would think, 80 or 90 per cent of the cases they would simply write to the Staff Relations Board and say, "We see no reason to contest the suggestion of the employer," and certification would issue within a week. I think it would speed up, rather than slow down, in those cases. I can imagine that in 10 or 20 per cent of the cases, there would be some genuine differences of opinion. They would take a little longer.

I think this is the kind of approach I would favour, so that the organizations would have a say in the framework of the collective bargaining unit.

Mr. ÉMARD: As a matter of clarification, I would like to know if all the associations representing employees in the different operational groups would bargain together? What is meant by "The Governor in Council shall specify and define the categories"? Does that mean that only one body, only one union, would have a chance to represent all these employees in the operational category?

Mr. LEWIS: It may be a council of unions but it would be one bargaining unit.

Mr. HEENEY: Mr. Chairman, I could answer this question, but I am sure the committee will be going into, in a much better way than I could explain, the way the classification review process is now going, the basic occupational categories and the way they will be subdivided, because Mr. Chairman, for example, the occupational category is being subdivided into smaller units, to a total of 67. Something like what the objective is.

May I make a comment upon Mr. Lewis' further exposition of his point and his anxieties. When he says that this proposal would leave to the sole discretion of the government, of the employer, the determination of bargaining units, he would allow me to say that the proposed bill, as I read it, does fix by parliamentary act the occupational criterion as that upon which the bargaining units must be based. It is all in those two sections, the subsection (r) that he read, the definition of occupational category, and in the provisions of section 26. This is the way it must start. It must be related to occupation.

Of course, it would be desirable, if it were not too great to be accepted, to have views expressed upon the governor in council's determination of occupational groups. I would not be nearly as optimistic as I said in my first attempt to answer Mr. Lewis, Mr. Chairman, that there would not be a great many more than one association in each instance either qualified as having members in a particular occupational category, or anxious, because of their own position and viewpoints, to express views. Indeed, the service is so organized now that many occupations are represented in many associations. The situation will improve if

this unification proposal does come into effect next week, as we all hope it will, because it is a great move forward. I like to think that the operations of the Preparatory Committee, in consultation with the associations and unions have helped toward that end. I am sure they have, and I think the associations would say this.

I am afraid that I remain of the opinion that this proposal that Mr. Lewis has put forward would inevitably entail long hearings by a fresh Public Service Staff Relations Board and a very considerable further delay before these first agreements could be negotiated.

Mr. BELL (*Carleton*): Mr. Chairman, just on that point, so that I understand Mr. Lewis. I believe he is prepared to concede that the Public Service Staff Relations Board must bring this to finality at the hearing.

Mr. LEWIS: That is right.

Mr. BELL (*Carleton*): If that be the case—

Mr. LEWIS: Article (E); that was my suggestion.

Mr. BELL (*Carleton*): Yes, that was your suggestion, and I am not certain that I go along completely with that view; but if that board has the right, what is there wrong with the Civil Service Commission, in fact doing it now, carrying on consultation, as they are doing, and as we learned from Mr. Cook's evidence this morning; because certainly anything that the governor in council is going to specify is going to be something that is on the recommendation of the Civil Service Commission. If that be the case, do we not just assure ourselves that the Commission is carrying on this with due independence, is having consultations with the various unions and associations, and perhaps amend section 26, simply to say that—"the governor in council, upon the recommendation of the Civil Service Commission shall—" and we are in precisely the position that Mr. Lewis would wish but we are perhaps a year ahead. In other words, the final determination has been taken by the Civil Service Commission now, rather than by the Board a year from now.

The JOINT CHAIRMAN (*Mr. Richard*): I would remind the committee that we are engaging sometimes in the hearing here in the exchange of opinions between members of the committee, and I suppose that we should direct our questions more directly to the witness.

What I really wanted to call to the attention of the committee was that it is nearly ten minutes to one o'clock.

Is it the wish of the committee to meet this evening at eight o'clock and continue with Mr. Heeney?

Mr. BELL (*Carleton*): With this witness?

The JOINT CHAIRMAN (*Mr. Richard*): Can you come earlier?

Mr. HEENEY: I am free this afternoon.

Mr. WALKER: Are we on estimates?

Mr. BELL (*Carleton*): We are going ahead with Central Mortgage and Housing.

The JOINT CHAIRMAN (*Mr. Richard*): We might finish this afternoon.

Mr. WALKER: The Speaker is in the Chair.

Mr. KNOWLES: No; we are in Committee of the Whole, with about two hours and a half left to the house's resolution.

The JOINT-CHAIRMAN (*Mr. Richard*): We may as well meet this afternoon.

Mr. KNOWLES: I think if we started at three thirty that would take us to five thirty or six. I think this afternoon would be better than this evening.

The JOINT-CHAIRMAN (*Mr. Richard*): All right. We will meet after Orders of the Day.

Mr. KNOWLES: We will meet then, and not this evening.

The JOINT-CHAIRMAN (*Mr. Richard*): If you wish, we could meet this evening also.

Mr. BELL (*Carleton*): Let us wait till the conclusion of this afternoon's meeting.

Mr. KNOWLES: Mr. Chairman, this afternoon in the house it is a set piece, and we know what is coming, but after that we will be on estimates of various departments, and I think it would be difficult to meet at that time.

The JOINT-CHAIRMAN (*Mr. Richard*): I would have liked to be able to have Dr. Davidson as the next witness as soon as possible.

Mr. WALKER: He will be here if he can this afternoon.

The JOINT-CHAIRMAN (*Mr. Richard*): Do you think we will conclude with Mr. Heeney early enough this afternoon?

Mr. WALKER: Yes.

Mr. KNOWLES: Ask Mr. Lewis.

The JOINT-CHAIRMAN (*Mr. Richard*): I think Mr. Lewis has made his point.

Mr. LEWIS: I would like to ask some more questions.

The JOINT-CHAIRMAN (*Mr. Richard*): I am sure; so that we understand exactly what you are trying to tell us.

Mr. LEWIS: Well, if you have not got it now, I give up.

Mr. WALKER: I suggest that Dr. Davidson, if he can, be asked to be here for the afternoon session.

The JOINT-CHAIRMAN (*Mr. Richard*): Dr. Davidson is tied up this afternoon with the postal union and postal employees.

Mr. BELL (*Carleton*): He is not available this afternoon?

We will meet about three thirty, Mr. Chairman?

The JOINT-CHAIRMAN (*Mr. Richard*): After the Orders of the Day, around three thirty or a quarter to four perhaps.

The meeting is adjourned.

AFTERNOON SITTING

The JOINT-CHAIRMAN (*Mr. Richard*): Order.

Mr. BELL (*Carleton*): Mr. Chairman, I want to change the subject somewhat. I understand that our next witness, or perhaps the next witness after Dr. Davidson, will be dealing specifically with this whole question of classification review, the techniques that have been adopted, the safeguards that are involved in the present procedures and perhaps we might defer questions on this

particular aspect until that evidence has been heard. If we need to recall Mr. Heeney again, on another occasion, we could do so. I would like to go on to another subject.

Mr. LEWIS: Yes; I am finished with the subject. Are we going on without a quorum, Mr. Chairman.

The JOINT-CHAIRMAN (*Mr. Richard*): I see a quorum. We will ratify it later, unless you have any objection.

Mr. BELL (*Carleton*): Mr. Chairman, I wonder if I might ask Mr. Heeney if he would elaborate somewhat on what he considers to be the future role of the Pay Research Bureau. This was dealt with in the report of the preparatory committee at Page 41, but I am particularly anxious to have Mr. Heeney's views because I think he was Chairman of the Civil Service Commission at the time the Pay Research Bureau was established and has, perhaps, a very intimate knowledge of its background. What I would particularly like to know from him is whether he thinks there should be embedded in the statute or any one of the statutes, some provision for the Pay Research Bureau and for the utilization of the material which is prepared by the bureau and the terms and conditions under which it might be made available, firstly to the parties and secondly to the public.

Mr. HEENEY: Mr. Chairman, I was associated with the institution of this, I think, very valuable unit in the early days when we were working under a different dispensation and there was no collective bargaining but we were seeking to develop the consultative process and seeking to emphasize the third party role of the Civil Service Commission. It was really in relationship with that that the Pay Research Bureau was established within the Civil Service Commission, with the object of seeking, first of all, the most expert means of providing a base for fair comparison with outside employment and, secondly, seeking to develop data in that area which would be acceptable because of its integrity to both the employer and the employee.

The recommendations of the preparatory committee in this respect, and we did consider it, are contained, as Mr. Bell says, Mr. Chairman, at page 41 of the preparatory committee's report. Our recommendation, first of all as to continuation, was that it should continue. It was argued before us that in the new circumstances contemplated by the major provisions of the report's recommendations, such a unit would no longer be necessary or suitable. We did not accept that view. We thought there was in existence an asset which could be of importance to the operation of the collective bargaining regime and we recommended that it be continued but under the auspices of the Public Service Staff Relations Board. Now, Mr. Chairman, Mr. Bell has touched upon two or three aspects of difficulty in the operation of such a unit and I am sure that some of these are familiar to members of the Committee.

In the early days of its operation we had provided in the Civil Service Commission for an advisory board which would be representative, on one hand, of the treasury board representing the government-employer aspect and, on the other hand, of what were then known as the recognized civil service associations; the advisory board being, just as the name implied, advisory and not executive.

Now, as to how it may operate in the future, first of all, Mr. Bell asked whether it would be wise to make provision for it in the statute. I have no particular opinion on that, Mr. Chairman, but as my predisposition—my own personal predisposition—was to put as little in the statute as necessary and only that that was necessary, I would be quite satisfied myself if administrative action were taken to establish it, but I think it should be under the Public Service Staff Relations Board.

As to the use of its products and as to one of the most important procedures in regard to pay research, as Mr. Bell, I am sure, realizes, has to do with the triggering of the studies, who will determine what studies shall be made. My impression is and it is some time since I thought of this particular aspect of the procedural problem, would be to say that the Public Service Staff Relations Board itself should be the master of the agenda, as it were, of the Pay Research Bureau.

One of the great difficulties which has been encountered, for example in England, in regard to the pay research unit, I think they call it over there, was the enormous blockage of work. Employee associations and the treasury, being the employer in the British case, having so many requests, and very often competing as to their terms of reference, that it was very difficult to order the sequence in which and the power by which the studies will be governed.

This is a very complicated and very difficult situation but my own opinion would be that this must be something which would be dealt with by the Public Service Staff Relations Board itself and be under its authority.

Mr. BELL (*Carleton*): Would you think that an advisory committee of the nature that there has been in the past should also be continued?

Mr. HEENEY: Mr. Chairman, offhand I would think that the Public Service Staff Relations Board, if it is of the composition which is proposed in this bill before the Committee, would itself have those elements important to be consulted. The Public Service Staff Relations Board, having an independent chairman and vice chairman on the two wings, as it were, as representatives of the employer and the employees, I would think that the composition of the Pay Research Bureau advisory board would almost certainly be of the same complexion and I would have thought that the board itself could discharge this function. I am speaking without the book and without having reflected upon this recently, but I thought it would have been all right.

Mr. BELL (*Carleton*): Is it that they would be in a position to lay down the appropriate guidelines for research for the bureau.

Mr. HEENEY: I would think so after it had some experience, yes.

Mr. BELL (*Carleton*): This has been I think, where some problems have arisen in the past in establishing particular guidelines.

Mr. HEENEY: This is perfectly true. It is very difficult, at the best, but I should have thought that we would be best to start off with the board itself assuming, as it were, the balanced point of view of both the employer, employee and the independent element. It might perhaps wish of course, to appoint some advisory group to assist it in that. I am afraid that is about all I can add, Mr. Chairman; it is not very precise.

Mr. BELL (*Carleton*): Perhaps I might ask, in the associated field, if you could tell us briefly what you think ought to be the future role if any role at all, for the National Joint Council?

Mr. HEENEY: Mr. Chairman, this is an honourable body and I think it has discharged some important functions over the years since it was started during the second world war, in bringing the government as employer and the associations and employee organizations together. There was, of course, excluded from its jurisdiction from the outset the real core of employee-employer relationships, namely, pay and related conditions, but, given that limitation, it is my judgment that this has been a very helpful organization and I think my opinion is the same as it was when that section of our report was drafted; I would see the National Joint Council having a role in the future in regard to service-wide relationships in general in a kind of—I was going to say, Mr. Chairman, upper house relationship in the problems of employer and employee—a deliberative second sight role with regard to matters which are of general concern, it, of course, being excluded from the particular which the Public Service Staff Relations Board would be dealing with.

We had consultations with the National Joint Council during the preparation of our report. I have tried to remember what we actually said but I think it was along those lines, Mr. Chairman.

Mr. BELL (*Carleton*): I think it was.

I want to move to perhaps a quite different field.

Mr. WALKER: Could we just take a quick look at the composition of the board as it is and would it continue to be the same?

Mr. HEENEY: Of the council?

Mr. WALKER: Of the council. I take it that some of the present members would be in other activities under the legislation.

Mr. HEENEY: We made no comment upon that. We did not regard that as our function, Mr. Chairman, to do so, and I suppose it would depend as to employee representation on how the collective bargaining regime developed. The present membership of the National Joint Council on the employee side consists of those associations which have been granted by the government the check-off privilege. The check-off privilege is enjoyed by the Civil Service Federation and its national affiliate, by the Civil Service Association of Canada, by the Professional Institute of the Public Service and by the Post Office Association. The pattern is obvious, I would think, and, Mr. Chairman, as collective bargaining gets underway, you would have a number of certified bargaining agents; and I would think that if the National Joint Council is to continue, its composition should be looked at quite carefully and I would have thought that the case for its amendment would depend upon developments in bargaining relationships.

Mr. LEWIS: I have a supplementary question. I am afraid I do not know how the National Joint Council is set up?

Mr. HEENEY: By order in council.

Mr. LEWIS: By order in council.

Mr. HEENEY: It is purely an executive creation.

Mr. LEWIS: Under the Civil Service Act or under what authority?

Mr. HEENEY: I do not know whether it was under the Emergency Powers Act during the war. I recall it being done during the war. I never was on it. I do not know the statute under which it was done. It may come under the prerogatives—it has no executive authority, Mr. Chairman, at all. It is purely consultative, but it has been a useful, leading into what we are getting at now.

Mr. LEWIS: May I also ask a supplementary question to an earlier point about the Pay Research Bureau? Is it now the practice of the bureau to give information to the staff associations?

Mr. HEENEY: I do not know, Mr. Chairman, what the present practice is. It has been some years since I was associated with it.

Mr. LEWIS: Mr. Chairman, I agree with the preparatory committee report's recommendations on the Pay Research Bureau. I happen to have had the view for a long time that too much collective bargaining in the country is carried on by way of assertion rather than by any real knowledge of fact. I, therefore, agree very much with the proposition that the bureau be continued and that its findings of fact be made available to both sides.

Mr. HEENEY: My recollection, and I am now thinking of some years back and I am subject to correction as to the present practice, is that data were confidential to those who were represented on the advisory committee. Now, I may be wrong, but those represented on the advisory committee on the employees' side were the "recognized associations", so that the employee's representatives as far as they were represented on that group as well as the employer, had the benefit of the research bureau. In fact, the essence of the idea, or one of the essential elements in the argument for setting up the bureau, was that there should be data on which both sides could rely when they went into discussions.

Mr. LEWIS: How was this set up, Mr. Chairman, by order in council?

Mr. HEENEY: No, it was set up by the Civil Service Commission in the exercise of its administrative functions as a housekeeping one.

Mr. LEWIS: I see Mr. Heeney. So it is purely an administrative operation within the Civil Service Commission.

Mr. MCCLEAVE: Under Mr. Diefenbaker, Mr. Chairman.

Mr. LEWIS: I understand that is an irrelevant remark, Mr. McCleave, because the commission is entirely independent and you agreed with Mr. Heeney that is was and I assume it was as independent then as it is now.

Mr. MCCLEAVE: That is right. I agree that it was as independent then as it is now and I add my remark, under Mr. Diefenbaker.

Mr. Heeney was the chairman of the Civil Service Commission at the time and I am reminded that this was a recommendation which the Civil Service Commission made to the government of the day and which was enthusiastically accepted.

Mr. LEWIS: The point which concerned me is the point which Mr. Bell was asking about and aiming at: that collective bargaining will suffer a great deal if the pay research bureau does not make the results of its investigation available

to both sides at the bargaining table. For obvious reasons there would be a great deal of suspicion, mistrust, and resentment if that is not the case. How can one make certain—and I agree that it should not go into the act—but how can one make certain that that will be done. Might it be useful for this Committee in one of its reports to include as a recommendation the recommendations made in your preparatory committee's report?

Mr. HEENEY: Mr. Chairman, if I may respond personally to that, and not bind my erstwhile colleagues in the preparatory committee, my view is that it should be made available to both sides of the bargaining process and that this is one of the principle virtues of it, and if—

Mr. LEWIS: You say that in your report, Mr. Heeney, at page 42.

Mr. HEENEY: Thank you for reminding me. My colleagues have agreed with me.

Mr. LEWIS: You say:

> In the first case, the Bureau should be required to make the results of its studies available to representatives of both the employer and the bargaining agent concerned.

Then in the second, which is a separate employer situation, you say:

> It should be required to make the results available to representatives of the employees concerned.

Mr. HEENEY: Well, I have made the argument before, Mr. Chairman, and I stick to it.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Mr. BELL (*Carleton*): I wanted to change the subject somewhat to a field in which I think, perhaps, Mr. Heeney has almost unique qualifications to advise the committee by reason of his background. That is, the subject of political participation by public servants. I say Mr. Heeney's background is unique because he is a former principal secretary to a prime minister and he has had long diplomatic experience and has been in independent and non-political roles during a very large part of his distinguished public career. I think this is a matter to which the committee is going to have to give a lot of attention. We have had the recommendations of the Civil Service Commission and I would be very much interested to have Mr. Heeney's views, based upon his experience in a political office, as chairman of the Civil Service Commission, in the diplomatic field and as a deputy minister.

Mr. HEENEY: Mr. Chairman, this is a pretty formidable question put by Mr. Bell and I am afraid I really am not very expert. I have served, of course, under governments of both complexions and under prime ministers both liberal and conservative.

I will speak to it, Mr. Chairman, if you wish me to. I will be, of course, expressing only a private opinion.

My basic position is in favour of a large measure of freedom to participate at appropriate levels in government and at appropriate levels in the civil service. It does seems to me that as you get farther up in the hierarchy of the civil service, as you get into the area of policy formation—and the committee will understand what I mean by that—where the relationship of the civil

servant in question is one of competence to his minister in giving advice in the formulation of policy, I think it would be wholly inappropriate under our tradition, which I believe to be a good tradition, for a civil servant to engage actively in politics either by offering himself as a candidate or, indeed, in a less direct way, too. I feel this very strongly, but that is not to say that those in the public service, which has now grown so large and which engages in so many occupations which have no policy content, as it were, should not have an opportunity to participate, certainly, in the local political activities in his own community and the committee might think favourably of even going into the provincial area.

I speak with some diffidence on this. I reiterate that I am only expressing a very personal opinion. Let us take, for example, one of the strong arguments which have been made by public servants now over at least a generation regarding collective bargaining, and that is having no right to bargain collectively has removed them from the ordinary community of Canadian citizens; This is a telling argument. It is one which I think most civil servants have felt, and this is why I have been such a proponent for a long time of the introduction into the public service of a system of collective bargaining, under appropriate circumstances, for the determination of pay and working conditions.

Now, one of the other propositions which I think most civil servants find interesting is that being removed from political activity does again distinguish them from other Canadian citizens and I think, quite rightly, a lot of civil servants rather resent this. I think, perhaps, there is not very much I could add except to reiterate the reservation, which I would make very emphatically, concerning those people who were engaged in the policy making process, and it would be, of course, in some cases very difficult to distinguish between those who are doing this and those who were not subject to that particular—as I regard it—disqualification.

Mr. BELL (*Carleton*): Mr. Heeney, I would gather that your view then would be something along the United Kingdom approach, which has the three-tiered structure.

Mr. HEENEY: Yes, yes.

Mr. BELL (*Carleton*): The level which includes, shall we say, your trades people, your elevator operators, and that type of person, who would have comparatively full freedom. Your top level of policy makers would be under the same inhibitions today but you would have an intermediate group where there would be shading between the two.

Mr. HEENEY: This is right, Mr. Chairman, some means of distinguishing administratively between the two in a fair and impartial manner. I would go one step further, now that you have encouraged me; I would even favour the holding of a job for a person who was offering himself for public duty in a legislative way, provided he was not disqualified by reason of being a policy maker.

Mr. MCCLEAVE: May I ask Mr. Heeney a question? I think I agree fully with his remarks on the policy level, but what about the administrative level or where there is enforcement of fisheries regulations, for example, or other federal statutes where there is, perhaps, an element of discretion in the public servant as to whether things are followed up or charges are made or not made.

What about that area which, I think, would be a pretty sensitive one when you get into your small communities, particularly, in Canada. Have you thoughts on that, Mr. Heeney?

Mr. HEENEY: I have not had but I see, I think, Mr. Chairman, the point which is being made. That is to say, there is an element of discretion as to how the existing law is administered which might be affected and might be the subject of controversy between political parties. Is that what you are saying?

Mr. MCCLEAVE: Well, that is part of it but another part, if I may raise it in a very theoretical way, is this: suppose you have a fish guardian on a river and whether he takes somebody into court or not—

Mr. HEENEY: Mr. Chairman, this is a very sensitive area. It would be very difficult to legislate that kind of thing, would it not? It would be presupposing a lack of objectivity, perhaps, which one would not want to embody in the statutes. It is very difficult. I do not think I have any further thoughts on that.

Senator CAMERON: Mr. Chairman, does it not come down to this: theoretically every civil servant should have the right to participate in political affairs but in practice it is unrealistic in certain areas, which you have described very well when you segregated the policy formulating officers.

Mr. HEENEY: Yes, I think I see what Senator Cameron means, Mr. Chairman. You mean the proposition that all public servants are on a par with other Canadian citizens in regard to political activity, but some are less equal than others. Is that it?

Senator CAMERON: Well, one might do it that way or go the other way around.

Mr. HEENEY: I think it is better to begin with the statement of the right and then make the exceptions, rather than begin with the exceptions.

Mr. LEWIS: Are not many of the policy makers outside the civil service, Mr. Heeney?

Mr. HEENEY: I am not sure, Mr. Chairman.

Mr. LEWIS: Are not many of the policy advisers or policy makers appointed outside the Civil Service Commission?

Mr. HEENEY: Outside the Civil Service Act as non-permanent servants?

Mr. LEWIS: Is it limited to—

Mr. HEENEY: An order in council appointment outside the operation of the Civil Service Act?

Mr. LEWIS: Exactly.

Mr. HEENEY: I do not know what the present proportion is, but apart from the traditional Crown appointments, who are the deputy ministers themselves, we have almost forgotten nowadays that they are appointed by order in council, so conventional has it become to appoint them from the public service. There are some outstanding and very able exceptions, of course. I was not thinking of the deputy ministers, I was thinking of those who were in the policy formation area of operation and who were operating under the Civil Service Act. I would not know how many we have who are non-Civil Service Commission appointments.

Mr. LEWIS: Maybe you are right, but why should those people be disqualified from political activity just because they happen to be in a position which is concerned with advising on policy. What is there inherent in the position that makes it wrong for them to exercise their rights as citizens to run for office with leave of absence without pay. Are we not mature enough that a minister should accept the proposition that someone under him, or even very close to him, has this right like any other citizen? Frankly, I cannot understand this traditional objection. I cannot see it in logic at all, unless we still have a rather immature approach to those who serve us.

Mr. HEENEY: Our tradition is, of course, British tradition, which is regarded as particularly mature, but that is a matter of opinion. Let me give you an example, Mr. Chairman, of the kind of thing I mean. Let us say an assistant deputy minister is advising his minister on a particular policy upon which legislation is to be based for the House. Now, many assistant deputy ministers have strong opinions and convictions and they give their advice to their minister and they formulate this in memoranda, and so forth, and in due course a decision is taken by the minister with his cabinet colleagues and the government policy emerges in a state white paper or a statement or ultimately in a bill. However, the assistant deputy minister is committed to defend and explain that policy. I think this is essential and it should be done at that stage. If there is a change in government and a minister comes in who has the opposite policy, this assistant deputy minister should be enabled to advise the new incoming minister of the different political complexion and the different convictions and views. He should be completely free to advise him without any inhibition whatever. This calls for the greatest frankness in private between the official and his minister. In public, if your assistant deputy minister has been a candidate for office, his capability to serve his minister, and therefore to serve the state, on a change in government which involves a change in policy is qualified very greatly, if not emasculated. Do I make myself clear?

This is the tradition and I believe it to be a very good tradition. It is not the tradition of the United States; they have a different tradition, and a strong case can be made for that, but I think for our purposes in Canada, with respect to those who are involved in policy advice to ministers, we cannot warrant complete change in our system without involving a very large turnover in the public service at the time there is a change of government.

Mr. WALKER: Mr. Chairman, I would like to extend that. You would say that if conditions of disagreement became so unbearable for a deputy minister who felt that his minister was totally wrong on policy, then the choice is for the deputy minister to enter political life himself and become the minister, if he can.

Mr. HEENEY: The choice for the deputy minister or the assistant deputy minister or an official, if he comes to a point in which the actions of the government are inconsistent with his conscientious convictions, he has only one choice and that is to resign. Whether he takes the next step and moves into political life to fight for his convictions is another matter. I am glad this point was raised because it is something which I think is often forgotten and, contrary to some people's impressions, civil servants have both beliefs and convictions and it is necessary to maintain this part of our situation very strongly. Resignation is the only ultimate course for a self-respecting civil servant.

Senator MACKENZIE: I have a question on a point Mr. Heeney mentioned some time ago, and that is whether there are or should be stated procedures in respect of members of the civil service who offer themselves for election to public office. You casually said they should get leave of absence with pay or without pay. I am just asking whether, in your opinion, this kind of procedure should be pretty clearly spelled out and laid down so there is no dispute about it. There are three categories, and maybe more. There is the candidate for election up to and during the period of the election. Now if he is not elected, that is bad, but if he is elected then there is the problem of the time he may be expected to give to the municipal, provincial or federal office to which he was elected. There is a further possibility of him becoming a cabinet minister. All of these are relevant because I have had to deal with them myself in other circumstances. They are not easy decisions to make but guidelines or procedures laid down in advance are very helpful. Do you have any views on this?

Mr. HEENEY: Again they are personal views, Mr. Chairman. I agree with Senator MacKenzie, I believe that provision should be made with some precision. I understand that the bill before you has retained the old provision, leaving it to the committee to consider what is desirable under modern conditions, which have changed a good deal since that provision was made, and I would think they would have to be spelled out with great clarity. I would hope they would be as permissive as this Committee feels they could make those provisions. I would hope—and perhaps this is going beyond my mandate or instructions, or whatever they are—it would also be an encouragement at appropriate levels and with the exception I have tried to describe, to take part. I think this would be good. I believe Civil Servants have something to contribute and could contribute at the legislative municipal level and perhaps the provincial level too, and I think without impinging upon the efficiency of the service, which must be the first object of a Public Service employment act. Within that limitation their participation in the political life of the country should be facilitated.

The JOINT CHAIRMAN (*Mr. Richard*): Excuse me, Mr. Heeney, you mentioned the local and provincial levels but you did not mention the federal level?

Mr. HEENEY: No, I did not but I would not myself exclude it. Mr. Chairman, I have been carried much farther than I really expected to be. However, I am prepared to stand on that.

Mr. WALKER: I have just one supplementary, if I may? You do not think that political activity for a civil servant might penalize him. I am speaking now of the actual things that may or may not happen in a department. You do not think a civil servant—not one who ran as a candidate—who was very active politically in a campaign, criticizing severely, possibly, the government of the day, would be penalizing himself by doing such a thing? I am not saying that if he did penalize himself it would be a good situation. But, you do not think human nature being what it is that he would be penalizing himself.

Mr. HEENEY: Mr. Chairman, I think, human nature being what it is, there would be this risk, of course, and there are only two limitations upon the risk. One is the good sense of the supervisors and those who have authority over him and the other is the good sense of the civil servant himself and the way that he conducted his political activities. But I venture to say, Mr. Chairman, that there

are comparable risks in the private sector, perhaps not as great in total, but there certainly are occasions in the private sector where engagement in political activities would prejudice perhaps the promotion opportunities of individuals.

Mr. WALKER: Or in union activities.

Mr. HEENEY: Or in union activities.

Mr. WALKER: This has happened?

Senator FERGUSSON: I would like to ask Mr. Heeney a question. I may have misunderstood him but I gathered he thought that if a civil servant ran in a municipal, provincial or federal election and was elected that he might continue with his civil service job?

Mr. HEENEY: No, Mr. Chairman. What I intended to say was that consideration might be given to giving him leave in order to run. But, if he ran successfully he clearly would have to resign. If he ran unsuccessfully, consideration might be given to taking him back.

Senator FERGUSSON: Well you would not necessarily have to resign if you ran at a municipal level?

Mr. HEENEY: No, no.

Senator FERGUSSON: But on the federal level there would be too many demands on his time, I should think. I was puzzled by what you said.

Mr. HEENEY: I did not mean that, Mr. Chairman. I meant—

Mr. LEWIS: Leave of absence.

Mr. HEENEY: —leave of absence during the campaign. That is what I had in mind.

Mr. BELL (*Carleton*): We could not have a city council in Ottawa if civil servants elected to it had to resign.

Mr. HEENEY: Quite so, Mr. Chairman.

Senator CAMERON: Mr. Chairman, school boards are probably as good an example as any of giving their employees permission to run. They run on all kinds of tickets and they get leave of absence from the job, without any apparent impairment of their efficiency for any length of time.

Mr. BELL (*Carleton*): Mr. Chairman, I think we should be grateful to Mr. Heeney because, I think he, perhaps, is in an almost unique position to submit advice to us. I wonder if I could question him on another field entirely, when Mr. Knowles has completed his questions.

Mr. KNOWLES: I have a question that perhaps parallels previous questions. If you think I have entered another field, stop me. Mr. Heeney would you care to comment on the parallel situation of highly placed civil servants going out into private business and making use of the intimate knowledge they have gained in certain fields. Is there not a conflict there that is similar to the type of conflict you were describing when discussing politics?

Mr. HEENEY: I am not sure, Mr. Chairman, that it is a parallel. It is a situation of difficulty, I think, and in some jurisdictions provisions have been made in the law. The only law I can think of, offhand, in Canada that is

applicable is the Official Secrets Act where sensitive or classified information is involved. I am told, Mr. Chairman, that there is a provision in the Civil Service Act prohibiting activities which bring the Public Service into disrepute. I was not aware of this but it would hardly cover the situation.

Mr. LEWIS: That would be while he was a civil servant.

Mr. KNOWLES: Mr. Bell, if he does not mind an okay from a New Democrat, commented on this the other day in relation to his position as having been Minister of Citizenship and Immigration. He felt that imposed certain limitations on him when he got back into private practice. I am thinking of citizenship, immigration, customs, income tax, finance and trade and commerce.

Mr. HEENEY: All I can say, Mr. Chairman, is that no provision has been hitherto about this. I think it is one that is worthy of examination, in my own frank personal opinion. I suppose that this occurs outside the Public Service too in that when people who acquire, in the course of employment A, knowledge peculiar to that industry or undertaking, leave that employment and go to another take with them knowledge as well as skills which may add to the capability of a competitor. I suppose that is a difficulty but this is left to standards of private behaviour and so far, in Canada at least, we have never sought to limit the employment of those who leave the Public Service in any way at all. I think, as I said a moment ago, Mr. Chairman, the only limitation at all is that imposed by the Official Secrets Act with regard to classified information.

Senator MACKENZIE: Private businesses do, on occasion, limit this in the contract of employment and also movement from one agency to another, giving an agreement, as it were, not to engage in the same business or trade for a period of years.

Mr. BELL (*Carleton*): In another field, Mr. Chairman, one of the matters that has concerned me has been the provision with respect to the nature of the arbitral award. I reflected this in what I had to say on second reading. In effect, the provision of the bill, and it arises directly from the Preparatory Committee, is that the Chairman is always a majority of one. I confess that bothers me. I wonder if you could give me some philosophical base for this Mr. Heeney, or has it such?

Mr. HEENEY: Mr. Chairman, I am trying to cast my mind back to the process through which our minds went when we made this recommendation. My recollection is that we base ourselves upon British experience and very emphatic British advice from those who had operated an arbitral system for a long time with very considerable success. This is related to the non-publication of the reasons for judgment. There is no formal jurisprudence, Mr. Chairman, in the arbitration decisions of the British arbitrator.

Mr. LEWIS: I beg your pardon for interrupting but that is arbitration of issues in dispute, not arbitration of terms of a collective agreement. I know they do not have the same kind of system.

Mr. HEENEY: No, arbitration upon matters in dispute.

I am speaking though of the arbitral awards on wage and conditions disputes generally. Just a moment until I take council.

I am reminded by the secretary of the committee, Mr. Chairman, that we examine two possible approaches. One was the sort of panel approach and the other was the concept which is more common in North America, namely, the independent chairman, one representative employer and one representative employee. We concluded in favour of the single judgment partly on that basis.

Mr. LEWIS: One of the matters, Mr. Heeney, that has bothered a good many of the witnesses—and bothered some of us—and which, if I remember correctly, also grows out of your preparatory committee's report, is the specific exclusion from collective bargaining; it is stated in two or three places in the bill, but I am looking at subclause (3) of clause 70, exclusions from jurisdiction, Mr. Chairman, of the arbitral award, which really means, if you tied them all together, exclusion from the field of collective bargaining—because they are later excluded from the jurisdiction of the conciliation board as well—of the appointment, appraisal, promotion, demotion, transfer, lay off, or release of employees.

Mr. HEENEY: Yes, I have the point now, Mr. Chairman. This was discussed this morning by the witness who preceded me.

Mr. LEWIS: Every witness, I think, and correct me if I am wrong, because I have not been able to attend all the meetings.

Mr. HEENEY: I am very glad Mr. Lewis has brought this up.

Mr. LEWIS: May I say that no one has disagreed with the proposition that initial appointment should be the sole responsibility of the Civil Service Commission, but why can not any further movement, as it were, within the public service be part of the collective bargaining process?

Mr. HEENEY: I am very glad Mr. Lewis raised this, Mr. Chairman, because I did hear some of the discussion this morning. My view, I think, can be stated quite simply on this. The essential difference between a system of collective bargaining suitable to public employment and that in the private sector, is that the public interest must be preserved, and this is common doctrine, I think, to everybody. And the essence, or some important part of the essence of the public interest, is that which was embodied in the 1918 act, and which we commonly call the merit system. Mr. Lewis has said, Mr. Chairman—and it is common now, I think, to all members of the Committee—that initial appointment should remain within the Civil Service Commission. That raises the question of whether this necessarily implies these other exclusions in subclause (3) of clause 70 of the bill.

Our own judgment in the preparatory committee was that these additions are extensions of appointment. Promotion was discussed this morning in particular. Perhaps this is as good a test case as one could have to examine this. We looked at it very carefully, and we concluded that this was a part of the merit system, and the best that could be done here was to provide two things: firstly, the right of appeal—which I heard criticized from queries this morning—to an appropriate tribunal and, we thought, appropriate in the public service commission and secondly, the ability in collective bargaining to talk about standards of discipline, and so forth. We may be right; we may have been wrong, but it seems to us that if the public service commission is to discharge its duties as the custodian of a system of merit, initial appointment is not the

only element in merit. This carries on in terms of promotion. It would extend further to discharge, demerit because merit includes demerit in our conception, and our feeling was that this should be vested in the third party if it is to play its proper role. This is the essential distinction between what obtains in private employment in the private sector and where the public interest and parliament is involved.

Mr. LEWIS: Again, Mr. Chairman, I fail to see why this position is absolute. Why is it impossible to combine the two? Everyone of us, I think, is for virtue and, therefore, for the merit system. The fact is that if you take out of the field of collective bargaining all of these areas that so directly affect the employees' well-being, you are really limiting the collective bargaining process very materially. Now, why is it not possible to enshrine, as it were, the merit system as the method by which the qualifications of the employee, upward or downward, are measured and decided and include that as part of the collective agreement; then give the right to the organization concerned, to the employee affected, to go through the normal grievance procedure of the collective agreement if the employee feels aggrieved?

Mr. HEENEY: Mr. Chairman, we have the grievance procedure and this is a matter apart. The grievance procedure is provided here in the regulations.

Mr. LEWIS: I appreciate that, but why should this not affect promotions, demotions, transfers, lay offs, and so on, as well as the other.

Mr. HEENEY: Because—and this I am sure is the overwhelming view of organized employees in the public service—promotion and the other steps in the merit system are regarded as of the greatest importance to them, and I would feel that something very important had been lost were the protection provided by the independent public service commission to be removed from everything except the initial stage of appointment. When it comes to disciplinary matters there is nothing to prevent the negotiation of standards of discipline in the public agreement, nothing whatever.

This, I think, was a misconception in the minds of some witnesses before this Committee, Mr. Chairman, if my information is correct. I think that the merit system really holds together here from one into the other. There are areas, I think, where some of these things can be argued, perhaps. I think this was pretty well exactly the way we considered the exceptions should be defined. Again, I say that the great majority of organized employees have been very strong on this. The fear, as Mr. Carson I think, said the other night to be Committee, is the anxiety not so much about the old-fashioned political patronage, but the nepotism and the internal patronage and that kind of thing is still existent in the public service, and the Civil Service Commission's protection is regarded as of great importance.

Mr. LEWIS: I am not so sure, Mr. Heeney, that you are right about the attitude of the civil service associations. I read from page 9 of the Civil Service Federation of Canada original brief, which says in the top paragraph "However, under the provisions of clause 70" to which I directed your attention "an arbitral award may only deal with rates of pay, hours of work, leave entitlements, standards of discipline, and other terms and conditions of employment directly related thereto". There is no provision for arbitration of disputes that may arise on many other items that may be the subject of bargaining.

Whether they had in mind in that sentence the things I am referring to, I am afraid I do not know, but they were worried about the limitations of clause 70.

Mr. HEENEY: There is, Mr. Chairman, an area for the difference of opinion and examination here. All I think that I could add is that in our best judgment this was the best definition. Possibly, in the future, there may be an extension, but the essentials surely are in clause 71, where the subject matter of rates and conditions, leave entitlements and so on, the terms and conditions, are provided as subjects for decision by an arbitral tribunal.

Senator MACKENZIE: I had one point, Mr. Chairman, but it has been fairly well covered by what the witness has said and Mr. Lewis has brought up. So far as I can judge, seniority has a good deal of importance in the minds of a great many members of unions and employed people, and I imagine it must have been given serious consideration. I would think that other things being equal, seniority might play almost a determining role, and if two candidates were more or less equal, the one with seniority might be given preference. But if the decision is to be made by an external body, as I gather it is, this would no doubt be taken into consideration.

Mr. HEENEY: Mr. Chairman, in the commission's administration of the merit system, seniority, of course, plays a very important part in the selection on competition for appointments to positions. It has always given weight. How much weight is a matter of policy in the commission under the present regime. I would expect that in the discussions across the table between the employer's representatives and employee organizations this would be a matter of considerable discussion. The fact that it is excluded from an arbitral award and the arbitration process is not to say that it would not be the subject of discussion and could not be the subject of discussion, and certainly could be included in collective agreements.

Mr. LEWIS: Mr. Heeney, are you sure of that?

Mr. HEENEY: I am fairly sure of that.

Mr. LEWIS: Speaking from memory, that both in the case of the conciliation procedure and in the arbitration procedure, matters which were not in negotiations and matters excluded cannot be part of the conciliation or arbitration. I would say that from the act as a whole, they may talk about it, if you like, but they cannot negotiate on any of these points.

Mr. HEENEY: No; I quite agree with that greater precision in respect of my answer, Mr. Chairman, but it is important, I think—and this is certainly what we anticipate—that the parties—and one cannot emphasize too much the attitudes with which people come to the bargaining table—bargain, to use a traditional expression, in good faith. Then there will be many subjects discussed and even agreed which are not subject formally to the jurisdiction of the arbitral tribunal.

Mr. CHATTERTON: Mr. Chairman, perhaps my question has been covered. I have been in the house since this meeting began. If so, I can look it up in the Minutes of this meeting afterwards. Apart from the negotiable factors, have you considered the question of the commission being the body making the final decision on appeals? I think Mr. Bell raised this.

Mr. HEENEY: I have considered it but it has not been asked of me; I have heard it asked of others. I think this is more a formal difficulty than a real one in fact. I know there have been complaints and criticisms about the exercise of the appellate role of the commission under existing law and the previous Civil Service Commission Act. My own experience of appellate procedures in the Civil Service Commission is that they have been fastidiously fair, but this is an administrator's viewpoint and it may be possibly prejudiced. I do not know where the appellate jurisdiction would otherwise be vested.

If it were to be excluded from the Public Service Employment Act, which you have before you, where would one vest the appellate jurisdiction? I am obviously thinking out loud. The Public Service Commission, under the proposed bill, is the custodian and administrator of the merit system. It provides for appointments; it makes promotions, and has to do with release from employment, lay-offs and the rest of it—the merits and demerits of the whole service is in its custody. Then a decision is made, let us say, with regard to a promotion, and an employee feels, because of his seniority or his greater competence or his veteran's preference or for some other reason, that the wrong decision was taken by the board which has appointed him on behalf of the Civil Service Commission. You know the way the boards are set up. The decision of the commission which has to do with appointments, promotions and so forth is of course, separated from that that has to do with appeals, and although this does not destroy the legal validity of the argument that it is the same person, it is, in fact, different individuals with a totally different set of conscience, and they are reviewing on behalf of the commission whether or not the merit principle has been adhered to in the appointment by one of its boards. All that I can say is that I think it would be a very serious thing to remove this appellate jurisdiction from the Public Service Commission. It would detract from its general authority and responsibility for the merit system, and I do not think that experience, of which there has been a great deal, would give any serious grounds for anxiety.

Mr. CHATTERTON: You mean the appellate provisions.

Mr. HEENEY: That is right. You see, there has been an appeal division in the commission for some time. There is a good deal of experience in this area now. When I was Chairman of the Civil Service Commission I found that when I looked at the appeal proceedings they were scrupulously fair.

Mr. CHATTERTON: I grant you, Mr. Chairman, that possibly there was a real effort made to be fair, and I am sure that was so. But, on the other side, from my experience, there was always a suspicion on the part of the employee that they cannot admit a mistake—because it was the same organization that made the decision in the first place.

Mr. HEENEY: On the other hand, Mr. Chairman, the record shows that there have been some mistakes admitted.

Mr. CHATTERTON: For the sake of the state of mind of the employee, if nothing else. The decision is suspect because it is the same people that made the decision.

Mr. HEENEY: Or that it is under the auspices of the same institution.

Mr. LEWIS: This is the old legal maxim that not only must justice be done, but justice must seem to be done.

Mr. HEENEY: That is right. I would hazard the opinion, Mr. Chairman, that the majority of civil servants have found the appellate procedure to be fair. This is an administrator's answer, you understand.

Mr. CHATTERTON: My idea is different, Mr. Chairman. In many cases there would have been appeals of what employees thought constituted an injustice or unfair decision but they did not bother to appeal because they did not think it was worth while; they said the same people made the decisions. I am not saying they are right but the feeling was there.

Mr. HEENEY: Mr. Chairman, I am sure there are arguments like this, and indeed, a good many were brought to my attention when I was Chairman of the Civil Service Commission. Most of them, on investigation, turned out to be rather old soldier complaints. On the other hand, there is something in justice being seem to be done. This is an argument in favour of a separate appellate organization. But my judgment—and it is only my judgment—is that on balance it is better for the administration, custody and integrity of the merit system for the Public Service Commission to have the responsibility for scrutinizing its own actions, if you will.

Mr. WALKER: Mr. Chairman as a matter of information, does this bill give the appellant the right of being represented by an agent of his bargaining unit?

Mr. LEWIS: Not specifically; it speaks only of the employee.

Mr. WALKER: Who may be appealing.

Mr. BELL (*Carleton*): That is a decision to which we are certainly going to come later. They dropped, in the drafting of this, the specific right of representation.

Mr. WALKER: All right. It might help a lot.

Mr. BELL (*Carleton*): The President of the Privy Council thinks there is a right under this bill now as it stands, but we can argue that out later.

Mr. ÉMARD: Mr. Chairman, if I am correct, with regard to present appeals, the employees have to pay the lawyers fees. Is that right?

Mr. HEENEY: I understand there is no reference in the bill to this. My own judgment, for what it is worth, is that they should be entitled to be represented by their union representative, by their union agent. On the question of a lawyer, Mr. Chairman, I do not know. There is simply no provision and I simply do not know what the practice has been. Certainly there is no provision for public payment of that.

Mr. ÉMARD: There was one case of appeal that I followed quite closely and the employee had to pay his own lawyer's fees which amounted to about $500. I asked him if he could not get representation from his own association but unfortunately his supervisor, the one who was making the charge, was also the president of the association.

Mr. HEENEY: Yes, this would be awkward.

Mr. ÉMARD: There is something else. Reverting to seniority, the fact that seniority is not accounted for in the merit system may have something to do with negotiations. Mr. Heeney mentioned before that seniority could be discussed during negotiations across the table but because of the fact that seniority

is not accounted for in the merit system do you not think that the employer will refuse to discuss or agree on any clause having to do with seniority?

Mr. HEENEY: It is a factor, Mr. Chairman, in the administration of the merit system. It is one of the factors that is weighed in appointments and promotions by the independent commission which has the power to make the appointment and to make the promotions. Whether in the discussions leading to a collective agreement the particular employer representatives would be willing to discuss the weight to be given to seniority in any particular operational or other unit is a matter on which I do not suppose my opinion is worth anything. I would certainly hope that they would be willing to discuss this and all other relevant matters, even though they were not subject to the ultimate arbitral jurisdiction.

Mr. ÉMARD: I was thinking of seniority in the specific case of lay-offs, where I think it should have a greater bearing. Let us say, for instance, you have a group of plumbers in the operational group, and there is a lay-off; would it be done strictly on seniority or would it be done according to your merit system?

Mr. HEENEY: It will be determined, under this proposal, Mr. Chairman, by the commission. This would be a function of the commission on a demerit system. They would certainly not be held to any seniority or juniority principle on lay-offs. Their obligation or responsibility would be to act in the reverse of the merit principle which operates on appointment or promotion.

Mr. ÉMARD: What about in this case—I picked a particular trade but it could be any trade at all—where all men were plumbers and they all had their licence; they were all in the same grade and they have to lay off a certain number.

Mr. HEENEY: I am reminded, Mr. Chairman, in practice, seniority is frequently the rule by which lay-offs are accomplished in operational classes within the civil service at the moment. There is no reason to think that it would not continue to be. But, it would be in the power of the Public Service Commission to vary that should they, in their judgment, think it required to be varied in particular circumstances. As a matter of practice, though, seniority is often the rule that is followed.

Mr. ÉMARD: Would it be in the power of the union negotiating to obtain a clause on seniority with specific—

Mr. HEENEY: Mr. Chairman, no, not under the present rules.

Mr. ÉMARD: Thank you.

Mr. WALKER: I have just one general question. You are saying that the integrity of the merit system has a better chance of survival under the bill that is before us than if promotions become part of the conciliation process?

Mr. HEENEY: Yes, Mr. Chairman. I think this is basic to the conception of the bill. I would like to add, Mr. Chairman, if you will allow me, that I quite understand many of the criticisms which have been made by witnesses before you from employee organizations and others drawing their parallel from the private sector experience. Of course, this experience is very valuable and has been very valuable to the Preparatory Committee as it has gone about its

studies, where it is relevant. But, I would like to emphasize the point, which the question reminds me of, that this is a different situation, as I am sure the committee realizes, and that when the public interest is involved you have a situation for which you have to make different provision. Now, several of those who have appeared before you have argued persuasively, "Why bother about a new act; let us just go under the I.R.D.I. Act?" Well this, Mr. Chairman, is the first approach one makes when one begins to study this problem. This is the first thing the Preparatory Committee had a go at. But you would have to change the I.R.D.I. Act in so many particulars that the I.R.D.I. Act would no longer be the I.R.D.I. Act in its present form. So what these witnesses are asking for is something which, in my judgment, is quite impossible if you are to preserve the merit system which is only one of a number of reasons.

The second point I would like to make—and I hope I am not wandering too far from the question—is that under the bill that is before you, not as a result of the wisdom of the Preparatory Committee but as the result of the wisdom of others, there will be available to the bargaining agents who are certified, what is really the I.R.D.I. Act method of proceeding. For all practical purposes the second option, which is the option through conciliation to the right to strike is, for all practical purposes, exactly the same as that of the I.R.D.I. Act. The other feature is route A, if I may call it that, the route leading to binding arbitration, which the great majority of civil servants employee associations have told us is what they want.

Mr. LEWIS: Mr. Chairman, I am not being facetious, but I heard the dogma about the public interest being involved which, of course, I agree with. Would Mr. Heeney tell me what major service of industry in the country, in the private or public sector, the public interest is not involved in, whether it is the public service, the railway, General Motors, the Canadian Broadcasting Corporation or, for that matter, as my friend Mr. Knowles suggests, the supermarkets, or the operations of Trans-Canada Pipe Lines. I am asking: Does this blanket phrase, "the public interest", as a blanket often does, blind us to some other things, when, in fact, all essential parts of the economy involve the public interest?

Mr. HEENEY: Mr. Chairman, I am very glad that the word "dogma" has been reintroduced into the proceedings of this Committee, because my attention has been drawn to the report of another witness. I do not resent being referred to as having some responsibility for dogmatic utterances. There is no reason why one should not be dogmatic if one is right, as long as it is not used in what I think is technically called the pajonitive sense. Certainly the public interest is involved in many undertakings, Mr. Chairman, which are in the private sector. Of course this is self-evident, if I may say so.

Mr. LEWIS: I thought it was. That is why I asked you.

Mr. HEENEY: But that does not mean, in my judgment, that you can equate employment in the private sector with employment in the public sector.

There is, on my assumptions—which may not be those of Mr. Lewis, Mr. Chairman—an initial difference between employment by the state and employment in the private sector. Then, if I may say so, one goes on and one finds, of course, particularly with the developments of the last 25 years, that the state

has become engaged in many activities which could be conducted—and Mr. Lewis will understand this as well as anybody else—by private enterprise.

On the other hand, there is the relationship of the state as employer, because the state under our system is operated through parliament, through responsible government, and all the rest of it, so that you have a double aspect to the employer. The employer is the employer, but he is also the custodian and protector of the interests of the people at large, including private industry. This means that the relationship between the employer, who is also the government of the country, and the employee is initially different.

You have to go on from there. You say, "Conditions have altered; we are no longer the mere servants of the Crown, dependent upon Her Majesty's grace for our daily bread." Conditions have changed since this, Mr. Chairman, and public servants, on the principle which I tried to enunciate some time ago, should, as far as possible, share all the rights of other Canadian citizens.

What are the exceptions to this? This is the way I think you go at it.

Mr. LEWIS: I agree, Mr. Heeney. As a matter of fact, members of the Committee will remember that I put to a witness before us—not as fully—who argued for the Industrial Relations and Disputes Investigation Act—I am sure I am right in my memory—that there were basic differences in the employer-employee relations in the public service, and expressed the view that I thought that that justified a separate collective bargaining regime.

All I am trying to suggest to you by my question is that this phrase "public interest" should not necessarily lead to the conclusion that in all respects they are different. Of course there is a different relationship, and that is why I tend to favour very strongly a separate collective bargaining regime, assuming that the act setting it up accomplishes that fact.

To take Mr. Émard's example, if you have some plumbers or carpenters, electricians or printers, clerks or typists, and so on, working for the government, the initial relationship is a different one because of the government's responsibility to society as a whole it being the state.

Nevertheless, there are conditions of employment, are there not, affecting them exactly similar to the conditions of employment affecting the rest of the working population in Canada. I merely suggest to you that we not use the phrase "public interest" to blind ourselves to the areas where they are in the same situation, even though the employer is in a different relationship.

Mr. HEENEY: Mr. Chairman, in response to that, I could not have expressed better myself what my own philosophic approach is to the problem before the Committee.

Mr. LEWIS: I will not ask you any more questions, so that we end by agreeing.

Mr. ÉMARD: There are certain differences, too, between a private employer and the government. First, there are many industries supplying the same service; and, also, the private employers have a right to lock out, which the government does not.

Mr. HEENEY: Mr. Chairman, under the existing law I am not sure that the government does not have the right to lock out, but that is a matter of some doubt among the legal authorities.

Mr. ÉMARD: But it would be very difficult for the government to do, being the only supplier of this service.

Mr. HEENEY: This raises the question of safety and security, as it is called, in the bill before you, which is another great area, of course, of considerable difficulty and delicacy.

Mr. HYMMEN: Mr. Chairman, I think we all appreciate Mr. Heeney's appearing as a witness today. I do not want to delay the Committee, and I really do not want to backtrack, but there is one thing that is bothering me.

There are two things which have come up repeatedly; one matter is the course of procedure, whether arbitration or strike, and the other one is Mr. Lewis' question. Mr. Lewis said that while he agreed, as most of the associations and unions agreed, with the right of the Civil Service Commission to appoint, he had some difficulty in being convinced that the other matters of promotion, demotion and transfer should not be in collective bargaining.

I have given a great deal of thought to this, and I am having equal difficulty in being convinced where this hard line is between appointments and the other matters, because I think that in the very appointment itself there has to be some consideration regarding promotion of other employees. This is my problem. I wonder if Mr. Heeney could help me out on this?

Mr. HEENEY: Mr. Chairman, there is difficulty here, of course, in the different elements of what I regard as the package of the merit system. I regard these as being connected, essentially, one with the other. It is all part of the system of competition—the idea that merit and merit alone will be the criterion by which people are promoted and get on in the service, or are let out if they do not have the essential qualities.

There is one other element in the situation, which I have just been reminded of, and that is that the area of competition, as far as the public service is concerned, is very difficult from that of the area from which appointments are made outside—the whole country.

I think it is accepted generally, Mr. Chairman, that it is desirable that the public service of Canada should be broadly representative of Canadians from the Pacific to the Atlantic. Here is another differentiation, where the Civil Service Commission's independent viewpoint, or vantagepoint is of great importance; otherwise, it might become quite unbalanced.

I do not know whether that helps.

Mr. HYMMEN: That is, more or less, my feeling.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions?

Thank you very much, Mr. Heeney. We appreciate very much your great contribution once again to the Committee.

Mr. HEENEY: Thank you very much.

The JOINT CHAIRMAN (*Mr. Richard*): Our next witness would be Dr. Davidson, but it is 5.30. Shall we return this evening instead of tomorrow morning?

Mr. KNOWLES: Unless something has happened—and there has been no message from the House—the House is still on the housing motion now; but

starting a little after seven o'clock this evening we will be on estimates which some of us are interested in.

There is another problem for some of us about tommorrow morning. The health and welfare committee is meeting tomorrow morning at 10.00 a.m. to produce the report on birth control.

The JOINT CHAIRMAN (*Mr. Richard*): I think it would be a good idea if we could have Dr. Davidson this evening. Do you wish the Committee to go on this evening?

An hon. MEMBER: It is just 5.30. Can we not spend an hour with Dr. Davidson?

The JOINT CHAIRMAN (*Mr. Richard*): Now, wait a minute, before you venture—

Mr. KNOWLES: Dr. Davidson says he would like to get up there now so that I can ask him my questions.

The JOINT CHAIRMAN (*Mr. Richard*): To sit this evening would be a good idea, because we could probably finish with all the witnesses this week and start next week—

An hon. MEMBER: Let us try to sit tonight at eight o'clock.

The JOINT CHAIRMAN (*Mr. Richard*): We will hold a meeting tonight at eight o'clock. Is that all right?

Some hon. MEMBERS: Agreed.

EVENING SITTING

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, I now call the meeting to order.

We have Dr. Davidson with us this evening.

Mr. KNOWLES: Mr. Chairman, my question relates to a detail but I think it is an important matter of principle and I would like to discuss it with Dr. Davidson. He has had plenty of warning and I have usually found Dr. Davidson ready, if he has not been warned.

It is a question which I asked Mr. Carson the other day concerning what struck me as an omission from the Public Service Employment Act which is to replace the Civil Service Act. The omission is the section that is in the old Civil Service Act relating to parliamentary staffs. It appears in the present Civil Service Act between a section dealing with ministers' staffs and a section dealing with other public officials. Those are clauses 37 and 38 in Bill No. C-181. But as I said, the section dealing with parliamentary staffs is not in this bill. Mr. Carson made one or two interesting comments but he did not wish to proceed with it because he said it was not his responsibility. He did agree that I had drawn attention to a vacuum. I suggested that I would like to discuss it either with Mr. Benson or Dr. Davidson.

Mr. Chairman, I recognize that like motherhood, the merit system and a few other things around here, we speak very highly of the supremacy of parliament, and on the basis of that apparently we have through the years

maintained the right of parliament to employ its officials and other employees on a completely independent basis. Therefore, there has been a rule up here on the hill that the Civil Service Commission stays out except for the odd bit of advice and for statistics to be used for comparative purposes. But it strikes me that by leaving out of this bill and out of all the other bills any reference to parliamentary staffs, we are in effect making no statutory provisions with respect to the rights of employees on parliament hill.

I recognize that the Internal Economy Commission acts as the employer; I think there are interesting relationships between that body and the Treasury Board. After all, some of the same people on one are on the other, but at any rate there is the employer, the Internal Economy Commission; but apart from references to that commission in the Senate and House of Commons Act, we lay down no statutory provisions. It strikes me, Mr. Chairman, that what we are doing by this is passing a law which institutes collective bargaining in the public service but does not provide for collective bargaining for our own employees. There is a strong word I could apply to it, but I do not think we should leave it this way.

Mr. Carson said to me the other day that he would expect me to be the first to defend the rights and the supremacy of parliament, but even parliament exists by the virtue of law and I do not think we should put ourselves outside of the law.

Now, supposedly I am asking Dr. Davidson a question and I am: What do you, Dr. Davidson, think about the omission of this reference in this act? Are we in the position that we are making no statutory provision regarding our own employees? Could we not do something about it?

Dr. G. F. DAVIDSON (*Secretary of the Treasury Board*): Mr. Chairman, I think the simple answer to Mr. Knowles' question, the last part of it in particular, is that by omitting any reference to the question of parliamentary staffs in the various enactments we are, in fact, making no provision for parliamentary staffs. From some points of view I suppose it could be argued that what requires explanation here from the strictly constitutional point of view is why this provision was inserted in the old legislation rather than why it is being omitted from the new legislation.

My reason for saying that is that we proceed from the premise that parliament is supreme. Parliament has authority to take any action that it chooses to take. Therefore, the mere act of inserting in a particular piece of legislation a particular provision which seems to suggest that the authority of that provision is necessary to enable parliament to take the action which that section authorizes parliament to take, raises by implication some doubts in some peoples' minds, perhaps, as to what authority parliament has in the absence of a clause of that kind.

The correct interpretation of the position, as I understand it, is that whether this clause appears in the legislation or not, parliament by a joint resolution of the House and Senate or by other appropriate parliamentary action can take any action that it wishes with respect to its own employees. It can decide to place its employees under the provisions of the new Public Service Employment Act in part or in whole. It can, if it so decides, grant collective bargaining rights to its employees, either under a separate regime or by some decision taken by parliamentary resolution to place the employees of parliament

under the provisions of the new collective bargaining bill in whatever posture it wishes to place them. It can grant those rights to its employees as a part of the employee group that is dealt with by Treasury Board as the employer, or, perhaps, as a separate employer under the provisions of the law that provides for the establishment of separate employers,—in which case possibly the Commissioners of Internal Economy might be regarded as the separate employer for purposes of collective bargaining with parliamentary staffs.

My point is, that the inclusion of a clause of this kind in the legislation is not necessary to give parliament the authority to do as it sees fit with respect to the granting of collective bargaining rights to its own employees. The absence of this clause in no way affects the authority of parliament to do as it sees fit.

Finally, it may perhaps be added, not as a real argument, but as a further consideration in prompting the omission of this clause, that this has been on the statute books in the present Civil Service Act since 1961, and parliament has, in fact, never exercised the responsibility or privilege which is set out in this particular existing section. This raises the question whether there is any real value in including in the new legislation a provision authorizing parliament to do something which it already has the authority to do, but which, despite the fact it has the authority, it has never done anything about. I think that is the explanation I would give as to why this is omitted. Its omission or inclusion really adds or subtracts little, if anything.

Mr. KNOWLES: Mr. Davidson, that explanation is understandable and constitutionally nice if one looks at it from the viewpoint of parliament. As you say, we have the authority, we are supreme, we do not need to tell ourselves what authority we have. But, as suggested, it does not look quite so attractive from the standpoint of the employees. To say that we have the right, whether it is there or not, may be true. But, so far as the employees on parliament hill are concerned they do not have any rights unless they are spelled out in the legislation. My whole point is that in this legislation, the combination of these three bills, we are spelling out the rights of the employees of the government and bear in mind they are employees of Her Majesty.

Mr. DAVIDSON: But not of the government.

Mr. KNOWLES: I would think in terms of circumscribing rights, it is even more significant to say they are employees of Her Majesty. Yet we are saying that as against Her Majesty these employees have certain collective bargaining rights. But in the case of the employees on the hill we make no such provision. It seems to me that it is a vacuum we ought to fill. Maybe, the place to fill it is not in the public service act in the way that it was in the Civil Service Act but it does seem to me that it should be either in Bill No. C-170, in the bill respecting the Treasury Board or in the bill respecting the powers of the Internal Economy Commission. As I say—I am sorry to be repeating myself—from the standpoint of parliament we do not have to tell ourselves what powers we have got, we have them, but unless they are written out we are not going to act on them and there are no rights spelled out for employees. I feel that this Committee, Mr. Chairman, should be taking action to recommend that somewhere along the line the principle that we are enacting for public servants generally should be extended to the direct employees of Parliament itself.

Mr. HYMMEN: Mr. Chairman, I would like to ask a question which perhaps Mr. Knowles or Dr. Davidson could answer.

The JOINT CHAIRMAN (*Mr. Richard*): Just a moment please, Mr. Émard is next.

Mr. ÉMARD: Actually my subject has already been dealt with by Mr. Knowles except for a while I was confused. I heard parliamentary staff mentioned and I did not know he was speaking of the employees of the House of Commons. I am of the same opinion, and I have always been very surprised that the employees in the House of Commons do not even have a grievance procedure. They have nobody to report to; they have no organization whatsoever and I think something should really be done and I do not see a better time than at present, as Mr. Knowles suggested. How it is going to be done I do not know exactly, but it seems that this Committee would be the simplest way to do it. I would certainly be willing to collaborate.

Mr. BELL (*Carleton*): Mr. Chairman, I agree that in this situation there must obviously be a technique whereby the parliamentary staffs should be brought under provisions equivalent or similar to those which are in Bill No. C-170. This problem arose when an earlier committee was dealing with the Civil Service Act back in 1960 and 1961, and the technique adopted by the committee then was to seek the approval of the two Speakers to have the Law Clerk of the Senate and the Law Clerk of the House of Commons come before the committee at an appropriate time and suggest the proper constitutional technique of bringing the parliamentary staffs under circumstances that are reasonably equivalent. I venture to suggest that that would be our proper technique now, that as a Committee we say we want to see the staff which serves parliament given every right which is equivalent to what is proposed under this legislation and will the two Law Clerks get together and tell us how to go about doing it. Whether it be by resolution or sections in the bill matters not. Let it be up to them.

Dr. DAVIDSON: Mr. Chairman, perhaps I might be permitted to merely observe at this stage—I am sure this is understood by members of the Committee—that the decision to leave this out was not in any way intended as a decision to influence this Committee to deprive the members of the parliamentary staff of any rights which parliament might wish to accord to them. It was, perhaps, an excessive concern that from the point of view of the Treasury Board we should not appear to be staking a claim, from the employer's point of view, to jurisdiction over the members of the parliamentary staff. It is for parliament, so far as we see it, to decide it wants what to do with respect to the granting of rights to its own employees under both the Civil Service Act and the Public Service Employment Act and the new collective bargaining legislation.

Mr. KNOWLES: May I just interrupt to ask whether that would be unadulterated evil, for the Treasury Board to have something to say about it. Let me give an example,—I used rather freely the phrase "employees on the hill"—of the elevator men that take us up and down. The elevators in these buildings where we still have them, are run by Department of Public Works employees. They would come under these other provisions and I suppose I could go around

and find out. But what is the difference between the elevator operators who take us up and down from floor to floor and the messengers?

Mr. DAVIDSON: Mr. Knowles, the words you used were the first intimation I have ever heard that it is not always unadulterated evil to have the Treasury Board connected with anything. I thank you for that implied compliment, if it was one.

Mr. HYMMEN: Mr. Chairman, I have a specific question, and with all respect to Mr. Knowles and some of the others who have been here many, many years, we are talking as far as I am concerned in intangibles. What specific employees and how many employees are you talking about? I am not trying to minimize the problem; I am only trying to get the problem correct in my mind.

Mr. BELL (*Carleton*): At least 1,500.

Mr. KNOWLES: If you look up to the *Votes and Proceedings* of last Friday, when the rates of pay were increased for them, you will find the list.

Mr. BELL (*Carleton*): With respect, I think the only way we can get this settled on the basis of the constitution is if, with the approval of the Speaker, we instruct the Law Clerks of the two houses to come forward with a proposal.

Mr. KNOWLES: I would be quite happy with that.

The JOINT CHAIRMAN (*Mr. Richard*): As you will understand, Mr. Knowles, I am not an expert in this, but I must say that I think you would have to have an amendment to Senate and the House of Commons Act if you were going to do anything like that.

Mr. KNOWLES: Granted, Mr. Chairman, but we have before us legislation and an omission has been noted. It would be perfectly within the terms of reference of this Committee to make a recommendation. The government might still have to act on it, because of the monetary angle to it, but it is perfectly within our power to make the recommendation.

The JOINT CHAIRMAN (*Mr. Richard*): And also amend the acts which relate to the House of Commons and the Senate. That is a problem, but it could be included in the recommendations at a later date from members of the Committee.

Mr. ÉMARD: Made at this stage in the procedure?

The JOINT CHAIRMAN (*Mr. Richard*): I do not know. This is not the time to make a recommendation.

Mr. KNOWLES: I would say the time to do it, Mr. Chairman, is when we get to the point where we are talking about our report.

Mr. WALKER: Dr. Davidson—

Mr. BELL (*Carleton*): Have we agreed we are going to get the Law Clerks or, is Mr. Walker.

Mr. WALKER: I would like to think about this a little more. I was wondering Dr. Davidson, if you agree there are some other groups in the civil service, besides the House of Commons staff, who are more essential to public safety and security who have, through this legislation, been given bargaining rights and the choice of the right to strike as opposed to arbitration?

Mr. DAVIDSON: Well I—

Mr. WALKER: Actually the key here is who are more essential to public service and safety—

Mr. DAVIDSON: Than the staff of parliament?

Mr. WALKER: —than the staff itself and, yet we have given those people bargaining rights.

Mr. DAVIDSON: I do not think the question of safety and security really enters into it, Mr. Chairman, if I may say so. I think the whole question here is the relationship of the executive, and the employees over whom it has control, to parliament and the employees over whom parliament has control. The point of view was taken in the drafting of this legislation that it was appropriate for the legislation to cover the employees over whom the executive has control, in one way or another and, that parliament should be asked to give to the executive's employees full bargaining rights as contemplated in this legislation; but that it was really for parliament itself to decide with respect to its own employees, what it wished to do. Coming back to your point, Mr. Walker, I see no considerations of safety and security entering into the decision that will have to be taken as to whether the staffs of parliament are to be given the right to bargain collectively or not.

Mr. KNOWLES: Yes, but sometimes it is not a pleasant place in which to work.

Mr. DAVIDSON: Parliament may wish to consider what its own posture will be in terms of granting the right to strike to its own employees, thereby paralyzing the processes of parliamentary government; but that is a question that Parliament will have to consider itself, as it will likewise have to consider whether it is going to recognize the right of the Senate to bargain separately with its employees and the right of the House of Commons to bargain separately with its employees. There is a separation of jurisdiction at the present time over these two groups of employees, which is rather jealously guarded, as I have had occasion to discover.

Mr. BELL (*Carleton*): Could you describe the occasion on which you discovered that, Dr. Davidson.

Mr. DAVIDSON: On more than one occasion.

Mr. WALKER: You made a point about parliamentary control. In fact, ultimately, there is parliamentary control even over the groups that are embodied in this legislation. Where does the problem end up for parliamentary action?

Mr. DAVIDSON: In the final ultimate sense that is true.

Mr. WALKER: So parliament indeed is exercising or, it is conceivable that parliament will exercise control over more than just the parliamentary staff?

Mr. DAVIDSON: I think that it is well to go back to first principles and ask ourselves what it is we are trying to accomplish here. Parliament is trying to legislate in respect of the employees of the government of Canada; that is what it started out to do. Because it was not altogether satisfied, in 1918, and in earlier years, to leave the question of appointment and tenure and all that goes

with the recruitment and employment in the public service in the hands of the government of the day, for reasons of which all members of this Committee are aware,—because parliament was not content to do that, parliament established a Civil Service Commission to act as the guardian of the merit system with respect to the employees of the government of Canada, not with respect to the employees of the parliament of Canada. That was stage one.

Stage two comes along and, Parliament is now deciding, in terms of the present legislation before it, that it does not like to continue the practice by which the government of Canada has the unilateral right to make decisions with respect to wages and working conditions for its own employees. Therefore, parliament is imposing on the government of Canada by this Bill the obligation to bargain collectively with the government of Canada's employees. That is one thing; but it is quite a different thing for parliament to decide—as it is the right of parliament obviously to decide—what it is going to do with its own employees. Is it going to reserve to itself the right to recruit its own employees? Is it going to trust the government of the day to recruit parliament's employees, something which it does not trust the government to do in the case of the government's own employees? Or, is it going to trust the Civil Service Commission to recruit and promote and deal with the recruitment problems of parliament's own employees, as it is prepared to trust them in the case of the government employees? What is it going to do in the area of collective bargaining? Is parliament going to say to Treasury Board: We authorize you, as the employer's representative, to deal in the collective bargaining context with our employees. Parliament has to consider how far it wants to go and what machinery it wishes either to create or adapt to its own requirements. We have faced all along, as Mr. Bell knows when he was a member of the Treasury Board, the problem of recognizing that Treasury Board has no jurisdiction with respect to the establishment of rates of pay or the conditions of employment. over employers of parliament. This is a matter that is dealt with exclusively by the Commissioners of Internal Economy. Treasury Board is under the obligation, in framing the estimates at the beginning of the fiscal year, to accept what the Commissioners of Internal Economy have laid down as the rates of pay, the working conditions and the salary costs and so on and include it in the budget as presented in the estimates annually, without presuming to subject that particular set of estimates to the same critical scrutiny that we have no hesitation in doing in the case of government departments that come under our jurisdiction.

This is the essence of the problem. I assure the members of the Committee that I am without instructions as far as the government is concerned as to the government's attitude with regard to parliamentary staff but that this is really a matter to which the members of parliament who are represented here will have to give attention and make up their minds as to what, if anything, they wish to do about it.

Mr. KNOWLES: We are already doing something about our employees, are we not, in the provisions we have made for the Commissioners of Internal Economy. It is not pure caprice under which people come to work on the hill. The Commissioners of Internal Economy engage them for us and set the rates of pay, and at the present time that is done unilaterally. As I said earlier this evening, what bothers me is that we are now deciding by legislation, we

parliament, are deciding that settlement between the Treasury Board and the government's employees shall be made on the basis of collective bargaining, but that the settlement between the Internal Economy Commissioners and parliament's employees will still be on a unilateral basis.

Dr. DAVIDSON: Parliament does not deal at the present time with its own employees within the framework of statute law.

Senator MACKENZIE: Mr. Chairman, I think Mr. Bell is right in suggesting that this is a matter we could talk about with great interest all evening, but it is one which we do not have jurisdiction over at the moment other than perhaps if we care to later on to refer it to the Speakers and the Law Clerks of the respective houses.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Walker, did you have anything to say on this?

Mr. WALKER: I have a third question, to bring the problem right down to every member who is sitting on this Committee. Are we prepared as members of parliament to trust the Civil Service Commission to hire our own secretaries for us?

Mr. KNOWLES: This is not the issue.

Mr. WALKER: Yes, it is. They are House of Commons staff. If you are going to go all the way down the line, then let us—

Mr. BELL (*Carleton*): If you are going to do that, then you had better decide whether parliament is going to turn its prerogatives and its privileges over to an independent body, whether that independent body be the Treasury Board or the Public Service Commission or not. The actual issue we are confronted with tonight, I venture to suggest, is whether parliament will bring itself under provisions which we are deciding upon for the government of Canada.

Mr. KNOWLES: With respect to Mr. Walker's terms, the issue is: Do we pay our secretaries rates of pay which we set unilaterally, or do we grant them collective bargaining with us?

Mr. WALKER: I was just pointing out that—

Dr. DAVIDSON: With all due respect, it is a broader question than that, Mr. Knowles.

Mr. BELL (*Carleton*): It is the whole question of privileges and prerogatives of parliament; that is why we have to get the constitutional advice of the Law Clerks.

Dr. DAVIDSON: That is right, Mr. Bell, on the one hand. On the other hand, it is the whole question of all factors entering into the working conditions of the employees of parliament, including recruitment. It does, by implication, involve the decision whether you are going to trust the Civil Service Commission or somebody else, or, reserve for yourselves as individuals, the prerogative of deciding whom you are going to hire and whom you are not going to hire.

Mr. WALKER: As members of Parliament are we willing, with our own secretaries—I am going to bring this down to personal cases—are we willing to have a grievance procedure with our own secretaries, and all the rest of them.

Are we willing to give this sort of thing up. This is all part and parcel of what we are talking about. Are we willing to give up the right of being employers ourselves as members of parliament—in this one instance—with secretaries.

Mr. KNOWLES: If deputy ministers are in that position why should we not be.

Dr. DAVIDSON: We are organizing a union, Mr. Knowles.

Senator CAMERON: There is one interesting observation in connection with it though and that is that the salaries—the pay—to the secretaries, as a concrete example, are higher in general than they are in private sectors.

Mr. BELL (*Carleton*): They are determined by a resolution of the houses.

Mr. ÉMARD: What would happen at present if the employees of the House of Commons decided to join a union. Would they be contravening the law?

Dr. DAVIDSON: That is one of those questions that you will never get a satisfactory answer to, Mr. Émard. We have several pages of opinions from the Department of Justice. Of course, there is nothing to prevent any employee of the public service, in so far as I know, or any employee of parliament, from joining a union. To argue that he could not join a union would be to deny him the right of freedom of association. But, having joined the union, so what? The effective result of joining a union in logic is that, in having joined a union, the union is able to establish itself as a bargaining agent and bargaining collectively with the employer. Until such time as parliament is prepared to recognize the right of the employees to bargain collectively with their employer the fact that they are members of a union does not accomplish as much as one might infer from saying that they can become members of a union. I am sure that there are members of the parliamentary staffs now who are members of unions.

Mr. ÉMARD: Let us leave aside the collective bargaining. Could not the employees have members—representatives of the union—act for them on grievances for instance—represent them on grievances—take their grievances to parliament?

Dr. DAVIDSON: Mr. Chairman, there are always channels open by which grievances can be aired either by putting them into the hands of individual members of parliament who will listen, or by some form of petition to parliament itself. But a grievance procedure in the formal sense is not available to the members of parliamentary staffs at the present time unless by the decision of the Speakers of the House of Commons, or Senate each Speaker has made his own internal administrative arrangements for a grievance procedure to be established.

Mr. KNOWLES: Mr. Chairman, in all fairness, and I think it should be said in fairness to Mr. Speaker Macnaughton and to Mr. Speaker Lamoureux, that such an arrangement has recently been developed. Perhaps, some members are not aware of it. As Dr. Davidson pointed out, it is something out of the goodness of the Speakers' hearts.

Mr. BELL (*Carleton*): It is an act of grace.

Mr. KNOWLES: It is an act of grace rather than a right. It is an improvement over what used to be and I think those two Speakers I have named

deserve credit for it. However, I agree with what Senator MacKenzie and Mr. Bell have said and if you will accept the motion I would be glad to move that these Speakers be asked to—

The JOINT CHAIRMAN (*Mr. Richard*): Before you put the motion, Mr. Knowles—

Mr. KNOWLES: I beg your pardon?

The JOINT CHAIRMAN (*Mr. Richard*): Is it necessary that we should do this before we come to the problem at a later date?

Mr. BELL (*Carleton*): Do you not see the problem staring us right in the face and does it not require study?

The JOINT CHAIRMAN (*Mr. Richard*): I am not saying that it is not a problem. I have been here long enough to understand the problem but, I am thinking, when would you want to bring the Clerk of the House of Commons or the Law Clerk of the House of Commons and the Senate here? At this time or at the time when we are looking into the particular problem at a later date, during the study of the bill.

Mr. KNOWLES: It could be during the study of the bill.

The JOINT CHAIRMAN (*Mr. Richard*): I understood that this was an immediate problem. You would not want to delay the clause by clause discussion.

Mr. KNOWLES: I am not suggesting that it be done before we proceed with the clause by clause of the bill.

The JOINT CHAIRMAN (*Mr. Richard*): If it is the wish of the Committee, then it is up to the Committee to decide. We will put the request to the Speakers and we can get the answer from them.

Mr. KNOWLES: I move that the two Speakers be requested to make their Law Clerks available to us at an appropriate time for discussion of the issue of parliamentary staffs.

The JOINT CHAIRMAN (*Mr. Richard*): Is that the wish of the Committee?

Mr. WALKER: No, I would like to speak to this. Again, it is a different situation with this particular group. If the two Law Clerks are here giving us whatever information we need, I would not know if they are speaking on behalf of staff, or on behalf of management. Surely, they would not be the only ones we would want to hear if they are presenting this problem. There is in fact no organization to present the case of the employees, the employees who may be, although I doubt it, totally contented and much happier exactly the way they are now.

Senator MACKENZIE: Gentlemen, I think the Law Clerk should only be concerned with the constitutional questions.

Mr. BELL (*Carleton*): That is all, the legal aspects of it, how do we go about the legal aspects of it?

The JOINT CHAIRMAN (*Mr. Richard*): If you read the House of Commons Act which I have here before me it is very clear that, if there is a wholesale amendment to be made, the powers are there—the Speaker and the Committee;

and even the grievances are settled by the Speaker, etc.; so that there is a whole legal problem to be untangled before you could—

Mr. BELL (*Carleton*): I think we should assure Mr. Walker that no one has any desire suddenly to confront him, in the carriage of this bill, with some problem. Actually, what we are seeking to do is to sort out the constitutional difficulty—lay it out clearly in front of us so that we know what can be done. Once we know the constitutional position we can then decide, if I may say so, whether we want to put the Commons and the Senate staff in a position of exact equivalency with all other employees of the Crown.

An hon. MEMBER: Do we not have a director—

Mr. BELL (*Carleton*): He is the only one that we are asking: He is the only one; not the Speaker, or—

The JOINT CHAIRMAN (*Mr. Richard*): Order, Order.

Mr. BELL (*Carleton*): We are taking the suggestion, out of courtesy, that the two Speakers be asked to make available their law clerks. We cannot call them. We have no right to call a law clerk. We have to approach it this way.

The JOINT CHAIRMAN (*Mr. Richard*): Order, order. As a matter of fact, we have a motion, but it is in the power of this committee to call the law clerks at any time, in any event.

Mr. BELL (*Carleton*): It is surely a matter of courtesy to ask the Speakers.

Mr. WALKER: Vote on it if you will, but I would just like to issue a warning. It may be a very small point, but if action results from the law officers being here, or other people who may be contemplated as a result of their being here, will this relate to the thing that the committee is seized with at the moment, or does it get us into another area entirely, namely, amendments to the House of Commons Act? If it gets into the House of Commons Act, then I am suggesting that we are just going down a tributary rather than staying with the main problem that is before the committee now.

Mr. KNOWLES: We have a bill before us, providing a substitute for the Civil Service Act, but leaving out a clause that was in the Civil Service Act.

Mr. WALKER: I do not follow that.

Mr. KNOWLES: The bill that is before us, Bill No. C-181, repeals and replaces the present Civil Service Act, but a section that was in the Civil Service Act, regarding parliamentary staffs, has not been carried forward into this act.

Mr. WALKER: But surely the House of Commons Act is still the major part of that. I do not like getting off into another subject of equal importance —perhaps of more importance but at least of equal importance—

Mr. KNOWLES: That is the subject that is before us, collective bargaining.

Mr. BELL (*Carleton*): I suggest that Mr. Walker take us in good faith. Nobody is trying to lead him down any garden path at all. All we want to do is—

The JOINT CHAIRMAN (*Mr. Richard*): Order, order. Are there any other comments on the motion?

Mr. ÉMARD: I would like to take this opportunity to see what could be done about bringing the employees of the House of Commons to the same level of bargaining as we have for the rest of the civil service employees.

Mr. WALKER: In this act?

Mr. ÉMARD: I do not know the legal entanglements in that, but we have to take some means of giving these employees the same rights as the other civil service employees.

The JOINT CHAIRMAN (*Mr. Richard*): Order, order.

Mr. ÉMARD: I second the motion.

The JOINT CHAIRMAN (*Mr. Richard*): All those in favour? Those opposed? Carried.

We will proceed with the examination of Dr. Davidson.

Mr. KNOWLES: Could I ask Dr. Davidson one other simple question?

The JOINT CHAIRMAN (*Mr. Richard*): There is just time for one more.

Mr. KNOWLES: Why, in clause 38 of Bill No. C-181, has there been omitted the last line, which was in the corresponding section of the Civil Service Act, namely, the line that declared that the Clerk of the Privy Council, the Clerk of the Senate, the Clerk of the House of Commons and the Secretary to the Governor General were to rank as deputy heads?

Dr. DAVIDSON: Because, Mr. Knowles, that is taken care of by other provisions of this legislation. I think I am correct in saying it is taken care of by the definition of "deputy head" in the Public Service Employment Bill, which prescribes who shall be entitled to be regarded as deputy heads for the purposes of the legislation.

Mr. LEWIS: In the amendments, or the original one?

Dr. DAVIDSON: In the Bill before us.

Mr. KNOWLES: Does it include these people?

Dr. DAVIDSON: Yes. This is why it was regarded as being—

Mr. KNOWLES: This would be a redundancy.

Dr. DAVIDSON: Yes; that is correct. I would just like to check that, but that is my recollection sorry: I am not quite as correct as I thought I was but I am near enough.

Mr. KNOWLES: This is an unusual day, Dr. Davidson.

Dr. DAVIDSON: The correct explanation is that the Clerk of the Senate and the Clerk of the House of Commons and their employees for all of the many reasons that we have been discussing for the last hour, do not come under the Civil Service Act.

Mr. WALKER: Right.

Dr. DAVIDSON: Therefore, it would be if one will forgive the word, a nonsense, to say that they should be deputy heads for the purposes of the Public Service Employment Act, when they and their staffs have no status under that Act. It is the Public Service Employment Bill about which we are talking here.

In the case of the Secretary to the Governor General and the Clerk of the Privy Council they are given the status of deputy heads under this legislation.

Mr. KNOWLES: I am sorry, Dr. Davidson. Did you say that that applied to the Clerks of the two Houses?

Dr. DAVIDSON: No; what I said was that there is no point in saying that the Clerk of the Senate is a deputy head under the Public Service Employment Act if the Clerk of the Senate and his staff have absolutely no status under the Act.

Mr. KNOWLES: Is there any other respect in which a person can be a deputy head?

Dr. DAVIDSON: For purposes of the Financial Administration Act.

Mr. KNOWLES: And do these two have it for the purposes of that act?

Dr. DAVIDSON: That is my clear impression. I would have to check that with the existing Financial Administration Act to be sure; but I am quite certain that is the fact.

If you look at Bill No. C-181, clause 2 (e) you will see a deputy head described as a "deputy head means in a relation to a department named in Schedule A to the Financial Administration Act, the deputy minister thereof, and in relation to any division or branch of the public service designated under paragraph (d) as a department, such persons as the governor in council may designate as the deputy head," and so on. It is under that provision that the Clerk of the Privy Council is designated as deputy head of the Privy Council office, for purposes of the Financial Administration Act. That entitles him to be regarded as a deputy head under this legislation.

Do you follow me?

Mr. KNOWLES: Yes, I do.

Dr. DAVIDSON: The same is true of the Secretary to the Governor General; but that does not apply to the Clerk of the Senate or to the Clerk of the House of Commons, because it is not possible to relate them to the Public Service Employment Act which has no jurisdiction over or application to the Senate, or to the House of Commons, or to their employees.

Mr. KNOWLES: That is what you said a few moments ago, Dr. Davidson, but then you said that, with respect to the Financial Administration Act, it was your clear impression that they were deputy heads. Are you changing that now?

Dr. DAVIDSON: Two of them.

Mr. LEWIS: The Privy Council and the Secretary to the Governor General. There are two groups, one the Clerk of the Senate and one the Clerk of the House of Commons who do not enter into the picture so far as the Civil Service Act is concerned, or so far as the new Public Service Employment Act is concerned. They are not deputy heads for purposes of the Public Service Employment Act because they, and the employees who come under them, have no status of any kind under the Public Service Employment Bill which is before you.

Have I made that point clear?

Mr. KNOWLES: From here on, then the Clerks of the two Houses are not deputy heads except by tradition?

Dr. DAVIDSON: They are not deputy heads for purposes of an act which does not relate to them in any way.

Mr. KNOWLES: Or for any other purpose?

Dr. DAVIDSON: That is a separate question. They could very well be deputy heads under the Financial Administration Act, for purposes of management of the financial affairs of the Senate and of the House of Commons. For example if they were a deputy head under the Financial Administration Act and were not a deputy head under the Public Service Employment Act, they might, conceivably, under the delegation of authorities that is contemplated by the Financial Administration Act, be given delegated authority to act in respect of financial matters; but they could not be given delegated authority under the Public Service Employment Act to act with respect to recruitment, promotions, and so on.

Mr. KNOWLES: Very well.

Mr. BELL (*Carleton*): Dr. Davidson, I have been concerned, and have been wanting to ask for some time, about an analysis of the power of dismissal as it exists under the three bills which we have before us. I raise it now, particularly, because the residual power is under the bill with which we are concerned principally when you are with us tonight.

Would you mind giving us a brief outline of the totality of the power of dismissal as it will exist if these bills should be enacted at law.

Dr. DAVIDSON: Perhaps I could read from a memorandum I have here on the subject, Mr. Bell. It would at least give us, I think, a useful initial starting point:

The purpose of this memorandum is to review the provisions relating to release, discharge and dismissal in the proposed public service enactments, partly as they relate to actions taken for reasons of national security, and to suggest a number of issues that arise in connection with this distribution of the various authorities between the three different pieces of legislation.

Among the general objectives of the bills now before us in respect of this matter are the following:

1. the preservation of the Civil Service Commission as the agency responsible for staffing the service in accordance with the merit principle.

2. the establishment of the Treasury Board as the principal agent for the employer for purposes of collective bargaining and personnel management.

3. the eventual assignment to deputy heads of increased managerial authority on a delegated basis.

Against this background the problem of how to allocate in the law the authority to remove employees from the public service has proved to be a complicated and difficult one, and the solution as put forward in these three pieces of legislation works somewhat as follows:

1. It is contemplated that the Public Service Employment Act, that is the civil service legislation, should vest in the Public Service Commission the

authority to release an employee for incompetence or incapacity; the rationale of that being that judgments as to incompetence or incapacity are deemed to be related to an assessment of qualifications and capacity to perform on the job, and, therefore, constitute a part of the merit system.

The reference for that is section 32, I think, of the Public Service Employment Act. No, that is a wrong reference. I will give you the correct reference in a moment. The reference is section 31.

2. It is contemplated that the Financial Administration Act should vest in the Treasury Board the authority to regulate—prescribe, that is—standards of discipline, these standards of discipline to be subject to bargaining and arbitration. It is contemplated equally that the authority will be vested in the Treasury Board to prescribe penalties to be imposed, including suspension or discharge for misconduct or a breach of discipline.

The provision covering that is section 71(f) of Bill C-182.

You will notice that the authority to be given to the Treasury Board there is stated in terms of the authority to establish standards of discipline; and if you look at the collective bargaining legislation you will find that standards of discipline are bargainable and subject to arbitration within the provisions of the collective bargaining bill.

Here we have also the authority to prescribe penalties—not to impose penalties but to prescribe the penalties to be imposed.

3. It is contemplated by these provisions that both the Civil Service Commission in respect of the first mentioned matter and the Treasury Board in respect of the second matter should be empowered to delegate their respective authorities to deputy heads of departments, those authorities to be subject to delegation under prescribed conditions which include the authority of the delegating bodies to withdraw the delegated authority under circumstances where they consider that the delegated authority has been improperly used.

Finally, it is contemplated that:

An action to release for incompetence or incapacity whether taken by the deputy head under the delegated authority or taken by the commission in its own right should be subject to appeal in accordance with the provisions of the Public Service Employment legislation.

Now, that is the distribution of the responsibilities for dismissal and release, and that does not touch, Mr. Bell, on the area that is represented by—

Mr. BELL (*Carleton*): Subsection (7).

Mr. DAVIDSON: Subsection—

Mr. BELL (*Carleton*): The power of dismissal in the case of the safety or security.

Mr. DAVIDSON: Right. I was looking for this.

Mr. BELL (*Carleton*): It is on page 4, subsection (7).

Mr. DAVIDSON: That is right; the proposed new subsection (7) of clause 7, is the point in the trio of legislative enactments where in the view of the government there must remain an overriding authority which leaves with the governor in council the overriding responsibility and authority to effect suspen-

sion or dismissal in the interest of the safety or security of Canada, or of any state allied or associated with Canada.

You will recall, Mr. Bell and gentlemen, that in the original discussions of the bill, which took place in the house, the Minister, Mr. Benson, had something to say about this provision. I can only say with respect to this portion of the total complex that this is, in the view of the government, a provision which it is necessary to retain in the legislation at some point; it is the final residual power; and I think it is a matter of government policy which the minister may, in his intervention before the committee, have to explain at the appropriate time in further detail.

Mr. BELL (*Carleton*): Yes. Perhaps I could just go back and review the various situations. The power of dismissal in the Public Service Commission for incompetence and incapacity is subject to appeal by the regular appeal procedures.

Mr. DAVIDSON: That is correct.

Mr. BELL (*Carleton*): This is not subject to collective bargaining.

Mr. DAVIDSON: That is correct. It is a part of those responsibilities which are excluded from collective bargaining because they are regarded as being part of the merit system under the jurisdiction of—

Mr. BELL (*Carleton*): This is the demerit system, and, therefore, is not subject to collective bargaining.

Your second aspect is the Treasury Board power regulating discipline, and for a breach of discipline discharge is possible.

May I ask, first, why this is made a matter of regulation rather than being spelled out in the statute itself?

Dr. DAVIDSON: Because it is bargainable, Mr. Bell. The standards of discipline are bargainable and arbitrable, and for us to entrench in the legislation itself the specific standards of discipline would be tantamount to taking into the employer's own hand, unilaterally, the responsibility for prescribing standards of discipline, without their being subject to bargaining and arbitration as is contemplated by the collective bargaining bill.

Could I just add one further point? Not only are the standards of discipline bargainable and subject to arbitration, but, in addition to that, actions taken with respect to employees, in the imposition of penalties rising from disciplinary actions related to standards of discipline, are subject to the grievance procedures and to adjudication.

Mr. BELL (*Carleton*): That makes it very clear.

Your final and third point is the ultimate prerogative reserved in full in the case of safety and security?

Mr. DAVIDSON: That is correct.

Mr. BELL (*Carleton*): I think, Dr. Davidson, I do not want to ask you—

Dr. DAVIDSON: For the safety or security of Canada.

Mr. BELL (*Carleton*): Of Canada, yes.

I do not want to ask you to comment, unless you wish, in relation to this, because it is a matter specifically of government policy, but I think we must

have some statement of policy about whether dismissals of this type are to be subject to some type of appeal, or some type of grievance procedure, before we pass this bill. It may well be that the government will—

Mr. LEWIS: This is section 50, is it not?

Mr. BELL (*Carleton*): This is clause 7(7).

Mr. LEWIS: Yes; but it is the equivalent of section 50 in the old Civil Service Act.

Mr. BELL (*Carleton*): Somewhat restricted; the old section 50 was unlimited.

Mr. LEWIS: A little wider, yes.

Mr. BELL (*Carleton*): It is a little wider than this.

It may be that the government's approach will be that they want to reserve this until such time as the proposed Royal Commission on Security reports, but I think that we will need—and I would like to mention it, Mr. Chairman now—we will need a very clear statement on what type of appeal procedure might be contemplated under this clause.

Mr. LEWIS: At the moment there is none contemplated.

Mr. BELL (*Carleton*): There is none contemplated at all.

Mr. LEWIS: At the moment section 7(7) does not contemplate any appeal procedure at all.

Dr. DAVIDSON: I think that is correct.

Mr. LEWIS: The fact is, if I recall correctly, that the following subsection declares that if you have a piece of paper from somebody, which says that you are dismissed for security or safety, that is it.

Dr. DAVIDSON: Not exactly; not just "somebody".

Mr. LEWIS: Well—

Dr. DAVIDSON: The governor in council.

Mr. LEWIS: The governor in council; that is somebody.

Dr. DAVIDSON: I would like to point out one important difference which, I think, touches on the point that was made that this is considerably more limited than the present section could be. Section 50 (2) of the present Civil Service Act reads as follows: "Nothing in this Act shall be construed to limit or affect the right or power of the Governor in Council to remove or dismiss any employee."—for any reason, or for no reason. The restriction in the amending Bill before the Committee is in the view of the government, a substantial restriction of this unfettered power.—

Mr. LEWIS: Dr. Davidson, we were informed during the debates on the unfortunate Victor Spencer that, in fact, subsection (2) of section 50 has been used only in cases of security. At least, that is my memory. That is why, in my mind, they are the same. Even though the wording is wider the application of it was the same.

Dr. DAVIDSON: I can think of other circumstances, Mr. Lewis, in which I am sure you would argue the reverse of that proposition.

Mr. LEWIS: I am not saying that I am not glad to see the present wording. I am. I am just unhappy that there is not some appeal procedure, even if *in camera*, following that.

Mr. BELL (*Carleton*): I think that we have fairly clearly the power of dismissal on the record there and I defer to my colleagues. I want to come back to another matter a little later.

Mr. LEWIS: Can I deal with the appeal tribunal, or has that been dealt with while I was away? Is it contemplated that the present set up of the appeal tribunal on the matters which are reserved to the Civil Service Commission, or the Public Service Commission, will continue? We have had representations which persuade me of the value of having an appeal tribunal which is not part of the Public Service Commission.

May I conclude by saying that I have thought about these representations and I appreciate the need to have the appeal tribunal in some way related to the practices and standards of the Civil Service Commission followed, otherwise you go off at tangents occasionally, or there is the danger of going off at tangents.

Could I ask you, Dr. Davidson whether it would not be worthwhile giving serious consideration to setting up in the statute a separate appeal tribunal, even if you make it, as far as its relationship is concerned, related to the Public Service Commission. I do not care how much we are told that the appeal tribunal now is entirely acting independently of the ordinary organs of the Civil Service Commission and so on; as I suggested,—perhaps you were here—to Mr. Heeney, I can well see that the employee will not feel that justice is being done even though some may think it is?

Dr. DAVIDSON: I will say quite frankly that this has bothered me on more than one occasion in the years that I have been in the public service, and yet I confess that I have not, in these years been able to satisfy myself of any better approach to the problem of providing assurance to employees that they have been fairly dealt with and have a right to be heard in the dismissal procedure.

Let me just go on to say—

Mr. LEWIS: It is not only dismissal; it is promotion, demotion and transfer—all those things.

Dr. DAVIDSON: Let me just perhaps cover all of those points by saying that to the extent that the delegated authority, which it is planned to give from the Civil Service Commission to the departments, works in a genuine fashion, it seems to me that it will result in the employees getting a fairer impression of appealing to an independent and generally detached and objective appeal tribunal under the delegated arrangement where they make their appeals to the Civil Service Commission against departmental decisions.

Part of the reason why there has been the impression in the minds of many individuals that they are making their appeal to the same body that made the decision in the first place, is that the authority of the Civil Service Commission has, in the past, tended to be held centrally and the action appealed against has

been taken by the Civil Service Commission itself; consequently, when an action was taken by the Civil Service Commission, acting in the direct discharge of its responsibility, and then an appeal was made to the Civil Service Commission against that decision, the impression was understandably left in some instances that the appeal was being made to the same authority which had directly made the decision in the first place.

To the extent that we can establish a proper system of delegation of authority, where the department takes the action as the management agency on the delegated authority of the commission, and the commission then sits in judgment when the employee appeals, it seems to me that the employees will get a much clearer impression that they are being dealt with at the second stage by a body that has not already dealt with the matter in the first place. They will, in fact under this new arrangement for delegation be having a much more meaningful appeal procedure made available to them than has been possible under the more centralized system under which the commission operates at the present time.

Mr. LEWIS: I hope you are right. I am not, at the moment, persuaded, although I say, without reservation, that it deserves thinking about.

Let me ask you one or two questions and then make a suggestion in the form of a question.

I got the impression—I do not know enough about these things from personal experience—from what Mr. Heney said that there are persons on, or with, or in, the Civil Service Commission, who are given the task of being the appeal tribunal at the present time. Is that right?

Dr. DAVIDSON: Yes, that is my understanding.

Mr. LEWIS: Do they do that only?

Dr. DAVIDSON: Yes.

Mr. BELL (*Carleton*): No; I think you are wrong there, Dr. Davidson.

Dr. DAVIDSON: That there are people set especially?

Mr. BELL (*Carleton*): But they draw the people who sit on the appeal tribunal from the various departments, and occasionally from outside, I think.

Dr. DAVIDSON: Well, I know there is an appeals section of the Civil Service Commission.

Mr. LEWIS: That is what I am trying to find out.

Dr. DAVIDSON: I had answered the first question and I had not answered the second question.

Mr. LEWIS: Your answer to my first question was that there are people whose job it is to sit in appeals.

Dr. DAVIDSON: There is an appeals branch of the Civil Service Commission, organizationally and structurally. There is a chairman. There is an appeals branch which contains a number of employees who are exclusively employed in presiding over appeals.

Mr. LEWIS: Who are the other members of the appeal board.

Dr. DAVIDSON: The other members of the appeal tribunal—other than the chairman, as I understand it—are drawn from branches of the Civil Service Commission or other parts of the government service.

Mr. LEWIS: I suppose these people are drawn from areas which are not related to the areas in which this event occurred. I do not blame civil servants for feeling that this is not a fairly satisfactory appeal tribunal. I have doubts about your statement that if the deputy head or somebody in the department takes the initial step of deciding on the promotion, demotion, dismissal, transfer or whatever it may be, that that will give them a better appeal when they go to the commission's appeal branch. I see no reason for this and I would like to ask you why it is not possible first to provide in the legislation that there shall be an appeals tribunal. May I stop here to say it seems to me when that is done, then it immediately establishes in the mind of the employee that this appeals tribunal is a matter of law. It is not a matter of some administrative act by the commission which it seems to me would be advantage number one. And, secondly, that the appeal tribunal consist of two or three people who do nothing else and are not drawn ad hoc from other management areas. Why can that not be there. It seems to me it would have the advantage that you would build up some jurisprudence by the appeals tribunal.

Dr. DAVIDSON: May I just make three observations. My first observation is that I am being asked to comment on a provision of the public service employment legislation which does not really come within the purview of my own functions as Secretary of the Treasury Board, and it is rather for the Civil Service Commission to express authoritatively their points of view.

Secondly, I personally have no difficulty in following you on your second point, Mr. Lewis, which had to do with how these boards are made up; but on the first point I must say I do find just a little difficulty, which I will state as follows. We set up a Civil Service Commission because we do not trust the government in its capacity as employer to take all of these actions unilaterally with respect to its employees. We set up the commission to safeguard all of the areas of responsibility in public service employment policy that we do not want the employer to have control over. Now, we set them up presumably because we regard them as being an independent, untouchable, virtuous and upright guardian of the public interest, dedicated to the proposition of making just decisions. I must say that, having done that, I then find it a little difficult to say well, of course we do not trust the judgment of this body and therefore we will set up another appeal tribunal to pass judgment on whether or not the decisions of the Civil Service Commission that we set up originally as an impartial agency were proper or not. I realize you can say, of course, that in the law courts of this country we do have tiers of appeal courts superimposed one on the other.

Mr. LEWIS: We certainly do. I am always reminded, and every lawyer around this table knows it, Dr. Davidson, of the story that is often told about the eminent British counsel who appeared before the Privy Council on say, a contract case, and he started off by giving an elementary statement of the law and the presiding law Lord turned to him and said, Mr. Smith, let us say, "surely you can assume that we know this much of the law" and his answer

was, "that is the assumption I made in the courts below, that is why I am here." This is true not only of the courts but it is true of the commission.

Dr. Davidson, if you look at Clause 31(3) for example, you find that within such period after receiving the notice in writing mentioned in subsection 2 as the commission prescribes, the employee may appeal to the commission against the recommendation of the deputy head, and so on, and the commission may do as it is said. I was paraphrasing. It seems to me if I were an employee and you were an employee of the government in the lower echelons and read this and the other parts of this law which say the commission appoints me; the commission sets the standard; the commission had the authority to promote me: the delegated authority, the bit of refinement that I as an employee, a clerk somewhere, am not interested in, and then I am told, this sends me back to the people who did it to me in the first place, it is just as simple as that.

Dr. DAVIDSON: It is not quite as simple as that.

Mr. LEWIS: As far as the words are concerned it is.

Dr. DAVIDSON: With respect, Mr. Lewis, no not even as far as the words are concerned. If the clause said that the deputy head had the right to dismiss and that the commission was the tribunal to whom the dismissed employee could appeal, would you be satisfied with that, at least legislatively?

Mr. LEWIS: Well, it would be a little better but, of course, at the present time 31(1) says that if the deputy head feels a person is incompetent, or has not the capacity, then he makes a recommendation to the commission to do such and such and the commission does it and then subclause (2) provides that a deputy head gives notice in writing to the employee that he has made the recommendation to the commission and then subsection (3) says you can appeal to the commission.

Dr. DAVIDSON: I certainly would venture the opinion that the staff associations would be much more disturbed about vesting authority to dismiss in deputy heads—if you were to vest the authority in the deputy heads to dismiss and make it subject to appeal to the commission—than they would be by the present provision which restricts the deputy heads' authority—

Mr. LEWIS: I am sure they would. That is not my suggestion.

Dr. DAVIDSON: You said it would be better.

Mr. LEWIS: No, no, I am not suggesting that. I am suggesting that you can have your appeal to the commission under subsection (3). Obviously, the commission ought to say something, but there ought to be then a further appeal from the commission to an appeals tribunal provided for in the legislation, a tribunal consisting of men and women, two or three, I do not care what number, who will be charged with the duty of hearing these appeals. I think then the law will clearly say to the employee that he is getting justice and I think, also, Dr. Davidson, that there would be value in having a permanent tribunal so that you develop procedures and jurisprudence and a kind of certainty in the way in which you administer the demerits or even the merits.

Mr. BELL (*Carleton*): Mr. Chairman, perhaps I could get Mr. Lewis to do me the honour of reading Bill No. C-63 introduced on January 24 of this year which provided for just such a civil service appeal panel.

Mr. LEWIS: It just proves that we are both right. If you press it too far I might change my mind.

Dr. DAVIDSON: I am not arguing that your idea would not be clear evidence of a completely impartial appeal tribunal. What I am arguing, I think, is that if you start off on the basis of a policy that you are going to take certain prerogatives, having to do with staffing of the public service, both the positive aspects of staffing and the negative aspects of staffing, out of the hand of the employer and vest those authorities in an independent tribunal, which is the Civil Service Commission, then, to say the least, you introduce complications when, having one that, you repeat the process all over again and set up a second independent tribunal in whom you, by implication, are vesting certain staffing and destaffing rights so far as the civil service of Canada is concerned.

Mr. LEWIS: This will be my last word. I wish I had your own words before me. I think that what is suggested in the bill to which Mr. Bell drew my attention and which I had not read and what I am suggesting and what was suggested by witnesses—if I remember correctly the professional institute made the point the other day—using your own words, indicate that since you have vested the authority to staff and destaff—if you will permit me to coin a word—in the Public Service Commission, precisely because the staffing and all the elements within that are vested in the Public Service Commission, then for that purpose the Public Service Commission is the employer, or is in the nature of the employer.

Dr. DAVIDSON: I could not accept that.

Mr. LEWIS: I say for that purpose it is in the nature of the employer. It does exactly—shake your head if you like, Dr. Davidson—what the general manager of a firm has to do.

Dr. DAVIDSON: Is the hiring hall the employer?

Mr. LEWIS: I beg your pardon?

Dr. DAVIDSON: Is the hiring hall the employer in the case of unions?

Mr. LEWIS: Some employees think so.

Dr. DAVIDSON: Do you think so?

Mr. LEWIS: Sir, I think there are aspects. I do not mind saying to you Dr. Davidson, I am not particularly fond of the hiring hall although I know of situations where they may be necessary. But, in so far as those who exercise authority in the hiring hall have any influence on the question of whether or not a particular person is hired, then to that extent the people exercising the authority are exercising an authority normally vested in the employer. All I am saying to you is that when you vest the authority in the Public Service Commission to engage people—that is what the power of appointment is—to promote them, to demote them, to measure their capacity, put them through exams, to that extent. The Public Service Commission is exercising an authority which is normally vested in the employer.

Dr. DAVIDSON: That is true, but that does not make them an employer.

Mr. LEWIS: They are in my eyes, as on employee who gets hired. If I am hired by the Civil Service Commission, in my eyes the Civil Service Commission is the agency for that purpose of the employer rather than an independent agency. Do not misunderstand me, Dr. Davidson, I am not questioning the independence of the Civil Service Commission. I am just saying that when I appear to be hired, and this is the body that hires me, when I make application for promotion, this is the body that says whether or not I am going to be promoted, then in my eyes as an employee, this is the body with the authority to control my progress or lack of progress in the service. There is nothing wrong, I suggest to you, in making that authority subject to the appeal procedures of some other authority which is not connected with the appointment, promotion and demotion.

Dr. DAVIDSON: I am afraid that the conclusion I would draw from the proposal you are making is that if you are going to set up an appeal tribunal to pronounce upon the acts of a body you have already set up to deal independently with this problem, the case for having an independent Civil Service Commission gets weaker and weaker to the point of almost disappearing. I would be most reluctant to accept that conclusion.

Mr. LEWIS: Oh, surely not.

Dr. DAVIDSON: On the basis of what you are now saying, what would be the argument against going back and letting the employer employ his people—then set up the Civil Service Commission as an appeal tribunal to deal with all the grievances that employees have with respect to the way in which the employer has exercised his right of recruitment and appointment.

Mr. LEWIS: I am afraid, Dr. Davidson, that when I studied logic I would have called that a *non sequitur*.

Mr. BELL (*Carleton*): Dr. Davidson does not believe in appeal courts.

Dr. DAVIDSON: I have no objection to appeal tribunals. I have no objection, personally to a separate appeal tribunal but it does seem to me that when you begin to set up a separate tribunal to sit in appeal over the decisions of a body that you have already set up in effect as a neutral, impartial body, you are introducing complications and the necessity then of distinguishing who really is responsible for the staffing and destaffing of the public service.

Mr. WALKER: May I ask a supplementary question? It appears to me the problem—correct me if I am wrong—that is bothering Mr. Lewis could be that employees do not have confidence in the integrity and arms's length independence from the government of the public service. It was mentioned a couple of times by some of the people who were here with their briefs. I got the impression that there would be satisfaction if the employees had what they call an employee representative on the tribunal. This was a specific point that was mentioned a number of times. I think even this might give some of this confidence of independence in the tribunal to employees. There is no mention of this in the bill. Have you any comments on the desirability of in fact having—not an agent for the appellant—somebody who sits on this board, obviously somebody who could not be tabbed a management man.

Dr. DAVIDSON: Well, the fact that we have introduced, in the collective bargaining legislation provision for an arbitration tribunal which will be

composed in a way that ensures the employee point of view is represented on the arbitration tribunal, indicates that in principle, certainly in so far as the collective bargaining part is concerned, there can be no objection to that.

Mr. WALKER: All right. But we are speaking of the appeal tribunal as things which will not be the subject of arbitration or bargaining. Basically we are trying to preserve the merit system. The Public Service Commission, that I consider just as a body that the government has hired and contracted out the job of staffing the public service in this country, want to preserve this merit system. I think they are afraid that the preservation of the merit system might be damaged if the appeal tribunal is somebody who is not associated with the philosophy of the merit system. On the other hand, the employees must have some confidence in the integrity of the independence of the appeal tribunal. I think they might have more if there was in fact employee representation on these appeal tribunals.

Dr. DAVIDSON: I do not question that. I do not question for a moment that the employee would have more confidence in the complete independence of an appeal tribunal, or whatever you want to call it, if first of all the decisions of the appeal tribunal were final. And, secondly, if they felt they had, not necessarily a representative sitting on the tribunal in terms of a nominee, but at least someone that they recognize as having been selected—

Mr. WALKER: As not being one of their bosses.

Dr. DAVIDSON: —under terms and conditions that they accepted, as a person who represents and understands the point of view of the employees. I do not question that.

Mr. WALKER: But there is no provision for that in the legislation?

Dr. DAVIDSON: No. The provision in the legislation, as I recall it, leaves the composition of the appeal tribunals entirely in the hands of the Public Service Commission.

Mr. WALKER: Just one last question; you have heard or read of the various suggestions that have been made by people submitting briefs. I am not asking you to specify, but do some of them appear to be reasonable?

The JOINT CHAIRMAN (*Mr. Richard*): I think you will have to be more specific, Mr. Walker.

Mr. WALKER: I do not want to be specific.

Mr. KNOWLES: Even Dr. Davidson is a reasonable witness.

Mr. WALKER: All right, I will put it the other way around. Are you in a hard position as far as this piece of legislation is concerned as to every word, every comma, as it stands right now?

Dr. DAVIDSON: I am in a very hard position, Mr. Walker, but not with respect to this legislation. I do not know if this is what you are driving at, but may I say again that the Public Service Employment Bill is not a bill on which my pronouncements should be taken as the official pronouncements of either the government or of the Civil Service Commission itself. It is the Civil Service Commission that has the responsibility for dealing with the questions relating to its legislation. I should, perhaps, not have gone so far as I did in even expressing my own point of view on some of the questions raised tonight.

So far as the legislation for which I have any responsibility is concerned—and that will relate to the Financial Administration Act and to the collective bargaining legislation to some degree as well—the study that we have given to this at the staff level since the bills were first printed and presented to the Committee, together with the study that we have given to a lot of the suggestions and proposals that have been aired in this Committee, has led us to the position where now, when the appropriate time comes, we will have some suggestions and changes to offer for the consideration of the Committee.

We will not offer those in any spirit of suggesting that the government has considered all representations and this is what the government is prepared to do. These will be presented in many instances as staff suggestions. Many will deal with technical points of wording of sections. But we will have a contribution to make, and I would think the appropriate point to bring those forward would be when we move into the section by section and clause by clause consideration of the legislation.

Could I, perhaps, at this point, Mr. Chairman, just explain what is in the minds of the staff that will be serving your Committee in the further consideration of these three bills, particularly with respect to the collective bargaining legislation.

We would think that it would be helpful to the members of this Committee if, once we get into the so-called clause by clause discussion of the bill, we were to break the legislation down into what I think are fairly compact, logical and obvious sections. Sections 11 to 25, for example, are the sections that deal with the public service staff relations board. We would suggest that we bypass initially the interpretation and definition section. If we ever get started on that we will never get into the other, but the definitions will become relevant as the appropriate sections of the legislation come up for consideration.

We would propose, therefore, if this is of any help to the Committee, when you are ready to begin the consideration of sections 11 to 25 dealing with the P.S.S.R.B., to make a brief initial statement, trying to set the function of this organizational unit in the proper perspective, so that our discussion can then proceed on a clause by clause basis from that point on, with a general understanding on the part of the members of the Committee of where this particular unit fits into the total machinery.

Having completed the clause by clause discussion of that section, we would then move on to sections 25 and following, which deal with the certification and related procedures. We then eventually move into the two avenues by which bargaining units can choose whether they wish to proceed along arbitration lines or normal collective bargaining lines.

At the right points, as we move from section to section and clause by clause, we would encounter not only the proposals of the members with respect to possible changes that might be desirable, but we would have a number of changes to make ourselves, as we come to the clauses where we have discovered some change is necessary.

Mr. LEWIS: That procedure would be very helpful, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): I thank you very much, Dr. Davidson. That will be very useful.

Mr. LEWIS: On this subject, when you deal with, say, clauses 11 to 25 concerning the board composition, powers, and so on, perhaps when you prepare those things you might also have an eye on some of the other areas of authority which this board is given in some other parts of the bill.

Dr. DAVIDSON: Yes. The Chairman and I had already mentioned this earlier before the meeting began, and it is realized by us that there will be some interconnecting discussions that have to be included.

Mr. BELL (*Carleton*): There is one matter of some importance. I think, perhaps, this is the only opportunity we will have to ask this question of Dr. Davidson, and I put it to him in his role as dean of deputy ministers. He can, perhaps, duck it if he wishes—although I do not think he will—and that is, has he any advice for the Committee on the subject of political participation in the public service?

Dr. DAVIDSON: I was for quite a few years, Mr. Bell—from 1944, when I first became a deputy head until 1963— a deputy minister, including a deputy minister under your ministerial direction, serving all those years during pleasure. I then, through a queer quirk, became for four years a classified civil servant, with all the protection that is implied in that status. On October 1 of this year, with the proclamation of the Government Organization Act and the creation of the new Department of the Treasury Board, I gave up my security of status as a civil servant and I am now a deputy minister again and could be fired at pleasure. You are setting the stage, I can see—

Mr. BELL (*Carleton*): I set the stage for you to become a classified civil servant.

Dr. DAVIDSON: —by asking me what I have to contribute on the subject of the political activities of civil servants. I am sure it is clear to members of this Committee already from what has been said on this subject on the government side, that the government considers the time has now come when Parliament should examine the right of civil servants to participate within proper and reasonable limits, much more extensively in the political life of the country than they have in the past.

Mr. Benson made it clear when he presented this legislation to parliament that the clauses that had previously been in the Civil Service Act with respect to political partisanship were merely being transferred, without commitment, into the legislation now before the Committee—not because they represented what the government considered was the appropriate policy to adopt for the future, but simply as a reminder to the members of this Committee that this was a matter that they should review, re-examine, reconsider and set a new course, a new charter, of the limits within which civil servants can exercise their political responsibilities and rights for the future. So far as I can give the Committee assurance, Mr. Bell, it is the government's wish that this should be dealt with on a non-partisan basis, as an open question and that the members of this Committee should come to their own conclusions quite fully on this subject.

Mr. BELL (*Carleton*): I appreciate that, Dr. Davidson. My only point was whether you felt disposed, because of your long experience, to suggest to us what might be a proper approach. I have no doubt that the government has been very openminded about this.

Dr. DAVIDSON: I wanted to make that point first of all. I can only say that I have examined the memorandum that was placed before the Committee by the Civil Service Commission, which it was asked to prepare for the consideration of this Committee. It seems to me that it has followed a reasonable and logical course in setting forth proposals for different groups of members of the public service. It has some relationship to the pattern that has developed in the United Kingdom, as far as different levels of responsibility in the civil service are concerned. That would carry my judgment as a reasonable and a major step forward in the liberation of the civil servants in the federal public service from the very serious limitations that they have suffered up to the present time, as far as political activities are concerned.

I would be prepared to re-examine that statement and come back to it at the appropriate time if it were thought helpful by the Committee, but I certainly would endorse, in general, the lines that were set out in the memorandum offered to this Committee by the Civil Service Commission.

Mr. BELL (*Carleton*): I think if you have any further thoughts at the time we come to this particular matter, we would be most happy to hear them and hear them from someone who, as I say, sir, is the dean of deputy ministers, with such long experience in public administration.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you very much, Dr. Davidson.

OFFICIAL REPORT OF MINUTES

OF

PROCEEDINGS AND EVIDENCE

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

First Session—Twenty-seventh Parliament

1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget

and Mr. Jean T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 15

TUESDAY, NOVEMBER 1, 1966

Respecting

BILL C-170

An Act respecting employer and employee relations in the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

WITNESSES:

Messrs. Sylvain Cloutier, Commissioner, A. R. K. Anderson, Director, Bureau of Classification Revision, Civil Service Commission.

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

25056—1

SPECIAL JOINT COMMITTEE

OF THE

SENATE AND OF THE HOUSE OF COMMONS

on employer-employee relations in the

PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean T. Richard

and

Representing the Senate	*Representing the House of Commons*	
Senators		
Mr. Beaubien (*Bedford*),	Mr. Ballard,	Mr. Lachance,
Mr. Cameron,	Mr. Bell (*Carleton*),	Mr. Leboe,
Mr. Choquette,	Mr. Berger,	Mr. Lewis,
Mr. Davey,	Mr. Chatterton,	Mr. McCleave,
Mr. Denis,	Mr. Chatwood,	Mr. Munro,
Mr. Deschatelets,	Mr. Crossman,	Mr. Ricard,
Mrs. Fergusson,	Mr. Émard,	Mr. Rochon,
Mr. O'Leary (*Antigonish-Guysborough*),	Mr. Fairweather,	Mr. Simard,
	Mr. Hymmen,	Mr. Tardif,
Mr. Hastings,	Mr. Isabelle,	Mrs. Wadds,
Mr. MacKenzie,	Mr. Keays,	Mr. Walker—24.
Mrs. Quart—12.	Mr. Knowles,	

(Quorum 10)

Édouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

TUESDAY, November 1, 1966.
(26)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.10 a.m., the Joint Chairman, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Denis, Fergusson (3).

Representing the House of Commons: Messrs. Ballard, Bell (*Carleton*), Berger, Chatterton, Chatwood, Crossman, Émard, Fairweather, Hymmen, Knowles, McCleave, Richard, Tardif, Walker (14).

Also present: Mr. Patterson.

In attendance: Messrs. Sylvain Cloutier, Commissioner, A. R. K. Anderson, Director, Bureau of Classification Revision, Civil Service Commission.

Also in attendance: Dr. P. M. Ollivier, Parliamentary Counsel and Law Clerk, House of Commons.

As requested at meeting (23) October 27, 1966, representatives of the Civil Service Commission appeared before the Committee to explain the criteria, procedures and functions of the classification review programme. The representatives of the Civil Service Commission were then questioned on their presentation.

The Committee agreed to accept the following as appendices to this day's proceedings:

—Chart showing Categories and Groups; (*See Appendix O*)

—Approximate distribution of positions among proposed occupational groups; (*See Appendix P*)

—List of classifications in the Administrative Services Group and the Clerical and Legislatory Group. (*See Appendix Q*)

A copy of the Classification Standards for the Administrative and Administrative Support Categories is held by the Clerk of the Committee for perusal by members.

The questioning of the witnesses concluded, the meeting was adjourned at 1.49 p.m. to the call of the Chair.

Édouard Thomas,
Clerk of the Committee.

25056—1½

EVIDENCE

(Recorded by Electronic Apparatus)

TUESDAY, November 1, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): The meeting will come to order.

We have with us this morning Mr. Cloutier, one of the commissioners of the Civil Service Commission and Mr. Ross Anderson, from the Treasury Board, who has agreed to discuss the problem of classification.

Would members of the committee like to have a statement from Mr. Cloutier, if he has one, or from Mr. Anderson?

(Translation)

Mr. CLOUTIER: If I understand, Mr. Chairman, the members of the Committee expressed the desire at the time of their last meeting to have further details concerning the programme for the revision of classifications and the desire was equally expressed that there should be explanations on the processes of the program, as well as on the relationship between the classification program and Bill C-170. Furthermore information was requested on the procedural methods of the Bureau of reclassification. I would like, first of all to explain to you the objectives of the plan as well as its relationship to the new classification system in Bill C-170. And then Mr. Anderson will speak. He is the director of the Bureau of Classification Revision and he will speak on the procedures.

(English)

Mr. Chairman, first I would like to say a word about the background which let to the classification revision program, and as I go along I would like to focus on the relationships of the various aspects of the classification revision program to Bill No. C-170.

First of all we have to take into account the fact that the systems of classification which existed as late as only three years ago were first introduced in the civil service in 1919, at a time when there were only a couple of dozens of tens of thousands of civil servants employed in only 20 or so departments, as compared to the huge civil service which we know today.

It is significant that at that time the system that was introduced, on the recommendations of a management consulting firm, comprised 1,700 classes, grouped in about 43 occupational families. This was the system that was first introduced over 45 years ago.

The system has not been seriously revised or amended since. It has been bruised and battered by the events which have taken place since that time, and has been bruised and battered by the growth in size and complexity of the public service, and also by the unusual demands placed upon it by the second world war.

To give you an example, classes and grades through out these years, and also salary ranges, had been allowed to proliferate until really all sense of an orderly

structure had been lost. The underlying principles had indeed become very, very obscure. Indeed, in 1939 from a beginning of 1,700 classes and grades, the structure had passed, in 1939, to 2,600 classes and grades, and in 1936 to 3,700 different classification labels, so to speak.

In those years, the criticisms that were levelled at the system of classification were extremely widespread and they came from just about every source. They came from the employees themselves, they came from their representatives and they came from departmental officials.

They also came from three different royal commissions which sat during that span of years. The first one was the Beatty Commission, which reported, I believe in 1931, or around that time. That the Commission should focus more particularly on the professional and technical facets, and, in effect, the Royal Commission said: Gentlemen, you should be devising personnel systems for your professional and technical staffs which are geared, or designed, for these staffs; which take into account the particular requirement of the staff.

In 1946 the Gordon Royal Commission, which focused on the administrative classes, said very much the same thing with respect to the administrative classes, because an underlying arrangement in the old system was that the same arrangement applied to all classes from messenger to research scientist, so to speak.

The last criticism was levelled by the Glassco Commission, and, in effect, Glassco said that the systems of classification and pay were in need of a thorough set of reforms; and Glassco, practically in his next breath, said that in the area of management, as in many others, departmental officials should be given a greater role to play, with more authority and more responsibility.

This is where we were in the fall of 1962, after the publication of the Glassco report, and throughout the fall and winter, in various circles in the public service, there was a realization—a consensus—that something would have to be done in relation to classification and pay.

There was some doubt and hesitation about the ways and means, and this is not surprising if one looks more closely at the systems that were in place. If you will allow me, I would like to give you a bit more detail on these existing systems of classification and pay—and I say systems, because there was not only one, but a great number of them. There was one, for instance, which was the responsibility of the Civil Service Commission: the classified service, which at that time encompassed about 145,000 to 150,000 positions. From the initial set of 1,700 classes and grades—which had gone up to 2,600 in 1939, and up again to 3,700 in 1946—through those years there has been the possibility of reducing them somewhat so that in the fall of 1962 there were 725 classes and grades; but the significant figure that I would like to leave with you is that there were over 700 classes.

Some were service-wide in application, or horizontal in concept, such as, for instance, the administrative officer, whom you can find in any department doing a great variety of tasks. Some were departmental in structure, or vertical in concept. In other words, you would find this class only in one department, but, within that department, any number of employees doing any number of tasks would be classified in that class. For instance, if we look at the Civil Service Commission, there was in existence a class called the Civil Service Commission

officer. The Civil Service Commission officer could be a classification officer, he could be a selection officer, he could be an organization of methods officer, he could be an administrative officer and he could have any number of other tasks.

There were also a considerable number of classes which applied to only one individual—director of such and such a branch, chief of such and such a division. Therefore, in effect, while the number of classes had been reduced from what it had been previously, it was still a considerable number, and there were not any underlying set of principles which could be corralled and looked at quickly; far less were they comprehended or understood.

Perhaps of equal importance was the fact that many of these classes were not backed by detailed classification standards. In effect, there were only pay plans. The best example I can give you is possibly the clerical grades. There we had clerks 1, 2, 3 and 4, and these, in effect, were only pay plans, were only salary ranges; and these grades applied to roughly 24,000 or 25,000 people. Yet there were no written classification standards. There were selection standards, but because of the technique which had been used in 1919—the technique called grade description, which involved a representative summation of duties—it had been impossible to tackle the problem of devising meaningful classification standards for these classes. Therefore, while there were standards for a majority of the classes, a majority of the employees were not covered by rational, logical, complete and understandable classification standards.

I should like to give you another example of the lack of underlying logic in this system. I referred earlier to the Civil Service Commission officer who might be doing any number of tasks within the Commission, some of which would not be related to personnel work at all. Let us look at personnel work in the service. A personnel officer could be classified as a Civil Service Commission officer. If he happened to be working in the Department of Finance, as it was then, now the Treasury Board, he would be classified as a finance officer. He could also be classified as an administrative officer. If he happened to be working in Defence Production, he might be called a defence production officer; and, indeed his neighbour might be called something else, such as an administrative officer. Similarly, you had personnel work being done in the post office under the classification of postal officer, or training officer. You had a great number of classes, all of which did not have the same levels, or the same grades, and you had people then classified in different classes doing the same work and not necessarily paid at the same level, because of the patchwork of concepts and techniques that applied.

So much for the first system, the classified service, which, as I said, applied to something like 140,000 or 150,000 employees at that time.

The second system—and again here I should say systems—that we were faced with, was the system called the "prevailing rate and ships' crews and officers" which covers over 30,000 employees. I believe the figures are about 26,000 or 27,000 for the prevailing rate employees, and this is an average over the years, because there are peaks and valleys, depending on the season, and about 3,000 ships' officers and crews. We find here a total of 1,350 job titles; and these are not classes, these are job titles. Each one of these job titles would have at least one salary rate, because these jobs are locality-oriented and the rates of pay are those prevailing in the locality, hence the name, prevailing rate

employees; so you might have one job, a truck driver, for instance, which you would find in 75 localities, while that one title would have, in effect, 75 different rates. Another department might call this truck driver a heavy truck driver, so that would be another class and grade. Here again you have a fabulously complicated set of job titles, none of which have been arranged in job families. Therefore, the problem of dealing with them has always been a problem of individual action. Let me again harp on the fact that there were 1,350 of these. I said job titles precisely because of this. In most instances there did not even exist an official description of what the duties really comprised. And a truck driver is a truck diver is a truck driver, I suppose.

There is another aspect of this system, in relation to the first one, that is in many respects even more important, and this is the fact that in some areas of the public service you have, let us say, carpenters. In some areas the carpenter is a prevailing rate employee, and he is being paid on the prevailing rate system, which is really the rate prevailing in the locality; therefore, depending on the economic health of the community, the rate might be high or low. On the other hand, in other portions of the service, in other departments, that same job might be classified in the Civil Service system as a maintenance craftsman and he would be paid on a national rate. In effect, you have two systems of employment relating to the same type of job, and, in effect, you have one employee under a department being paid $3.00 an hour under a prevailing rate system, and under the classified service, because it is a national rate, it would probably be $2.75, and yet they are doing the same job. Here again is another dilemma built into the existing system, that somehow or other has to be rationalized when we approach the problem.

In addition to these two large systems, there are a variety of other systems in existence comprising classes that are exempt from the Civil Service Act, classes in departments in which all other employees are subject to the Civil Service systems. I refer to teachers in Indian schools and northern administration schools. There are also classes of employees in agencies totally exempt from the Civil Service Act, which are following, in some cases, classification systems which paralleled the classified service system, or else what really was another system. Examples of this are the penitentiary service and the National Capital Commission right here in Ottawa. Here again, you have the situation where you have a considerable number of prevailing rate employees in the National Capital Commission system doing work in many respects similar to prevailing rate employees of, let us say, the Department of Public Works in Ottawa, and while the end result is not immensely different, yet they were still working under two systems of employment. If one looks at the public service as one public service, this poses considerable problems.

This was the situation which presented itself to the preparatory committee in the fall of 1963, when it was charged with the task of proposing reforms in the systems of classification and pay. These are the reasons why it was considered that reforms were necessary.

Mr. Heeney explained to members of the Committee how the Preparatory Committee went about its task. I do not intend to repeat this aspect of the operation, but I would like to emphasize the fact that the preparatory committee went at it with the best assistance available, both inside and outside the public service.

As Mr. Heeney indicated, the Preparatory Committee had assistance from outside the public service. Indeed, there were two officials from private industry, from companies which inparticular had acquired a reputation in private industry for the excellence of the classification systems which they were applying in their own company, and there was also an official from the Steel Workers' Union which is also renowned for having a pretty good system of classification.

In addition, of course, the committee had the benefit of consulting with a number of outside authorities, university authorities, both from Canada and from the United States, individuals who had acquired a reputation in the field of personnel, and particularly in the field of classification and jobbing.

In addition, the Committee took a very, very long look at what was being done in the United States, in the United Kingdom, in France and in some other countries, and particularly throughout the period of active operations of the Preparatory Committee there were continuing consultations with the staff associations, not only on proposals relating to collective bargaining, but also on the evolving proposals relating to classification.

While I would not want to say that the associations have agreed in detail with the occupational grouping which emerged from the preparatory committee, I would certainly not hesitate to say that all the staff associations who were consulted at that time have no doubt about the need for fundamental and very, very substantial reforms in the systems of classification and pay. Indeed, those consultations, which were started in the preparatory committee, have been continued throughout the existence of the bureau of classification, in addition, but more about this later.

I would like now to move to the objectives which the Committee set for itself in relation to classification and pay. It concluded very quickly that extensive reforms in the system of classification would be necessary if there were to be an orderly approach to pay determination and collective bargaining. Again I come back to the image, which I have tried to draw for you, of the conflicting systems which were in existence. There was a need to do three things in this respect. In the old system there was a real maze of classes and grades. If you can imagine a big machine with 700 moving parts, no two of these parts necessarily moving together—they may move together at one time, but some time later, for different reasons, different pressures, different circumstances, they might not be moving together—you will see that there was a need to develop a structure which made sense, which could be understood, and which would allow certain portions of this machine to move in response to market pressures, to the movement of rates outside.

There was a need to break up this machine into logical units which would permit the employees to seek and obtain representation for some parts of it without necessarily seeking on behalf of the whole thing. In other words, if we had left the machine as one entity, then, the presumption would have been that the whole would have been the bargaining unit and, indeed, in most cases the presumption also would have been that the largest association in place would have obtained bargaining rights, and in those circumstances the chances would have been very, very small for anybody else ever getting bargaining rights.

This is one of the things which we felt should not be built into the system. In other words, we wanted to end up with a classification system which made sense

by itself, which was logical, which was based on understandable principles, but which would also be flexible, and which would be capable of responding in a rational manner to the circumstances.

Perhaps the most important element in the development of this whole structure—because, as I mentioned earlier, it was related to the development of collective bargaining—was the necessity to identify communities of interest. I referred earlier to the personnel work which could have been performed in a number of classes, departmental or service-wide, classes which, in most instances, were not reserved for personnel officers, but there was no way of identifying employees having a community of interest for the potential development of bargaining units.

These are really the three bases on which rested the necessity for devising a structure of classification which would be amenable to the system of collective bargaining that was being developed.

The second objective was the need for an orderly approach to the more effective management of an increasingly complex public service. This comes back to the very nature of the systems which existed as against those which we thought should be developed and implemented. The system which existed, because of the techniques which were employed when it was originally designed away back in 1919—and, again, the technique, as I mentioned, was called "grade description"—in those days this was the old technique that existed in classification work; but it is a technique that requires, by its very nature, a central administration, because it requires a tremendous amount of concentrated decision-making, and to maintain any control over it requires that it be administered by a central group of individuals. We wanted to take a leaf from the Glassco commission and devise a system which could be administered, but administered efficiently and with integrity in a decentralized setting.

These two objectives were of prime importance, but there were other objectives. The committee decided that the system should be based on consistent underlying principles—and again this is in relation to what was existing—and a clear definition of all the component parts. In other words, coming back again to my description of the then existing systems, we felt that, in going into collective bargaining, if the government, as an employer, did not have a classification system which it could not only explain, but even comprehend, collective bargaining could never develop into a worthwhile and productive relationship.

We also felt that the system should permit different approaches to the administration of classification and pay for different groups of employees. Again I am going back to what Mr. Beattie said in 1930, or thereabouts, and what Mr. Gordon said in 1946, and repeating that throughout the years the same systems applied to all employees in the classified service, which, of course, was the largest. All were classified according to the grade description technique; all were on national rates; all had, in essence, the same pay ranges.

We felt that one of the keystones of the new system would be to segregate large portions of this group of public servants, not necessarily to introduce immediately, but to permit the possibility, in future months and years, of the development of personnel systems designed particularly for the requirements of the employees, and also to provide a framework which would encourage this in a system of bargaining.

The other objective—I think this is the fifth one—was that it should be characterized by clearly understood pay structures which reflected acceptable interval relativities and permitted realistic outside comparisons. That is really the nub of the pay problem in any organization, public or private. Indeed, since the public service of Canada is the largest employer it is a large problem, and the problem is to devise a framework which permits employees already inside to understand the ladder of salaries which they, over the years, are called upon to ascend; and to understand that if the are at this level, it makes sense that the person sitting three desks away is at the same or at a different level; and that there is available a rational, or logical, explanation of the reasons why these relationships exist inside. This is one set of relationships. They are very important.

There is another set of relationships and this is with the outside market. As I mentioned earlier, for many years the whole public service went up or stayed the same; but there were not the facilities built into the system to respond to localized market pressures. Let me give you an example. Computer operation is a new field of endeavour. Indeed, it is about ten years old now, for the public service, in a big way, it is about seven or eight years old. The system which existed then was not one which made easily possible the creation of a class for this activity which you will all recognize was in very high demand outside, and the movement of rates outside was very quick in this area; but in the service, because we were not geared for that kind flexibility, what happened, in essence, was that we tied the rate for computer operations to other technical operations. Another thing is that we were some years in getting going because we could not attract the good people, and when we developed them—because from 1960 onwards there was a fabulous amount of self-training in this area done in the public service, and done very well—they were stolen away from us because industry, by and large, was in a much better competitive position than we were.

This is what I mean when I say that we have to develop a system in this day and age where in effect the public service is competing with all the other employers for good personnel. We have to devise a system that will recognize and adopt the flexibility that private industry has had for some years.

The second last objective which we set out as a desirable goal was that the system should provide attractive career patterns as strong incentives to superior performance. I do not think I have to talk very long about this. This is essential in any organization. If you are going have somebody working for you, if he is going to be at all efficient as an employee, he has got to know where he can go and where he will normally go without recasting his skills.

Tied to this concept is the principle of "significant difference". This is a fundamental principle and I would like to tell you a little bit about it. In the old systems we had a series of rates within a class and indeed, only six years ago—I am thinking of one class, in particular with which I was quite familiar in those days—there was a class where there were 13 grades, and in terms of present day salaries these 13 grades all occurred between the range of $5,000 to about $15,000. That means within this relatively small, $10,000 spread you had in effect, to identify 13 different levels of responsibility. It is very easy to see that you ended up with a spectrum of grades and the area for making a mistake was very great because the difference between one grade and another was quite small; so small, indeed, that with the tools available it was really asking too much of us to make the necessary clear distinctions. We felt that in the new

system rather than have a continuance of greys we should have a little more of black and a little more of white and perhaps larger differences between rates so that the decisions relating to one position belonging in grade two or grade three could be made with greater certainty and also—and this is very important—with greater rapidity.

The last objective which we set out to achieve stemmed from the thought that the system should permit extensive decentralization of administrative authority. Here, again, I come back to a few things I said earlier about the techniques that were being used. We felt that it was important to introduce in the new system the most up-to-date techniques, about which more will be said later, so that we could with confidence delegate the responsibility of classifying positions, delegating authority as close as possible to the point where decisions have to be made, so that the manager responsible for any operation would really have the tools with which to carry out his responsibilities, and would be in a position of no longer having to identify the problem and then pass it on to somebody else within the department who would pass it up and on to the Commission. Invariably, even with the best of good will, this is a time-consuming operation, and, more important, it never develops, in the line manager competence to deal with his own problems.

Those were the objectives which were set by the preparatory committee and which the Commission, through its Bureau of Classification Revision has sought to apply in the Classification revision program. The structure of the new system that emerged from this set of basic objectives is relatively simple. It is a framework dividing the service horizontally into occupational categories and groups, and it is illustrated pictorially on that chart which appears at the side of the room. I think we can make available, Mr. Chairman, copies of the chart if it would be the wish of the members to append it to the minutes of the meeting.

The JOINT CHAIRMAN (*Mr. Richard*): May I suggest that this chart be made an appendix to our proceedings. Agreed?

Some hon. MEMBERS: Agreed.

Mr. CLOUTIER: If I may just speak briefly, the system now encompasses what I referred to as a classified service, which comprised three years ago, about 150,000 people in various systems and now has a few more such as the prevailing rate system and ships' crews and officers, other miscellaneous systems, and these systems are now all brought into a single framework which I think can be defended and certainly can be comprehended.

It identifies six major categories. The Executive Category will be composed of individuals responsible for major policy operations in the government. These are the most senior public servants. There is the Scientific, professional category, the administrative and foreign service category, the technical category, the administrative support category and the operational category.

If I may be permitted to commend before continuing, these figures which you see on the chart are not quite up to date. The chart was prepared some time ago. I have more up to date information which I would ask the Clerk of the Committee to distribute to the members. The chart which we will make available to the Committee to be appended to the minutes will reflect the up to date figures.

The point is that here we have six major groups of employees, which are distinguished primarily by reference to the character of the functions performed,

and also to the level of formal education of their members. These categories were recognized in re-scheduling the cyclical period review system, and they are also important in the planned start to the introduction of collective bargaining in the public service.

Mr. KNOWLES: I wonder if I might interrupt to ask a question? It seems to me that, for the most part, under the heading of "collective bargaining" we have been talking about five categories. I take it that the sixth is one which does not come under collective bargaining?

Mr. CLOUTIER: If I may be permitted to say this, in terms of the classification system there are six categories. However, in Bill No. C-170—and I am at a loss to say in what section, Mr. Knowles—in the section which defines an employee there is a provision which says that an employee for the purposes of Bill No. C-170 does not include a person having executive or managerial responsibility. The correspondence here would be the executive category.

Mr. KNOWLES: So that explanation reconciles the five and six?

Mr. CLOUTIER: That is right.

Potentially, also, these categories can lead to the adoption of justifiably different approaches to personnel management for major components of the service. This is harking back again to a few comments I made earlier in relation to the manner in which one deals with different categories of employees. Indeed, this framework has already been adopted in large measure in re-organizing the staffing operations of the commission, where we are adopting different approaches to the selection of employees, in accordance with whether they fall in one or other of the categories. These are the first, primary breakdowns.

The secondary breakdowns are the occupational groups. These groups can best be explained by referring to four characteristics that will generally, but not invariably, apply to each. The first characteristic is that each group is composed of occupationally similar jobs. We are trying to resolve the dilemma between the vertical and the horizontal class and opting for a horizontal approach which puts—and again I come back to my first example—the personnel work in one occupational group, whether it is performed in the commission, in the Treasury Board, in a department or wherever else.

The second characteristic is that employees in these groups are characterized, in a general way, by the possession of similar skills and basic educational qualifications. This is in order that an employee may move, within the occupational group and between departments, with relative ease, without difficulty, and also without having to acquire a new major skill. Often it is just by upgrading one's skills that one can move and progress through one's career in one occupational area.

The third characteristic is that each group will have a separate pay plan providing a framework for a logical set of internal relativities—and, again, I think I have stressed the importance of these internal relativities earlier. This will be the essence of bargaining, really, where all employees doing the same work will be paid in accrodance with one pay plan only and not, again, as I explained in relation to personnel work, in relation to six or seven different pay plans.

The fourth characteristic which relates, again, to the community of interest principle which underlies the whole occupational approach to classification is

that, as far as practicable, each group should bear a relationship to an identifiable outside market. This is necessary in order to be able to respond to quick movements in the labour market outside.

These are the basic principles which underly the classification system. I hope, Mr. Chairman, that my comments have covered the sort of things about which the members of the committee wanted more details. Of course, I will be only too pleased to answer, later, any questions that the members may wish to ask.

Before asking Mr. Anderson, the Director of the Bureau of Classification Revision to outline to you the manner in which the bureau approaches and continues to approach its work, I would like to take this opportunity, if I may, Mr. Chairman, to pay tribute to the officers and staff of the bureau.

I can think of very few groups of public servants who have been assigned a more difficult, a more thankless and yet a more important task. Mr. Chairman, I can think also of very few groups of public servants who have approached their task with greater dedication, with greater integrity and with greater enthusiasm, who have maintained such purity of purpose, such continued effort and such high morale in the face of considerable difficulties and criticisms, than have the officers and staff of the Bureau of Classification Revision. Mr. Chairman, because of the immediate and long term benefits which will be derived by the public service from this program I think that the public service of Canada stands in their debt.

Thank you, Mr. Chairman.

The JOINT CHAIRMAN (*Mr. Richard*): Shall we proceed with Mr. Anderson's remarks now?

Mr. A. R. K. ANDERSON (*Director, Bureau of Classification Revision, Civil Service Commission*): When you introduced me, Mr. Chairman, you inadvertently referred to me as being from the Treasury Board.

The JOINT CHAIRMAN (*Mr. Richard*): I thought you were.

Mr. ANDERSON: Actually, I am a member of the staff of the Civil Service Commission. The Civil Service Act vests in the Civil Service Commission the responsibility for classifications, and the commissioners are responsible for the classification of positions until Parliament changes the Civil Service Act. The Bureau of Classification Revision is in total a part of the staff of the Civil Service Commission and is responsible to the Civil Service Commissioners for carrying out the classification revision program.

Mr. Chairman, there is, however, a classification policy group of which the Chairman of the Civil Service Commission is chairman and which consists of the three Civil Service Commissioners, the Secretary of the Treasury Board and the Chairman of the Preparatory Committee in Collective Bargaining in the Public Service. This classification policy group meets regularly and is the body responsible for deciding on policy issues and giving policy direction to the Bureau of Classification Revision.

As Mr. Cloutier pointed out in his remarks, it is the task of the Bureau of Classification Revision to erect a classification system on the framework proposed by the preparatory committee on collective bargaining in its report.

Mr. KNOWLES: Before you go into detail, could you tell us how many members there are in the bureau?

Mr. ANDERSON: Roughly 150 people on the staff, Mr. Knowles.

Mr. KNOWLES: How many of those are at the head of it? Is it just yourself?

Mr. ANDERSON: The organization, Mr. Chairman, consists of myself, as director, and three assistant directors. Mr. George Follis is assistant director of operations; Mr. Stan Cameron is assistant director of structures and standards; and Mr. Brian Hartley is assistant director of planning.

Mr. KNOWLES: And all one hundred of you are part of the Civil Service Commission?

Mr. ANDERSON: One hundred and fifty, sir.

Mr. KNOWLES: All one hundred and fifty?

Mr. ANDERSON: Yes sir; all employees of the Bureau of Classification Revision are employees of the Civil Service Commission. The whole of the bureau is an integral part of the staff of the Civil Service Commission. This must be so because Parliament has given the Civil Service Commission responsibility for classification of positions in the public service.

Mr. KNOWLES: You are assigned from the Civil Service Commission and report back to it?

Mr. ANDERSON: This is correct, sir.

As Mr. Cloutier pointed out, it is the task of the Bureau of Classification Revision to erect a classification system on the framework which was proposed by the preparatory committee, and a system which is consistent with the principles which he outlined to the committee.

There have been remarkably few changes of substance required in putting fiesh on the bare bones proposed by the preparatory committee. There has been, however, an increase in the number of groups from the 66 that were proposed by the preparatory committee to the 73 that our system now contemplates.

The bureau approached the task of implementing the new classification plan on a category by category basis. If I could again direct the attention of the Committee to the charts on the display, the categories are those six big boxes inside the hexagon.

The first category that was—

Mr. KNOWLES: Octagon.

Mr. ANDERSON: Octagon? I am sorry; I cannot tell, Mr. Knowles. The first category which was converted to the new system was the administrative support category. Conversion in that category has now been completed. The next category was the administrative and foreign service category which you will see to the right of the chart just above administrative support. Conversion of that category has now been substantially completed. The bureau is now actively engaged in the conversion of the operational category. The technical, scientific and professional, and the executive categories are scheduled for conversion to the new system by July 1 of next year.

The conversion activity was essentially the same for each of the groups. It consisted of six steps. The first step was to define the group and this involved

obtaining and studying information on the work performed by people who were going to be allocated to the group.

The second step was a more fundamental study of the work of the group and this resulted in the third step which was the design of a classification plan.

The fourth step was the development of a classification standard for the group.

The fifth step was the evaluation of the positions against that standard and the final step was the preparation of a grading and pay plan.

Mr. Chairman, I have brought along with me copies of the classification standards for the groups in the administrative support and the administrative and foreign service category which can be made available to the Committee if you so desire.

The JOINT CHAIRMAN (*Mr. Richard*): Do you have copies with you.

Mr. ANDERSON: Yes, I have.

Mr. WALKER: Mr. Anderson, I notice the piece of information which Mr. Cloutier made available has "confidential" on it. I presume that it is out of date confidential because it is going in the minutes of the meeting.

Mr. ANDERSON: This is an error on our part, Mr. Chairman. It should not have been marked "confidential". It was confidential when it was first produced because some of the figures were not firm.

Mr. KNOWLES: Perhaps the press will not be so anxious to publish it.

Mr. ANDERSON: Mr. Chairman, there are two basic types of classification plans the bureau has used. One is the grade description plan that Commissioner Cloutier referred to in the course of his address. Grade description plans were used for four of the six groups in the administrative support category and for two of the 13 groups in the administrative and foreign service category.

Point rating plans—the other type of classifications technique—were used for the other groups. Point rating plans have not been used in the past for classifying positions in the federal public service although they have been used extensively by private employers in Canada. In designing the point rating plans that we have adopted, our structures and standards group studied something like 40 different point rating plans that are used by Canadian employers and some which are used by firms of management consultants that are active in Canada. We think that our point rating plans reflect the best experience of Canadian employers with the point rating technique.

The JOINT CHAIRMAN (*Mr. Richard*): One moment, please, Mr. Anderson. Before we become confused with the classification standard which you distributed I think you should explain it. These are not complete copies of all the—

Mr. ANDERSON: There are two complete copies. There is a separate classification standard for each of the groups, and I brought along two copies of each of the standards.

The JOINT CHAIRMAN (*Mr. Richard*): Perhaps it would be better if they remain in possession of the Clerk if there are only two copies; otherwise members will only have individual copies of one group. I do not know if it is the wish of the Committee to print this very large, long document but—

Mr. WALKER: I think it is a lot of material to put in our report. Mr. Chairman, I do not think it is necessary because they are there for our reference.

The JOINT CHAIRMAN (*Mr. Richard*): That is why we suggested that they be taken back so—

Mr. ÉMARD: If it is part of the report I think it should be put into the report.

Mr. ANDERSON: That is only one tenth, sir.

Mr. WALKER: This group of papers pertains to only one set.

Mr. ÉMARD: I thought that it was the general plan.

Mr. ANDERSON: No, sir, there is a separate plan for each group.

Mr. KNOWLES: So there would be 73 when you are finished?

Mr. ANDERSON: Yes, sir.

Mr. CLOUTIER: Well, that is preferred to the 700 classes we had.

Mr. KNOWLES: No, I am just thinking of the printing job.

Mr. WALKER: Mr. Chairman, if they are available for reference by the Committee I think that is all that is necessary. I do not think that they should be included in this Committee's report.

Mr. BELL (*Carleton*): I do not think that there was any suggestion that they would be. They were simply for the use of members of the Committee. I suggest that each of us should have a copy if a sufficient number has been provided. I certainly want to take the opportunity of studying this quietly.

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Bell, I want you to understand that your copy for example covers only one group.

Mr. BELL (*Carleton*): I appreciate that.

The JOINT CHAIRMAN (*Mr. Richard*): All right.

Mr. ÉMARD: I would be much more interested in the operational group if I could obtain it.

Mr. ANDERSON: Mr. Chairman, at this point we do not have the approved standards for any group but one in the operational category.

The JOINT CHAIRMAN (*Mr. Richard*): Well, if members want individual copies of the one group which is available they can get in touch with the Clerk of the Committee.

Mr. ANDERSON: Mr. Chairman, I would like to acquaint the Committee with the consultation which has taken place between the bureau of classification revision and staff associations representing employee groups in the design of the classification plan and of the classification standards. The staff associations were consulted by the bureau regarding the group definitions which, of course, was the first step in the design of the classification plan. They were also consulted with regard to the classification standards. Drafts of the classification standards were made available to the staff associations and consultation meetings were held on each of the standards in order to obtain the views and the reactions of the staff associations on the proposals the bureau was making with regard to the classification standard for the particular group. A number of changes were made in the standards as a result of the consultations with the employee associations. We, in the bureau, think we have better standards because of the consultation

with the employee associations than we would have had, had we tried to develop standards without such consultation.

I think that it can be said as a general observation that the staff associations accept the standards that have been developed by the bureau as appropriate devices for measuring the relative worth of jobs in the groups to which the classification standards apply.

The staff associations were also consulted on the grading and pay plans and they expressed no basic objections to the grading plans, although they did not necessarily agree with the pay plans that were proposed.

The evaluation of positions against the standards was not done in consultation with the staff associations. Rather, the evaluation was carried out by the staff of the bureau of classification revison and by specially trained classification officers of the departments. The bureau, in order to insure consistency of application of the standards, ran special training courses which were attended not only by the bureau's own occupational analysts, but also by occupation analysts—classification officers—from the departments.

Officers of the staff associations were also given this kind of training although, as I have said, they did not participate in the evaluation of positions. The major staff associations do, however, have in their staffs trained people who are knowledgeable about the application of the classification standards.

Mr. Chairman, the consistency of the application of the standards, in addition to trying to ensure it through the training of the people who did the evaluations, was also monitored by a statistical process. In the case of most of the groups in the administrative and foreign service categories, it was further ensured by having one evaluation team. Which consisted of an officer of the bureau of classification revision, an officer of the staffing branch of the commission, and two officers from departments, who were familiar with the work of the group being assessed, evaluate all of the positions in the personnel administration group, in the financial administration group, in the purchasing and stores group, in the computer programs group, and in the organization and methods group. The results of the classification review process so far have tended to make us fairly confident about the consistency of the application of the standards. The classifications review process permits an employee whose position has been red circled to have his or her case reviewed, in the first instance by his department, and finally by the chief classification review officer who is an officer of the Civil Service Commission. Roughly a third of the cases with which the chief classification review officer has dealt have resulted in an upward reclassification of the position. This resulted in almost all cases, not because of a different evaluation on review, but because the duties that had been used as the basis for making the original conversion decision were, during the review process, found not to be the duties that the employee was actually carrying out.

The review process, therefore, has confirmed our confidence in the consistency of the application of our classification standards.

Mr. CHATTERTON: What percentage of the red circled positions did you say were changed after review?

Mr. ANDERSON: Roughly a third of those that have gone to the final stage of the reprocess. Mr. Chairman, I am like Mr. Cloutier. I would be very pleased to answer any questions any member of the Committee wishes to ask.

Mr. WALKER: I have a supplementary question. Was this one-third taken care of by re-writing a job description, or by changing the classification of the particular job that that man was in?

Mr. ANDERSON: The classification review process involves the employee going to his department and getting from the department a certified statement of the duties that his position involves. The message I was trying to get across was that in those cases in which the review has resulted in reclassification, this has been because there was an error made in the original description of the employee's job, and the conversion decision was made erroneously because the information on which it was based was wrong.

Mr. WALKER: In a case like that do you make a new job classification to fit his present duties or put him up into the next classification?

Mr. ANDERSON: We put him where he should have been had the statement of duties originally been right. We go back to home plate and put him where he should have been.

Mr. WALKER: In other words, you rewrite that job description.

Mr. ANDERSON: This is done before the review takes place.

Mr. KNOWLES: Mr. Chairman, before we get into questioning, I wonder if either Mr. Anderson or Mr. Cloutier could give us a reasoned statement about the whole business of red circling, and green circling and non-circling in relation to this program.

Mr. CLOUTIER: You refer to the whole business of red circling, green circling and non-circling. When the classification revision program was decided upon, and when the basic principles were agreed to—and again coming back to my earlier comments where I indicated that we had a maze of classes which had to be consolidated into a simpler and more accurate system; where we had a maze of salary levels with relatively minute differences which had, again, to be rationalized in a spectrum of grades with the significant difference between them—it was obvious that in some cases the individuals would not meet head-on the new level. Some would go higher and some would go lower.

At that point we examined what the practice had been elsewhere when such new classification systems were devised and implemented; and the result of our findings was that where there had been major reclassification operations the treatment afforded the employee who was, in effect, red circled—that is, whose actual rate of pay was higher than the rate that the new system would allocate to the position he occupied—was to freeze him at the rate at which he happened to be paid on that day.

We examined this in relation to the positions of the public service where a range of rates had applied to positions from time immemorial, and we came to the conclusion that in spite of a practice in industry, it made more sense in the public service setting to freeze the employee at his range of rates—in other words, to maintain his possibility of attaining the maximum rate that he would normally have attained had the classification revision program not taken place. This is the basic arrangement in the red-circling business.

Mr. KNOWLES: That would have meaning only for an employee not yet at the maximum.

Mr. CLOUTIER: That is right.

With this basic arrangement, and with the necessity of recognizing that if we were to have a classification system which could meet all the sorts of problems which I related to you earlier, then there would have to be some red-circling and green-circling; but to minimize the degree of this red-circling the pay plans were developed only after all the positions were evaluated. In other words, the primary consideration was always the evaluation of the position; so that the incidence of red-circling under various pay plans was always taken into consideration before final decisions were made on the actual grading and pay plans that were approved; an optimum situation was always sought after.

I think Mr. Anderson might have some technical details to add to this comment.

Mr. KNOWLES: Would you explain green-circling, as well?

Mr. CLOUTIER: Green-circling is the opposite. It happens where the rate being paid to an employee is less than the rate normally assigned by the new system to the position he occupies. Green-circling occurs where an individual is paid at a rate which is lower than the rate assigned to his position by the new system. Let us say, for instance, that a rate CR-4—I am guessing now—is $5,000, and let us assume for the sake of the example it is a single rate and not a range of rates. Let us say that employee A's rate of pay was $5200 and the position he occupies is assigned to CR-4 at $5,000. He would be red-circled to the tune of $200. But if individual B's rate had been $4800 and his duties are also assigned to CR-4 by the application of the point rating system that Mr. Anderson has referred to, then that employee is green-circled to the extent of $200.

Mr. KNOWLES: What is the result of his being green-circled?

Mr. CLOUTIER: The result of his being green-circled is that, providing that he meets the competence qualification of the position, he automatically goes to the new rate.

Mr. KNOWLES: Immediately?

Mr. CLOUTIER: That is right.

Mr. FAIRWEATHER: How many red and how many green are there?

Mr. KNOWLES: How many orange?

Mr. CLOUTIER: Actually, there are some people who, because of the aspect of guaranteeing the range rather than the rate, are called red-circled, but whom you would really say are pale pink-circled. But I have not heard of orange yet.

You asked the number of employees. Originally, roughly 20 per cent in each of the two categories that were done. Actually, it is a little less than this, because the 20 percent applies to positions but not all positions are filled; so that in terms of employees, our first compilation of employees in the administrative support category, I think, amounted to about 10,800 cases of red-circling; about a month ago it was down to about 4,300 or 4,600—4,300, I think; and we are expecting, any day now, to have the results of a computer run which would show the state of affairs as of the 15th of the month.

Mr. BELL (*Carleton*): That is solely on the administrative side?

Mr. CLOUTIER: That is right. In the administrative category the experience was about similar, but because, through circumstances, the implementation of the administrative and foreign service category took place a matter of weeks or days before the interim adjustment, effective October 1, 1966, the number of red circles disappeared very, very quickly. It is now at about 1,300 in the administrative category.

Mr. CHATTERTON: How many were green-circled?

Mr. CLOUTIER: About 50 per cent.

Mr. CHATTERTON: What about the no-circling then?

Mr. CLOUTIER: I should have mentioned this earlier. I am sorry, gentlemen. Another basic tenet of the whole approach was that the rates applicable to the new system should reflect, to the greatest extent possible, the existing level of rates. In other words, the classification revision program was not a device through which to grant an economic increase but was only a housekeeping exercise, so that in striking the rates for the new levels we examined the prospective population of a grade, and we determined what the mean of maximum of that population was, and in most cases we adopted as the new rate for the new level the existing rate which was the closest to the mean of maximum, in order to minimize in that manner the number of changes up or down, green or red circle.

Mr. CHATTERTON: Those no-circle ones do not have to pass a competence test; is that it?

Mr. CLOUTIER: No one really has to pass a competence test. This will apply, for instance, where an individual would be occupying a position which had been evaluated years ago and where the implementation of the revision program would indicate that that position, through changes, is now worth a couple of grades higher. Instead of making the change-over automatic, where there is more than one grade involved, the departments and the commission examined the record of the employee to make sure that it is in the best interests to bring that employee up right away, or it might mean that he does not quite meet the experience requirements which normally attach to this level of grade.

The JOINT CHAIRMAN (*Mr. Richard*): Are we proceeding still on this red-circling, because some gentlemen have asked to be heard on the general questioning.

Mr. WALKER: Where does the determination of establishment come into this or do you run right into it with re-classification? In a small office where you might have had five jobs of the one category, under re-classification one of these jobs may be red-circled and the other four left. Is the determination of the number of jobs of the establishment part of it?

Mr. CLOUTIER: No, not at all.

Mr. ANDERSON: No, this is not the job of the Bureau of Classification Revision, or of the Civil Service Commission.

Mr. BALLARD: Mr. Chairman, may I ask a question on the subject?

You said that there was no economic increase. How do you account, then, for only 20 per cent of the positions being pale pink-circled and 50 per cent being green-circled? It would seem to me that you have not got a normal curve there, and that probably the mean which you are talking about is weighted; is that right?

Mr. CLOUTIER: It is a weighted average—the mean of the maximum that went into establishing the original rates.

Now, I said that they were no part of an economic increase in the establishment of rates in the classification revision program, because we looked at the rates that existed before any consideration of economic increase. Indeed, the new rates produced by the classification revision program were subject to the subsequent economic increases.

Mr. BALLARD: At the moment of change, though, the over-all cost of the public service did not increase?

Mr. CLOUTIER: It does, because of the green-circling; but this is just a housekeeping operation. This is just putting our house in order before granting the economic increases. In other words, I indicated we had a maze of classes and grades. Let us say that in the administrative support category we had 150 individual classes and now we have just six groups. In other words, each of the old classes had a pay scale and each of the new ones has a pay scale, but in converting we establish six new pay scales reflecting the level of the rates of the 150 that existed before. Once these are established the economic increases are given to the six new ones and not to the 150.

Mr. WALKER: You said there were more green-circles than red-circles under this re-classification?

Mr. CLOUTIER: Yes.

Mr. WALKER: Is this job of re-classification a continuing process?

Mr. CLOUTIER: It is a continuing process inasmuch that as duties change in a department duties should be re-evaluated. To the extent that duties of a position change, let us say, every six months, then the new duties would have to be written up and evaluated against the standards to which we referred earlier.

Mr. WALKER: This re-evaluation may reduce still further the number of residue red-circles?

Mr. CLOUTIER: Yes, it might; it might very well.

Mr. KNOWLES: When you finish a category such as the new administrative support one, is it the case that everybody in that group has either been red-circled, or green-circled, or knows that he is not circled at all?

Mr. CLOUTIER: Right; and, indeed, the arrangements have provided for each employee to be advised in writing of his status in relation to the new classification revision program.

Mr. KNOWLES: Including those that are not circled at all?

Mr. CLOUTIER: Yes.

Mr. KNOWLES: They are so advised?

Mr. CLOUTIER: Yes. That figure which I mentioned earlier is not accurate. In the new administrative support category there are 57,085—a total of 57,340—so that in relation to that category, assuming that all these positions were filled, there would have been 57,340 employees advised individually in writing of the disposition of their positions as a result of the classification revision program.

Mr. KNOWLES: And this has been done entirely only for that one category?

Mr. CLOUTIER: The same thing has been done and has also, been completed in the administrative and foreign service category, with the exception of the commerce, foreign affairs and translation groups, which will be implemented on July 1, 1967. In other words the conversion has not yet taken place in relation to those three groups. But, in relation to the administrative and foreign service category, if you look on the second page of this paper, they have all been advised individually.

Mr. KNOWLES: Therefore, you do not wait for an entire category to be completed before you let the individuals in the different groups know?

Mr. CLOUTIER: Oh, yes, we do; I mentioned in my earlier comments the necessity of ensuring internal relationships in the service, and while we have proceeded in the first two categories on the basis of devising a standard—a grading and pay plan—for each group, we have, in effect, accumulated them and implemented them all at the same time, for this reason, that once we have devised pay plans for all the groups, then we have to look at all the groups together to make sure that the relativities between the levels in the various groups make sense. If we were to proceed group by group then we might end up with a system which is lop-sided.

Mr. KNOWLES: Then have you or have you not, notified the people in the administrative group, other than those three groups?

Mr. CLOUTIER: We have.

Mr. KNOWLES: All but those three have been notified if they are red, green, orange or blank?

Mr. CLOUTIER: Yes.

Mr. CHATTERTON: You advise them as soon as the group has been completed, or the whole category? The whole category must be completed before you advise the employees?

Mr. CLOUTIER: That is right.

Mr. CHATTERTON: But you did not do it in the administrative and foreign service category?

Mr. CLOUTIER: The three groups which are singled out here will be implemented next July. They were originally in the A group, whereas most of the others were in the B group; so that in order to change as little as possible the normal expectations of the employee, in terms of the dates on which salary revisions take place, we have devised a transition from the old A, B, C, D, groups to the new categories, which would disrupt the expectations of the smallest number of employees, and which would also ensure, in view of the expectations of the past, that no employee would go for more than 24 months without a review.

Mr. ANDERSON: Mr. Chairman, a point of clarification here is that it is the responsibility of the deputy head, for whom the employee works, to inform him of the effects of the revision classification program on the employee, not the responsibility of the bureau or of the commission. This is done through departmental channels.

Mr. CHATTERTON: May I ask you, Mr. Anderson, how were these descriptions of duties for each individual prepared. Were they prepared by the employee himself?

Mr. ANDERSON: In many cases by the employee himself, but not in all cases. The departments, in some cases, in their examination of the work of a group, decided that a group of positions were essentially similar, and rather than having each and every one of a thousand or more employees write a job description the department wrote a standard job description which covers the work of all those employees.

Mr. CHATTERTON: In the cases where they were red-circled the employee has a chance to have it reviewed?

Mr. ANDERSON: Yes, sir.

Mr. CHATTERTON: In the nature of people and of departments there would be an inclination to over-state their duties. Is it not possible, since you say that roughly 20 per cent had been red-circled, that many of those who have been green-circled ought not to have been green-circled? Is there no provision for review of those?

Mr. ANDERSON: We think not, sir.

Mr. CHATTERTON: They are not going to appeal if they get too much, you know.

Mr. ANDERSON: We think the process of examining the work and of evaluating positions against the standard was sufficiently well done that we can be reasonably confident that where a position has been red-circled it belongs at the level that red-circles it, and similarly for green-circled positions.

Mr. CHATTERTON: You said that usually the case of the red-circling or the correction of the red-circling, was the more correct description of duties; is that right?

Mr. ANDERSON: Yes.

Mr. CHATTERTON: Well then, could there not have been the same error in the original description of duties for those that were green-circled?

Mr. ANDERSON: This is certainly possible, and we have not any built-in device to correct it as we have in the case of the red-circled.

Mr. CHATTERTON: May I ask, Mr. Chairman: Do you have available, for instance—not in all the groups, but in a few of the groups—two or three of the previous positions which are included in the administrative trainee group? Can we have that to give us an idea of the variation of previous positions that were included in one group?

Mr. ANDERSON: We have this for all groups. Unfortunately, I did not bring any of them with me. This could be made available to the Committee.

Mr. CHATTERTON: I would appreciate that.

The JOINT CHAIRMAN *(Mr. Richard)*: I have asked Mr. Anderson to let us have a few examples.

Mr. CHATTERTON: We can take it, then that every person in the financial administration group will receive the same pay.

Mr. ANDERSON: No, sir. There are eight levels in the financial administration group.

Mr. CHATTERTON: They all have the same starting and end pay?

Mr. ANDERSON: Everyone who is at the given level gets paid in the same salary range. There are four steps in the range and each individual is at the step in the range that is consistent with the rates.

Mr. CHATTERTON: There are four steps in every range?

Mr. ANDERSON: Yes, sir.

Mr. CHATTERTON: And this applies to every group?

Mr. ANDERSON: There is the exception—and I am not sure that I have all the exceptions in mind—that is an administrative training group and there are more than four steps in that range.

In some of the groups in the administrative support category there are more than four steps, and I seem to recall that in the organization and methods group, and, perhaps, in one or two other groups in the administrative and foreign service category, there are six or seven steps—steps added at the bottom—to take care of the training requirement of getting people in who are not qualified to do work, and this is reflected at the bottom step in the proper range.

Mr. CHATTERTON: Mr. Chairman, these previous prevailing rate employees are now included in these categories the same as every other civil servant?

Mr. ANDERSON: I think all of them will be in the operational category.

Mr. CHATTERTON: Is there going to be any variation of pay by region?

Mr. ANDERSON: This is a point which has not yet been decided. The bureau is working on the assumption that there will continue to be, for this kind of person, some form of regional pay.

Mr. CHATTERTON: But will you be able to distinguish those positions that are of a prevailing rate nature within the groups?

Mr. ANDERSON: We visualize that there will be a pay plan for each group in the operational category. There is a group called general labour and trades to which a very high proportion of the existing prevailing rate employees will be converted.

There is another group called general service, and it also will have a substantial population of people who are now prevailing rate employees.

There is a third group called hospital services, and we visualize this as being a regional pay group.

The ship repair group is, I think, composed entirely of prevailing rate employees, and we anticipate that it will continue to be regionally based.

Mr. CHATTERTON: What will establish whether the employees of a certain group will be paid on a regional basis, or not. Who will establish it, and how?

Mr. ANDERSON: I would think that this will be established by the composition of the employees who go into the group.

There is, for example, in the operational category a postal operations group. Now, all the postal workers, at the present time, are on a national rate, and we would anticipate that this will continue to be the case in the new system.

In the general labour and trades group there will be a mixture of people who are now prevailing rate employees and people who are now under the Civil Service Act, and this is one of the problems that the commissioner referred to in his opening remarks. A means has to be found to marry these two opposite systems together.

Mr. CHATTERTON: Take this general labour and trades groups, or better still, take the ship repair group: What agency will establish whether there will be a differential in pay by region between say, the Pacific coast and Atlantic coast?

Mr. ANDERSON: The fundamental answer to this is that it will be the governor in council. The government will have to decide.

Mr. CHATTERTON: Therefore, if that particular group is certified as a bargaining unit, would they then presumably bargain for all their employees, or would they bargain for the differential between east and west?

Mr. ANDERSON: This, I suppose, would be up to the parties.

What the bill will produce, we hope, is a pay plan which will replace the existing pay plans before the first round of bargaining.

Mr. CHATTERTON: You would then end up in the position that certain of what used to be classified positions are subject to regional differential and others would not be?

Mr. ANDERSON: Yes; if there is a group which has a regional pay system, and there are allocated to that group positions which are now under the Civil Service Act at national rates, this would be so, yes.

(*Translation*)

Mr. ÉMARD: I would have liked to receive the classification standards applicable to operational employees since this is the category I know best. I would like to judge the value of the plan which the Civil Service Commission is going to bring into operation. In Industry, four plans prevail; the plan you have here, description of jobs, the system of point rating that you intend to introduce. The Point Rating is the one which attributes a certain number of points to each labourer in the case of manual employees, there are some points such as dexterity, education physical competence and so forth that are brought in, points that are applicable in each rating. When we have added up the value of the factors, we get a grade, if I understand, and after that, that grade is bound to a pay scale. This is a project that is much superior to any other plan. It is a project that has been in force for many years. It is quite easy to apply and I wonder why the Civil Service Commission has not brought this into effect.

Mr. CLOUTIER: The problem that arose is simply one of resources. Mr. Anderson has explained in the reply to question of Mr. Knowles that the classification bureau had 150 individuals who are putting in effect the revision programme. When we instituted the Classifications Bureau, we recuperated so to speak, we made an inventory of all the officials who had classification experience

in the Civil Service, so as to set up the structure for the Classifications Bureau, and we noticed that the total number of individuals at that time who were in charge of the application of classifications were 40 to 45. To answer your question, it is a lack of resources, secondly, it is clear that a reclassifications programme as broad in scope as this one, is not invented between one day and the next. I am led to believe that if it were not that we are going to have collective bargaining, we would not have had, we would still not have succeeded in getting the resources essential to make the classification system. I would like to make a supplementary remark. I was explaining that the number of classes and grades have greatly changed over the course of the years. In 1946, there were 3,700 but even if basic reforms had not been undertaken over the course of the past few years before 1964, you must admit that the number of grades have shifted from 3,700 to 1,700 in 1963, so there was a continuous work of rationalization and reform. But this rationalization could not be done coherently unless we began from base.

(*English*)

Mr. CHATTERTON: On a point of order. Did you say, that in the year 1963 there was 7,100?

Mr. CLOUTIER: It was the other way around; it was 1,700.

(*Translation*)

Mr. ÉMARD: You mentioned that you contacted certain companies to judge the different systems that are in effect at the present time? Could I ask you if you got in touch with the Bell Telephone and Northern Electric?

Mr. CLOUTIER: You have asked me a very embarrassing question. I could not tell you whether we did have discussions with those two companies. The Pay Research Bureau since its inception has based its research on classification and pay systems in a number of companies, obviously in the biggest companies in Canada. I recognize that the two you mentioned are in the front rank of biggest companies. It is probable that these two companies were indeed the companies in which there was research conducted but I cannot reply specifically.

Mr. ÉMARD: I can tell you that Northern Electric has the same system as Western Electric, and as I understand Western Electric has had the Point Rating System for over 40 years. You mentioned that you got in touch with the steel workers. The steel workers have the co-operative wage study. Does that mean that you intend to establish the co-operation wage system, evaluation of jobs, by unions and the Civil Service Commission jointly.

Mr. CLOUTIER: The Civil Service Commission if Parliament adopts the Bill will no longer have any role to play. We have had the services of a senior officer of the steel workers for a 4-month period in the preparatory committee, not to determine the manner in which we will be implementing the system, but solely to examine the basic principles that should be reflected in the system. The individual in question had been with the preparatory committee from September to June. The Preparatory Committee was only in the stage of developing principles and goals and it was not at all discussing implementation.

If I remember rightly the question did not arise in any practical manner.

Mr. ÉMARD: I trust the Commission will not adopt the attitude of certain companies that their plan is perfect as there are certain weaknesses even in the best plan. For instance, you mentioned that one of the characteristics of this plan was decentralization. Well, now, decentralization implies that people who are going to allocate points and evaluate jobs are not always the same. There are some who have a tendency to under-evaluate, and others tend to over-evaluate. What happens is that when the employee is in the same region and does not move from one place to another, it does not matter. But when the employee is transferred from one locality where has has been evaluated by one group and goes to another locality where another group has evaluaged him, there may be differences in evaluations which arise, a difference in the evaluations of the employee's work, and this is one of the weaknesses I would like to mention, and for your information I would like to suggest to you that there is an excellent book published by the union called "What is Wrong with Job Evaluation", published by The American Labour federation 7 or 8 years ago. You would benefit by examining this book.

Mr. CLOUTIER: If you will allow, you have raised two points. I want to re-assure you that the Civil Service Commission and the Classifications Revision Bureau understand the need for maintaining its classifications up to date. Our goals include the establishment of a section comprising experts whose main job will be revising and adapting according to our needs, the classification standards.

The second point that you mentioned is a problem of delegation. I want it clear that the classification system which we are implementing will enable the delegation because as you said, this point rating system is clear and easy to understand, and that is defensible. It permits delegation, but does not automatically imply a delegation. I was only speaking of the system. To ensure fair delegation of authority, in the past we have done a great deal of work to establish a sensible system. It would be quite illogical if we were to delegate without monitoring the delegation. To ensure this, we have officials in the classification office who are training officials from the Department to be in charge with revising classifications in departments. There is constant training in the classifications Bureau, there is a constant interchange of personnel between the bureau and the Department to ensure that people who are administering the system will have acquired experience of the system and will be well aware of all its ramifications and will have taken part in its implementation.

There is another point too. You mentioned the case of the individual who is higher than another in regards to this case, this is very true but to settle this we have adopted a basic policy that no evaluation of every job is ever done by a single individual but by a Committee of three in order to provide an equilibrium. Insofar as the book "What is wrong with Job Evaluation", if we do not have it in the library we will be getting it soon.

Mr. ÉMARD: There is another thing I would like to point out. You have had some difficulties too with trades. At the present time you have no apprenticeship plan, but I think that as there is going to be collective bargaining shortly, I am quite certain that the unions are going to ask you to establish apprenticeship plans for different trades. At the present time what prevails in industry is not job evaluation, but evaluation of employees, that is evaluation of the apprentices. What frequently occurs as in the case of trades, there is automatic

progression that is an apprentice who wants to learn to be a plumber, works 6 months in a certain category of work, 6 months later he goes into another category. I wonder how you are going to go about applying the evaluation of jobs in the case of apprentices who are going towards a certain trade.

Mr. CLOUTIER: At the present time, there are training plans for apprentices although maybe only in one locality in dry docks in Halifax and Esquimalt, and to the extent that these plans are not in effect, the standards of classification and the pay levels that we will be establishing for dry docks will reflect these needs, but because the programme for revision of classifications does not aim at remedying all of the evils to be found in the system, we are only using the system now in effect. In other groups there will probably not be a special provision for apprentices.

If through collective bargaining we get training in other groups, then standards will have to be changed to recognize this new system and the pay levels will be changed to meet the situation.

Mr. ÉMARD: What are you going to do in the case of the computers, I do not know of the French word. You are training certain employees, government employees going in today with no training and you have another employee who has been working for three years and who knows the work very well, how are you going to do to differentiate one from the other?

Mr. CLOUTIER: You are referring to what we call computer systems. That group covers eight training levels, six I am sorry. Mr. Anderson referred a minute ago to the fact that in most grades there are four levels. In the group of computer operations there are six levels. These six levels answer the question; training is taken into account. A person with less experience but with aptitude is put in at the first level of the first classification. The person that has been in for three years, if his job evaluation is at the first grade, he is still at the first grade but probably is several stages further ahead. The difference in wages is reflected in this way.

Mr. ÉMARD: In your salary scale will you have automatic progression every six months?

Mr. CLOUTIER: It varies. This is one of the possibilities that the dividing up into six basic categories permit a different approach in regard to different employee groups. In the administrative support category, we now have automatic progression that is built in. As Mr. Anderson said at most levels there are four steps. In the administrative and foreign service category, we have begun implementation of merit pay. It is at the senior levels that progression is no longer automatic. Progression is on the evaluation of performance, in other words, if the individual gives a better performance his progression is accelerated. He has a greater annual increase than if he only gave average performance. If his performance was below average, there is provision for his progression to be slower.

Mr. ÉMARD: In your merit plan (I refer to the manual workers), do you intend to grant wage increases based on the merit apart from the wage he will get for his category?

Mr. CLOUTIER: At the present time, systems do not provide merit increase in that category. There is no group of employees in that category who now get progression by merit. Wage increases are decided annually, they are based on merit to the extent that the Civil Service Act provides that if the individual is not competent he gets no increase, so it is merit in reverse if you like, it is automatic. The prevailing rate employees are paid at a sole rate in that category.

Mr. ÉMARD: In Bill C-170 it is mentioned that job evaluation cannot be arbitrated. Will a job evaluation be contested by the employee?

Mr. CLOUTIER: At the present time there is a system of review as Mr. Anderson indicated for our employees who are red circled.

Mr. ÉMARD: With the new Bill C-170 when it is adopted, will the employee be able to contest the job evaluation in his case?

Mr. CLOUTIER: It is difficult to make any forecast with regard to the implementation following collective bargaining. All I can tell you is that the only means of review now abailable is the one we have referred to.

Mr. ÉMARD: Do you intend to do as in certain industries, when the job evaluation system has been established, you have the description of the job which is complete according to the evaluation that you have made of it, what happens is the description of the job is given to each employee and he may revise and make corrections. Do you intend to have this system?

Mr. CLOUTIER: That aspect of the work is now being handled through departments. This is the procedure in federal departments, there are other procedures used in other departments to ensure correct job evaluations.

Mr. ÉMARD: I wish you good luck, I hope it will be successful, it is quite a step forward.

(English)

Mr. FAIRWEATHER: With respect to the variation of pay for regions—and I do not ask this in a provincial attitude at all—it would then remain civil service, permanent force, in other words? Is there such a thing as "prevailing rates"? Wait, that is a poor way to put it. Are there variations of pay for people, say, in Saint John, New Brunswick and in Ottawa, and Winnipeg, and so on?

Mr. CLOUTIER: The only provisions now, in what you refer to as the classified service, that permit a different recruitment at different rates and advancement at different rates applies in the nurses and, I think in the hospital orderlies, and—is there another class? I do not think there is another class, but I stand to be corrected on this.

Mr. KNOWLES: Why is it hospital orderlies in Winnipeg?

Mr. FAIRWEATHER: What is the rationalization on this?

Mr. CLOUTIER: The rationalization is that in hospital work there has developed—again I come back to the first principles of internal relativity—over the years, in the private sector, a whole set of internal relativities which are extremely precious from the viewpoint of the employers for whom they work.

The bulk of the hospital employees in the hospital services are in the prevailing rate area on the outside, and the compression that was taking place in

hospitals between the rates of the lower skilled jobs and the nursing orderlies and the nurses were, in effect, resulting in a situation where it was—I will not say impossible, I will say—extremely difficult to recruit and retain our staff. In recognition of this problem, and forced by the compression of the prevailing rate arrangements, the commission, after consultations with the staff associations, recommend to the Treasury Board an arrangement which would permit some recognition of these local labour market differences.

Mr. FAIRWEATHER: You would not expect for a minute that when collective bargaining becomes part of our way of operating the public service that those who are responsible for collective bargaining from the point of view of the employee would put up with this for very long would you?

Mr. CLOUTIER: Well, this again is very difficult for me to answer but perhaps I could answer it this way. If I were in that role I would find no difficulty in producing a fairly good argument.

Mr. FAIRWEATHER: You are quite unrealistic, I would suspect. I cannot imagine this going on.

Mr. CLOUTIER: Well, this is what I mean; in the place of the employee organization.

Mr. FAIRWEATHER: Oh, yes, I see. I do not think it is the proper thing in the public service at all. I just hope that collective bargaining will bring it to an end.

Mr. KNOWLES: Mr. Chairman, my first question is a very simple one. When I look at this breakdown of the categories into groups I notice that in most cases the groups are given to us in alphabetical order but not in all cases. I would like to know whether in the case of the executive category it is alphabetical or in terms of importance.

Mr. CLOUTIER: Alphabetical.

Mr. KNOWLES: In other words, there are not more chiefs than Indians in the executive category.

Mr ANDERSON: No, sir.

Mr. KNOWLES: My next question borders on the matter which was discussed with Mr. Fairweather and in part with Mr. Émard. Mr. Cloutier, may I go back to your earlier description of the patchwork nature of the system as it now exists and your statement that it was an objective to get over this or at least to minimize the number of patches on the quilt. Would you try again to harmonize the concept of horizontalism—if I may use that word—with two other things: regional variations and departmental autonomy. In other words, the question I am putting to you is this: Is there not danger that despite your desire to have a horizontal arrangement across the public service, these other two things, regional variations and departmental autonomy, break it down.

Mr. CLOUTIER: Well, I do not think there is any problem in relation to regionalism. We have, or at least the bureau is producing a structure—a classification and grading structure. Now, to this structure at this point in time is attached only national rates, by and large. If it is the product of collective bargaining to—let us take any group; let us take the clerical and laboratory

groups—if it is the outcome of collective bargaining that there should be four regional rates across the country, well, the same classification system, the same classification standards, the same grading plans in relation to the application of the classification standards can still apply throughout the country. But, through that central system which, again, I emphasize it is important to be able to understand, comprehend and defend, to that structure you would attach four rates: one that would apply in zone one, two, three, and four. Indeed, this is the premise on which we are proceeding.

In relation to departmental autonomy, I think that this is a question which could be more properly answered by officials of the Treasury Board but I will take a swing at it. I might say that the constitutional arrangements, as I understand them, in relation to the preparation and the administration of the budget provide a role—a centralized role—and, on this basis, the requirement of a central approach to the pay determination process. Indeed, the pay determination has always been, or at least for a great number of years, a matter for Treasury Board attention even though in a few very isolated instances there are provisions that would allow a decentralized approach if it was still administered sensibly. So that on a departmental basis, once the funds are provided for the payment of salaries, then the arrangement would provide for the utmost respect for departmental autonomy in the application of the system.

The other problem was that if the system were to allow variations—let us go back to a clerk 4, for instance, who was doing ostensibly the same work in a place like Ottawa where there are 75 or 80 departments or agencies or boards of commission—if the system were to allow variation in the pay of this clerk 4—in another respect, I think we would be in as much of a chaos as we were under the previous classification system for other reasons.

Mr. KNOWLES: Well, Mr. Cloutier, you have expressed precisely the fear that prompted me to ask this question. Now, I can see that in the case of a clerk grade 4 or lower, there will be a level arrived at. You have given us a picture in all of this, and other witnesses have done likewise, of the deputy heads of departments being smart businessmen who are each trying to do a good job. Now, will the authority given to these deputy heads to improve the efficiency in the operations of their departments make it possible for them—let us not talk about clerks grade 4 but let us talk about the scientific and professional, technical or administrative people—would it be possible for them to produce variations so that the scientific, professional, technical or administrative man in one department might be getting a different level of salary than the same man in another department because of the arbitary action of the deputy head.

Mr. CLOUTIER: There is, of course, a possibility of this but, there is also an endeavour to have consistency, and arrangements have been and are being made to ensure consistency across departmental lines. Consistency across departmental lines is required for two reasons. One, is that in principle the public service is one, and two is that for purposes of career development—looking at an individual as an individual and his career as his own personal development—there is a requirement to make possible the movement of the individual throughout his career between different departments to broaden his interest, his development, horizons and so on, and indeed to prepare better and more experienced executives and managers of tomorrow. In those areas where there is provision for discretion on the part of the deputy head in the application of performance pay,

for instance, pay progression based on performance, there is also provision for some sort of an over review of these cases to ensure consistency.

Mr. KNOWLES: By whom?

Mr. CLOUTIER: By the central management. At the present time it is done by the Civil Service Commission because the commission by the present Civil Service Act has the responsibility both for promotions and pay administration. In the world of tomorrow, if it comes to pass, the Commission—

Mr. KNOWLES: I hope it does.

Mr. CLOUTIER: I hope it does too, sir. In the world of tomorrow, the Commission would maintain a very real interest in the performance of these senior public servants so that when the time comes for a promotion, it can act "*en connaissance de cause*" in the the knowledge of fact, the knowledge of the performance of this individual, but pay administration will be the responsibility of the Treasury Board, therefore, these decisions would have to be arrived at jointly.

Mr. KNOWLES: Therefore, the Treasury Board will be the body that will be the guardian of consistency in these things.

Mr. CLOUTIER: With the Commission as a close second.

Mr. KNOWLES: I do not want to be interpreted as questioning the idea of delegated authority; or downgrading it, I am just trying to get the picture. It seems to me that while a good deal has been made of departmental autonomy and delegated authority, as we ask these various questions, it becomes clear that that autonomy is under limitations. I just express concern for the consistency of pay levels and how it is protected. The meaningfulness of departmental autonomy wanes a bit, does it not?

Mr. CLOUTIER: I would like to suggest that the deputy heads, at least those I have talked to, welcome this monitoring system, because they realize the necessity of their departments, not necessarily being ahead, but not lagging behind the rest of the community. They realize that they are the tenants of tomorrow. If they are going to be as good and efficient and as solid to lean on as they would want, they would ideally have to be the product of a career with the widest possible background of experience. In my judgment, there is no great problem there. The monitoring—let us call it monitoring—is essential to ensure that the standards established centrally are adhered to, or else we are kidding ourselves by producing a classification division program, if we are not right now taking the necessary steps to ensure that this system will continue without being eroded.

Mr. KNOWLES: They are all going to have autonomy, but they had better all come up with the same level of efficiency.

Mr. CLOUTIER: Hopefully, I would say so.

Mr. KNOWLES: Mr. Chairman, just one other question and it advances off into or back into another subject, namely that of red circling. I think it would be only fair for me and others of this Committee to say that most of you gentlemen have made an excellent case this morning for the recasting of the whole picture to get over the patchwork nature and all the difficulties and so on, but I hope you

will realize that it is not inconsistent for us to approve of what you are doing, but to be pretty concerned about the feelings that red-circled employees have about the whole matter. There is nothing new about this; it is the old story of progress. Every time there is progress, all right, you cannot stop it and, you do not want to stop it, but you do have to be concerned about the effects of progress on people at the time. Automation in industry, run throughs on the railways and all the rest of it. I just wonder whether you have taken enough steps to make sure that the morale of the employees affected by these changes is protected. You admit that the red circling was 20 per cent, but morale once hit is pretty hard to get back.

Some hon. MEMBERS: Hear, hear.

Mr. KNOWLES: That is 40,000 people in our public service of 200,000.

Mr. CLOUTIER: No, I am sorry, this applies in the two categories that we have mentioned.

Mr. KNOWLES: But the others are due for it.

Mr. CLOUTIER: There is no indication that the same pattern would follow. For instance, in the scientific and professional category, where there is much less confusion in the existing classifications, if I may be permitted a wild guess, I would expect that the rate might be lower.

Mr. KNOWLES: All right, but the number is only 9,000, compared to 97,000 operational and 46,000—

Mr. CLOUTIER: I was referring not only to your 40,000, sir, but to your 20 per cent figure.

Mr. KNOWLES: All right then, cut my figure in half and let it be 20,000 employees of the public service who have their morale hit by this experience. Now, you have tried to protect it. Red circling in itself is supposed to be a device that gives the employee what he has now got and it gives him his increases if he is not yet at the maximum, but I know Mr. Bell has had far more people talk to him than I have, but if he has he is busy.

Mr. BELL (*Carleton*): I have heard nothing else since July.

The JOINT CHAIRMAN (*Mr. Richard*): You could include me also, Mr. Knowles.

Mr. KNOWLES: Yes, Mr. Chairman. As I say, I just wonder whether the Commission and the B.C.R. have done enough to protect the morale of these people who are affected by what I am prepared to admit is a desirable changeover. When you get our protests and get our questions about it, this is what we are concerned with, just as we are concerned about the employees on the CNR when there are runthroughs. We are concerned about automation; it has been going on for a long time, but do not ride roughshod over the morale of your employees.

Mr. CLOUTIER: Let me assure you that if the public service had not been in dire need of this classification revision program, the spectres of the personal problems caused by this classification revision program would certainly have been enough to warrant our not undertaking it. I think that this might be in answer to Mr. Émard who earlier was asking: Why did the Commission let the old system go so long? This is affecting human beings and it is not an easy

decision to take to get on with a program like this. Things were at a state where the very efficiency of the public service, as a whole, was involved and this was a greater requirement. The requirements of the public service had to take primacy. Having said this, let me assure you that we have, from the very beginning, actually racked our brains and put into effect every possible arrangement to alleviate the problems of the red-circled individuals. Even before there were any red-circled employees and it was just concept, we had decided that we had to be more humane than perhaps experience elsewhere had been and, we had to red circle the range, not the rate. Since then we have been—as new means can be developed—attempting to reduce this problem to a minimum. In this respect, I think it has now been going on since individuals have found out that they were red circled. We have a meeting with the staff associations every week —as a matter of fact, we have a meeting tomorrow morning at eleven—to discuss the problems and ways and means of improving it. I do not think we have missed a meeting every week, since that time. Our officers in the bureau, and, our officers in the staffing branch are as much concerned about this problem as I am sure you all are. We are putting everything into effect that comes to mind in relation to solving this problem.

Mr. KNOWLES: Your philosophy is excellent, Mr. Cloutier, I accept and would support your proposition that unless we make these kinds of changes life in the civil service could become intolerable, just as I accept automation and computers. We will not get to the world of tomorrow unless we do have these things. But, I just want to put the emphasis on being humane, along the way, to the people who are affected. A moment ago you talked about individuals. Well, this is the coux of the thing; it is the individuals in all these charts and figures and all the rest of it, we can understand and to use your word, comprehend, but it is the civil servant who feels this change-over gave him a raw deal that is our concern. I need not give you examples you know the kind that have come to our attention. I would just urge you to keep up your concern for the individuals who are hurt in the process.

Mr. CLOUTIER: Let me invite suggestions from any quarter as to what we might do further to reduce this problem.

Mr. HYMMEN: Mr. Chairman, I have one question I would like to ask Mr. Cloutier or Mr. Anderson but before I do so I would like to say I feel quite sure that this session has been most instructive in explaining the duties and responsibilities of the bureau and also the tremendous amount of work involved in preparing 73 volumes like the one I have in my hand. My question was referred to briefly and was asked specifically by a witness who appeared before the Committee last week. This has to do with description of duties in the job evaluation which is the very basis for classification and also for salary scales. This question was raised by a representative of the ships' officers. Since we are introducing a brand few field here and if on when—I think I should stress the when rather than the if—Bill No. C-170 is brought into effect we certainly want to make the transition period as painless as possible. If there are areas of contention at the moment regarding description of duties and job analysis, has every opportunity been given to reconsider this and make the proper decision irrespective of what will take place in the future under collective bargaining

because we all know there is no provision under Bill No. C-170 or any other legislation for collective bargaining to go on before certification.

Mr. ANDERSON: Mr. Chairman, the bureau has worked on the premise that it is the responsibility of departmental management to organize the department and to allocate duties to positions. We have, therefore, accepted the statement of responsible departmental officers that the duties of a position are as stated in a questionnaire. In many cases, as I said earlier, Mr. Chairman, the original questionnaire was prepared by the individual employee and reviewed by a responsible departmental officer who certified the statement of duties as being correct. We have not thought, Mr. Chairman, that it was our business to try to referee disputes between a responsible departmental manager and an employee about what the employee is supposed to be doing. If management says that these are the duties of the position, we have accepted this as being correct from the responsible source and if the employee said that he was doing something other than this, there is a dispute, that is to say between the departmental management and the employee, we have not felt that it was our business to try to resolve this kind of dispute.

Mr. BELL (*Carleton*): I wonder if I might ask Mr. Cloutier to comment on the feature of this whole matter which troubles me most. That is, the previous classifications were laid down from time to time by the Civil Service Commission; all the classes, all the grades were the product of the work of the Civil Service Commission over the years. Yet, on this review, from the evidence given this morning, it is evident that the Civil Service Commission has been wrong in 70 per cent and right in only 30 per cent. They were downgraded 50 per cent and they upgraded 20 per cent. In other words. There has been 70 per cent marginal error in past operations. What confidence can we have that under the new Bureau of Classification Revision the batting average is going to be any better? What assurance can we give to the ordinary civil servant that there is going to be any greater wisdom in the existing review than there has been in the past under very distinguished members of the Civil Service Commission.

Mr. CLOUTIER: Well, I think, in answer to this question, Mr. Bell, I would like to say first of all time changes—not time itself but over a period of time—the duties of positions change. It does not follow automatically that the position is re-examined periodically by the classification authority. But, more directly to this worry that you have expressed, is the fact that I do not think because we have a new system which has produced originally 20 per cent red circling and 50 per cent green circling, it is an automatic conclusion that the classification actions under previous systems were wrong.

Mr. BELL (*Carleton*): Why not?

Mr. CLOUTIER: Because simply they were made under a different system which recognized different levels and to the extent that, again coming back to the example I gave earlier of a class which had 13 grades from $5,000 to $15,000, the individual classification actions in respect of that system which had 13 grades might have been all 100 per cent correct but, because the new system in the same amount of money contemplates only seven grades in this same range there is, of necessity, a need for compression. This is one factor, the compression of the levels. Apart from that is the fact that while this old class might have applied to

only one department—the one I have in mind did apply only to one department—so that the factore in arriving at an evaluation were influenced only by the circumstances in that one department. This was financial administration.

Now we have a financial administration group that covers the whole spectrum of the public service, all operations, and the factors that come into play are of necessity different. Not only are the factors different. The techniques are now expressed in such way that the employee, given the standard, can make sense of it; whereas, under the old system the application of the standard, required, as I mentioned earlier, years of experience in the classification field.

You have raised another point and you said what is it in the new system—if I am interpreting you correctly—that gives confidence to the employee about the wisdom of the future classifiers.

Mr. BELL (*Carleton*): That the batting average is going to be better than it has been in the past.

Mr. CLOUTIER: Yes, well I am not admitting that is has been all that bad in the past and I am not admitting that it will be 100 per cent in the future: everybody makes mistakes. But, I would think because the technique used in most of these groups is now clearly laid down and can be understood and can be defended, I think the chances are that the classification decisions reached in the future will find a larger measure of acceptance by the people involved.

Mr. BELL (*Carleton*): That leads me to my next point. It has been alleged to me that different systems of job evaluation have been used within a single group: for example, in the administrative support category in some cases the point rating system has been used within a group and in other cases a totally different system has been used. Therefore, across departments there is no uniformity at all.

Mr. CLOUTIER: This is so and in the administrative support category we use a grade description method in the telephone operators group and communicators, because the previous system was simple and there was not a great consolidation of classes and it made sense to continue to use the same approach in these two cases. It is where you have a wide variety of past indifferent circumstances the point rating system becomes indicated; but in these other cases where the jobs are more standard, then you do not need as finely honed an instrument as the point rating system to do a very good job.

Mr. BELL (*Carleton*): Does that not lead to lack of standardization?

Mr. CLOUTIER: No, no, because each group in itself is examined and in relation to the problems presented by the group there is a decision made as to which instrument or technique would best be followed.

Mr. BELL (*Carleton*): I must confess I do not follow you competely on that, Mr. Cloutier; I cannot see, for example, in the clerical and regulatory group why they should use in the Department of Defence Production, a different system from what you might use in the Post Office Department.

Mr. CLOUTIER: Oh, no, that does not apply. In the clerical group the technique used is applied wherever employees classified in that group are found. So that in the clerical group you have mentioned, we used the point rating approach and that technique, that approach is used throughout the service. The

duties of a telephone operator are much easier to define and much more standard than the duties of clerks. There is a whole myriad of things that clerks do.

Mr. BELL (*Carleton*): Perhaps we have misunderstood one another in relation to this. I was speaking of different systems within a group, not within the categories.

Mr. CLOUTIER: Oh, no, within a group there is one approach or one technique only. I am sorry, there is one, the firefighter group. Let me share with you this preview information. In the firefighter group, a firefighter is a firefighter and the duties of a firefighter are all the same but the difference comes in where you have the supervision. In that group we have used a grade description approach for the firefighter and we have used the point rating approach for the various levels of supervision. Again, coming back to the basic principle that we have adopted, in other words, we look at a group and we say for this group which is the classification technique which is most likely to result in the best job being done not for today but for as long as we can foresee. Indeed, our planning is not finished for the other categories and we might continue having variations like this.

Mr. BELL (*Carleton*): One further matter; would you indicate what attempts have been made to actually explain the policy to the ordinary civil servant. You are not unaware, of course, Mr. Cloutier, of the great fears I have of what I think is the most drastic blow to morale during my period of time in public life that has happened to the Civil Service. I wonder whether the public relations of the commission in this have been all that they ought to be and whether there has been a genuine attempt to explain this.

Mr. CLOUTIER: To the extent that there is one employee not fully au fait, then I would say that our public relations have not been as good as they might have been; to the extent that there is one. But, having said this, let me give you a very quick run down as to the various means and various things we have done to try to keep in touch and keep the employees affected informed. To begin with, when the bureau began operations which was the first of October, 1964, and we really did not get going because we did not have a building before some time in November, but as early as December officers of the bureau were blanketing the country to meet groups of employees in every major city to explain not what we were going to do because at that point the planning had not gone that far but just beginning to explain what we hoped to accomplish under this classification revision program. We did this outside of Ottawa and we did this in Ottawa. We blanketed departments with a little pamphlet called general explanations of the classification revision program of which we produced about 1,000,000 copies especially to have this distributed as widely as possible. This was done in October of 1964. That pamphlet was re-issued in the spring of 1965, and at about the same time in March again we dispatched teams of officers across the country to meet departmental people and explain what we were doing and answer questions. This pattern has been followed throughout and from then on I think there were two excursions across the country since last spring.

In addition, last winter, we prepared and distributed to every employee, with his pay cheque, because people might not get or read the pamphlets that are being circulated but as everyone gets close to his pay cheque we thought it might

be a good idea to have an attachment to the pay cheque, an enclosure which an employee would have to make a conscious decision not to read, which again went over the fundamentals of the plan. In addition, to this, we have written I do not know how many circular letters to departments. We have provided them with I do not know how many copies for distribution in the department and finally, the only thing I can think of right now is that throughout, every press release, every circular letter was provided to the staff associations on the understanding that they would be reproduced, and they were, in their different magazines and journals. Having said this, to the extent that there is one individual who does not understand what it means to be red circled and he has been red circled, we have failed.

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, it is now a quarter to one. Is it the wish of the committee to have Mr. Cloutier and Mr. Anderson come back again today? Are we through for the present time with these gentlemen? They will be back, I suppose during discussion on the bill.

Mr. BELL (*Carleton*): They will be available?

The JOINT CHAIRMAN (*Mr. Richard*): They will be available.

Mr. KNOWLES: Mr. Chairman, I would like to join with others in thanking them for an excellent half day.

The JOINT CHAIRMAN (*Mr. Richard*): I think we should call a meeting of the steering committee and I will notify them before the next meeting which will be next Thursday, when we begin discussion of the bill, unless you gentlemen want to start on the bill tonight. I think it would be better to discuss our procedure first. So we will call a meeting of the steering commitee for this evening?

Mr. KNOWLES: The agreement with the law clerks was we would not have them until we got to that phase of the matter in the bill?

The JOINT CHAIRMAN (*Mr. Richard*): Who is that?

Mr. KNOWLES: The law clerks.

The JOINT CHAIRMAN (*Mr. Richard*): They are not ready yet.

Mr. KNOWLES: They are to come later?

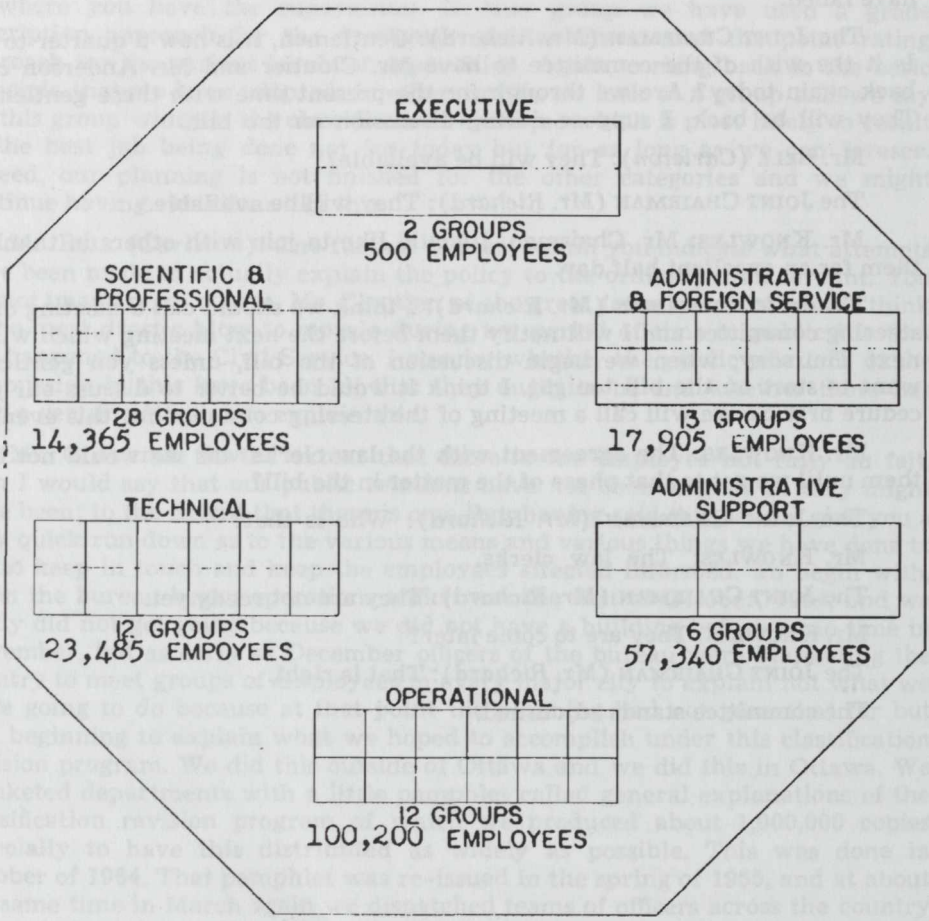
The JOINT CHAIRMAN (*Mr. Richard*): That is right.

The committee stands adjourned.

APPENDIX O

CATEGORIES & GROUPS

(CENTRAL ADMINISTRATION)



TOTAL GROUPS 73

TOTAL EMPLOYEES 213,795

APPENDIX P

APPROXIMATE DISTRIBUTION OF POSITIONS AMONG PROPOSED OCCUPATIONAL GROUPS

Category and Group	Old Classification			Total
	Civil Service	Prevailing Rate	Others	
EXECUTIVE CATEGORY:				
Implementation Date: July 1, 1967				
General Executive	350	0	0	
Senior Executive	150	0	0	
	500	0	0	500
SCIENTIFIC AND PROFESSIONAL CATEGORY:				
Implementation Date: July 1, 1967				
Actuarial Science	20	0	0	
Agriculture	400	0	0	
Architecture	170	0	0	
Auditing	1,400	0	0	
Biology and Bacteriology	180	0	0	
Chemistry	275	0	0	
Dentistry	85	0	0	
Economics, Sociology and Statistics	630	0	0	
Education	200	0	2,000	
Engineering and Land Survey	1,900	0	0	
Forestry	40	0	0	
Historical Research	100	0	0	
Home Economics	150	0	0	
Law	240	0	0	
Library Science	165	0	0	
Mathematics	50	0	0	
Medicine	525	0	0	
Meteorology	550	0	0	
Nursing	2,000	0	0	
Occupational and Physical Therapy	150	0	0	
Pharmacy	60	0	0	
Physical Sciences	225	0	0	
Psychology	25	0	0	
Scientific Regulation	375	0	0	
Scientific Research	1,600	0	0	
Social Work	135	0	15	
University Teacher	200	0	0	
Veterinary Science	500	0	0	
	12,350	0	2,015	14,365
ADMINISTRATIVE AND FOREIGN CATEGORY:				
Implementation Date: October 1, 1965				
Administrative Services	1,590	0	60	
Computer Systems	410	0	0	
Financial Administration	630	0	10	
Information Services	360	0	5	
Organization and Methods	290	0	0	
Personnel Administration	1,100	0	10	
Programme Administration	10,080	0	90	
Purchasing and Supply	875	0	10	
Welfare Programmes	425	0	265	
Administrative Trainee	No figures available			
Implementation Date: July 1, 1967				
Commerce	780	0	0	
Foreign Affairs	600	0	0	
Translation	315	0	0	
	17,455	0	450	17,905

Category and Group	Old Classification			Total
	Civil Service	Prevailing Rate	Others	
ADMINISTRATIVE SUPPORT CATEGORY:				
Implementation Date: October 1, 1965				
Communications	1,045	0	0	
Data Processing	1,230	0	0	
Clerical and Regulatory	37,585	0	50	
Office Equipment Operation	490	0	5	
Secretarial, Stenographic, Typing	16,160	0	200	
Telephone Operation	575	0	0	
	57,085	0	255	57,340
TECHNICAL CATEGORY:				
Implementation Date: July 1, 1967				
Aircraft Operations	150	0	0	
Air Traffic Controllers	900	0	0	
Engineering and Scientific Support	4,200	0	50	
Drafting and Illustration	1,300	0	50	
Electronics	1,200	0	0	
General Technical	9,300	0	350	
Photography	80	0	5	
Primary Products Inspection	2,200	0	0	
Radio Operations	1,200	0	0	
Ships' Officers	0	0	1,300	
Ships' Pilots	0	50	0	
Technical Inspection	1,150	0	0	
	21,680	50	1,755	23,485
OPERATIONAL CATEGORY:				
Implementation Date: October 1, 1966				
General Labour and Trades	6,400	15,000	0	
General Services	12,300	6,300	0	
Hospital Services	4,000	2,000	500	
Printing Operations	200	1,000	0	
Ship Repair	100	1,700	0	
Ships' Crews	0	0	2,800	
Heating, Power and Stationary Plant Operation	2,500	100	0	
Firefighters	1,200	0	0	
Lightkeepers	600	0	0	
Postal Operations	30,000	0	0	
Revenue Postal Operations	0	0	11,000	
Correctional	0	0	2,500	
	57,300	26,100	16,800	100,200
Grand Total	166,370	26,150	21,275	213,795

Bureau of Classification Revision
October 31, 1966.

APPENDIX Q

ADMINISTRATIVE SERVICES GROUP

SUMMARY OF PROPOSALS AND ALLOCATIONS

Proposed Level Salary Range and Point Range	Position Class and Grade	Existing Salary Range	Number Unchanged	Number "Red Circles"	Number "Green Circles"
AS 1					
5,850 - 6,962 Points 166 - 240	Administrative Officer 1	6,206 - 6,962	47	—	—
	Administrative Officer 2	6,804 - 7,497	—	21	—
	Administrative Officer 3	7,340 - 8,096	—	6	—
	Administrative Officer 4	7,696 - 8,777	—	2	—
	Administrative Officer 5	8,363 - 9,508	—	1	—
	Technical Officer 2	5,054 - 5,803	—	—	4
	Technical Officer 3	6,206 - 6,962	19	—	—
	Technical Officer 11	11,554 -13,038	—	1	—
	Clerk 4	4,586 - 5,054	—	—	3
	Principal Clerk	5,242 - 5,803	—	—	3
	Supervising Clerk	5,741 - 6,302	—	—	5
	Head Clerk	6,143 - 6,710	—	—	1
	Personnel Officer 2	6,395 - 6,962	1	—	—
	Supervisor 4, Office Services	6,143 - 6,710	—	—	3
	Departmental Accountant 3	5,741 - 6,302	—	—	1
	Departmental Accountant 4	6,395 - 6,962	3	—	—
5,850 - 6,962 Points 166 - 240	Postal Officer 4	5,741 - 6,302	—	—	27
	Technician 1	4,260 - 5,520	—	—	1
	Townsite Officer 1	5,054 - 5,803	—	—	4
	Townsite Officer 2	6,206 - 6,962	4	—	—
			74	31	52
	Total Positions in Level			157	
AS 2					
6,597 - 7,497 Points 241 - 320	Administrative Officer 1	6,206 - 6,962	—	—	59
	Administrative Officer 2	6,804 - 7,497	100	—	—
	Administrative Officer 3	7,340 - 8,096	—	46	—
	Administrative Officer 4	7,696 - 8,777	—	17	—
	Administrative Officer 5	8,363 - 9,508	—	2	—
	Administrative Officer 6	9,127 -10,653	—	2	—
	Technical Officer 2	5,054 - 5,803	—	—	4
	Technical Officer 3	6,206 - 6,962	—	—	18
	Technical Officer 4	6,804 - 7,497	83	—	—
	Technical Officer 5	7,340 - 8,096	—	2	—
	Tecnhical Officer 6	7,886 - 8,968	—	2	—
	Technical Officer 7	8,681 - 9,953	—	1	—
	Clerical and Regulatory 4	4,598 - 5,054	—	—	1
	Clerical and Regulatory 5	5,281 - 5,803	—	—	2
	Principal Clerk	5,242 - 5,803	—	—	6
	Supervising Clerk	5,741 - 6,302	—	—	4
	Head Clerk	6,143 - 6,710	—	—	7
	Personnel Officer 2	6,395 - 6,962	—	—	1
	Personnel Officer 3	7,340 - 8,096	—	2	—
	Staff Training Officer 3	6,804 - 7,497	1	—	—
	Postal Officer 5	6,395 - 6,962	—	—	1
	Inspector 2, Customs & Excise	6,804 - 7,497	20	—	—
	Technician 3	5,855 - 6,395	—	—	1
	Retail Inspection Officer 3	6,143 - 6,710	—	—	1
	Clerk of Process, Supreme Court	6,206 - 6,962	—	—	1
	Departmental Accountant 5	6,804 - 7,497	1	—	—
	Supervisor 5, Office Services	6,804 - 7,497	2	—	—
	Land Surveyor 1	7,088 - 8,096	—	1	—
			207	75	106
	Total Positions in Level			388	

Proposed Level Salary Range and Point Range	Position Class and Grade	Existing Salary Range	Number Unchanged	Number "Red Circles"	Number "Green Circles"
AS 3					
7,124 - 8,096 Points 321 - 400	Administrative Officer 1	6,206 - 6,962	—	—	10
	Administrative Officer 2	6,804 - 7,497	—	—	44
	Administrative Officer 3	7,340 - 8,096	125	—	—
	Administrative Officer 4	7,696 - 8,777	—	45	—
	Administrative Officer 5	8,363 - 9,508	—	10	—
	Administrative Officer 6	9,127 -10,653	—	1	—
	Technical Officer 3	6,206 - 6,962	—	—	4
	Technical Officer 4	6,804 - 7,497	—	—	19
	Technical Officer 5	7,340 - 8,096	21	—	—
	Technical Officer 6	7,886 - 8,968	—	1	—
	Technical Officer 7	8,681 - 9,953	—	1	—
	Chief Customs & Excise Clerk 7	7,340 - 8,096	8	—	—
	Chief Customs & Excise Clerk 8	7,886 - 8,968	—	2	—
	Departmental Accountant 2	5,242 - 5,803	—	—	4
	Departmental Accountant 3	5,741 - 6,302	—	—	10
	Departmental Accountant 5	6,804 - 7,496	—	—	1
	Supervisor 4, Office Services	6,143 - 6,710	—	—	2
	Supervisor 5,Office Services	6,804 - 7,497	—	—	3
	Townsite Officer 3	6,804 - 7,497	—	—	7
	Townsite Officer 4	7,340 - 8,906	3	—	—
	Civil Service Commission Officer 3	8,014 - 9,158	—	1	—
	Patent Examiner 2	6,660 - 7,800	—	—	1
	Personnel Officer 3	7,340 - 8,096	1	—	—
	Clerk 4	4,586 - 5,054	—	—	1
	Head Clerk	6,143 - 6,710	—	—	1
	Clerk of Process, Exchequer Court	6,426 - 7,245	—	—	1
	Inspector, UIC	7,340 - 8,096	8	—	—
	Surveyor 7, Customs & Excise	7,340 - 8,096	1	—	—
	Surveyor 8, Customs & Excise	7,886 - 8,968	—	1	—
	Secretary, UIC	8,681 - 9,953	—	1	—
	Solicitor 2	6,489 - 7,686	—	—	1
	Immigration Officer 9	7,340 - 8,096	1	—	—
			168	63	109
Total Positions in Level				340	
AS 4					
7,891 - 8,968 Points 401 - 500	Administrative Officer 1	6,206 - 6,962	—	—	1
	Administrative Officer 2	6,804 - 7,497	—	—	3
	Administrative Officer 3	7,340 - 8,096	—	—	35
	Administrative Officer 4	7,696 - 8,777	—	—	89
	Administrative Officer 5	8,363 - 9,508	—	38	—
	Administrative Officer 6	9,127 -10,653	—	12	—
	Administrative Officer 7	11,554 -13,038	—	1	—
	Technical Officer 3	6,206 - 6,962	—	—	1
	Technical Officer 4	6,804 - 7,497	—	—	12
	Technical Officer 5	7,340 - 8,096	—	—	28
	Technical Officer 6	7,886 - 8,968	24	—	—
	Technical Officer 7	8,681 - 9,953	—	5	—
	Technical Officer 8	9,127 -10,653	—	2	—
	Technical Officer 9	9,688 -11,342	—	1	—
	Immigration Officer 9	7,340 - 8,096	—	—	8
	Immigration Officer 10	7,886 - 8,968	2	—	—
	Civil Service Commission Officer 5	10,070 -11,342	—	1	—
	Geographer 4	9,688 -11,342	—	1	—
	Inspector 2, Customs & Excise	6,804 - 7,497	—	—	12
	Inspector 3, Customs & Excise	9,127 -10,653	—	2	—
	Treasury Officer 1	6,804 - 7,497	—	—	1
	Chief Customs & Excise Clerk 8	7,886 - 8,968	3	—	—
	Personnel Officer 5	8,363 - 9,508	—	1	—
	Public Information Officer 3	7,409 - 8,777	—	—	1

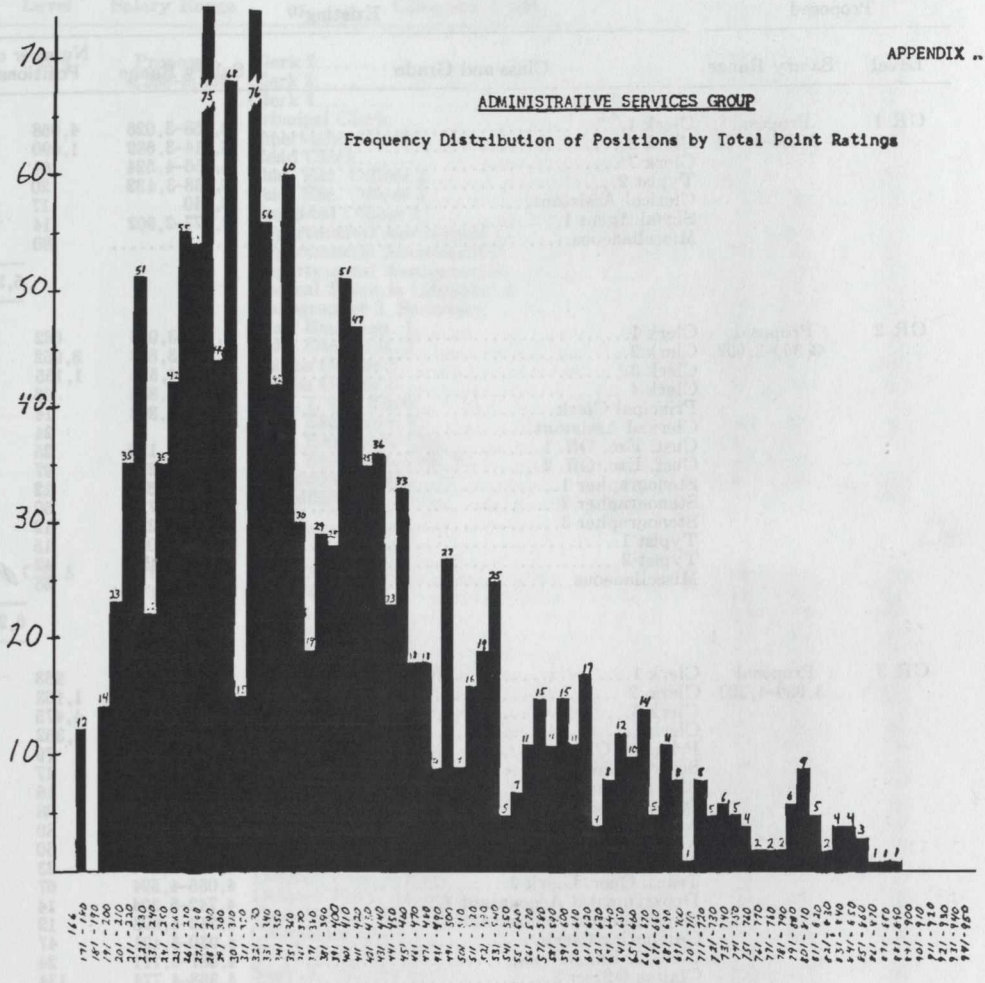
Proposed Level Salary Range and Point Range	Position Class and Grade	Existing Salary Range	Number Unchanged	Number "Red Circles"	Number "Green Circles"
AS 4 continued					
7,891 - 8,968 Points 401 - 500	Indian Affairs Officer 6	8,363 - 9,508	—	1	—
	Indian Affairs Officer 7	9,127 -10,653	—	4	—
	Indian Affairs Officer 8	11,024 -12,296	—	1	—
	Regional Supervisor 1, Indian Agencies	8,363 - 9,508	—	1	—
	Postal Officer 7	7,340 - 8,096	—	—	1
	Archivist 3	8,014 - 9,158	—	1	—
	Personnel Administrator 4	9,031 -10,176	—	1	—
	Associate Director, PRFA	-12,636	—	1	—
			29	74	192
	Total Positions in Level			295	
AS 5					
9,375 -10,653 Points 501 - 600	Administrative Officer 3	7,340 - 8,096	—	—	1
	Administrative Officer 4	7,696 - 8,777	—	—	11
	Administrative Officer 5	8,363 - 9,508	—	—	2
	Administrative Officer 6	9,127 -10,653	23	—	—
	Administrative Officer 7	11,554 -13,038	—	13	—
	Administrative Officer 8	13,038 -14,628	—	3	—
	Technical Officer 6	7,886 - 8,968	—	—	5
	Technical Officer 7	8,681 - 9,953	—	—	10
	Technical Officer 8	9,127 -10,653	8	—	—
	Personnel Administrator 5	10,070 -11,342	—	2	—
	Personnel Officer 4	7,696 - 8,777	—	—	1
	Farm Credit Advisor 4	8,363 - 9,508	—	—	6
	Public Information Officer 5	9,190 -10,717	—	1	—
	Architect 5	10,160 -11,360	—	1	—
	Industrial Relations Officer 5	8,363 - 9,058	—	—	1
	Computer Systems Programmer 3	6,269 - 7,529	—	—	1
	Development Officer 6	10,070 -11.342	—	1	—
	Chief Customs and Excise Clerk 9	8,363 - 9,508	—	—	2
	Indian Affairs Officer 6	8,363 - 9,508	—	—	2
	Civil Service Commission Officer 5	10,070 -11,342	—	1	—
	Inspector 3, Customs and Excise	9,127 -10,653	7	—	—
	Management Analyst 4	9,031 -10,176	—	—	1
			38	22	73
	Total Positions in Level			133	
AS 6					
11,088 -12,600 Points 601 - 700	Administrative Officer 3	7,340 - 8,096	—	—	4
	Administrative Officer 4	7,696 - 8,777	—	—	6
	Administrative Officer 5	8,363 - 9,508	—	—	6
	Administrative Officer 6	9,127 -10,653	—	—	21
	Administrative Officer 7	11,554 -13,038	—	22	—
	Administrative Officer 8	13,038 -14,628	—	8	—
	Technical Officer 5	7,340 - 8,096	—	—	1
	Technical Officer 7	8,681 - 9,953	—	—	1
	Technical Officer 8	9,127 -10,653	—	—	11
	Technical Officer 9	9,688 -11,342	—	—	6
	Technical Officer 10	10,494 -12,296	—	—	4
	Technical Officer 11	11,554 -13,038	—	1	—
	Management Analyst 5	10,070 -11,342	—	—	1
	Asst. Secretary to Governor General	9,127 -10,653	—	—	1
	Engineer 5	10,160 -11,360	—	—	1
	Chief Customs and Excise Clerk 10	9,127 -10,653	—	—	2
	Civil Service Commission Officer 7	14,946 -16,006	—	1	—

Proposed Level Salary Range and Point Range	Position Class and Grade	Existing Salary Range	Number Unchanged	Number "Red Circles"	Number "Green Circles"
AS 6 continued					
11,088 -12,600 Points 601 - 700	Chief Inspector UIC	11,554 -13,038	—	1	—
	Welfare Administrator 5	11,554 -13,038	—	1	—
	Assistant Director, Inspection Branch, Customs and Excise	9,688 -11,342	—	—	1
			0	34	66
	Total Positions in Level			100	
AS 7					
12,873 -14,628 Points 701 - 800	Administrative Officer 6	9,127 -10,653	—	—	1
	Administrative Officer 7	11,554 -13,038	—	—	13
	Administrative Officer 8	13,038 -14,628	14	—	—
	Technical Officer 8	9,127 -10,653	—	—	1
	Technical Officer 10	10,494 -12,296	—	—	2
	Technical Officer 11	11,554 -13,038	—	—	4
	Defence Production Officer 7	11,554 -13,038	—	—	1
	Finance Officer 6	14,946 -16,006	—	1	—
	Secertary, Transport	14,946 -16,006	—	1	—
	Superintendent, National Defence	14,946 -16,006	—	2	—
	New Positions	— —	1	—	—
			15	4	22
	Total Positions in Level			41	
AS 8					
14,086 -16,006 Points 801 - 900	Administrative Officer 7	11,554 -13,038	—	—	1
	Administrative Officer 8	13,038 -14,628	—	—	13
	Assistant Director Postal Service	14,946 -16,006	2	—	—
	Director, Inspection Branch, Customs and Excise	13,038 -14,628	—	—	1
	Director, Management, Audit Service, Post Office	14,946 -16,006	1	—	—
	District Administrator 5, DVA	10,494 -12,296	—	—	1
	Superintendent, National Defence	14,946 -16,006	1	—	—
	Treasury Officer 5	13,038 -14,628	—	—	1
	Chief, Special Programmes	14,946 -16,006	1	—	—
	Defence Production Officer 9	14,946 -16,006	1	—	—
	Director, Research Branch, Administration, Agriculture	14,946 -16,006	1	—	—
	Chief, Lands Branch, Transport	14,946 -16,006	1	—	—
	Chief of Division, C and I	14,946 -16,006	1	—	—
	Chief of Division, Public Works	14,946 -16,006	1	—	—
	Director, Administration, Board of Grain Commissioners	14,946 -16,006	1	—	—
	Director 5, Taxation	14,946 -16,006	1	—	—
			12	0	17
	Total Positions in Level			29	
AS 9					
15,860 -19,100 Performance Range Points 901 - 1000	No Positions	—	—	—	—
	Group Totals		543	303	637
				1,483	
	Per cent of positions		36.6	20.4	43.0

APPENDIX ..

ADMINISTRATIVE SERVICES GROUP

Frequency Distribution of Positions by Total Point Ratings



APPENDIX Q (Continued)

THE CLERICAL AND REGULATORY GROUP

COMPARISON OF EXISTING AND PROPOSED CLASSIFICATION AND PAY STRUCTURES

Proposed		Existing[1]			
Level	Salary Range	Class and Grade	Salary Range	Number of Positions	
CR 1	Proposal 2,490–3,155	Clerk 1	2,558–3,026	4,068	
		Clerk 2	3,214–3,682	1,090	
		Clerk 3	4,056–4,524	64	
		Typist 2	3,058–3,432	20	
		Clerical Assistant	2,440	17	
		Signal Agent 1	2,777–2,902	14	
		Miscellaneous		80	
					5,353
CR 2	Proposal 3,359–3,692	Clerk 1	2,558–3,026	682	
		Clerk 2	3,214–3,682	3,952	
		Clerk 3	4,056–4,524	1,155	
		Clerk 4	4,586–5,803	96	
		Principal Clerk	5,242–5,803	14	
		Clerical Assistant	2,440	24	
		Cust. Exc. Off. 1	3,370–4,120	25	
		Cust. Exc. Off. 2	4,615–5,215	97	
		Stenographer 1	2,590–3,338	12	
		Stenographer 2	3,401–3,720	50	
		Stenographer 3	3,900–4,212	12	
		Typist 1	2,558–3,026	15	
		Typist 2	3,058–3,432	42	
		Miscellaneous		55	
					6,231
CR 3	Proposal 3,930–4,320	Clerk 1	2,558–3,026	283	
		Clerk 2	3,214–3,682	1,163	
		Clerk 3	4,056–4,524	4,475	
		Clerk 4	4,586–5,803	1,302	
		Principal Clerk	5,242–5,803	79	
		Stenographer 2	3,401–3,720	17	
		Stenographer 3	3,900–4,212	16	
		Stenographer 3, Secretary	4,056–4,524	28	
		Air Traffic Cont. Asst. 1	3,744–4,524	89	
		Air Traffic Cont. Asst. 2	5,054–5,803	60	
		Trans. Oper. Clerk 1	3,463–3,931	23	
		Trans. Oper. Clerk 2	4,056–4,524	67	
		Departmental Accountant 1	4,742–5,304	14	
		Departmental Accountant 2	5,242–5,803	12	
		Computing Clerk	4,930–5,491	47	
		Clerk 2, Engineering	4,087–4,711	24	
		Claims Officer 2	4,368–4,774	134	
		Technician 1	4,260–5,520	11	
		Miscellaneous		66	
					7,910

THE CLERICAL AND REGULATORY GROUP (Continued)

COMPARISON OF EXISTING AND PROPOSED CLASSIFICATION AND PAY STRUCTURES (Continued)

Proposed		Existing[1]			
Level	Salary Range	Class and Grade	Salary Range	Number of Positions	
CR 4	Proposal 4,598–5,054	Clerk 2	3,214–3,682	62	
		Clerk 3	4,056–4,524	1,329	
		Clerk 4	4,586–5,054	2,359	
		Principal Clerk	5,242–5,803	607	
		Supervising Clerk	5,741–6,302	29	
		Head Clerk	6,084–6,710	13	
		Cust. Exc. Officer 2	4,615–5,215	1,384	
		Cust. Exc. Officer 3	5,105–5,645	14	
		Technical Officer 2	5,054–5,803	34	
		Departmental Accountant 1	4,742–5,304	71	
		Departmental Accountant 2	5,242–5,803	58	
		Departmental Accountant 3	5,741–6,302	23	
		Medical Records Librarian 2	4,493–4,961	18	
		Stenographer 3, Secretary	4,056–4,524	27	
		Cust. Exc. Supt. 1	5,242–5,803	23	
		Cust. Exc. Supt. 2	5,741–6,302	13	
		Claims Officer 2	4,368–4,774	887	
		Claims Officer 3	4,742–5,304	255	
		Supv. 1, Off. Serv	4,742–5,304	23	
		Cust. Exc. Supv. 2	5,545–6,085	20	
		Cust. Exc. Acct. Clk. 7	5,928–6,302	11	
		Cust. Exc. Acct. Clk. 8	6,395–6,962	17	
		Computing Clerk	4,930–5,491	245	
		Miscellaneous		118	
					7,640
CR 5	Proposal 5,382–5,913	Clerk 3	4,056–4,524	28	
		Clerk 4	4,586–5,803	285	
		Principal Clerk	5,242–5,803	641	
		Supervising Clerk	5,741–6,302	183	
		Head Clerk	6,084–6,710	27	
		Administrative Officer 1	6,146–6,962	15	
		Cust. Exc. Officer 3	5,105–5,645	1,454	
		Cust. Exc. Supv. 1	4,742–5,304	16	
		Cust. Exc. Supv. 2	5,545–6,085	60	
		Cust. Exc. Supv. 3	5,741–6,302	34	
		Cust. Exc. Supt. 1	5,242–5,803	15	
		Cust. Exc. Supt. 2	5,741–6,302	18	
		Princ. Cust. Exc. Checking Clk	5,741–6,302	53	
		Claims Officer 3	4,742–5,304	38	
		Departmental Accountant 2	5,242–5,803	12	
		Departmental Accountant 3	5,741–6,302	23	
		Defence Prod. Officer 2	5,554–6,302	117	
		Defence Prod. Officer 3	6,146–6,962	19	
		Customs Appraiser 1	5,242–5,803	11	
		Computing Clerk	4,930–5,491	260	
		Purchasing Agent 2	5,554–6,302	12	
		Supv. 2, Off. Serv	5,242–5,803	25	
		Technical Officer 2	5,054–5,803	33	
		Miscellaneous		62	
					3,441

THE CLERICAL AND REGULATORY GROUP (Continued)

COMPARISON OF EXISTING AND PROPOSED CLASSIFICATION AND PAY STRUCTURES (Concluded)

Proposed		Existing[1]			
Level	Salary Range	Class and Grade	Salary Range	Number of Positions	
CR 6	Proposal 6,356–6,986	Clerk 4	4,586–5,054	21	
		Principal Clerk	5,242–5,803	64	
		Supervising Clerk	5,741–6,302	107	
		Head Clerk	6,084–6,710	56	
		Administrative Officer 2	6,804–7,497	16	
		Cust. Exc. Supv. 2	5,545–6,085	72	
		Cust. Exc. Supv. 3	5,741–6,302	63	
		Cust. Exc. Supt. 1	5,242–5,803	12	
		Cust. Exc. Supt. 2	5,741–6,302	15	
		Customs Appraiser 2	5,741–6,302	393	
		Customs Appraiser 3	6,395–6,962	21	
		Customs Appraiser 4	6,804–7,497	36	
		Miscellaneous		54	
					930
CR 7	Proposal 7,438–8,173	Head Clerk	6,084–6,710	18	
		Miscellaneous		10	
					28

[1] Salary ranges in effect following interim revision authorized in December 1965.

THE CLERICAL AND REGULATORY GROUP (Continued)

IMMEDIATE COST OF CONVERSION AND NUMBER OF EMPLOYEES RED-CIRCLED

Level	Class and Grade	Number of Positions	Employees Red-Circled	Immediate Cost
				$
CR 1	Clerk 1	4,068	—	122,040
	Clerk 2	1,090	1,090	—
	Clerk 3	64	64	—
	Typist 2	20	20	—
	Clerical Assistant	17	—	250
	Signal Agent 1	14	—	1,176
	Miscellaneous	80	61	644
		5,353	1,235	124,710
CR 2	Clerk 1	682	—	402,380
	Clerk 2	3,952	—	268,736
	Clerk 3	1,155	1,155	—
	Clerk 4	96	96	—
	Principal Clerk	14	14	—
	Clerical Assistant	24	—	22,056
	Cust. Exc. Officer 1	25	25	—
	Cust. Exc. Officer 2	97	97	—
	Stenographer 1	12	—	4,092
	Stenographer 2	50	50	—
	Stenographer 3	12	12	—
	Typist 1	15	—	8,415
	Typist 2	42	—	4,788
	Miscellaneous	55	47	2,789
		6,231	1,496	713,256
CR 3	Clerk 1	283	—	328,563
	Clerk 2	1,163	—	524,513
	Clerk 3	4,475	4,475	—
	Clerk 4	1,302	1,302	—
	Principal Clerk	79	79	—
	Stenographer 2	17	—	5,542
	Stenographer 3	16	—	880
	Stenographer, 3 Secretary	28	28	—
	Air Traffic Control Asst. 1	89	89	—
	Air Traffic Control Asst. 2	60	60	—
	Trans. Oper. Clk. 1	23	—	6,601
	Trans. Oper. Clk. 2	67	67	—
	Departmental Accountant 1	14	14	—
	Departmental Accountant 2	12	12	—
	Computing Clerk	47	47	—
	Clerk 2, Engineering	24	24	—
	Claims Officer 2	134	134	—
	Technician 1	11	11	—
	Miscellaneous	66	45	16,074
		7,910	6,387	882,173
CR 4	Clerk 2	62	—	69,378
	Clerk 3	1,329	—	305,670
	Clerk 4	2,359	—	11,795
	Principal Clerk	607	607	—
	Supervising Clerk	29	29	—
	Head Clerk	13	13	—
	Cust. Exc. Off. 2	1,384	1,384	—
	Cust. Exc. Off. 3	14	14	—
	Technical Officer 2	34	34	—
	Departmental Accountant 1	71	71	—
	Departmental Accountant 2	58	58	—
	Departmental Accountant 3	23	23	—
	Medical Records Librarian 2	18	—	1,746
	Stenographer 3, Secretary	27	—	7,209
	Cust. Exc. Supt. 1	23	23	—
	Cust. Exc. Supt. 2	13	13	—
	Claims Officer 2	887	—	100,231

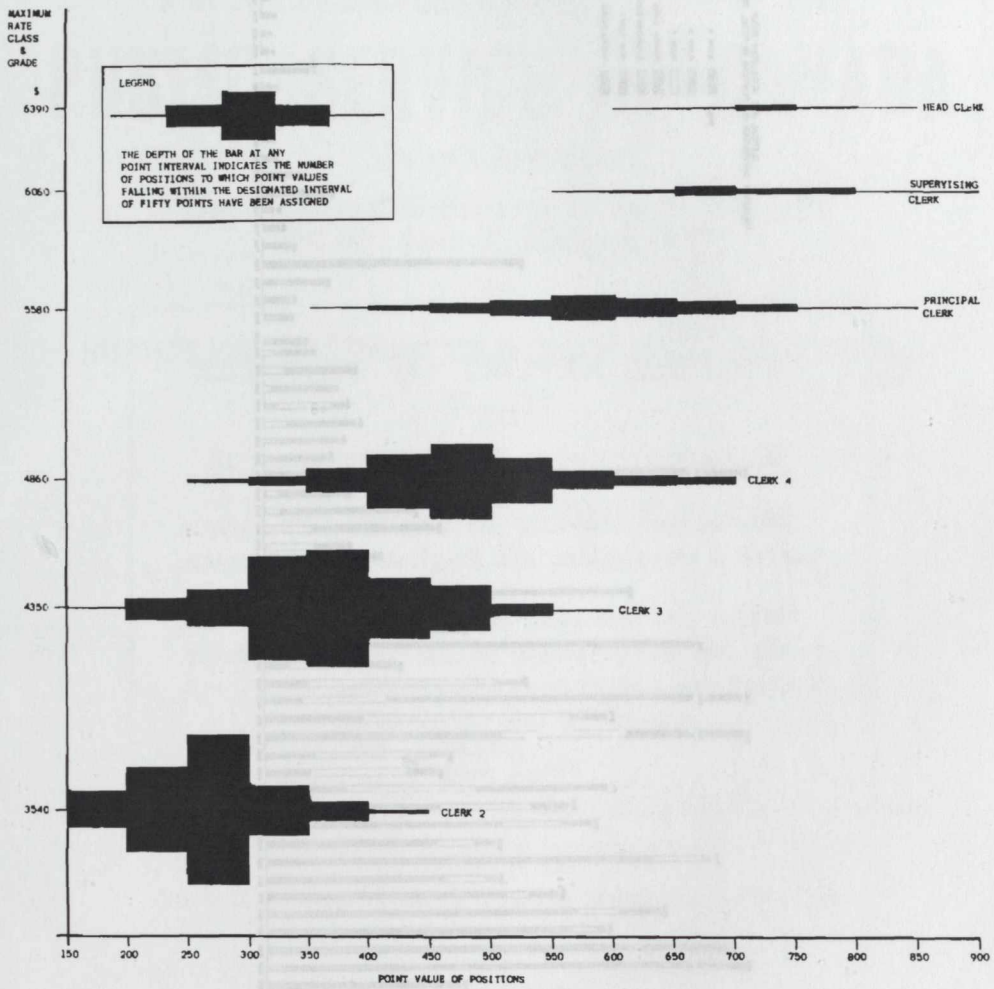
THE CLERICAL AND REGULATORY GROUP—(Concluded)

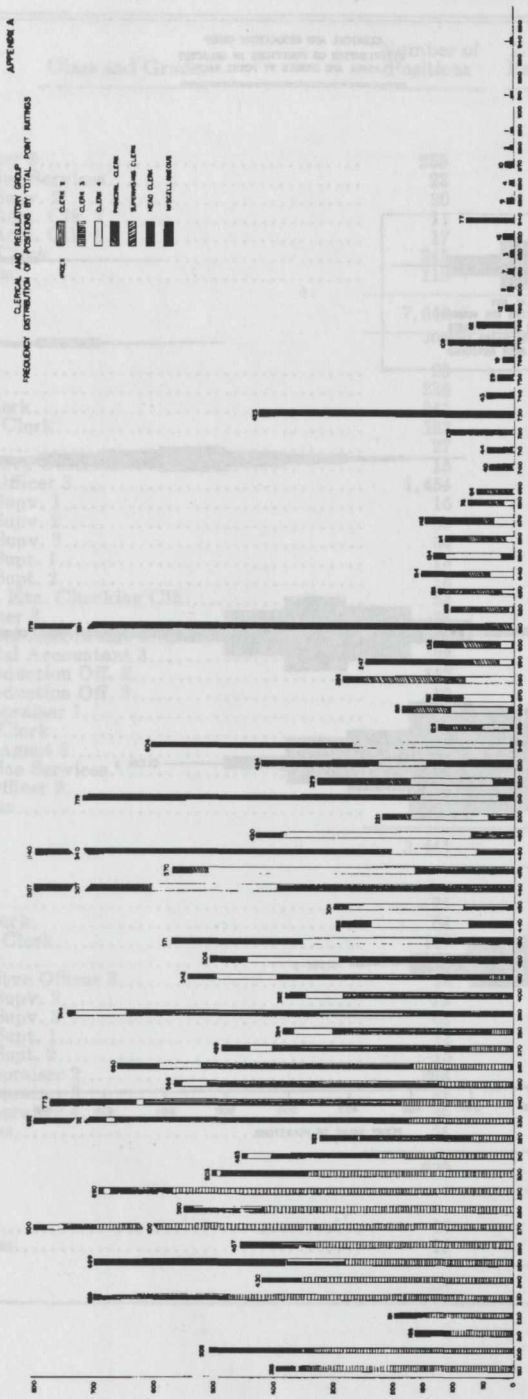
IMMEDIATE COST OF CONVERSION AND NUMBER OF EMPLOYEES RED-CIRCLED—(Concluded)

Level	Class and Grade	Number of Positions	Employees Red-Circled	Immediate Cost
				$
CR 4 Continued				
	Claims Officer 3	255	255	—
	Supv. 1, Office Services	23	23	—
	Cust. Exc. Supv. 2	20	20	—
	Cust. Exc. Acct. Clk. 7	11	11	—
	Cust. Exc. Acct. Clk. 8	17	17	—
	Computing Clerk	245	245	—
	Miscellaneous	118	72	28,942
		7,640	2,912	524,971
CR 5	Clerk 3	28	—	28,392
	Clerk 4	285	—	134,520
	Principal Clerk	641	—	78,843
	Supervising Clerk	183	183	—
	Head Clerk	27	27	—
	Administrative Officer 1	15	15	—
	Cust. Exc. Officer 3	1,454	—	141,038
	Cust. Exc. Supv. 1	16	—	1,968
	Cust. Exc. Supv. 2	60	60	—
	Cust. Exc. Supv. 3	34	34	—
	Cust. Exc. Supt. 1	15	—	1,800
	Cust. Exc. Supt. 2	18	18	—
	Princ. Cust. Exc. Checking Clk	53	53	—
	Claims Officer 3	38	—	7,106
	Departmental Accountant 2	12	—	1,476
	Departmental Accountant 3	23	23	—
	Defence Production Off. 2	117	117	—
	Defence Production Off. 3	19	19	—
	Customs Appraiser 1	11	—	1,309
	Computing Clerk	260	—	48,100
	Purchasing Agent 2	12	12	—
	Supv. 2, Office Services	25	—	3,275
	Technical Officer 2	33	—	4,983
	Miscellaneous	62	38	9,202
		3,441	599	462,012
CR 6	Clerk 4	21	—	30,366
	Principal Clerk	64	—	45,952
	Supervising Clerk	107	—	22,898
	Head Clerk	56	—	4,312
	Administraitve Officer 2	16	16	—
	Cust. Exc. Supv. 2	72	—	23,544
	Cust. Exc. Supv. 3	63	—	9,072
	Cust. Exc. Supt. 1	12	—	7,620
	Cust. Exc. Supt. 2	15	15	2,595
	Customs Appraiser 2	393	—	45,195
	Customs Appraiser 3	21	—	1,323
	Customs Appraiser 4	36	36	—
	Miscellaneous	54	3	26,349
		930	55	219,226
CR 7	Head Clerk	18	—	16,344
	Miscellaneous	10	—	11,210
		28	nil	77,554

APPENDIX D

CLERICAL AND REGULATORY GROUP
DISTRIBUTION OF POSITIONS IN SELECTED CLASSES AND GRADES BY POINT VALUE




APPENDIX A
CLERICAL AND REGULATORY GROUP
FREQUENCY DISTRIBUTION OF POSITIONS BY TOTAL POINT RATINGS
CLERK 3
CLERK 2
CLERK 1
PRINCIPAL CLERK
SUPERVISING CLERK
HEAD CLERK
MISCELLANEOUS

First Session—Twenty-seventh Parliament
1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean-T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 15

OFFICIAL REPORT OF MINUTES

OF

PROCEEDINGS AND EVIDENCE

An Act respecting employment in the Public Service of Canada.

BILL C-181

An Act to amend the Financial Administration Act

WITNESS:

Mr. Sylvain Cloutier, Commissioner, Civil Service Commission.

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

20116—1

OFFICIAL REPORT OF MINUTES

OF

PROCEEDINGS AND EVIDENCE

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LÉON-J. RAYMOND,

The Clerk of the House.

First Session—Twenty-seventh Parliament
1966

THE SPECIAL JOINT COMMITTEE OF THE SENATE AND OF THE HOUSE OF COMMONS ON EMPLOYER-EMPLOYEE RELATIONS IN THE

PUBLIC SERVICE OF CANADA

Joint Chairmen:

The Honourable Senator Maurice Bourget
and Mr. Jean-T. Richard, M.P.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 16

THURSDAY, NOVEMBER 3, 1966

Respecting

BILL C-170

An Act respecting employer and employee relations in the Public Service of Canada.

BILL C-181

An Act respecting employment in the Public Service of Canada.

BILL C-182

An Act to amend the Financial Administration Act.

WITNESS:

Mr. Sylvain Cloutier, Commissioner, Civil Service Commission.

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

25148—1

SPECIAL JOINT COMMITTEE

OF THE

SENATE AND OF THE HOUSE OF COMMONS

on employer-employee relations in the

PUBLIC SERVICE OF CANADA

Joint Chairmen:

Hon. Senator Maurice Bourget, Mr. Jean-T. Richard

and

Representing the Senate *Representing the House of Commons*

Senators

Mr. Beaubien (*Bedford*),
Mr. Cameron,
Mr. Choquette,
Mr. Davey,
Mr. Denis,
Mr. Deschatelets,
Mrs. Fergusson,
Mr. Hastings,
Mr. MacKenzie,
Mr. O'Leary (*Antigonish-Guysborough*),
Mrs. Quart—12.

Mr. Ballard,
Mr. Bell (*Carleton*),
Mr. Berger,
Mr. Chatterton,
Mr. Chatwood,
Mr. Crossman,
Mr. Émard,
Mr. Fairweather,
Mr. Hymmen,
Mr. Isabelle,
Mr. Keays,
Mr. Knowles,
Mr. Lachance,
Mr. Leboe,
Mr. Lewis,
Mr. McCleave,
Mr. Munro,
Mr. Ricard,
Mr. Rochon,
Mr. Simard,
Mr. Tardif,
Mrs. Wadds,
Mr. Walker—24.

(*Quorum 10*)

Edouard Thomas,
Clerk of the Committee.

MINUTES OF PROCEEDINGS

THURSDAY, November 3, 1966.
(27)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada met this day at 10.10 a.m., the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Cameron, Deschatelets, Fergusson, MacKenzie (5).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Chatwood, Crossman, Émard, Hymmen, Knowles, Lachance, Lewis, McCleave, Richard, Rochon, Tardif, Walker (14).

Also present: Hon. Mr. Pennell.

In attendance: Mr. Sylvain Cloutier, Commissioner, Civil Service Commission.

Also in attendance: Mr. J. J. Carson, Chairman, Miss Ruth E. Addision, Commissioner, Mr. J. Swanson, Civil Service Commission; Mr. W. A. Kelm, Planning and Coordinating Division, Treasury Board.

The spokesman for the Civil Service Commission stated that the Commission was in agreement with certain representations made with respect to Bill C-181 and was having the Justice Department check the wording of amendments to clauses 5, 6, 8, 10, 16, 21, 26, 27, 28, 31 and 45.

The Committee questioned the Civil Service Commission representative on various clauses of Bill C-181 during the clause by clause review of the bill which resulted in the following:

Clause 1, stand; Clause 2, carried; Clause 3, carried; Clause 4, carried; Paragraph 5(a), stand; Paragraphs 5(b), 5(c), 5(d), 5(e), carried; Clause 6, stand; Clause 7, stand (see motion below); Clause 8, stand; Clause 9, carried; Clause 10, stand; Clause 11, carried; Clause 12, carried as amended (see motion below); Clause 13, carried; Clause 14, stand; Clause 15, carried; Sub-Clause 16(1), carried; Sub-clause 16(2), stand; Sub-Clause 16(3), carried; Clause 17, carried; Clause 18, carried; Clause 19, carried; Clause 20, carried.

Moved by Mr. Bell, seconded by Mr. Chatterton, That in line 24, Clause 7 the comma after the word "Commission" be struck out and the word "or" substituted therefor, and in line 25 the words "or an officer of the Commission" be struck out.

25148—1½

By unanimous agreement, the motion and Clause 7 were allowed to stand.

It was moved by Mr. Knowles, seconded by the Honourable Senator Fergusson and reserved.

That Sub-Clause 12(2) be amended by inserting the word "sex" and a comma thereafter in line 24 after the word "of".

At 1.45 p.m., a discussion of Clause 21 continuing, the meeting was adjourned to 8.00 p.m. this day.

EVENING SITTING
(28)

The Special Joint Committee of the Senate and House of Commons on employer-employee relations in the Public Service of Canada reconvened at 8.10 p.m. this day, the Joint Chairmen, the Honourable Senator Bourget and Mr. Richard, presiding.

Members present:

Representing the Senate: The Honourable Senators Bourget, Deschatelets, Fergusson, MacKenzie (4).

Representing the House of Commons: Messrs. Bell (*Carleton*), Chatterton, Chatwood, Émard, Fairweather, Hymmen, Knowles, Lachance, Richard, Walker (10).

In attendance: Same as at morning sitting.

The Committee resumed consideration of Bill C-181, clause by clause, as follows:

Clause 21, stand; Clause 22, stand; Clause 23, carried; Clause 24, carried; Clause 25, carried; Clause 26, stand; Clause 27, stand; Clause 28, stand; Clause 29, carried; Clause 30, carried; Clause 31, stand; Clause 32, stand; Clause 33, carried on division; Paragraph 34(1)(a), carried; Paragraph 34(1)(b), carried; Paragraph 34(1)(c), stand; Sub-Clause 34(2), carried; Sub-Clause 35(1), stand; Sub-Clause 35(2), carried; Clause 36, carried; Clause 37, carried; Clause 38, carried; Clause 39, stand; Clause 40, carried; Clause 41, carried; Clause 42, carried; Clause 43, carried; Clause 44, carried; Clause 45, stand; Clause 46, carried; Clause 47, carried; Clause 48, carried.

At 9.55 p.m., the meeting adjourned to the call of the Chair.

Edouard Thomas,
Clerk of the Committee

EVIDENCE

(Recorded by Electronic Apparatus)

THURSDAY, November 3, 1966.

The JOINT CHAIRMAN (*Mr. Richard*): Gentlemen, we now have a quorum. This morning we are going to study Bill No. C-181, an act respecting employment in the public service of Canada. We have with us this morning Mr. Sylvian Cloutier, one of the commissioners of the Civil Service Commission who represents the Commission. The chairman Mr. Carson, and commissioner Miss Addison are in the audience. Do you have anything to say before we proceed, Mr. Cloutier.

Mr. SYLVAIN CLOUTIER (*Commissioner, Civil Service Commission*): Mr. Chairman, I have a small opening statement which states why I am here. I would like to say that my colleagues, Miss Addison and Mr. Carson considered the manner in which we as commissioners might be of greater service to the Joint Committee in its consideration of the bill. We concluded that for the sake of continuity, and, perhaps, continuity from many aspects, it would probably make sense if only one of us appeared as a witness at this stage—the clause by clause stage—rather than all three of us together or one after the other. We also agreed that if this arrangement works out that I would act as spokesman for the Commission.

Mr. Chairman, we were heartened that this approach seemed to find favour with you and Senator Bourget and that it also meets with the approval of the members of the Committee. I should be glad to be your main witness, provided that on occasion you will let me refer to or seek advice from officers of the Commission if this would help me to give you more complete or more accurate answers.

In this opening statement I do not intend to refer to the principles underlying Bill No. C-181. This was done with great clarity and conviction by Mr. Carson a few days ago and I could not improve upon what he said.

I would like to outline very briefly to the members of the Committee the consultations that we have had on Bill No. C-181 with the staff associations. This process of consultation began last spring, even before the bill was tabled in the House of Commons but, of course, I hasten to add that at that stage we were dealing in generalities and principles and objectives. Of course, propriety prevented us from discussing with the staff associations the detailed provisions of this bill. But as soon as the bill was tabled, or within days of the tabling in the house, we again met with the staff associations and at that time we heard pretty much the same comments and suggestions that the associations placed before this Committee some weeks ago.

My point, Mr. Chairman, is that my colleagues and I have had quite some time to review and examine the comments and suggestions and proposals made by the associations. As a result of this examination we have come to agree with many of their suggestions.

Mr. Chairman, there are about 12 clauses in this bill about which we would welcome the opportunity to exchange views with the members of the Committee on the suggestions of the staff associations and the manner in which these suggestions might best be incorporated in the bill. If it pleases the members of the Committee, I could identify these issues as we come to the relevant clauses. Any resulting amendment would be, in my opinion, quite straightforward and I am sure that the draft prepared by officers of the Department of Justice could be made available within 24 hours following discussion. Mr. Chairman, I thank you.

Mr. KNOWLES: Mr. Chairman, before we start, could Mr. Cloutier identify the numbers of the clauses.

Mr. CLOUTIER: I was going to say the same thing.

Mr. KNOWLES: Rather than waiting until we get to them clause by clause.

Mr. CLOUTIER: The clauses are 5, 6, 8, 10, 16, 21, 26, 27, 28, 30, 31. We have already submitted a memorandum to the Committee covering the matters with respect to clause 32. The last clause is clause 45.

Mr. LEWIS: We are not dealing with 32.

Mr. CLOUTIER: No, 45.

Mr. LEWIS: Forty-five after 32, is that correct?

Mr. CLOUTIER: Well, we have no recommendations on 32.

Mr. LEWIS: I wondered whether you had another number in between.

Mr. CLOUTIER: No, sir.

Mr. KNOWLES: Mr. Chairman, I would like to point out that we are not dealing with clause 32 at this point. I think it is also understood that the question which we are to discuss with the law clerks of the two houses will be discussed later—the question of bargaining on the hill.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 2.

On clause 2—*Interpretation.*

Mr. BELL (*Carleton*): May I ask Mr. Cloutier a question with respect to three definitions which were in the old Civil Service Act which have been dropped from this act. An attempt was made in the old act to define incompetence and misconduct, and I think that attempt has been departed from and there is no definition anywhere in the act of those two words. In addition, the word "classify" was defined in the old act and there is no definition of classify or classification in the new act. I wonder if Mr. Cloutier could comment on those three definitions.

Mr. CLOUTIER: Under the proposed re-arrangement of authority between the Civil Service Commission and the Treasury Board in the role of employer in collective bargaining misconduct is deemed to refer to matters covered in codes of discipline. The proposed financial administration act clearly assigns to the Treasury Board the responsibility of establishing codes of discipline,—I am sorry, standards of discipline—you are right, Mr. Lewis—and Bill No. C-170 also clearly identifies standards of discipline as a bargainable and a knowledgeable matter, thereby placing matters of misconduct squarely under the jurisdiction of the grievance process against the appeal process of the Commission.

As to incompetence, if I may refer quickly to the manner in which this word was defined in the old act, which was at Section 2(1)(l), the definition was not particularly enlightening.

Mr. LEWIS: Who cares about that—it is a good thing to leave it out.

Mr. CLOUTIER: If I may read it, it states: "Incompetence" means incompetence of an employee in the performance of his duties, and includes negligence." We have tried to retain the principle of this definition. In the opening words of Clause 31, we say: (1) "Where an employee, in the opinion of the deputy head, is incompetent in performing the duties of the position he occupies—." We try to enlighten a little bit more by going on to say: "—or is incapable of performing those duties—". I might add, one of the staff associations asked that the word be defined more precisely but neither they nor us have been able to come up with a better definition.

Mr. BELL (*Carleton*): Is negligence included in your view now as it was in the old definition?

Mr. CLOUTIER: I beg your pardon.

Mr. BELL (*Carleton*): Is negligence included now as it was in the old definition?

Mr. CLOUTIER: If it is negligence in the day to day manner in which one carries out his duties I suppose it is, but if it is wilful negligence which might be dealt with in a disciplinary manner it would fall into the other system. I think that one would have to see the particulars on the case to give a good answer.

The third point you raised relates to classification.

Mr. BELL (*Carleton*): To Treasury Board.

Mr. CLOUTIER: And here again the proposed Bill No. C-182 clearly assigns to the Treasury Board the responsibility of classification.

Mr. BELL (*Carleton*): But that bill does not define "classify". My only point in relation to it is that the attempt to define has been dropped in the other bill.

Mr. CLOUTIER: I would like to comment on this, Mr. Bell. Unfortunately, I do not find myself prepared at this time to comment intelligently on the provisions of Bill No. C-182.

Mr. BELL (*Carleton*): The only clause I see in there is clause 3 of the Financial Administration Act where under the new clause 7 (1) (c) the power is given to "provide for the classification of positions and employees in the public service". Perhaps you would just flag that and when we come to the other bill see whether any elaboration of definition is needed.

Mr. LEWIS: It is a very difficult clause to deal with.

An hon. MEMBER: Not necessarily.

Mr. CLOUTIER: Just an observation, Mr. Bell. When the classification of the service was first introduced in the civil service legislation forty or fifty years ago, classification was a fairly new science and dealt with positions. The evolution of the whole field of personnel management is such that now perhaps the draftsman of the bill felt that there was no longer that same necessity of defining the word. Furthermore, today classification may not necessarily relate to individual positions.

Mr. LEWIS: Mr. Chairman, may I ask whether the phrase "chief executive officer" in subparagraph (e) (ii) is an actual title or merely a description?

Mr. CLOUTIER: This relates to terms used in the definition section where we define a deputy head as a deputy minister or the chief executive officer of—I am sorry, this is not accurate.

Mr. LEWIS: No, you have two definitions. You define a deputy head. That is clear enough. It is either the deputy minister or a person designated under (e) or a person designated by the Governor in Council. Then you have a lower echelon whom you refer to as chief executive officer. All I am at the moment wondering is whether that is a title or a description of duties that may encompass a number of titles, section head or—

Mr. CLOUTIER: No, it is the title of the chairman of the commission not in his—

Mr. LEWIS: No, no, I am sorry, you are not looking at the right bill.

Mr. CLOUTIER: Which section are we at?

Mr. LEWIS: Look at subparagraph (e) and the sub-subparagraph, at the top of page 2 of the bill.

Mr. BELL (*Carleton*): At the top of page 2 of the bill.

Mr. LEWIS: It concerns later the delegation of authority.

Mr. CLOUTIER: This is a title for instance, in relation to the heads of agencies of government which, by their acts are known as chief executive officers of that agency. It is a general definition only. When the expression is used in the subsection that you are referring to (2) (1) (e) (ii), it refers to the head of that agency.

Mr. LEWIS: In other words, it is not a title in the strict sense. It is a description of an officer—

Mr. CLOUTIER: That is right.

Mr. LEWIS: —having the duties of the chief executive.

Mr. CLOUTIER: That is right.

Mr. BELL (*Carleton*): It is not capitalized.

Mr. CLOUTIER: No, it is all small letters.

Mr. LEWIS: Deputy minister is not capitalized. I will help you there.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions on clause 2?

To clause 2 is carried?

Clause agreed to.

On clause 3.—*Commission established.*

Mr. KNOWLES: Is there any difference between the wording of this clause 3 and the wording of section 3 in the former act?

Mr. CLOUTIER: Yes, sir. There are a few differences. In Clause 3, subclause (1) the change reflects the new title of the Commission. In clause 4 (1), again

this refers to the chief executive officer of the commission. Again, it is a descriptive title in respect of the administration of the commission as a department.

Mr. LEWIS: That is in clause 4.

Mr. CLOUTIER: That is right. No, the only change in clause 3 is in subclause (1) in the title of the Commission.

Mr. KNOWLES: You had already put the setting of the salary the way it is here.

Mr. CLOUTIER: Which clause is that, sir? In clause 3(6)?

Mr. BELL (*Carleton*): Yes, that was in the last bill.

Mr. CLOUTIER : No change. That was section 4 (6) of the old act.

Mr. BELL (*Carleton*): And I think it wise to keep it that way because otherwise they have a habit of getting out of line.

Mr. LEWIS: Downward.

Mr. BELL (*Carleton*): Yes, downward.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other questions on clause 3?

Mr. BELL (*Carleton*): Is there any nostalgia at all about the name? Have you had any representations at all? "Civil servants", that the name will cease to exist?

Mr. CLOUTIER: None whatsoever, sir, and indeed the reaction that we have been able to detect is mostly on the other side.

Mr. BELL (*Carleton*): It has been mine also.

Mr. KNOWLES: We would still expect them all the same to remain "civil".

Mr. LEWIS: Or as civil as before. They have never been otherwise.

The JOINT CHAIRMAN (*Mr. Richard*): Is clause 3 carried?

Clause agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any questions on clause 4?

Mr. KNOWLES: Mr. Chairman, I have a very simple question. What happens if there is a vacancy on the Commission. And in this case there are only two members, then what is a quorum?

Mr. CLOUTIER: What is a quorum?

Mr. LEWIS: One and a quarter!

Mr. CLOUTIER: In fact, on accasion, if there is only one commissioner in town, and recommendations have been made, then they are made by that one commissioner in the name of the Commission.

Mr. KNOWLES: If there is only one commissioner in town, she is a quorum?

Mr. CLOUTIER: Exactly.

Mr. LEWIS: Mr. Chairman, the only question that occurred to me when I read clause 4 is the following. Should it not contain a provision requiring that a vacancy be filled within a certain limited period time? It seems to me undesira-

ble that the government for any reason should be able to maintain the vacancy for an indeterminate time. What would be wrong with stating in appropriate language that any vacancy must be filled within three months, so that no government will just sit on it, and in fact the two members, rather than three, govern the situation for a long time.

Mr. CLOUTIER: One answer that I could give to this question, Mr. Lewis, is that in my memory there has not been any instance where a vacancy has remained for more than three or four months.

Mr. LEWIS: But it is conceivable.

Mr. CLOUTIER: It is conceivable. However, talking from the viewpoint of the Commission which, of course, is not in the business of appointing commissioners but in the business of making appointments, I would see one thing wrong with that possibility, that you could have an excellent candidate for the job who for very, very valid reasons could not become available for four or five months. This sort of thing would be precluded by a rigid requirement in the act.

Mr. LEWIS: That is a valid objection.

An hon. MEMBER: The same thing might apply to appointments to the Senate.

The JOINT CHAIRMAN (*Mr. Richard*): Order, order.

Mr. LEWIS: They are supernumerary.

The JOINT CHAIRMAN (*Mr. Richard*): Does clause 4 carry?

Mr. CHATTERTON: Mr. Chairman, I am just curious. What happens if there is a vacancy, and there are only two left; what is a majority then? What is a quorum?

Mr. KNOWLES: I questioned him on that.

Mr. CHATTERTON: Yes, I think you raised it. I did not get the answer.

Mr. CLOUTIER: There has to be two.

Mr. CHATTERTON: There has to be two.

Mr. CLOUTIER: No, I am sorry, if there are two, and they are both in Ottawa then the recommendations go forward with those two signatures.

Mr. CHATTERTON: I see. Is there anything that says any decision must be made by a quorum?

Mr. CLOUTIER: No, there is nothing to say that. By the very nature of the functions of the Commission as a recruiting agency, the commissioners on occasion have to be out of town together. Indeed, we try to manage our affairs in such a way that there are always at least two in Ottawa, but for one day here or one day there, it has to happen that we have to be out of town on recruitment activities. In that instance, that one commissioner has to be empowered to act for the carrying out of public business.

Mr. CHATTERTON: What is the purpose of the clause then?

Mr. KNOWLES: It says in the statute that it is not necessary to have a quorum present in order to make decisions.

Mr. CHATTERTON: Why is it there at all?

Mr. KNOWLES: I am not objecting to your practice of each commissioner in town making the decision, but if you are entitled to do that, then this phrase about a quorum has no meaning.

Mr. CLOUTIER: I am sorry. The making of a recommendation is the transmittal of it, but the formulation of the recommendation is always made in a Commission meeting of more than one commissioner.

Mr. WALKER: The decision has to be ratified by a quorum.

Mr. CLOUTIER: That is right, but the instrument which transmits that recommendation to the Treasury Board may be signed only by one officer.

Mr. LEWIS: The signature on the top of the quorum, in effect.

Mr. CLOUTIER: That is right, but matters of policy—

Mr. KNOWLES: Decisions of policy require two.

Mr. CLOUTIER: Oh, yes, definitely.

Mr. CHATTERTON: Are the provisions similar to the old Civil Service Act?

Mr. CLOUTIER: There is no change at all, sir.

Mr. CHATTERTON: And no difficulties have been experienced at all?

Mr. CLOUTIER: No, none whatsoever.

Mr. KNOWLES: If there are two present and they vote in opposite directions, what happens?

Mr. CLOUTIER: Well, then we resolve our differences, and this is the way we have operated.

Mr. WALKER: Without going on strike!

Mr. CLOUTIER: Not lately.

Mr. LEWIS: You have collective bargaining, then.

Mr. BELL (*Carleton*): Mr. Chairman, subclause (1) was new in the Civil Service Act of 1961, and there were some doubts about it at that time. Has it worked out satisfactorily?

Mr. CLOUTIER: I think so, Mr. Bell.

Mr. BELL (*Carleton*): This was put in at the insistence I think of the then chairman, the hon. Mr. Justice Hughes.

Mr. CLOUTIER: If my memory serves me right, you are correct there. In any organization there has to be only one chief, and in the commission, as in any other—

Mr. KNOWLES: Have you not heard about the Tony Nanty?

Mr. CLOUTIER: I refrain from commenting on that.

Mr. LEWIS: Wait until we reach clause 32.

Mr. CLOUTIER: I will refrain from commenting on that one too. There was a need to recognize that for internal administration purposes there could be only one head of the organization, and on balance I think that that has worked out fairly well.

The JOINT CHAIRMAN: Is clause 4 carried?

Clause agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): There are some proposed changes. I suppose we should have a discussion on this.

Mr. CLOUTIER: The change has been proposed by the Public Service Alliance. It was suggested in their brief that the wording of an expression that appears several times in the bill could lead to misinterpretation: it could be interpreted that the wording "appointments of qualified persons to the public service" would be limited to the appointment of outsiders into the public service.

The officers of the Department of Justice had not thought that there would be this misinterpretation but to the extent that it has been raised and to the extent that the staff associations have asked us to consider manners in which this possible misinterpretation might arise, the members of the Committee might wish to consider a small change to this clause which might say, for instance, "appointments of qualified persons to or from within the public service".

Mr. WALKER: It sets out the intent very clearly.

Mr. CLOUTIER: Yes.

Mr. BELL (*Carleton*): I think whatever the Department of Justice suggests on that would be entirely satisfactory.

Mr. CLOUTIER: If it pleases the members, I could have a formally drafted amendment, possibly tomorrow.

The JOINT CHAIRMAN (*Mr. Richard*): Shall we stand clause 5 until Mr. Cloutier submits his amendment?

Mr. WALKER: Mr. Chairman, are we standing the whole clause, or just 5 (a)? Can we finish up the rest?

The JOINT CHAIRMAN (*Mr. Richard*): The whole clause stands.

Mr. WALKER: Is that the only change, Mr. Chairman, that is proposed in clause 5?

The JOINT CHAIRMAN (*Mr. Richard*): Mr. Cloutier could answer that.

Mr. CLOUTIER: That is the only change in the entire clause.

Mr. WALKER: Then, why can we not stand clause 5(a) and go ahead with b, c, d, and e?

The JOINT CHAIRMAN (*Mr. Richard*): That is what I understood.

Mr. WALKER: Oh, all right.

The JOINT CHAIRMAN (*Mr. Richard*): Are there any other comments on the other parts of the clause? We will come back to 5(a) tomorrow or at the next meeting.

Mr. CHATTERTON: Mr. Chairman, on 5(d) "report to the Governor in Council" and so on, upon such matters...as the commission...considers desirable". Was that the provision in the previous act too?

Mr. CLOUTIER: This is 5(d).

Mr. CHATTERTON: Is it general that commissions are required to report to the government? Does the Commission itself consider this desirable?

Mr. CLOUTIER: There is no change from the previous act here, except the deletion of a reference to organization and employment.

Under the old act the Commission had a role in organizational matters. Now, organizational matters would be squarely the responsibility of the Treasury Board. Apart from that change, there is no other change in subclause 5(d).

Mr. LEWIS: What is the purpose of 5(d)?

Mr. CLOUTIER: The purpose of (d) is really to bring to the attention of the Governor in Council any matters affecting the human resources of the department that the Commission, in its opinion, feel should be dealt with under authorities that it may not possess under the bill. In other words, it is a safety valve to ensure that the Commission has an opening to be heard in matters it considers of great concern to the public service as an institution.

Mr. LEWIS: Not matters for which it does not have authority surely, because (d) is very clearly related to the legislation and the operation over which you do have authority.

Mr. CLOUTIER: That and the other. You will understand that it relates to the operation. The operation of the act really concerns staffing and the development of personnel. This is human management really and aspects of human management. I will give you an example, that I feel possibly will be for the future.

Assuming that out of collective bargaining the rates of pay that resulted were so low that the Commission could not do an effective job of recruitment of staff. Then this is the sort of thing that the Commission should and must be capable of saying to the Governor in Council, "please, be more generous in bargaining".

Mr. CHATTERTON: Has this report been in the nature of an annual report indicating the extent of its operation, the number of appointments and so on?

Mr. CLOUTIER: No, this is an ad hoc affair. For instance, when the Commission, as a result of the activities of the preparatory committee on collective bargaining examining the recommendations, commenced, close to two years ago, to examine the current act and the changes that would have to be made to it to accommodate collective bargaining, at that point it made a full report to the Governor in Council as to the changes that would have to be incorporated in legislation. That was the beginning of this Bill No. C-181.

Mr. KNOWLES: It reports to Parliament in clause 45?

Mr. CLOUTIER: That is right.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 5(a) stand?

Clause 5(b), (c), (d) and (e) agreed to.

On Clause 6—*Delegation to deputy head.*

Mr. BELL (*Carleton*): Mr. Cloutier indicated some possible amendments to this, but I want to make some remarks about it but I would like to hear first what the proposed amendments are.

Mr. CLOUTIER: Yes, sir; I would be pleased to explain. These, again, arise from recommendations made by the staff associations. To start with, the Professional Institute have said that clause 6 as it reads in Bill No. C-181 makes no provision for appeal for the rectification of erroneous appointments made

under delegated authority. They suggested the employee concerned should have the opportunity of presenting his case through a formal procedure in which he might be appropriately represented. Mr. Chairman, the Commission finds itself in agreement with the principle of this proposal. If the public servant concerned has taken the appointment in good faith, then we agree there should be an opportunity for him to be heard if his appointment has to be revoked. In our view this could be accommodated by inserting in clause 6, a section which would require the commission, before revoking the appointment of an employee who had been a public servant, to hold an inquiry at which both the employee and the deputy head could be heard either personally or through their representatives. This is one of the amendments we could have before the Committee at its next sitting.

Mr. LEWIS: I was going to ask you to consider putting that kind of amendment in clause 21. Do you want it separate under clause 6?

Mr. CLOUTIER: I think, for administrative purposes, we would prefer to see it under clause 6 but in terms as closely identical to the terms we find in clauses 21 and 31 as possible.

Mr. CHATTERTON: If I read clause 6 correctly, the Commission has the power, so to speak, to reverse the decision of the person with delegated authority only in the case of appointment. How about cases of promotion or demotion?

Mr. CLOUTIER: A promotion or a demotion is an appointment.

Mr. CHATTERTON: It is so defined in clause 2?

Mr. CLOUTIER: That is right.

Mr. BELL (*Carleton*): Mr. Chairman, it seems to me that the suggested amendment will greatly improve this clause but I am not sure it does away totally with the possibilities of abuse. Before I make further comments perhaps Mr. Cloutier could tell us what the Commission proposes by way of monitoring the authority that is granted here. How closely will they observe the activities of deputy heads and follow what is being done in different departments?

Mr. CLOUTIER: If I might, Mr. Bell, before answering that question specifically, refer to a suggestion that was made by the Public Service Alliance relating to this particular problem arising out of clause 6. The solution they propose really applies to clause 45. They also expressed some concern that the delegation of Commission authority to departments could be abused and they suggested that the Commission might be required to give, in its annual report to parliament, a breakdown, or an outline, of any action that it has taken (a) in delegating authority and, (b) more important in relation to the problems or concern expressed here, any amendment, revision or modification that it has found necessary to effect that delegation. So in effect, if department A finds that it is delegated authority in relation to these matters and its exercise of this authority is sufficiently inept that the Commission finds it has to revise or cancel that authority, then parliament would be officially advised of that fact through the Commission's annual report. Parliament could then take whatever action is felt necessary in relation to this.

Mr. LEWIS: I have a comment related to the same question, before Mr. Bell makes whatever comments he wants to make. I am a little disturbed about the

further delegation which subclause (4) permits. You have a delegation from the Commission to the deputy minister earlier and then you have the right of delegation given to the deputy head to delegate all his functions, including those which the Commission has delegated to him, to someone else. That is one step removed from the Commission and I wonder whether—

Mr. CLOUTIER: In answer to that—

Mr. LEWIS: Before you answer, Mr. Cloutier, I have a feeling—I am not saying this dogmatically—that the Commission ought to have statutory authority to vest that further delegation. The very simple thing I was going to suggest to you is whether it would not be sensible, whether you can see any administrative objection to saying in subclause (4), a deputy head may, subject to the approval of the Commission, authorize one or more people. So that before the deputy head delegates its authority to someone the Commission must approve first the delegation and second the person to whom the delegation is made.

Mr. CLOUTIER: I think your point is met in another way, Mr. Lewis, in subclause (1), where it speaks of the Commission being empowered to authorize deputies and so on, subject to such terms and conditions as the Commission directs.

Mr. LEWIS: With great respect, I do not think it meets it.

Mr. CLOUTIER: This was the intent, that instruments of delegation to departments would specify the manner in which delegations would be accepted.

Mr. LEWIS: But, it is not only the manner, Mr. Cloutier. I never had pride of authorship and if somebody has a better suggestion, by all means, let us here it. But I do not think it is merely the manner, I think—I do not have to tell you, you have greater experience than I in human relations—the person you delegate the matter to is as important as the manner in which it is done. And, because it is removed another further step from the Commission, it seems to be that there ought not to be any practical difficulty about providing in the statute that the further delegation by the deputy head should be subject to the approval of the Commission. I would strongly urge that change.

Mr. BELL (*Carleton*): I think we would agree to that and I would like to go further and say that I would like to be sure that that is specifically dealt with in the report to parliament that we were speaking of earlier.

Mr. LEWIS: That, I understand, the officers are ready to recommend when we get to clause 45, but I would like to urge, Mr. Cloutier, that you consider putting in the words I suggest or equivalent language. I do not care about the language. That this delegation from the deputy head to someone under him be subject to the approval of the Commission?

Mr. CLOUTIER: Could we have an opportunity to discuss this with lawyers to see what the best wording possible is.

Mr. LEWIS: By all means; I am a lawyer but not a drafter.

Mr. CLOUTIER: This is what I meant, sir, I am sorry.

Mr. CHATTERTON: Mr. Chairman, on the same point, in clause 10, the Commission may appoint by competition or other such process. What might happen if the deputy head delegates authority of appointment to some junior

officer and he considers that a competition is not necessary and he can make an appointment based on the merit of his own judgment?

Mr. CLOUTIER: This is the sort of thing that is meant in "terms and conditions as the Commission directs".

Mr. CHATTERTON: There again, I am wondering if it would not be well to spell out that where such further delegation is approved by the commission it shall insist that a competition be held.

Mr. CLOUTIER: This might be unnecessarily binding, Mr. Chatterton.

Mr. CHATTERTON: I see.

Mr. CLOUTIER: There are a great number of cases where a competition is not necessary, and, indeed, where, for the sake of efficiency, a competition would not suffice and would bring about a tremendous time delay. I would like to give you one example of this, and perhaps there will be occasion to come back to this particular example. One department of government went through a major re-organization several months ago. As a result of this there were about 24 high and intermediate posts to be filled. Now, to have gone through the competition process to do this would have required a great many months, because the competitions would have had to follow each other, with the result that the department could not have gone ahead with the job and got its re-organization in hand and its operation re-arranged. Therefore, we examined the possibility of ensuring the application of the merit system through a more flexible arrangement. This is what we ended up by doing. We had the department compile, and we, indeed, assisted the department in question in compiling, a full list of all their employees at the level of the positions and of two or three levels below the level of these positions. Once we had all these employees identified we went through a detailed appraisal of their past performance, their qualifications and so on and so forth, which detailed appraisal included an interview with the employee, a discussion with the person's supervisor and so on. On the basis of that examination—I forget now the number of employees, but I suspect it over 125—we were able to appoint the best qualified persons in these jobs and the whole thing was done in a matter of a few months.

Mr. CHATTERTON: Mr. Chairman, I think Mr. Cloutier missed my point. I am not opposed to the power of the commission to appoint without competition, nor perhaps even the power of the deputy head to appoint without competition. I am saying that where the authority is delegated beyond that, to a lower level—

Mr. CLOUTIER: There are other practical problems here. You have to appreciate that we are now bringing under this new employment act all prevailing rate employees for whom, over the years, it has not proven feasible to hold competitions, and, indeed, the intention here is to make greater use of the manpower department for the identification and selection of prevailing rate employees. This would be done under delegated authority by the departments acting with the Department of Manpower and Immigration. This is not the competition process as it is defined in the act.

Mr. CHATTERTON: No. On precisely that type of thing you are mentioning now, for instance, in the dockyard in Esquimalt there is a feeling among the prevailing rate employees, whether it is justified or not, that there is a certain amount of favouritism in the appointments on a local level. I am still not saying

that there should be a competition, but that in such a case the appointment might be recommended by the local supervisor but the actual appointment would be made, say, by the deputy head, rather than by some officer lower down, who has a delegated authority.

Mr. CLOUTIER: Indeed, would that not be a hollow procedure, really, because the deputy head, as you know, would be just signing his name?

Mr. CHATTERTON: He should not.

Mr. CLOUTIER: Well, can he, the deputy head, personally ensure that when he signs that paper he has a full knowledge of the cases? This, again, is part of the whole new philosophy of management which so many are trying to bring into the public service, where managers at every level of activity are given the opportunity to have full responsibility and full authority over their activity. The roles, I think, of the central agency and of the uppermost levels of departmental management are to ensure that clear policies are laid down, clear directives are available and that co-ordination is ensured; but once this is done, surely we must devise a system which permits delegation to the manager so that he has the tools to get on with the job that he is supposed to be doing.

Mr. CHATTERTON: I submit, Mr. Chairman, that the question of time or cumbersome procedure need not be of major significance, because it would be really the final approval given by the deputy head. I think the mere fact that final approval is to be given by the deputy head would tend, in the first place, to make the employees think there is no local favouritism, and, in the second place, that the immediate supervisor would be very careful to ensure that he cannot be accused of favouritism, which is the case now—at least in the dockyard, not in other departments.

Mr. CLOUTIER: I would suggest, Mr. Chatterton, that this assurance could best be given by a closer monitoring of practices rather than having the deputy himself approve appointments. Let me give you an example. For instance, in the Department of National Defence, which, of course, is responsible for both dockyards, there are employed every year, I would think, at least 5,000 or 6,000 new prevailing rate employees. I think it would be most unfair to ask the deputy to personally approve all these appointments.

Mr. LEWIS: Particularly plumbers or electricians.

Mr. BELL (*Carleton*): Mr. Chairman, I think the amendments which have been proposed for this section will greatly improve it, but I would like to reflect on the fact that I still have the gravest reservations about this proposed new system. I realize that it stems principally from the Glassco Commission report, but I have never been one who necessarily worshipped at the feet of Glassco, and I want to state very emphatically that I think that the possibilities of genuine abuse exist in the enactment of this section.

I personally have the greatest of confidence in the independence and impartiality of the Civil Service Commission. I have grave reservations on whether that full independence and impartiality will exist throughout the public service in the hands of deputy heads. We might as well be realistic. Many deputy heads are subject to influence from ministers. This section could very easily be the back door to a return to a system of political patronage in major roles, a system which was effectively outlawed by the Civil Service Act of 1918.

I realize that in saying this I am probably reflecting a minority view, but I do want to express in the strongest terms a caveat about this type of delegation. If there is to be the delegation then I venture to suggest that it must be subject to the strictest possible review by Parliament, that the reports to Parliament must be as complete as possible and that those who are in Parliament must make certain that the abuses which are possible here, which, indeed, are virtually inherent in the section, are prevented from in fact occurring.

Mr. CLOUTIER: If I may comment on this, Mr. Bell, I would say that my colleagues and I support and endorse everything you have said. Indeed, I would like to refer very briefly to some of the things which Mr. Carson said last week before the committee on this very point. He said that the delegation of the commission's authority would not be achieved overnight.

The first point that Mr. Carson made was that the deputy heads must be willing to accept delegation. This will not be forced on the deputies, and, indeed, it will not be given even to a willing recipient until the commission first of all has satisfied itself that that deputy has the resources in personnel advisors and technicians, to administer this delegation properly.

The point that Mr. Lewis made in changing subsection 4 of 4, would further strengthen that provision.

In doing so the commission would exert its authority in training and developing resources in the personnel field and, indeed, in the last two years the whole personnel community in the public service has been tremendously revitalized and renovated.

Thirdly, this delegation would be consented to only where there are effective standards of selection. Following upon the classification revision program about which we talked yesterday, I think, dealing with the redrafting of classification standards we in the commission are now embarking on a similar exercise to renovate and update all our selection standards; so that, again, there would have to be acceptable standards of selection before delegation would take place.

To come back to the monitoring system, Mr. Bell, which you have said is so important, and with which the commission agrees, let me read you the four elements of this monitoring system which we so much believe has to be put into effect: A systematic analysis of results from the field to identify and isolate any case of misinterpretation or misuse of selection standards by commission or departmental officers; periodic statistical analysis of the distribution of employees by occupation and level to identify shifts that might be attributable to improper application of standards; systematic spot-checking of individual cases selected at random in each occupation and level to insure that the provisions of the act and regulations are being met by officials holding delegated authority; periodic review of staffing processes of the commission's own organization and in departments to develop increasing competence of staffing officers in the application of the commission's standards.

Now, having said this, let me refer to the experience of the United States where they also delegated authority to the departments, and where they also developed a system of monitoring. The experience has been very successful in the United States and, by common agreement, has not impeded the application of the merit system throughout the operation.

However, there is another point which was made by the staff associations, with which the commission finds itself in agreement, and which I have not mentioned yet. This, again, relates to section 6. One of the associations—I think it was the Alliance—observed that in the manner in which subsection 2 was drafted it referred to a person who "had been" appointed,—in the past tense—and it observed that it might be difficult to implement because the action would have already taken place. With the continuing system of relationships that is envisaged with the departments, the suggestion was made by various associations that some wording should be included there to cover appointments which might be made, or were on the point of being made and, indeed—

Mr. LEWIS: Both. That is both?

Mr. CLOUTIER: Oh, yes.

Mr. LEWIS: Appointments that are in the process and appointments that have been made.

I have another suggestion to make to you arising out of Mr. Bell's comments. It had not occurred to me before, but if you look at subclause 2 of clause 6, you find the words "Where the commission is of opinion that a person who has been appointed—" by the deputy head pursuant to the authority—I am not reading it word for word—"does not have the qualifications that are necessary"—It occurred to me while Mr. Bell was speaking that if you did not think it interfered with the administration you might add words which would also give you, the commission, the power to act if the person appointed had been appointed in the wrong way, or had been appointed without observing the principles of selection which you have laid down, even though he may have the qualifications. Do you follow me? The authority you have now to change the appointment is applicable only if the person is not qualified. I can well imagine that there could be two people equally qualified and one of them was chosen in a manner different from, or even contrary to, the principles of selection which you have laid down.

Mr. CLOUTIER: You are saying, in effect, "in contravention of any terms and conditions..."

Mr. LEWIS: Precisely. I think that you meet a good deal of the objection that Mr. Bell raised—and it would appear to be justified—if you add in subclause 2 of clause 6 words saying that you also have the authority, if the appointment was made in contravention of the terms and conditions you laid down when you delegated the authority.

Mr. CLOUTIER: Can I discuss this—

Mr. LEWIS: Do you not think that would be worthwhile? I think that would take you a long distance. It would increase your authority in dealing with an improper appointment.

Mr. BELL (*Carleton*): It would not meet my point fully, but it would certainly be helpful.

Mr. CHATTERTON: Mr. Chairman, I have another point with regard to clause 6, subclause 2. The commission, in effect, according to 6 (2), can reverse the decision of the person who has the delegated authority only if the appointtee has

not got the qualifications. But suppose the situation arose where there were two applicants, and the one appointed had the qualifications but the other one who was rejected was better qualified?

Mr. CLOUTIER: Then he would have appeal rights under section—

Mr. CHATTERTON: Yes; but this does not give the commission the power to reverse that decision.

Mr. CLOUTIER: Oh, yes. That power would be available under section 21, where it says, "—the commission shall—if the appointment has been made, confirm or revoke the appointment as it sees fit; or if the appointment has not been made, make or not make the appointment as it sees fit."

Mr. CHATTERTON: Mr. Chairman, I have another comment with regard to this.

I share the concern of Mr. Bell. If there were provision in this bill for a first appeal on the basis of an appointment, promotion, and so on, to the commission, and then a final appeal to some other tribunal, I think the danger that Mr. Bell has outlined would be lessened.

In other words, these people who are delegated the authority to make appointments would know that there is always a final appeal, and a person who is affected by the appointment also has the knowledge that there would be a final appeal beyond the civil service commission. Then the danger with which Mr. Bell is concerned would be considerably lessened. No one could doubt the independence of the commission.

Mr. CLOUTIER: I quite agree with this. I quite see the position you are taking. Let me answer this way—and here we are really attacking the very core of the existence of the merit system and an independent commission. If it is true that it makes sense to have a merit system in the public service, then there has to be one body to administer it, or else, invariably, you will end up with two merit systems, one which is administered by one of the bodies and one by the other.

If there were a situation where the commission under this act would be charged with the responsibility for making appointments in accordance with these principles, and so on, and then there was granted to some other body the power of dictating to the commission to make a given appointment, in spite of the fact that, under the proposal which I think you outlined, the Commission would have already passed judgment on the merits of the case and declined to act, then what would be the merit system?

Mr. LEWIS: Again on section 21, I want to make a suggestion to you, but I do not know whether this is the right time or not. When we get to the appeal aspect I would like to suggest a possible way out to you.

Mr. CHATTERTON: Mr. Chairman, even if such final appeal is granted, I do not think the argument which Mr. Cloutier advanced reduces the value of the merit system as proposed. I do not think it does; but in any case, even if such final appeal must be with the consent of the Commission, or even where the referral to the findings of this tribunal may not be binding, it may be in the form of a moral obligation for the commission to reconsider its position. Even those limited provisions, I think, would be of assistance in ensuring that the abuse of delegation will not destroy the independence of the Civil Service Commission.

Mr. CLOUTIER: I do not know how deeply you would want me to get into this answer. Mr. Lewis has indicated that there will be other questions on section 21, but I could give you—

Mr. CHATTERTON: Do you want me to wait until we get to clause 21?

The JOINT-CHAIRMAN (*Mr. Richard*): We will stand clause 6, subject to Mr. Cloutier's return.

Mr. LEWIS: You will take the suggestion I made on section 2 into consideration?

Mr. CLOUTIER: Yes; I will be discussing lawyers of the Department of Justice this afternoon.

Mr. WALKER: Mr. Chairman, I would like to refer to clause 6 (1). Are we dealing with it?

The JOINT-CHAIRMAN (*Mr. Richard*): I think we had better stand the whole section.

Mr. BELL (*Carleton*): In clause 7, I notice in subclause (2) that for the first time an officer of the commission is given the powers of a commissioner under the Inquiries Act. I have no objection whatever to the commission or a commissioner having that, but I wish you would try to persuade me that it is all right to delegate this rather extraordinary power to just any officer of the commission.

Mr. LEWIS: May I, before you answer, say that at the moment I agree with Mr. Bell. I think that if you have a situation where you have to make the kind of investigation that requires the powers of the public Inquiries Act that investigation should be made by a commissioner, not by some person delegated to do it. To use a word which I hope you will not find offensive, the "snooping" necessarily involved under the very wide powers of the public Inquiries Act should be done only by a member of the commission, who has the authority and the status in the eyes of the employee and the lower management people that no officer you may appoint on your staff can possibly have, in their eyes. I do not know whether you are likely to have such investigations so often, that they are likely to be so numerous that it makes it, in practice, impossible to lay the burden on the commissioners. If that is so, my comments may be counteracted, but if that is not so, I think there is a great deal of validity in what Mr. Bell has said.

Mr. CLOUTIER: Could I comment just on the spirit that animated this change? There has been a consistent aim throughout the drafting of the section to eliminate from it inflexibilities which might, in circumstances which are difficult to foresee at the moment, create administrative problems. I agree with you that the number of times that this occurs is very, very seldom. As a matter of fact, I do not know of any instance where this—

Mr. LEWIS: Mr. Cloutier, if you will permit me to interrupt you, there are two stages in the thing. You have the experience. I am dealing with it based on an experience which is not direct. You could easily have an officer make the initial inquiry to satisfy you whether or not the kind of investigation here contemplated is necessary. The officer may go and talk to people and bring a report to you, which would then persuade you that a full investigation is

necessary, or persuade you that it is not necessary. But that officer ought not to have these powers. That preliminary inquiry which, I imagine, administratively you would want to make before you jumped into an investigation, does not require these powers. But if you decide in the commission that a full investigation is needed, then I think Mr. Bell is entirely right, subject to what you might have to say, and that that kind of investigation should be made by a commissioner. If you give someone the powers of the public Inquiries Act it should be the commissioner and not the officer who might be used to make the preliminary inquiries or investigation to satisfy yourself whether there is a prima facie case to justify further investigation.

I would like to urge that you give that consideration.

Mr. WALKER: May I ask Mr. Lewis a question. You are suggesting that this officer might have all the power and authority of a commissioner up to the point of final decision?

Mr. LEWIS: I can imagine that some problem has arisen out in Calgary, Edmonton or Vancouver and that the investigation has to take place locally—I am giving a simple example—and that the Commission, before it undertakes the kind of full investigation which the powers of the Inquiries Act contemplate, will send an officer of the commission out to make inquiries, to find out what the situation is, because presumably the communication to that point will have been by letter and by telephone, and they can easily do that and give him any instructions they like, but the full investigation itself should be made by a commissioner.

Mr. CLOUTIER: Perhaps if I could be permitted to consult with the officers of the Department of Justice on this point, Mr. Lewis.

Perhaps I could make one comment. There are other statutes where officers of some departments and agencies are given these powers.

Mr. BELL (*Carleton*): Then I think we should amend those acts.

Mr. CLOUTIER: I do not see any problem with your suggestion, personally, and, indeed, I think my colleagues would agree with me because there has not been that many occasions.

Mr. KNOWLES: How many have there been?

Mr. CLOUTIER: I do not remember one, or hearing of one.

Mr. KNOWLES: How many inquiries are there where the commissioners act under the act?

Mr. CLOUTIER: I do not remember of one. This is just a holdover from the old act.

Mr. BELL (*Carleton*): I feel very strongly about this, Mr. Chairman, and unless some very strong reasons are advanced, I would propose to move—and I will just put my proposed amendment and suggest that it stand—that in line 24 the comma after the word "Commission" be struck out, and that the word "or" be substituted therefor; and that also in line 25, the words "or an officer of the Commission" be struck out.

Mr. CHATTERTON: I will second that.

The JOINT-CHAIRMAN (*Mr. Richard*): It is moved by Mr. Bell and seconded by Mr. Chatterton that in line 24 the comma after the word "Commission" be

struck out, and the word "or" substituted therefor; and that in line 25 the words "or an officer of the Commission" be struck out.

Mr. LEWIS: How would it read?

Mr. BELL (*Carleton*): "...or a commissioner... holding an investigation has all the powers—"

The JOINT-CHAIRMAN (*Mr. Richard*): Mr. Bell has suggested that this clause stand until Mr. Cloutier returns with further information. Is that agreed?

Some hon. MEMBERS: Agreed.

The JOINT-CHAIRMAN (*Mr. Richard*):

On clause 8—*Exclusive right to appoint.*

An hon. MEMBER: Did we pass clause 7 (1)?

Mr. CLOUTIER: Here again, this is on the same point of ensuring that the appointments are to or from within.

Mr. WALKER: You are bringing them in in this proposal?

Mr. CLOUTIER: That is right.

Clause 8 stands.

The JOINT-CHAIRMAN (*Mr. Richard*):

On clause 9—*Diplomatic appointments.*

Mr. KNOWLES: Mr. Chairman, just for my information, may I ask what happens to their rights in the civil service when career employees move up to these lofty positions? I am thinking of the person who has been a civil servant in the Department of External Affairs all his life, and who is appointed an ambassador—not as some of them are. Does he still have civil service rights?

Mr. CLOUTIER: Yes, he remains a civil servant.

Mr. KNOWLES: These people who are appointed from outside the service are not civil servants. We give them some special pension?

Mr. CLOUTIER: There is a special diplomatic pension plan for them. This is not changed from the previous act.

Mr. BELL (*Carleton*): I realize there is no change in this, but, Mr. Cloutier, is it not a fact that actually most of the other persons not enumerated are recruited by the commission?

Mr. CLOUTIER: Yes, and indeed they are, in most cases public servants, but if my understanding of this arrangement is correct their credentials come from governor in council and not from the commission.

Mr. BELL (*Carleton*): This is a reservation of the prerogative policy.

Mr. CLOUTIER: That is correct.

The JOINT-CHAIRMAN (*Mr. Richard*): Does clause 9 carry?

Some hon. MEMBER: No.

Mr. KNOWLES: Mr. Chairman, on that chart we had the other day we had foreign service people. I understand that includes External Affairs and the Departments of Trade and Commerce and Immigration?

Mr. CLOUTIER: That is right, sir.

Mr. KNOWLES: Does the phrase "other persons to represent Canada" include anybody in those categories?

Mr. CLOUTIER: This is really official representation in international bodies; that sort of thing.

Mr. BELL (*Carleton*): Are "other persons" *ejusdem generis* with those enumerated in (a), (b), (c) and (d)?

Mr. KNOWLES: Could you say that in French?

Mr. CLOUTIER: The "other persons" may not always be public servants. Delegations to the United Nations, for instance, include Canadian citizens who are not civil servants.

Mr. LEWIS: I think Mr. Bell is right. I imagine, in legal interpretation of the clause, "other persons" would be interpreted to be within the same class of people as (a), (b), (c) and (d); the same kind of person.

The JOINT-CHAIRMAN (*Mr. Richard*): Shall clause 9 carry?

Clause 9 agreed to.

The JOINT-CHAIRMAN (*Mr. Richard*):

Clause 10—*Appointments to be based on merit.*

Mr. LEWIS: Mr. Cloutier, why do you have the limitation "at the request of the deputy head concerned"?

Mr. CLOUTIER: Unity of management.

Mr. LEWIS: Well, would it be in every case. You say:

> 10. Appointments to the Public Service shall be based on selection according to merit, as determined by the Commission . . .

I am not raising an objection, I just could not understand.

> . . . and shall be made by the Commission, at the request of the deputy head concerned . . .

Are they not appointments which you could make without a request from a deputy head?

Mr. CLOUTIER: No; because it is the deputy head who administers his funds, and, indeed, the commission cannot force bodies on the deputy head and say: "Pay them," if the deputy head does not have the funds, for one thing. The deputy head, if he is the chief executive officer of the department, has to have control over his resources.

Mr. LEWIS: I see. He decides on the establishment he requires and you then give him the bodies.

Mr. CLOUTIER: The initiative has to come from him.

While we are on this section, Mr. Chairman, again there is the same change—appointments to or from within.

There is another comment which was made by the Alliance, I think. The clause reads at line five, "...by competition or by such other process as the Commission considers—", and so on. The observation was that "process" is too

vague a term and is not necessarily related to the merit system. The suggestion was that some word be introduced into the clause to indicate that "process" was really a process of personnel selection designed to establish the merits of candidates.

We are in full agreement with that suggestion, and with your permission I would like to present tomorrow an amendment which would accommodate that suggestion, sir.

Mr. CHATTERTON: I would like to ask a question following on the reply to Mr. Lewis. The commission still has control over the total establishment?

Mr. CLOUTIER: No, sir. The commission does not have control over establishment since the act of 1961. This control is under the Treasury Board.

Mr. CHATTERTON: I see. You cannot fill a position if it goes beyond the authority of Treasury Board?

Mr. CLOUTIER: That is right.

Mr. LEWIS: I presume you would use the authority given you in 5(d); if you felt that an establishment in a department was inadequate to do the job you would go to the governor in council and draw that to its attention.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 10 stands subject to Mr. Cloutier submitting a further suggestion about amending, as stated.

Clause 11—*Appointments to be from within Public Service.*

Clause 11 agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): On clause 12—*Selection standards.*

Mr. KNOWLES: Mr. Chairman, should we not add sex to clause 12(2)?

The JOINT CHAIRMAN (*Mr. Richard*): What?

Mr. KNOWLES: Sex—S-E-X; that is very popular. In clause 12(2) we have no discrimination "against any person by reason of race, national origin, colour or religion." Why should not "sex" be added? Is anybody against "sex"?

Mr. CLOUTIER: I see no problem there, Mr. Knowles.

The JOINT CHAIRMAN (*Mr. Richard*): Maybe the ladies would object that it should have to be there.

Mr. KNOWLES: Seriously if we are—

The JOINT CHAIRMAN (*Mr. Richard*): I would like to suggest that it come from the ladies.

Senator FERGUSSON: I certainly would support it, because I think it should be included as it is in very many other—

Mr. LEWIS: I assume that Mr. Knowles was worried about discrimination against the males.

Mr. KNOWLES: I move, seconded by Senator Fergusson, that the word "sex" and a comma be inserted after the word "of" in line 24. I will have it written out.

Mr. LEWIS: You mean sex antedates "race".

Mr. KNOWLES: Yes. So it would read as follows:

—any person by reason of sex, race, national origin, colour or religion.

The JOINT CHAIRMAN (*Mr. Richard*): I would like to think that the other sex would feel that they always had that right and that we are not granting them something to which they are entitled.

Mr. KNOWLES: Mr. Chairman, you misunderstand me completely. I am looking forward to the day when our sex may need the protection.

The JOINT CHAIRMAN (*Mr. Richard*): I am looking forward to that day, too.

Mr. WALKER: You are going to object to this amendment on sex, are you.

An hon. MEMBER: No.

Mr. LEWIS: You do not need the good offices of the Department of Justice for this simple amendment.

Mr. WALKER: I thought there might be connotations, sir.

The JOINT CHAIRMAN (*Mr. Richard*): I am sure we are just as able as the Department of Justice to understand the connotations? Do you have any objections to putting in "sex."

Mr. KNOWLES: It is moved by the member for Winnipeg North Centre that Clause 12(2) be amended by inserting the word "sex" and a comma thereafter in line 24 after the word "of", so that it would then read:

> 12. (2) The Commission, in prescribing selection standards under subsection (1), shall not discriminate against any person by reason of sex, race, national origin, colour or religion.

The JOINT CHAIRMAN (*Mr. Richard*): It is moved by Mr. Knowles and seconded by Senator Fergusson that Clause 12, subsection (2) be amended by inserting the word "sex" and a comma thereafter in line 24, after the word "of."

Some hon. MEMBERS: Agreed.

Motion agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Shall Clause 12 carry as amended?

Mr. BELL (*Carleton*): Before it does carry may I ask Mr. Cloutier whether there is anything in the existing Act which sets forth selection standards in the way this section purports to do? If there is not, then what is the purpose of subclause (1)?

Mr. CLOUTIER: The section in the current act that relates to this clause 12 is section 33. Pursuant to sections 5(1) (b) and 7(1) (c) of the proposed Bill No. C-182, the Financial Administration Act, standards for the classification of positions will be within the scope of the Treasury Board, and for effective selection there must also be qualification standards. This subclause ensures that the commission will be authorized to prescribe such standards as long as they are not inconsistent with the classification standards. For purposes of illustration, the qualifications mentioned in section 33 of the current act have been expanded to cover the items that have, in fact, been recognized and used as qualification standards over the years, namely, education, knowledge, experience and language. Age limits specified both in the current act and the bill usually apply only to training or entry classes.

Mr. BELL (*Carleton*): The spelling out of this or any other matter makes me wonder whether we might not say that merit is not merit, merit is whatever the commission may say at any particular time in accordance with its whim.

Mr. CLOUTIER: Merit under the current act is, if I may just consider this particular point you are raising, the qualifications that are mentioned in section 33 of the present act, and that is all. These qualifications are not defined in the act. In point of fact, over the years they have been education, knowledge, experience, language, physical ability, personal suitability and other similar qualifications.

Mr. BELL (*Carleton*): Yes. Well let me spell out my concern in relation to this, Mr. Cloutier, which I think is well known to you. The commission has recently adopted the policy that a percentage advantage shall be given to candidates for knowledge of language. Now, this would cover that situation which, in my submission, was not covered by the old act and would also enable the commission to give percentage advantages in relation to residence, in relation to age, in relation to a lot of other factors that are not, perhaps, totally irrelevant to merit of the individual. Now, I am concerned to see that you do not get an expansion of saying that all these incidental things are entitled to certain percentage points in the determination of merit. If you do the merit system is gone completely.

Mr. CLOUTIER: Well, the evaluation of the merit of an individual, the degree to which he possesses the qualifications that are required or that are desirable for the job, are always considered in relation to the nature of the duties to be performed. This is a sine qua non condition.

Mr. BELL (*Carleton*): But is that not a matter of job specification rather than of evaluation?

Mr. CLOUTIER: Well, the job specifies that there are, for instance, certain qualifications that are an essential element, and then there are certain qualifications which would be very useful and which would be highly desirable but they are not essential. In effect we are saying if we can find an individual who has the essential qualifications and in addition he has the desirable qualifications, then he is better qualified than the individual who has only the essential qualifications.

Mr. BELL (*Carleton*): This is where I clash with you directly on that. I submit that is a matter that ought to be set down in the specifications for the job; the age or residence, or what have you, is set out when you advertise the job. When you get to evaluating the merit of the person to hold that job, these factors then become irrelevant. You have already provided for it in your specifications.

Mr. CLOUTIER: Oh yes, but that is part of the specification, and on the basis that you have a candidate who does not come within your age limitations, then that candidate is automatically ruled out. It is the same as if you specify that for this job you must have university graduation, and then all non-university graduates are ruled out. But there are jobs where you say we would like to have a university graduate in this job, but if we cannot find one we would consider a university graduate with two years' experience or we would also be willing to consider a non-university graduate, let us say an upper school graduate, with five years' experience. This is all relative. In addition, we might say we would like a university graduate, a straight B.A., but if we can have someone who has a speciality in business administration, then this is a desirable asset and additional credits will be given for that additional qualification. My point is that

in a great number of cases it is not practical to limit the selection criteria to very, very narrow possibilities.

Mr. BELL (*Carleton*): Well, let us deal with a specific situation. For example, a knowledge of language; as you know and the commission knows, my view is that knowledge of language should be a matter of the job specification and where there is a requirement of bilingualism, that should be set forth in the advertisement and none but those who are bilingual have the right to this position. But where the job specification is unilingual, whichever language, then I am unable to see how it is proper, if you are operating a merit system, to import at that stage in the evaluation of merit a knowledge of two languages in order to hold a unilingual job.

Mr. CLOUTIER: Well it is not quite as cut and dried, if I understand you, Mr. Bell, as I think you are saying. There are a great number of instances where the knowledge of a second language is useful. It is not essential.

Mr. BELL (*Carleton*): You are evidence of that, Mr. Cloutier.

Mr. CLOUTIER: Well, I do not hold my appointment under the Civil Service Act.

It is where it is useful but not essential. Where it is useful for the conduct of public business, but not essential, then I think under the present act, as under this bill, the commission would be totally justified in saying the knowledge of a given language is essential, but if we have a candidate who, in addition to having that knowledge, has a sufficient degree of knowledge of a second language, then that is worth more to the public service. In that set of circumstances it makes sense for the achievement of the objectives of the department, the service of the department to its clientele to have staff who can conduct business in both languages.

Mr. CHATTERTON: When you say worth more, you mean the position is worth more money? Is that what you meant?

Mr. CLOUTIER: As of today it is exactly the same salary.

Mr. WALKER: Mr. Chairman, I think Mr. Cloutier is saying it is particularly relevant when you get into the area of promotion, not of original appointment, where a man—this surely is part of the merit system—who does want to have a career in the civil service may find himself, because of his knowledge of language and even if it is not needed originally, able to move in four different directions. One of them may be in an area where it is most useful to have this other language. I think it ties up with the career opportunities.

Senator CAMERON: Mr. Chairman, Mr. Walker has touched partly on it. You may be making a lot of appointments in a specific area where a unilingual person is satisfactory at that time, but I assume you would nearly always envisage the fact that this person might be moved to another area where the other language would be very useful or almost a necessity.

Mr. CLOUTIER: To this extent, Senator Cameron, under a totally different program of the commission we are conducting classes in both official languages to give an opportunity to public servants of the various departments and of the various centres across Canada to acquire proficiency in the second language.

Senator CAMERON: In other words, you get more flexibility?

Mr. CLOUTIER: Exactly.

Mr. BELL (*Carleton*): My only point is that I object to the commission, as an attribute of merit, giving percentage evaluations for any of the items of selection standards which are set forth in clause 12 and particularly in relation to "or any other matters". These, I think, can lead to driving a horse and cart through the merit system.To me merit is merit and it ought not to be subject to this variety of selection standards, which in my view go to the job specification and not to evaluation of the individual on the basis of merit.

Clause 12, as amended, agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): On Clause 13—*Area of competition.*

Mr. CHATTERTON: May I ask, on clause 13, why only in the case of competition shall the commission determine area? Why not in the other process also?

Mr. CLOUTIER: This is, again, an administrative arrangement because competition is a process that has been defined very precisely in law for the last 50 years. This again is a holdover from the previous legislation. This whole definition lays down the principles of the application of the merit principle and, indeed, the other processes are patterned along the same principle. I gave you an example earlier of that department that had re-organized. Again, you see, if we had conducted competitions it would have covered the same area.

Mr. CHATTERTON: I ask why does it not say "may"? Why should it say "shall"? I am just looking for information.

Mr. CLOUTIER: I think, if I am not mistaken, it is a holdover from the old act. I do not think there is any other explanation.

Mr. CHATTERTON: It does not create an unnecessary restriction for the commission?

Mr. CLOUTIER: Not in the area of competition because in an area of competition, where people have a right to apply, they have to know beforehand if they actually do have that right.

Clause 13 agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): On Clause 14—*Notice*

Mr. LEWIS: Mr. Chairman, I can understand making optional which language is used in section 16(2), which deals with the test or interview which will be conducted in English or French at the option of the candidate, but I wonder whether it is not time that all federal notices should not always be in both languages?

Mr. CLOUTIER: Well, Mr. Lewis, this is a holdover from the old act and I would think that the legislative provision here is a minimum one. In other words, it says that ineligible persons shall be capable of being given notice in a language they will understand.

Mr. LEWIS: Mr. Cloutier, I do not want to make a speech on this subject but I have had a feeling that our failure over many decades to recognize the bilingualism of Canada, as far as the federal administration is concerned, as a matter of course may be the cause of certain differences and conflicts in Canada that might have been avoided. Unless I can be shown a reason why it should not

be possible that a notice, even in a small village in Quebec where nobody may speak English, should be both in French and in English, or a reason why in some area where nobody speaks French it should not be in both languages, unless I can be shown some social or political reason for this, I will so move this after some discussion, if I am not persuaded otherwise. Your notices, as distinct from the interviews—I am speaking only about the notices—in my opinion it is time we got to the point where any act done by the federal Parliament and the federal agencies under the Public Service Commission be done in both languages, not in either/or, but in both at all times.

Let me add there have been some unfortunate events recently in a place in Ontario because both languages were used on a federal building. No doubt we will go through that kind of thing for some years. However, I have a very deep conviction that the sooner we stand up to that sort of attitude, which I think is not good for Canada, the sooner we will arrive at the point where people will accept the fact of federal Canadian bilingualism, and I am deliberately including the limitation "federal", and that notices in both languages are a step in that educative process in Canada.

Mr. CLOUTIER: Could I answer by explaining what the practice is? The practice at this time is that notices of vacancies are available in the two languages on request. However, it is for administrative and budgetary reasons, and only for these, that the public advertising is not always conducted in both languages. It is conducted in both languages by direction of the commission in every instance where the population breakdown in the field of competition between English-speaking and French-speaking is such that it makes it desirable. Indeed, the figure that we have been using is 10 per cent minority.

Mr. LEWIS: This is exactly what I personally object to. This is what I feel very deeply is at fault.

Mr. CLOUTIER: If I may continue, the reason for this arrangement is the lack of translation, for instance, across the country. Mind you, on social and nationalistic grounds I can only agree with you wholeheartedly, I assure you. But at this point the only limitation is one of administrative means. It is not feasible at this point in time to ensure efficiency of operations and at the same time provide advertising in both languages across the length and breadth of the land. However, in spite of the administrative difficulties, in every area where the population breakdown is such as to make it eminently desirable, then the advertising is conducted in both languages.

Mr. LEWIS: Well, Mr. Cloutier, I personally am not satisfied because this is a purely utilitarian approach to a problem that I think is much deeper than the pure administrative consideration. I do not have in mind that if you advertise in a local paper in some city or town in Quebec and the paper is only in French that you have to do it in French and in English. That would be absurd. Or, if you advertise in the Toronto *Star* that you have to do it in both languages. You advertise in the language of the newspaper. I think it is possible to amend it in such a way as to avoid that kind of absurdity. There is no sense putting a French notice in the Toronto *Star* or an English notice in *L'Action*. It does not make any sense. But the notices that you put up in the buildings, the notices that go to your employees, those notices should be in both languages. I do not care how difficult it is to get a translation; if it is difficult, let us make it easier. Let us act like a

bilingual country and have sufficient translators so that you are not faced with that difficulty. In my humble opinion it is worth the expenditure of a few thousand dollars to build a better foundation for Canadian unity. But those notices within the service—I am not talking about newspapers—always ought to be in both languages no matter where they reach, in my opinion, and I will read the language I can read and ignore the language I cannot read. But I will, as a Canadian citizen, get used to the idea that when something comes out of Ottawa, or a department related to Ottawa; it comes to me in both languages, and it is about time that all Canadians got used to that idea.

Mr. CHATTERTON: May I ask a question? Do all the notices emanate from the public service commission office here?

Mr. CLOUTIER: No, Mr. Chatterton.

Mr. CHATTERTON: Some could emanate from the office in Victoria, for instance?

Mr. CLOUTIER: That is precisely the point I was making with Mr. Lewis. Let me say again that all promotional competition posters are available in both languages and this is the practice that is followed in the commission, which is consistent with the declarations of the Prime Minister last April. I would have no objection at all, Mr. Lewis, to seeing an amendment to this section which would reflect your hopes, as long as it does not create the sort of absurdities that have been pointed out.

Mr. LEWIS: May I ask whether the members agree that section 14 stand and Mr. Cloutier be asked to give the suggestion thought? I would rather not move an amendment because I do not think I am qualified to do it in terms that would be practicable.

Mr. EMARD: Mr. Lewis, your point is that all the documentary papers or notices from the commission shall be bilingual?

Mr. LEWIS: I think, for example, you can exclude a local notice. I do not care about that.

Mr. CLOUTIER: Yes, I know.

Mr. LEWIS: But they are in two separate sheets. When you send me, as a member of parliament, a notice that there is a certain opening, I get it in English. Presumably French-speaking members get it in French.

Mr. LACHANCE: We get it in both languages.

Mr. LEWIS: Well, I get it in English only.

Mr. CLOUTIER: I can arrange for you to get it in both languages.

Mr. LEWIS: I know Mr. Cloutier is as serious about it as I am. I have had for many years a very strong feeling that a great deal of the difficulty that we have at the present time in Canada derives from the fact—and I do not make these remarks in any partisan sense—that Canadians were never prepared to accept the bilingual fact of Canada, and that we always jumped away from the proposition and found administrative technicalities for doing it one way or another. I think the time is overdue to stop doing that and recognize bilingualism of federal actions without hurting efficiency, without going overboard or doing silly things about it. I am concerned with the principle of the thing.

Mr. CLOUTIER: Your suggestion is that I consider an amendment to section 14. I am quite prepared to do so, but at this point I do not see what section 14 could do that is not being done now.

Mr. CHATTERTON: Are the advertisements that emanate from your office in Ottawa always notices pertaining to an open competition across the country?

Mr. CLOUTIER: No, they could be limited to the Ottawa area.

Mr. CHATTERTON: I see.

Mr. CLOUTIER: Notices emanating from Victoria would be applicable to the Victoria area.

Mr. CHATTERTON: Do you sometimes issue a notice which is applicable only to British Columbia?

Mr. CLOUTIER: We would not do that from Ottawa, we would do that from British Columbia.

Mr. CHATTERTON: If, for instance, Mr. Lewis' proposal were incorporated, only those advertisements that apply nationally must be in both languages.

Mr. CLOUTIER: We are doing more than that now.

Mr. CHATTERTON: No, but in those cases it must be.

Mr. CLOUTIER: That is right. That is being done now in every case.

Mr. KNOWLES: The law has not changed it.

Mr. CLOUTIER: Even if the laws did require just that, we would still be doing more.

Mr. LEWIS: I want to see the law recognizing the fact.

Mr. BELL (*Carleton*): This is an exercise in futility, then, as they are going now. This gives all the right to do it, and it is going much beyond what my friend Mr. Lewis proposes.

Senator DESCHATELETS: We are dealing here with a principle, and if we are in favour of the important principle embodied in it I do not see why we should not get this into the act. We have done this earlier, because I think when Mr. Knowles suggested that the word "sex" be added we said that it has already been done. There are no differences at the commission on the sex. But he insisted on having this in the act, and I think we should do it.

Mr. LEWIS: One way you can do it is in the opposite way from which it is done here. You can drop the section which will say, "Notices shall be in both languages except on occasions when, in the commission's opinion..." I know that you say you now do it, and I am sure you do, but the law would recognize that the general principle is a bilingual notice and that the unilingual notice is an exception which the commission is given authority to make.

Mr. CLOUTIER: I am quite prepared to—

Mr. LEWIS: It occurred to me that is one way you can deal with it.

Mr. CHATTERTON: It could be done this way; in all advertisements which apply across the country it shall be in both languages. Would that meet the situation?

Mr. LEWIS: No, I think I would be prepared to leave it to the discretion of the commission to decide when the bilingual notice is unnecessary or perhaps even cumbersome, but lay down the general principle of bilingual notices.

Mr. CLOUTIER: This would be quite acceptable, and it would recognize the present factors in legislation.

(Translation)

Mr. ÉMARD: Mr. Lewis mentioned a bilingual announcement but not two different pages. A bilingual announcement means that the two languages would be on the same sheet. I hope that is clearly understood.

Mr. LEWIS: That is exactly what I was driving at.

Mr. LACHANCE: It would be one document and not two separate ones.

Mr. LEWIS: Exactly, yes.

(English)

Senator DESCHATELETS: Mr. Chairman, on this point again, if we agree on the principle of having one bilingual document issued by the commission, what is the difficulty in having this done across Canada? What, in fact, is the difficulty?

Mr. CLOUTIER: The difficulty now?

Senator DESCHATELETS: Now.

Mr. CLOUTIER: It is being done now. Bilingual notices are available now, so it is feasible.

Senator DESCHATELETS: Issued by the headquarters of the commission.

Mr. CLOUTIER: It is being done now.

Senator DESCHATELETS: Now, what about in other parts of Canada?

Mr. CLOUTIER: In other parts of Canada the statements of duties and the statements of vacancies are available in both languages, but in most areas of British Columbia, for instance, the French population is very, very small and in those areas, except in one or two points, only the English notices are posted. However, a French speaking citizen who wants a French notice can get one.

Senator DESCHATELETS: I know, but what are you doing right now in certain areas of Quebec? Let us take, for example, the riding of Nicolet-Yamaska. Suppose there is a job there. Now, are you advertising in both languages?

Mr. CLOUTIER: Right at the moment I do not remember the population breakdown.

Senator DESCHATELETS: Our assumption is that you are doing it in both languages.

Mr. CLOUTIER: Let me ask you this question and then I will be able to answer. If the English speaking minority in Nicolet-Yamaska is less than 10 per cent, and most jobs in Nicolet-Yamaska do not require knowledge of the English language, in that case the poster is posted only in French. In other words, deux poids, deux mesures. La même chose d'un côté ou de l'autre.

Mr. LACHANCE: Are there any instructions given to that effect by the commission in Ottawa?

Mr. CLOUTIER: Yes, there are detailed instructions that have—

Mr. LACHANCE: Yes, but since it is in the province of Quebec—we were referring a few minutes ago to British Columbia—are many from the province of Quebec office or are they from Ottawa?

Mr. CLOUTIER: From Ottawa. To all our offices, and we have offices across the country.

If I may come back, I strongly approve this principle and I hope some amendment will be possible. There must be a difference. I see a difference between a document being bilingual and having the availability of the document in English or in French.

We have been talking of posters and I do not know whether members of the committee have had an opportunity to look at the annual report of the commission for this year. Today it is a bilingual document. Under one cover you have the English version and under another the French version. The first time this was done was in the report of 1965.

Mr. LEWIS: Did you follow it up?

Mr. CLOUTIER: I assure you that we have every intention of doing so. This fall our promotional material for university graduates—and I assure you this is a considerable effort—with one exception, for reasons that are of a purely technical nature where it required two separate versions, and personally I am unhappy that we were not bright enough to conceive of a different manner, but all our other material has been bilingual. It was bilingual back to back, which is one way of doing it, but it is not as satisfactory to me personally as this other way where you have one page in English and one page in French, and you continue on this way. Again, on order to implant in our practices what to Mr. Lewis and my colleagues and myself and many other Canadians makes eminent sense, I would be quite pleased to propose to the committee some rewording of section 14, which would continue to recognize this practice in the statute.

Mr. BELL (*Carleton*): May I suggest that it may very well be that what would be written in the statute would be much less that what the practice is now, and if you put a statutory minimum in commissions are inclined to adhere to the statute and to the minimum, and the net result of this proposal might very well be to interfere with what has been up to this point a very satisfactory arrangement from which there has been no complaint made to the Committee by any of the staff associations or, to the best of my knowledge, by anyone.

Mr. CLOUTIER: Mr. Bell, I assure you that I will take your comments into consideration.

Mr. BELL (*Carleton*): I do not want to see a statutory minimum—

Mr. CLOUTIER: I can assure you I do not either.

Mr. BELL (*Carleton*): —which would change the practice and reduce the practice from what it now is.

Mr. LEWIS: I am sorry, I do not agree with Mr. Bell. I do not think that, even though the staff associations have not raised it, because they are concerned with a different situation from the point I had in mind. I am not satisfied with notices on two separate sheets and their being available in both languages. I

would like to see established in your notices the same principle that you told us you established in the report and in the booklets of promotion at the universities, and before anyone suggests that the wording you might come up with would be more restrictive, let us first see the wording. I am enough of a lawyer to be able to think of ways of doing it that would not create greater restrictions.

Senator DESCHATELETS: Before we leave this point, Mr. Chairman, I would like to ask Mr. Lewis once again what he has in mind. Is he suggesting at a certain point we have an amendment from the commission, as well as from other local offices all across the country, for a bilingual document?

Mr. LEWIS: The simple suggestion I made finally is—and I am not going to put it into words—that the section read in such a way that it would lay down the principle that notices are in both languages and leave to the commission the discretion to deviate from that principle if, in the Commission's wisdom, that is desirable or necessary for any of a hundred different reasons. I would have faith in the commission to follow a practice that would meet the general principle involved.

(Translation)

Mr. ÉMARD: I agree with Mr. Lewis, I think it is a matter of principle. It is a question of making the federal government accept itself as a bilingual agency across Canada, to show in the province of Quebec that English and French are spoken even in the most remote parts of the country, and, on the other hand to show the same thing to British Columbia and in other English speaking parts of Canada that French may be spoken. This may not seem very important but the fact that the posters be in the two languages will at least create acceptance of the two languages, and will familiarize Canadians with French and English.

I congratulate Mr. Lewis. I am very happy to see that this suggestion has been submitted by an English speaking Canadian.

(English)

Mr. WALKER: We are talking in a rather narrow confine: we are not thinking at all in terms of the word "notice" being interpreted as meaning newspaper ads and television commercials.

Mr. LEWIS: No, this is one of the exceptions I had in mind which the commission would make. If it puts an ad in a French language paper it will be in French only, and in an English language paper it will be in English only.

The JOINT CHAIRMAN (*Mr. Richard*): We will stand clause 14.

On clause 15—*Applications.*

Mr. CHATTERTON: Does "Applications" there refer only to the case of competition?

Clause 15 agreed to.

The JOINT CHAIRMAN (*Mr. Richard*):

On clause 16—*Consideration of applications.*

Mr. WALKER: Mr. Cloutier, I have a tick opposite clause 16.

Mr. CLOUTIER: Yes, it relates to clause 16(2). Concern was expressed on this by the l'Association des fonctionnaires Fédéraux d'Expression Française. The

association was afraid that as this paragraph reads it would make it possible to ignore the right of a candidate to be examined in the language of his choice.

The intent of the whole section is precisely the opposite. The intent is that there be this option, but that where the individual applies for a job in which a foreign language is a requirement for qualification that there be no confusion about the obligation of the individual to submit to a test in that foreign language. Odd as it may seem, there have been occasions and I can think of one instance that came to my attention where an English-speaking candidate was applying for a position where he would be required to draft material in French, and when the examination started he was handed a series of questions written in French so that the examiners could establish his proficiency in the French language. He told them that he wanted to write the paper in English and that he had that right under the present Civil Service Act. This is the sort of situation we were trying to avoid in the latter section of section 16(2), but to the extent that the l'Association des fonctionnaires Fédéraux d'Expression Française expressed some worry, the Commission feels that it is quie imporant, for the same reasons you have brought forward on section 14, Mr. Lewis, that the wording be looked at again in order to make it eminently clear that there is no erosion of the rights. Therefore, with your permission, I would like to come back at another sitting with a proposal to meet the objection.

Mr. WALKER: That is for section 16(2)?

Mr. CLOUTIER: Yes.

Mr. WALKER: Are there any other amendments on any other clauses?

Mr. CLOUTIER: No, sir.

Mr. BELL (*Carleton*): On section 16(3), are there any changes here at all in substance to the veterans' preference?

Mr. CLOUTIER: None whatever, Mr. Bell.

Mr. BELL (*Carleton*): How significant is the veterans' preference today in its actual operation?

Mr. CLOUTIER: It is used less, and less, let us say. Let me give you figures, if you will bear with me until I find them. In the calendar year of 1965, out of a total of some 21,000 appointments we had about 1900 in which the appointee was a veteran. Not in all these cases was the appointment made under the veterans' preference though. This figure has not been any higher than this in the last several years.

(*Translation*)

Mr. ÉMARD: What preference is given to the widow of a veteran, for instance?

Mr. CLOUTIER: The same thing.

Mr. ÉMARD: The same thing?

Mr. CLOUTIER: Yes, according to the act.

(*English*)

Mr. BELL (*Carleton*): Are there representations from the Canadian Legion on this?

Mr. CLOUTIER: None whatsoever.

(*Translation*)

Mr. LEWIS: It is not the same thing—

(*English*)

The widow would come second.

Mr. CLOUTIER: Oh, I am sorry, yes.

Mr. LEWIS: Is it not right that the veteran comes first and the widow of the veteran is second in line, not on the same level as the veteran?

Mr. CLOUTIER: They have a preference, yes.

Mr. LEWIS: They have a preference, yes.

Mr. CHATTERTON: Let us say that there is only one applicant who has the veterans' preference and he is qualified, but there are applicants that are better qualified. Who is number one on the list?

Mr. CLOUTIER: The veteran. This is the whole purpose of this provision.

Senator DESCHATELETS: A person who has the minimum requirements plus service as a veteran gets the job.

Mr. CLOUTIER: Yes, that is right. He has to qualified, though.

Mr. LEWIS: He has to be a qualified applicant to get the job.

Mr. CLOUTIER: Yes. Let us say you have a competition where the passing mark is 70, you have candidates up to 81 but you have one veteran who gets 71. In this case he would get the appointment. Under the terms of the present provisions of the statute, he would be offered the appointment before it could be otherwise offered to the first ranking candidate.

Clause 16, subclauses (1) and (3) agreed to.

Clause 16, subclause (2) stands.

The JOINT CHAIRMAN (*Mr. Richard*):

On clause 17—*Establishment of eligible lists.*

Mr. BELL (*Carleton*): On clause 17, Mr. Chairman, there are two matters I would like to raise, the first is that under the existing legislation there is a requirement for publication of eligible lists in the *Canada Gazette*, and that has been dropped as I see it. Secondly, there was a minimum period of one year for which an eligible list was effective under the old legislation. This is now being dropped in favour of the commission having discretion to set the period of time for which the eligible list is sustained. Perhaps Mr. Cloutier would advise why these two changes are proposed.

Mr. CLOUTIER: This is consistent with an approach that we have taken throughout the legislation, and is to permit the commission to react to changing circumstances. We felt that it should be left to the administrative good sense of the commissioners to determine what the life of lists should be. Indeed, in some instances the minimum period for some lists should be more than one year, depending on the type of individuals that we are trying to recruit. I can think of—

Mr. BELL (*Carleton*): There is power now under the present act to extend it beyond the one year.

Mr. CLOUTIER: That is right. On the other hand, there is considerable administrative difficulty created where we have lists that, by the terms of the present statutes, do extend for a full year but because individuals are still on the list and are not taken off the list simply because they refuse appointments, they have to be left on for the full year. Every time a new vacancy comes in you have to go back to the same thing. So to facilitate the administrative arrangements we are proposing such lists—I am thinking of some of the manipulative trades where individuals go and come on the market—at regular intervals, and it makes administrative sense to do it this way.

Mr. BELL (*Carleton*): What about publication in the *Canada Gazette*?

Mr. CLOUTIER: We find that that serves very little practical purpose. It is an administrative chore on the part of the commission which we feel might be done away with with no loss in efficiency and no loss of information because these lists will be available in the commission.

The other problem is that although this sort of provision made lots of good sense in years past when so much was done in Ottawa, now lists are prepared in sixteen or eighteen field offices across the country, and they have to be co-ordinated here and then in the *Canada Gazette*. Under the new system not only would lists be prepared by the commission and its regional offices but they would be prepared in various departmental offices across the country, and it would be an administrative nightmare to ensure that every single thing got published in the *Canada Gazette*. We feel that as long as a thing is available for inspection by any citizen who wants to see it, the intent is preserved.

Mr. BELL (*Carleton*): I am prepared to agree with Mr. Cloutier as to the futility of publication in the *Canada Gazette* but I am rather inclined to the view that some place publicly these lists should be available and not just tucked away in a file in the commission office. I think they should be posted or publicly available for inspection.

Mr. CLOUTIER: They are available to the public in the commission offices.

Mr. CHATTERTON: Is there any requirement that all applicants for a competition be advised of the outcome?

Mr. CLOUTIER: Oh, yes, automatically.

Mr. CHATTERTON: But is there a requirement in this bill?

Mr. CLOUTIER: I would imagine that there would be but now that you mention it, I am not sure.

Mr. BELL (*Carleton*): Would it be feasible to give to each candidate a copy of the eligible list?

Mr. CLOUTIER: Mr. Bell, in some instances it would be—

Mr. BELL (*Carleton*): Undesirable?

Mr. CLOUTIER: —a waste of money. We have list of classes. Let me give you an example: The Income Tax department every year hires hundreds of key punch operators. You would have to print and publish not only for the successful but also the unsuccessful candidates, and this would really be a nightmare.

(*Translation*)

Mr. ÉMARD: Mr. Chairman, I think the eligibility lists should be available to members of Parliament when we need them. Not just to look at them, because if I wanted an eligibilty list in Montreal, I am not going to make a special trip to Montreal to go and see it there. I can tell you I have never been able to get the list of eligible candidates since I have been in Ottawa, over the past three years.

Mr. CLOUTIER: A list of successful candidates?

Mr. ÉMARD: I have never been able to get it.

Mr. CLOUTIER: It appears now in the "Gazette."

Mr. ÉMARD: Yes, but it is so late when it appears in the "Gazette" that the list is just about useless. It takes so much time for the list to appear in the "Gazette" that in many cases, you are no longer interested by the time it does appear.

(*English*)

Mr. WALKER: Mr. Chairman, I would like to ask Mr. Cloutier this question. If I write the commission, as a member of parliament, and ask for the eligible list would I receive a copy?

Mr. CLOUTIER: I am sure you would, Mr. Walker.

Mr. CHATTERTON: When you advise the applicant of the outcome do you advise him also of his position on the eligible list as well, if there is one.

Mr. CLOUTIER: That is correct.

Mr. CHATTERTON: Is the first person on the list necessarily appointed?

Mr. CLOUTIER: He is offered the position first.

Mr. CHATTERTON: In other words, if he accepts—

Mr. CLOUTIER: That is correct.

Mr. CHATTERTON: —he gets it?

Mr. CLOUTIER: Oh, yes, this is the whole purpose. He may say this: "For certain reasons I would prefer to retain my position on the list, but I decline appointment this week. I would be interested in a month and a half from now."

Mr. CHATTERTON: Was there a provision in the old act whereby the department could refuse the first person?

Mr. CLOUTIER: No, not at all. This is the essence of the whole operation.

Clauses 17 to 20 inclusive agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 21—*Appeals.*

Mr. BELL (*Carleton*): Shall we adjourn for lunch?

Mr. LEWIS: I will not be here this afternoon or evening if the Committee meets. Mr. Chairman, I have two suggestions to make, if I may. The first one is that I would like to see at the bottom of Clause 21 some provision—I can write it out and move it, but I would much rather not move it because you want to consult law officers—which clearly spells out a requirement which I understand is now in practice. What I am about to say is not a criticism of the way the commission functions but I would like to see a subsection which says something

like the following: That every person appealing may at his option be represented by his bargaining agent or by counsel.

Mr. CLOUTIER: Well this is a point—

Mr. BELL (*Carleton*): Any representative.

Mr. LEWIS: Yes, may be represented by his bargaining agent or any other representative. I know that this is now the practice—The civil service associations have told me that in most cases they are there—but I think it should be in the law.

Mr. CLOUTIER: Indeed it is. It is statutory now and the only reason it was not put in the bill is that we were advised that this is guaranteed by the Bill of Rights. Since the associations have made the point and the commission agrees with the position, this was the amendment that we had in mind in relation to this as well as to Clause 31. This could be done very simply. Instead of saying the individual and the deputy head are given an opportunity to be heard we could say the individual, the deputy head or their representatives, which would leave it quite blank.

Mr. LEWIS: I would be satisfied with any wording.

Now, the second, I am sure, is a great deal more controversial, and it affects the establishment of the separate public service appeal board. I drafted something which I think, Mr. Chairman, meets the main objection of Mr. Heeney and the Civil Service Commission, and the objection raised by Mr. Cloutier earlier, that the commission is given the job of establishing the merit system and making the choice, and you cannot have someone else above them making the choice. That objection has a great deal of validity but I still urge—as I did the other day and as other members did—that there is extreme value in having the commisison's decision under clause 21 subject to review by a body that is not as directly concerned with the appointments as the commission itself is—even when the appointment is made by someone delegated it is still the commission which, in the eyes of the employee and in my eyes, if I may be quite frank, is the body which is responsible for the appointment. None of us readily changes his view once a decision has been made, after careful consideration, because I assume always that the commission would give everything careful consideration. I think you could set up a separate appeal board of three on the same basis as the commission itself or a part of the commission—I do not care—and I suggest to you that it is possible to overcome the difficulty which you raised, Mr. Cloutier, which, as I have said has validity, by this kind of provision: giving the appeal board the power to confirm the decision of the commission, in which case it is final; and in the case where the appeal board is not satisfied with your decision then my suggestion is—and this is just for consideration by the Committee—not that the appeal board then make the decision, which would come up against the difficulty which you raised, but that the appeal board then have power, if it disagrees with the commission, to refer the case back to the commission for further inquiry and reconsideration, and the commission will then make a decision which will be final. Now, this is really not very new. The reason the thought occurred to me is that there are processes under the law where you can go to court in certain cases on a *Certiorari* or some basis like that where the court may not have and does not have the jurisdiction to substitute its judgment for the judgment of the body for which you go to court—appeal is

the wrong word; that is why I do not use it—but it does have the authority to say to the lower tribunal: "In my opinion, you have failed to give consideration to this factor and to that factor and, on the whole, I think you were wrong. Would you please take another look at it and consider the factors which you failed to consider." Now, the suggestion made still leaves the decision in the hands of the commission but it makes your first appeal decision subject to review, with the appellant able to make his case to people who were not responsible for the appointment either directly or by one or two removed and it gives him an opportunity to state his case to a third body.

Mr. CLOUTIER: Could I outline as briefly as I can, Mr. Lewis, the way we operate now in the field of appeals. I think we are not very far apart. We have in the commission an appeal division which has a total of 15 people, full time, and which uses part time resources across the country to the extent of about seven man years. Now, this appeal division is totally and organizationally separate from the rest of the operations of the commission. The officers of this appeals division are the officers who constitute the appeals board, so that in some respects they are now the sort of intermediate appeal board that I think you are referring to. Now I mentioned that all three members of the appeal board in Ottawa are always full time commission appeal officers and do only that. In Montreal and Toronto—here it is a question of workload throughout the country—we have one full time appeals officer and he chairs appeal boards that operate in those areas. He obtains, as the other two members of these boards, either a full time commission officer or a retired civil servant who is brought in on a part time basis to act as appeals officer. These are the appeal boards that actually conduct the hearings at which the employee appears with his representative and management appears with its representative. The appeal boards make in eflect, their decisions.

Mr. LEWIS: What do you mean by "make in effect, their decisions"?

Mr. CLOUTIER: Well, arrive at a decision, let me put it that way.

Mr. LEWIS: Well is their decision, the decision?

Mr. CLOUTIER: The decision of the appeal board, right.

Mr. LEWIS: And is that the final word?

Mr. CLOUTIER: I am coming to it now. Before going any further I wanted to quote a few statistics. In 1965 there were 800 appeals on competitions and this represents about 8 to 9 per cent. Of these 810 appeals in 1965—it was 810—there were 40 appeals arising from interdepartmental competitions. That means 770 related to departmental competitions, competitions conducted by departmental officers under delegated authority. In this instance the commission officers were not only nor personally involved in the competition process but they were, in effect, as well as in fact—I am being careful now—separate from the organization in which the competition was concerned. So they were a third party in every respect. Their decision, where it is conflrming the action taken in the original competition, is final. If they reverse the original recommendation it comes up to the commission for review. Indeed, on occasion we have a hung jury; we have a minority or a majority report, and these cases come up to the commission for go back to the appeals branch and says, get us more information on that and review, also. At that point the commission does, and has done on many occasions,

more information on that. So in effect, we are operating—as the commission now, my two colleagues and myself—as a board of review of our own appeals division. I can think of only two occasions where the staff associations prevailed on the commission to reverse a decision that it had taken, in the light of whatever information it had been able to obtain, and it reversed an earlier decision on the basis of new information that the staff association was capable of presenting to the commission. So I think, sir, that if I understood your comments correctly we are now operating pretty much in the manner you are suggesting.

Mr. LEWIS: Expect Mr. Cloutier—some of the associations raised this point, I cannot remember which, but I think the Professional Institute did—that so far as the law is concerned the appeal is to the commisison—that is what this section says—and so far as I, an employee of the government, am concerned I see that section 10 tells me that my appointment is made on a certain basis determined by the commission and made by the commission, and section 21 says that I appeal any grievance to the same commission. I respectfully suggest to you again that the principle is important. I am not throwing any aspersions on the appeal procedure, I have had no experience with it and for all I know it has worked well. But, I do also know that the staff associations feel uneasy about it. I do not want to say that all of them do because I cannot remember. I would feel uneasy about it if I were in their place. Therefore, it seems to me if, in fact, you are functioning partly in that way—because it is not wholly in that way—the fact is the final review in many cases would still be the commission itself rather than some portion of the commission. I am not persuaded that the objection is valid if something like what I suggest is done, namely, that you do not give the appeals board the right to reverse your decision any more than you now give your appeals officer the right to reverse without coming to the commission, and the appeal board then merely refers it back to you to look at it. The actual procedure that we discern—and again if there is any validity in the principle there may be better ways of doing it—is that I as an employee would appeal the commission's decision to the appeals board and at that point the commission and I would appear before the appeals board. I would be there to hear your reasons for having taken a certain step and your defending them. But, on the final decision, if the appeals board feels you have done wrong, that you have reached the wrong conclusion, then if they do not make the decision that you should have made, in my suggestion, they refer it back to you to take another look. Now I think that would establish a principle of appeal which was divorced from the body that makes the appointment in law.

Mr. CLOUTIER: I would like to submit, Mr. Lewis, that if the body that makes the appointment were the employer then I would agree with you. But, the body that makes the appointment is an independent commission, and if I understand your proposal correctly you are saying let us have another independent body to make sure the first independent body is really on its toes.

Mr. LEWIS: That is one way of putting it.

Mr. CLOUTIER: I think so, yes.

Mr. LEWIS: If I were a member of the commission I might feel that way too, but I am not sure that is the right way.

Mr. CLOUTIER: I would like to submit that employees do not look upon the commission as their employer but look upon the departments as their employer.

Mr. LEWIS: This is where, Mr. Cloutier, in my little experience with Civil Servants—Mr. Bell, Mr. Knowles and others have had much more, and I am speaking of the parliamentarians—I am not sure you are right. I am not sure that you are not under some illusion about that. When you make the appointment then the person who is appointed considers you responsible for the appointment. He may realize that he gets the cheque from the government come pay day but the initial hiring is an act for which you are responsible, and he holds you responsible for it. And if he has a grievance against what is done and he does not feel his grievance is being properly dealt with if he goes back to the same people who hire him, and that is his only recourse. That, to me, is a very simple fact that no amount of illusion can erase. I do not think it is in anyway a reflection on the independence of the commission to suggest that you consider this kind of thing. If, for example, you want to say in the law that the commission shall set up an appeals board from among its officers or members instead of a separate appeals board, I do not care. But the law would recognize a separate appeals tribunal. I do not care if it is part of the commission, but it would recognize a separate appeals tribunal to which to go.

Mr. CLOUTIER: Again, are you saying that we should give a statutory base to our practices?

Mr. LEWIS: Maybe that will do it, but I would like to see the words. I do not know how Mr. Bell or others feel about this, but if you think that is the best way of doing it I would like to see it.

Senator MACKENZIE: Could I ask Mr. Lewis, in respect of his proposal, what the feeling of the aggrieved person would be if the commission rejected the views of the appeal board. This is relevant.

Mr. LEWIS: I do not imagine he would be very happy, but I think he would be less—

Senator MACKENZIE: Does this not place the commission in the position, which it may, of losing its independence and being, in a sense, subordinate to the appeal board? I am not saying your proposal is not right and wise under certain circumstances, but I am just raising this problem.

Mr. LEWIS: Of course, it has that difficulty if you refer the thing back to the commission, but I should imagine that if the appeal board is, in the same way the commission is, responsible and careful it will not readily reverse a commission decision without very good grounds and therefore I would say that in practice the likelihood is that the commisison will look at the grounds that the appeal board has found.

Mr. BELL (*Carleton*): As expressed in the old cliché, it is not merely enough that justice be done but that it appear to be done. I share the view that Mr. Lewis has expressed, that some type of statutory base, which gives an appearance of total independence in the appeal, is desirable to bring confidence to appellants. This is why I introduced earlier in the session private bill C-63, to set up a completely separate appeals panel. I am not wedded to the views expressed in there but I have not heard anything from Mr. Cloutier or from any of the considerable number of other people with whom I have discussed the matter, which does not lead me to the conclusion that some separate appellate

jurisdiction is necessary to get away from the appearance of going back to the people who took the initial act.

Mr. LEWIS: Have you any idea, Mr. Cloutier, for example, how many public servants did not bother to appeal, because some of them have come to me saying, "What is the sense of my appealing; I am going back to the same people".

Mr. BELL (*Carleton*): That is a very important fact; I have heard that very often.

Mr. LEWIS: And it is a very natural result.

Mr. CLOUTIER: But he is not.

The JOINT CHAIRMAN (*Mr. Richard*): Order. It is 12.45 p.m. and we should set the time of our next meeting. Will it be four o'clock or eight o'clock tonight?

Mr. CHATTERTON: Mr. Chairman, I do not mind sitting while the house is sitting, but some of us are required to be in the House.

The JOINT CHAIRMAN (*Mr. Richard*): Is it agreed to sit at eight o'clock?

Some hon. MEMBERS: Agreed.

EVENING SITTING

The JOINT CHAIRMAN (*Mr. Richard*): Order. To begin with, to refresh our memories, I will ask Mr. Cloutier to explain again what he had in mind concerning appeal procedures.

Mr. CLOUTIER: Thank you very much, Mr. Chairman. I wonder if it might not be useful to the members of the Committee, before going on with the discussion on appeals where we left off this morning, if I were to explain, or outline very briefly, what it is all about in very practical terms, what procedures are involved, and what kinds of competitions give rise to appeals.

First of all, it should be borne in mind that the appeals happen out of closed competitions. Closed competitions are those competitions in which candidates may come only from within the public service. In other words, these are promotional competitions. There are two kinds of promotional competitions, one of which is a promotional competition limited to employees of the same department in which the vacancy exists, and by a large measure this is the most frequent type of competition. In 1965, for example, there were 9,353 of these competitions.

Perhaps one word on the manner in which these competitions are processed might be helpful again. These competitions are conducted under delegated authority from the Commission. That means that the selection boards, usually made up of three or more individuals, are made up of departmental officers. In other words, in no instance does an officer of the Civil Service Commission participate in, or is a member of, the promotional competition board.

Mr. BELL (*Carleton*): No officer?

Mr. CLOUTIER: No officer of the Commission. This is done under the terms of the present Civil Service Act, under "delegated authority" and, as I said, this represents about 95 per cent of the promotional competitions held.

The other five per cent are interdepartmental competitions; in other words, competitions in which officers or employees from more than one department may become candidates and these also are closed competitions inasmuch as only members of the public service are eligible. In 1965, these numbered 480, or something less than five per cent of the total.

Now, the point I am trying to make is that any appeals resulting from this 95 per cent of competitions are heard, as I indicated this morning, by officers of the Civil Service Commission. These officers not only did not have anything to do with the conduct of the original competition and the decision that led to the appointment or the proposed appointment which might now be under appeal, but they are officers of a different organization—not only a different organization —but officer employees of the independent commission whose sole *raison d'être* is the impartial administration of the merit principle.

Now, let us zero down a little more and look at the number of appeals that have taken place in the last year. If members are interested I have statistics here for the last three years. I think the last year is just as indicative as the last three. There were 9,353 departmental competitions in 1965, administered by departments, which gave rise to 770 appeals. That means that in 770 instances these appeals were heard by officers of the commission who—again I repeat for emphasis—were separate and distinct, both in terms of the individuals and in terms of the organization to which they belonged, from those who did conduct the appeal itself.

In 1965, there were 40 appeals arising from the 480 interdepartmental competitions which were held under the aegis of the Commission. This means that the selection board was composed of a commission officer chairman and, I would say that in about 99 per cent of the cases, two departmental officers, so that in proportions of 95 per cent to five per cent the Commission, when it does hear an appeal, is truly and in fact an independent party to the competition which gave rise to the appeal.

As I indicated this morning—and I am repeating this in order that we can all get into the same frame of mind which we were in this morning—the appeals heard by the Commission are heard by Commission officers. The boards are made up either of full time commission officers, or of full time and part time Commission offiecrs. In no instance in recent times have appeal boards been made up of other than Commission officers. This, I think, Mr. Chairman, completes the *mise en scène* that I had in mind.

(Translation)

Mr. ÉMARD: I am sorry but I fail to see the difference between those who grant promotions and those who hear appeals.

Mr. CLOUTIER: In the case of departmental competitions—that is in the competitions open only to employees of the department—95 per cent of these are directed by officers of the department. In other words the board does not include any representative from the Civil Service Commission. Consequently, when we have an appeal in respect of such a competition, this appeal is entertained by officers of the Civil Service Commission.

Mr. ÉMARD: That I understand.

Mr. CLOUTIER: That is an entirely different thing.

(*English*)

Mr. HYMMEN: Mr. Chairman, we have had a great deal of discussion about this matter, and Mr. Cloutier has given us quite a bit of information today. I believe Mr. Carson told us earlier exactly how the appeal arm of the Commission operated, and this is a matter, as I think has been pointed out before, of which very few civil service employees are aware. Now, in this clause you say, "the right of appeal to the Commission which is the hiring body", and yet there is no explanation in here regarding an appeal board. Now I know there are problems of an independent body in which case an independent commission might be subservient to that body, and I think this is an insurmountable problem but I was just wondering if some clarification here with reference to an appeal board and the composition of an appeal board would not help them solve the problem.

Mr. CLOUTIER: Well, sir, if I may be permitted to answer the two points that I think you have made. The first one, I think you said that the civil servants generally are not aware of these appeal rights. Maybe this is so, but let me put it this way. Every civil servant who chooses to become a candidate in a closed promotional competition, whether it be departmental or interdepartmental, when the results of this competition are known he is informed by individual letter of the results of that competition. If he is the successful candidate, he is informed that he is the successful candidate but he is also informed that the provisions of appeals extend to such a date and therefore his appointment cannot be confirmed until it is established whether there is an appeal lodged or not.

Every unsuccessful candidate, therefore every individual who is concerned with the competition, is also informed by individual letter of the results of his participation in the competition. He is also informed of his rights under the act. In other words, he is told that if he wishes to appeal he may do so at such a place within such a time.

Now the other point that you have mentioned I think is an extension or a conclusion of the discussion that the members of the Committee had this morning. After this morning's session my colleagues and I held a post mortem and examined the discussion and so on and so forth.

Mr. BELL (*Carleton*): It was a lively one, though.

Mr. CLOUTIER: This is probably—

Mr. BELL (*Carleton*): Postgraduate?

Mr. CLOUTIER: No, this probably an "officialese" term. We feel that the point that was made by a number of members this morning and that perhaps was expressed in a most crystal clear manner by Mr. Lewis is one that might commend itself. This is one, incidentally, I would hope to have the opportunity of discussing with the law officers of Justice to see in which way it might be incorporated in the legislation. It is one that would put an obligation on the commission to constitute appeal boards, to conduct the inquiries that are provided for in the various clauses, that is 6, 21, and 31 I believe, that deal with appeals in the bill, and also might specify that the appeal board would not only conduct these inquiries but they would make a report and recommendations to the Commission thereon.

I feel that, if I absorbed the sense of the discussion this morning, this would meet the suggestions made by the members of the Committee.

Mr. BELL (*Carleton*): Mr. Chairman, I think we could very easily spend the rest of the evening on this rather controversial clause. I think it is perhaps the most controversial of the bill, and I personally am prepared to go along with what Mr. Cloutier has suggested, that perhaps we might stand it and that the law officers would come up with some suggestions.

I would like to have the opportunity if I may take a moment, to just present the amendment which I had proposed to move to this clause so that it will be a matter of record and perhaps may be of some assistance to the law officers as they consider the matter. This is the amendment which I had drafted some time ago which conforms with Bill No. C-63 which I had introduced earlier.

The amendment would be that clause 21 be amended by renumbering the existing clause as subclause 1 and by striking out therein all the words after the word "commission" where such word appears the second time in line 24, and substituting therefor "may (c) allow the appeal or (d) refer the appeal to a board consisting of not fewer than three members nominated by the Commission from members of the appeal panel hereinafter provided for", and that clause 21 be further amended by adding the following subclauses.

(2) the Governor in Council shall establish and appoint an appeal panel of not fewer than 12 and not more than 24 persons who are qualified to act as members of the appeal boards;

(3) vacancies in the appeal panel shall be filled from time to time as they occur;

(4) persons appointed to the appeal panel shall not be present members of the public service or associated in any way therewith but shall be appointed on the basis of knowledge of personnel management, impartiality or judicial aptitude;

(5) if an appellant objects to any member of the board nominated by the Commission to hear the appeal he may apply on summary application to the President of the Exchequer Court of Canada for an order removing such person from the board, and substituting for him any other person of the appeal panel chosen by the President of the Exchequer Court of Canada, and the decision of the said President shall be final and binding upon all parties;

(6) The Board, after conducting an inquiry or hearing at which the person appealing and the deputy head concerned shall be given full opportunity of being heard either in person or through any representative shall:

(a) if the appointment has been made confirm such appointment or refer the matter back to the commission for further consideration or;

(b) if the appointment has not been made approve the making of such appointment by the Commission or refer the matter back to the Commission for further consideration;

(7) In any case where a board refers the matter back to the Commission for further consideration the Commisison shall proceed *de novo* to hold a new competition and the result thereof shall be subject to appeal in the manner hereinbefore provided.

Mr. Chairman, this a view that I have held for some time that is expressed in this. I certainly do not want to advance it tonight in argument. My view is

that we have had all points of view expressed here today, and I would like to suggest that we could make a lot of progress in relation to the other clauses of the bill if we were to say that this is one of the most controversial and perhaps have the law officers consider these various matters. I would propose, if there was something that was advanced that was not satisfactory to move an amendment in this form.

The JOINT CHAIRMAN (*Mr. Richard*): Thank you, Mr. Bell, I quite agree that your amendment would be very useful and that we should give the parties concerned an opportunity to study it. I was thinking that some of the other members may want to express some opinion for some time this evening.

Mr. KNOWLES: Sir, if that is the case I have certainly no objection. but I thought there was a disposition to let it stand in view of what Mr. Cloutier has said. All I wanted to say was that I would undertake to get a copy of Mr. Lewis' proposed amendment, not necessarily for putting it on the record at this moment, but for giving it to Mr. Cloutier so that he will have it and Mr. Bell's draft and his own ideas for discussion with the law officers. I think I see a vein running through the three of them, and that we are making headway as a result of this discussion. Mr. Lewis said this morning that he was not wedded to his particular wording but I think we have made headway. Furthermore, we could let it stand.

The JOINT CHAIRMAN (*Mr. Richard*): I think that the members of the Committee would also agree that if any other members have a suggestion to make as to any such amendment they could let the Chairman or the secretary of the Committee have it so that it might be transmitted to the witness in time for the next meeting.

Mr. KNOWLES: The thing we all seem to be trying to get to is an appeal machinery that has the genuine appearance of independence, not just in the eyes of the Commission but in the eyes of the employees.

Mr. WALKER: Mr. Chairman, I am quite in agreement with the procedure suggested. I think it should be stood even before the moving of Mr. Bell's amendment. I did not get the opportunity this morning to express some views in the general discussion.

I wonder if I could just say this, and I am not speaking to your proposed amendment Mr. Bell; it was prior to that. This is rather basic to the discussion that took place. It is simply this, and I am speaking personally, if I cannot believe in the independence of the new public service commission then this whole legislation becomes meaningless because in my view, and this ties in with other views that have been put forward, the public service commission are the custodians, if you will, of the merit principle. I do not think there has been much difference of opinion on the advisability of having the commission as a custodian of the merit principle. I do not see much difference of opinion about the merit principle as opposed to the principle of seniority.

Along this same line, whatever appeal board is set up, I would want to be very sure in the first place that that appeal board was acquainted with the merit principle. I would not want the handling of appeals to be given to a board that had almost binding authority over the public service commission. I would not want the decision to be in the hands of a board that was completely unaware of the purpose of the independent commission, and that purpose being to preserve the integrity of the merit principle in the public service.

Again, and my own view is that an outside board would be much less acquainted with the merit philosophy that certainly runs right through the public service commission. I think, Mr. Chairman, this presents the public service commission really with a public relations job and if some sort of an amendment can be worked out I believe it would be acceptable to the public servants, if they could really see it spelled out, almost a declaration of independence, which I believe is a fact right now, but a declaration of independence on the part of the public service commission.

This is the problem that faces Mr. Cloutier and his associates, as Mr. Bell said earlier, to show not that justice is being done in fact at present but that justice appears to be done. I believe this is happening now, but I believe, in whatever wording you may come up with, that it may be necessary to spell out this declaration of independence by some means or other. I believe it is more a public relations job rather than a job of actual fact. Believe me, I can testify to the independence of the Civil Service Commission, but I think that the spelling out of this would reassure the employees that this is the way the Commission feels about their role. I do not suppose I have made myself clear at all but that is the way I feel.

Mr. BELL (*Carleton*): I think you have made it clear that there is not really a great deal of difference between any of us at all. We want to get the full appearance and fact of impartiality.

Mr. WALKER: I believe in facts.

Mr. BELL (*Carleton*): And if you can achieve that I am sure we will not have any problems.

Mr. KNOWLES: We have the facts but we want the appearance.

An hon. MEMBER: This is the point I would make.

(*Translation*)

Senator DESCHATELETS: Just for information, Mr. Cloutier. You said there were 770 appeals last year from decisions of the Commission?

Mr. CLOUTIER: Not from the decisions of the Commission. The 770 appeals to which I referred were appeals in respect to 9,353 departmental competitions, that is competitions which were administered by officers of the departments.

Senator DESCHATELETS: Out of these 770 appeals, how many candidates obtained satisfaction?

Mr. CLOUTIER: I can provide that information—

Senator DESCHATELETS: I would like an approximate figure.

Mr. CLOUTIER: I think I can give you an exact figure rather than a percentage. I am sorry, I think I have subtracted here and subtractions are a little difficult—the figure for 1965 is 151.

Senator DESCHATELETS: 151?

Mr. CLOUTIER: Yes, in 151 cases the appellant was upheld. In 181 cases, the appellant withdrew his appeal and in the other cases the employee was not upheld.

Mr. ÉMARD: I would have a comment to make on that. What frightens me a little now is that human nature being what it is it might be a good thing for the

appeal courts, to feel that their decisions can be appealed. We have often noticed—and I am referring to one province in particular which I know better than the others—that when decisions are taken without any appeal, the members have a tendency to acquire a rather dictatorial attitude. You can always appeal at the present time from a lower court to a higher court from those decisions. I believe that should be taken into consideration.

The members apparently have to be appointed for seven or ten years.

Mr. CLOUTIER: Ten years.

Mr. ÉMARD: Well, after ten years there might be an improvement, or the reverse might be true, they might work properly at the beginning, but after a while they might feel so convinced of their rights, that they will proceed along dictatorial lines, as I said.

(English)

The JOINT CHAIRMAN (*Mr. Richard*): Shall the clause stand?

Mr. WALKER: Yes, stand.

Clause stands.

The JOINT CHAIRMAN (*Mr. Richard*): Is clause 22 carried on?

Clause 22—*Effective date of appointment.*

Mr. BELL (*Carleton*): Before the clause carries, Mr. Cloutier, would you mind indicating why this clause is necessary at all. It would seem to me that it was self-evident and it bothers me in the *non obstante* clause at the beginning. Perhaps I am putting my legal cap on now, but the moment I see a clause "notwithstanding any other act" I am struck with terror and realize that I have got to go through every act that has ever been passed by the parliament of Canada in order to know what is meant by this clause. Surely we could avoid putting poor lawyers, let alone ordinary citizens, through a situation where they have to know what is meant by "notwithstanding any other act".

Mr. CLOUTIER: Of course, I think that to have a thoroughly satisfactory answer you would have to ask this of the law officers. This, of course, is a standard legal term.

Mr. BELL (*Carleton*): Oh, oh.

Mr. CLOUTIER: The only explanation that I can give you of the reason why this section is there is to guarantee certain rights that individual public servants acquire by the very fact that they are public servants.

For instance, long service leave takes effect on the basis of the length of service and there has to be a legal determination of when that service began. Indeed, the substance of this section as it now appears in the regulations made under the authority of the Civil Service Act and the reason why it appears in the regulations is precisely that it is required for the administration of certain benefits of public servants. In short, it is to allow retroactivity of benefits.

Mr. BELL (*Carleton*): With great respect, Mr. Cloutier, you do not convince me in relation to that. If it has been in the regulations before, I think you had better see whether you have power in the regulations to do it again. You put a

clause in here "notwithstanding any other act". I would have thought this was entirely obvious. I am afraid, on the basis of your explanation, I have to vote against this clause.

Senator DESCHATELETS: This would be reviewed again by the law officers.

Mr. WALKER: I think: Mr. Chairman, they must have had a pretty good look at this. I think it was for the protection apparently of the public servants that it is in this act. Are you fearful, Mr. Bell, that some other act that has an almost identical clause would wipe out this one?

Mr. BELL (*Carleton*): Well, we have been getting along since 1918 without this in the act and we suddenly come up and decide to put it in the act and we put in a *non obstante* clause which I think is the most objectionable type of legislation. You say "notwithstanding any other act," how can any civil servant or any person know what that means. You have to review everything that has been legislated since confederation in order to understand that clause.

Mr. WALKER: I presume, Mr. Chairman, it is because he has been hired under this act and this is the overriding act in the interest of the employees.

Mr. FAIRWEATHER: If it is the overriding act then, of course, there is no need for the four words.

Mr. CHATWOOD: Mr. Chairman, I think probably there might be another act that said certain rights become affective after their probation period or something like this. We do have certain cases of probation period where they are on trial. Since this says "notwithstanding any other act" they would hardly have to search through the other acts to refer to them.

Mr. WALKER: Mr. Chairman, I do not know the explanation for this, but would Mr. Bell's point be met if the words "notwithstanding any other act" were left out. I do not know whether this is allowable or not. I do not know if it is just a catch-all phrase in case of some act that nobody knows anything about that may be brought up later.

Mr. CLOUTIER: As a poor layman, if I look at the present Civil Service Act which allows under Section 68 the Governor in Council, on the recommendation of the commission, to make regulations and so on, and so forth, if I look at subsection (1) it says "prescribing the effective date of an appointment". This is the thing that was attempted to preserve in this area.

Mr. BELL (*Carleton*): That is precisely my point. Under the regulations which were made in that, it could not be, "notwithstanding any other act". It had to be in conformity with and pursuant to the authority of this act.

Mr. CLOUTIER: This is why I say as a layman I would agree with you. Could I check this point with the law officers of the Department of Justice and see whether these words are really essential?

Mr. WALKER: The first four words.

Mr. CLOUTIER: Yes.

Mr. BELL (*Carleton*): I would be satisfied.

The JOINT CHAIRMAN (*Mr. Richard*): Stand clause 22? Agreed?

Clause 22 stands.

Clause 23—*Oath of office and allegiance.*

Mr. BELL (*Carleton*): Mr. Chairman, may I ask on clause 23 what the present arrangements are to have the taking of the oath by civil servants under reasonably dignified circumstances?

Mr. CLOUTIER: These oaths are usually taken, where the appointment is to an office where there is a personnel officer, before the chief personnel officer of the region. Where the appointment is not in such a city it is usually taken before the senior officer of the office.

Mr. BELL (*Carleton*): What is done now in Ottawa. At one time it was all done before the Clerk of the Privy Council?

Mr. CLOUTIER: Or an officer of the Clerk. It is now done in Ottawa, I believe, before a senior officer of the personnel division of the department.

Mr. BELL (*Carleton*): Is an attempt made to see that the taking of the oath is in such circumstances of dignity that the person appreciates the advantage of it?

Mr. CLOUTIER: From my experience, every effort is made to achieve this.

Mr. BELL (*Carleton*): Perhaps, Mr. Chairman, I can deflect. I have very deliberate reasons for saying this. I have only taken this oath once and it was 32 years ago as a civil servant. I went before the then Clerk of the Privy Council who had been private secretary to Sir Wilfrid Laurier and I expected it to be an event of some importance. That very distinguished gentleman did not even bother to look up from his desk and he dismissed this young man in such a way that it has been seared into my soul ever since. I just want to say tonight that I have the most vivid recollection of the rudeness with which I was treated on the only occasion that I took a civil service oath, and I hope that perhaps by mentioning it 32 years later I may do a service by indicating that whoever takes the oath for young people will take it in such a way that they will understand they are doing something that is very useful.

Clause agreed to.

Clauses 24 and 25 agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 26—*Resignation.*

Mr. BELL (*Carleton*): Mr. Cloutier was going to say something on clause 26.

Mr. CLOUTIER: The Public Service Alliance requested a little more precision in this clause to specify that a deputy head must accept a resignation of an employee and that the acceptance must be in writing. Here again, if I may be allowed, I would like to suggest at a later date an amendment to accomplish this.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 26 stands? Agreed?

Some hon. MEMBERS: Agreed.

Clause 26 stands.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 27—*Abandonment.*

Mr. CLOUTIER: Here again, the alliance argued that there were no provisions for special circumstances in case of abandonment. I think it cited in its brief or in discussion the case of a civil servant who had an

accident during leave and was unconscious for several weeks in such circumstances that the deputy head, was not appraised of the fact that the employee was away for reasons beyond his control. It was requested that such circumstances be provided for in the act so that when the individual does recover his faculties he can be reintegrated in his department. My colleagues and I believe that the proposal makes eminent sense and once more, with your permission, I would be pleased to bring along an amendment that would accomplish this?

The JOINT CHAIRMAN (*Mr. Richard*): Is it agreed to stand clause 27?

Clause 27 stands.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 28—*Probationary period.*

(*Translation*)

Mr. ÉMARD: Could you tell if any time limit is specified here in the first paragraph of this clause?

Mr. CLOUTIER: At this time, Mr. Émard, we speak of a period of one year. The Civil Service Act, in its present form, does not apply to prevailing rates employees. We have every reason to believe that the period of one year is too long to determine if a carpenter, a plumber, any tradesman, is really master of his trade. Why then should we extend that rating period over a whole year? On the other hand, there are other categories of employees for whom a period of one year might not be adequate. As I attempted to indicate to the members of the Committee last Tuesday, when we were speaking of the classification system, the proposed system of classification would make it possible for us to direct our attention to various groups of employees, in order that they all be dealt with according to the peculiarities of their trade or occupation. This is another instance of that. To begin with, we will proceed by regulation. The period will be one year, as we state here, but as we refine our personnel management methods, in respect of such and such a category of employees we have every intention of adapting these methods to the peculiarities of each category.

Mr. ÉMARD: Will this period be subject to collective agreements or do you intend putting it under job classification?

Mr. CLOUTIER: This is not a matter for job classification. If this subject matter comes under this present act, it will not be dealt with by collective agreement.

This being said, I would add immediately that the Commission, by establishing these directives over the years has been consulting staff associations to an ever increasing degree before establishing a new policy it has attempted to obtain the views of the employees representatives.

Mr. ÉMARD: I am not entirely reassured. You seem to intend restricting collective agreements. I know full well that the probation period in industry is a matter for negotiation. I think that employees should enjoy the same opportunity in this instance, they should be able to negotiate this probationary period. I undersand, of course, that in the case of the prevailing rate employees, the probationary period may be limited to three or six months. However, when we are dealing with scientists or with other classes, it might take a year or more

before the final determination is made. Instead of including this under job classification, or under any other such other heading, it should be a matter for collective bargaining.

Mr. CLOUTIER: This is a fundamental principle of the merit system: this is the very reason why we have an independent commission. If it is true that the merit system within the public service is valid and if it is true also that we should have an independent commission to administer this merit system, we should provide that commission with the responsibilities which flow from that.

The principle of merit includes the appointment and any judgment relating to the competence of the employee, since the probationary period of an employee is established in order that his mastery of his occupation may be determined. This, of necessity, comes within the merit system.

Mr. ÉMARD: I think you will find negotiations difficult!

(*English*)

The JOINT CHAIRMAN (*Mr. Richard*): Clause 28.

Mr. WALKER: May I ask one question? I certainly agree with the authority being with the commission to name the probation period. Would it destroy the principle to have an outside limit to this probation period?

Mr. CLOUTIER: You mean a maximum limit?

Mr. WALKER: In other words, how long does it take to assess?

Mr. CLOUTIER: I cannot tell you. At this point I do not think our techniques—and I do not mean only of the Civil Service; I am speaking of the techniques of personnel administration generally—are so refined that we could tell you with assurance that a prospective research scientist, for instance, can be determined, beyond reasonable doubt, to be a fully competent research scientist in a year, a year and a half, or two years; I have no idea. We are just entering into this whole realm of refinement, and indeed the purpose of this section is to permit the flexibility which is required in the—

Mr. WALKER: May I ask just one more question? Does a probationary employee enjoy all the benefits of confirmed employees?

Mr. CLOUTIER: Yes, sir.

Mr. CHATTERTON: Mr. Chairman, I can understand why we cannot always say what a probationary period should be, but why could you not say that in all cases it shall be at least six months.

Mr. CLOUTIER: Because in certain instances six months might be too long. I used a few examples of skilled trades where, indeed, three months might be sufficient. We want to be flexible, to be able to react to the requirements of the various occupations.

Mr. CHATTERTON: I understand from subsection (3) that the deputy head may at any time give notice to the employee during this probationary period. This is in effect an automatic delegated authority to the deputy head. What is the purpose behind this automatic delegation?

Mr. CLOUTIER: This is a continuation of the terms of the present act.

Mr. CHATTERTON: I know; but apart from that.

Mr. CLOUTIER: The deputy head, because the individual works in the department, is in the best position to determine whether the individual is carrying out the duties in the manner that is expected of him.

If I may be permitted, Mr. Chatterton, I should interject here that the Public Service Alliance drew to our attention and to that of the committee, for that matter, the fact the present act requires the deputy head to detail his reasons for the decision to reject an employee on probation, and we certainly agree that this should be re-introduced in the bill, and this is another of the amendments that I would like to have leave to bring to you at a later time.

Mr. CHATTERTON: That was going to be my next question, but, having answered that, there is no power of review by the commission to that decision of the deputy head, is there?

Mr. CLOUTIER: This is a new feature of this section. There is an obligation placed on the commission to place the individual in another position, presumably in another environment. If an employer has come to the decision that a given employee is not suited to his particular department there is really little point in forcing this marriage, so to speak. This bill would place an obligation—and again this is a new feature—on the commission to attempt to place the individual in another department.

Mr. CHATTERTON: There is no right of review by the commission of that decision of the deputy head?

Mr. CLOUTIER: No, sir. There is no right of review because this is not a practice which exists anywhere in the private sector or in any public service that we know of. A probation is a probation.

Mr. CHATTERTON: That brings me to the next point. There is an obligation on the part of the commission to appoint the employee to another position, but the commission does not have to. The commission may appoint to another position. It is not obligated to appoint him to another position. Is that not right? I looking at subsection (3).

Mr. CLOUTIER: But if you read the end of subclause (3) conjointly with subclause (4), and if you read this in relation to the present act I think it conveys a definite obligation on the Commission.

Mr. CHATTERTON: But what happens if the Commission does not—

Mr. CLOUTIER: If we cannot place an individual?

Mr. CHATTERTON: Yes.

Mr. CLOUTIER: Then the individual is out of a job. It is as clear as that, and we should not mistake that.

(*Translation*)

Mr. ÉMARD: There is something very different here. You have stated that this does not exist in industry generally, but there is something in industry which does not exist here. If an employee is transferred in industry and cannot perform in his new job, there is something else which comes into account. I have reference here to seniority. He can always use his seniority rights and he will not be discharged. In an initial probabtion period, of course, I understand your point of view. If you are not suited to the job, you will be fired after six months. But if

we are dealing here with an employee who has acquired seniority within an industry, he can always use his seniority to bump another employee and be transferred back to his old position if he does not suit the new position into which he has been put.

Mr. CLOUTIER: I believe that sub-paragraph 2 of clause 28 answers your question. We allow the deputy head to eliminate the probabion period when we are dealing with a transfer within the service.

Mr. ÉMARD: But I do not think you have got my point. You have just answered that an employee who had come from a position after being successful in a competition and who has been transferred to another position, presumably in a higher classification, may possibly be placed. If you cannot place him however, he will be discharged. I do not know whether I have understood you clearly, but this appears to me to mean that if a fellow has been twenty-five years in a position and tries to move to a higher position to which he finds he is not suited, he might very well be discharged. What happens is that in industry at the present time, in cases such as this, the employee can use his seniority rights. Yet this is something of which you take no account here. In private industry, he can use his seniority rights to obtain his original position.

Mr. CLOUTIER: Here again, sub-paragraph 2 is designed to obviate that difficulty. In the case of a transfer within a department, it is possible for the deputy head to reduce or eliminate this probation period. In practice, what will happen is this. When promotions occur within the department, it may happen that the individual accepts the transfer or the promotion. However, the agreement is that on occasion, the deputy head may insist that a probation period be maintained. The employee who accepts the transfer accepts it on that condition. It should be clearly understood that this probationary period is designed to test the performance of the employee. That is something which cannot properly be tested by the examination of a file or by carrying out an interview, or by submitting the employee to an examination. The probationary period is the normal extension of the selection process. It is absolutely essential for the word "may" to continue to appear in sub-paragraph 4 because the reasons for which the employee is rejected could be reasons which are such as to disqualify him from any other employment.

Mr. ÉMARD: Mr. Chairman, I cannot help but notice that when employees want to retain their rights, they use all kinds of airtight formulae. For example, "notwithstanding any other act". However, when we are dealing with the rights of the employees, we leave "and may", we say management "may do this or do that". Why do we not give real rights to the employees? Why should we not consider that the employee be dealt with exactly along the same lines as the employer? Collective agreements are a two-way street. It will be very difficult to have the government accept that in a negotiation the employee is equal to the employer. He is equal at no other time. When he goes back to the factory, he certainly is not equal anymore.

Mr. CLOUTIER: When we are dealing with Bill C-181, we are speaking of the administration of the merit principle. The distinction is the following. In the private sector, the merit principle does not exist in the same way as it exists within the Public Service. This being the case, if it were assumed that the merit principle is not indispensable in the Public Service, I would share your view. I

would even go further. I would say that the Commission has no reason to exist. I would even go so far as to add that the whole matter of personnel administration should come under one office. Collective bargaining is another matter entirely. In so far as it is desirable to maintain the merit system—and that principle has been enshrined over the last fifty years—in so far, then, as it is felt desirable to maintain that system, we are led to the inevitable conclusion that the system of collective agreements which will be introduced in the Public Service will differ from that of the private sector.

Mr. ÉMARD: I entirely share your approval of the merit system. In fact, I already have made attempts to introduce it in certain collective agreements myself. However, there are always a few little difficulties which provide the employer with a somewhat superior bargaining position. I feel that when you will be called upon to bargain, you will use all kinds of little advantages of which no thought has been taken.

Mr. CLOUTIER: The Public Service Commission will never have to negotiate.

Mr. ÉMARD: We are negotiating at the present time, are we not?

(*English*)

Mr. CHATWOOD: I want to ask about an employee who is on probation having the same rights as any other employee. Perhaps I misunderstood you. He does not have the right to continuity of employment, does he?

Mr. CLOUTIER: No.

Mr. CHATWOOD: I am wondering if this is what we really want. When a man is offered a promotion he has to give up his right to continuity of employment.

Mr. CLOUTIER: He has not the right to that promotion.

Mr. CHATWOOD: No; but if we consider people who have a considerable amount of seniority, not the younger group who have perhaps 5 or 10 years of service and who want to go ahead—a man who has 15 years or so of seniority and is suitable for advancement is perhaps a little cautious. He would be a good man for the job, but he will not take it, because he is gambling 15 years, and at his age he would find it a little more difficult to find another job.

Mr. CLOUTIER: In principle I think that this line of argument can be developed at some length, but it is significant that this is not a problem in the public service. Where an individual is given a promotion, if he does not pan out, then every effort is made to bring him up to par. After all, the public service has to be an efficient institution; it cannot carry free-loaders. At that point a concerted effort is made to find a set of responsibilities that the man can carry efficiently and equitably.

Mr. KNOWLES: Mr. Chairman, everybody is making sense, but I still do not think that Mr. Cloutier has met Mr. Émard's point—and Mr. Chatwood has come in on it as well—with respect to the severity of the treatment that you give the employee who has been in the service for 15 years and has done an acceptable job, but cannot measure up to the requirements of a higher position. I quite accept this principle as it applies to a new employee, namely, that the probation period is part of his examination. If he does not pan out, he goes.

As I understand it, a promotion is an appointment subject to the same rules. But here you have the case of a man who has been 15 years in the service, and at two or three lower levels he has panned out. He gets a promotion, and he is on probation, but if the deputy head feels that he does not measure up to the requirements of that higher position, the penalty is that he is out in the cold completely. It seems to me that—

Mr. CLOUTIER: Not in practice, though, Mr. Knowles. In practice I do not know of any case—and I would be very much surprised if anyone in this room knew of any case—where a long-service employee was dismissed as the result of a probation period.

Mr. KNOWLES: I am sure that there are none, because I would have heard from them if there had been. Then why have it in the act? Why I join Mr. Émard in this, is that we make a provision in the case of a promoted employee different from that of the new employee. If the new employee cannot measure up to that job, he goes where he was before, which is on the outside. But surely the promoted employee who cannot measure up should only go where he was before, which is back to a lower level.

Mr. CLOUTIER: In practice we cannot guarantee him his old job because that might have been filled in the interval. In practice he is found another job at the same level.

Mr. KNOWLES: Which level?

Mr. CLOUTIER: At the level that he was at before the promotion. But if, by legislation, we were obligated to give him his old job—well, we could not do that. On many occasions it might mean that we would have to "bump off" another public servant who would have acquired that job through normal means. Therefore, in essence, what happens is that the individual is fitted into a job which he can carry.

Mr. KNOWLES: Mr. Cloutier, you build up quite a case of what would happen if this were the law, and yet you say that in practice it has not happened. Have you had to free-load some of these people because—

Mr. CLOUTIER: What I say has not happened is that individuals have not been thrown out.

Mr. KNOWLES: What have you done with them?

Mr. CLOUTIER: We have placed them in the same department, or in another department, at their previous level.

Mr. KNOWLES: You did not have to free-load them for a while because there was no place for them?

Mr. CLOUTIER: No.

Mr. BELL (*Carleton*): Do not assert that too positively.

Mr. CLOUTIER: I will not say that perhaps they are necessarily fulfilling their second job as well as they might; I will not say that; but at least they are occupying the same level that they had before.

Mr. WALKER: Mr. Chairman, Mr. Cloutier used a phrase that would be the solution to the whole problem. He used the phrase "bump off". I suggest that it should be "bump".

(*Translation*)

Mr. ÉMARD: If Mr. Cloutier accepts that decision in principle, why does he not accept it in principle under the legislation? Does he not want to put it in the legislation?

Mr. CLOUTIER: It is not a matter of not wanting it in the legislation. The point is that we were dealing with an existing piece of legislation. We intended to adapt ourselves to new needs. We felt it was necessary to introduce some changes in respect of some problems with which we have been faced in the past. The question we are discussing now has never been a problem. According to the provisions of the present act, it should not be a problem either, so that is why there is no change. However, as I said a moment ago, if we made it mandatory under the act to restore to the employee his former position, this would make for considerable difficulties. The matter could, on occasion, be solved by the individual accepting a double demotion. In fact, I remind myself of one such similar case, last spring. In that instance, the individual accepted a double demotion. This man was an Engineer 7. He was told that he could not be retained at that level, that there was no vacant position at the level Engineer 6. There was no obligation under the present Act, but we, in the Commission, looked at all the departments who employed engineers to find if there was a vacancy at the 6 level, which could accommodate our friend. We found that there was no such vacancy. The individual accepted of his own free will this vacancy at the 5 level. In legislation which deals with human matters, it is, I think, a very good thing to provide for a certain amount of flexibility.

(*English*)

Mr. KNOWLES: Mr. Chairman, what would be wrong with changing the "may" to "shall" in subclause 4? Suppose we accept what you have done in subclause 3, but merely be required to put such a bumped-out employee on an eligible list commensurate with the qualifications that he had before, so that the worst that would happen would be that he would have to wait until there was a job at that level?

As it now reads—although you said earlier there was an obligation on the commission—it is only permissive that the commission may put him on an eligible list, and he might get a job if one turns up. What would be wrong with changing the "may" to "shall"?

Mr. CLOUTIER: The only objection I can think of—and I think it may be valid—would be if the reasons for which the individual was being laid off were such that they would render him unfit for any employment.

Mr. KNOWLES: Mr. Chairman, somebody has made an awful mistake if a man who was a grade six is promoted on the commission's recommendation to a grade seven, and then it turns out that he is no good at all. What was he doing at grade six?

Mr. CLOUTIER: Well, things happen to individuals. There is the phenomenon of "senilescence" which was brought to the attention of this Committee at an earlier stage by the chairman of the commission.

Mr. KNOWLES: Those people should be warned to stay where they are.

Mr. CLOUTIER: The answer to your question, though, Mr. Knowles, is that subclause 4 does not only deal with the oldtimer, it also deals with the new fellow.

Mr. KNOWLES: I recognize that; but that brings us right back to the point that some of us have been making, and that is, should there not be a difference in the treatment of the brand new employee on his first probation and the person who has a promotion? You are telling me that in practice there is a difference.

Mr. CLOUTIER: I think I have stated that in practice there is a difference and this is, I think, the third instance to date where the feeling of the Committee is that there should be some recognition in the statute of that practice. Would you leave it with me?

Mr. KNOWLES: Yes; and you will do your best to get the appearance to conform to the facts.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 28 stands.

Mr. CHATTERTON: It may not be as benevolent.

Mr. KNOWLES: But we have had predecessors and we can only follow in their footsteps.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 29.

Mr. CLOUTIER: Excuse me; this is clause 28 I have to worry about, is it?

Mr. WALKER: No it is 29.

You had an amendment, Mr. Cloutier.

Mr. CLOUTIER: Yes. I think the best way to introduce the amendment would be to add it.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 29 carry?

(*Translation*)

Senator DESCHATELETS: Just a point of information. Does it often happen that the services of an employee are no longer required under this clause? Did this happen often last year?

Mr. CLOUTIER: Last year, out of an employee population of more that 150,000 employees—that is those who came under the Civil Service Act—there were 348 dismissals.

Senator DESCHATELETS: But do these discharged employees have rights?

Mr. CLOUTIER: Yes, indeed. Their rights are set out in the other sub-paragraphs.

(*English*)

Clauses 29 and 30 agreed to.

(*Translation*)

Mr. ÉMARD: I have not read this clause. Do you take any account here of maternity leave?

Mr. CLOUTIER: All these matters are matters for negotiation. All types of leave will be negotiated. No leave is granted by the Civil Service Commission under this. All we say here is that if, for one reason or another, an individual has been granted some leave, and if during this leave another employee has been

asked to fill his position, the original employee is being assured here of some priority; in some cases, the same priority as is extended to the second, or replacement, employee.

Mr. ÉMARD: Is maternity leave a matter for negotiation?

Mr. CLOUTIER: Yes. It already exists, as a matter of fact.

Mr. ÉMARD: But I am not aware of that.

(English)

Mr. BELL *(Carleton)*: I am not sure that I understood whether or not maternity was a matter for collective bargaining here.

Mr. CLOUTIER: No, no it is the leave part of it. In any event the commission would not be bargaining.

Mr. KNOWLES: With regard to the amendment we passed this morning there is no discrimination. It is granted to both sexes.

Mr. CHATTERTON: May I remind members that the amendment moved this morning was with regard to sex and not just sexual activities.

The JOINT CHAIRMAN *(Mr. Richard)*: Clause 31—*recommendation to commission.*

Mr. CLOUTIER: Here, Mr. Chairman, again in response to a suggestion made by the Public Service Alliance, we would propose, with your leave, an amendment introducing the words "or their representatives."

The JOINT CHAIRMAN *(Mr. Richard)*: Shall clause 31 stand?

Agreed.

Clause 32—*Partisan work prohibited.*

Shall clause 32 stand?

Agreed.

Clause 33—*Regulations by commission.*

Mr. BELL *(Carleton)*: I am concerned, Mr. Chairman, on clause 33 and clause 34, by the fact that it is now spelled out in the most general terms. The old act gave the power of regulation, and it spelled out precisely the things upon which regulations might be made.

Mr. CLOUTIER: It is very interesting to note that in the old act the things that were specified in so much detail are now largely things which will fall within the collective bargaining field.

Mr. BELL *(Carleton)*: Then why is this section necessary at all?

Mr. CLOUTIER: Because the old act had, if I can put my finger on it, a—

Mr. BELL *(Carleton)*: My concern is that here is an unlimited power, in effect, to make regulations, and as a matter of general principle I take exception to such an unlimited power.

Mr. CLOUTIER: Well, the reasoning is this, Mr. Bell, that in the old act it made sense to impose a detailed listing, which was not all-inclusive, incidentally, by the preamble, I think to section 68, to detail these things because they were conditions of employment. Therefore it made sense to place the responsibility for

the regulation-making authority on the governor in council. But to the extent again, that the commission is an independent body and that it is administering the merit principle, then it should follow that it should have the freedom and independence to prescribe the methods and procedures for fulfiling its responsibilities.

There is a similar authority given under other legislation, an example of which is Bill No. C-170.

Mr. BELL (*Carleton*): I regret to say that you are entirely right in that.

The JOINT CHAIRMAN (*Mr. Richard*): Shall clause 33 carry?

Mr. BELL (*Carleton*): On division.

Clause agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 34—*regulations by governor in council.*

(*Translation*)

Mr. ÉMARD: On clause 33, I would have something to say, as subject to this Act it says "the Commission may make such regulations as it considers necessary to carry out and give effect to the provisions of this Act." Now, this present Act provides for all kinds of provisions which should properly be made the subject for collective bargaining. If the Commission were to decide to make rules and regulations which deal with leave and so on—

Mr. CLOUTIER: But the present Act does not deal with leave or anything like that.

Mr. ÉMARD: But what about clause 30, or clause 29?

Mr. CLOUTIER: Clause 29 comes under the Commission. But the authority for leave does not come under the Commission.

Mr. ÉMARD: Oh, I understand that. You said that that should be negotiated on an individual basis. But if you were to make rules and regulations which would be such as to limit the rights for collective bargaining, that, I think, would be a source of worry. I share Mr. Bell's view on that.

Mr. CLOUTIER: I am looking at paragraph 70 of Bill C-170.

What is interesting here is the first part. In other words, Bill C-170 clearly indicates that all aspects of the administration of the merit principle will not be made subject to arbitral award.

Mr. ÉMARD: Of course, if the bill is not amended, but if we did have an amendment?

Mr. CLOUTIER: That is the reason for which these three bills have been brought in together. That is why the three bills have been referred to the same committee. The reason is that we realize that these three bills have a very, very close relationship indeed. We realize that any change to one must be examined in the light of changes made to another.

(*English*)

The JOINT CHAIRMAN (*Mr. Richard*): Clause 33 agreed to.

Clause 34—*Regulations by Governor in Council.*

Mr. KNOWLES: Mr. Chairman, on clause 34, for obvious reasons I would ask that (1) (c) stand until we have dealt with clause 32, the one on political partisanship. We may not need it.

Clause 34, paragraph (1) (a) and (b) agreed to.

Clause 34, paragraph (c) stands.

Mr. KNOWLES: Is subsection (2) a standard provision? It is pretty wide; under this act you can set aside other acts.

Mr. CLOUTIER: This is the provision to bring into the realm of the merit principle employees of agencies or bodies that do not now come under the provisions of the civil service. These could be brought under—

Mr. KNOWLES: Are you not looking at (b)? I am looking at subclause (2)—

Mr. CLOUTIER: That is correct.

Mr. KNOWLES: Subclause (2) says: "Where a regulation—."

Mr. CLOUTIER: That is correct. The law officers tell us that subclause (2) is required to remove any doubt as to the application of clause 31(b).

Mr. KNOWLES: I see.

Clause 34, subsection (2) agreed to.

The JOINT CHAIRMAN (*Mr. Richard*):

Clause 35—*Regulations by Governor in Council.*

Mr. KNOWLES: Mr. Chairman, there is the same proviso again. There is a reference to section 39 which is a section dealing with exclusions. I think we had better not pass subclause (1) of Clause 35 until we have dealt with 39.

Clause 35, subsection (2) agreed to.

Clause 35, subsection (1) stands.

Clause 36 agreed to.

The JOINT CHAIRMAN (*Mr. Richard*): Clause 39—*Ministerial staffs.*

Mr. KNOWLES: Is clause 37 the same as it has been in the present act?

Mr. CLOUTIER: Clause 37?

Mr. KNOWLES: Yes.

Mr. CLOUTIER: No, sir. At present, section 71(1) of the Civil Service Act of 1961, reads as follows:

> 71. (1) A Minister may appoint his Executive Assistant and his Private Secretary, and other persons to be employed in the office of a Minister shall be appointed by the Governor in Council.

This, in fact, creates paperwork for the Governor in Council; it is a paper operation only. In our judgment, the feeling was that where the minister can appoint his executive assistant and his private assistant, there should be no problem to his appointing also his secretaries and his clerk.

Mr. BELL (*Carleton*): Sir, with great respect, I think it is something more than the question of paperwork. What you are now doing is giving full liberty to a minister to appoint as many as he likes—

Mr. CLOUTIER: No, because we are not starting establishments here. The Governor in Council through the Treasury Board lays down the number of persons and the budget that the minister may have.

Mr. BELL (*Carleton*): I have reason to know that it has had a salutary effect on some ministers on other occasions to have had to go to the Governor in Council.

Mr. CLOUTIER: The ministers still have to abide by the directives of the Treasury Board in this respect on the establishment and the funds that they may use, in paying and the maximum salaries that they may pay for different categories of employees in their offices. Again, there is the distinction between the establishment and finance, between the Treasury Board and appointments of people to these positions that are established.

Mr. BELL (*Carleton*): Well, then, by reason of Treasury Board control irresponsible ministers cannot go high, wide and handsome.

Mr. WALKER: That is right. Any minister who reads this clause as a wide open door is in for a rude shock because this is just for the purposes of the right to appoint.

Mr. CLOUTIER: That is right.

Mr. KNOWLES: But is this not the clause under which we had a bit of a shemozzle awhile ago. I forget which government was in power so I will be impartial—

Mr. WALKER: It was not the New Democratic Party.

Mr. KNOWLES: It was not our party, that is right. We are as pure as the driven snow.

I am referring to the shemozzle we had over where a minister's office is. We had some ministers who had appointed people to their office and it turned out to be in Ottawa or Timbuktu or various cities around the country, but I will not name them. Is it still possible for a minister to appoint somebody to his office in Mullen's Corner?

Mr. CLOUTIER: The point that you raise is one of establishment. If the Governor in Council—mind you, I preface this remark by saying I am not speaking on behalf of the Treasury Board, but my understanding is that if the Treasury Board were to establish positions in Timbuktu and label them as belonging to the office of minister "X", then—

Mr. KNOWLES: You would have another shemozzle.

Mr. CLOUTIER: No, I would not say that. I would say that under the terms of this subclause the minister could appoint somebody to those positions.

Mr. BELL (*Carleton*): Mr. Cloutier, there are two aspects of these changes that bother me. One is in subclause (4) where you give an entitlement, as is proposed, for a period of one year from the date on which he ceases to be employed in a minister's office. The old act gave an immediate entitlement. This

Mr. BELL (*Carleton*): No; Mr. Knowles suggested that clause 35 (1) stand until we carry clause 39. If we carry clause 39, we can go back and carry clause 35(1).

The JOINT-CHAIRMAN (*Mr. Richard*): But Mr. Knowles asked for the opportunity to speak on clause 30. I think we should let that clause stand.

Clause 39 stands.

Clause 40—*Fraudulent practices at examination.*

Mr. CHATTERTON: I have a question of Mr. Cloutier. The applications submitted for employment are not given under oath, are they?

Mr. CLOUTIER: No, sir.

Mr. CHATTERTON: May I ask why not, because I think they should be in this case.

Mr. CLOUTIER: I would have to take that question as notice. I know that the first few applications that I made to the Civil Service, I had to call on a friend of mine and I thought that was pretty ridiculous. I do not know why.

Mr. CHATTERTON: I am not saying it should be either, I am just curious.

Mr. CLOUTIER: I do not know the real reason other than perhaps it did not make much difference.

Mr. CHATTERTON: It is not important.

Clause agreed to.

Clauses 41 to 44, inclusive, agreed to.

The JOINT-CHAIRMAN (*Mr. Richard*):

Clause 45—*Annual report on operations under act.*

Mr. CLOUTIER: Here again one of the associations, the Public Service Alliance, suggested that in order to provide greater assurance that departments would exercise delegated authority with diligence, that the Commission be required to report to parliament the nature of delegated authority granted the departments and more important from the viewpoint of the association, that it also be required to report to parliament any modification or amendment or rescinding of that authority that it found that it had to make. My colleagues and I are in agreement with this proposition and, if the Committee is willing, I would propose—

Mr. CHATTERTON: Should that not include appeals made as a result of delegated authority?

Mr. CLOUTIER: I do not understand the question. Do you mean appeals from individuals?

Mr. CHATTERTON: Appeals from individuals made in response to actions on those that—

Mr. CLOUTIER: And you would want what kind of report?

Mr. CHATTERTON: For instance, if a certain deputy head were given the delegated authority and that particular department had an abnormal number of appeals.

which is provided for under Clause 29 in 37 4. We speak of people who have been employed as executive assistants, special assistants, or private secretaries to ministers. These people have an absolute priority in respect of other employment. If we return to what we were discussing a while ago, we will notice that in the other case, the deputy head may lay off the employee. An employee ceases to be an employee when he is laid off. I think it should be far more difficult to provide for an employee who has been an executive assistant, etc., to put him in an equivalent post. It should be far more difficult in that instance than it is in the case of a sweeper or a charman who has tried a competition and failed.

Mr. CLOUTIER: You have been speaking of lay-offs?

Mr. ÉMARD: Yes.

Mr. CLOUTIER: But the charman or the maintenance man is not laid off. If I may refer to this matter of lay-offs, this happens when the job is no longer necessary, is redundant.

Mr. ÉMARD: I was a little confused, I will admit. But still—look at the difference in the treatment here. When an executive assistant is laid off, he could enjoy absolute priority, but an ordinary employee who is laid off ceases to be an employee. Why the difference?

Mr. CLOUTIER: The distinction is this. The reason for which the executive assistant, to whom you have referred, ceases to be an executive assistant—and here I am not using the expression "has been laid of"—the reason, then, why he ceases to be an executive assistant is that his minister ceases to be a minister. This is a reason which goes beyond the control of the employee involved. This is a reason which bears no relationship at all with the termination of the employment. It is a series of circumstances which are entirely different from those which obtain in the other case. In the other case, the job disappears.

Mr. ÉMARD: But there are others..

Mr. CLOUTIER: That is why we say that the individual who is being laid off enjoys some priority.

Mr. ÉMARD: But not absolute priority.

Mr. CLOUTIER: Those cases where there is a lay-off do not coincide with the type of case involving the people you find in ministers' offices.

(English)

The JOINT-CHAIRMAN (*Mr. Richard*): Is 37 carried?

Clause 37 agreed to.

Clause 38 agreed to.

Clause 39—*Exclusion of persons and positions.*

Is clause 39 the section we are going to stand?

Mr. BELL (*Carleton*): No; Mr. Knowles suggested that clause 35 (1) stand until we carry clause 39. If we carry clause 39, we can go back and carry clause 35(1).

The JOINT-CHAIRMAN (*Mr. Richard*): But Mr. Knowles asked for the opportunity to speak on clause 30. I think we should let that clause stand.

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Mr. CLOUTIER: And you would want what kind of report?

Mr. CHATTERTON: For instance, if a certain deputy head were given the delegated authority and that particular department had an abnormal number of appeals.

Mr. CLOUTIER: If there were an abnormal number of appeals, we would look into it and if there were reasons, we would rescind or modify the delegation and under that heading we would report the appeals.

The JOINT CHAIRMAN (*Mr. Richard*): We will then stand clause 45 for further amendment.

Clause stands.

Clauses 46 to 48, inclusive, agreed to.

Mr. BELL (*Carleton*): Mr. Chairman, may I ask a question at this point as to why certain clauses of the old act have been dropped. I am thinking in the first instance of clause 62, which dealt with holidays. I realize that there are aspects of negotiation in relation to Civil Service holidays. On the other hand, there is a great avoidance of headaches for the Commission and for other people, in having statutory approval of what are public service holidays.

Mr. CLOUTIER: Mr. Bell, this was a recommendation of the preparatory committee. Perhaps I might talk to that question, since I was associated with the work of the preparatory committee some time back. All the associations and all the trade unions that appeared before the committee were unanimous in advocating that holidays be a matter of bargaining. Constitutionally, we were informed by the Department of Justice that it would be impossible to grant to the Treasury Board the freedom to bargain on matters that are set aside in detail in legislation. Therefore this is the reason why 62 was dropped.

Mr. BELL *(Carleton):* Well the fear I have in relation to that is that you might have public service holidays bargained by one bargaining unit and then another would have totally different. So you might, for example, across the city of Ottawa get bargaining where one segment of a department is out on holiday this day and the other is at work, and if you want to create total chaos in the city of Ottawa this is just the best way to go about it.

Mr. CLOUTIER: Mr. Bell, my answer to that is this. If I were not a member of the Commission and if I were a member of the bargaining team representing the employee I would find it very easy, if I could not get agreement at the bargaining table to maintain a reasonable approach, to go to arbitration and win my point, thereby avoiding the chaos you referred to.

Mr. BELL (*Carleton*): I do not follow you completely on that. You suggest that arbitration will always, inevitably, bring precisely the same holidays for the Printing Bureau as it might for the Department of Justice?

Mr. CLOUTIER: Not always but if it makes sense for the Printing Bureau for reasons related to the printing trade to have holidays of their own, this should be permissible. In other words bargaining is a two-way street, a two-way relationship and the employer has—and I am sure will have—at heart the efficiency of the public service.

Mr. BELL (*Carleton*): Would it not be preferable at least to have a minimum number of holidays set forth for the public service that apply to everyone. Then, over and beyond that might be a bargaining situation.

Mr. CLOUTIER: I hate to seem to evade the issue but whatever is done about holidays, let me suggest it should not be done under the Bill No. C-181 because the commission will be out of that whole area.

Mr. BELL (*Carleton*): Where would you suggest it might be done other than bargaining?

Mr. CLOUTIER: There is, you see, in the present act, name the Civil Service Act of 1961, a right which has existed for the past four or five years; the right to pay. That right has been continued under the terms of Bill No. C-182. I do not whether I will be able to put my finger on it but at page 3.

Mr. BELL (*Carleton*): The statutory right to pay that was brought in 1961 is continued.

Mr. CLOUTIER: That is right. You will see in item (d) on page 3:

> determine and regulate the pay to which persons employed in the public service are entitled for services rendered.

Mr. BELL (*Carleton*): That is something we will have to come to when we come to that bill.

Mr. CLOUTIER: That, with respect, sir, is what I suggest.

Mr. BELL (*Carleton*): I will drop it for the moment but I may have something further to say at that time. Then, Mr. Chairman, we have the whole situation about parliamentary staffs. Have you been in touch with the law clerks as to when they might be available.

The JOINT CHAIRMAN (*Mr. Richard*): I do not think they will be available tomorrow morning. We have not given them any notice. Was it the intention of the committee to sit longer?

Mr. WALKER: We are through with this, Mr. Chairman, I suggest, until the amendments or whatever has to be done to them is done and I suggest that will not happen until possibly Tuesday. In the meantime I think the legal counsel, if we wanted to sit on Friday or Monday, is quite—I was speaking to him at dinner hour—ready and willing to come in for whatever consultation the committee wishes to have with him.

The JOINT CHAIRMAN (*Mr. Richard*): What about Monday, then?

SENATOR FERGUSSON: Does that mean the legal counsel of the Senate, too?

The JOINT CHAIRMAN (*Mr. Richard*): Well, they were invited.

Mr. WALKER: So if we wanted to do something on Monday that would be all right. It is a late hour to bring this up, Mr. Chairman, but it has just been pointed out to me there are some schedules attached to the bill.

The JOINT CHAIRMAN (*Mr. Richard*): The schedules are part of the text but they do not need to be passed. We will adjourn then, until Monday night at 8 o'clock.

Mr. WALKER: For the purpose of listening to the legal counsel; is that right?

The JOINT CHAIRMAN (*Mr. Richard*): I do not see any reason why we should meet on Monday; we could leave that discussion with Mr. Ollivier and the other law clerk until a later date. There is no real rush about that. So why not call our first meeting for Tuesday, at 10 o'clock.

Mr. WALKER: Then, may I suggest that if we are calling the meeting for Tuesday we should be prepared to go on with the legal counsel first in case the cabinet have not finally approved the amendments Mr. Cloutier has in mind.

The JOINT CHAIRMAN (*Senator Bourget*): Well let us have our meeting on Tuesday night, then.

Mr. WALKER: I am suggesting that if we are meeting on Tuesday morning the amendments may not be ready immediately.

The JOINT CHAIRMAN (*Mr. Richard*): Shall we leave it to the Chair, then?

Mr. WALKER: Yes, as long as we get notice.

An Hon. MEMBER: We need at least a day's notice on when the meeting will be.

The JOINT-CHAIRMAN (*Mr. Richard*): Oh, you certainly will have. Thank you very much Mr. Cloutier.

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