Canada. Parl. H.of C. Standing Comm.on Industrial Relations, 1952/53.

HOUSE OF COMMONS

Seventh Session—Twenty-first Parliament
1952-53

STANDING COMMITTEE

ON

INDUSTRIAL RELATIONS

Chairman: A. FRED MACDONALD, Esq.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 1

WEDNESDAY, APRIL 15, 1953
WEDNESDAY, APRIL 22, 1953

BILL No. 100

An Act to Prevent Discrimination in regard to Employment and Membership in Trade Unions by reason of Race, National Origin, Colour or Religion.

BILL No. 2

(Subject-Matter) An Act to amend The Industrial Relations and Disputes Investigation Act. (Voluntary revocable check-off).

WITNESSES

(For Witnesses In Attendance, see *Minutes of Proceedings* for Wednesday, April 22, 1953).

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

STANDING COMMITTEE ON INDUSTRIAL RELATIONS

Chairman: A. Fred Macdonald, Esq., and

Messrs.

Balcer	Conacher	Mott
Black *(Cumberland)*	Coté *(Verdun-La Salle)*	Murphy
Boucher	Croll	Nixon
Bourget	Fairclough (Mrs.)	Pouliot
Breton	Gauthier *(Lac St. Jean)*	Ross *(Hamilton East)*
Brown *(Essex West)*	Gauthier *(Sudbury)*	Starr
Byrne	Gillis	Stewart *(Winnipeg North)*
Cardin	Higgins	Stewart *(Yorkton)*
Carroll	Johnston	Viau
Churchill	Knowles	Weaver
Clark	Lennard	
Cloutier	McWilliam	

Members, 35. Quorum, 8.

A. SMALL,
Clerk of the Committee.

ORDERS OF REFERENCE

HOUSE OF COMMONS,
MONDAY, January 12, 1953.

Resolved,—That the following Members do compose the Standing Committee on Industrial Relations:—

Messrs.

Balcer,	Côté *(Verdun-La Salle)*,	MacInnis,
Beaudoin,	Croll,	McWilliam,
Black *(Cumberland)*,	Fairclough (Mrs.),	Mott,
Boucher,	Gauthier *(Lac St. Jean)*,	Murphy,
Bourget,	Gauthier *(Sudbury)*,	Nixon,
Breton,	Gillis,	Pouliot,
Brown *(Essex West)*,	Higgins,	Ross *(Hamilton East)*,
Byrne,	Johnston,	Starr,
Carroll,	Knowles,	Stewart *(Yorkton)*,
Churchill,	Lennard,	Viau,
Clark,	Macdonald *(Edmonton East)*,	Weaver—35.
Cloutier,		
Conacher,		

(Quorum 10)

Ordered,—That the Standing Committee on Industrial Relations be empowered to examine and inquire into all such matters and things as may be referred to them by the House; and to report from time to time their observations and opinions thereon, with power to send for persons, papers and records.

TUESDAY, February 3, 1953.

Ordered,—That the subject-matter of the following Bill be referred to the said Committee:—

Bill No. 2, An Act to amend The Industrial Relations and Disputes Investigation Act. (Voluntary revocable check-off).

MONDAY, April 13, 1953.

Ordered,—That the following Bill be referred to the said Committee:—

Bill No. 100, An Act to Prevent Discrimination in regard to Employment and Membership in Trade Unions by reason of Race, National Origin, Colour or Religion.

WEDNESDAY, April 15, 1953.

Ordered,—That the quorum of the said Committee be reduced from 10 to 8 members, and that Standing Order 63(1)(*j*) be suspended in relation thereto.

Ordered,—That the said Committee be granted leave to sit while the House is sitting.

Ordered,—That the said Committee be empowered to print, from day to day, 750 copies in English and 200 copies in French of its Minutes of Proceedings and Evidence, and that Standing Order 64 be suspended in relation thereto.

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Ordered,—That the name of Mr. Stewart *(Winnipeg North)* be substituted for that of Mr. MacInnis on the said Committee.

FRIDAY, April 17, 1953.

Ordered,—That the name of Mr. Cardin be substituted for that of Mr. Beaudoin on the said Committee.

Attest.

LEON J. RAYMOND,
Clerk of the House.

REPORT TO THE HOUSE

WEDNESDAY, April 15, 1953.

The Standing Committee on Industrial Relations begs leave to present the following as its

FIRST REPORT

Your Committee recommends:

1. That its quorum be reduced from 10 to 8 members, and that Standing Order 63 (1) (*j*) be suspended in relation thereto.
2. That it be granted leave to sit while the House is sitting.
3. That it be empowered to print, from day to day, 750 copies in English and 200 copies in French of its Minutes of Proceedings and Evidence, and that Standing Order 64 be suspended in relation thereto.

All of which is respectfully submitted.

A. F. MACDONALD,
Chairman.

MINUTES OF PROCEEDINGS

WEDNESDAY, April 15, 1953.

The Standing Committee on Industrial Relations met at 10.00 o'clock a.m. for organization purposes. The Chairman, Mr. A. Fred Macdonald, presided.

Members present: Messrs. Croll, Fairclough (Mrs.), Gauthier (*Lac St. Jean*), Gillis, Higgins, Johnston, Knowles, Macdonald (*Edmonton East*), MacInnis, McWilliam, Mott, Pouliot, and Starr—(13).

The Chairman outlined the matters referred to the Committee, namely:

1. The subject-matter of Bill No. 2, *An Act to amend The Industrial Relations and Disputes Investigation Act. (Voluntary revocable check-off)*; and

2. Bill No. 100, *An Act to Prevent Discrimination in regard to Employment and Membership in Trade Unions by reason of Race, National Origin, Colour or Religion;*

copies of which were distributed to members present.

On motion of Mr. Croll,

Resolved,—That a recommendation be made to the House to reduce the quorum from 10 to 8 members.

On motion of Mr. Starr,

Resolved,—That permission be sought to print, from day to day, 750 copies in English and 200 copies in French of the Minutes of Proceedings and Evidence.

On motion of Mr. MacInnis,

Resolved,—That permission be sought to sit while the House is sitting.

Ordered,—That a Sub-Committee on Agenda and Procedure, comprised of the Chairman and 6 members to be named by him, be appointed.

The Chairman announced the names of members to act with him on the Sub-Committee on Agenda and Procedure, namely: Messrs, Croll, Fairclough (Mrs.), Johnston, Knowles, McWilliam, and Pouliot; the sub-committee to meet this afternoon at 4.00 o'clock.

The Committee adjourned to the call of the Chair.

WEDNESDAY, April 22, 1953.

The Standing Committee on Industrial Relations met at 10.00 o'clock a.m. The Chairman, Mr. A. Fred Macdonald, presided.

Members present: Messrs. Breton, Byrne, Cardin, Churchill, Cote (*Verdun-La Salle*), Croll, Fairclough (Mrs.), Gauthier (*Lac St. Jean*), Gillis, Johnston, Knowles, Lennard, Macdonald (*Edmonton East*), McWilliam, Mott, Nixon, Pouliot, Ross (*Hamilton East*), Starr, Stewart (*Winnipeg North*), and Viau—(21).

In attendance: Mr. Leon D. Crestohl, M.P.; Mr. Irving Himel, Executive Secretary, and Dr. E. A. Corbett, President, both of The Association for Civil Liberties, Toronto; Mr. Saul Hayes, National Executive Director, and Mr. Sydney Harris, Chairman, Committee on Fair Employment Practises, of Montreal and Toronto respectively, both of the Canadian Jewish Congress; Miss Isabel Menzies, a Vice-President of the National Federation, Miss Margaret Hyndman, a Vice-President of the International Federation and Chairman of the Equal Pay Committee for Ontario, and Mrs. Margaret Ashdown, a member of the Equal Pay Committee for Ontario, of Montreal, Toronto, and Toronto respectively, all three of the Business and Professional Women's Clubs; Mrs. W. A. Graham, Treasurer, The National Council of Women of Canada, Smiths Falls, Ontario; Mr. Kalmen Kaplansky, Director, Jewish Labor Committee of Canada, Montreal; Mr. Leslie E. Wismer, Public Relations and Research Director, and Mr. Claude Jodoin, Vice-President, and Chairman, Standing Committee on Racial Discrimination, of Ottawa and Montreal respectively, both of The Trades and Labor Congress of Canada; Mr. Donald MacDonald, Secretary-Treasurer, The Canadian Congress of Labour, Ottawa; Mr. Cuthbert Scott, Ottawa, representing the Railway Association of Canada; Mr. A. H. Brown, Deputy Minister, and Mr. M. M. Maclean, Assistant Deputy Minister, and Director of Industrial Relations, both of the Department of Labour.

The First Report of the Sub-Committee on Agenda and Procedure, as follows, was read by the Clerk of the Committee:

> Your Sub-Committee on Agenda and Procedure met on Wednesday, April 15, and Tuesday, April 21, and has agreed to present the following as its FIRST REPORT:
>
> Your sub-committee has considered communications and representations from organizations interested in the two matters referred to the Committee and has agreed, in respect of those addressed to the Minister of Labour or the Chairman of the Committee, to recommend as follows:
>
> 1. That the said representations referring to Bill No. 100 and to the subject-matter of Bill No. 2 be printed as *Appendices A and B* respectively to issue No. 1 of the Minutes of Proceedings and Evidence;
> 2. Approval of the Clerk of the Committee having written on April 15 to all those organizations as recommended by the sub-committee, informing them that the Committee will receive their oral and written representations starting on April 22;
> 3. That a list of the said organizations recommended by the sub-committee, together with the text of the Clerk's letter of April 15, be printed as *Appendix C* to issue No. 1 of the Minutes of Proceedings and Evidence and be taken as read at the April 22 meeting of the Committee;
> 4. That all the said communications be acknowledged by the Clerk of the Committee informing that the representations already received will be placed on the printed record of the Committee *(See Appendices A and B)* and, also, from whom witnesses have been invited;
> 5. That all written briefs sent by organizations in reply to the Clerk's letter of April 15, and distributed to members of the Committee in advance of presentation, be taken as read and printed as evidence for the day of presentation. *(See List at end of these Minutes).*
> 6. That the following individuals or organizations be heard and questioned, to explain or amplify their written briefs if applicable, on Wednesday, April 22, at the times and in the order indicated:
>
> (1) Mr. Leon D. Crestohl, M.P., in respect of Bill No. 100, at 10:00 a.m. sitting;

(2) The Association for Civil Liberties, in respect of Bill No. 100, at 10:00 a.m. sitting;
(3) Canadian Jewish Congress, in respect of Bill No. 100, at 10:00 a.m. sitting;
(4) Jewish Labour Committee of Canada, in respect of Bill No. 100, at 3:00 p.m. sitting;
(5) The Trades and Labor Congress of Canada, in respect of Bill No. 100 and the subject-matter of Bill No. 2, at 3:00 p.m. sitting;
(6) The Canadian Congress of Labour, in respect of Bill No. 100, and the subject-matter of Bill No. 2, at 3:00 p.m. sitting;
(7) The Canadian Federation of Business and Professional Women's Clubs, in respect of Bill No. 100, at 8:00 p.m. sitting;
(8) The Canadian and Catholic Confederation of Labour, in respect of Bill No. 100, at 8:00 p.m. sitting; and
(9) Such other organizations having representatives in attendance which the Committee may wish to hear or question.

All of which is respectfully submitted.

A. FRED MACDONALD,
Chairman.

On motion of Mr. Croll,

Resolved,—That the First Report of the Sub-Committee on Agenda and Procedure, subject to the delegation from the Business and Professional Women's Clubs being heard before 3:00 o'clock p.m. today, be now concurred in.

Mr. Crestohl was called, heard, and questioned with respect to his oral representations to the Committee on Bill No. 100. The witness retired.

On request of Mr. Knowles, it was agreed that the Deputy Minister of Labour will provide the Committee with a copy of Orders in Council relating to fair wage provisions and to discrimination in respect to government contracts, and a copy of the form of contract.

Mr. Himel was called, heard, and questioned with respect to his oral representations and brief on behalf of The Association for Civil Liberties on Bill No. 100.

At 11:00 o'clock a.m., the proceedings of the Committee were suspended until the Orders of the Day were reached in the House.

At 11:20 o'clock a.m., the Committee resumed its proceedings.

Members present: Messrs. Breton, Brown (*Essex West*), Byrne, Cardin, Churchill, Cote (*Verdun-La Salle*), Croll, Fairclough (Mrs.), Gillis, Higgins, Johnston, Knowles, Lennard, Macdonald (*Edmonton East*), Mott, Nixon, Pouliot, Starr, Stewart (*Winnipeg North*), and Viau—(20).

The Committee completed its questioning of Mr. Himel. The witness retired.

Messrs. Hayes and Harris were called, heard, and questioned with respect to their oral representations and brief on behalf of the Canadian Jewish Congress on Bill No. 100. The witnesses retired.

Miss Menzies, Miss Hyndman, and Mrs. Ashdown were called, heard, and questioned with respect to their oral representations and brief, on behalf of the Business and Professional Women's Clubs on Bill No. 100.

At 1.05 o'clock p.m., the Committee adjourned until 2:30 o'clock p.m. this day.

AFTERNOON SITTING

WEDNESDAY, April 22, 1953.

The Committee met again at 2:30 o'clock p.m. this day. The Chairman, Mr. A. Fred Macdonald, presided.

Members present: Messrs. Brown (*Essex West*), Byrne, Cardin, Churchill, Cote (*Verdun-La Salle*), Croll, Fairclough (Mrs.), Gillis, Higgins, Johnston, Knowles, Lennard, Macdonald (*Edmonton East*), Murphy, Nixon, Pouliot, Ross (*Hamilton East*), Starr, Stewart (*Winnipeg North*), and Viau—20.

The Committee completed its questioning of the witnesses from the Business and Professional Women's Clubs. The witnesses retired.

Mrs. Graham was called, heard, and questioned with respect to her oral representations on behalf of The National Council of Women of Canada on Bill No. 100. The witness retired.

Mr. Kaplansky was called, heard, and questioned with respect to his oral representations and brief on behalf of the Jewish Labor Committee of Canada on Bill No. 100. The witness retired.

Messrs. Wismer and Jodoin were called, heard, and questioned with respect to their oral representations and briefs on behalf of The Trades and Labor Congress of Canada on Bill No. 100 and on the subject-matter of Bill No. 2. The witnesses retired.

Mr. MacDonald was called, and was being heard with respect to his oral representations and brief on behalf of The Canadian Congress of Labour on the subject-matter of Bill No. 2 when the Committee's proceedings were interrupted by the Division Bells at 4:55 o'clock p.m.

At 5.20 o'clock p.m., the Committee resumed its proceedings.

Members present: Messrs. Brown (*Essex West*), Byrne, Churchill, Cote (*Verdun-La Salle*), Croll, Fairclough (Mrs.), Gillis, Higgins, Johnston, Lennard, Macdonald (*Edmonton East*), Nixon, Pouliot, and Stewart (*Winnipeg North*). —(14).

The Committee completed its hearing and questioning of Mr. MacDonald with respect to his oral representations and briefs on behalf of The Canadian Congress of Labour on the subject-matter of Bill No. 2 and with respect to Bill No. 100. The witness retired.

At 6.10 o'clock p.m., the Committee adjourned until 8.00 o'clock p.m. this day.

EVENING SITTING

WEDNESDAY, April 22, 1953.

The Committee met again at 8.00 o'clock p.m. this day. The Chairman, A. Fred Macdonald, presided.

Members present: Messrs. Breton, Brown (*Essex West*), Byrne Churchill, Cote (*Verdun-La Salle*), Fairclough (Mrs.), Gillis, Higgins, Knowles, Macdonald (*Edmonton East*), McWilliam, Pouliot, Ross (*Hamilton East*), Stewart (*Winnipeg North*), and Viau.—(15).

The Chairman informed the Committee that Mr. Gerard Picard, National President, and Mr. Jean Marchand, General Secretary, both of The Canadian and Catholic Confederation of Labour were scheduled to appear before the Committee at this time on Bill No. 100 but that no word had as yet been received of their arrival in Ottawa.

Agreed,—That the Committee call Mr. Scott with respect to his oral representations on behalf of the Railway Association of Canada on the subject-matter of Bill No. 2.

Mr. Scott was called, heard, and questioned accordingly.

On request of Mr. Knowles, it was agreed that Mr. Scott will provide the Committee with statistics showing:

1. The number of railway workers now covered by the Rand formula provisions granted to non-operating employees in December, 1952; and
2. The number of railway workers now covered by other check-off provisions.

The witness retired.

The Committee took recognition of the presence of Mr. Arthur MacNamara, formerly Deputy Minister of Labour, and paid tribute to his contributions to the labour legislation field.

Mr. Arthur H. Brown, Deputy Minister of Labour, was called. He gave a brief statement on Bill No. 100, referred to the corresponding laws in other jurisdictions, and was questioned thereon.

Mr. M. M. MacLean, Assistant Deputy Minister of Labour and Director of Industrial Relations, was called, heard, and questioned in relation to anti-discrimination provisions in government contracts.

The witnesses retired.

At 9.10 o'clock p.m., the Committee adjourned until 10.00 o'clock a.m., Monday, April 27, subject to an earlier call of the Chair in the event that the representatives from the Canadian and Catholic Confederation of Labour should be available.

A. SMALL,
Clerk of the Committee.

LIST OF ORGANIZATIONS' WRITTEN BRIEFS INCORPORATED IN EVIDENCE

A. Re Bill No. 100 (Listed in the order printed in evidence).

1. The Association for Civil Liberties.
2. Canadian Jewish Congress.
3. Business and Professional Women's Clubs.
4. Jewish Labour Committee of Canada.
5. The Trades and Labor Congress of Canada.
6. The Canadian Congress of Labour.

B. Re Subject-Matter of Bill No. 2 (Listed in the order printed in evidence).

1. The Trades and Labor Congress of Canada.
2. The Canadian Congress of Labour.
3. Canadian Manufacturers' Association.

Note: *See also Appendices A and B for additional written representations to Minister of Labour and Chairman of the Committee on Bill No. 100 and the subject-matter of Bill No. 2 respectively.*

EVIDENCE

APRIL 22, 1953.

10.00 a.m.

The CHAIRMAN: Gentlemen, we have a quorum. The committee members need not rise when they are seeking information from the witnesses.

At eleven o'clock we will adjourn for the House opening, and, subsequent to Orders of the Day, we will resume here in this Room to hear further representations.

Members of the committee have received a copy of all the briefs that have been received by the committee to date.

Gentlemen, I would ask the clerk to read the First Report of the Subcommittee on Agenda and Proceedings.

(Report of the subcommittee on agenda read by the clerk of the committee. (See *Minutes of Proceedings*).

Gentlemen, you have heard the First Report of the subcommittee. What is your pleasure?

Mr. CROLL: I move its adoption.

The CHAIRMAN: All in favour?

Carried.

Gentlemen, we have with us Mr. A. H. Brown, the Deputy Minister of Labour. Mr. Brown, we are glad to have you with us. At a suitable time during the deliberations of the committee we expect to have an opportunity to ask you some questions and have your viewpoints.

It was read out in the First Report of the Subcommittee just presented to you that the Business and Professional Women's Clubs would be here this evening to make their presentation. It so happens that these ladies are here this morning and probably if we rise to attend the House until Orders of the Day, that subsequently, upon resuming our sitting, we can hear their representations. (*Agreed*). If we can limit the presentations that are presented this morning to thirty minutes—and the reason for that is that all the briefs have been submitted in advance to members of the committee—and ask persons that are presenting representations to the committee this morning to deal with these points they wish to emphasize in their briefs that have been read by the members of the committee, then we will have a little more time to clarify those points which they wish to emphasize.

The first representations to us this morning are from Mr. Leon D. Crestohl, Member of Parliament, and I would ask Mr. Crestohl if he would be prepared now to make his representations to the committee on Bill No. 100.

Mr. POULIOT: Mr. Crestohl is not a member of the committee, but I move that he should be heard.

The CHAIRMAN: Thank you very much. That has already been adopted in the Subcommittee's Report.

Mr. L. D. Crestohl, M.P. called:

The WITNESS: Mr. Chairman and gentlemen. First of all I want to thank you for extending to me the courtesy and the opportunity of being able to make some observations on only two or three points in the bill. This being the Industrial Relations Committee, I felt it would be perheaps the best place where I could deal with some observations. I want to touch first of all on clause 3 of the Bill. I judge that the intent of the legislation is to cover not only the types or classes of works listed in clause 3, but also the bilateral agreements which may be entered into between the government as one party and a contractor as the other party. But, nowhere in the bill is there any proviso made for works that will be performed by subcontractors.

The first recommendation I would therefore make to your committee for consideration is that categoric provisions be made that the obligations undertaken by a contractor should apply in every detail to all or any of his subcontractors. By a good stretch of the interpretation, one might be able to read into the Act that this exists, but it should not be left to interpretation if it can be avoided. The clear statement that sub-contractors are also included will prevent an escape by the contractor who may plead that a breach was committed by a sub-contractor and not by him proper. This inclusion will provide an additional safeguard against the abuses which the law seeks to prevent.

Then again in clause 3 it emphasizes the words "within the legislative authority of the parliament of Canada" as being used to determine the scope of the bill. That is very general language and adequately covers the works listed in paragraph (*l*) and (*m*) in clause 3 as well as Crown companies, all of which is indicated in the explanatory notes. But these works are not all that the Bill intends to cover. This is made clear by the following words in clause 3 where the language is "including, but not so as restrict the generality of the foregoing". How then can we determine what else is intended to be covered under that heading? I would, therefore, respectfully like to suggest an additional means of identifying the works which are not listed in clause 3, and which, in my opinion, should still be covered by the words "within the legislative authority of the Parliament of Canada". In doing this, we will have to bear in mind that payment for the work which the government undertakes by contract, is made out of the consolidated revenues of Canada, to which every Canadian contributes by way of taxes. The yardstick therefore in determining what operations fall within the legislative authority of the federal government should include the test that payment for such works is made out of the consolidated revenues of Canada. With this as a guide it makes it possible. I have therefore, Mr. Chairman, prepared a proposed amendment which I state clearly I do not specially urge but which I would like to leave with this committee for its careful study. I suggest that to clause 3 should be added the following clauses:

> Independent contractors or subcontractors who are under contract with the government of Canada for the performance of any works, constructions, manufacture of equipment, or the sale of supplies, all, or any portion of which, are paid for directly or indirectly, out of the consolidated revenue fund of Canada; Loan Corporation, Insurance Companies, mortgage companies, trust companies or other financial institutions, which make loans out of monies supplied in whole or in part by the government of Canada, when such monies are to be used for buildings, or other projects, undertaken upon the recommendation or with the approval of the government of Canada, irrespective of whether such monies are provided by the government of Canada in the forms of loans, grants, subsidies or guarantees.

Then, Mr. Chairman, I would like to say a word about clause 3 which, in my humble opinion, could be improved upon. For purposes of my illustration I would like to refer to a similar clause in the Ontario Fair Employment Practices Act. Under the present Bill, discrimination is prohibited because of race, national origin, colour or religion. At first glance, this appears to cover what is intended. The Ontario Act, however, makes the situation clear by including the word "nationality" as being a further reason for non-discrimination. The words "national origin" which are used in the proposed Bill, and the word "nationality" which is used in the Ontario Act, are in fact two separate things. A man's national origin may be one country and his nationality another, and because I know that it is not intended to discriminate against anyone because of his nationality, it is my respectful submission that the word "nationality" should be added to all the relevant clauses of the Bill, particularly all the subclauses of clause 4.

Another point I would like to raise, Mr. Chairman, flows from clause 4, sub-clause (5) of the Bill, which speaks of advertisements in connection with employment. This sub-clause reads as follows:

> (5) No person shall publish any advertisement in connection with employment or prospective employment that expresses either directly or indirectly any limitation, specification or preference as to race, national origin, colour or religion unless the specification or preference is based upon a *bona fide* occupational qualification.

It is my considered opinion that this clause is really intended to be more effective, and for purposes of clarification I would again like to compare it to section 5 of the Ontario Act which is worded in the following terms, and I quote:

> No person shall use, or circulate, any form of application for employment, or publish any advertisement in connection with employment, or prospective employment, or make any written or oral inquiry, which expresses either directly or indirectly any limitation, specification or preference as to the race, creed, colour, nationality, ancestry or place of origin of any perosn.

That is the end of that quotation, section 5 of the Ontario Act.

One observes at once that under the Ontario Act, the application for employment is included amongst those documents which must exclude any reference to race, national origin, colour or religion. Clause 4 of the proposed Bill does not cover this danger. The Ontario Act also foresees that discrimination may also result from a written or oral inquiry which may be made concerning a prospective employee, and it therefore aims also to prevent this possibility. The proposed Bill 100 does not go quite as far on this point either. Clause 4 of this Bill, which corresponds to section 5 of the Ontario Act, restricts itself to advertisements only. I would like to see the wording of Clause 4 of Bill 100 extended to cover the contingencies foreshadowed by section 5 of the Ontario Act.

I am therefore hopeful, Mr. Chairman, that the committee will modify clause 4 of Bill 100 to likewise make provision for the prevention of abuses from the sources covered by section 5 of the Ontario Act.

There is another point, or two, that I would like to submit for your consideration, but which I can raise at another time.

The CHAIRMAN: Go on, Mr. Crestohl, continue.

The WITNESS: Then I would like to continue with one additional point which may be relevant, and which I think this committee can best deal with. I have before me a sample of the departmental blank form which accompanies each contract, which the minister stated has, since the beginning of this year,

been authorized by Order in Council. This document contains the labour conditions which are applicable to the particular work being dealt with. The terms and conditions are printed on this form, and there is attached to it two supplements named A1 and B.

I would like to draw to the attention of the committee that under section 7 of Labour Conditions B, before payment is authorized to be made to the contractor, he is obliged to file in the office of the Minister, in support of his claim for payment, a statement, attested to by statutory declaration, showing that he has complied with the various conditions set up in section 7. No mention is made, however, in this section, that one of the conditions the contractor is obliged to have complied with is that there was no discrimination, or even unjustifiable complaints resulting from discrimination.

I would suggest that it be made obligatory to include such a statement in the statutory declaration required under section 7 of Labour Conditions B before payment is authorized.

In the same supplement, as adopted by P.C. 5547, in which the non-discriminatory provisions are set up, under section 9, subsections (*a*), (*b*), (*c*), (*d*) and (*e*), no provision is made that the non-discriminatory clauses shall also apply to the subcontractor, and I therefore emphasize, Mr. Chairman, that all the possibilities that have been foreseen to prevent unfair discrimination should, in every measure and in every sense, be made applicable to the subcontractor as well as including the forms about which the Minister spoke when the Bill was presented for second reading.

By Mr. Pouliot:

Q. If you will permit me, Mr. Crestohl—what you would like would be two statutory declarations, one to be made by the subcontractor and another one to be made by the contractor.—A. Or either that—yes, Mr. Pouliot, you are right, or the principal contractor's statutory declaration should cover that neither he nor any of his subcontractors practised discrimination.

Q. But the contractor could not know what oral representations might have been made by the subcontractor. He could not give that declaration.—A. No, then, Mr. Pouliot, perhaps your suggestion is more acceptable, that the subcontractor, too, give a statutory declaration to that effect.

Q. It is not my suggestion, Mr. Crestohl. I am asking you the question: if you yourself suggest that there should be two statutory declarations, one by the subcontractor and the other one by the contractor?—A. I would like to see that before the government pays out of the consolidated revenues any money to a person, that he should give a statutory declaration that neither he nor any of his agents nor any of his subcontractors have practised discrimination.

Q. He could not give it on behalf of the subcontractors, if your suggestions concerning oral representations are accepted.—A. If we do not do that, Mr. Pouliot, then we are leaving the door open for an escape by the contractor by saying that he did not know what went on, that it was a subcontractor who did it, and that is just precisely the escape that I would like to block off.

Q. Yes, quite true, but you would like to have two statutory declarations made, one by the subcontractor and another one by the contractor himself.—A. If that would circumvent the situation.

Q. No. I want to know if that is your suggestion. I did not make the suggestion myself. I have listened to you carefully and I have taken notes, and I would like to know if your suggestion is that all these subcontractors should make statutory declarations before being paid and that, in addition to that, there should be a declaration made by the contractor before payment is made.—A. I see no objection to it.

Q. But is that what you have said?—A. Yes.

Mr. KNOWLES: Mr. Chairman, I would like to ask a question either of Mr. Crestohl or Mr. Brown.

The CHAIRMAN: Mr. Brown is at the disposal of the committee.

Mr. KNOWLES: My question is with regard to existing labour conditions, that is, before we added the conditions in Bill 100. Has it been possible for subcontractors to circumvent the conditions required by prime contractors on government contracts?

Mr. A. H. BROWN (*Deputy Minister of Labour*): No. The obligation is on the contractor to see that the provisions, which are applicable to him as the main contractor, are carried through by the subcontractor.

Mr. KNOWLES: I think the point of my question is obvious.

Mr. BROWN: The matter is covered in our contracts. I might say that, of course, this Bill we are dealing with here does not cover the question of government contracts. That is dealt with essentially by the conditions which are imposed in the government contracts themselves.

Mr. CROLL: In subparagraph (3) of paragraph 7 of the form, Labour Conditions (B), I read, and I quote:

> that all the labour conditions of the contract have been duly complied with.

When we pass this Bill, will that not be a labour condition?

Mr. BROWN: Well, no, that is not the same point we have dealt with in our Order in Council which covers all fair wage conditions relating to government contracts. We have included a provision requiring the contractor not to discriminate with respect to employment and we have specific provisions for the enforcement of those types of provisions, a different procedure which is set down in the order in council. Now we are not really covering the same ground in this Bill 100.

Mr. KNOWLES: Except that it does refer to work carried on by any corporation carrying on work for the Crown.

Mr. BROWN: Those are Crown corporations which are established for the specific purpose of acting as an agent for the Crown, but that does not cover a contractor who is a private corporation and who may be an agent of the Crown for the purpose of that contract only. We are dealing here with agencies such as, let us say, the Canadian Broadcasting Corporation, the National Harbours Board—in other words, the same class of corporations that are specifically incorporated and established as an agent to carry on business for the Crown.

Mr. POULIOT: How long have you been in the Department of Labour, Mr. Brown?

Mr. BROWN: Ten years.

Mr. POULIOT: And before that you were interested in labour problems?

Mr. BROWN: Yes, sir.

Mr. POULIOT: Mr. Brown, according to your personal knowledge, has there been any race discrimination or nationality discrimination or colour discrimination or religous discrmination in the contracts awarded by the Dominion Government, or in the dealings of the Canadian Broadcasting Corporation or the Board of Transport Commissioners or the Harbour Commissioners, or anyone like that?

Mr. BROWN: Well, it is a matter that we have not had to deal with. It is a matter we have not had any authority over and, therefore, we have not had to process or deal with complaints of that nature, and I cannot go any further than that. I cannot tell you whether there has been discrimination, or the extent to which there has been discrimination in this area.

Mr. POULIOT: I asked you a question about positive facts—to your knowledge.

Mr. BROWN: Well, as I say—

Mr. POULIOT: You say that for ten years you have been with the Labour Department and before that you were interested in labour problems. I do not want you to name Tom or Joe or Philippe or anyone, but I want to know if, according to your knowledge and your memory, you remember of positive cases of discrimination on grounds of race, nationality or religion or colour.

Mr. BROWN: Well—

Mr. POULIOT: Who is the gentleman next to you with whom you are conversing?

The CHAIRMAN: Mr. Maclean, the chief industrial relations officer is seated beside Mr. Brown.

Mr. BROWN: He is Mr. Maclean, Assistant Deputy Minister of Labour, I should say.

Mr. POULIOT: I am glad to know you, sir.

Mr. BROWN: The situation is that, in so far as government contracts are concerned, it is only since the 1st of January this year that we have had an anti-discrimination provision in the contracts, and since that date we have not had any complaints.

Mr. POULIOT: You had no complaints after the Order in Council was passed?

Mr. BROWN: That is right.

Mr. POULIOT: Did you have any complaints before? Did you act on the representations of the civil rights associations and the labour associations who spoke to you or to the Minister in general terms, or did you have concrete facts?

Mr. BROWN: It was based on representations of the associations.

Mr. POULIOT: Representations of a general character?

Mr. BROWN: That is correct.

Mr. POULIOT: But to your personal knowledge were there any instances of discrimination, of race discrimination in the first place?

Mr. BROWN: We had no complaint directed to us to deal with.

Mr. POULIOT: Before that, in the last ten years?

Mr. BROWN: Before that? In fact, we would have had no authority to deal with them.

The CHAIRMAN: Mr. Pouliot, if you will pardon me, we are dealing with representations made by Mr. Crestohl, and, although this is very relevant, we will at a later date have further submissions on which we will all have an opportunity to ask Mr. Brown his opinions and what guides government policy with regard to discrimination legislation, and I suggest, that for the moment, probably we should continue with Mr. Crestohl and then call other witnesses.

Mr. POULIOT: Mr. Crestohl has made his representations.

Mr. JOHNSTON: There is a question I would like to ask Mr. Crestohl.

Mr. KNOWLES: I did not finish my question.

Mr. POULIOT: If you please. We are confronted with a Bill which speaks about race, national origin, colour and religion and religious discrimination. Does it exist in the first place, that is my point, and in order to verify that it really exists, I asked the best qualified man in this room if he had any knowledge of such discrimination in the past ten years, when he has been in the Department of Labour, and it is very relevant because it is the basis of the whole discussion around this bill. Is there any reason why we come here and speak about racial discrimination. Is it just political propaganda?

Mr. STEWART: The mere fact that Bill 100 is before this committee is *prima facie* evidence that there has been discrimination.

Mr. POULIOT: Let them prove it.

Mr. STEWART: It would never have come before the committee if there had not been that evidence.

Mr. POULIOT: I asked a question of the best qualified man in this room, and he said that during the last ten years there had been no discrimination whatever.

Some Hon. MEMBERS: He did not say that at all.

Mr. POULIOT: Within his knowledge.

Mr. BROWN: I have not said that. I have said that during the period I have been in the Department of Labour that there has been no provision for investigation or receipt of complaints of that nature, and therefore we have not had to handle that sort of thing, and, as to whether there has been much volume or amount of discrimination that has been carried on or exercised, I cannot give you any information from my personal knowledge because, the department has not been in a position to deal with and investigate and process this type of complaint.

Mr. POULIOT: I know that Mr. Brown, but my question was carefully worded, and I asked you according to your knowledge—

Mr. BROWN: I cannot go any further than I have gone.

Mr. POULIOT: I asked if, according to your knowledge, there was such discrimination and, if so, I would like you to mention the facts.

Mr. BROWN: All I can say is that I have not gone out to investigate that type of complaint.

Mr. CÔTÉ: Mr. Pouliot may I suggest that those organizations which are listed to present briefs before the committee have been advocates of—

Mr. POULIOT: That is not my question.

Mr. CÔTÉ: I suggest it would be more in order for you to search the ground on which these organizations have been making their advocacy in years past rather than questioning Mr. Brown on this.

Mr. POULIOT: I have only one question to ask, and it is whether, within his knowledge, there has been any discrimination on grounds of race, colour or religion during the past 10 years. Will you answer Mr. Brown?

The CHAIRMAN: I believe Mr. Brown has answered to the best of his ability.

Mr. POULIOT: Otherwise I would have asked him to mention instances.

Mr. KNOWLES: I wonder if members of the committee could be furnished with a copy of the Order in Council that has been in effect since January 1st, and the form of contract to which Mr. Crestohl referred? The reason I ask for that information is that I am keenly interested in the point Mr. Crestohl made, namely, the obligation upon contractors who carry over to sub-contractors. Mr. Brown has told us that according to the Order in Council that obligation does carry over, but I would like to compare the terms of the Order in Council with the terms of the Bill, so I will be able to form an opinion as to whether, in the Bill, it is worded in such a way that that obligation in all cases can be carried from the prime contractor down to the sub-contractor, and I would like to know whether an amendment is necessary.

The CHAIRMAN: Mr. Brown is going to furnish the committee with copies of that order in council.

Any further questions?

Mr. JOHNSTON: Yes. In regard to the statement made by Mr. Crestohl when asking for an affidavit which would be signed by the main contractor it should include a statement from the main contractor to the effect that the sub-contractor had not violated any of the sections of the Act. I think probably it is a legal question, but can the main contractor, can any one person such as the main contractor state that any infraction has been committed by another person? Could that possibly be done without, as Mr. Pouliot suggests, having two affidavits signed, one by the main contractor and one by the sub-contractor? I suppose that is a legal question, but it seems to me that Mr. Crestohl's suggestion could not possibly be carried out.

Mr. CRESTOHL: May I answer that?

The CHAIRMAN: Yes.

Mr. CRESTOHL: The precaution taken by the government in making payments is to have the contractor to whom it is making payments sign a statutory declaration that it conformed with the obligation according to law. When the principal contractor signs that, the government is satisfied that it has extracted from him that statement. When the principal contractor then pays his sub-contractor he too can exact from that sub-contractor that he, the sub-contractor, has conformed to all the responsibilities and obligations, and in that form it safeguards the contractor when he may be called on the carpet by the government for a breach of the regulations.

Mr. JOHNSTON: The only thing in a case like that would be for the main contractor to present a statement signed by the sub-contractor, but he certainly could not take responsibility for the fact that the sub-contractor himself had not acted according to the obligations of the Act.

Mr. CRESTOHL: I would not expect that.

Mr. JOHNSTON: In effect it would have to be two affidavits, one for the sub-contractor, and one for the main contractor.

Mr. CRESTOHL: That is the point Mr. Pouliot made.

Mr. POULIOT: In the case of the contractor himself, he could not make that statutory declaration without inquiring first from the sub-contractor, and having a statutory declaration from him.

Mr. CRESTOHL: He could get that.

Mr. POULIOT: He could not be paid unless, according to what you suggest—

Mr. CRESTOHL: But the principal contractor can secure a statutory declaration from the sub-contractor, and could then give that to the government.

Mr. POULIOT: That is all Mr. Johnston has said. We are on solid ground.

The CHAIRMAN: Any further questions for Mr. Crestohl. Thank you very much Mr. Crestohl, for your presentation. Every consideration will be given to the points you have outlined.

Mr. CRESTOHL: Thank you very much, Mr. Chairman.

The CHAIRMAN: Now, gentlemen, we have this morning the Association for Civil Liberties, and there is Dr. Corbett of Toronto, and Mr. Himel of Toronto. Would these two gentlemen come forward, please?

We are indeed glad to have with us this morning the Minister of Labour, Mr. Gregg. We appreciate your attendance, Mr. Gregg, and if you find it convenient to attend future sittings of this committee, we would appreciate if you would be seated here where you could be available to contribute to our thinking.

Mr. I. Himel, Executive Secretary of the Association for Civil Liberties, called:

The CHAIRMAN: Please identify yourself.

The WITNESS: I am Mr. Himel, executive secretary of the Association for Civil Liberties.

The CHAIRMAN: Mr. Himel, in making representations to the committee, I would inform you that your brief on behalf of the Association for Civil Liberties has been distributed to all members of the committee, and I am quite sure that they have gone into it quite well, and in the time at our disposal probably you would like to use that time to the best advantage—probably 30 minutes at the most—in outlining or emphasizing those points in your brief that you consider should be emphasized to the committee.

By Mr. Pouliot:

Q. If you permit me Mr. Chairman. What is your business?—A. I happen to be a lawyer. I am here as executive secretary of the Association of Civil Liberties. In daily life I am a practising lawyer.

Q. You practise law?—A. Yes, I am a graduate of Osgoode Hall.

BRIEF

The Association for Civil Liberties wishes to commend the government for its sponsorship of a Canada Fair Employment Practices Act. The need for such an act has been felt for some time by many Canadians. The Act will bring renewed hope to many people who have heretofore encountered job discrimination in national industries, because of their race or religion.

Fair employment practices legislation affords, as the *New York Times* has editorialized, "a means of giving practical application in economic fields to the principles of democracy".

There is ample evidence from the experience of such American states as New York, New Jersey, Massachusetts, Connecticut, Rhode Island, Oregon, Washington, and of the province of Ontario that such legislation succeeds in its public aim and is effective in dealing with discrimination in employment.

In a study prepared for a United States Senate sub-committee it was reported that fair employment practices legislation "opened many opportunities for workers previously barred because of race, colour, religion or national origin. The laws corrected discrimination by employers, employment agencies, and some labour unions." A survey conducted by *Fortune* magazine found "The New York Law against discrimination has obviously helped to eliminate discrimination in many areas".

Your committee has been designated to report on the text of Bill 100. While the government is to be lauded for taking this progressive step, a careful examination of the terms of the bill prompts us to state that in our considered opinion certain changes are necessary in the legislation if it is to fulfil its aim. To make the act fully effective we would like to propose these amendments for your approval.

1. *Application Forms*

Under the act there is nothing to suggest that it would be a prohibited employment practice for employers to ask employees their race, national origin, colour or religion when they apply for a position. This is usually how discrimination in employment originates. In the Ontario Act it is expressly forbidden for any person to use or circulate any form of application for employment or make any written or oral enquiry which expresses, directly or indirectly, any limitation, specification or preference as to the race, creed, colour, nationality, ancestry or place of origin of any person. A similar provision is to be found in the various fair employment practices acts in the United States.

To omit this prohibition from the Canada Fair Employment Practices Act therefore would be to disable it from the start and delete what has heretofore been regarded as an essential part of such legislation.

2. *Advertisements*

Under section 4(5) it is proposed that it would be a good defence to a complaint of practising discrimination in advertisements in connection with employment or prospective employment, if the specification or preference as to race, national origin, colour or religion expressed in the advertisement is based upon a bona fide occupational qualification.

It is far from clear what is contemplated by this exception. It is significant that in neither the Ontario act nor the American acts was such an exception considered necessary. By section 2 (*d*) organizations that are exclusively charitable, philanthropic, educational, fraternal, religious or social, or corporations that are not operated for private profit or any organization that is operated primarily to foster the welfare of a religious or racial group and is not operated for private profit are excluded from the operation of the act. It cannot therefore be said that the exception was intended to meet the special needs of these groups.

It is to be emphasized that it is not the bona fides of employers that are brought into question in this act; it is their discriminatory practices. There is a real danger that if this exception is not deleted, it will undermine the entire prohibition of discriminatory practices in relation to advertisements.

3. *Discrimination because of Nationality*

In almost every Fair Employment Practices Act it is considered advisable to prohibit discrimination in employment against any person because of his nationality. To discriminate against a person because of his nationality would seem no less objectionable than to discriminate against a person because of his race, national origin, colour or religion. We would therefore urge that the word "nationality" be inserted wherever the words race, national origin, colour or religion appear in the bill.

4. *Complaints*

At the present time section 5 (1) gives only the aggrieved person the right to file a complaint. We would urge that the bill be extended to permit the director to initiate investigations on his own with or without the prerequisite of a formal complaint. While we are aware that section 4 (4) offers a form of legal protection for a complainant, nevertheless from past experience it has been found that a great many people for one reason or another are apprehensive and reluctant about getting involved in legal proceedings.

While it is essential to provide a procedure for the settlement of individual complaints, we question whether it is wise to restrict the operation of the administrative agency to this single avenue of approach. After all it is to be recognized that a violation of the law is not merely an offence against an individual but an offence against the people of Canada. It becomes therefore the duty of the administration to obtain compliance with the law whether or not the initiative has come from an aggrieved individual.

5. *Educational Activities*

We would respectfully urge that the Bill be appropriately amended to provide for a continuing program of educational activity designed to obtain voluntary and widespread compliance with the legislation. In those jurisdictions with several years' experience with fair employment practices legislation, the value of citizen advisory committees, industrial conferences and public education through press, radio and television has been clearly demonstrated. Practically all commentaries on the New York law against discrimination for

instance attribute its success to the intelligent combination of legislation and education, through which the entire community is fully informed regarding the social advantages to be gained through "employment on merit".

6. *Powers of an Industrial Inquiry Commission*

By the terms of section 5 (4) an industrial inquiry commission is given the power to recommend to the minister "the course that ought to be taken with respect to the complaint which may include reinstatement with or without compensation for loss of employment". The word reinstatement contemplates that a person was employed and then discharged because of his race, colour, religion or national origin.

It is perhaps contemplated but not clearly stated that the commission may also order an employer to hire an employee who was denied employment because of race, colour, religion or national origin, or upgrade an employee who was denied promotion because of race, colour, religion or national origin.

Since the commission will likely be called upon to deal with cases involving hiring and upgrading, as frequently, if not more often than reinstatement, it is respectfully suggested that section 5 (4) be amended to make clear that the commission also has power in discrimination cases to order hiring and upgrading as well as reinstatement.

It is appreciated that the success of the Act will be dependent to a considerable extent on how well the administrative personnel under the Act carry out their duties. While we recognize that your committee is not responsible for the appointment of personnel, we trust that because of the importance and nature of their work, a special effort will be made to see that the director and other officials appointed to administer the Act are people who are familiar with the field of discrimination and practices prevalent therein and have an understanding of minority problems.

It has been said that fair employment practices legislation is a practical effort to transslate into action what democracy preaches. People of good will throughout the nation are encouraged by this effort on the part of the federal government to strengthen democracy at home. We trust that by the fruits of your labour this effort will be further strengthened.

All of which is respectfully submitted.

THE ASSOCIATION FOR CIVIL LIBERTIES

Mr. HIMEL: First, gentlemen, I should like to say that this brief of ours is supported by a number of other organizations. They include:

Board of Evangelism and Social Service, United Church of Canada;
Ontario Federation of Labour;
Ontario Teachers Federation;
Joint Labour Committee to Combat Racial Intolerance;
Japanese Canadian Citizens Association;
Windsor Council for Group Relations;
Jewish Labour Committee, Toronto;
Unitarian Church, Toronto;
Brotherhood of Sleeping Car Porters, Toronto Locals;
United Nations Association of Toronto, Human Rights Committee;
Ottawa Human Rights Council.

I would like to file this list with the reporter.

I am very grateful for the opportunity to submit our representations to you. I did feel that perhaps the simplest way of making our representations would be to read our brief, because we have attempted to condense our point of view in the framework of that brief. However, I should welcome questions if there are any in so far as we can answer them, and perhaps I will just deal with the highlights of the brief.

The CHAIRMAN: I believe you did outline and highlight in your brief, the question of application forms and also the terminology of the word "nationality".

The WITNESS: There are six points there.

The CHAIRMAN: I believe those were the two points you particularly emphasized.

The WITNESS: Quite. The application form: Under the present form of the Bill, there is no provision stating that if an employer asks the employee his race or religion that that is prohibited under the Act. In the jurisdictions where there are fair employment practices legislation, that is now considered an absolutely essential provision. In practice you would defeat the whole purpose of the legislation if an employer could require an employee, when he is filling out an application form, to state his race or religion. Then, for whatever reason he may see fit, he can deny employment to him without stating his reason, and once he has the essential information to make that discrimination, namely, the man's race or religion, then he is in the position to deal with the matter, and not suffer any penalties and not be affected by the legislation.

I would submit that the absence of some provision declaring that to ask the question "what is your race and religion" in an application form, strikes at the very heart of the legislation. If you allow that you open the door to widespread discrimination. If you want to get at the cause of the trouble, I submit to you that the primary cause is the very information which an employer may now request and which I submit the legislation should outlaw.

In Ontario there is a provision making it a prohibited act to ask in an application form for a person's race, religion or national origin. In New York state and in other American states, where there are fair employment practices Acts, it is illegal; and I submit that this committee should likewise require a provision similar to the Ontario provision to be incorporated in the Act making it also prohibitory to ask a person's race or religion in an application form.

About advertisements, too, there is an exception provided under clause 4(5) and it would not be a prohibited act if the advertisement was based upon a *bona fide* occupational qualification. The words *bona fide* to a lawyer mean if it is based upon an honest request for a person of a certain race or religion. But the very purpose of the Act is to rule out the question of race or religion as being of any importance in a person's qualifications for any particular job. But if you are going to allow advertisements which specify race or religion, then in a sense you are defeating the whole purpose of the Act.

By Mr. Pouliot:

Q. What is your definition of religion?—A. Well, sir, I must admit that I have not come prepared to answer that question.

Q. I think it is important to know where we are at. You speak of religion and I want to know if communism is included in your definition of religion.—A. Decidedly not, sir.

Q. You say decidedly not. Then what is it? Therefore you speak of a thing with which you are not familiar. If you cannot define it, I do not know how you can speak of it.—A. I might venture a definition after an hour's careful thought.

Q. You should have done it before coming here.—A. That may be, but we are not prepared in any case to answer that question.

The CHAIRMAN: Please continue, Mr. Himel.

The WITNESS: The inclusion of an exception which would allow advertisements of race and religion would defeat the purpose of the Act, I submit.

There are some who would say: What about those organizations which require people of a certain denomination? Section 2 (*d*) excepts them from the provisions of the Act. So that there is no problem about those groups and they are excluded from the operation of the Act.

I would suggest there is no reason for this exception. At least, there is no valid reason. The exception is not founded in other fair employment practices legislation. And it would seem that it has never been found necessary to have such an exception elsewhere. I would suggest that it would serve no worthwhile purpose and that it might defeat the purpose of the Act if allowed to remain.

By Mr. Pouliot:

Q. What clause is that?—A. That was clause 4(5).

Q. Thank you. It is about *bona fide*?—A. Yes, about *bona fide*. Then, about nationality, our point there is that if you are going to outlaw discrimination on account of race, national origin, religion, or colour, why stop there? Why not include nationality because, after all, it is just as objectionable to discriminate against a person because of his nationality as it is because of his race, national origin, colour, or religion. So far as complants are concerned, our point is that under the present Act complaints must originate with the person who has a complaint.

Frequently citizens are fearful about lodging complaints. They are fearful about becoming involved in legal proceedings, and the time and the embarrassment and worry which such proceedings may cause. It has been considered wise to allow the administrative head of agencies that administer such legislation to initiate such complaints on his own, and we suggest that the director, who would be charged with the administration of this Act, be given the authority to make investigations and to lodge complaints on his own initiative.

As far as educational activities are concerned, we are whole-heartedly in favour of combining education with this legislation. It may well be that clause 10 contemplates that there will be apparatus for education which will be introduced following the passage of the Bill. However, it would be most helpful if this committee would at least indicate its desire to see educational facilities and a program set up similar to the type of program that is to be found in other jurisdictions. It would be designed to educate the public, the employer, and the trade unions to the idea that it is not right to discriminate, that it is not Canadian to discriminate.

Finally we should like to see an amendment made in the powers that are given to an Industrial Inquiry Commission. Under clause 5(4), an Industrial Inquiry Commission may now only recommend the course that ought to be taken with respect to the complaints which may include reinstatement with or without compensation for loss of employment.

We may get a situation as follows: Here is a person who complains that he has been discriminated against. The director is unable to effect a settlement of the case. The case is then referred by the Minister to an Industrial Inquiry Commission. The commission is asked to report on the facts of the case and to give their findings.

The commission will be limited under this wording to ordering that the person in question be reinstated with or without pay for loss of employment. But reinstatement is only one of the several types of cases which may arise in the way of discrimination.

A person who has never been given employment cannot be reinstated. And our point is that the commission should be given the power to recommend that the person be employed because he has been the victim of discrimination, as well as those cases where a person was employed and then

discharged. And also, there are cases to our knowledge where people are denied promotion on account of their race or religion, and there should be provision that the commission can recommend that the person be promoted to the job or the vacancy which occurred in his department.

I shall close by reading to you the last paragraph of our brief as follows:

> It has been said that fair employment practices legislation is a practical effort to translate into action what democracy preaches. People of good will throughout the nation are encouraged by this effort on the part of the Federal Government to strengthen democracy at home. We trust that by the fruits of your labour this effort will be further strengthened.

I thank you.

Q. Mr. Himel, would you please tell us why the brief of the Association for Civil Liberties was not signed?—A. There is no reason for that. We sent a covering letter with the brief which was signed, sir, by me.

Q. You say it was signed by you?—A. It was signed by me on behalf of the executive.

Q. And who are the officers of the association?—A. The present president is Dr. E. A. Corbett.

The CHAIRMAN: Dr. Corbett is here this morning. Dr. Corbett.

Mr. POULIOT: Thank you. Who are the other officers?

The WITNESS: For vice presidents we have Rabbi Fineberg, and Mr. Charles Millard.

Mr. CROLL: Perhaps I should warn you that I am a member of this organization myself.

Mr. POULIOT: You are the best one.

Mr. CROLL: I do not know that, but I did not want you to mix it with another organization which has an almost similar name.

By Mr. Pouliot:

Q. Let me ask you another question: In the brief, in the third paragraph, you say:

> There is ample evidence from the experience of such American states as New York, New Jersey, Massachusetts, Connecticut, Rhode Island, Oregon, Washington, and of the Province of Ontario that such legislation succeeds in its public aim and is effective in dealing with discrimination in employment.

That is the third paragraph of your brief. Would you please tell us why you did not name the states of Georgia, Alabama, and Louisiana?

Mr. CROLL: For good reason, I presume.

The WITNESS: Because they did not have, to my knowledge, legislation of that kind. Therefore it would be pointless for me to make reference to states which did not have such legislation.

By Mr. Pouliot:

Q. And you know that colour prejudice is rampant in those states, and that coloured men cannot walk on the sidewalk. They have to walk in the street?—A. If you will read the paragraph you will see that it says:

> There is ample evidence from the experience of such American states as New York, New Jersey, Massachusetts, Connecticut, Rhode Island, Oregon, Washington, and of the Province of Ontario that such legislation succeeds in its public aim and is effective in dealing with discrimination in employment.

So I suggest to you, sir, that if those states which you have mentioned would introduce fair employment practice legislation, the situation there would be much better for the negroes than it is at the present time.

Q. Yes, I know. But will you agree that that legislation would be needed more in those states than it is in Canada?—A. Sir, I have no desire to impugn our neighbours to the south. Privately I would agree with you. But the fact that elsewhere it may be needed more is no reason why in Canada we should do without it.

Q. You are just coming to what I wanted to ask you, by logical process. You are a cultured gentleman, Mr. Himel, and you have been dealing with labour problems?—A. Yes, sir.

Q. For how many years? You look to be young?—A. I have dealt with them for about 13 years.

Q. Thirteen years. You may sit down, sir. Now, I want to know if to your knowledge there has been any race, national, colour, or religious discrimination in employment in Canada for the last 13 years? You have been interested in labour problems?—A. Sir, I would not be devoting part of my time, which is voluntary, to the advancement of this cause if I did not believe so. That of course, is a personal point of view. But I can say too, sir, that there is no question in the world, in the mind of anyone who will take the time, that there is discrimination in Canada. Now, much of this discrimination does not exist blatantly and openly, such as you may find in parts of the United States. But it does exist by inference, or, let me put it another way—by circumstantial evidence you can conclude that discrimination exists.

If you want me to be more specific, sir, I can suggest to you that if you have thought for a moment of some of the groups of people who work on our railways, you will be bound to conclude that there is a large area of discrimination in a field which is covered by federal jurisdiction. We know, in our banks, that people of certain races and religions are practically non-existent as employees.

Q. What did you say?—A. I said people of certain races and religions.

The CHAIRMAN: If you will pardon me, Mr. Himel, Mr. Pouliot, and gentlemen, we will now adjourn until after the Orders of the Day and we will resume the sitting of this committee as soon after the Orders of the Day as we notice a quorum. Thank you.

(Upon resuming after attendance in the House)

The CHAIRMAN: Well, gentlemen, we have a quorum.

You may continue, Mr. Pouliot.

By Mr. Pouliot:

Q. Now, I notice that your contention, Mr. Himel, was that the discrimination was not open. That is what you said, is it not?—A. A great majority of cases in my experience of discrimination have not existed or come to light in an open sort of way where a person is of a particular race and applies for a job and they tell him "no", they will not take people from that particular race. It does not happen that way. But it does happen that they refuse people from that race and because of their refusing people from that race it is concluded that if there are no people or very few, if any, people employed by a large employer of a certain race that that employer must have a policy which involves exclusion or non-employment of people of that race.

Q. What are those people; who are they?—A. As I was saying before we adjourned, the railways happen to be one large employer; the banks are another. I do not merely give you my opinion about that. Several years ago the Trades

and Labour Congress of Canada did a study of this subject and they found likewise that there were large areas of discrimination in those two particular fields.

Q. Well, that is hearsay.—A. It is not hearsay. It is from experience.

Q. Experience of others, not yours?—A. It comes from my knowledge of the industry. You may disagree with my knowledge of the industry.

Q. I do not know what it is. It may be something; it may be nothing. I do not know what it is. But I ask you about your personal knowledge, not what has been said by any Labour Congress; that is hearsay for you. I mean your personal knowledge. You say you are interested in labour problems and I would like you to tell us from your own knowledge. I asked you the same question I asked the Deputy Minister of Labour, if to your knowledge there has been race, colour, religious or national origin discrimination in any enterprise since you have been interested in labour problems.—A. Perhaps I did not make myself clear. In those particular fields, I, of my personal knowledge, have found or concluded that there is discrimination. I do not only give you my opinions, sir.

Q. I do not want your opinion. I want your quotation of facts. Your opinion is nothing. I want you to state the facts upon which you base your opinion.—A. At the present time I should not like very much to go into the subject of what is knowledge from the philosophic point of view, but I think we are just quibbling over words with all due respect. I say, in so far as I can judge, in so far as I can, from my opinion—

Q. It is not as far as you can judge. It is as far as you know. It is very different.

The CHAIRMAN: I believe the witness, Mr. Pouliot, has answered your questions to the best of his ability.

By Mr. Pouliot:

Q. No. He has not answered them at all and I want him to answer them. You spoke about the railways. Do you mean the porters of the sleeping car? —A. Yes, that is one.

Q. Did any porter make any complaint to you of discrimination?—A. We have, sir, the sleeping car porters, Toronto local, supporting this brief. That, I think, is evidence of a sort.

Q. No, no. I ask you if one single porter made any direct complaint to you of any discrimination?—A. Yes, sir. I can tell you of one I recall.

Q. What was the discrimination?—A. Well, he happened to be a lawyer and this was in difficult times and he had to take a job as a porter on the railways. Now, I am glad to say he is a solicitor for one of the large cities of Canada.

Q. There is no discrimination in that.—A. No. But he was obliged to work as a porter. I think he had the ability to be more than a porter; apparently his ability was not recognized beyond the porter level. Now, it seems to me rather strange that people of one particular race should find that their avenue of employment in a large industry is limited to a certain range. I would say, sir, that there must be socially something wrong when groups that have that ability to rise above a certain group in that particular industry do not have the opportunity. The fact of the matter is that so far as I know that group has been limited to a certain level in that industry.

Q. I asked you to give me an example. You gave that of a porter. I asked you if he had suffered discriminations and you told me that he had to undertake a job that was not worthy of him, that of porter, to earn enough money to pay for his course at Osgoode Hall.—A. No, no. He was a graduate, sir.

Q. He was a graduate and he was a porter. Of what university was he a graduate?—A. I do not know what university, but he graduated from Osgoode Law School.

Q. Do you realize, Mr. Himel, that there is no bad job and that a man who earns his living honestly, whether he scrubs the street or whether he is the secretary of any organization, is worthy of respect.—A. I agree with you, sir.

Mr. STEWART: Mr. Chairman, surely Mr. Pouliot must realize that quite a number of these men have university degrees and are doomed everlastingly to work as porters. It is not a dishonourable job but their capacity is greater.

By Mr. Pouliot:

Q. Does he practise as a lawyer now?—A. Yes, sir.

Q. Then there is no discrimination against him. Will you give me his name privately and I will congratulate him.

Mr. CROLL: He is the solicitor for the city of Windsor and I happen to know him. Since there is no discrimination in Windsor he occupies that position.

By Mr. Pouliot:

Q. He is not discriminated against. He occupies an important position.—A. I happen to be associated with a large number of people who made representation to the Ontario Government at the time they passed their Fair Labour Practices Bill. There were approximately 150 organizations who participated in that event and there were ethnic groups from most of the ethnic groups who make up the population.

Q. Most of those were university graduates?—A. They represented all walks of life. These people asked for legislation to combat discrimination. If they did not feel there was need for it they would not have taken the time of the government or their own time to request such legislation. It stands to reason these people represented by and coming from the different ethnic groups must feel that there is discrimination being practised against them, otherwise they would not make appeals and requests to the government to bring in such legislation.

Q. Thank you, Mr. Himel. Well now, you have quoted a case of discrimination in which there was no discrimination at all. You said besides that there were countless cases of discrimination. Quote another one please, a second one.—A. I do not think that parliament would be justified in passing the law if it was merely to deal with a few of the cases.

Q. If there are so many—the first one was nothing—I want you to quote a real case of discrimination.

Mr. STEWART: The first one was very real at the time.

Mr. POULIOT: No, no.

The CHAIRMAN: Mr. Himel has made his representation to the committee. The principle of the Bill has been adopted. We are now considering the bill. The representations that have been made, I am sure, are well within the limits of the Bill. The witness has not come here to make complaints with respect to discrimination.

Mr. POULIOT: He has failed to answer my question. He should not have come here. He has wasted our time coming here. I was very courteous but I was insistent in getting an answer and a decent one. I have none.

Mr. CROLL: Mr. Himel, could we have a list of the officers of The Association for Civil Liberties, please?

The WITNESS: The following is a list of the officers:

President: Dr. E. A. Corbett; Vice Presidents: Rev. Dr. R. S. K. Seeley, Rabbi A. L. Feinberg, Mrs. W. L. Grant, Charles H. Millard, M.P.P., Dr. Malcolm Wallace; Treasurer: Rev. W. P. Jenkins; Executive

Secretary: Irving Himel; Chairman of Committee for a Bill of Rights: Dr. B. K. Sandwell; Chairman of Committee for Academic Freedom: Dr. Malcolm Wallace; Chairman of Committee on Group Relations: Gordon Milling; Chairman of Legal Committee for Civil Rights: J. S. Midanik; Advisory Board: F. Andrew Brewin, Q.C., R. G. Cavell, David Croll, Q.C., M.P.

Mr. POULIOT: Hear, hear; a good man.

The WITNESS: To continue:

William Arthur Deacon, Rev. Gordon Domm, Rev. James Finlay, Anne Fromer, Prof. C. E. Hendry, G. A. Martin, Q.C., Norman J. McLean, E. B. Joliffe, M.P.P., Prof. Charles E. Phillips, Prof. E. J. Pratt, Senator Arthur W. Roebuck, Q.C., Harry Simon, Prof. George Tatham, Prof. H. Wasteneys.

By Mr. Pouliot:

Q. Did any of those gentlemen suffer from race, religious or colour discrimination?—A. I did definitely. Before I graduated from a law school I tried for a time to get positions, positions that were open apparently to other people but I found in a number of cases they were not open to me.

Q. What was that position?—A. I tried to get work in a department store. They were taking on help and I found they were not prepared to take me on.

Q. What was your age then?—A. I was 21 or 22.

Q. Are you sure you were qualified to be a good clerk. You are a good lawyer, but I wonder whether you are fully qualified to be a good clerk.—A. I cannot answer that question.

Q. You may not get a job, but if the fellows who do not get jobs all complain of discrimination there will be no end to it. Now, you have passed your bar examinations, you have a good job, and you come and complain that you have failed to be taken on as a clerk in a store, and did they tell you it was because of your race, religion or national origin that they did not want to take you? Did your boss tell you that they were not willing to take you on account of your race, colour, religion or national origin?—A. As I tried to explain earlier, discrimination does not work that way in Canada. They do not tell you directly that they will not hire you; they do it by indirection and so it becomes a matter of circumstantial evidence rather than direct evidence.

You are all quite familiar with the fact that in any court of law circumstantial evidence is as good as direct evidence, or at least it is used in lieu of it, and quite often you cannot get direct evidence and you must rely on circumstantial evidence.

Q. I understand you to mean that because you do not get a job that will be because of discrimination. You do not know how many people were competitors for this job.—A. They were hiring people for the Christmas rush and they needed people.

Q. Do you know if there were any vacancies?—A. Other people were getting jobs for Christmas but I was not.

Q. Before you asked for them, were there vacancies?—A. They were taking them on before and after.

Q. And after? Are you sure of that?—A. As sure as I can be.

Q. As you did not get a job in that store, did you apply for jobs at other stores?—A. Yes. I got a job in another department.

Q. So there was no discrimination for you.—A. By that process of reasoning you could exclude people from half the employable occupations of Canada and say they still have the other half to go to, but there is competition for that other half which is available and the eventual result of that process of reasoning is to depress certain races and religions in their economic status,

as you can see, in the south where the negro is put in a poverty-stricken class. Surely we are not trying to do the same thing in Canada.

Q. What we do in Canada will not change anything in the States?—A. We are not proposing it will change anything in the States. We are proposing to make democracy in Canada work better and I think that is a very laudible argument.

You suggest discrimination because you asked for a job in a store and did not get it and asked for a job in another store and you got it and because of that this House and the Senate later will have to listen to legislation of that sort because you were passed up on a job in one store and got it in another.

Mr. STEWART: Is it the task of this committee to prove cases of discrimination or to discuss this Bill?

The CHAIRMAN: Are there further questions by other members of the committee to Mr. Himel?

Mr. POULIOT: It is of no use. He will not answer questions.

Mrs. FAIRCLOUGH: I think that is not fair.

The CHAIRMAN: On behalf of the committee may I say we are pleased that you, Mr. Himel, and Dr. Corbett have made time available to come to this committee, and your representations will be very carefully considered. We thank you very much.

Mr. CHURCHILL: In my opinion, Mr. Himel has given very fair answers to the questions asked.

The CHAIRMAN: Now, gentlemen, we have another group who wish to make representations to the committee this morning known as the Canadian Jewish Congress, and Mr. Sydney Harris of Toronto and Mr. Saul Hayes of Montreal are present and I would ask Mr. Hayes and Mr. Harris to come before the committee.

SUBMISSION OF THE CANADIAN JEWISH CONGRESS TO THE HOUSE OF COMMONS STANDING COMMITTEE ON INDUSTRIAL RELATIONS

The Canadian Jewish Congress, a body politic and corporate under Part II of the Companies Act of Canada, appears before this committee representing the Canadian Jewish Community as its official spokesman in matters of public interest. Its headquarters are in Montreal and it maintains regional offices in Halifax, Toronto, Winnipeg and Vancouver.

The people of this country were inspired in November by the remarks made in the Speech from the Throne that the Government of Canada planned to introduce a bill to outlaw discrimination in employment based on race, religion or national origin, in those industries which fall under the federal jurisdictional powers.

The legislation coming at this time would place Canada squarely in the forefront of those nations of the world which have given concrete meaning to their participation in the United Nations by implementing its Declaration of Human Rights and by carrying out in practice the ethical and moral ideals enunciated by the Declaration. In a world where moral values are too often honoured by mere formal declarations, a step such as this would be a source of extreme gratification to the people of this country, and would immensely advance the prestige and name of Canada internationally.

As a Canada-wide organization, devoted to the interests of all citizens of this Dominion, we have for many years been interested in the kind of legislation mentioned in the Throne Speech and have asked for it on previous

occasions in deputations before Provincial Premiers, municipal councils and other governmental levels. We do not intend on this occasion to discourse at any length on the need for such legislation or the value it has in our society. In proposing the legislation the Government has recognized both the need and the value. The Opposition parties have indicated in the House debate that they concur in this step.

Previous Experience with Fair Employment Laws

In the Province of Ontario such a law has been on the books for a year and a half. Our information is that the Ontario Government is satisfied that employers are taking cognizance of the law and have altered their application forms and their personnel policies to conform with it. Within the last few weeks the Government of Manitoba in the Speech from the Throne announced its intention to adopt a similar law, and in British Columbia there is a movement in the same direction. The enactment of the legislation you are contemplating would give inspiration and encouragement to those elements in these other provinces who are working for similar legislation. The day is gone when F.E.P. was a pioneer move, untried and untested in law or society.

The experience in Ontario and in the United States where many state jurisdictions have enacted it, proves beyond a doubt that legislation of this kind has an educational effect in impressing employers, labour unions and employment agencies with the fact that the people of the nation, through their government, are firmly opposed to racial and religious discrimination in employment. In keeping with this firm conviction the employment pattern is beginning to alter in large areas of industry, commerce and trade.

Fair Employment Laws and Canadian Immigration Policy

Canada at the present time is admitting a large number of immigrants of various racial stock and faiths. What better inducement to the immigrants to make themselves a part of this country than their knowledge that their right to work unhampered by racial prejudice will be protected by a law that gives them the same chance as everyone else, and that their skill and experience will be the only criterion in their efforts to build a new existence in this country and contribute to its prosperity.

Legislation and Education go Together

There have been some who maintain that legislation cannot curb prejudice and the most effective way of doing this is by education. Permit us to point out that fair employment practices laws are not aimed at the elimination of prejudice; they are aimed at the reduction of overt discriminatory acts. Legislation is called in only to redress the act of discrimination at the point when it violates the basic right of a Canadian to a decent and proper livelihood. It does not directly compel people to alter their opinions or eradicate whatever prejudices they may possess. It is not too much to believe, however, that anti-discrimination laws, by bringing together Canadians of all origins in the office and at the work bench, will inevitably bring about a condition where racial and religious prejudice cannot possibly breed.

Moreover, there is no conflict between education and legislation. The existence of legal sanctions is itself one of the most effective means of education as it informs all that the common opinion of the nation, sanctioned by the government, acknowledges the social, moral and economic damage of racial discrimination. At the same time public understanding of such legislation can be greatly assisted by a programme of education aimed at acquainting Canadians with the goals of the law. For this purpose the available machinery of government publications, films, and other means of publicity can be judiciously utilized to good effect.

The Bill, in our considered opinion—and we have given it careful study over the last few months—is, as we have said, a positive step forward towards Canadian civic unity and social and economic progress. There are, however, a number of matters which we should like to draw to your attention and which, in our respectful opinion, would give greater clarity and meaning to the legislation.

(*a*) *Application Forms*

One omission in Bill 100 which we note particularly is any mention of employment application forms. An easy loop-hole for discrimination has often been the presence in application forms of questions relating to the race, religion and national origin of the aplicant. This makes discrimination possible at the initial point of contact between the applicant and employer. In fact, this omission, we believe, is serious enough to weaken the effect of the Bill, for if the ethnic and religious identity of the applicant can so readily be obtained at the initial interview or application, the way is opened to a very direct kind of discriminatory religious or racial selectivity on the part of the employer or union should either be so inclined. In fact, the question may by its very presence invite a kind of involuntary racial "categorization" conducive to discriminatory practice.

The same applies to the fact that nothing in the Act prevents oral questioning on the same point. It would be deplorable if such a well-intentioned and potentially effective law could be damaged by these two very serious omissions.

(*b*) *Conciliation Procedures*

Section 5 (12) reads as follows:— "Nothing in this section operates to restrict the right of any aggrieved person to initiate proceedings under any other provisions of this Act before a court, judge or magistrate against any person for an alleged contravention of this Act."

We are deeply cognizant of the merits of the conciliation procedures as laid out in Bill 100. We concur that this method is the most effective in permitting a thorough public understanding of this legislation. For this reason, may we suggest that an aggrieved person be given the right of instituting proceedings before the courts only when the other means of conciliation and redress, having been fully utilized, have given no satisfaction. We feel that Section 5 (12) might be revised along this line.

(*c*) *Nationality*

Section 4 (1) reads as follows:— "No employer shall refuse to employ or to continue to employ, or otherwise discriminate against any person in regard to employment or any term or condition of employment because of his race, national origin, colour or religion."

We regret that the expression "nationality" has not been included in the wording. Only too frequently newcomers to our country suffer a serious disability in being excluded from work opportunity because of their not having yet acquired naturalized citizenship. What better surety of our sincerity in welcoming them and of our goodwill than to include this in the F.E.P.? A large proportion of foreign-born are among those who have come here within the last five years. An F.E.P. law would lose a good deal of its meaning if it meant there was impunity for discriminatory acts against this important group who have chosen to come to Canada and share their future with us.

All of which is respectfully submitted.

THE CANADIAN JEWISH CONGRESS

Mr. Saul Hayes, National Executive Director, Canadian Jewish Congress, called:

The WITNESS: The organization which I represent has its national headquarters at Montreal and has branch offices in many parts of Canada, and it is looked upon by the Jewish ethnic groups of Canada as their spokesman in matters such as this.

The pith and substance of our representations are brief, but we do want the opportunity to make one or two points in amplification, and one or two points in addition to those contained in the brief. We should like formally to express our thanks for the opportunity to make this representation and to join in the chorus of thanks created by the government's action in introducing the Bill and the reception it received by all parties in the House when it was discussed on second reading.

Our interest in this matter stems from the fact that we have knowledge of acts of discrimination. We feel that the matter of prejudice is not the key point in any of these matters of substance with the end result of discrimination.

Our view is that that course of conduct has to be left to other agencies, not of government, but to other agencies of the sociological life of the country, but we do believe just as firmly that the end result of prejudice being discrimination and the prevention of a person earning his livelihood is exactly what is within the competence of the legislature to do, and we put great faith in the possibility that an Act such as this can achieve just such an object. It has proved to be so in other jurisdictions that have been mentioned in the previous submission, and we know of that also. We believe that in the Act itself there is a statement to the world at large, but particularly to our own Canadian community, that the moral values in checking discrimination are put in a position which all can see, which everybody can see, and being there, in our opinion, is enough reason to justify it even if there was not one act of discrimination reported in our Canadian experience.

Mr. POULIOT: Not one?

The WITNESS: I say even if there were no acts of discrimination to be reported—and I contend there have been many, and if you care to ask me about them I will be pleased to indicate examples and refer to them—but even if there were none, it is our submission that the Act itself should be incorporated into the public law of Canada because it will act as a beacon light, if you will, to indicate to the entire community of Canada, and to others of other communities who want to see it, that the Canadian community is at one in trying to make certain that people have the right to earn their livelihood and that there is no inhibition on the part of people to prevent that.

We have one or two complementary points we would ask your committee to consider. In clause 6 of the Bill, we think that there should be an amendment—at least it is our humble submission that there should be an amendment by providing for direct compliance if anything prohibited by this Act is done, that there be a direct compliance and not merely a fine. There should be the order to reinstate if a person has been fired, or there should be an order to hire if there is evidence before the proper authority under the Act that a person was not hired because of acts of discrimination on grounds such as race, religion, etc. We also think that in a case of firing for these reasons there should be reimbursement for lost salary. So much for that clause.

As to clause 5, subclause (12), we are of the opinion that under this Bill, if it is to be successful, the parties must go through the routine of conciliation procedures, and that the Bill should not be attenuated by anything less than a full compliance with the procedures of conciliation, and that, therefore, because we believe in that aspect of the way this Act will operate if it is to be successful, we further suggest that clause 7 should, therefore, be amended to read: Where an employer is convicted, not as it says here, "for violation of section 4"

—but is convicted for violation of any order under section 5, which would bring that into harmony with our philosophy that it is the failure to comply with the orders that is at the nub of the working out of the Act, rather than the general principle of the statement of the offence.

Mr. POULIOT: Will you please explain it more clearly?

The WITNESS: In other words, here the Bill states in subclause (12) of subclause 5, under the title of *"Enforcement Procedure"* that:

> (12) Nothing in this section operates to restrict the right of any aggrieved person to initiate proceedings under any other provisions of this Act before a court, judge or magistrate against any person for an alleged contravention of this Act.

The drafters of the Bill may know what the other provisions of the Bill are, but we are not sure what they are and where they are.

The CHAIRMAN: If I might just interject for a moment, you are mentioning the subject of paying the equivalent of wages lost by an employee. Now, under clause 7 the court has the authority to order that that equivalent be paid. I read:

> . . . the convicting court, judge or magistrate, in addition to any other penalty, may order the employer to pay compensation for loss of employment to the employee not exceeding such sum as in the opinion of the court, judge or magistrate, as the case may be, is equivalent to the wages, salary or remuneration that would have accrued to the employee up to the date of conviction. . . .

The WITNESS: It does not in our opinion.

The CHAIRMAN: But it does, I may tell you that.

The WITNESS: It does not take in the other aspect where a person refuses to hire. Naturally the question of lost wages cannot come up, but the question of wages he should have earned can come up.

To continue with Mr. Pouliot's question, if I may, subclause (12) of clause 5, as I say, gives the right, whatever it is, for the aggrieved person to initiate proceedings, but it is our contention that the Act must have full play of its conciliation procedures before anything else is done, because we believe that the Act could result in a multiplicity of actions, in a lot of foolish procedures that a person might institute, for instance, because he does not get a job and charges discrimination although there was no discrimination, and many cases like that might arise. There should be the fullest possible conciliation procedures and that before anybody can initiate proceedings under any other provisions of the Act, whatever they may be, all orders under section 5 have been complied with, and then where an employer is convicted for violation of these orders, then only after that should the substantive aspect of this section be in operation.

The CHAIRMAN: Clause 7.

The WITNESS: Clause 7.

By Mr. Pouliot:

Q. What about sub-clauses (1) and (12) of clause 5?—A. Clause 5, subclause (1), as it is stated, deals with the violation of the provisions.

Q. Clause No. 5, the marginal note is "Complaint", and in that clause you speak of sub-clause (1) and of sub-clause (12), and you say that there should be some conciliation, if possible, before action is taken.—A. Yes, that is right, and in order to justify our decision and to make it harmonious with the intent of the Bill, we submit that clause 7 be amended to state that where an employer is convicted for violation of any order under section 5—that merely brings it into harmony.

Q. And your suggestion about conciliation would apply also to clause 7?—A. No, clause 7 is what is done, and we say that all provisions for conciliation must have been complied with.

The CHAIRMAN: Will you continue with your brief, Mr. Hayes?

By Mrs. Fairclough:

Q. May I interrupt, Mr. Chairman. I am afraid I do not follow the witness to closely when he says, "where an employer is convicted for violation of any order under section 5". Now, clause 5 is the *Enforcement Procedure* section. The violation, of course, would be of section 4. Does he want to say "any order under section 5"?

Mr. POULIOT: Mrs. Fairclough, I understand that if it is ever admitted that there have been unfair practices, what Mr. Hayes suggests is that before action is taken there should be a kind of conciliatory move.

Mrs. FAIRCLOUGH: I understand that, Mr. Pouliot.

Mr. KNOWLES: The order under section 5 that Mr. Hayes refers to would be the type of order he suggests should be included there.

The WITNESS: Yes. Subclause (12) of clause 5 specifically states that nothing in the section could take away an individual's right to initiate private proceedings, and we think that they may prevent the fullest successful operation of the Act by people jumping to privte proceedings before all orders under the Act have been tried and provided for.

Mrs. FAIRCLOUGH: I understand—

The WITNESS: Mr. Chairman, we find ourselves in agreement with one of the publicized statements of the Chamber of Commerce on clause 4, subclause (2), which deals with employment agencies that discriminate. We suggest that this committee might find it useful to re-examine that clause because it seems to be unfair, in our judgment, to charge an employer if an employment agency, over which he has no control and only goes to obtain help in obtaining employees, were to be judged guilty of something over which he has no control.

The CHAIRMAN: The letter from the Canadian Chamber of Commerce will be printed in Appendix A of the proceedings and that point will be considered.

Mr. CHURCHILL: Has Mr. Hayes any suggested wording to include in that subclause? For example, after the word "that" would he put in the words "to his knowledge", so that it would read "that to his knowledge discriminates against". That is in line 9.

The WITNESS: I do not think the phrasing that I have would be very felicitous, but the meaning of it would appear if, as is said, his *bona fides* were established. That is not a very good wording, but it certainly expresses the meaning, if the employer's *bona fides* were established.

The CHAIRMAN: But what about the suggestion of Mr. Churchill of additional wording in line 9 of clause 4, subclause (2). Would that apply? Would you read your suggestion again, Mr. Churchill?

Mr. CHURCHILL: I simply suggest adding after the word "that" the words "to his knowledge".

The CHAIRMAN: Yes, go on, Mr. Hayes.

The WITNESS: We have something to say about the use of education in connection with the carrying out of this Bill and I would ask, with your permission, Mr. Chairman, if I could have Mr. Harris deal with that section. He is more familiar with it. Mr. Harris is chairman of one of our committees. With that Mr. Chairman, unless you ask me to wait here—

The CHAIRMAN: If you would please, there may be some questions Mr. Hayes.

By Mr. Pouliot:

Q. Before Mr. Harris is called, I would like to ask some questions of Mr. Hayes. Have there been cases of race or national origin discrimination to his personal knowledge?—A. Unfortunately, I have to say yes. I say unfortunately because I would prefer to say no.

Q. Please mention the cases.—A. We had a brief done based on complaints we had received over the years, and as a result of it, we went to see Mr. Little who was then National Employment Service director—I think his title was.

Q. Walter Little?—A. No, Elliott Little, and I think I convinced him by the detailed submissions we made by affidavits and other information that there was reason why the department under his direction should be instructed to insert a clause making it a violation of the Act for anyone, that is of the National Employment Service—what is it called—it was then under the National Employment Service, making it a violation for any employee of the National Selective Service to examine or act upon any application for employment if the questions on race, creed and religion were demanded.

Q. We are on the same ground, because I had to fight the Selective Service people at the time myself, and we have a point of agreement.—A. Secondly, sir, when we were asked to assist the 100 or so other organizations which Mr. Himel referred to in his statement, which went to see the authorities in the province of Ontario requesting a Fair Employment Practice Act, at that time we made a study then, because our first study that I have referred to was in 1942, and it might be considered—

Q. In 1942?—A. Yes.

Q. Eleven years ago?—A. Yes. Obviously it would have been outdated case by case, and although the principle may not have been, the actual examples may have been. We then made another examination of a much more superficial character, much more cursory and we found a number of employers, definitely the personnel managers though not perhaps higher up in the management, who gave ample evidence that they were discriminating on these grounds. Thirdly, our office in Montreal, and our regional office in Toronto has people coming from time to time complaining of this and that and the other thing. I may say though this perhaps is slightly irrelevant, that we do not assume that every person who has a grievance is necessarily right.

Q. That is fair.—A. We did not assume that at all. First of all, we demand an affidavit, and a person has to be prepared to say I will sign my name and swear to the facts. That is the first thing. Secondly, we inquire as to whether the facts are really substantial. We do not go by the famous case of the person who went in to complain that he was not hired by the National Broadcasting Company, and he stuttered all the way through his complaint. He said: "I have been d-d-d-discriminated against." We would not accept such a case as being fair. That example is illustrative—

Mr. KNOWLES: It might improve some of the programs.

The WITNESS: I remember one case where a person came to us and wanted to obtain a position as secretary of a large corporation, a national one—you will permit me not to mention names—and he said that the only reason why he did not get the job was because they discriminated against him on the grounds he was Jewish, and I went into his qualifications, and I told him I would not have hired him because he had not the background.

By Mr. Pouliot:

Q. So there was no discrimination in this case.—A. No.

Q. But they will contend that he suffered?—A. That is right. What I am trying to convey is that although there are a number of cases of fancied grievances, and they are only fancied, there are a number of real grievances and we complained to some of the organizations, and in fact we did make

representations to the government, and to the Department of Labour in the matter of defence contracts on the grounds that some organizations had refused to employ people of our religious persuasion.

Q. There was, according to you, possible discrimination in certain cases.—A. That is right.

Q. Did you verify if there was actual discrimination?—A. We verified cases which permitted us to make our statement to the Department of Labour under the National Selective Service Commission in 1942, and we verified cases in 1950 or 1951 when we were preparing our brief for the Ontario Fair Employment Practices law.

Q. And it was after that that the Ontario legislature passed a bill?—A. I do not know if there was any connection, certainly we did not think—

Q. But besides these two instances, what were the discrimination in each case?—A. In the first case I mentioned there were certain industries, one in Toronto and one in Montreal which were on defence work, and they made it a practice of going to employees of the National Selective Service and asking for employees and saying, well now, we do not want any Jews, and when that came to our attention, it was obviously easy to verify by affidavit, and we then built up a dossier based on affidavits and other complaints. I would like to range myself alongside Mr. Himel on one point, and say that, although our dossier before the Selective Service was quite a superficial brief, the one before the Ontario committee was based on the actual examination of a large number of cases, and not based on circumstantial evidence. That is to say, when you know and have heard of a large number of Jewish college graduates in the field of engineering who cannot get jobs, you must assume, when there is a shortage of engineers, and they are as qualified as the next man, because they obtained their degree, and some are of high distinction and cannot get jobs in certain industries, that certain corporations—I do not know if I am in order by saying that one has to be very stupid not to see that the end result is that there is a definite policy against hiring them.

Q. But you would probably agree that the employer is free to choose whoever he wants. If there is an applicant who is Jewish, another who is French, another who is English and another a Scot, another one an Italian, he is perfectly free to choose whoever he wants?—A. Absolutely, sir.

Q. And you will agree with me also, that those who are not chosen may complain of discrimination because the other fellow whether he was Jewish or Christian has been chosen? We must respect the freedom of the employer.—A. I do not think we are on the same ground, because I agree with everything you have said, but cases are not on that basis. The cases we know of are where certain corporations do not look upon the matter in that way. If an employer has five people before him, and he knows he will take three, then he is perfectly entitled to chose whichever three he likes.

Q. You mean regardless of whether he is a Jew or a Christian, or a Christian or a Jew, and I do not see who can interfere with their choice in that regard.—A. I fully agree, but I say it is not part of our statement that there should be any interference. My examples are based on the fact that if an employer, such as in a large engineering corporation, needs 7 engineers and goes to every college graduation throughout Canada to get the 7, and cannot fill these jobs, and there is so much competition, and yet will not accept a person because he is Jewish, that does not come within the same four corners.

Q. But that has to be established, and it does not mean that any candidate for the job has suffered from the decision of the employer. I would like to know if there have been affidavits of people who were refused places because of race or religion.—A. In our two previous studies, the answer is yes, categorically yes.

Q. In how many cases?—A. In the one I think we submitted to Mr. Little, there were half a dozen cases. In our second one I think we indicated several.

Q. That was in Ontario?—A. That is right sir.

Q. And in 11 years, there were two instances of discrimination?—A. No, it would be considerably more because, apart from these two briefs I indicated, we have coming to our offices a number of people with real and fancied grievances. The fancied ones we think we can spot from experience, and with some courtesy, but nonetheless with firmness, we eliminate them from further discussion. There still remain a number of cases where the grievances are not fancied, but real, and that number is a great many more than two.

Q. Were they only race, or national origin, or colour or only religion?—A. I have no personal knowledge of colour. I have never had much to do with discrimination on grounds of colour.

Q. And none about religion?—A. It is difficult, sir, to answer that.

Q. It is either religion or race?—That is right. I do not want to hedge, but I do not know whether the cases I mentioned were on the grounds that they practised the Hebrew religion or grounds that they stemmed from an Ethnic group called Jews.

Q. With regard to national origin, there is no discrimination?—A. I do not know of any cases of national origin personally. I do not think in our particular area of work, we would come across that kind of case. If a person did not want to employ Jews, he would not have to employ reasons of national origin.

Q. But it is your personal experience that these cases are very few in Canada.—A. The Jewish community in Canada numbers some 210,000 and the number of employables, people who are employed, must be a fraction of that amount, perhaps 6,000, eliminating women and children, and if we only have the number of cases that are reported, I would be bound to say honestly that the cases are few compared with that total number.

Q. And it is to the credit of this country?—A. Definitely sir. Very definitely. As a matter of fact, it is a credit to this country that to a large degree this country is held up as an example of what should be done as regards different races living together in harmony in Canada, but our case is based on the fact that the public laws of this country should have no hesitation in saying that.

Q. You give me the impression of being a cultured gentleman, and you answer the questions very well, and I will ask you one last question, and I would like you to answer honestly as a good Canadian citizen. You are a Canadian citizen?—A. Born.

Q. Now, Mr. Hayes, take this legislation. I did not pay any attention to it when it came before the House, but I read it afterwards and I was very much interested, and I wonder if a piece of legislation like that, that will be put on the statute book of Canada, will not give the public at large in Canada and in foreign countries as well, the impression that we are just as bad as anybody with regard to discrimination practices?—A. I can only go by the reception, to my knowledge, which similar pieces of legislation received in other jurisdictions, in the state of New York, and particularly in the state of New Jersey and Massachusetts. That is only three although I know about 8 or 9 more. In these three states according to press reports on the purpose of the law, it was at first thought there would be a tremendous number of frivolous actions, fancied actions and so on. When they got down to the conciliation procedure, not only did they find that it did not upset trade and commerce, but various firms—and this is documented and if anyone wishes to have the information I will be glad to furnish it. They found that the very firm which slowed up

in anger against this type of legislation was the firm which began to hire Negroes in department stores and they found that their business did not suffer and that the citizens did not fall away, and that there was no chaos or confusion. I have not seen any evidence that, because they passed the legislation, or I have not seen anybody use the argument that because the Bill was passed there must have been some dastardly crime necessitating its passage.

Q. You know your English too well to say that it is a dastardly crime. You have used the wrong term.—A. I shall amend that by saying that I have no evidence to indicate that in the Massachusetts, New Jersey, or the New York legislation, or in the press of the other states or other countries—I have seen the press of Canada, the English and the French press—that they have ever stated that the situation must have been unlivable to prompt the legislation as outlined.

Q. But it is not in Canada that the great coloured singer could not get a hall in which to sing.

Mr. STEWART: Marian Anderson could not get into her hotel.

Mr. POULIOT: That happened in Washington.

Mr. CROLL: May I, in following that line of questioning, read from the record. This is a brief which was submitted to the Premier of Ontario by the group who made representations which resulted in the Fair Employment Practices Act being passed. I now read from their brief as follows:

> In a report unanimously adopted last September 15 by the 1949 convention of the Trades and Labour Congress of Canada, and prepared by its committee on racial discrimination:
>
> "It was found that discrimination in employment is prevalent in Toronto, particularly in insurance agencies, banks, trust companies and brokerage houses, and that few Roman Catholics, Jews or Negroes are employed by civic agencies. Many business schools and employment agencies had found difficulty in placing Roman Catholics in jobs in Toronto."
>
> This report confirms a survey covering the same ground made by the Toronto *Telegram* which appeared in this newspaper on March 9, 1949.
>
> There is considerable evidence that these conditions are not peculiar to Toronto, but are to be found generally throughout the province.
>
> The Toronto *Globe and Mail* in a recent survey entitled "Have We a Colour Line?" reports:
>
> "Many coloured people have gone to the United States to face the social prejudice there sooner than the economic discrimination which they claim makes life impossible for them here."
>
> "In the business and industrial world generally, Negroes feel it is all but hopeless to get anything but low-paid manual jobs."

I thought that would be pertinent at this time. That is from the brief which was submitted.

Mr. POULIOT: That is all right, but you do not know more about it than I do. You take for granted what they say.

Mr. CROLL: I certainly do not claim that I know anymore about anything than you do, Mr. Pouliot.

Mr. POULIOT: But we will agree that there are gentlemen who may know more than we do, and that Mr. Hayes is the best informed witness I have heard about it today.

The CHAIRMAN: Now, Mrs. Fairclough.

By Mrs. Fairclough:

Q. There are a great many Christian Jews in Canada and I wonder if Mr. Hayes could say whether these people are members of his association? Do you have Christians in your association as well as Orthodox?—A. No. There is one department of our association which deals with refugees, namely with persons who were formerly Jewish but who were converted, but that does not come up in this field.

Q. In other words, the membership of your organization is composed entirely of those who are practising Orthodox Jews?—A. Our articles of association say so, in their qualifications for membership.

Q. These people who complained about their failure to obtain employment could conceivably all have been of the Jewish faith. I suppose you could not say whether it was racial or religious discrimination?—A. No, I could not say.

Q. If some of them had been Christians, it would have been pretty obvious that it was racial, entirely?—A. I have no evidence.

Q. But if they were all of the Jewish faith, you could not say that?

By Mr. Stewart:

Q. I would offer this comment on Mr. Pouliot's logic concerning certain knowledge of some things. There is no physicist in the world who has first-hand knowledge of the moon but every scientist is pretty certain about its physical characteristics. I think we can accept the word of those who come before us as witnesses as being pretty accurate, even though they have no certain knowledge of this active discrimination which has taken place.

By Mr. Cardin:

Q. Because of the nature of some types of discrimination, has your organization been able to say whether or not the clause that was similar to this bill which was passed by the Unemployment Insurance and the Ontario Legislature has been effective and applicable?—A. To deal with the second question first, it is my understanding from the report which I have received on the effect of the Ontario legislation that they have handled a number of cases all of which have been amicably settled by conciliation procedure. Secondly, that there is evidence that the introduction of the offence as applied has itself reduced the incidence of this discrimination *ab initio,* right from the beginning. The moment it appeared that they had to change their application form, and could not ask these questions in the application form, that, in itself, was an immediate help and advantage.

As to the first question, we did find that while there were still some cases, after the National Selective Service issued its directive, No. 81-A I think it was, we did not have the same number of cases. That may have been purely coincidental. But we do know that the number of applications to us for relief simmered down to nothing. We were told by the officers of the department that one or two of the officers of the department still saw evidence of it, nevertheless the issue of the directive did cut out a lot of the mischief which was formerly met with.

Q. Did that entail a good deal of red tape?—A. I do not know, I am sorry, but I cannot answer. I only know that the directive went from Mr. Little's office to the Selective Service regional offices, and from there it trickled down to the staff. I do not know what happened there, with respect to the employers who wanted staff, so I could not answer that.

The CHAIRMAN: That concludes the examination of Mr. Hayes as a witness on behalf of the Canadian Jewish Congress. I believe that Mr. Harris wishes to make a very brief statement.

Mr. Sydney Harris of Toronto, called:

The WITNESS: I shall be very brief. My name is Sydney Harris, and I am from Toronto. I am appearing today with Mr. Hayes on behalf of the Canadian Jewish Congress. I propose to deal only with one aspect of the matter raised in our brief. The other matters have been amply dealt with by Mr. Hayes. One proposition that is mentioned expressly in our brief and that is carried only by implication into the Bill is the fact of the necessity of education and educative measures in advancing the purposes of this Bill. We feel quite strongly that an Act of this nature is going to fail in some way unless it is supported by a specific effort to publicize its terms and to publicize its principles and to educate the public in Canada generally to appreciate and to understand and to use the principles of the Act.

A statute in itself of course is a very strong force in education. People learn what is the normal thing to do, and they learn what the right thing is to do, and they generally observe the law of the country. That statute, in its own words, therefore, will help to indicate what the public policy is and thereby help to educate employers and citizens generally and employees as to what the law is concerning this matter.

But merely to leave the statute in the volume of the statutes passed in this House would mean that it would not be referred to often enough, and then possibly only by lawyers. Therefore we feel that by the use of the government's facilities in radio, and in volume and through other publicity media there should be a disbursement in general to the public of some background on this statute and the way it works and the reasons for it.

Now we do not think that this statute is going to be a panacea and that it will clear up all the problems the minute it is passed. But we do feel that by referring to it as part of the law of the country, and by adding to it various public relations and public efforts, that there will be a persuasive force exercised on the citizenry of Canada which will make it possible for this statute to work without perhaps the necessity of enforcing too much the coercive procedures which are implied in the sanction clauses. People normally obey the law. People normally do not go out of their way to find ways of avoiding the law. We feel that if the law is made known to them, the law will be obeyed.

I think there is little more I can add except to say that we do feel that where in the last clause of the Bill, I think it is, where it says in clause 10:

"10. The Minister where he deems it expedient may undertake or cause to be undertaken such inquiries and other measures as appear advisable to him to promote the purposes of the Act." We feel and we hope that among these measures there will be some extensive distribution of literature and information to the public so as to help in making this statute and its policies known by way of proper education.

By Mr. Pouliot:

Q. Are you through?—A. Yes.

Q. I wonder if you are the gentleman who wrote me a very fine letter from Toronto?—A. No, I am not. I do not think I was.

Q. That is all right. Never mind. Now, Mr. Harris, what you have said was just as nice as a good sermon. I wonder if the education should not come first, in order to educate prejudice from business, and from the hearts of everyone who may have it to a certain degree. Do you not think so?—A. I was going to say this: I think that the two things, the legislative process and the educative process are processes which should be co-existent. I do not think that the one alone without the other is necessarily effective. What you have indicated is that the process of education will eradicate prejudice.

I agree that it will, but the process of legislation properly enforced and properly used will eradicate the effects of prejudice, namely, discrimination.

Q. Yes?—A. And we do not for a moment think that by the passing of a Bill such as this that the people of Canada are suddenly going to stop. Those people who are prejudiced, and they are not too many, but they are not going to stop being prejudiced. However, they are going to stop because even though they are prejudiced. In the vast majority of cases they will obey the law and they are going to stop discriminating, that is, the putting into effect of the evidence of prejudice. That is what we are concerned with.

Q. Are you familiar with the reports of the sittings of the House of Commons and the Senate Committee on Human Rights and Fundamental Freedoms?—A. With some of them.

Q. You did not read them all?—A. Not completely.

Q. Would you be surprised if I told you there was only complaint, one grievance laid before the Human Rights Committee in the year 1947?—A. Sir, I would not be too surprised to learn that because there is a certain amount of natural inertia among the citizenry in any country. Sometimes they do not know. Sometimes they do not have an opportunity to know that they can make complaints. The fact that there was just one complaint made leads to the natural conclusion that there may have been other complaints which were not publicized. The one person who complained was the person who was perhaps more aware, or perhaps more persevering in his efforts to obtain redress.

Q. Would you be any more surprised if I told you I was the one who laid the grievances before the Human Rights Committee and I was declared out of order by the chairman.

Mr. STEWART: Was that discrimination?

Mr. POULIOT: Members of parliament may be subject to blackmail from some journalists. If he asks for a redress he is told that he is not a good sport.

The CHAIRMAN: Gentlemen, we have listened now to Mr. Harris. Are there further questions from members of the committee to Mr. Harris on his submission?

Mr. Harris, and Mr. Hayes, on behalf of the committee we wish to thank you for appearing here on behalf of the Canadian Jewish Congress and I can say that your representations will be given very careful consideration when the Bill is under review. Thank you very much.

Gentlemen, that concludes the business that had been outlined and adopted by the steering committee and the steering committee's report has been adopted by this general committee—for presentations to be heard this morning. However, we have with us this morning representatives of the Canadian Federation of Business and Professional Women's Clubs. There is Miss Isobel Menzies, Miss Gladys Moffatt, Mrs. Margaret Ashdown, Miss Margaret Hyndman and Mrs. Bertha Brocklesby. These ladies are from Montreal, Ottawa, and Toronto and if I hear no dissenting voice from the committee I would call this organization's representatives before the committee now to make their representations wth regard to Bill 100.

Agreed.

Miss Menzies, would you find it convenient to come to the front please, and Miss Hyndman.

Gentlemen, we have with us on behalf of the Business and Professional Women's Clubs, Miss Isobel Menzies, Miss Margaret Hyndman and Mrs. Ashdown. I would ask you, Miss Menzies, to give the name of your organization and the names of the ladies representing the organization and your own name.

Miss Isobel Menzies, Vice-President of Canadian Federation of Business and Professional Women's Clubs, called:

The CHAIRMAN: I must say that there was a memorandum that was sent to all members. It was considered as a brief, but it was distributed to all members of parliament I believe some time ago and that written brief is before us. It was probably considered by the members as a representation with respect to legislation which at that time had not been introduced and given second reading, but I believe we will be able to follow very closely the representations that are going to be made orally.

The WITNESS: I represent the Canadian Federation of Business and Professional Women's Clubs, an organization of 132 clubs from coast to coast with over 6,600 members. I am appearing in place of Mrs. Margaret Campbell of Vancouver, our president. The members of her delegation are Mrs. Margaret Ashdown, director and executive secretary of a large Canadian manufacturing and distributing company with a nationwide business. She has had a wide experience in the field of employment, is a member of the Canadian Personnel Association and has specialized in the field of office management. Mrs. Brocklesby of Ottawa, is a past member of a national committee, and has been chairman of the surveys and research for our national federation. Miss Agnes Ireland of Ottawa is a foreign service officer and was I think Acting High Commissioner for Canada in New Zealand. Miss Gladys Moffatt of Ottawa, vice president of the Canadian Federation of Business and Professional Women's Clubs. We have also with us a Mrs. Graham of Smiths Falls representing the National Council of Women and Miss Margaret Hyndman, Q.C., who is not only prominent in her own profession where she is recognized as an authority on company law, but is also director of a trust company and a loan company, president of a theatre company, and a director of several manufacturing and retail businesses. She is vice president of the International Federation of Business and Professional Women.

I believe a copy of our brief has been sent to each member of the committee. Would you like me to read it now?

The CHAIRMAN: Your brief will be printed in evidence and we would appreciate if you would use the time that is available in probably highlighting the representations that are contained in the brief.

MEMORANDUM

for the Prime Minister and Members of the House of Commons

on Bill 100

The Canadian Federation of Business and Professional Women's Clubs commends the government for introducing Bill 100—"An Act to Prevent Discrimination in regard to Employment and Membership in Trade Unions by reason of Race, National Origin, Colour or Religion". We submit, however, that the Bill should also prevent and eliminate discrimination in regard to employment because of sex, and in particular that it should prevent discrimination on this basis at the time of hiring, during the employment and especially in the rates of pay.

We respectfully request legislation, either as an amendment to Bill 100, or a separate Act, preventing discrimination in matters of employment against the women of Canada. In support of our request for this legislation we submit:

1. That the preamble to the United Nations Charter declares: "We, the peoples of the United Nations, determined . . . to reaffirm faith in fundamental human rights, in the dignity and worth of the human person . . . in the *equal rights of men and women* . . . have resolved to combine our efforts to accomplish these aims".
2. That the Universal Declaration of Human Rights, Article 2, says: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, *sex,* language, religion, political or other opinion, national or social origin, property, birth or other status".
3. That the Universal Declaration of Human Rights, Article 23 (2) states: *Everyone, without any discrimination, has the right to equal pay for equal work.*
4. That the basic principle of human rights as enunciated by the United Nations Charter and The Universal Declaration of Human Rights is *not* recognized by Bill 100 as it does not prevent discrimination against women workers.
5. That women form an important part of the labour force of Canada, and specifically that there are over one million women workers or more than 20% of the total labour force of Canada.
6. That the rapid increase in the number of women in business and industry is one of the most important factors in the economic life of Canada and that this increase will continue throughout the twentieth century.
7. That according to U.S. surveys, out of every 100 gainfully employed women, 84 work to support themselves and their dependents, 8 work for a special reason such as to buy a home, pay debts or educate their children, and the remaining 8 work, presumably, for the pleasure of paying income tax.
8. That in time of crisis our Canadian economy is dependent almost solely on the recruitment of women into the labour force and that women have responded magnificently in recent years when their services were required.

The Canadian Federation of Business and Professional Women's Clubs seeks legislation which will protect women engaged in employment upon or in connection with any works, undertakings or businesses within the legislative authority of the parliament of Canada from discrimination on the basis of sex at the time of hiring, during the employment and in remuneration. All three objectives may be accomplished by an amendment to Bill 100. In the alternative, and to prevent discrimination in remuneration, we request an Equal Pay Act similar to those passed by the province of Ontario in 1951 (Statutes of Ontario, 1951, Chapter 26) and by the province of Saskatchewan in 1952 (1952 Statutes of Saskatchewan, Chapter 104).

In support of our request for "equal pay" we repeat paragraphs 1 to 8 above, and add:

9. That the principle of equal pay for equal work was recognized in conventions adopted by the International Labour Organization in 1928, 1944 and 1947, and further that the principle was reaffirmed at the International Labour Conference in 1951 by the adoption of a convention calling upon member states of the I.L.O. to promote the application of the principle of equal remuneration for men and women workers for work of equal value.
10. That many countries have equal pay legislation, for example, Albania, Mexico, Brazil, Bulgaria, Burma, France and Italy, and that such legislation is in force in 14 states of the United States of America.

11. That the last two Governments of Great Britain have approved the principle but have not enacted legislation because the resultant increase in expenditures for the Civil Service might seriously affect the economic recovery program in Great Britain.
12. That equal pay for equal work is recognized in the Civil Service of Canada and in at least 25 per cent of all collective agreements.
13. That the principle is endorsed by all trade unions and by all political parties in Canada.
14. That unequal rates of pay as between men and women workers endanger both the rate of pay and the employment of men.
15. That lower rates of pay force women workers to accept a lower standard of living ,thus adversely affecting the health and welfare of the woman worker, her dependents and her community, and further that this effect is extended throughout her lifetime as pensions and superannuation payments are related to rates of pay.
16. That unequal rates of pay cannot be justified on the assumption that men have dependents and women workers have not, and further that in any event dependents have been taken care of by such measures as Family Allowances, provisions for exemptions under the Income Tax Act, and Old Age Security taxes, to all of which the women workers contribute.
17. That where equal pay for equal work obtains, as in the professions, public opinion accepts it without question.

In conclusion, may we remind you that if "the purpose of the Bill is to prevent and eliminate practices of discrimination against persons in regard to employment" and that if "the basic principle of human rights as enunciated by the United Nations Charter is the motivating factor", these aims will only be realized by the enactment of the legislation we seek.

Signed on behalf of The Canadian Federation of Business and Professional Women's Clubs.

MRS. MARGARET CAMPBELL.
National President.
MISS RUTH S. McGILL,
Chairman, Employment Conditions
Committee.

Miss MENZIES: Then, Miss Margaret Hyndman, Q.C., will bring forward the highlights of our brief. Thank you.

The CHAIRMAN: Thank you very much. Miss Hyndman?

Mr. POULIOT: You may sit, Miss Hyndman.

Miss Margaret Hyndman, Q.C., Toronto, called:

The WITNESS: Mr. Chairman and member of the committee. As you may have surmised from the letters and the memoranda which have come to you from our organization, we are not opposing the legislation, we are in favour of the proposed legislation and the underlying principles, but we think that very real—

The CHAIRMAN: Pardon me, Miss Hyndman. You are getting down now to the hard text of your submission. Could you raise your voice just a little, please?

The WITNESS: We are not against the principle of the Bill which is under consideration. We are in favour of it, but we think that there is a serious omission in the Bill which purports to deal with discrimination in matters of

employment. We know that there is great discrimination against women as women in matters of employment, and I do not think that I need take up the time of the committee by citing examples, but we could cite many—we could bring crowds of witnesses to show you conclusively that women in the fields of employment which would be covered by the Bill which is now before parliament have been held back and in many cases not employed, but the greatest discrimination has probably been after employment in the matter of remuneration and promotion. There are arguments about equality of opportunity and equality of remuneration which have been gone into in a very interesting way and at some length in our correspondence with members of parliament. In our organization we have both employers and employees. On the international level, we have the unique privilege of having official observer status on the International Labour Organization, because of this peculiar experience of ours, and we venture to think that, being a group of women who are both employers and employees, we can approach a question such as we are trying to put before you this morning objectively and not from a standpoint of either employer or employee alone. We also have in our group many professional women, and nowadays in Canada there is little or no discrimination against women in the professions, and we venture to submit that the reason for that is that men and women in the professions are paid in the same way and are treated in the same way by their professional organizations or occupational groups and by their clients or their patients. No one would think of offering a woman doctor less to perform an operation than a man doctor if they were equally good, and the worst sin I could commit in my profession would be to undercut my *brothers in law* in the matter of fees. The same applies in the field of insurance, in which Miss Menzies is engaged—it is in fact an offence to rebate commissions and women are paid exactly the same commission as men.

Now, as to Bill 100—and I am including the word "sex"—I would like to say at this point that the one woman member of your committee has evidenced in the past her interest in the welfare of the working women of Canada by introducing not only the precursor of Bill 100, but a second Bill on equal pay for women in the fields to which this Bill would apply. Mrs. Fairclough and we, however, part company—if I may put it that way—on the question of whether or not an anti-discrimination Act is the place to take care of discrimination against women, or whether there should be a separate Bill. I must say that I find myself still unconvinced that discrimination on the ground of sex cannot be treated in exactly the same way as discrimination on the ground of race, creed and national origin.

By Mr. Pouliot:

Q. If you will permit me, sex is different from religion, race and nationality. You have no complaints of discrimination against women on account of their race, religion or nationality?—A. Women are discriminated against on the grounds of race, creed and colour in exactly the same way as men, but they have an additional discrimination because they are women.

Q. I will listen to you with pleasure and I will ask you some questions afterwards, if you will pardon me for interrupting.—A. If there are factors in the employment of women which develop because they are women, then if they are paid they bear that penalty inevitably, and they will have to be paid, their chances of promotion and so on are undoubtedly affected by it, but when they do the same work as men there is no reason why they ought not to be paid the same amount, and if their chances of promotion are to be greater or less we submit that those chances of promotion and the amount of their remuneration ought not to depend on the mere fact that they are women,

and I may say that the introduction of the word sex into this bill would have an effect which I think has not raised very much interest with this committee or parliament, and that is that it would ensure that men would not be discriminated against by reason of their sex as well as protecting women on that ground, and there might in certain industries, and in the field of employment be places where men will be discriminated against. In my own office I try to keep a balance between the men and the women students and lawyers, because I think that is the way the best work is done in any field, but it might well be that women who own businesses would, in the absence of legislation such as this, refuse to employ men. There is of course the other point that as soon as you leave it open for women to be paid at a lesser rate for the same work as men, you are tempting employers to hire the cheaper help, that is assuming that they can do equally good work, and at this stage I think all working women are prepared to take their chances, and they are not asking for protection. Now, in the correspondence which we had with members of parliament a number of arguments were put forward, and I think we know pretty well the case against us, and I would like to meet one or two of these points which have been raised. In the first place, may I say that, as we all know, a great deal of careful thinking and many months time went into the framing of the United Nations charter, and of the universal Declaration of Human Rights. In both of these documents there is a declaration against discrimination, and discrimination on the grounds of sex is linked with and treated in the same way as the declaration as to the discrimination on other grounds. In Bill 100 you will see an explanatory note that the purpose of this Bill is to prevent and eliminate practices of discrimination against persons in regard to employment and in regard to membership in trade unions. The basic principle on human rights, as enunciated by the United Nations charter, is the motivating factor. Some questions have been raised about the economic waste, if I may call it that, or expense of employing women, and as to the protective conditions under which women work in most provinces, and on that point, I would just like to point out that there has been a considerable change in the thinking of employers and women who are interested in the welfare of working women as to what is legislation in favour of working women. We learned by bitter experience that to pass a Minimum Wages Act for women and not for men meant that the minimum wage became the maximum wage for women, and many of the protective features which were suspended during the war have been found to be detrimental to the interests of working women, and to militate against them in the past, perhaps in good faith, as no doubt this Bill was framed, but the omission of the word sex still does not really protect women and makes it more difficult for them to earn their living. I submit the fact that there is that kind of legislation, so called protective legislation, which really discriminates against women, does not mean that you should further aggravate the situation by refusing to put the word sex in this bill. Now, we know that for the word sex to be included in this Bill, or treated in a separate Bill is a matter of suggestion for recommendation by this committee, but a number of questions have been raised in the correspondence we have had, and I would like Mrs. Ashdown who has had a wide experience of business in Canada, and who is Secretary of the Employment Conditions Committee of the Business and Professional Women's Clubs to say a word on that.

Mrs. Margaret Ashdown, Secretary of the Employment Conditions Committee of the Business and Professional Women's Clubs, called:

The WITNESS: Mr. Chairman, members of the committee, I propose to be very brief because I know you are just all dying to throw a lot of questions at Miss Hyndman, and I would not want to stand in your way, and I know time is short. As Miss Hyndman mentioned to you, our members wrote to you folk, and your answers did bring up some pertinent points, and some of the things you thought were against the inclusion of the word sex in this particular Bill, and we, in handling this matter in this way, are just trying to save a little time and save you from repeating questions by giving you the answers in a very quick and brief way.

One of the things a great many of you asked about was absenteeism, and you felt that women should not expect to be treated on the same basis as men, because there was evidence of greater absenteeism on the part of women than men. Now, perhaps some of the authorities here can put me straight, though I see Mr. Brown has left, and I was going to raise that question with him, but so far I know we have very little documentary evidence that absenteeism is greater on the part of women to any appreciable extent bearing in mind there were certain studies made during the war of defence industries where absenteeism did show up greater among women than men, but also bearing in mind the fact that by far the largest group of employed women today is in the clerical field, and these studies did not refer to the clerical field. I have yet to find any documentary evidence where it can be proved that absenteeism is appreciably greater on the part of women clerical workers than men. You will agree with me that the common cold is perhaps the greatest cause of absenteeism we have, and as far as I know, the common cold is no respector of persons between male and female. Actually, the latest studies indicate that emotional upsets are one of the prime reasons for industrial absenteeism, and that men are the greatest people to be affected by such emotional upsets, which may be difficult for you to believe, but it is supposed to be true. The second question many of you raised was that, to force employers to employ women on the same basis as men would cost employers money, and that you were not in a position to force the employers of our country to spend more money. I would like to refuse that very bluntly, because I feel that if you are fair at all and logical, which is supposed to be one of the great traits of you menfolk, you will realize that women in industry, particularly light industry, and the assembly plants of our nation are doing such a wonderful job production-wise that the fact you might have to put in another washroom is infinitesimal compared with the result in dollars and cents that you could obtain.

The third point I want to deal with is short-term employment. A number of you said: What is the use of our having women, because they will just get married and that will be the end of that? But that is a picture which is changing very rapidly through recent years. Between 1940 and 1947 the number of women between the ages of 45 and 54 increased by 47 per cent. A recent comparative study of 20,000 members of the Business and Professional Women's Clubs showed that the average age of employed women was 39½ years. One-fifth of them were 50 years of age and over. Today married women in offices outnumber single girls. The latest figures indicate that 46 per cent of our office women are married, 18 per cent are widows or divorcees, and only 36 per cent are single.

Since we are fast becoming working couples, employers need no longer give wedding bells as their excuse.

My fourth and last point is the principle brought up by this point that none of the anti-discriminatory laws on the statute books in the United States contain

the word "sex". Gentlemen, surely we do not need always to be in the position of followers. Here is the place where we Canadian people can get ahead and show the countries of the world that we are recognized.

By Mr. Pouliot:

Q. Mr. Chairman, we have been fortunate in having with us Miss Margaret Hyndman, Mrs. Ashdown, and Miss Menzies, but apparently what they have said was not at all in order because what we are discussing now is discrimination. Again, by reason of race, national origin, colour or religion, and if the Bill were amended to have something concerning the problems of women, what has been said by the ladies who spoke would have been perfectly in order, but now we are discussing racial and religious discrimination only. This is the scope of the Bill and I wonder if the ladies who have spoken have any instances to quote of religious or racial discrimination of any kind in business.

Mr. CHURCHILL: Mr. Chairman, do you not think that we should adjourn for lunch. Statistics show that women live longer than men. We cannot stand the pace.

Mr. POULIOT: When my mind is well fed I do not feel hungry.

The CHAIRMAN: It being 1.00 o'clock, I was going to suggest despite your observation, Mr. Churchill, that probably we should continue at a very accelerated pace. As we are to have the labour organizations coming before us this afternoon, would someone move that instead of assembling here at 3.00 o'clock, we perhaps should continue with the present witnesses at 2.30?

Mr. CROLL: It may be that the witnesses would like to get home today. Perhaps we could take a few minutes now, if someone would like to question them, so that they can get away.

Mr. POULIOT: I have only one question to ask.

Mr. CROLL: Then let us finish with them.

The CHAIRMAN: Does that meet with the approval of the committee?

Mr. CHURCHILL: No. I think it would be better to adjourn now and meet again at 2.30 and I so move.

The CHAIRMAN: Ladies, would that suit your convenience? Since the time of 2.30 suits the convenience of the witnesses, and it has been moved by Mr. Churchill and seconded by Mr. Pouliot, we shall adjourn now and assemble here at 2.30.

AFTERNOON SESSION

WEDNESDAY, April 22, 1953
2.30 p.m.

The CHAIRMAN: Well, gentlemen, we have a quorum and I believe that just prior to the recess at one o'clock Mr. Pouliot had raised the question with regard to the problems involved in the matter of discrimination on account of race, national origin, colour or religion and that they had much in common and were capable of being dealt with together as one general issue. You were, I believe, Mr. Pouliot, questioning Mrs. Ashdown with regard to the linking of race, national origin, religion and colour with the question of discrimination against women.

Miss Margaret Hyndman, Q.C., Vice-President of the International Federation of Business and Professional Women, called:

Mr. POULIOT: I will tell you, Mr. Chairman, when ladies appear before any parliamentary committee, the gentlemen who are members of the committee appear to belong to the weak sex and this is precisely the reason why I have not called the ladies to order when they were discussing women's problems that were not related at all to racial or religious discrimination. Now, as the ladies have taken the trouble to come here, I will ask them jointly and severally if to their knowledge there has been any case of religious, racial or similar discrimination in public employment.

The WITNESS: Mr. Chairman, we appreciate Mr. Pouliot's consideration of us. We think perhaps he is stealing our act a little in being so weak, but I think if I may say so quite bluntly that his question is out of order because what we are proposing—and it may be I did not make it clear—for your consideration is that this Bill which is under consideration now should be amended by adding the word "sex", so that there will be a prohibition against discrimination in matters of employment on the grounds of sex as there already is in this Bill on the grounds of race, creed and colour.

By Mr. Pouliot:

Q. Each thing in turn, please. What I want to know of you as an executive and barrister is if to your personal knowledge there has been racial or religious discrimination in employment in Canada. That is all I want to know.—A. Yes. I think there has been. I think I have heard two instances of it this morning.

Q. Do you take what has been said by Mr. Himel or by Mr. Hayes?—A. I took what they both say and I think that the conclusion is inescapable that there is a discrimination against coloured people working on the railway, and that they are limited not by their own capacity, but by their colour from advancing to any higher position than that of a porter.

Q. Now, with regard to the first point that you have just mentioned, if you take for granted what has been said this morning by Mr. Himel and Mr. Hayes, you as a fellow of Osgoode Hall believe in hearsay. —A. I think we all do that.

Q. That is unfortunate and it is not an answer to my question because I asked you what you knew from your personal knowledge about it.—A. I know that I have never seen a coloured conductor or brakeman or fireman on a Canadian railway.

Q. Well, I will tell you. You know that there is a porter's union, most of whom are coloured. I agree with you on that. I know the porters very well, they are my friends.—A. Mine also, but I have never seen a coloured conductor.

Q. Are you sure they applied for the job of conductor? Do you know, Miss Hyndman, that very often the conductors on the trains were replaced by porters and on a big train, the Maritime Express that goes from Montreal to Halifax very often there were no conductors and the one who was in charge of the sleeping cars was a porter.—A. It is pullman conductors you mean.

Q. There were no pullman conductors on that train, but the porters were acting as conductors. Now, the union is a porter's union, and is it to your knowledge that porters have applied for the job of conductors, firemen or locomotive engineers?—A. They have told me so.

Q. They have told you so?—A. Yes, I have been told that.

Q. Did they give you a statutory declaration to that effect?—A. No. I was not collecting evidence.

Q. No, but porters told you that they could not be conductors, firemen or locomotive engineers?—A. Yes.

The CHAIRMAN: Mr. Pouliot, in the representations that have been made by the Business and Professional Women's Clubs they have not mentioned discrimination other than as expressed by the various speakers who have spoken—the witnesses—they have not mentioned other than the discrimination on account of women and if you have any questions to put to any of the witnesses I would ask you to direct them in the light of the presentation they have made.

Mr. POULIOT: I will ask you, sir, to rule out all that has been said by those ladies because it was not in order at all. It was just because we were too gracious that we did not raise the objection before.

The CHAIRMAN: Mr. Pouliot, the committee had some appreciation of what the ladies were going to mention in their presentation and the committee has adopted a motion to have them appear. In view of the brief and the letter which was circulated previously to all members of parliament it was for the committee to indicate whether they would be allowed to present a submission of that kind to the legislation that is being considered.

Mr. CROLL: Mr. Chairman, may I just make this observation that we invited the ladies here. They have contributed a great deal in that they have endorsed the principle of the Bill and they thought they could improve the Bill by making a suggestion. Whether we agree with them or not, they have at least put forward their viewpoint which may on this or another occasion be dealt with by the committee. It seems to me to that extent to be very useful indeed and we have a viewpoint which we otherwise would not have had.

Mr. POULIOT: I have only one thing to say. It is that Mrs. Ashdown and Miss Hyndman have complained about the fact that women were considered inferior to men in employment. I will not insist any more because my conviction is made and I am a firm believer in the superiority of women over men.

Mr. CROLL: Good.

Mr. POULIOT: Whether married or not, and this was not the time at all to tell a tale about the ringing of wedding bells here.

Mr. CROLL: Oh, well. It is very pertinent.

The CHAIRMAN: We have had some very good evidence today and I think all members like to hear good verbiage and I think that illustrates a point very well.

Do other members of the committee have further questions to ask?

By Mr. Cardin:

Q. Do you feel this particular Bill would best answer the problem you are facing rather than have some other legislation on the matter? It seems to me that the particular problems of this Bill are a little different from those you mentioned this morning?—A. Up to a point that is true, but I submit the inclusion of the word "sex" in this form of Bill will cover more of the discriminations against women than an equal pay Bill would or any other form of Bill which could be drafted separately because in the very act of making it a separate Bill you are drawing a distinction and discriminating in legislation.

Q. But do you feel that the discrimination that is made towards women is on the same ground as that which may be made for, say, racial origin or religion?—A. Yes. I think both are rooted in prejudice.

Mr. POULIOT: It is a big word; be careful.

Mr. CROLL: Yes, and we are all against it.

The WITNESS: I think both are rooted in prejudice and I think that employers have been a little more vocal in expressing their reasons for their prejudice against women than they ever have been in voicing the prejudice which they practise against these other groups.

By Mr. Cardin:

Q. I do not want to appear mid-Victorian—and I do not want to get myself into trouble either—but I seem to think there is a certain type of work that women would not be able to do, or would be physically fit to carry on, that this Bill would normally include, and it would not affect women at all. It seems to me the problems could best be cleared up and completely cleared up from your point of view in a separate bill. The impression I have is that adding sex to this Bill is something like adding flowers to a vegetable bin.—A. That is a very gracious way of expressing what you consider a difficulty, Mr. Cardin, but if the word sex were added to this Bill it would cover a very wide field of employment for women only. There has been and still is discrimination, for example in banks, and the argument about women's physical strength and so on is not realy pertinent. Now, I do not think there are very many women who ever want to apply for a job as a stevedore. I do not think there would ever be very many men who would want to apply for a job of handling and packing, say, delicately coloured fabrics and blankets, and things of that kind. Naturally if one had to advertise every position for both men and women, not many people of either sex would think of applying for a job that they were not physically capable of doing. It is not fashionable these days to look for more work than one is able to do.

Q. I was trying to find out whether you feel that this particular Bill would answer all the problems you have met in your career.—A. I think it would. It would do so better than an Act framed along the lines of the Ontario Equal Pay Act or the Saskatchewan Equal Pay Act, but, if I may say so, Mr. Chairman, it is easy for us who are steeped in this subject to sit around a table and draw comparisons and make distinctions, but the rank and file of the working women in Canada will not, I think, be able to draw those distinctions, and all that they will know is that the House of Commons has passed legislation to protect Jews, the coloured people and religious minorities—

Mr. POULIOT: Both men and women.

The WITNESS: Both men and women—but has done nothing about protecting women from real discrimination which applies to them in matters of employment.

Mr. CROLL: Should you not also follow up by also telling those women that Mrs. Fairclough has a Bill before the House dealing with the particular subject that concerns them, which may not be dealt with this year but will have its day in court on another occasion, which on due consideration would seem to fit the need better than injecting it into this bill, if that is your view.

The WITNESS: Well, I had hoped, Mr. Chairman, not to be drawn into a discussion of Mrs. Fairclough's Bill. I think that Bill will undoubtedly have its day but, as I said earlier, although Mrs. Fairclough and the members of our organization are trying to do the same thing, we approach it in a slightly different way and I prefer not to discuss the effectiveness of her proposed Bill.

Mr. CHURCHILL: In the early part of your submission this morning, Miss Hyndman, you dwelt with some emphasis on the question of promotion of women after they were employed, at a lower wage or salary in comparison with what men are getting, after they were employed, and I was wondering at

the time you were speaking how you related that to this particular Bill; and, secondly, if the word sex were introduced into this bill, what effect would that have on those two points of promotion and equal pay for women?

The WITNESS: This Bill covers every term and condition of employment and it is my opinion that "term and condition of employment" include opportunities for promotion and include pay. If they do not, then what is the use of passing this Bill at all to protect anybody, if it can be defeated by saying "Yes, we will not distinguish between Jewish people or coloured people or Mohammedans or anybody else, but we will pay a Mohammedan 30 cents an hour less, or pay a Jewish person 30 cents an hour less." The Bill is not effective at all unless the words and terms and conditions of employment include both remuneration and opportunity for promotion.

Mr. POULIOT: Miss Hyndman, as a parting shot I will tell you of one of my recollections. There was a Quebec gentleman who had married a coloured woman and their son was just as black as ebony, and he was not a porter but he was a fireman and he became an engineer. Well, that is the only instance, but it has been done, and his name was Talbot.

The WITNESS: I am afraid, Mr. Chairman, you are going to have to struggle with the question of coloured porters. That is not a subject which we can discuss.

The CHAIRMAN: Yes, we understand, but we are allowing the fullest scope possible.

Now, if there are no further questions, gentlemen, we will thank you ladies very much. Is there someone else in your delegation who wishes to make a presentation? Mrs. Graham.

Mrs. W. A. Graham, President, National Council of Women, called:

The WITNESS: We have, as you know, been called the parliament of women of Canada. The National Council of Women is in its sixtieth year this year, and we are made up of federated associations, of which the Business and Professional Women's group, we are very happy to say, is one of our federated association members. When they came to the National Council of Women and asked them to see what they could do in connection with this presentation, we immediately endorsed it. We have spent sixty years of our existence in trying to get better laws and conditions for women and children of Canada, and we naturally felt that this was one Bill we could stand behind, and I would like to say that the National Council of Women, with about 500,000 members across Canada, endorses this request of the B. and P. group that the word "sex" be included in this Bill.

Mr. POULIOT: What is the B. and P. group?

The WITNESS: The Business and Professional Women's group. We shorten it, just as you all have letters nowadays to say what bodies are, so we call it the B. and P. group. We certainly endorse this Bill and wish that the committee would give it their serious consideration in this Bill, and follow the United Nations declaration as closely as possible, which includes the words men and women.

Mr. POULIOT: You make me think of the United Nations declaration and what was said in it refers not to Canada but to the countries of Europe which are behind the iron curtain.

The WITNESS: I think there are 64 nations in the United Nations.

By Mr. Johnston:

Q. You represent a very large group of women. Do all the organizations endorse this recommendation?—A. Yes. We have written to the executive and they have endorsed this Bill, hoping that the word "sex" would be included in it, and we have followed up that in the National Council of Women, in the provincial councils of women and in the local councils of women. We have written to our local members, hoping they would see fit to include it in the Bill.

Q. And did they?—A. We don't know. We have just written to our local members of parliament.

Q. Oh, I thought you said the local members of your organization.

Mr. POULIOT: You may sit down, Mrs. Graham.

The WITNESS: I like to stand. I work with men a great deal and I have found out that they pay more attention to you when you are standing.

Mr. CARDIN: Is it the opinion of the organizations that the interests of women in Canada would best be served by this Bill rather than in another Bill?

The WITNESS: You know if you do not get a thing started on the right foot it is awfully hard to get it on the right foot later on. We thought that it would serve our purpose a great deal to have the word "sex" included in this Bill, and then when we got that far we would come along with some amendments, but we did think that this was the bill to have that word inserted in.

The CHAIRMAN: Are there any further questions of Mrs. Graham?

Mr. POULIOT: Mrs. Fairclough, you do not want to ask any questions?

Mrs. FAIRCLOUGH: Mr. Chairman, as the members of the delegation know, I do not approve of its inclusion, and since I cannot say anything in support of its inclusion, I thought it better not to say anything at all.

The CHAIRMAN: I would say, ladies, that the brief that you have directed to the members of parliament, and of which the committee members each have a copy, will be printed in this evidence. I can assure you that all the members of the committee will give very serious consideration to the very worthy representations you have made on behalf of your organizations. We thank you very much for being so gracious in coming here and presenting such an interesting brief and representations to the committee.

The WITNESS: Thank you very much.

The CHAIRMAN: Now, gentlemen, it is three o'clock. The subcommittee has recommended that the next witnesses to be called are those on behalf of the Jewish Labour Committee of Canada, and as a representative of that body we have Mr. Kaplansky present. I would ask Mr. Kaplansky to come forward, please.

Mr. Kalmen Kaplansky, Director of the Jewish Labour Committee of Canada, called:

By Mr. Pouliot:

Q. You are Mr. Kaplansky?—A. My name is Kalmen Kaplansky, Director of the Jewish Labour Committee.

Q. Will you please tell us who is Chairman of your organization?—A. The Chairman of our organization is Mr. Michael Rubinstein.

Q. In Victoria?—A. No, in Montreal. The Treasurer is Mr. Bernard Shane who is Vice-President of the International Ladies Garment Workers of Canada.

Q. Where does he live?—A. In Montreal. Amongst the Vice-chairmen are H. A. Reiff, who is Manager of the Amalgamated Clothing Workers Union of Montreal, and Mr. Maurice Silcoff who is Canadian Vice-president of the

United Hatters Cap and Millinery Workers International Union, and Mr. Max Federman who is head of the American Federation of Labour Furriers Union in Toronto and Mr. Sam Kraisman, Manager of the International Ladies Garments Union in Toronto and Mr. A. Kirzner, business agent of the I.L.G.W.U. of Toronto, and Mr. Sam Herbst, Manager of the I.L.G.W.U. in Winnipeg, and our officers come primarily from Montreal, Toronto and Winnipeg and we have three branches in these three industrial cities in Canada.

By Mr. Viau:

Q. Are you affiliated to the Canadian Jewish Congress?—A. No, but we are in close friendly relations with the Canadian Jewish Congress, and some of our affiliated organizations are part of the Canadian Jewish Congress.

By Mr. Pouliot:

Q. But you are an independent organization?—A. Yes, we are an independent organization.

Mr. Croll:

Q. Are you associated with the Canadian Congress of Labour, the Canadian Trades and Labour Congress?—A. Not directly, but organizations affiliated to us are members of the Canadian Congress of Labour or the Trades and Labour Congress of Canada.

By Mr. Pouliot:

Q. Are you a trade union?—A. We are not a trade union, but my committee represents trade unions and labour fraternal organizations, in which there is a large Jewish membership.

By Mr. Viau:

Q. When was the Jewish Labour Committee formed?—A. In 1936, and at that time the organization, which forms part of the Jewish Labour Committee at the present moment, got together and decided to launch an organization in Canada for the purposes for which the organization was formed.

Q. The main purpose is?—A. The main purpose is to assist and aid Jewish trade unionists overseas, help them to migrate to other countries, Canada included, assist them materially when in need, help the victims of both fascist and communist persecution and carry on a program of educational work in Canada for the purposes of fostering understanding and good will between the different racial groups that make up the population.

Q. Was it founded because there was discrimination?—A. It was established primarily as a result of the shock which the Jewish community received as a result of the persecution which took place in Germany, and to bring to the attention of our friends in the trade union movement what happened in Germany, so that we in Canada, in the United States and in all the free countries could benefit from the lesson of what took place in Germany at that time. Our foundation coincided actually with the rise to power of Hitler and the nazi party in Germany.

Q. Have you a similar organization in the United States?—A. Yes, we have.

By Mr. Pouliot:

Q. What is it called?—A. It is called the Jewish Labour Committee and it is affiliated in the same way as the Trade Union Movement in Canada is affiliated in certain respects to the Trade Union Organizations in the United States.

By Mr. Viau:

Q. In other words your members pay dual fees as members affiliated to the C.I.O. and the A.F. of L.?—A. We do not pay dual fees. These trade unions which are affiliated to the Jewish Labour Committee and others are affiliated to the C.I.O. or A.F. of L. like the International Ladies Garment Workers Union, locals of which, with a large Jewish membership, are affiliated to the Jewish Labour Committee, and part to the American Federation of Labour. The Amalgamated Clothing and Garments Union which is part of the Jewish Labour Committee is affiliated to the C.I.O. and the Canadian Congress of Labour in Canada.

Q. You say you do not levy fees at all?—A. No, it is all based on voluntary contributions, and whatever money they make available to pay for the work we carry on in Canada and overseas.

The CHAIRMAN: Would you like to touch on the highlights of the brief?

Submission
Seeking certain improvements in Bill 100
To the Standing Committee on Industrial Relations
By the Jewish Labor Committee of Canada

Honourable Members

The Jewish Labor Committee desires to wholeheartedly commend the government upon its introduction of bill 100, an Act to provide for non-discrimination in employment on grounds of race, national origin, colour or religion in those industries and undertakings within the jurisdiction of the parliament of Canada. We hope that this bill will have the unanimous support of parliament. We wish also to express our thanks to your committee for this opportunity to place our views before you upon this very important social legislation.

The Jewish Labor Committee of Canada was formed in 1936 to serve as a representative body for labor organizations with a large Jewish membership. The committee is diametrically opposed to both communism and fascism.

Since its formation and during the last seventeen years the Committee has fostered nationwide educational campaigns inside the labour movement designed to expose the fallacies of racial and religious prejudice and discrimination and to create an atmosphere in which unity and understanding could develop among the many elements that go to make up the Canadian population.

Much has been done by our committee to help the victims of racial and religious persecution in other countries and to aid the refugees from fascist and communist persecutions to find new homes and to live new lives in Canada.

The committee represents affiliated organizations and among these are large labor organizations such as the International Ladies' Garment Workers Union, the Amalgamated Clothing Workers Union, the United Cap, Hat and Millinery Workers Union and the Workmen's Circle.

The major Canadian labor congresses, with which these labor organizations are also affiliated and our own committee, have made requests in recent years to the government of Canada for legislation to be enacted and regulations changed to provide against discrimination in employment on grounds of race, color or creed. The first of these requested changes was made last year when parliament approved an amendment to the Unemployment Insurance Act whereby placement officers of National Employment Service may not practise discrimination on such grounds when referring applicants for jobs.

Following this important step, Order in Council P.C. 4138 was passed providing that discrimination in hiring or employment by an employer operating under a government contract would be a material breach of the contract.

The approval of these two measures and their enforcement makes it plain that the government and parliament of Canada have fully accepted the principle of fair employment practices. The introduction of a bill to provide for non-discrimination in employment in the entire field of business and industry within the jurisdiction of Parliament at this Session was a needed logical extension of this principle.

The new legislation as proposed in bill 100, with certain specific amendments, we believe will tend to provide a basis for the reduction of discrimination in employment and for fair treatment of any victim of such discrimination when such cases do arise. We say this to your committee advisedly because we feel that any major shortcomings in the Act will readily become apparent in its administration and amendments could then be suggested and adopted in the light of such practical experience. We believe that the most important thing to do now is to approve this bill and its underlying principles and make it an integral part of the social legislation of Canada.

We would like, however, to make certain specific recommendations for changes in the bill because we think that these will strengthen it and make its administration more effective in all cases.

We recommend that section 2 (*g*) which now reads: "'national origin' includes ancestry" be amended to read: "'national origin' includes ancestry and nationality". This is a very important matter for many persons now in Canada who have recently arrived from countries other than their country of origin. Due to the upheavals in Europe, many immigrants reaching Canada have a nationality, attached to them for the five-year period in which they must await their Canadian citizenship, which is quite different from their national origin or ancestry. We would draw your committee's attention to the fact that such protection is provided for in the Ontario Fair Employment Practices Act.

No mention is made in clause 4 of the bill, which deals with "prohibited employment practices", to application forms.

Sub-clause (5) of clause 4 does prohibit the publication of "any advertisement in connection with employment or prospective employment that expresses either directly or indirectly any limitation, specification or preference as to race, national origin, colour or religion. . . .".

We recommend that an additional sub-clause (6) be inserted in clause 4 of the bill which would prohibit any reference in any application form used in connection with employment or prospective employment to the applicant's race, national origin, colour or religion.

Your committee's attention is also drawn to the Ontario Act in which such prohibition is contained. We would like to stress that this prohibition in the Ontario law has been the most effective feature of that particular legislation.

A substantial amount of experience has been gaind in other jurisdictions from the application and administration of Fair Employment Practices laws. In addition to the Ontario law there are now a substantial number of such laws in force in many states of the United States of America. Recent figures made public by a committee of the U.S. Senate show that more than one-third of the working people of the United States are now covered by Fair Employment Practices legislation.

This experience shows very definitely that such laws work best when a broad and consistent educational program is carried on throughout the jurisdiction by the authority administering the law. Unfortunately provision is not made in Bill 100 for such educational activity. In saying this we are aware of the broad powers given to the Minister of Labour in clause 10, but

we earnestly and sincerely recommend to your committee that a further clause be added to the Bill to provide for an educational program designed to publicize the Act and make its provisions known to all employees and employers within the jurisdiction and giving specific instructions and authority to the Minister in this connection.

We hope your committee will accept and adopt our recommendations and in this amended form urge its approval by Parliament.

All of which is respectfully submitted by

THE JEWISH LABOR COMMITTEE OF CANADA.

Mr. KAPLANSKY: I would like to say that in our organization there are a large number of new Canadians, people who have arrived in Canada during the past 6 or 7 years, and I am very pleased to inform you that the fact that the Minister of Labour has introduced this Bill in parliament has had a tremendous impact on these people. They feel that it was a gesture that would encourage them to try to become part and parcel of, to use a phrase, our Canadian way of life. We have had a number of meetings with them, and at one of them Mr. Côté was present, and he spoke to them, and the general concensus of opinion which we could observe was that this Act was a step in the right direction. It was a welcome act to them, and they felt that they were encouraged by the fact that the government of Canada had placed on the statute book, or intended to place on the statute book of this country, a law that would spell out in clear terms that they had nothing to fear from discrimination and that all employment opportunities were available to them just as they are to other Canadians.

By Mr. Pouliot:

Q. Who is the gentlemen you just referred to?—A. Mr. Côté. We invited him to address one of our meetings.

Q. He speaks well.—A. Oh, he speaks very well sir.

Q. And he is sincere.

Mr. HIGGINS: He is a good Liberal too.

The WITNESS: What I would like to stress, sir, is that we are particularly concerned with the problem of application forms for employment. One application form came to my hands from the son of one of the members of one of our affiliated organizations. I am not going to mention the name of this particular concern, suffice to say it is one of the largest industrial concerns in Canada. As you know, Ontario has a Fair Employment Practices Act on the statute books, and one of the prohibitions of that Act was the fact that to refer to race, religion or country of origin is omitted from application forms. This chap applied for a job in Montreal with a subsidiary branch of this large concern, and the application forms were printed in Toronto, and I see that the Montreal branch office has gone to the trouble of typing in, in every application form in Montreal, reference to nationality, religion and place of birth.

By Mr. Pouliot:

Q. What did they do?—A. They typed it in on each application form in Montreal. The forms were printed in Toronto which is where this is prohibited, and they typed in nationality, religion and place of birth.

By Mr. Higgins:

Q. What form is that?—A. It is an application form for employment.

Q. Government employment?—A. No, it is a private concern, and we were sort of shocked by this case. If these questions are irrelevant and they can be

dispensed with in Toronto where there is a law, why should such questions be asked in the city of Montreal or elsewhere in Canada, and we feel that one of the main benefits derived from the Ontario Fair Employment Practices Act was that it cleaned up the situation with regard to applications for employment where these questions did not appear.

Perhaps it has a great deal to do with the psychology of people and I am not a student of psychology, but a man who was not born in Canada, or who belongs to a racial group or national group which is considered a minority feels, when he has to put down his race or his religion or national origin that this is one strike against him.

By Mr. Pouliot:

Q. No one should be ashamed of his race.—A. It is not a question of being ashamed, it is a question of the psychological effect where he feels that because he put down his nationality or his religion as being Jewish, or Catholic that that particular concern in refusing him employment, refused him on account of his racial origin or religion or his religious affiliation. It is a fact and I know it is a fact because I have been with Jewish labour groups for a period of nearly 20 years, and I myself was not born in Canada so I can speak from personal experience to that effect. These are the remarks which I wanted to add to the brief.

By Mr. Pouliot:

Q. Just a minute, before you proceed further, would you please tell us if the head office of the firm you referred to is in Toronto or Montreal?—A. I think it is in Toronto, and the employment application forms were printed in Toronto and referred to nationality, religion or place of birth which do not appear on the original forms, but were typed in on a typewritter. You can see it, because I am a printer by trade, and I know the difference between a typewriter and a linotype. It was obviously typed in here for the purposes of this application form.

Q. Was it given to you personally?—A. Yes, by the son of one of the members of an affiliated organization who filled out that form.

Q. Are you sure he did not type it in himself?—A. I am positive sir.

Q. If you had said that the form was given to you with these typewritten words on it, I would believe you, but if it is given to you by another fellow, it is hearsay, and you will agree that the fellow who gave it to you could have typed it himself, or have had it typed by somebody else. You have no personal knowledge of that?—A. I agree with you. Anything could be possible in this world of ours.

Q. The world is not so bad. Do not take it on the wrong side. My opinion of the world by and large is good, and my opinion of Canada is excellent, and I start from that.

The CHAIRMAN: Please continue, Mr. Kaplansky.

The WITNESS: That is more or less what I wanted to add to the brief, and I will be pleased to answer the questions you wish to ask.

The CHAIRMAN: Thank you very much Mr. Kaplansky. Are there any questions?

Mr. POULIOT: Yes.

By Mr. Pouliot:

Q. You said a moment ago that it was on account of the persecution of Jews by Hitler in Germany that your association was formed?—A. Yes sir.

Q. It was not formed on account of any persecution of Jews in Canada?—A. No.

Q. Now, the new Canadians that you referred to did not know very much about Canada when they came here, and they had another view of the world, and they suffered ill treatment when Hitler was in power, and they had a very bad view of the world at large, because they suffered in their own country, and they do not know much about Canada. Is it to your knowledge, that any one of them has suffered persecution since coming to Canada?—A. The world persecution has a very ugly connotation.

Q. But it is the one you used?—A. I used it in respect to Hitler, but I certainly would not like to use it in respect to a country like ours, like Canada. It is not a question of persecution. I think there is a distinction between prejudice and discrimination and there is a distinction between discrimination and persecution. What Hitler did to millions of Jews in disposing of them in crematoria is so unbelievably cruel that nothing compared to it has ever taken place in civilized history. Therefore I would not like to place the position of the Jews under Hitler with the position of the Jews in a country such as ours. It would be preposterous on my part to do so.

Q. Now you are exaggerating by giving the impression that only Jews were the victims of Hitler.—A. I never said anything of the kind.

Q. There were people who belonged to many other races who suffered persecution under Hitler, Christians as well as Jews. The persecution was general. Here we live in a free country. It is the freest country of North America.—A. I agree with you 100 per cent on that score.

Q. And I consider that that kind of legislation is a slur upon Canada because it gives the impression, especially to those who do not know Canada, and who you refer to as newcomers and new Canadians—that Canada is a country where they need special protection because they come from Europe. But that is not true. That is not the case.—A. I beg to disagree with you, sir, on that score. I do not think it is a slur on Canada at all. I think it is a credit to Canada to tell Canadians—to tell those Canadians among us who do discriminate—to tell them that in Canada there is no place for discrimination. I think it is a credit to the country as a whole. For instance if we pass an Act against murder, do we thereby imply that every citizen of this particular country is a murderer, or do we just protect ourselves against certain individuals who have murderous tendencies?

Q. I still think it is very dangerous to conclude from the particular to the general. Sometimes when a man behaves badly and is sentenced in court, very often there are representations that he is punished because he belongs to a race, and then the case is generalized to picture persecution. That is not right at all. Each individual ought to be judged according to his own merits and according to his own behaviour and according to his own right. And if there is a Jew or a Christian who I employ, and who I consider to be unsatisfactory, then unquestionably I have the right to fire him. There is no law in the world which will prevent me from firing that man who is not satisfactory in the fulfilment of his job. Do you agree with that?—A. I agree with you, and it seems to me that the purpose of the Act is just in line with what you have just said, namely, not to protect the inefficient person just because he belongs to a certain racial group. I think the purpose of the Act is to protect a person who is efficient and satisfactory in every other respect, but who is not hired or promoted because he happens to be a member of a particular race or believes in a certain religion.

Q. The purpose of the Act appears to me that it is to give protection to some people who do not need any protection in this country, because they are protected by the way of life of this country, to suggest that they need protection, and I find it bad. Do we need an umbrella when the sun is shining? Some women do, to protect their delicate skins against the rays of the sun.

The CHAIRMAN: Are there further questions?

By Mr. Higgins:

Q. May I ask the witness: How many people of your religion are there in Canada today?—A. You ask how many people of my religion there are in Canada today?

Q. Yes.—A. I believe there are 210,000.

Q. And I believe that the men of your religion are chiefly at work. The women do not usually work, do they?—A. I would say the same percentage would apply to Jewish religionists as it does to the rest of the population.

Q. About how many would you say are in major jobs of that proportion? —A. What would you call a major job?

Q. Some executive or professional job; I mean the people who are earning good money. How many are actually, in other words, in labour?—A. How many are workers, or members of trade unions?

Q. Yes?—A. I have not got the figures with me but I would say that in a city such as Montreal there must be about in three unions which we represent—that is, the clothing industry, the Amalgamated Clothing Workers of America, the International Ladies Garment Union and the Hatters and Cappers Union—there ought to be from 5,000 to 6,000 Jewish people so employed in the city of Montreal.

Q. Would this figure be correct for all Canada? It is a figure which has been given to me. I do not know.—A. I do not know how many Jews are employed in Toronto.

Q. I am told that about one-sixth of your population are actually in trade unions or in work that trade unions would be engaged in.—A. I think that would be right.

Q. And as to that one-sixth, would you say there are discriminations in many cases against the one-sixth in your different trade unions?—A. I would say that it is a very good question. May I answer you with another question?

Q. Surely.—A. Did you ever come to consider why Jews are mostly employed in the needle trades industry?

Q. I do not know. Perhaps you can tell me.

The WITNESS: Yes, the garment trades.

We have made a study of it and we feel that there is a certain pattern of employment which has developed over the years in Canada just as in other countries. Jews went into sheltered industries where they had no fear of discrimination. They did not go into industries where they felt they would be discriminated against. I am a printer by trade, and I came to Canada at the end of 1929. I was not born in Canada.

By Mr. Higgins:

Q. Then you and I have something in common.—A. After knocking around in different trades for two years, a printer took me into his plant as an apprentice. I had to go through six years of apprenticeship, and when I was through I started to look for a job to earn what at that time was considered to be good money, $35 to $40 a week. I was told by my associates and the people who were with me in the trade—I was a commercial printer not a newspaper printer—"You had better look around for a Jewish plant, because we have heard that in a non-Jewish plant there is a certain antagonism towards Jewish workers."

By Mr. Pouliot:

Q. That was hearsay.—A. It is hearsay, but it has a tremendous impact on the person who is looking for a job. As I say, it has a tremendous impact on a person who is looking for a job.

Nobody wants to be hurt. Instead of being hurt, even if it is hearsay and is something which has not been proven, he will say to himself: "I would rather go to a place owned by a Jew, because there I would have a better chance of finding employment."

What this Act would do is this: It would say to Canadians, regardless of their racial origin, "You are protected by law. You can change your pattern of employment. A Canadian looking for a job will get a job regardless of his religion or nationality."

Mr. HIGGINS: Do you feel that it is imperative that a bill such as this should be passed?

The WITNESS: I certainly do, sir.

By Mr. Pouliot:

Q. Do you feel there was any discrimination against you in the shop where you first worked with the people of other races?—A. As I have told you, I never worked in any other place except a place where only Jews worked, and that is something you have to consider.

Q. You worked with your compatriots?—A. I am a member of a union which is 90 per cent non-Jewish. I have never found any discrimination in a trade union organization. They elected me a member of their executive, and they sent me as a representative to trade union conventions.

Q. I did not discuss it, but my purpose in asking my questions is to know if the witnesses who appear before us have been personally acquainted with the practices of discrimination, racial or religious. That is what I want to know?—A. I have been, sir. I have been personally acquainted with such cases.

Q. And you suffered from them?—A. Yes, sir.

Q. In what way?—A. I do not know whether it is hearsay or not. Correct me if it is. A Young man who came to me in my shop four or five months ago. He came to Canada from Belgium. But Belgium was not his country of origin. He went through practically every European country and arrived in Canada. I tried my best to get him a job. He claimed that he was a machinist, and he said that he worked in a plane factory in Belgium and in an automobile plant in France.

Finally, through my connections with the trade union movement, I managed to get him introduced at one of the large defence plants in Montreal. It took some time until he got a job. The man at the employment wicket told him to come in at a certain hour. He came in at that hour with his working clothes on and punched the clock. After he had punched the clock a foreman came up to him and asked him his name. He gave the foreman his name. The foreman said: "Would you mind repeating it"? And he repeated it. He had obviously what we in this country would call a typical Jewish name. He punched in at 7.52 and he punched out at 8.15 and that was the end of his job. He claimed that the only reason he did not get the job, after punching in, was that his name was Birnbaum, and his first name was Heim. I do not think there is anyone in this room who could pronounce the name because it has a peculiar sound.

Q. That is just one case.—A. That is just one case.

Q. Have you got other cases?—A. I have other cases. I am not a lawyer therefore I cannot speak in terms of affidavits and written statements. I can speak only of sentiments and feels, sir.

Mr. GILLIS: You are doing much better.

The WITNESS: There is sentiment and feeling. It is inescapable wherever you go. I was in British Columbia three years ago. I went there in connection with the work of the trade union movement in Canada, spreading

the message of goodwill and understanding. I should like to inform you that there is a definite feeling among Roman Catholics in British Columbia that they are being discriminated against because of the fact that they are Roman Catholics.

There are communities in Canada where there are Roman Catholics who feel they are being discriminated against because of their religion. In the city of Winnipeg, if you followed the discussion which took place in espect to a discriminatory by-law which the city has recently placed on its statutes books, there was an alderman—I think his name was "Repcheck". He was a Ukrainian. He stated that it was his own personal experience as well as that of his wife, that they applied for jobs during the depression times and were refused jobs because of their family name. I think that the pattern of employment practices in Canada has changed for the better since the beginning of the war. It was much worse before the war started.

I know that Jewish young men would not enter the engineering profession because they feared that they would not get jobs as engineers. But after the war started, Defence Industries admitted all the labour they could get and there was a certain improvement in employment practices. I am worried about the fact that a depression will hit Canada again, and there will be a scarcity of jobs. Who will get priority with respect to jobs? Will the same pattern be repeated, and will the situation be aggravated?

Mr. POULIOT: It will be the survival of the fittest.

The WITNESS: The survival of the fittest. I think the statute is calculated to protect a man, if he is able, from having anybody walk all over anybody else. That is a philosophical question, however, which I am not going to go into.

By Mr. Pouliot:

Q. What I want to get at is this: If three men are employed and one has to be set back, then in my view the employer will consider the ability of the three, the respective abilities of the three, and if he sets back one because of a reduction in work or something, there will be no discrimination at all against the one who will be set back, and probably the employer will be very sorry to have to do it.

Mr. STEWART: What I ask is this: If that is so, why are there so many application forms which are concerned with race, religion, nationality and creed and the father's birthplace and the mother's birthplace.

The CHAIRMAN: That is a point Mr. Stewart that has been highlighted by Mr. Kaplansky.

Mr. POULIOT: Mr. Stewart, if you employ someone you want to know where he comes from, and some information about—

Mr. STEWART: I want to know his ability.

Mr. POULIOT: Then how is it that very often people have to give credentials. It is precisely because an employer wants to know the record of the man—

Mr. STEWART: But that does not mean his religion.

Mr. POULIOT: But there is nothing wrong in asking any red-blooded Canadian you employ where he comes from. We ask that of a maid.

Mr. STEWART: But what about the father's birth place, and the mother's birthplace. I have all the forms here.

Mr. POULIOT: You know there is no discrimination against anyone in asking for a birthplace.

The CHAIRMAN: Mr. Stewart and Mr. Pouliot, we have a witness here, Mr. Kaplansky.

Mr. POULIOT: He is a fine fellow, and I wish him success, but he should not see the life in dark, he should see it in pink.

The WITNESS: I am a great optimist, Mr. Pouliot.

Mr. POULIOT: I am very glad that a fellow like you should be an optimist, because there is no benefit in being a pessimist.

The WITNESS: I am an optimist about our country, because I see Acts like this being passed, and that is something of which we should be proud, and it is an example to the world.

Mr. POULIOT: I am not interested to know where you were born, but what I was very glad to hear you say was that you were satisfied with Canada. Is it not a great country?

The WITNESS: It certainly is.

Mr. CÔTÉ: I think Mr. Kaplansky has given us a very clear and convincing presentation on behalf of the committee, and I think perhaps I should ask him to speak a little further on this matter, that is with reference to the last recommendation in the brief. Would he be in a position to give a little more emphasis to the recommendation that a special provision should be included in the Bill to provide for an educational program? Had you anything to do with the phraseology in that suggested provision?

The WITNESS: I had not much to do with the phraseology. I think one of my shortcomings is that I am not very good at drafting laws or paragraphs.

Mr. KNOWLES: There are lots of people around here like that.

The WITNESS: But what I feel is that you can pass the best law in the world, but if the people for whom the law was composed, and for the protection of whom the law is passed do not know anything about it, then it is a dead law.

Mr. HIGGINS: Then that is too bad, but you will remember the old maxim that ignorance of the law is no excuse.

Mr. CROLL: Mr. Higgins and I make a living out of that maxim.

Mr. KNOWLES: The truth has come out.

The CHAIRMAN: Mr. Kaplansky, you have nothing further to add with regard to the last paragraph of your brief?

The WITNESS: The only thing I would like to add is: Let us advertise an educational program both through government agencies and other organizations through which we can go to the people and tell them, to use a hackneyed expression, stop beefing, there is a law to protect you if you feel you have been wronged, this is a country where you can find redress, and the law and the government will protect you.

Mr. HIGGINS: Phone your lawyer.

The WITNESS: The only way is through an educational program.

The CHAIRMAN: We thank you very much, Mr. Kaplansky. The brief you have submitted will appear in this evidence with your submissions. We thank you very much for the fine contribution you have made here to the deliberations of the committee.

Now gentlemen, we have the representatives of the Trade and Labour Congress of Canada.

We have Mr. L. E. Wismer, Director of Public Relations and Research of the Trades and Labour Congress of Canada, and Mr. Claude Jodoin, Vice-president of the Trades and Labour Congress of Canada and Chairman of the Congresses' Standing Committee on Racial Discrimination.

Now, gentlemen, the brief you have submitted to the committee has been distributed to the members of the committee and it will be printed in this

evidence. You have presented two briefs, one with regard to Bill 100, Fair Employment Practices, and a brief with regard to Bill number 2, the Voluntary Revocable check-off.

To assist you and the committee, we would appreciate if you could make representations on Bill 100 first, and then, gentlemen, we will stand the evidence on Bill 100 after questions have been asked, and, if it meets with your concurrence, we will deal with the subject-matter of Bill No. 2, and we will also print that brief when we have discussed the subject matter of Bill No. 2 at a later time. Does that meet with your approval Mr. Wismer?

Mr. WISMER: Yes.

The CHAIRMAN: We would appreciate it now if you would touch on the highlights and amplify to the committee the points set out in your statement.

BRIEF

The Trades and Labor Congress of Canada greatly appreciates this opportunity to place its views before your committee on bill No. 100. For several years we have been recommending to the Government of Canada that such legislation was necessary and desirable, and we are pleased that it has now been approved in principle and referred to you for careful study to make certain that its provisions are adequate to carry the fundamentally democratic principle of fair employment practices into day to day practice among employers within the federal jurisdiction.

We are fully in accord with the basic principle of the Bill and we agree that actual incidents of discrimination by an employer or prospective employer against any person seeking employment or to continue in employment on grounds of race, color, national origin or religion should be resolved through conciliation.

In this bill you are dealing with legislative ways and means for encouraging fair play in human relations. In the field of industrial relations, which is a section of the wider area of human relations, a wealth of experience has been gained as to the value and effective administrative methods of conciliation. This experience, in our opinion, can be brought into full play with very useful and desirable results in the settling of troubles arising from discrimination in hiring and employment on grounds of race, color, national origin or religion.

While we feel that the provisions of this bill place sufficient authority in the hands of the minister to assure the application of the principle of fair employment practices within the federal jurisdiction, we are of the opinion that it is not sufficiently precise in certain aspects as to assure its adequacy in all cases. We therefore wish to suggest certain specific changes which we feel would strengthen the position of the Minister and assure that he has the power under the legislation to instigate certain activities pertinent to the successful administration of the legislation.

Our first suggestion is that the definition of "national origin" is too narrow and should be broadened to include those persons who have entered Canada or may come in the future from countries other than their land of birth. Since it is now possible for a newcomer to Canada to possess, at least for a temporary period after arrival, both an ancestry and a nationality, it would seem very desirable to include both of these within the definition of "national origin".

Secondly, we would suggest that clause 4 be amended by the addition of a further subclause to the effect that no employer may include in an application form used in hiring or prospective hiring any question relating to the applicant's race, color, national origin, nationality or religion. We note that subclause (5) of clause 4 makes it clear that such prohibition shall apply to all advertisements in connection with employment or prospective employment and we feel that

this prohibition should be carried over to the actual application form. It should be stressed in this connection that this prohibition is contained in the Fair Employment Practices Act now in force in the province of Ontario and that those who have watched its operation most closely are convinced that this has served a very useful purpose in reducing discrimination in employment in that province.

Thirdly, we would suggest an amendment to clause 5. Subclause (1) of clause 5 reads: "Any person claiming to be aggrieved because of an alleged violation of any of the provisions of this Act may make a complaint in writing to the director and the director may instruct an officer of the Department of Labor or any other person to inquire into the complaint." We would like to see this subclause broadened to allow an organization, such as a trade union, of which the aggrieved person is a member to make a complaint in this connection on his behalf. We would further recommend that this subclause be amended to make it mandatory on the "Director" to inquire into all complaints. As the subclause is now worded, inquiry into complaints is left to the discretion of the "Director". This we feel could result in the legislation becoming completely ineffective and even eventually inoperative.

We note the very considerable powers granted to the Minister in clause 10. It may be that in practice these powers will be sufficient to allow him to carry out the purposes of the legislation. However, we would like to point out to your committee two very important aspects of this endeavour which we feel have not been dealt with adequately in this Bill.

As the Bill stands it is evident that its administration will fall as an extra burden upon the conciliation staff of the department. We feel that this is unwise and that provision should be made in the Bill to allow the minister to acquire and train staff for this specific purpose. The conciliation of grievances under this legislation should not be allowed to become a sideline or secondary to the regular duties of the conciliation service of the Department.

Lastly, the most important aspect of fair employment practices legislation, in our view, has been left out of this bill. It is most desirable in our opinion, that the Minister should be granted very considerable powers to publicize the contents and purposes of this Act. It has been argued that only education can be effective in this field of human relations and that laws such as this are of no value. We disagree, but we do subscribe to the view that education is needed to make such laws fully effective. In other words, we feel that there should be an educational campaign and make everyone fully aware of the contents and purposes of the law and the protection it provides for the victims of discrimination in employment, and at the same time to use the law as a medium of furthering the broad purpose of encouraging all Canadians in the belief that tolerance is right and intolerance is wrong.

We therefore recommend that a new clause be added to the bill giving these definite powers to the minister.

In making these suggestions and recommendations to your Committee we have tried to indicate our full accord with the principle of the Bill and at the same time to point to certain changes which if made would increase its effectiveness. We hope that our submission will find favour with you and that you will so recommend to parliament.

Respectfully submitted on behalf of the

EXECUTIVE COUNCIL,

The Trade and Labor Congress of Canada

74260—5½

Mr. L. E. Wismer, Director of Public Relations and Research, The Trades and Labour Congress of Canada, called:

The WITNESS: Mr. Chairman, the submission we have made to the committee in regard to Bill 100 is basically this: That we are very much in favour of the principle of the Bill. We have for several years been asking the government of Canada to enact such legislation. We asked for such legislation in the provinces, and we were successful in the province of Ontario and it begins to look as though we might be successful in some other provinces, and we are very happy to be here today and hope this Bill will have your approval with some amendment, and will be passed in this session of parliament.

The CHAIRMAN: On behalf of the members of this committee, we are very glad to welcome you here with your representations.

The WITNESS: Thank you. We feel there are certain changes that can be made in this legislation which would make it more effective in its operation. If I may touch on them as I go along, Mr. Chairman, I would like to make this very specific. I would like to see the definition of "national origin" expanded. I think it says in the Bill that this includes ancestry, and I am aware of the difficulty of such definitions, and I do not wish to suggest the wording, but there are people coming to Canada today who have both a national origin and a nationality. That is the case of upset, not of our making, in Europe and elsewhere where men and women are forced out of the country of their origin into another country, and they come to Canada from the last country with that nationality, and, until they become naturalized Canadian citizens, this Bill will not apply to them unless you name in that definition that it includes nationality and we hope you will do that. I realize there is some difficulty in this respect, but we hope you will find a way of doing it.

Now, it has been touched upon before, but I want to expande upon this. You made it a specific prohibition in the Bill that an employer seeking an employee must not advertise in a discriminatory form. If he may not advertise why, when you finish inserting the advertisement and go to the employment office, must you permit all this discrimination in the application form? There is no need to know where a man's grandmother was born to find out whether that man is a machinist. The purpose of this legislation, ladies and gentlemen, is that employers will look upon men and women on their merits as to whether or not they are capable of doing the job that is open, and not to find out what particular church the grandfather worshipped in. It may be necessary in certain very special fraternal organizations, or special educational or other types of institution whereby it would be to the interest of all, including the employer and the employee, that everyone kicked with the same foot, but that is not the case in general employment. We would hope that you would extend what it says in clause 4 to cover the application form.

My third suggestion to you is in regard to the actual administration of the proposed legislation that the people it seeks to protect may or may not belong to some organization. If they do, it would be fair and reasonable that their organization may make a complaint on their behalf. My suggestion arises from this idea. I am one of those people known as a labour bureaucrat, you know, but my job is to intercede with employers and with government on behalf of our affiliated membership. If I can intercede with the Department of Labour on behalf of employed people in any part of the Dominion of Canada whether they be employed by the government or a private employer in regard to the terms and conditions of employment, why should I not be able to intercede with the same department where a person has been grieved

or believes he has been aggrieved in regard to being discriminated against in employment on grounds of race, colour, national origin or creed? I believe that should be included. Also in that clause I think the wording is somewhat unfortunate. The clause says—

By Mr. Churchill:

Q. What clause is that?—A. Clause 5 (1). It reads: "Any person claiming to be aggrieved because of an alleged violation of any of the provisions of this Act, may make a complaint in writing to the director, and the director may instruct an officer of the Department of Labour or any other person to inquire into the complaint."

I think that should be mandatory upon the director. I think the word should be "shall". I think the effect could easily be to say, "Well, we really do not have to inquire into this complaint as we are very busy this week and we will not bother." I think it is fair that an aggrieved person may or may not make a complaint, but once the complaint is made, I think the director should have no alternative but to look into the complaint.

Now, the other suggestions which we wish to make have to deal with wider aspects of this type of legislation, and if I may have a moment, Mr. Chairman, I do not want to make a speech, but we who have attempted to promote good human relationships in the Dominion of Canada and have found it necessary to promote legislation of this type are much convinced that two things must go in hand, education and legislation, and one must be part and parcel of the other. We disagree with those who say that the only way we could get rid of prejudice and discrimination is by education, and we do not take the position that the way to get rid of discrimination and prejudice is by legislation alone. It is a combined job. We would like to see, in addition to what is provided, fairly wide powers, I imagine under clause 10, which would be more specific in this bill, and would give the Minister of Labour ability to do two specific things. One: to hire staff for the job, and to train them. I say that advisedly and I say it knowing there are certain people sitting in this room who have a good deal to do with conciliation services of the Department of Labour, and I know they are over-worked. You place this additional burden on them, and no person in parliament and no person appearing before you could tell you how big the load will be. It should not be a secondary job or a sideline of the conciliation service staff of the Department of Labour. It is too important for that.

The other is, that it should be spelled out more specifically that the Minister of Labour is, in your opinion, and by parliament required to educate the Canadian public, employer and employee alike with its over-all policy and the desire of the government and the parliament of Canada, that there should not be discrimination in employment on these grounds, and that anyone who is a victim of that has recourse to the Department of Labour. I think that is a humane job, an important job. The machinery for doing it is in existence. We know it is a matter of making sure that an overworked department is capable and knows that it is the desire of parliament that it should institute such a campaign.

I think that is our story Mr. Chairman.

The CHAIRMAN: Thank you very much Mr. Wismer. Is there anything you wish to add Mr. Jodoin.

Mr. JODOIN: I think that covers the point of view of our Congress in that matter.

The CHAIRMAN: We thank you for your statement. Are there any questions you would like to direct to Mr. Wismer gentlemen?

By Mr. Stewart:

Q. You are speaking on behalf of the Trades and Labour Congress of Canada. How many men and women would you say you represent today?—A. Something in excess of 525,000.

Q. And this has been the policy of the congress for a good number of years—the attempt to secure this legislation?—A. Yes.

Q. And there has never been any opposition to it in the convention or anywhere else?—A. It has been unanimous, I think, it would be fair to say.

Q. Of that membership, how many are women?—A. A very large number. There is the International Ladies Garment Workers Dressmakers Section, but in addition to that, there are in all plants now a substantial number of women employed, but just how you would get an accurate figure of the number of women who are members, it would be difficult to say. But we have a substantial number of women.

By Mrs. Fairclough:

Q. Would you like to take a guess?—A. No.

Mr. KNOWLES: You do not keep records in a discriminatory fashion?

The WITNESS: No.

Mrs. FAIRCLOUGH: I think that is to your credit, but it would answer some other arguments brought up here if we had a way of knowing. Would it be fair to say that the number is substantial.

The WITNESS: It is substantial, but it would not be half.

Mr. HIGGINS: Apart from the amendments suggested, have you any other suggestions. The suggestions of your congress are concerned with the wording of the Bill.

Mr. KNOWLES: The application form.

The WITNESS: The point I was trying to make, if I may say so, was that in the definition section of the Bill you define "national origin" as including ancestry. We are suggesting you include also nationality.

By Mr. Higgins:

Q. But does not that include the application form as well?—A. No, it has no connection with it.

Mr. KNOWLES: You want to put it on the same level as advertising?

The WITNESS: We want you to say in this Bill that the application form for employment is in the same position as advertising for employment. The same provisions apply to both.

By Mr. Higgins:

Q. You do not want "nationality" to be in the application form at all?—A. We do not want it in the application form, but in the Bill.

Q. That is the only objection you have to the Bill?—A. The other is that I want the director to have to inquire into all complaints.

Q. That is all you have as regards objections?—A. No, in clause 10 I want the Minister enabled to hire staff specifically for the job, and the Minister required to provide an educational program.

Q. What about the provision under the Bill that no action be taken without the consent of the Minister? How does that appeal to you?—A. We have relied for some years now on conciliation and we have acquired a lot of experience, certainly in the Department of Labour they have a lot of experience, and we are prepared to rely on them.

Q. But this is not conciliation. It is the taking of action under section 9. How does that appeal to you?—A. We have always taken the position that

we would like to see this sort of thing done outside the court. Human relations of this type we would like to see conciliated, but there are always those who need a little compelling sometimes, and I think perhaps the provision in the Bill for taking the case to court if the Minister so pleases is perhaps the best thing we can do.

Q. That would satisfy you?—A. Yes.

By Mr. Côté:

Q. You would prefer the emphasis to be placed on the conciliatory process? —A. Yes.

Mr. CÔTÉ: I would suggest, perhaps, we hear from Mr. Jodoin who has the distinction of heading the Joint Committee to Combat Racial Discrimination. Perhaps if you highlighted the history and activities of that committee it would be of interest to members of this committee.

Mr. JODOIN: Mr. Chairman I do not know if it is the function of the committee to learn about the reasons for the existence of such a standing committee to combat racial discrimination.

Mr. CÔTÉ: I think that would add strength to your representations:

Mr. Claude Jodoin, Vice-President of the Trades and Labour Congress of Canada and Chairman of the Congress' Standing Committee, called:

The WITNESS: I would say that the main reason for the existence of this committee is that the unions wished to practice what they preach. I could use as an example, for instance, an industry which is very, very close to me, because I am engaged in it in my daily work, and during the pre-organization time, for reasons maybe that are not necessary for me to give on this committee in detail, there was a lot of discrimination practised I would say not only by employers but by workers against workers. For instance, if a slack season came along, one Ethnic group of workers would say it is the other one's fault, and if you want a clearer expression I will use this terminology. One day, it was the Jew's fault, the next day it was the Italians, two days after that it would be somebody else with the result that chaos existed in this industry that I have in mind now. With the establishment of the organization, through facilities of the educational department provided by that same organization which in this case happens to be my own International Ladies Garments Workers Union, we had maybe between 40 and 50 complaints a week, and today we do not get one a year, because of the fact that people have learned to live together as Canadian citizens, and that is what we are aiming at. We believe that Canada is a great country, as was ably stated by the member from Temiscouata (Mr. Pouliot) and with whom I am in agreement upon this matter, and we believe that if there is one case of discrimination that this legislation would contribute to eliminate, then it is worthwhile being in existence. That is the way I look at it. I am very sorry to say it is a hard job, because there are all kinds of subtle ways to practice racial discrimination. Sometimes people might be doing it without knowing it, and not realizing it, and it is through stressing, as Mr. Wismer has said, the application of such legislation as you are intending to put in force now, with, I hope the acceptance of suggested amendments by our Congress, Mr. Chairman, and especially through the medium of education that we will attain the aims we have. It was ably stated by the member from Spadina, Mr. Croll, that there is a Criminal Code in Canada. We believe it will not be necessary in this regard, but it may be necessary and we would like it in there. There are still some murderers and whether we like it or not, there are still some people who practise discrimination; and so, what is so extraordinary in enacting it in our legislation?

That is the submission we have, and may I say in closing, Mr. Chairman, that, believing in practising what we preach, we hope the Canadian government will enact such legislation and, may I add, unanimously.

By Mr. Cardin:

Q. You were referring a while ago to the application form and you seemed to think, the fact that there are questions concerning nationality and national origin, that there is discrimination. Have you considered that, perhaps, the fact of having that particular information on the application form for different companies throughout Canada was most vital information if you are going to consider the security that is needed today?

The CHAIRMAN: In what way? Extend your argument Mr. Cardin.

Mr. CARDIN: There are as we all know a great many immigrants coming into Canada, and there has been a great deal of confusion in Europe. Do you not feel that it would be a most important thing to have in the application form for employment, this particular information as to the national origin of a person, and as much of his personal history as is possible, so that if at any time some crisis or some danger should occur, the investigators might have as much information as possible right from the industries? To my mind, it could be looked upon as a chain of very valuable information concerning the people working there, and would help out the investigators in the security of Canada?

Mr. CROLL: Have you considered in asking that question, what is a known fact, that all people who emigrate to Canada are security-cleared before they are admitted to Canada?

Mr. POULIOT: Not always.

Mr. CROLL: Yes, always.

Mr. POULIOT: No, no, no. Do not try to tell me that.

Mr. CARDIN: I am speaking of what has already happened in the country. They pass through the proper channels and there has been some difficulty with certain people. I believe that it would be an important thing to have it at one certain place, and I believe industry is a good place to have it, as much information about people who are working in industry as we can possibly have, and we must not look upon that particular information as being, let us say, an example of the discrimination which is shown to people.

The WITNESS: I would suppose that is why you have a saving clause, No. 11, in this Bill, which reads as follows:

> 11. Nothing in this Act shall be construed to require a person to employ anyone or to do or refrain from doing any other thing contrary to any instruction, direction or regulation given or made by or on behalf of the Government of Canada in the interests of the safety or security of Canada or any state allied or associated with Canada.

That is in the Bill. But to answer your specific question, I should like to say this very clearly: Saboteurs, I believe, have no specific nationality or religion. In other words, you cannot discover a saboteur by finding out his nationality or his religion, or where his grandfather was born, or what church he worships in.

By Mr. Cardin:

Q. Do you feel that particular argument is sufficiently strong to do away with the particular information that is required on the application form as it stands? You referred to clause 11. That is as the Bill stands now. Clause 4 does include that information about nationality.—A. Let me put it to you

this way: It is not so long ago that there were signs on buildings in the city of Toronto which said "No Englishmen need apply". That was discrimination of a type which today we find to be almost incredible.

Q. Yes, perhaps.—A. It is still an answer to your question. If I ask you this question: Would an employer, when he saw on an application form the nationality "English", suspect a saboteur?

Q. No, not necessarily.—A. If he saw "Czech", would he suspect a saboteur?

Q. No, I do not believe that has anything to do with the fact of having in the files of the company, or in the secret files of the company, such information as could possibly be had on the persons who are working in the industry. It does not necessarily mean that that information is discriminatory.—A. Let men give you an example.

Mr. KNOWLES: Is that the business of industry?

Mr. CARDIN: Not necessarily.

The WITNESS: Let me give you an example. This is the actual case of a woman. She was highly qualified for the job. In fact, her qualifications far exceeded what the employer required. She went to see the employer of a very large organization and the employer wanted to hire the woman. When the personnel manager discovered the very great qualifications which she had, he continued in that view until he found out. He could not discover from her nationality or from her name that she was Jewish. Now, if she had filled out an application form, he would never have seen her qualifications. He would only have seen the fact that she was Jewish, and he would not have bothered to look further. And the interesting thing is that the woman did get the job. The reason the man above the personnel manager at first changed his mind was that he realized that, this being a design shop, the woman had great accomplishments and ability. But she would never have got past the personnel officer if he had seen the word "Jewish" on her application.

Mr. HIGGINS: I do not think that business has anything to do with security risks.

By Mr. Cardin:

Q. There are some National Defence plants.—A. I should like to go one step further and remind the committee that the Governmnt of Canada and parliament has already subscribed to this idea. Last year you passed an amendment to the Unemployment Insurance Act in which you made it unlawful for any placement officer of the National Employment Service to discriminate in the referral. In other words, it is not possible for a placement officer in the Unemployment Service, which is your employment service, to indicate in any way that because he knows the nationality that he cannot refer the applicant to a job even though he knows that the employer may not want that nationality. That already is unlawful. Your parliament has already subscribed to it, and it is now in practice and it is very good. Now, if the government's own employment service do not discriminate in this respect, why should any private employer be allowed to discriminate in that way?

By Mr. Pouliot:

Q. Mr. Wismer, what was the position that the woman you referred to wanted to get? Was it in a private home as a nurse?—A. It was in a very large insurance company.

Q. In an insurance company. Now, referring to religion and race you will agree probably that there will be no racial discrimination on the part of a father when he hires the services of a nurse of his own faith to look after his children?—A. You mean to live in the home?

Q. In the home?—A. I want to be clear whether you are dealing with a nurse who is to be hired as a practical nurse to live in the home, or hired as nurse for a specific job such as a registered nurse.

Q. No. I mean a maid to look after children?—A. We agree with you.

Q. The father unquestionably has the right to choose a woman of his own faith, and without making any discrimination against that woman?—A. But that is provided for in the code.

Q. Yes, but I want to make the necessary distinction. Probably they will agree much closer than you might expect, just by friendly discussion. When you say that a saboteur has no religion or race, you may be right, but the story does not end there. It is this: That as soon as they are caught in the act, they do not pose as martyrs of a cause. They pose as martyrs of a race or of a religion and they complain of discrimination. And sometimes it is most unpleasant to use the law. But we have to make laws. It is not because parliament has passed a piece of legislation at the last session that we have to pass a dozen Acts to the same effect. Moreover, you know there is very little discrimination, to your personal knowledge. Is there much discrimination in Canada?

The CHAIRMAN: Mr. Pouliot, I am drawing your attention to a point that was made, if you might be good enough.

Mr. POULIOT: All I want to know is this: I have to go out for a long-distance telephone call, but I would like Mr. Wismer to deal with it, or Mr. Jodoin. It is about racial discrimination. To make you understand my point, it is that I want to know if there is sufficient reason to pass this legislation now?

Mr. JODOIN: I am sorry. I was asked a few moments ago to explain the reason for extending the committee on racial discrimination, and the information I gave must have been given in your absence. But you will be able to read it in the evidence. I agreed with you wholeheartedly that Canada is a great country to live in, from Newfoundland to Vancouver Island. I also stated that even if this legislation would contribute to eliminate just one case of discrimination, it is one case too many in existence in Canada. That is the point of view I am placing before you.

Mr. POULIOT: You will probably agree, Mr. Jodoin, with the fact that Canada is a country where there is the least possible religious and racial discrimination.

Mr. JODOIN: I will agree with you, but that does not stop the fact that this legislation might prevent even one case, or let us say, one and one-half cases, and do away with them. And if this legislation can help to do that, then in my submission it should be enacted.

Mr. POULIOT: You must know also that in the Province of Quebec, not so much in the Province of Ontario and in other parts of Canada, the French-Canadian suffers discrimination more than the Jews, but they do not complain about it.

Mr. JODOIN: I would not necessarily go to that extent. I would say that Canadians of French descent—and I want you to note the difference in my discussion with you; I did not say "French-Canadians." I said "Canadians of French descent" because I consider myself to be a Canadian of French descent, and I am proud of being so. It does not only exist in the Provinces of Quebec or Ontario. It exists, it may be, everywhere. And I mentioned that sometimes it even exists when people do not realize that they are practising it.

Mr. POULIOT: We have it here in this city. There are officials of the House of Commons who complain about the French-Canadians.

Mr. JODOIN: That is another reason for enacting the legislation instead of opposing it.

Mr. POULIOT: Is that right?

The CHAIRMAN: Mr. Pouliot!

Mr. POULIOT: In the Province of British Columbia you know very well that the school question is quite a problem, and that French-Canadians are suffering discrimination there from the Government of British Columbia.

The CHAIRMAN: Mrs. Fairclough.

Mrs. FAIRCLOUGH: I know that it is within our province to direct our inquiries to the witness, but I should like to ask the member from Temiscouata how he reconciles his last statement with his repeated pronouncements this afternoon that there is no discrimination in Canada.

The CHAIRMAN: Could we not leave that to the discussion which will follow?

Mrs. FAIRCLOUGH: Yes, but I might forget it by then.

The CHAIRMAN: Are there any further questions of the witnesses?

Mr. POULIOT: If you will permit me, I shall say to my gracious colleague, Mrs. Fairclough, that I see the sunshine through the clouds.

The CHAIRMAN: Gentlemen, Mr. Wismer.

The WITNESS: The suggestion that there is no discrimination in Canada I think should not go unanswered. We are not dealing with a problem in Canada similar to the great difficulties which they have in the southern United States, or the great misfortunes of the Union of South Africa, and so on. And I hope we never have to. But we are dealing with a great deal of discriminatory practices. Roman Catholics are discriminated against. Canadians of French descent are discriminated against, and Canadians of British descent are discriminated against.

Mr. POULIOT: And the Irish, too.

The WITNESS: I wanted to keep the Irish out of this, if possible.

Mr. KNOWLES: They like it.

The WITNESS: I wanted to give you an example of the type of discrimination which goes on in Canada, the kind of discrimination which is very real and yet the person who is doing the discriminating is not aware of it. Here is an exact story. The general manager of a very large corporation, a financial corporation, was interrogated by a man who was looking into these matters, and he said: "Do you discriminate on the grounds of race, colour and creed"? And the general manager said "no". The questioner said: "You do not discriminate against any group in your employment practices"? And the general manager said "no". The questioner said: "Do you employ Negroes?" And the general manager said "yes". The questioner said: "In what jobs?" And the general manager said: "We have a Negro janitor". And the questioner said: "Is there any chance of that Negro advancing beyond the job of janitor?" And the general manager said "Oh, for goodness sakes, man, let us leave it right there. The only thing that Negroes can do is to be janitors, and jobs of that sort."

That is the worst kind of discrimination we have to deal with, an attitude in the mind of an employer or any other person that a particular group of people have a station which they cannot get out of. Someone called it an employment pattern. You can call it what you like, but there is a feeling that if you go into the city of Toronto where there is resident the largest section of Negro population in Canada, and you talk to the families there, you will find that it is so. The Negroes teach their children not to look for jobs. When a bright child says "I would like to go on to a higher education", the family will say: "Oh no, my boy, do not do that. You will never get a job. They will not hire you. The only jobs are these."

That is a serious situation and that is why we want an educational campaign. That is why we want the Minister of Labour to tell the Negroes of the cities of Montreal, Toronto, Winnipeg and Vancouver that from now on, if you have the ability, you can be a general manager.

By Mr. Higgins:

Q. May I ask Mr. Wismer if there is any program among the unions dealing with the matter at all?—A. Yes.

Q. How far has it gone?—A. We have not just set it up. It has now been in existence for 6 or 7 years. It has been said that our friends of the Canadian Congress of Labour who are sitting here waiting to speak to you, and the Trades and Labour Congress of Canada cannot get together. But we have got together on some things, where union jurisdiction is not at stake. And in the great field of human relations, it is not at stake. We have joint committees in the cities of Montreal, Toronto, Winnipeg, Vancouver and Windsor. They are joint council comittees and they employ permanent full-time secretaries whose entire job, day in and day out, is to go into the local units and promote an educational campaign among our own membership that prejudice, ignorance, and discrimination is morally wrong. We have been carrying on with that for 7 years, and we believe that we are the better today mostly because of 7 years of that work. And when the member for Temiscouata says that there is not a lot of discrimination in Canada, he would be much more accurate if he said there was not as much discrimination in Canada as there used to be. And part of the reason is—and I think we have some right to take credit for it—that we have attempted to create a climate of opinion in Canada in which it is popular to be tolerant.

Q. I notice the various categories you put in discrimination. Have you ever had reason to suppose that such a thing as discrimination comes about because of political leanings?—A. Well, the trade unions movement is very discriminatory in that respect. It takes a completely non-partisan view of politics, but it excludes the Senate.

The CHAIRMAN: Well, gentlemen?

By Mr. Viau:

Q. Following your last remarks with respect to the educational program followed by the Trades and Labour Congress, and that part of it which is promoted by your congress, the Trades and Labour Congress, do you feel we should take one step forward from the inducement to the compulsion stage, that is, to the enactment of this Bill?—A. Yes.

Q. As such?—A. Discrimination is an act and it is wrong. There should be a law to protect the victim from that act in the same way as you protect a victim from theft.

Q. Teaching is not a very favourable weapon.—A. Teaching is a very favourable weapon, but the teaching will be affected by the law in our opinion. We are not dealing here with a completely unknown field, as perhaps many of you are aware. There are laws of this sort in various states of the United States, and they have a wide variety of form. Some of them are more compulsive than others. The New York law which is the oldest, has been very successful in a very highly-populated, or very densely-populated area, with almost every race, nationality, and religion in it; and the results have certainly been most encouraging to all the people who have looked at it. And there are now in existence a good number of comments on it by employers, or by employer publications. The employers themselves have said: This has been a good thing. This has worked out to the advantage of industry and to the advantage of management and to the advantage of the general position of the community, and production has risen as a result, and so on.

We are not dealing really with a brand new field, and we are hopeful that you will amend and pass the Bill because it will have this effect: That the principle that discrimination is wrong will have been established by law, and then, the voluntary organizations, along with any agencies of government, can say to our people, who are a very large section of the population: "You now have a law, and we can help you if you happen to be a victim of it, in just the same way as we can say to our people: "You do not have to suffer from theft because there is a law to apprehend the thief and to bring him to justice."

By Mr. Pouliot:

Q. If the coloured men you referred to a moment ago did not have any ambition in life, because of what was told them by their parents, they were not suffering any discrimination. Do you not think so?—A. Well, I would actually be fair when I tell you that young Negro men who are highly educated have jobs which are menial jobs in this country. They are definitely discriminated against, and they are young men who had enough ambition to get clear, if you like, of the second-class economy conditions of their families and their neighbourhood. People, such as ourselves, who had the plain fortune to be born white, will not look past the pigment of the skin, into the brain and ability of the individual.

Q. That is right. There is an inferiority complex which dates back to the time when they were being told by their parents that they would have no chance, the majority of them, in trying to do anything. You know that. —A. Well, sir, I can only answer you this way: You come from a community which is essentially homogeneous. You have never seen any discrimination in it. I too come from a group of people who have never, on this continent, been discriminated against. They came here because they were persecuted. They have not been here so long as yours. I do not know anything personally about discrimination, but I can say that I have a pair of eyes and I can see it, and I do not like it. I think Canada is the country you are talking about, but it is not for everybody in Canada. It is for some of us who are the privileged few to have a great Canada. This legislation could make it for everyone.

Q. Yes, but I do not agree with you because in the majority of cases Canadians have the same opportunities, and you know it, Mr. Wismer. And with regard to the coloured people, most of them form a class by themselves and they have very little ambition in life. Some of them are highly educated and they do very well. But most of them follow the teachings of their parents, who gave them an inferiority complex.

The CHAIRMAN: That is not the question.

Mr. POULIOT: I know, but I just make the observation.

The CHAIRMAN: It has been suggested that perhaps the parents could get a little education too. Are there any further questions on Bill 100 which you would like to ask these witnesses from the Trades and Labour Congress? If not, would you be prepared to continue now with Bill No. 2? Will one of the committee members move that we stand Bill 100 so that we may no continue with the business or the subject matter of Bill No. 2. We would like later to have the evidence separated on the two subjects; that is, consolidated in respect of each Bill.

(Note: For reference purposes, printing has been so arranged to consolidate all evidence separately in respect of each Bill. For strict order of proceedings, refer to Minutes.)

Brief Submitted by the Canadian Congress of Labour to the House of Commons Standing Committee on Industrial Relations with regard to Bill 100, an Act to Prevent Discrimination in Regard to Employment and Membership in Trade Unions by Reason of Race, National Origin, Colour or Religion.

1. The Canadian Congress of Labour approves of this Bill in principle if not in detail. It is a measure which, the Congress believes, will have the unanimous support of parliament and of the vast majority of the Canadian people. The enactment of this Bill will be a source of further gratification to the Congress, since it marks the successful outcome, federally, of representations made by it and other bodies of organized labour for the introduction of fair employment practices legislation.

2. The Congress is under no illusions that the compulsive features of the Bill will immediately bring in the millennium. Biassed employers will not suddenly lose their prejudices. But Canada is a country in which respect for the law is deeply rooted, and the habit of observance will, when supplemented by educative and persuasive measures, lead to an acceptance of equality of treatment in employment as a matter of course. Most of the similar American state and civic measures are compulsory. The Ontario Act is likewise compulsory, though it is, from our point of view, deficient in certain other respects. The Congress is inclined to believe that the course outlined in Bill 100, prohibiting certain practices, but at the same time providing for non-coercive methods, is probably the best way to proceed, at any rate at this stage. The matter is well put in the explanatory notes to the Bill: "The proposed Bill relies largely on conciliation for its effectiveness; however, provision is made for resort to the courts should conciliation process fail."

3. As the Congress has already indicated, it agrees with the bill in principle. On the other hand, it feels that its objectives could be better achieved if certain sections were altered, and some omissions rectified.

4. *Interpretation* 2. (*a*) The Congress has actually no criticism to make of the provisions whereby a director is appointed to administer the Act. It is concerned, however, lest the duties of the director be assigned to an officer already burdened with heavy duties, and consequently unable to give to this Act the attention it requires.

5. *Prohibited Employment Practices* 4. (1) We would suggest that the word "nationality" be added here. This would round out the reasons contained in this section, and make it more comprehensive. It would also strengthen the protection afforded to aliens and immigrants who have not yet become naturalized. It is an offence under section 4 (1), for example, to refuse to employ a naturalized Canadian whose national origin was Italian. It does not appear to be an offence, however, to refuse to employ anyone because his present nationality is Italian.

4. (5) There is a very serious omission in this section, and the Congress cannot lay too much emphasis upon the seriousness of it. We refer to the omission of a prohibition against the use of application forms which contain questions designed to weed out applicants on the basis of the terms used in section (1) of this section, or the use of oral inquiries for the same purpose. The Ontario Act spells out this prohibition in its article 5:

> No person shall use or circulate any form of application for employment or publish any advertisement in connection with employment or prospective employment or make any written or oral inquiry which expresses either directly or indirectly any limitation, specification or preference as to the race, creed, colour, nationality, ancestry or place of origin of any person.

The Congress strongly urges this committee to recommend an addition to section 4 (5) whereby the foregoing or something substantially similar would be added. The New York Law Against Discrimination has a very similar provision, and that of other American states as well.

It is hardly necessary to point out that the application form or the interview is the focal point for discriminatory practices. To follow out our proposal is to aim a heavy blow at the practices prohibited in this bill. To ignore it is to leave a loophole so wide as to guarantee evasion of the bill's purpose.

Further with regard to section 4 (5), the Congress is concerned about the inclusion of the phrase, "unless the specification or preference is based upon a *bona fide* occupational qualification." This phrase, it seems to us, would leave room for evasion. On the basis of it, an employer could publish an advertisement which could contain discriminatory qualifications. It would seem to us that special cases are already well taken care of by sections 2 (*d*) and 11. We would suggest that the phrase be deleted.

6. *Enforcement Procedure* 5 (1) The Congress is concerned about the use of the word "may" with regard to the director's powers under this section. The question that needs answering is whether the director should have discretionary powers to direct or not to direct an inquiry. The New York law, it should be noted, specifies (par. 297) that "after the filing of any complaint, the chairman of the commission shall designate one of the commissioners to make, with the assistance of the commission's staff, prompt investigation in connection therewith. . ."

It may be that the discretionary power in this bill will eliminate frivolous complaints. However, there is no way of being certain that a seemingly frivolous complaint is indeed such. The New York law has now been in operation for some nine years, and presumably the legislature would have changed "shall" to "may" if it had been persuaded that the present language resulted in wasteful and annoying investigations.

5. (3) to (8) The Congress is concerned here with two factors. One is the delay which seems implicit in the procedure. The other is again the matter of discretion, this time with regard to the Minister.

There are, it would seem, two purposes to be achieved under this article. One is to bring to light instances of discrimination. The other is to assist complainants either to obtain employment which has unlawfully been denied them, or to give them redress, including reinstatement or lost pay for discrimination in their terms or conditions of employment. In the cases of placement or reinstatement, delay may well be fatal. The complainant may find employment elsewhere; he may move to another city; he may lose interest in the matter; he may not be able to afford waiting around for an inquiry and then a decision. Prompt treatment is the answer, both in terms of the needs of the complainant and for the sake of the prestige of the Act and of parliament itself.

The Congress believes that time-limits should be set at each stage of the procedure, as is the case in the Industrial Relations and Disputes Investigation Act. Those limits should be no longer than are absolutely necessary to engage in effective inquiry and provide proper redress. Tentatively the Congress would suggest: (1) an inquiry to begin within three days of receipt of a complaint; (2) a report within seven days by the officer making the investigation; (3) a statement to the complainant from the director on whether or not a commission will be appointed within three days of receiving the report; (4) appointment of a commission to be coterminous with the notification to the complainant of such action; (5) a report by the commission within ten days of its inception, with notification to all interested parties forthwith of the commission's recommendations; and (6) action by the minister, in light of

the commission's report, within five days of receiving the report. Provision might also be made for an extension of time, with the written consent of the complainant, or on the order of the Minister of Labour. It is quite obvious that even the suggestion made here might involve about a month between the filing of a complaint and action by the minister. But certainly the goal should be as expeditious treatment of complaints as possible.

Subsections (3), (6) and (8), particularly (3) and (8), give the minister discretionary powers with regard to action flowing out of an inquiry or the recommendations of an industrial inquiry commission. With all due respect to the present minister, who is generally well regarded, this leaves the Act open to inconsistencies in treatment. It leaves room for reasonable doubt that the Act is being fairly administered, without fear or favour, all the more so since many of the employers covered by it are large and powerful corporations. Where a commission has found discrimination, there should be no room for discretion. Action should follow.

7. *Offences and Penalties 6.* The Congress is not disposed to bargain about the amount of the fine provided in this section. What it is concerned about is that there appears to be no provision for a continuing offence, as is the case, for example, in the Industrial Relations and Disputes Investigation Act, in sections 39, 40 and 41. To a large corporation, a $500 fine may appear a small price to pay for engaging in discriminatory practices. But a penalty of $500 a day, for as long as the offence continues, may be something else entirely. In order for the Act to be effective, the punishment should fit the crime.

8. *Section 10.* The Congress may as well say quickly and frankly that this article is most disappointing. It is inadequate in its objectives and nebulous in its meaning. The Congress had hoped that the Act would spell out in some detail a program of public education as a *sine qua non* of fair employment practices legislation.

It stands to reason, or so we believe, that this bill will be most successful upon its enactment if the great majority of employers comply with its provisions fully and voluntarily. In the long run, we believe that will be the case. In the meantime, however, it is essential that employers and the public generally become fully acquainted with the Act and with the reasons behind it. It is not enough to assume that most people believe in fair play. There must be a rationale for the belief.

For these reasons the Congress believes that, for section 10, there should be substituted something along the lines of the New York law (par. 295, general powers and duties of commission, sub-par. 8 and 9.):

> 8. To create such advisory agencies and conciliation councils, local, regional or state-wide, as in its judgment will aid in effecting the purposes of this article and of section eleven of article one of the constitution of this state, and the commission may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of race, creed, color or national origin, and to foster through community effort or otherwise good will, co-operation and conciliation among the groups and elements of the population of the state, and make recommendations to the commission for the development of policies and procedures in general and in specific instances and for programs of formal and informal education which the commission may recommend for the appropriate state agency. Such advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay, but with reimbursements for actual and necessary traveling expenses; and the commission may make provision for technical and clerical assistance to such agencies and councils and for the expenses of such assistance.

9. To issue such publications and such results of investigations and research as in its judgment will tend to promote good-will and minimize or eliminate discrimination because of race, creed, colour or national origin.

The Congress' position is further bolstered by the observations of Mr. Herbert R. Northrup, consultant to the wartime U.S. Fair Employment Practices Committee (*Commentary*, September, 1952):

> For a voluntary program to do a real job in furthering fair employment practices, however, it must provide for three basic functions: (1) public hearings with the right to subpoena witnesses and to publish findings and recommendations; (2) public information and education aimed at informing citizens of the concept and meaning of fair employment practice; and (3) basic studies of racial, religious, and national origin employment patterns and trends, and of the methods of improving job opportunities for minority group workers.

9. It may have been noted that the Congress has refrained from commenting on the fact that the bill includes trade unions within its terms of reference. The Congress would merely point with pardonable pride to the following provision in its constitution (article 2, section 5):

> The Canadian Congress of Labour stands unequivocally for equality of treatment regardless of race, creed or colour, and recommends to all its affiliated organizations that they oppose discrimination on these grounds wherever it may appear.

This is the policy of Congress affiliates as well. We have nothing to fear from this bill. We, and the Canadian people as a whole, have much to gain.

Respectfully submitted,
The Canadian Congress of Labour,
DONALD MACDONALD,
Secretary-Treasurer.

Mr. Donald MacDonald, Secretary-Treasurer, Canadian Congress of Labour, called:

The Chairman and honourable gentlemen of the committee, I want first of all to say that if this Bill were to pass and be implemented by way of legislation, it would represent the realization of one of the most cherished objectives of organized labour in Canada as a whole. Ever since the inception of our Canadian Congress of Labour the introduction of this principle, not only in our own ranks but throughout the entire nation in all fields of relationships in legislation and education, has been something to which we have directed as much attention as to anything else that was a matter of policy with us. We believe that the Minister is to be commended for introducing the Bill and we want to go on record as being completely in favour of it in principle, although there are some alterations of certain sections and some rectification of omissions with respect to the Bill on which we would like to record ourselves. I know that the committee members are weary; they have had a long day; and I am not going to labour the presentation any more than is absolutely necessary. I do want to express the hope, however, on behalf of the Congress, that this proposed legislation will be given the greatest and most sympathetic consideration, that it will be the subject of a favourable report, and receive the unanimous support of all the members of the House.

There are certain features of the legislation on which I feel constrained at least to comment, and I might say in general that my first observation would be as to the lack of positive approach in regard to educational features,

if one might call it that, or the dissemination of information; the conditioning of the minds of the people who require that type of conditioning in order to make the principles incorporated in this legislation not a matter of wishful thinking, not a matter of mere written words embodying legislation, but maybe something that is really in the lives of all Canadians.

Dealing with the aspects of the proposed legislation to which I have made reference in detail, I shall try to deal with them, as I said, briefly and in sequence as they appear in the Bill.

The first point that we would like to make is in connection with the proposal contained in clause 2(*a*), the interpretation section which provides for the appointment of a director. Similar to the viewpoint that has already been expressed to the committee, we want to make our view known in this connection that we hope the appointment of the administrative director will not be regarded as another insignificant job to be foisted onto some already overburdened official, and we think it is of sufficient importance to warrant the appointment of a director and a staff on a full-time basis, a director and a staff who are competent and qualified to discharge the responsibilities and duties that will come under the legislation.

The next particular point to which I would like to make reference is clause 4(1). As you will note, no doubt all members of the committee are familiar with the provisions of the Bill, it repeats the purpose of it and sets forth the terms and conditions of employment in which there must not be any discrimination—it enumerates them—because of race, national origin, colour and religion. We would respectfully urge that the word "nationality" be included in that clause. We think we have very good reason for that, and while I do not want to elaborate on it at any great length but merely to illustrate, similar to what we have done in our submission, I would like to point out that, while it prohibits discrimination on the basis of national origin, it does not do so on the basis of nationality, and the illustration we used was that a nationalized Canadian whose national origin was Italian would be protected inasfar as anyone else was in the terms of the Bill, but if he is an immigrant or a person who had not as yet obtained a nationality in our country it would appear he would not be protected and that there would be a definite distinction between him and his colleague who either had become nationalized or was born of Italian parents.

Already the committee has heard a lot of very competent representation in connection with the application for employment, and again while we have no desire to impose on the patience of the committee, we too want to record ourselves as being of the same mind. We feel that this is one of the most serious omissions that there is in the proposed legislation because of the subtle form in which discrimination is very frequently exercised, when it is determined through the application of employment form that a person is of a certain race and a certain colour or a certain religion it makes the way extremely easy to exercise the type of discrimination which this legislation is designed to prevent. I think it is one of the most insidious types of discrimination which we encounter, and certainly an omission of this type to our mind is extremely serious. While I will not go as far as to say it nullifies the effect of the Act itself, or the Bill I should say, it nevertheless weakens it tremendously, and we see no good reason for it.

The existing legislation which is usually regarded as being authoritative—and I refer especially to the New York and the Ontario Acts—both spell this out in very great detail, and on behalf of the Congress I would like to urge the committee as strongly as possible that something similar be incorporated in this legislation.

There is also what we regard as another serious defect in the administration of the provisions, and that is the fact that there is no time provisions laid down for enforcement. As we see it, anyone who became a victim of

discrimination could very well have moved to other places, to have found the exercise of the discrimination to be such as to make his continued employment or his continued residence or continued association completely intolerable over a long period of time if the delays in the enforcement of the Act could be used as it is presently stated. We have suggested in our memorandum, as no doubt you have noted, that there be specific time limitations placed on each step of the procedure in order to eliminate to as great an extent as is possible this very serious defect that we see, and we have made very definite suggestions as to what in our opinion should be this time provision. We know that even there the same thing could be applied. We recognize, as you will note, that there could be at least a month and perhaps more elapse from the time that investigation would be instituted until such time as definite action would be taken on the matter, and to anyone who is being victimized or subjected to the type of thing we are trying to stop, and which is envisaged in this Act, a month could mean that the culprit, if I may use that term, who had utilized discriminatory tactics could get off with it without fear of redress or reprisals.

By Mr. Croll:

Q. Who in the Congress thought of this word "coterminous"; who talks that way in the Congress?—A. I think you will know it is not me. As a matter of fact it demonstrates how closely akin are the thinking processes of myself and Mr. Croll. I also questioned the word when I first noticed it.

By Mr. Higgins:

Q. There is such a word?—A. I did not check it, but I was given the assurance that there was.

We made our position with regard to the offences and penalty section quite clear in the memorandum that we have already submitted, and the basis of our observations there, as you will note, is that we felt that the penalty should be on a continuous basis. That is, any person who is so disposed as to exercise discrimination who is determined enough can pay one fine in order to have their way on the matter, and it could then, as far as they are concerned, be settled for all time to come, whereas, if it was a continuing thing, and that is a principle which is not a new one and one which will be quite common to you all, we think it would act as one of the greatest deterrents that could be incorporated in the legislation in order to invoke the presentative feature, as we see it.

The clause to which we direct our greatest expression of regret is that of clause 10. We have said in our brief that we are extremely disappointed. We have further expressed ourselves in saying that, so far as we can interpret it, it is completely inadequate. In our minds there should be substituted something similar to what is presently embodied in the New York Act, and we go on to spell it out in some considerable detail. We believe that more enunciation of the principle of the Minister exercising his discretion in the matter is not sufficient. We have considerable faith and confidence in the present minister, and we know he is well itended, but evertheless we do believe that the director, as such, perhaps should be able to initiate action in the matter, and also we do believe that there should be some mandatory feature, it should not be optional and discretionary all along the line. We think that is a tremendous weakness of the bill as it is presently constituted. If those loopholes, if I may use the term, to which I have made reference could be attended to along the line that we have suggested, then I think that parliament would have taken a tremendous step in the right direction in seeing to it that the underlying principle of the legislation was made effective. We would like

to say that we believe very, very definitely that, in so far as the discretionary power of the Minister is concerned with regard to undertaking such inquiries and other measures in order to promote the purposes of the Act—and we are not coming here merely mouthing a generalization—we believe that we can suggest from our knowledge of similar legislation very practical and effective methods that have already been introduced and have had excellent results. Educational conferences, we suggest, conciliation councils, advisory agencies, representative and responsible people speaking to groups wherever they can find them, the distribution of films, printed material of various types, and any number of other means could be used in promoting the education which we see as a necessary concomitant of the legislation which is being considered at the moment. We recognize it as being absolutely essential that there be such a program, and that it not be left to the discretion of any individual or any group, that it be spelled out in the Act so that there will be a responsibility devolve upon whoever might eventually have the obligation to administer the Act to carry these things into practice.

Now, that is all I want to say at the present time, Mr. Chairman, but naturally you will realize we are only too happy to answer any questions that might arise either from our submission or from the remarks I have made in conjunction with this submission.

The CHAIRMAN: I would say, Mr. MacDonald, that the rapt attention given to you by members of the committee is indicative of the intense interest that follows your presentation today. I wish to thank you on behalf of the committee for the representations you have made to us on the subject-matters of your briefs, and assure you that your sugestions will receive consideration.

By Mr. Pouliot:

Q. According to your own personal knowledge, were there any cases of discrimination on the basis of race, colour or religion?—A. I may say, sir, that there are. I do not regard my presence here this evening as being for the purpose of directing accusations or charges or condemnations which I just do not have the material to substantiate at the moment. My purpose in coming here was to submit to the committee our general views and policies of the Canadian Congress of Labour with respect to the legislation that is being considered, but if it is of any value to the committee I certainly will say that I have had such experiences.

Q. What were those cases?—A. Pardon?

Q. What were those cases, what was the discrimination in those cases? —A. I worked on a job for many years, sir, in which no man of French blood would ever hope to get employment. I happen to be half French and I got on there because of my name.

Q. I do not understand what you say. Will you please repeat it?—A. I said that I worked on a job for many years.

Q. Yes?—A. In which no persons of known French extraction would ever be employed.

Q. Yes. What was it?—A. I do not care to go into the details of it at the moment.

Q. Yes. They did not want to employ any French-speaking people there? —A. That is right.

Q. Did it occur frequently? Did you have many instances such as that occurring to your personal knowledge? I do not mean what you personally have done. I mean what you have information of personally?—A. Yes. I have known personally of people being discriminated against on the basis of race, class, colour and creed. I have known of it in certain employment and industries, and the big feature of it is that in my travels across the country—not this country—but this is one we are thinking about at the moment—that it takes

a different form and different aspect in different parts of the country, and in different sections, and in different industries, and in different employments. I have known people to be discriminated against because of their religion, colour, race and national origin.

Q. Personally?—A. Yes, personally.

Q. Where? In what provinces?—A. I said that I have general knowledge of it. I have travelled in all 10 of the provinces of Canada and I have encountered it in many places.

Q. You probably heard Mr. Brown, the Deputy Minister of Labour, say that during the last 10 years he had no personal knowledge of any discrimination of any kind. What do you call discrimination, Mr. MacDonald?—A. First of all, if you want to go into the details about it, where an individual is concerned, I would think one of the basic things that we would call discrimination is where an individual is denied employment, or is denied the basic and elementary and fundamental right of a human being and of a Canadian.

Q. Yes.—A. To be given employment in any particular industry despite his qualifications and ability, or to be deprived of his livelihood because of the accident of his birth and colour.

Q. Are you so sure that his inability to get a job is due to discrimination of that kind rather than to his inability to perform the duties of that job?—A. That is quite right, sir. In many many instance, I say that this discrimination—I think I said it in the course of my previous remarks—that it is so subtle and so insidious that it is difficult to pin-point it, when asked a question such as you have asked of me. It is difficult to answer such a question. But I have been in different positions and I have seen it in its evil and rotten form, in its subtle form, in its insidious manner which cannot be pin-pointed or proven in a court of law. And I have also seen it in its open form, when it is apparent to everyone, where certain employers said "This fellow is not going to work with me". Or, "I am not going to employ the people of such and such a race or colour."

The CHAIRMAN: Will you not agree that Mr. MacDonald has given you a very sincere and honest answer?

Mr. POULIOT: I want to learn more. I am here to learn from the witnesses. I do not know much about it and I want to be well acquainted with the matter before I express my own views.

Mr. HIGGINS: I think that is a conversation which could take place in private, Mr. Chairman.

The CHAIRMAN: Yes.

Mr. POULIOT: No. I want to have it put on the record.

The WITNESS: I can go on, if you like.

By Mr. Pouliot:

Q. You are very fluent in expressing yourself. You have a very rich vocabulary. I am not impressed by adjectives but by facts. Will you admit the right of an employer to make his own selection between two, three, four, or ten men, or will you deny it? That is the point?—A. This is the point in so far as the employer is concerned. I grant him the right to employ whoever he will, but I do not grant any human being the right to discriminate against a fellow human being because of the pigmentation of his skin, or because of the manner in which he worships, or because of the country in which he was born. That is not a right. That is a licence.

Q. Mr. MacDonald, you are too intelligent, and you have had too much experience with life to deny that the first impression made by a candidate for any job upon the employer himself does not count at all. And it is not a question of race, religion, or anything else if, when a man comes in for a job

he suits the employer better than the other fellow. But the point I want to make to you—and this will be my last word—is this: You have your turn of mind, and you take for granted that there is discrimination when a man is perfectly free to choose Tom, Joe, or John, or anyone else, or Moses or Enoch. It is his own business. There is no discrimination against those men. The employer can exercise his own choice. Will you agree with that?

The CHAIRMAN: It is now 6.00 o'clock and we will adjourn until 8 p.m.

Mr. POULIOT: Well, it is his own business and there is no discrimination against those who are not chosen when an employer has his own choice of a fellow who suits his needs. You will agree with that.

The CHAIRMAN: Gentlemen, it is six o'clock. Will we ask Mr. MacDonald to come back?

By Mr. Stewart:

Q. I wouid like to ask Mr. MacDonald one question. How many members of your organization do you represent?—A. Approximately 370 thousand.

Q. And of that group are there any women?—A. Oh, yes.

Q. A substantial number?—A. I am glad you asked that question because I wanted to make that a matter of record that we carry into practice what we preach. We do not carry any records on the basis of race, colour, nationality or creed.

Mr. POULIOT: I have met more people than you ever did and I do not agree with you wholeheartedly.

The CHAIRMAN: Thank you very much for coming to the committee, Mr. MacDonald.

(NOTE: *The following transferred to this point from 8 p.m. sitting.*)

The CHAIRMAN: If it meets with your wishes, Mr. Arthur Brown is here, the Deputy Minister of Labour, and he may wish to place before the committee what is done in other places in regards to the fair employment practices. Would it be convenient for you now, Mr. Brown?

Mr. BROWN: I can give you a short statement on this Bill and refer to the law in other jurisdictions if that is what you wish done.

The CHAIRMAN: You wish to do this in connection with Bill 100, is that it?

Mr. BROWN: Yes.

The CHAIRMAN: Thank you.

Mr. Arthur Brown, Deputy Minister of Labour, called:

The WITNESS: Mr. Chairman, I have a short typed statement which regard to employment by reason of race, national origin, colour or religion, and, perhaps I will read for the purposes of saving time, with your permission.

The primary purpose of this legislation is to prevent discrimination in to give effect to this primary purpose the Act also contains provision to prevent discrimination in respect of membership in a trade union on the same grounds.

The Act applies in respect of employment upon or in connection with the several classes of works, undertakings and businesses that are within the legislative authority of the federal parliament to regulate and in respect of employers engaged in any such work, undertaking or business, and employees or persons seeking employment in any such work, undertaking or business and in respect of trade unions composed of such employees. It also applies to employment by Crown corporations of employees.

Perhaps at that point I should say in connection with the presentation of Mr. Crestohl this morning that there may be some misunderstanding as to the provisions of the Act relating to these Crown companies and the Act applies to practically the same classes of Crown corporations as does the Industrial Relations and Disputes Investigation Act. That is to say it applies to corporations which are really established as emanations of the Crown. It does not purport to apply to a private contractor who has a specific contract with the Crown. His employees may be engaged today on a government contract, tomorrow on some other contract, some of them may be on a government contract, some of them on something else. We deal with that type of contractor under our order in council relating to discrimination in respect to government contracts and we include in the terms of the contract specific provisions under which the contractor undertakes that he will not discriminate with respect to employment, and we ask him to undertake that obligation in relation to a subcontractor but we cannot legislate directly with the subcontractor because we have no contract with the subcontractor.

By Mr. Knowles:

Q. Do I understand you feel from a legal point of view you are able to go further under the order in council than you are under the legislation?—A. Yes.

By Mr. Higgins:

Q. What is the order in council you are speaking of now?—A. We are speaking of an order in council passed last December which provided for the inclusion in government contracts of a provision under which the employer undertook or the contractor undertakes that he will not discriminate in regard to employment of persons on that contract on account of race, colour or creed.

Q. What publicity was given to that order in council?—A. It has been posted up. It is included in the provisions of the contract itself with the employer. It is posted up in the employer's establishments.

Q. What, if any, action was taken under that order in council?—A. I will ask Mr. MacLean, the assistant deputy minister and director of public relations, who is dealing with these government contracts to speak on that point.

Q. Would this order in council more or less take the place of the current Act which we are studying now?—A. No.

Q. Just enumerate what the order in council said?—A. The order in council provides that in the contracts which the government enters into with contractors of construction projects and for the manufacture of certain types of supplies in which the contractor is required to include fair wage provisions he shall also agree to the inclusion in the contract of a provision in which he agrees that he will not in his employment of employees for employment in the carrying out of that contract discriminate in respect of race, colour or religion.

Q. The same provisions which you have in this Act now?—A. Yes. But it applies to a different category of people.

Q. But only government people?—A. Yes.

Mr. MacLean: The original order in council has been in effect for many years and goes back for many years. That order in council has been amended on several occasions but last fall that order in council known as P.C. 5547 was amended by an order in council which brought into effect the non-discrimination provisions to which Mr. Brown has referred.

Now, the administration of the old order in council P.C. 5547 and the administration of the Fair Wages and Hours of Work Act which applies to construction and construction contracts of the government of Canada, has been a matter for administration by the Industrial Relations Branch under the deputy minister. From the outset, the administration of the non-discrimination provision of the new order in council amending P.C. 5547 has been under the direction of the industrial relations branch and that non-discrimination order became effective on the 1st of January this year.

Now, prior to that date each department of the government that is engaged in awarding contracts for either construction or for the manufacture of supplies or equipment for the government of Canada was advised of the passing of this amendment to P.C. 5547 and were requested to include the non-discrimination provisions in each contract that was entered into by them as from the 1st of January, 1953. At the same time all the industrial relations officers of the department in their respective locations across Canada were advised of the coming into effect of this order. They were given instructions with respect to it and the manner in which the order in council would apply. They were advised to investigate all contracts for the manufacture of supplies and equipment, for the building of buildings for the government of Canada of any kind whatsoever. They were instructed to investigate the carrying out of these contracts by the contractor and they were given specific directions as to the manner in which they would investigate the effects of the non-discrimination order. They were given posters in which the non-discrimination orders were set out and were instructed to post these posters on the site of the work or in the establishment upon which the contract was being carried out. Since that time we have had a number of reports from our officers as to the inspection of these contracts and the application form that was used by the contractor—application form for employment—if he was in fact using application forms and the advertisements that these contractors would place in the newspapers. Copies of them would be secured and in every way we have endeavoured to give effect to the provisions of that non-discrimination order in council. That work of course is continuing from day to day. Of course this was just supplementary to the work we have been doing for years.

Mr. HIGGINS: How long ago is that, Mr. MacLean; this old order?

Mr. MACLEAN: This old order I have been referring to we have been administering for many years and our officers have been investigating the provisions of that old order P.C. 5547 in regard to the payment of fair and reasonable wages on these contracts and with respect to the hours of work that the workers on these contracts were required to work by the contractor.

Mr. HIGGINS: Did you have complaints of discrimination?

Mr. MACLEAN: Not since January 1.

Mr. HIGGINS: January 1 of what year?

Mr. MACLEAN: This year. When the non-discrimination order came into effect. We have not had since that time any complaints that there has been that type of discrimination with respect to any of the contracts that have been investigated. Now, there has not been sufficient time elapsed since the 1st of January for us to cover all contracts that have been let by the government of Canada in the last two years, but that work is being carried on continuously.

Mr. HIGGINS: When did you first see need of this particular Act being brought in?

Mr. MACLEAN: Well, the order in council was passed by the government as a result of many representations made to the government from time to time for that type of legislation.

Mr. HIGGINS: How long ago would you say?

Mr. MACLEAN: I would say that representations of this kind have been made to the government for some time, a matter of some two years probably.

Mr. HIGGINS: Why was it not brought forward before?

Mr. MACLEAN: I do not know that I am competent to answer that question.

The CHAIRMAN: Will you proceed, Mr. Brown, please?

The WITNESS: Well, Mr. Chairman, as I was saying the legislation in this bill applies to the same classes of works, undertakings and businesses and the same employers, employees and unions as The Industrial Relations and Disputes Investigation Act applies to.

It is important to keep in mind that this segment of industry employs only some 400,000 employees out of a total wage-earning force of some 3,800,000 persons in Canada—that is to say, between 9 and 10 per cent of the wage-earning force.

Mrs. FAIRCLOUGH: That would be exclusive of contracts?

The WITNESS: Exclusive of contracts, yes. Just the group that are covered precisely by this Act.

The pattern for this mandatory type of legislation designed to prevent discrimination in regard to employment or trade union membership by reason of race, national origin, colour or religion was established by the enactment of a Fair Employment Practices Act by the State of New York in 1945. The legislation passed since that date by a number of other state legislatures in the United States, namely: New Jersey, Massachusetts, Connecticut and Rhode Island, follows closely the provisions of the pioneer act of New York state.

In Canada, the province of Ontario brought into force in June, 1951, a Fair Employment Practices Act which in its essentials is derived from the New York State Act. The Manitoba legislature in its recent 1953 session has also enacted a Fair Employment Practices Act, which, I understand, conforms quite closely to the provisions of Bill 100 which is before your committee. Apart from the foregoing provincial legislation and the Saskatchewan Bill of Rights Act passed in 1947, in which this matter is dealt with on a somewhat different basis, there is no legislation of the same nature in force in the provinces of Canada.

The provisions of Bill 100 follow in a number of respects the New York State legislation, but we have in framing this bill considered that the problems in the federal jurisdiction to which the legislation is addressed are not as substantial nor as varied as in New York State. Moreover, the number of industries to which the Act applies and the number of employers and trade unions covered by our legislation are relatively limited.

Consequently, the provisions of the Act are not complicated and are those considered necessary to give effect to the purpose of the Act in the area of industry to which the Act applies and do not include more elaborate provisions which may be appropriate elsewhere.

I should like to refer now briefly to the provisions of the Bill in a general way.

The legislation in its definition of "employer" excludes persons employing less than 5 employees. This serves to exclude small domestic establishments and family enterprises and other small establishments, where it is considered impracticable to give effect to the provisions of the Act. It also excludes exclusively charitable, fraternal and religious non-profit organizations for reasons that are self evident. These exclusions are standard in all similar legislative measures in other jurisdictions.

Section 4 of the Bill contains the essentials of the legislation, and at this time I perhaps will not go into those specific provisions. They were gone into today in the course of the presentations made to the committee.

Now, the remaining sections of the Act provide for the investigation and adjustment of complaints under the Act and for the enforcement of the pro-

visions of the Act by ultimate recourse to the court where this becomes necessary.

The procedure for the handling of complaints is largely similar to the procedure provided for in The Industrial Relations and Disputes Investigations Act for the handling of unfair labour practice complaints relative to discrimination on account of union membership or activities.

The procedure is primarily designed to bring about the voluntary settlement of the complaint, rather than to place emphasis on reliance upon punitive measures of enforcement.

I should say that these provisions relating to the handling of complaints and so on correspond very closely to the provisions of the old Act and are based on our own experience in the industrial relations field.

The experience in the administration of legislation of this type and nature in other jurisdictions shows that, of the total number of complaints processed. conference and conciliation measures have been effective in settling practically all cases, and only in an infinitesimal percentage of cases has court action been found necessary.

The Act will be administered by the Department of Labour.

We considered our procedure relating to enforcement and our provisions for recourse to the courts should be just as simple and clear as possible and that no elaborate provisions in relation to court procedure were necessary at this time. If as a result of experience as we go along we find that it is necessary to make an amendment or reinforce our positions for that purpose then we will of course be coming back to parliament for that purpose.

Mr. STEWART: Out of some 5,600 cases I think only seven went to the courts. Have you got the figures? You say the vast majority were settled by conciliation.

The WITNESS: I have those figures here covering the number of cases handled in the States of Connecticut, Massachusetts, New Jersey, New York, Oregon, Rhode Island and Washington, where legislation of this type is in force and in the period of operation under these various Acts there are reported about 4,900 cases handled. Of that number discrimination was found to exist in percentage ranging from 48 to 69 per cent. I should say the over-all average would probably be somewhere around 60 per cent. Now, I should say that the number of complaints dealt with in this area quite naturally related to discrimination in relation to negroes. Of the total number of cases dealt with under the Acts only three, it is stated here, have gone to court. Summarizing it says: "Conferences, conciliations and persuasion have been effective in settling practically all cases. Only seven cases have been carried to a public hearing" That is the public court. "Three in the Connecticut, two in New York, one in Massachusetts and Oregon."

That is a rather remarkable record and it does show that the reliance which we are placing in our own legislation in the procedure for conciliation—

By Mr. Higgins:

Q. Clause 9 of the Act is the prosecution section is it not? I believe I asked the Trades and Labour Congress representative today and he recommended it should come to the minister before prosecution began. What is the government's attitude to that. Why do you say that permission should be obtained from the minister before prosecuting.—A. In order that we might make sure that it has been investigated under the conciliation procedure which is prescribed in the legislation and before any abrupt action should be taken.

Q. You do not want any wild cat prosecutions?—A. That is right. That is the same sort of provision as we have in our Industrial Relations Disputes and investigations Act.

By Mrs. Fairclough:

Q. In all of these 8 states which have such a good record of settlement every one of them has an educational program too?—A. A number of them have commissions.

Q. But they all have educational programs, every one of them?—A. I do not know about that.

Q. Yes, they do.

By Mr. Stewart:

Q. Do you know if in these states they have full time directors of the division?—A. Some of them have commissions operating.

Q. On a full time basis?—A. Well, I think the state of New York has a full time commission.

By Mr. Higgins:

Q. Do you see any necessity for an educational program in connection with the Act, if it is passed?—A. Naturally we would merely take the necessary action of acquainting employers and every organization with the provisions of the Act, and we feel that there is authority in the Act to carry on, provided we get money from parliament to carry on whatever supplementary educational provisions we find necessary to make the Act effective.

Q. You heard this afternoon the way both these big labour unions were talking about educational programs. What would your views be, having heard these people. They want an extensive educational program.—A. I think we would have to co-operate with the provincial authorities, of course, in this matter, because we are dealing in the federal field with a small segment of industry, but we have taken the lead in educational work in the matter of films and that sort of thing in other fields. For example, we have done that in connection with films in the accident prevention field, and in connection with the labour management production committee and in the rehabilition field, and I would certainly expect we would take our place in fulfilling our responsibilities in connection with this legislation.

Q. Do you see any need for any special education program in connection with this particular Act, more than you would normally do.

Mr. STEWART: Normally you do not put on any program of education in this matter.

The WITNESS: We have not at the present time, but if parliament passes a legislation we will have to plan a program to make the Act operate effectively.

Mr. STEWART: A question I would like to ask, and that this whole program of education revolves around it, and it is not a question I would ask the witness, but of the parliamentary assistant. Is it the intention to appoint a full time director for this division?

Mr. CÔTÉ: I could not say exactly what will be done, finally. I know we have officers who normally would be competent to administer this Act under Mr. MacLean.

Mr. STEWART: I am not denying the competence of any of your officers, but you cannot give officers who are already overburdened more work than they can handle, and I think it will be a full time job, and I just wondered if it was a full time job in the concept of the government.

The WITNESS: Perhaps I should answer that. I am responsible under the minister for the administration of the Act, and all I can say is that we will establish whatever organization is necessary to administer this Act efficiently which is what we have done or attempted to do in every piece of legislation which has been placed in the responsibility of the Department of Labour to administer.

By Mr. Knowles:

Q. May I ask Mr. Brown what consideration has been given, in the framing of this bill, to the representations made this afternoon in regard to the claim that application forms should be covered in the same way as advertising forms.—A. Yes, we gave that consideration initially. We felt that the provision relating the advertising was essential. As a matter of fact, we hesitated to include that provision which would require a review of normal employment practices to the extent which would be necessary in prescribing application forms.

By Mrs. Fairclough:

Q. You say you hesitated Mr. Brown. Do you mean because of the amount of work involved?—A. No, we felt that we were justified in going that far as far as advertising was concerned, but we did not know how far the problem was within our jurisdiction, and whether we should include a provision regulating the application forms, because after all, normally, I assume an employer in sending out applications for employment forms requires a certain amount of background on applicants and if he does not get it at that stage, he is going to get it at the next stage of interviewing, and our decision simply was to start off on this simple basis, and if our experience indicated that it was necessary to go further into this field in the regulations of application forms, well, we would come back for that purpose.

The CHAIRMAN: Pardon me Mr. Brown, but arising out of many representations made to the committee today with suggested amendments to the bill, and all related representations, would it not be wise at this time, seeing we have reached the hour of 9 o'clock,—it has been a long trying day as you suggested a while ago Mr. Stewart—do you think we should now entertain a motion to adjourn, and we will have a meeting of the sub-committee subsequent to this meeting, and I would ask you Mr. Brown, if you could make it convenient to appear before the committee at a subsequent meeting if, in the event of after perusing the representations made today, there will be questions on which members of the committee will wish clarification.

Mrs. FAIRCLOUGH: We are right in the middle of one discussion. If you think we could continue that discussion when we come back for a subsequent meeting, well and good, but—

The CHAIRMAN: I just feel a restlessness in the committee at this moment.

Mrs. FAIRCLOUGH: Personally I am just beginning to get interested for the first time tonight.

The CHAIRMAN: All right, if that is the feeling of the committee, we will carry on.

By Mr. Knowles:

Q. May I ask a question following on what I asked before as to whether you have found out whether Ontario had run into any difficulty because of its legislation regulates application forms.—A. I cannot go very far with you on that point. Ontario's experience has been limited, and I know they have not had a great many complaints to deal with under this matter to date.

Q. How many workers are covered under the Ontario legislation. It would be greater than the total probably across the country under federal jurisdiction?—A. I am not suggesting for one moment we cannot go into that field. It is purely a question of whether it is necessary to go that far in the field to deal with this matter.

Mr. STEWART: I think the concensus of opinion of those who appeared before the committee was that it would be advisable to outlaw these application forms in the same way as Ontario has done. I have here quite a number

of forms and this one is one of the weirdest ones of them all. It not only asks the applicant's nationality, his religion and his complexion, but also the name and birthplace of his father, the name and birthplace of his mother, the name and birthplace of his wife, the name and birthplace of the father of his wife, the name and birthplace of the mother of his wife, and the name and birthplace of his brothers and sisters and children, and relatives employed by the government of Canada, and relatives employed by foreign governments and his present employment, and there are so many amazing questions that one can only come to the conclusion that this application is meant to screen very carefully the type of person who is to be employed. I agree with the idea in principle that application forms for employment which have these discriminatory questions should be outlawed. A man's capacity to work does not depend on the colour of his skin, and I think these questions are totally irrelevant.

The WITNESS: Can you tell me where that form of application was used?

Mr. STEWART: I cannot give you the name here, but I can tell you in private.

The WITNESS: Quite frankly I realize a lot of the representations made today have placed a lot of weight in that division and certainly it is something we would like to consider further, as well as the committee.

Mrs. FAIRCLOUGH: I think quite apart from the question of whether or not the things are a nuisance or whether they should exist, I believe if you are going to prohibit these questions in advertising you might just as well prohibit it in application forms. If they do not catch them at the advertising stage, they catch them when they come to apply for a job, and I cannot see any point in going part of the way. You might as well go all the way.

The CHAIRMAN: Would you like further time to consider it?

Mrs. FAIRCLOUGH: I would not ask Mr. Brown to commit himself. I am speaking to the committee, and I think it is wrong.

The WITNESS: There is the angle of course that if you sterilize these application forms too far, as far as background questions are concerned, then you simply make it necessary to do a lot more interviewing.

Mrs. FAIRCLOUGH: But that is one point in which the New York authorities believe their Act has been very successful, and another thing is, if you will permit me Mr. Chairman, with regard to the question asked previously by Mr. Stewart on the composition of commission. Mr. Brown did not mention it, but maybe the committee will be interested to know, that in Oregon and New Jersey all the states have separate commissions, Oregon is under the Department of Labour and New Jersey under the Department of Education, but all the rest are separate commissions. I do not propose that you should divorce them from the Department of Labour but the idea of having another group which will be charged with the responsibility not only of administering the Act but doing the educational work appeals to me very strongly.

The WITNESS: We have a provision for a director as far as the administrative machinery is concerned to proceed as we find it necessary to do to make a good job of administering the Act.

The CHAIRMAN: Anything further, Mrs. Fairclough?

Mrs. FAIRCLOUGH: Not at the moment.

(*Note*: *For reference purposes, printing has been arranged to consolidate all evidence separately in respect of each Bill. For strict order of proceedings, refer to Minutes*).

(*Note: The following transferred to this point from Afternoon Sitting.*)

The CHAIRMAN: Gentlemen, as I have said, Mr. Wismer, has representations to make to this committee on the subject matter of Bill No. 2 which will be included in the evidence today. We would appreciate if you would make your submission touching on the highlights of what is contained in the brief, in the more important sections.

BRIEF ON BILL No. 2

Mr. Chairman and Members:

The Trades and Labor Congress of Canada is pleased to have this opportunity to appear before your committee and to place before you our views concerning the need and desirability of adding a provision to the Industrial Relations and Disputes Investigation Act which would require a check-off of union dues whereever collective agreements are reached or continued in effect under the Act.

We are aware that considerable differences of opinion exist as to whether it is advisable to provide for a check-off of union dues under a collective agreement covering earnings, hours and working conditions. There is a further divergence of opinion as to whether such a check-off should be obtained solely through collective bargaining or be required by law as a necessary part of sound industrial relations.

If your committee had the time and the desire to hear the views of all individual organizations holding collective bargaining rights for employees in all parts of Canada, you would doubtless hear many conflicting opinions on this subject. This congress has heard these varied opinions expressed by delegates representing our affiliated organizations in our annual conventions and the views we wish to place before you represent the majority view on the matter and as such is the official policy of this Congress.

The Trades and Labor Congress of Canada comprises more than three thousand local organizations grouped into international, national and provincial organizations and our membership in all parts of Canada exceeds 525,000. The collective agreements covering these workers number several thousands and a substantial number of these contracts contain clauses providing for the check-off of union dues.

For purposes of clarity we would like to point out that hiring conditions insofar as these may be provided for in a collective agreement are something different and apart from the provisions of a check-off of union dues. We are not here dealing with the merits of the closed or union shop, preferential hiring, maintenance of membership or any other form of protection which may be accorded the employee or the employer or both in a collective agreement.

We are submitting our views only on the advisability of requiring a check-off of union dues by law as a necessary and desirable condition for the maintenance and advancement of sound industrial relations.

The Trades and Labor Congress of Canada favors the inclusion of a clause in the Industrial Relations and Disputes Investigation Act which will require that a check-off of union dues shall be mandatory wherever a collective agreement is entered into or renewed between employers and the bargaining agents of employees under the Act. What the substance of such a clause should be is suggested later in this submission.

Unfortunately, there has grown up a notion that the purpose of a check-off is to provide for union security: that it is a one-sided affair of advantage only to the union. This view, of course, is not supported by the facts. The inclusion of a check-off provision in a collective agreement is always the result of agreement between the employer and the bargaining agent and most of these agreements are reached throughout Canada through peaceful negotiations.

The real purpose of a check-off provision in a collective agreement is not to provide for union security but for the security of sound and enduring industrial relations.

Some bargaining units are quite small, others are very large. The size is determined in the main not by the union or the employer but by the nature of the enterprise. A check-off in the large units makes for efficiency of dues collection if nothing else. But on analysis it is quite evident that a check-off provides for much more than efficiency in dues collection.

The government of Canada has become aware of the advantages of a check-off of union dues in that it has recently agreed to a check-off of association dues on application by national organizations of government employees even though full union recognition has not yet been granted. The major railways have agreed to compulsory check-off of union dues covering all employees in the bargaining units even though they were not prepared to agree to a union shop which would require joining the respective union as a condition of employment. In both cases, improved personnel relations and harmonious industrial relations were apparently the guiding factor.

If a check-off can be obtained and agreed to in collective agreements, why should it be required by law?

We urge that such a provision be added to the labour relations law of Canada to protect those employers and bargaining agencies who have led the way in developing sound industrial relations, and to provide a better atmosphere of industrial relations in which better relations can be fostered among those who are following, sometimes slowly, in the footsteps of our industrial leadership.

In this connection we would point out that the Industrial Relations and Disputes Investigation Act does not force any employer or bargaining agent to make an agreement. Both are entirely free in this regard. We would prefer to have it so. But once the agreement is reached, the law requires that the contract be enforced and lived up to.

We believe that any provision added to the Act requiring a check-off should be such as to require it as a consequence of reaching or renewing an agreement, or, in other words, as a condition of the enforcement of the agreement.

The point we are making is that where a check-off provision is not agreed to by the employer and the bargaining agent, the law should state that a check-off is a mandatory condition for the enforcement of the contract under the Act.

What kind of check-off should the law require?

The subject matter of Bill No. 2 is the "voluntary revocable check-off". This we do not favour.

The "voluntary revocable check-off" is merely a poor substitute for a half-hearted union dues collector. It would serve little useful purpose in the furthering and strengthening of harmonious industrial relations. We realize, of course, that it finds itself in this Bill because the bill is a worthy attempt to encourage the inclusion of a check-off provision in the labour relations law even on this very minimum basis. Your committee, however, is empowered to make recommendations to Parliament on this matter and we feel that any such recommendation should take the whole question of check-off into consideration.

The collective agreement is the law covering industrial relations within the bargaining unit and its advantages and benefits fall to each and every employee within the unit. It is only fair and reasonable therefore that every

member of the unit should share equally in the expense of the negotiation and administration of the agreement just as they share in its advantages and benefits.

With this in mind, we urge your committee to recommend that a clause be added to the Industrial Relations and Disputes Investigation Act requiring a check-off of union dues wherever collective agreements are reached or renewed and that the check-off be such that every employee in the bargaining unit shall be required to pay either the union dues if he is a member of the organization holding the bargaining rights for the unit or their equivalent if he is not a member.

Respectfully submitted on behalf of the

EXECUTIVE COUNCIL,
The Trades and Labor Congress of Canada.

(Note: The following transferred to this point from afternoon sitting.)

Mr. L. E. Wismer, Director of Public Relations and Research of the Trades and Labour Congress of Canada, called:

I can be very brief Mr. Chairman. I think I should draw to your attention the opening paragraph of our submission. We are a very large organization of organizations. There are some 70 international unions affiliated to the congress, 15 or 20 national provincial organizations and a very large number of individual directly chartered organizations and some of them deal with crafts, some of them are of the industrial type, others are government employees at various levels, municipality, provincial governments and federal government, and each is a jealous group, jealous of its autonomy and its rights to form its own opinion and its own policy and you can well understand that some see that in their trade it might be unwise to have a check-off and others greatly favour it, and they work very hard in collective bargaining to obtain the best kind of check-off.

With that in mind, our national annual convention dealt with this matter and has come to the conclusion by a majority decision that we should have a check-off of union dues, and that it should be in the law. The reason for it being in the law is to protect those first, who already have had it by bringing the minimum condition to shore it up for those who have led the way, and to make it, without it having become a pattern of industrial relations, provide a better atmosphere in which to develop it throughout the whole of Canada. We are not arguing whether there should be sounder industrial relations. We get sounder industrial relations as we go along.

The check-off of union dues in our opinion is a useful instrument in bringing sound industrial relations. We realize that Mr. Knowles' Bill No. 2 in the form it is in, a private bill with a minimum check-off provision to be introduced into the law. When we say in the brief we are not in favour of that check-off it is because we feel that your committee in considering the check-off has a right to recommend to parliament the kind of check-off that should go into the Industrial Relations Disputes Investigation Act if you recommend any check-off.

By Mr. Croll:

Q. Are you not saying that, we like what is in this bill, but we do not think it goes far enough, and we want something more?—A. I wanted to give to them what we have suggested. What we have suggested is the Rand formula for the check-off, but we are not quite saying the same thing in our brief, and I want to make this as my closing point. It is not quite the same

thing as Mr. Knowles says in his Bill. We are not asking you to write the clause into the Act which by implication will appear in collective agreements. We want you to write a clause into the Act which will be one of the enforcement administrative conditions, that any agreement will be treated in.

Q. You mean it is automatic?—A. Consider it from this angle. The agreement is reached by mutual agreement. There is no compulsion in reaching the agreement and if the employer and the bargaining agent can agree to a check-off, the job is done. If they cannot, one of the minimum conditions of the enforcement of that contract is by law—a check-off. The lawyers may want to change that, but our opinion is that it should not get, by implication, into the agreement.

By Mr. Higgins:

Q. Does your legal department contend this is necessary or can it be done on a voluntary basis without legislation?—A. The answer is, it is being done on a voluntary basis, and there is agreement on it.

Q. Why must you legislate for it?—A. In our opinion the reason for legislating it is that it is essential in the same way that you have a minimum wage law or minimum conditions for the employment of families and children and so on. You provide a minimum basis of industrial relations.

Q. It is more or less to strengthen you. It is not that you need it, but that it is better to have it?—A. It strengthens the hand of the employer and of the bargaining agent. The check-off works for both.

Mr. CROLL: Mr. Wismer, you have followed the history of the check-off in the House of Commons for some time with interest and concern. You have seen the difficulties we have had with it.

Mr. KNOWLES: Mr. Croll has had as much difficulty as Mr. Knowles.

Mr. CROLL: Do you not think on this point we would be doing very well if we were able to obtain a voluntary check-off rather than ask for the Rand formula on collective agreements.

The CHAIRMAN: I think, Mr. Croll, if you read the brief on page 4, that question is answered.

Mr. CROLL: I read that, and it led to my question. I am a little confused.

The WITNESS: My answer to your question, Mr. Croll, is this: As industrial relations have developed to the point where they are now, and where there are literally thousands of collective agreements in the main areas of economic activity in the country, the desire is to foster the relations which are germinated in the agreement, and one of the ways to do that it, as has been learned by progressive management and progressive unions and if I use these words fairly by getting away from the concern and worry of dues collection, and to say, as the government says, that all those who benefit from the agreement pay for it now. That is very different from the other suggestion which you might some day consider in law of requiring them to join, and then move away from the union of choice; but the position of the congress is this, that the voluntary revocable check-off is the very minimum condition, and you may be right in that it would be easier to put that through parliament today than anything else, but the committee in our opinion is here to think through what is the best and most adequate legislation, and to propose to parliament in the wisdom of the committee that if parliament wants a check-off provision in the labour relations law, this is the type of check-off it should be.

By Mr. Croll:

Q. Do I follow you? Is this what I understand you to say that we are better off to continue to fight for the Rand formula with a possibility of winning it at some time in the future, rather than take the voluntary check-off now?—A. May I take from your suggestion that parliament is likely—

Q. I am asking you for the choice. You know our difficulties, you have been through it as well, and we are having some difficulty, sentiment is growing year by year in favour of it, but it is within our reach now, and should we say now: No, that is not what we want—we will play for the bigger stakes.

The CHAIRMAN: If I may interject for a moment. We are dealing with the subject-matter of the bill, and the Trades and Labour Congress have made their submission as to what they think should be the check-off provision.

Mr. CROLL: They are divided. He said it was on a majority vote.

The CHAIRMAN: The decision of the committee is not to be predujiced at this time. We have received very good suggestions from the Trades and Labour Congress representative, Mr. Wismer, and I do not think we should bargain with him. He has placed his points pretty well on the record.

Mr. CROLL: What I am trying to avoid is that I am looking forward to the time when we close the door and consider what we will put in our report, and some members of this committee will say that both the large trade unions are divided and why should we get our neck into this. One wants one thing and one wants another, and we know we are not going to satisfy either one of them. I do not know what the other great trade union will say, but I think I have a fair idea, knowing what they have said in the past. What I am trying to find out from the witness is: If this is the choice, would he not be happy to have that at this time?

The WITNESS: Mr. Chairman, in fairness to Mr. Croll, the trade union movement usually finds itself in the position, when I say usually, all I intend to say to the government at all levels is that we accept this as a step in the right direction. We never get in the first 25 years just what we are looking for. It goes in about 25-year cycles.

Mr. CROLL: That is all right, it is good enough.

The CHAIRMAN: Any further questions for Mr. Wismer?

Mr. KNOWLES: I take it Mr. Wismer would be extremely happy if we could see fit to recommend back to parliament that a check-off provision such as he suggested be included in Industrial Relations Disputes Investigation Act. If the committee does not act in that way, he would regard the recommendation on the line of Bill 2 as one of the steps in the right direction.

The WITNESS: We would still give you a pat on the back.

The CHAIRMAN: Any further question, gentlemen? Thank you, Mr. Wismer. On behalf of the committee I wish to thank you very much for the representations you have made.

Mr. WISMER: Thank you.

Mr. KNOWLES: May I suggest that since we have switched over to Bill 2 we continue with it.

The CHAIRMAN: Yes, we shall, Mr. Knowles. If that meetis with the wishes of the committee we will stay with submissions on Bill 2, and we will now call those appearing for the Canadian Congress of Labour, Mr. Donald MacDonald, Dr. Forsey, Mr. Lamoureux and Mr. A. Andras.

It is good to welcome you to the committee Mr. MacDonald, and you gentlemen.

Gentlemen, we are going to continue with Bill No. 2, and I believe the committee should be aware that we received written representations only from the Canadian Chamber of Commerce, and that is going to be printed as an appendix.

(*See Appendix B*)

Mr. POULIOT: Are they coming here?

The CHAIRMAN: No, they are not. They have submitted a written brief in the form of a letter.

Mr. KNOWLES: Did you say we would file their brief?

The CHAIRMAN: Yes. The Railway Association of Canada have a representative in Mr. Scott, Q.C., of Ottawa. Mr. Scott is listening in on representations made and he will be available if we wish any information from Mr. Scott on behalf of the Railway Association of Canada.

The Canadian Manufacturers' Association were going to have Mr. George sitting in on the committee's deliberations, and they have submitted a brief on Bill No. 2 which will be incorporated in the evidence of today immediately following that of Mr. MacDonald's oral representations.

With regard to Bill No. 2, we will now hear from Mr. Donald MacDonald, Secretary-Treasurer of the Canadian Congress of Labour.

Brief Submitted by the Canadian Congress of Labour to the House of Commons Standing Committee on Industrial Relations in regard to Bill 2, An Act to Amend the Industrial Relations and Disputes Investigation Act.

(*Voluntary Revocable Check-off*).

1. The Canadian Congress of Labour supports this bill. The Congress hopes it will receive a favourable reception from this committee and from parliament itself. We need hardly remind you that a recommendation along the lines of this bill was made by a similar standing committee in 1948.

2. This bill provides for the voluntary revocable check-off. This is the least contentious form of union security. First, it is only a check-off: a convenient arrangement by which the employer checks off, deducts, union dues from the employee's pay envelope and remits them to the union. Second, it applies only to union members. Third, it is purely voluntary: not one copper can be deducted until the union member has signed an explicit, formal request for the deduction. Fourth, it is revocable: the union member can withdraw his authorization at any time, and the deduction then ceases. It does not force anyone to join the union, or stay in the union, or pay dues to the union, or do anything else. At most, it tends to keep a union member in good standing.

3. So far as the employer is concerned, it is an indication that he respects the wish of his employees to have such a deduction made from their pay, and an expression of goodwill toward the union itself. What reason can the employer have against this kind of check-off, except a wish to frustrate the union and make its existence more precarious? By law, he must check off income tax and unemployment insurance. It is altogether likely that he also checks off for such things as Blue Cross or other prepaid schemes of medical or hospital care, pensions, Canada Savings Bonds, Community Chest and similar donations, the purchase of tools and work clothes, and so on. The Canadian National Railways, for example, check off some 60 to 70 different items. Actually, management started the check-off. It was used, long before

unions became widespread, to collect for purchases made in company stores and for a variety of other purposes, including church dues. In the maritimes, it can be traced back for more than 70 years.

4. The collection of dues is often a difficult, time-consuming task. Union members may be spread over a large area, as in the case of a railway. They may work in relatively small groups, as in a coal mine. They may operate in shifts, as in a steel mill. They may be far removed from their local union centres for considerable periods, as in logging. All of these make dues collection difficult and costly. There is also the human element. Workers, like others, are forgetful. They are negligent. For the most part, their lapse in keeping dues paid up to date is not due to an unwillingness to retain membership, but to the innate human capacity to put things off. The check-off is a solution to all of these problems. The employer, by simply making one more deduction from the payroll, overcomes all these difficulties at one stroke. It costs him nothing and it raises his employees' opinion of him. The union, relieved of the burden, can direct its energies to other, more constructive, tasks.

5. There is a tendency on the part of employers to ask why they should do anything to make things easier for the union. We think a good answer to that question was made by His Honour Judge J. J. Coughlin and Professor Bora Laskin, chairman and employee nominee, respectively, of a board of conciliation whose report was published in the October, 1945, issue of *The Labour Gazette:*

> The board is of the opinion that the day of collective bargaining is here to stay. It is also of the opinion that, of existing organizations, the labour union is the best equipped to protect the interest of the industrial worker and is therefore the right kind of collective bargaining agent. We further are of the opinion that, among labour unions, that one will best serve the interests of its members which is governed by men of judgment and moderation, and not by extremists. We feel that no single influence is more important in bringing about the condition where men of the former rather than the latter type shall govern any union than is the friendly and co-operative attitude of management towards the union. . . .
>
> It is argued on behalf of the company that it is no part of the function of management to assist in solving the problems of the union. As a matter of legal obligation, this argument is correct. But we do not look upon this as a matter which should be determined on the basis of strict legal rights or obligations. In the forefront of industrial relations are two groups of men. One group is chosen for its ability to produce returns for capital. This group composed of officers of the company is collectively referred to as management. The other group is chosen for its ability to secure satisfactory wages and working conditions for labour. This group composed of officers and committees of the collective bargaining representative is herein referred to as the union. The total wealth produced by the industry is shared by the individuals whom these two groups represent. We can see no reason why either group should be indifferent to the problems of the other. Where it is in the power of one group, with little trouble and no financial loss, to assist the other group, the refusal to so assist is the mark of an unfriendly and non-co-operative attitude.

6. It should be noted that boards of conciliation have been prone to recommend the check-off. An analysis by the Department of Labour (published in the February, 1946, issue of *The Labour Gazette,*) showed that in

125 boards where union security was an issue, 90, or 72 per cent, recommended some form of union security:

check-off and maintenance of membership	24	Boards or	19.2%
check-off only	50	" "	40.0 "
maintenance of membership only	11	" "	8.8 "
union shop and check-off	3	" "	2.4 "
union shop only	2	" "	1.6 "

Thus 77 of the 90 board recommendations, included the check-off. We venture to say that a similar analysis of more recent board reports would show a much higher proportion not only favouring the check-off, but going beyond it with regard to other forms of union security. The collective bargaining experience of our affiliated and chartered unions in the past seven years leads us inevitably to that conclusion.

7. This experience is supported by facts published in the February, 1953, issue of The Labour Gazette. This issue carries an article on "Collective Agreements in the Canadian Manufacturing Industries" which gives the result of a survey of 564 collective agreements, all in effect in 1952, covering 343,100 workers in 17 industrial classifications. An analysis of those agreements reveals the following with regard to the check-off:

	Agreements		*Works Covered*	
	Number	*Per Cent of total*	*Number*	*Per Cent of total*
Voluntary but irrevocable	124	22	77,400	22
Voluntary and revocable	89	16	59,300	17
Voluntary, but not stated whether revocable or irrevocable	61	11	33,100	10
Voluntary for old employees but compulsory for employees hired after signing of agreement	11	2	30,700	9
Compulsory for union members	11	2	6,800	2
Rand Formula	12	2	16,600	5
Modified Rand Formula	48	8	38,100	11
Compulsory for all employees combined with closed or union shop	30	5	14,000	4
Other	21	4	12,600	4
No provision	157	28	54,500	16

8. Only 157 agreements, affecting only 16 per cent of the workers covered, failed to include the check-off in one form or another. This should be substantial evidence that employers are prepared to enter into contracts containing such a clause. Indeed, they are prepared to go much further. The same analysis showed that 300 agreements, embracing 157,300 workers, or 43 per cent, included the closed shop, union shop, maintenance of membership or some combination of them.

9. It should be hardly necessary to remind this committee that legislation governing the check-off, along lines similar to the proposed bill, is to be found in six of the 10 provinces: Newfoundland, Prince Edward Island, Nova Scotia, Saskatchewan, Alberta and British Columbia. The governments of these

provinces represent practically every major political opinion in Canada, or did so when the legislation was passed. It can hardly be said, therefore, that the check-off represents part of the political creed of any one party. There is no ideology involved whatever.

10. It might be asked why, with the willingness of employers to grant the check-off and with its enactment by those provinces, it should be necessary to enact this bill at all. There are, it seems to us, three reasons at least. First, the provincial Acts obviously do not apply to industries under Dominion jurisdiction. Second, the Bill would take care of the minority of recalcitrant employers in such industries who are diehard anti-union. Third, it is in the interests of the whole community to lessen the area industrial conflict. Since what the Bill proposed is a voluntary, revocable check-off, there is no great principle involved. The usual employer argument against making union security a condition of employment has no place her. In many organized industries, the check-off is already largely taken for granted. The Bill, when enacted, would tend to make the check-off a matter of course for an even larger group of employers, unions and workers.

11. Employers may, of course, argue that the compulsion falls on them. We would not deny it. Freedom is relative. It is not absolute. In this case, the degree of compulsion would be infinitely small. The number of beneficiaries would be great, not least the employers themselves. There is recognition in management circles that where the union enjoys an accepted status, it develops a more responsible kind of leadership. We refer here to a statement made by Dr. T. H. Robinson, manager of Industrial Relations for the Canadian International Paper Company, in a paper on "Industrial Relations in the Pulp and Paper Industry" (The Labour Gazette, June, 1950):

> The pulp and paper industry is highly unionized. In a recent survey covering 87 mills, including virtually all the big producing units, not a single mill was reported without a labour agreement. . .
>
> Unions in the industry have attained a large measure of security. None of the mills reported a closed shop agreement . . . However, 61 mills, including most of the largest, reported a union shop agreement . . . forty mills give preference to union members in hiring new employees, while twenty-three mills have provisions for the check-off of union dues. The fact is that unions are a fairly established integral part of the industry. As far as management is concerned, they are accepted.
>
> The high degree of unionization and the firmly established position of the unions have had very significant consequences. In the first place, the high degree of unionization, coupled with the importance of continued mill operation, have put the unions in an exceptionally strong bargaining position vis-a-vis the companies. In the second place, the acceptance of unions as an integral part of the industry has meant that they no longer have to fight for status. In their relations with the companies, the union leaders no longer have to protect their organizations from threats to their existence. Instead the leaders can direct their energies toward the procurment of benefits for their members. Such a set of circumstances places a premium upon labour statesmanship and business ability at the bargaining table rather than upon belligerent labourism and picket line violence.

12. Quite clearly, this Bill will not provide the status enjoyed by the unions in the pulp and paper industry. But it would provide some status and some stability, and this would be all to the good. Surely, if unions are an accepted part of our society, as they are, and if they are accorded legal protection in regard to their collective bargaining function, as is the case

in every province, and the Dominion as a whole, there should be no controversy about their being granted the meagre additional status which this Bill sets out. Surely, also, it is not beyond the realm of what is fair and reasonable for an employee to desire his union dues to be checked off and for the employer to implement such a request.

13. Year after year, a Bill similar to this has been talked out in the House. The Congress need hardly express its opinions about such a strategy. But there has been some solace in the fact that, year after year, support for such a Bill has been mounting among the members of parliament. We can only hope that this year the Bill will not only be favourably reported back by your committee, but will also obtain safe passage through both houses of parliament.

Respectfully submitted,

The Canadian Congress of Labour,
DONALD MACDONALD,
Secretary-Treasurer.

Mr. Donald MacDonald, Secretary-Treasurer, Canadian Congress of Labour, called:

Mr. Chairman, honourable members of the committee: I think I should first of all express the appreciation of the congress for the opportunity to come before you and make our representations in support of this proposed legislation and in supplementation of our brief. We recognize that there is a time limitation imposed, by circumstances I hope, and we trust that the time that is allocated to us, and that will be made available to us, is not a criterion of the importance that is attached to this very significant piece of legislation.

The CHAIRMAN: May I assure you at the outset that there is no time limitation on your presentation whatsoever, but for the convenience of the committee we are filing your brief, and it will be printed in the evidence, but there is no time limit whatever. We have from now until 10 o'clock tonight, and we will be glad to have your representations.

Mr. KNOWLES: Is that one MacDonald speaking to another?

The CHAIRMAN: That is right.

The WITNESS: Unfortunately, I have not until 10 o'clock tonight.

In order to highlight the submissions we have made in connection with Bill No. 2, I think first of all we should put ourselves on record as the Canadian Congress of Labour as being in favour of the Bill as presently introduced in the House. That is not to say, of course, that it is everything we desire, not by any stretch of the imagination. We recognize the fact that there are what might be regarded perhaps, in categorizing union security, 5 or 6 different types of security, all of which, from our point of view, is admirable and desirable, ranging all the way from what is incorporated in this Bill to what might be regarded as maximum union security, that is the closed shop. In between there are various degrees, the Rand formula for one, the preferential charter for another, the maintenance of membership for another, the union shop and all the rest of it. However, our position is that half a loaf is better than none. We have for many years made known to the government our views on this matter, and the incorporation of the check-off provision in our federal labour legislation. Some years ago in 1948, there appeared as though there might be a chance of achieving our objective in that regard. You will recall a similar committee made a favourable report

which was not adopted, as I recall. The type of union security embodied in Bill No. 2 is the minimum type of union security. It is about the least that one could ask for and still be asking for union security. It is merely a check-off of union dues on behalf of members of the union, who are members of the bargaining unit, and who have indicated their desire to pay their dues through this medium, voluntarily I might add, and of course they are permitted under the terms to revoke that authority whenever they see fit, but, I imagine at specified periods.

It does not force anyone to join the union or stay in the union. There is what might be regarded as a minimum degree of expenditure and inconvenience insofar as an employer is concerned, and certainly for persons who might think it a marvelous opportunity to demonstrate their good will and make a contribution to industrial relations which we all laud insofar as it is possible to strive and attain. In the thousands of sessions we have had in the process of collective bargaining and attempting to secure this minimum degree of union security, there have been built up a tremendous body of what might be regarded as classical argument *pro* and *con*. Our basic position has always been of course that if employers are interested in establishing and maintaining good industrial relations within the employment in question that certainly they can make a worthwhile contribution to the attainment of these relations by granting union security, either in this form or in some other.

I think that it is elementary to suggest to the committee, which no doubt has already given a great deal of thought and study to the matter, that the procedure itself in addition to the relation aspect of it permits the union to play a more constructive part in employment. It relieves them of the burden of devoting a tremendous amount of their time, effort and ability to the mechanical effort of collecting dues. I think that all of us are members of organizations, and we all recognize that despite all the good faith and all the good will in the world, that human nature being what it is, in our memberships and practically in all organizations, that we have a tendency to overlook our responsibilities and obligations to maintain it and to maintain the organization, and invariably it means that a great deal of time, effort and ability that could otherwise be expended in very constructive purposes is dissipated in this effort and this struggle for the union maintaining itself.

Insofar as legislation being considered is concerned, I think that it is important to note that this type of check-off, revocable check-off as we term it in union phraseology, affects only members of the union and no one else. Some of the historic arguments advanced by those who are constantly opposed to the check-off is that there is a degree of compulsion in it, that it is an interference with the members, that it imposes a burden on the employer and imposes on him a duty and responsibility which is not rightfully his, and naturally involves a certain amount of inconvenience and cost. In Bill No. 2 the principle that is suggested reduces, I think, all these things to a minimum. As I have already said, it affects only members, and they have their right of revocation under certain circumstances, and certainly today, in the light of what has happened over a period of years, by the introduction of a compulsory check-off for a multitude of things by statute and otherwise, the age-old argument of cost and inconvenience is practically eliminated.

(*The committee adjourned for a division in the House.*)

Upon resuming:

The CHAIRMAN: Would you care to continue, Mr. MacDonald, at your convenience, with your presentation with respect to Bill No. 2?

The WITNESS: As I was saying, Mr. Chairman, when the committee adjourned, many of the historic arguments offered by those opposed to the

check-off are today of little or no significance inasmuch as the matter of inconvenience and cost on the part of the employer is reduced almost to the disappearing point by the fact that they must, by statute and by arrangement in other cases, deduct for a multitude of other purposes, upon the request of the employees. I merely quote such things as the income tax, the unemployment insurance, the blue cross, probably a hospital plan, a benefit plan, a pension plan, a plan of bond savings, the community chest, and any number of other things. So actually the addition of one other type of check-off to the present apparatus does not mean the introduction of any new principle. It does not mean the setting up of any new machinery or process of system and therefore it is a relatively easy job and it means little if any inconvenience, and a minimum of cost, if any. It could be said in that connection that some of the employers at present are deducting, in some cases, up to as high as $60 and $70 because of the check-offs; and practically all of them have it in one form or another. In fact all of them have it insofar as income tax is concerned and unemployment insurance, so that these things are of little or any consequence now.

I should like to point out also in support of our contention in this regard that the practice is so prevalent today that actually it might be regarded almost to the extent of merely putting a stamp of approval, as it were, on what is already being done. If you will notice in the official submission to the committee, we quote a number of statistics in that connection, as saying that by far the greatest number of employments, in which there have been surveys conducted, demonstrate that the check-off is largely prevalent today. There is also the fact—and I think it should be given some thought—that it also exists in provincial statutes of at least six of our provinces, and has for many years. As a matter of fact, in one of our provinces it has been in effect for about 70 years. That is in Nova Scotia. It came in through the Coal Mines Regulations Act which applies to the mining industry in Nova Scotia today in that particular province. Check-off is provided for by several pieces of legislation including one of the companies which, by the terms of the last settlement by the railroads with their unions, provided that the check-off become part and parcel of the conditions that exist in that great and tremendous employment which spreads into every nook and cranny of this country of ours.

I think also in similar fashion there is the matter of the check-off which we understand is to be granted to the civil service employees. I believe it is to be effective as of July 1st, but I am not certain of my ground in that regard and I am subject to correction. But that is my impression. So I suggest that it is now at a spot where the reasons for opposition to it have diminished just about to the disappearing point. Therefore we do not feel that there is any sound reason today that this principle should not be incorporated in our existing legislation.

I could go on in a similar vein and advance all the arguments that I have heard from time to time in our process of negotiations, but on the suggestion of my good friend to my right I am not going to.

Mr. CROLL: What about the modified Rand formula?

The WITNESS: I suppose there is such a thing as a modified Rand formula. I have known of it to take various forms. When Mr. Justice Rand first enunciated his principle, it received such widespread adoption that later he attempted to bring about something of a balance to provide certain privileges to the employees or to the unions particularly by way of collecting, from all the people in the employment which was the bargaining unit, and at the same time make them accept responsibilities, and providing for certain penalties which could be invoked, including the loss of those privileges. Over

the intervening space of time since the formula was first adopted, a number of collective agreements have been modified in various ways. There are some instances where the penalty section, for example, has disappeared through the process of collective bargaining. That is one of the things that occurs almost immediately and there are other features. The penalty in some instances is not the same, and in some cases it has disappeared completely.

By Mr. Higgins:

Q. Is not the revocable check-off written into your collective bargaining agreement these days?—A. No, I could not say that it is written into it. I have not any figures to offer the committee at the moment, but I would say that by far the great majority of our unions do have the check-off. In fact, in some provinces all of them have the check-off, and there are very, very few exceptions. That is quite true. That is why I suggested in my opening remarks that we are almost in the position today of asking for the seal of approval by way of legislation.

Q. You are asking for what you are getting.—A. And also for the maintenance of it too, the continuation of it.

Mr. CROLL: I heard a figure stated, and Mr. Côté can correct me if I am wrong, that 70 per cent of all collective agreements have the check-off. I got that from the Department of Labour.

The WITNESS: That is right.

By Mr. Higgins:

Q. What is the objection to any employer doing that now? What objections have you heard?—A. Of employers?

Q. Yes.—A. First of all, there is the trite, classic and historic argument of it being an interference with the rights of their employees which, after all, does not become an interference at all when the individual states his desire to have the system introduced. And one of the things which you perhaps have noticed mentioned in our submission, is that some employers do take the position: "Why should we help the unions?"

Q. Do you contend then that if an employee gave an order, that the employer still does not have to comply with it? Suppose I was your employee and I gave you an order?—A. Your analysis is quite true. In the scope of federal employment, where federal legislation applies, there is no way he can have a union organization 100 per cent. And if the employees concerned, through their bargaining agency, the union, submit cards voluntarily, indicating their desire to have the check-off, there is no obligation on the employer's part to implement that check-off.

Q. There is not?—A. No.

Mr. CROLL: I was under the impression that there was, and I made a very exhaustive study of it the last time it came up, and I am sorry to say that it is not the law.

Mr. HIGGINS: We had a judgment on it in Newfoundland, before this was signed, saying that wherever it was agreed, and if the employee directed the employer to pay so much, that the employer then had to honour it.

Mr. CROLL: Do you mean that we have a law?

Mr. HIGGINS: It may be that the law here is different. That was an English law which was applied in Newfoundland.

Mr. CROLL: I think perhaps you are right, under the English law. I looked it up under "Choses in action" and I can assure the committee that is not the law in this country.

Mr. HIGGINS: It was held by our present Chief Justice that that is the law which has to be complied with.

The WITNESS: We would like to say that it was here.

The CHAIRMAN: Are there any questions to be directed to Mr. MacDonald in connection with Bill No. 2? Mr. Lennard?

Mr. LENNARD: No.

The CHAIRMAN: Mr. Brown?

Mr. BROWN: No.

The CHAIRMAN: Would it be all right if we continued with representations with respect to bill No. 100? I would like to say, gentlemen, as I mentioned previously, that Mr. Cuthbert Scott is here representing the Railway Association of Canada, and Mr. Scott has expressed a desire to be heard on bill No. 2. Is it the wish of the committee that Mr. Scott be granted the privilege of making a submission later this day?

Mr. CROLL: Mr. Chairman, Mr. Scott will be here at the next sitting. Do you think right now is the best time to hear him?

Mr. SCOTT: Whatever you say will be convenient.

Mr. HIGGINS: If he is not going to be long in his presentation why not finish with bill No. 2 now?

The CHAIRMAN: We kept Mr. MacDonald and his associates waiting this afternoon and they were very patient. Probably we could conclude their representations before 6 o'clock.

Mr. JOHNSON: If it does not take very long we could hear Mr. Scott and keep the evidence on bill No. 2 together.

Mrs. FAIRCLOUGH: I believe the steering committee definitely decided that we would hear people on both bills while we were hearing them, and save coming back a second time.

The CHAIRMAN: I will advise Mr. Scott that probably we will hear him this evening.

Mr. SCOTT: That is quite all right with me, Mr. Chairman.

The CHAIRMAN: Now, we will revert to Bill 100 and hear Mr. Donald MacDonald who is representing the Canadian Congress of Labour.

(NOTE: *For reference purposes, printing has been so arranged to consolidate all evidence separately in respect of each Bill. For strict order of proceedings, refer to Minutes.*)

BRIEF

To the CHAIRMAN
and Members of
the Standing Committee on
Industrial Relations of the
House of Commons:
Gentlemen,

The Canadian Manufacturers' Association welcomes the opportunity that has been given it of making representations with respect to Bill No. 2, being an Act to amend the Industrial Relations and Disputes Investigation Act, by including therein a provision for the voluntary revocable check-off of union dues.

The Association respectfully submits that it would not be in the best interests of employer-employee relations that Bill No. 2 should be enacted into law. The Association adheres to the position which it has always taken with respect to the voluntary revocable check-off, namely, that it has no place in a statute, the purpose of which is to provide the framework within which employers and employees may agree upon the terms and conditions of employment. In other words, the Industrial Relations and Disputes Investigation Act

has as its corner-stone, the principle of free collective bargaining, and no case, it is submitted, has been made out for withdrawing from the collective bargaining process this particular matter of the collection of union dues. If this particular matter is to be withdrawn from the collective bargaining process, the door will be open for other matters also to be withdrawn, and the result will be that the principle of free collective bargaining will become a dead-letter.

When the Industrial Relations and Disputes Investigation Bill was first drafted in 1947, the then Minister of Labour, Mr. Humphrey Mitchell, sent a first draft, and later a second draft, to representative bodies of employers and workers, with the request that they study it and make representations with respect to it. As a result of such consultation, the Bill, as it was finally enacted, represented substantial agreement between employers and employees as to the frame-work within which they should carry on the process of free collective bargaining. It is interesting to note that the late Mr. Humphrey Mitchell, in speaking to the Bill in 1947 (see *Hansard* for 1947, page 4231), said that the Government had received "representations for the inclusion of measures severely curtailing union activities" and from others "suggestions which would involve, under certain conditions, the compulsory application of the principle of union security in collective agreements". With respect to both kinds of representations, the Minister stated "we have not given effect in this legislation to such representations since it is not the desire of the Government to place impediments in the way of free collective bargaining between employers and their organized workers, or to legislate conditions or terms of employment that properly lie in the field of collective bargaining".

The reason given by the late Mr. Humphrey Mitchell for refusing to incorporate in the Act, at its inception, the principle of compulsory union security is in this Association's view, equally valid today. There will be general agreement with the statement made by the Parliamentary Assistant to the Minister of Labour that "the administration of the statute has given good resuls so far". Not the least of the reasons for these good results, it is submitted, has been the fact that the statute as enacted, represented a substantial measure of agreement between employers and employees. In these circumstances, it would, it is submitted, be a gratuitously retrograde step to incorporate in the Bill a principle which is strongly disapproved by employers at large, and which cuts across the basic principle of the Act, namely, free collective bargaining.

Canadian Manufacturers' Association (Inc.)

R. F. HINTON,

Chairman,

Industrial Relations Committee.

OTTAWA, April 22, 1953.

EVENING SESSION

The CHAIRMAN: Gentlemen, we have a quorum and Mr. Picard is for some reason not present and you have indicated a desire to hear Mr. Scott make a presentation to the committee regarding the subject matter of Bill No. 2. I would ask Mr. Scott at this time to make his presentation to the committee.

Gentlemen, Mr. Scott is appearing on behalf of the Railway Association of Canada on Bill No. 2.

Mr. Cuthbert Scott, Q.C., representing Railway Association of Canada, called:

The WITNESS: Thank you, Mr. Chairman. As I think most of the members of the committee are aware, the Railway Association of Canada is an association made up of the principal railways in Canada operating under federal jurisdiction, and particularly of course the Canadian National and the Canadian Pacific. Now, I think members of the committee are equally well aware that in the four years the check-off measure has come up for consideration by successive Bills and in three of those years the Railway Association has filed a brief and the views of the Railway Association being well known it was not thought appropriate by the association to take up the time of this committee by calling witnesses and presenting briefs. I was instructed as their Ottawa solicitor to communicate that to the chairman and I wrote the chairman of this committee informing him of that. On the other hand the railways wish it understood that they are still opposed to the principle of Bill No. 2 and I might just very briefly enumerate the reasons for this opposition. I know of no Bill that has been as fully debated as the present Bill No. 2. The arguments *pro* and *con* have been very fully brought out and exhausted, and I do not intend here to go over those arguments, which have been very well expressed by members of this committee and members of the House of Commons who are much better qualified to do so than I am, but just briefly the attitude of the railways is that the voluntary check-off, as it is called, is a compulsory check-off as far as the employers are concerned. There is nothing voluntary about it as far as the employer is concerned. In other words, it takes away from the employer one of the bargaining points which has been part of the traditional bargaining process between the railway brotherhoods and the railways. The expense and inconvenience is not the major reason for the railways opposing this measure, and I would like to make it clear also that the railways are not opposed by any means to the principle of a check-off of union dues. I think you are all well aware and it was stated in the House on December 19 last that the check-off of union dues was accorded in the case of several railway brotherhoods and other railway labour organizations, which had the check-off for a number of years, but that had been obtained by negotiation and the railways feel that is the way the check-off should be handled.

I might also add that perhaps some of you are not aware that in the negotiated check-off given to certain unions last year the railways have gone further and have given the Rand formula, which the previous witness stated is what the labour unions really want in preference to the check-offs. Now, it is obvious from evidence given here today, I think, that responsible labour organizations are not unanimous in requesting the check-off. I think that has been made clear. We have heard from two of the largest organizations—

Mr. KNOWLES: Not agreed on the form of the check-off.

The WITNESS: Yes. Well, I think, Mr. Knowles, what I meant to imply, rather, is I think it is clear from the brief that the principle of this Bill, the subject-matter of this Bill, is not supported by one of the labour organizations. I think that appears in the brief.

Mr. KNOWLES: I think that is a matter of interpretation.

The WITNESS: It may well be, but it is not the grant of the check-off that the employers I represent are opposed to. It is the mandatory imposition of the check-off being written into the law. Now, the members of this committee, I am sure, are much more familiar with the Industrial Relations Disputes and Investigation Act itself than I am, but the Act provides a framework within which labour and employers can negotiate, and a check-off of

union dues has always been dealt with by negotiation, and the railways feel that it is fair that this field should be left to negotiation. The suggestion was made by a previous witness that employers who opposed the check-off were thereby indicating that they were opposed to union security and collective bargaining. I do not think that is a fair implication because many of those employers have already granted the check-off including the complete Rand fomula type of check-off. That is all I have to say, Mr. Chairman, and gentlemen, other than to say that the railways are of the same view that they have held throughout in this matter, but that feeling their views are so well known, they did not think they should send witnesses and file briefs. Thank you very much.

By Mr. Knowles:

Q. Have you any suggestions as to what number of railway workers are now covered by the provisions granted to non-operating employees last December, that is, the Rand formula provision, and in addition, how many are covered by other check-off provisions?—A. I have not got those statistics with me, but I did supply to the parliamentary assistant some figures some months ago on the general effect of the December settlement. Whether it divided that information in the manner in which you are asking for it, I am not sure. But I should be very pleased to get that information for you, Mr. Knowles.

Q. I would be very glad to have it.

By Mr. Stewart:

Q. Mr. Scott, I suppose the general position of the railways is that they are quite willing to recognize the unions in the field of negotiations?—A. Yes, indeed. And I think the history of railway-union negotiations over the years indicates that fact very clearly.

Q. Would it be fair to suggest that the railways did not deal with the matter on their part, or co-operate in dealing with the unions to give them the check-off? I gathered from what you said that the railways look on the check-off as a bargaining point, and they are not prepared to co-operate with the unions to give them the check-off, but prefer to bargain with them about it.—A. That is right. But various other matters are traditionally bargaining matters between the employer and the employee.

Q. So that in essence it is a matter of power politics again, or a power struggle, whichever you prefer. The unions want it and the railways do not?—A. I do not think, with great respect, that that is a fair implication. I think that in the past it has depended on how anxious each brotherhood was to have the check-off and how insistent each brotherhood was to get the check-off. And when they insisted on it, they have been given it by negotiation.

Q. Surely the implication of what you say is that the check-off is a matter of union bargaining, and therefore it can be assessed at a certain number of cents per hour?—A. I am not sufficiently familiar myself with the bargaining between the employer and the employee to say yes or no to that question, whether the value of the check-off could be worked out in dollars and cents. I could not say. I am not competent to say. But I know that it has always been a matter of bargaining and I gathered from the last settlement that it was satisfactory to the unions which asked for it and were given the check-off. But that is only my own opinion.

Q. But the railways feel their bargaining power would be weakened if they acceded to it?—A. Yes, and I said that would go for any other employer, I would think. Is it not just like anything else which goes to make up a contract?

Q. One could argue that for the unions it would be a matter of co-operation on the part of the company, but you recognize the unions?—A. Yes.

Q. I have no more questions.

By Mr. Knowles:

Q. I think it is understood that if Bill No. 2 were passed it would not have any effect at the present time on the check-off provision that was agreed to last December?—A. No, excepting this: That again—I am not familiar with the actual agreements between any one brotherhood and the company—but in my ignorance I would suppose that one of those agreements would last for a certain number of years and then come up for re-negotiation. Now, whether in respect to this particular agreement it means that the check-off is in there forever, or whether it is to go over the term of the contract, I could not say.

Q. I was not trying to lead you on, but that was going to be my next question. We would admit that the provisions of Bill No. 2 would not affect any one of those arrangements at the present time. But if Bill No. 2 were passed it would provide a floor below which no agreement could go in the future?—A. Yes, that is a fair statement.

Q. Obviously some of us think that industrial relations having progressed from time to time to a point like that, that it is proper for us to provide such a floor and make sure that it does not slip back.—A. That is a point of view which I appreciate.

The CHAIRMAN: Are there any further questions of Mr. Scott?

By Mr. Knowles:

Q. I trust that Mr. Scott will be furnished with a copy of the minutes of these proceedings so that he will be able to read in full the briefs which were not read at the session today. And it seems to me that the two labour congresses dealt with the question, not only from their point of view but from what they believe to be good labour relations.—A. I shall look forward to reading that with great interest. Thank you very much.

The CHAIRMAN: Thank you, Mr. Scott.

Mr. POULIOT: Is Mr. Scott the last witness?

The CHAIRMAN: We were waiting for Mr. Picard and Mr. Marchand of the Canadian and Catholic Confederation of Labour. I cannot say what has happened to them. They were going to be here at 8.00 p.m. It is rather a stormy evening outside and they might be coming in by plane.

Mr. POULIOT: There is a train which gets in early, around 7.00 o'clock and there is another one which gets in before 8.00.

The CHAIRMAN: I shall take this opportunity to recognize that we have with us this evening one who is greatly interested in labour legislation and in legislation such as we have before us, in the person of Mr. Arthur MacNamara who was the Deputy Minister of Labour.

Mr. POULIOT: If you will permit, I should like to say a word about Mr. MacNamara whom I know very well. Mr. MacNamara had a very difficult task to perform and it came during the war, and with a wide experience in labour matters he was most helpful to all members without any political distinction, and I remember when he was the right arm of the late lamented Mr. Mitchell, and Deputy Minister of Labour, and I appreciate very highly what he has done for people who not only belong to unions, but to the Canadian workers at large, and he has helped me to settle several very difficult problems in my constituency, and I did not have an opportunity to say in the House part of the good that I think of him, but I am very glad to have this opportunity to do so, and what rejoices me is that Mr. MacNamara is not

out of the public service, and still makes a most valuable contribution to the good government of this country as a most valuable advisor to the Minister of National Defence, and I wish him as much success in that capacity as he had as Deputy Minister of Labour.

Mr. MACNAMARA: Mr. Chairman, through you I would like to thank Mr. Pouliot. I am very glad I came.

The CHAIRMAN: What is your pleasure gentlemen. Will we adjourn until 9 o'clock by which time perhaps Mr. Picard and Mr. Marchand will arrive. They were due here at 8 o'clock.

Mr. POULIOT: There is a change of time.

Mr. KNOWLES: That does not take place until Sunday.

Mrs. FAIRCLOUGH: Why not adjourn for 15 minutes?

Mr. HIGGINS: Why not have a talk in committee? If you go into the House, you are not going to be enlightened. There is a good argument going on, and I do not think Liberal members would like it very much. Mr. Fleming is going strong. Let us talk about what happened this afternoon.

The CHAIRMAN: If it meets with your wishes, Mr. Arthur Brown is here, the Deputy Minister of Labour, and he may wish to place before the committee what is done in other place in regards to the fair employment practices. Would it be convenient for you now, Mr. Brown?

Mr. BROWN: I can give you a short statement on this Bill and refer to the law in other jurisdictions if that is what you wish done.

The CHAIRMAN: You wish to do this in connection with bill 100, is that it?

Mr. BROWN: Yes.

The CHAIRMAN: Thank you.

(Note: Mr. Brown's evidence transferred to evidence on Bill 100.)

The CHAIRMAN: The Canadian Construction Association have expressed a desire to appear before the Committee, and also the Canadian and Catholic Confederation of Labour which unfortunately for some reason could not be here this evening.

Mr. VIAU: Did you receive representations from the Canadian Free Enterprise Committee of Winnipeg, Manitoba?

The CHAIRMAN: No, Mr. Viau.

Mr. COTE: I would suggest you advise the Canadian Confederation of Catholics of the time and place of the next meeting and they could have the privilege of appearing then.

Mr. STEWART: Will you entertain a motion to adjourn for today?

The CHAIRMAN: I certainly will, Mr. Stewart.

APPENDIX "A"

Additional representations, from organizations and individuals not having submitted briefs, received by the Minister of Labour and the Chairman of the Committee in respect of Bill No. 100, "An Act to Prevent Discrimination in regard to Employment and Membership in Trade Unions by reason of race, national origin, colour or religion".

THE BELL TELEPHONE COMPANY OF CANADA
1050 Beaver Hall Hill, Montreal 1, P.Q.
UNiversity 6-3911

JANUARY 29, 1953.

Hon. Milton F. Gregg,
Minister of Labour,
Parliament Buildings,
Ottawa, Ont.

Dear Mr. Minister:

On January 13, 1953 you introduced in the House of Commons and obtained first reading of Bill 100—"An Act to Prevent Discrimination in regard to Employment and Membership in Trade Unions by reason of Race, National Origin, Colour or Religion".

May I respectfully draw to your attention the following situation which will arise if this Bill is enacted into law in its present form.

This Company, which realizes that it furnishes an essential service to the public not only in peace time but in times of emergency and war, has always endeavoured to keep communists and those with communistic leanings out of its employee forces in the interests of national security. This we conceive to be our duty.

Section 4 of this Bill enacts that "No employer shall refuse to employ or to continue to employ, or otherwise discriminate against any person in regard to employment or any term or condition of employment because of his race, national origin, colour or religion".

If the word "religion" can be construed by the courts as comprising the doctrines of communism or like subversive ideologies then this Company will not be in a position to refuse to employ known communists or discharge them from its service for being such. This can result in endangering the essential service we provide.

Furthermore, when this Company undertakes works for the Government involved in its national preparedness program, we are required to have our employees engaged thereon "screened", we believe, by the R.C.M.P. to eliminate those with communistic or subversive tendencies from working thereon. This Bill will, therefore, put us in the position where we cannot discharge employees who did not pass the screening test even when we have no other job for them since that would constitute a discharge because of their "religion", if communism is such.

The Ministers of National Defence and Defence Production can give you full details of the circumstances and conditions under which this screening is required, and we would prefer that you get a picture of this aspect of the matter from them rather than that I should attempt to set forth and make reference to those Government projects upon which we are engaged in this letter.

It would therefore seem to us, and we respectfully suggest for your consideration, that this Bill be amended

(1) by embodying in section 2 a definition of the word "religion" so as to make it exclude "communism"; and

(2) by embodying a provision in the Bill to make it inapplicable to the discharge of employees because of subversive tendencies.

This would seem essential because section 11 of the Act does not seem to cover the point of difficulty which presents itself to us. While we might get an instruction from the Government not to use a certain employee on a specific project the Government would not give us any direction to discharge such employee because of his communistic leanings. We would merely be forbidden to employ him on the Government project.

You will recall that no less eminent a person than Lt.-Gen. Sir Archibald Nye, United Kingdom High Commissioner to Canada, said in his address of November 25, 1952—

> I don't know what you think about Communism, but it seems to me one of the most important things in our lifetime, perhaps in the history of the world. It is not merely a religion, or an economic system of government, or a philosophy of life—it is all these things bound together and seeking by force and infiltration to capture the world.

Yours very truly,

(Sgd.) N. A. MUNNOCH
General Counsel.

B'NAI B'RITH
EASTERN CANADIAN COUNCIL
District Grand Lodge No. 1
96 Bloor Street West, Toronto.

DECEMBER 10, 1952.

Hon. Milton Gregg, V.C., M.P.,
Minister of Labour,
Parliament Buildings,
Ottawa, Ont.

Dear Mr. Gregg:

It is my special privilege and pleasure to convey to you the following resolution which was adopted unanimously and enthusiastically at the 57th Semi-Annual Conference of the Eastern Canadian Council of B'nai B'rith which was held in Kingston recently:

"Whereas Canada is a country composed of diverse ethnic and religious groups; and

Whereas it is in the best interests of Canada that these ethnic and religious groups be encouraged to live and work harmoniously; and

Whereas the Federal Goverenment has taken an important step to achieve this optimum by enacting legislation to eliminate discrimination in employment by those contractors undertaking government contracts;

Therefore be it resolved that the Eastern Canadian Council of B'nai B'rith in conference assembled in Kingston, Ont., commend the Federal Government for instituting such legislation; and

Be it further resolved that the Easter Canadian Council of B'nai B'rith urge the Federal Government to undertake educative steps to help the universal application by private industry of the ideal of Fair Employment Practices throughout Canada."

I may add that it was most gratifying to note in the Speech from the Throne opening the present session of Parliament an indication that Federal Fair Employment Practices legislation will be introduced at the current session. We are indeed very appreciative of the enlightened leadership which you have been giving in matters of this kind.

Sincerely yours,

(Sgd.) S. S. BERLIN,
Executive Secretary.

THE CANADIAN AND CATHOLIC CONFEDERATION OF LABOUR
555 Boulevard Charest, Québec, P.Q.
368 Dalhousie St. Ottawa, Ont.
1231 Demontigny-Est, Montréal, P.Q.

MONTREAL, February 7, 1953.

Hon. Milton F. Gregg,
Minister of Labour,
Ottawa, Ont.

Dear Mr. Minister:

This is to acknowledge receipt, with thanks, of your letter dated January 27, 1953, where comments are made as to certain sections of Bill 100 about which our organization has raised objections.

I realize that, in my telegram of January 23rd, our views have not been explained clearly enough, and I feel I should elaborate a little more.

No doubt that the Canadian and Catholic Confederation of Labour is in agreement with the principle of Bill 100, an "Act to prevent Discrimination in regard to Employment and Membership in Trade Unions by reason of Race, National Origin, Colour or Religion". But we feel that the wording of certain sections, as is in the draft, may be interpreted as outlawing our organization within the federal jurisdiction.

I agree that it is not proper to put the word "unjustly" before the word "discriminate". The two words are playing one against the other. What I had in mind was an unfair treatment. There may be circumstances where it is not so easy to draw the line. But I still feel that sub-section five of section four may embarrass seriously our organization.

Right that I have had some conversation with officials of your Department some time ago, but it was in regard of Order-in-Council P.C. 4138, not in regard of Bill 100. The Order-in-Council was dealing with employment by contractors, not with membership in trade unions.

I really don't know what should be the proper answer to the objections raised by us against certain sections of Bill 100, but I feel that this Bill should be amended to avoid interpretation that could lead to the conclusion that our organization will be outlawed in the federal field.

Yours very truly,

(Sgd.) GERARD PICARD,
National President CCCL.

THE CANADIAN CHAMBER OF COMMERCE
Office of the Chairman of the Executive
530 Board of Trade Building,

MONTREAL 1, Que., February 19, 1953.

The Honourable Milton F. Gregg, V.C.,
Minister of Labour,
Ottawa, Ontario.

Dear Mr. Gregg:

Following consideration by the Legislation Committee of The Canadian Chamber of Commerce, the subject of Bill 100, "An Act to Prevent Discrimination in Regard to Employment and Membership in Trade Unions by Reason of Race, National Origin, Colour or Religion", was discussed today by the Executive Council of the Chamber. It was decided to bring the following views to your attention.

First of all, the Executive Council wishes to make it quite clear that they are wholly in accord with the principle of non-discrimination in regard to Employment and Membership in Trade Unions by Reason of Race, National Origin, Colour or Religion. This is considered to be a basic principle about which there can be no disagreement among men of goodwill. The Executive Council, however, does not believe that this principle should be imposed by legislation and, indeed, feels that legislation cannot achieve the desired end. Education and moral persuasion would prove much more effective and would eliminate the evil of adding to the Statutes a piece of legislation which might prove to be unworkable and/or observed only in the breach.

If however, the decision is made to proceed with this Bill, we request respectfully that a small delegation be provided with the opportunity of presenting to you in detail our views with regard to specific sections of the present Bill. Our single desire is to see to it that the principle to which we all subscribe is not endangered by legislation which appears to us to require further consideration and examination.

Yours sincerely,

(Sgd.) EDWARD C. WOOD.

(Copy)
THE CANADIAN CHAMBER OF COMMERCE
Board of Trade Building
Montreal 1.

Montreal, Que.,
APRIL 15, 1953.

Mr. A. F. MacDonald, M.P.,
Chairman,
Standing Committee on Industrial Relations,
House of Commons,
Ottawa, Canada.

Dear Mr. MacDonald:

We note that on April 13, Bill 100, "An Act to Prevent Discrimination in Regard to Employment and Membership in Trade Unions by Reason of Race, National Origin, Colour or Religion" was refererd to your Committee following

approval in principle on second reading in the House. We wish to take this opportunity to bring to your attention and to the attention of the members of the Standing Committee on Industrial Relations, the views of the Executive Council of The Canadian Chamber of Commerce on this matter.

First of all, the Executive Council wishes to make it quite clear that they are wholly in accord with the principle of non-discrimination in regard to Employment and Membership in Trade Unions by reason of Race. National Origin, Colour or Religion. This is considered to be a basic principle about which there can be no disagreement among men of good will. The Executive Council, however, does not believe that this principle can or should be imposed by legislation. Education and moral persuasion would prove much more effective and would eliminate the evil of adding to the Statutes a piece of legislation which might prove to be unworkable and/or observed only in the breach. Indeed, it is felt that the elaborate procedure proposed by Bill 100 would perhaps facilitate the use of the legislation for pressure purposes quite foreign to the solution of any real problem arising out of discriminatory practices.

It would appear, however, that some form of legislation is bound to be enacted in this connection, and we are concerned as you are that this be the best possible form of legislation. The Executive Council respectfully presents for your consideration the following points:

(1) The Bill could be simplified by making it an offence to discriminate and impose penalties for failure to observe the law, leaving the enforcement to those authorities now responsible for the enforcement of penal provisions in other statutes or in the Criminal Code. This would eliminate the establishment of an elaborate enforcement system which would be costly and would appear to be unnecessary in view of the apparently negligible occurrence of discrimination in Canada at the present time.

(2) the word "religion" is undefined. If the word "religion" can be construed by the Courts to include the doctrines of Communism and like subversive ideologies, then business will not be in a position to refuse to employ Communists or discharge them from service on that account. It would appear, therefore, that this Bill should be amended:

(*a*) By embodying in section 2 a definition of the word "Religion" so as to make it exclude Communism; and

(*b*) By embodying a provision in the Bill to make it inapplicable to discharge of employees because of subversive tendencies.

Some doubt exists as to the practical aspects of compulsion in respect of the employment of such groups as Doukhobors—a religious sect.

(3) Section 4(2) provides that "No employer shall use, in the hiring or recruitment of persons for employment, any employment agency that discriminates against persons seeking employment because of their race, national origin, colour or religion". It is pointed out that a person could be penalized under this legislation for using an agency without realizing that it was using discriminatory practices prohibited by the Act. It is recommended that the Bill be amended to protect the employer against prosecution or penalty for an act for which he is not responsible.

(4) Section 4(8) states that the Minister may issue whatever order he deems necessary to carry the recommendations of the Commission into effect and any order made by the Minister under this subsection is final and conclusive and is not open to question or review. In the "Explanatory Notes" opposite page No. 1 of the printed copy of the Bill 100, it is indicated that the proposed Bill "relies largely on conciliation for its effectiveness, however, provision is made for resort to the courts should conciliation process fail". It would appear that this explanatory note is not exact, because if the Officer and the Com-

mission are unable to effect conciliation and the Minister agrees with the commission's recommendations, his order is final and may not be reviewed. The Executive Council is in principle opposed to the extension of any powers which would deprive the subject of his ultimate recourse to the courts or enable him to be in fact convicted without trial.

(5) In view of the fact that some Provinces have now, or propose to have, legislation of this nature, the question arises as to whether or not this matter might not be more properly dealt with by the Provinces.

We express the hope that when you review this proposed piece of legislation, your Committee will give consideration to the points outlined.

Yours sincerely,

Edward C. Wood, Chairman,
Executive Council,
The Canadian Chamber of Commerce.

(Copy)

CANADIAN LEGION
British Empire Service League
Legion Hall, Transcona, Manitoba, Canada.

DECEMBER 20th, 1952.

Rt. Hon. Milton Gregg, V.C., M.P.,
The Minister of Labour,
Ottawa, Ont.

Dear Sir:—

At a regular General Meeting of this branch a motion was passed that the Secretary write and inform you that the Branch heartily supports the policy of the Winnipeg Trades and Labour Council on their resolutions regarding Racial discrimination and National Health.

Would you be so kind as to co-operate in this respect and a reply would be appreciated.

Yours in co-operation,

(Sgd.) S. R. DAVY,
Secretary.

THE CHURCH OF ENGLAND IN CANADA
The Department of Christian Social Service
(The Council for Social Service)
The Church House, 604 Jarvis Street, Toronto 5, Ont.

APRIL 17th, 1953.

Mr. Fred MacDonald, M.P.,
Chairman, House of Commons
Standing Committee on Industrial
Relations,
Parliament Buildings,
Ottawa, Ontario.

Re: Proposed Act Concerning Discrimination in Employment, etc.

Dear Sir:

Concerning the proposed Bill now before Parliament, and which your Committee is considering, I am not in a position to write a strictly formal representation to you. No meeting of the Executive Committee of this Department of the Church of England in Canada is to take place until the middle of the month of May.

I feel, however, that I represent the opinion of the members of this Department of the Church as I have consulted with the Chairman and Vice-Chairman of the Executive Committee, who agree that this letter should be sent to you.

We believe that this Council, representing the Church of England in Canada, will support the move to place on the statute books of Canada an Act legislating against discrimination in employment on grounds of race, colour or religion. The general principle of such a Bill will be acceptable to the Council we firmly believe.

While we know that no legislation can be one hundred per cent effective without the full co-operation of all people, and while we know that to a high degree under our British system of law and jurisprudence, the rights of people are protected, we are of the opinion that there is virtue in stating this principle in law, as it applies in the area of employment.

Some two years ago we made official representation to the authorities of the Province of Ontario recommending such action within that Province. The action in Ontario, and an earlier action, somewhat similar, taken in the Province of Saskatchewan were both reported to the General Synod of the Church of England in Canada some months ago. It endorsed these actions. We firmly believe, therefore, that if a meeting of the Council were available that we would have support for this measure. We urge therefore, Sir, the enactment of legislation along the lines indicated, in the Dominion of Canada, which will effectively provide against discrimination in employment generally on the grounds of colour, race or religion.

I have the honour to remain,

Yours truly,

W. W. JUDD,
General Secretary.

(Copy)

THE BOARD OF TRADE OF THE CITY OF TORONTO
Canada

TORONTO, February 5, 1953.

The Honourable Milton F. Gregg, V.C.,
Minister of Labour,
Parliament Buildings,
Ottawa, Ont.

Dear Mr. Gregg:

The Board of Trade in Toronto has examined with a great deal of interest House of Commons Bill No. 100 which is entitled—"An Act to Prevent Discrimination in regard to Employment and Membership in Trade Unions by reason of Race, National Origin, Colour or Religion".

Section 4(2) of the Bill, when read in conjunction with Section 2(*b*), is of some concern here. It appears from this that it would be possible for an employer to be in violation of the provisions of the Act in using an employment agency which, unknown to the employer, practises discrimination within the meaning of the Act. This provision becomes even more dangerous when it is realized that under the definition provision an employment agency need not be an employment agency proper, but could be any person who undertook gratuitously or for hire to procure employment for persons.

In order to avoid any such application of this legislation as has been described as possible in the previous paragraph, it is respectfully suggested that Section 4(2) of the Bill should be amended to provide that an employer in using an employment agency will only be in violation of the Act in those circumstances where the employer uses an employment agency within the

meaning of the Act and with knowledge that such agency is carrying on discriminatory practices contrary to the legislation.

This proposal is commended to you for your favourable consideration.

Yours very truly,

(Sgd.) N. J. McKINNON,
President.

(Sgd.) J. W. WAKELIN,
General Manager.

(Copy)

THE UNIVERSITY OF MANITOBA
Department of History
Winnipeg, Canada

NOVEMBER 25, 1953.

Dear Mr. Gregg:

I thank you for your letter of November 21st, referring to the Institute of Fair Employment Practices which met in Winnipeg on November 15.

All those concerned with its organization are, I am sure, most interested in the announcement in the Speech from the Throne that a bill on Fair Employment Practices will be introduced by the Federal Government. Our discussions here related almost wholly to the Provincial field, as we hope to move the local government to take some action. I have arranged, however, for all relevant material from the meeting of the Institute to be sent to you by Mr. H. S. Crowe, Secretary of the Civil Liberties Association of Manitoba, and trust that you will find it of interest.

We should much appreciate an opportunity to examine a copy of the Federal Bill, when available.

Sincerely yours,

(Sgd.) W. L. MORTON,
Professor of History.

Hon. Milton F. Gregg,
Minister of Labour,
Ottawa, Canada.

(Copy)

UNIVERSITY WOMEN'S CLUB
St. Catharines
Ontario
2 Elizabeth Street,
St. Catharines, Ontario.

FEBRUARY 16, 1953.

The Hon. Milton Gregg, V.C.,
Minister of Labour,
House of Commons,
Parliament Buildings,
OTTAWA.

Dear Mr. Gregg:

The University Women's Club of St. Catharines earnestly solicits your support on behalf of the women of Canada who feel that recent legislation discriminates against them.

In your Bill 100, introduced on January 13, 1953, you prohibit discrimination in matters of employment on the grounds of race, colour, religion etc. The word "sex" is not included. Yet you state that you are following the basic principle of human rights as enunciated by the United Nations Charter. But that charter and the Universal Declaration of Human Rights both include the word "sex" wherever "discrimnation" is mentioned.

We therefore ask that the word "sex" be included in your Bill. But if you do not wish to retract with respect to that Bill, we ask that a new Bill be passed to prohibit discrimination against women in employment because of their sex, and to insure equality in initial employment, promotion and pay.

We shall appreciate some definite action on behalf of the thousands of women of Canada.

Yours sincerely,

(Miss) Viola M. DAWSON,
President.

(Copy)
4543 First Ave. West,
Vancouver 8, B.C.

MARCH 27, 1953.

The Minister of Labor,
The Honourable Milton Gregg, V.C.,
House of Commons,
Ottawa.

Dear Mr. Minister:

The West Point Grey Study Group has studied Bill No. 100, which had first reading on January 13 in Parliament.

In our opinion, anti-discrimination legislation is very necessary, and the enactment of Bill No. 100 would be definitely to the benefit of the country.

Respectfully submitted

WEST POINT GREY STUDY GROUP
"Mrs. G. O. Quinn"

(Copy)

City Clerks
Department

CITY OF WINNIPEG
Manitoba, Can.

JANUARY 6th, 1953.

Right Honourable Louis S. St. Laurent,
Prime Minister of Canada,
Ottawa, Ontario.

Dear Sir:—

I beg to convey to you the following resolution which was passed by Council last evening:

"Whereas it is contrary to public policy in Manitoba to discriminate against men and women in respect of their employment because of race, creed, colour, nationality, sex, ancestry or place of ethnic origin;

Whereas it is desirable to enact a measure to promote observance of this principle;

And whereas to do so is in accord with the Universal Declaration of Human Rights as proclaimed by the United Nations;

And whereas the Government of Canada proposes to enact Fair Employment Legislation at the next session of their Legislature relating to employers and employees within their jurisdiction;

Be and it is hereby resolved that the Council of the City of Winnipeg favours the enactment of such legislation, and urges the Government of the Province of Manitoba and the Government of the Dominion of Canada to table a Fair Employment Act at the next session of their respective legislatures."

Yours truly,

(Sgd.) G. L. GARDNER,
City Clerk.

JBK/ar

APPENDIX "B"

Additional representations, from organizations and individuals not having submitted briefs, received by the Minister of Labour and the Chairman of the Committee in respect of the subject-matter of Bill No. 2, "An Act to amend the Industrial Relations and Disputes Investigation Act. (Voluntary revocable check-off)."

Copy

THE CANADIAN CHAMBER OF COMMERCE
Board of Trade Building
Montreal 1.

530 Board of Trade Bldg.,
Montreal 1, Quebec.

MARCH 4, 1953.

Mr. A. F. MacDonald,
Chairman,
Standing Committee on Industrial Relations,
House of Commons,
Ottawa, Ontario.

Dear Mr. MacDonald:

The Executive Council notes that an Act to Amend the Industrial Relations and Disputes Investigation Act (voluntary revocable check-off) (Bill 2) has been referred to the Standing Committee on Industrial Relations.

We have reviewed the terms of this Bill and we would respectfully suggest that the Bill not be reported favourably to the House of Commons. We would suggest that the philosophy behind the language of the Industrial Relations and Disputes Investigation Act is the voluntary agreement by management and labour of the terms of contract that shall bind both parties. Up to now, the Act has been happily free from coercive features imposed by Government direction. The Executive Council consequently feels that the question of the voluntary revocable check-off is an item that normally should come under collective bargaining and should be left to the free discussion and decision of employers and unions.

We should be grateful if you would bring the views of our Executive Council to the attention of the members of the Standing Committee.

Yours very truly,

EDWARD C. WOOD,
Chairman,
Executive Council.

C. C. Hon. Milton F. Gregg

CANADIAN GRAPHIC ARTS ASSOCIATION
Representing Employers in The Graphic Arts Industry
Throughout Canada
P.O. Box 195, Winnipeg,
Manitoba.

MARCH 12, 1953.

Mr. A. F. Macdonald, M.P., Chairman,
Standing Committee Industrial Relations,
House of Commons,
Ottawa, Ontario.

Dear Sir:

Canadian employers in the Graphic Arts industries have been concerned during recent weeks by the press report that a special Parliamentary Committee has been recommended to consider amendments to Federal Labour Legislation; particularly with respect to making compulsory the check-off of Union dues from employers' payrolls.

It is the considered opinion of the members of the Canadian Graphic Arts Association that such legislation is entirely unnecessary, and that it would not be in the best interest of either the employer or the employee.

For about half a century the Typographical Union has operated through the "Chapel" system for the collection of membership dues, and in this way it has kept in close touch with every printing establishment under its jurisdiction; and it has been able to secure data on the state of employment and on all matters relating to the welfare of its members.

This contact will be lost if the employer is compelled to collect Union dues; and further, the relationship between employers and employees will not be improved if the rights of a minority are not preserved.

We would respectfully point out that for years the Unions have been fighting for the rights of workers to belong to the Union of their choice, and objecting to any coercion by the employer affecting that right. Now the Unions are asking that the employers be compelled to perform a function which is in no way their responsibility.

The granting of a Union or Closed Shop tends to create a monopoly of labor and puts too much power into the hands of Union leaders. It is undesirable for either party to have too much power. The dangers of such a development have been indicated by the strikes in the Coal and Steel industries of the United States.

Furthermore, it is hardly reasonable to expect an employer to put the check-off system into effect when he did not request the Union to come into the plant in the first place, and therefore should not be called upon to nourish the Union in any form whatsoever.

Employers generally are ready to recognize Unions as bargaining agents, but feel that just as their own Employer Associations have to be maintained on their merits so also should the membership of the Unions be maintained on their merits and not to such an extent on the goodwill of the employers.

The Canadian Graphic Arts Association, therefore, wishes to register its opposition to the enactment of any such revisions in Federal Legislation.

Respectfully submitted,

CANADIAN GRAPHIC ARTS ASSOCIATION,
GEO. W. SWAN,
President.

GWS: DFD
cc — Hon. M. F. Gregg, V.C.
Mr. L. A. Henderson
Dr. C. H. Dickinson

(Copy)

CANADIAN METAL MINING ASSOCIATION
620 Confederation Life Bldg.
12 Richmond Street East
Toronto 1, Ontario.

V. C. Wansbrough,
Vice-President and
Managing Director.

FEBRUARY, 27, 1953.

The Hon. Milton F. Gregg, P.C., M.P.,
Minister of Labour,
Parliament Buildings,
Ottawa, Ontario.

Re: Bill No. 2 to Amend the Industrial Relations and Disputes Investigation Act (voluntary revocable check-off)

Dear Mr. Gregg,

We beg to submit herewith the views of this Association, which represents the great majority of operating metal mines and a number of industrial mineral mines, with respect to the proposed amendment (Bill No. 2) to the Industrial Relations and Disputes Investigation Act (voluntary revocable check-off).

We note with interest the expressions of view which have been given in the recent debates in the House of Commons concerning this Bill, the subject matter of which has been referred to the Standing Committee on Industrial Relations.

While only a comparatively few mining companies, such as those operating in territories under federal jurisdiction, are at present directly subject to the provisions of the federal labour code, all mining companies, in whatever part of Canada they operate, are interested and concerned with the principle which the Bill involves.

Further, under the emergency powers now vested in the federal government, the federal labour code could in special circumstances be made to apply to all industries designated as of national importance.

It is the unanimous view of members of this Association that any union security provisions, including any measure of check-off of union dues, should continue to be, as they have hitherto been for the purpose of the federal labour code, subject to negotiation between company and union and not imposed by parliamentary legislation.

It has been pointed out in the House of Commons by the Parliamentary Assistant to the Minister of Labour that the principle of free collective bargaining is the cornerstone of the federal Labour Relations Act. The proposed amendment would violate this principle and serve only to restrict the field of negotiation.

Once the first step is taken of making the voluntary revocable check-off mandatory by legislation, pressure could and would be exerted to write into the Act further stages of union security legislation, thereby progressively weakening the hands of management and restricting the scope of free collective bargaining.

Further, an important precedent would be established in the face of which it would become increasingly difficult for those provinces which have not incorporated the check-off in their labour codes to resist a demand which is not regarded as in the best interests of good labour-management relations.

We strongly endorse and support the principle enunciated by the official spokesmen of the government that the check-off should *not* be incorporated in the federal labour code but should continue to be a matter of mutual agreement negotiated between company and labour officials through the process of collective bargaining.

We further support the contention of government spokesmen that no important change should be made in the federal labour code without previous consultation and a measure of concurrence with all parties concerned.

We trust that due weight will be given to this expression of view by the Government of Canada if and when the proposal incorporated in Bill No. 2 arises for further consideration in the House of Commons.

Yours sincerely,

CANADIAN METAL MINING ASSOCIATION

(Sgd.) V. C. WANSBROUGH,
Managing Director.

MASTER PRINTERS AND BOOKBINDERS ASSOCIATION OF TORONTO

84 Spadina Avenue,
TORONTO 2B, Ontario,
March 9, 1953.

Mr. A. F. Macdonald, M.P.,
Chairman of the Standing Committee of the
House of Commons on Industrial Relations,
Government of Canada,
OTTAWA, Ontario.

Dear Mr. Macdonald:

Some time ago it was reported in the press that The Honourable Milton F. Gregg, V.C., Minister of Labour, had recommended that a special Parliamentary Committee be established to consider again the advisability of enacting legislation which would require employers to institute a system of check-off of union dues.

The undersigned organization, which is representative of the employers in the graphic arts industry, wishes to go on record as being opposed to the enactment of any such legislation.

For more than forty years there has been collective bargaining in the printing industry in Canada, and various forms of the closed shop and union shop clauses have been adopted by individual employers and by some small groups of employers, but the vast majority of the printing industry in Canada operates on an open shop basis.

It is interesting to note also that even in the cases where there are closed shop or union shop agreements that the system of dues deductions by the employers has not been introduced.

We are convinced that it is not necessary for an employer to deduct union dues in order to have good relationships with his employees or in order to have satisfactory collective bargaining, and from our point of view it would be a serious mistake if Parliament should decide to encumber existing Collective Agreements by requiring any system of check-off of dues to be instituted.

We would point out, too, that many practical difficulties might arise if such legislation is enacted. For example, in some sections of the printing industry it is customary for groups of employers to associate together and to make a joint agreement with the union covering the basic terms of employment. Usually provisions relating to closed shop or union shop are not found in these group contracts, but individual employers are free to negotiate separate arrangements with the unions on this point if they so desire.

In some cases these groups of employers extend beyond provincial boundaries and hence the group contract is affected by provincial legislation in more than one province.

The printing industry would not be directly affected by Dominion legislation but the enactment of Dominion legislation on this subject would no doubt be an inspiration for similar legislation by provincial authorities in several province where it does not now exist.

You can imagine the confusion that would be created if, for example, we had check-off legislation in the Province of Ontario but not in the Province of Quebec while we are trying to operate under a Collective Agreement which is a group or master contract covering printing firms in both Ontario and Quebec.

We are firmly convinced that arrangements for check-off are best left to the judgment of the parties at the bargaining table, and we should be grateful if you would have our views in this connection communicated to any Special Committee which may be established to deal with this subject.

Very truly yours,

CHAS. N. PARKINSON,
President,
Master Printers and Bookbinders' Association of Toronto.

THE PHOTOENGRAVERS AND ELECTROTYPERS ASSOCIATION OF CANADA

217 Bay Street,
TORONTO, Ontario.

The Honourable Milton F. Gregg,
Minister of Labour,
OTTAWA, Canada.

Dear Sir:

It is reported in the press sometime ago that you had recommended to Parliament that a special Parliamentary Committee be established to consider the enactment of Federal legislation, which would have the effect of making it a requirement in Collective Bargaining agreements between groups of employers and Unions that the "check off" system of collection of Union dues would be a duty of the employers concerned.

The Photoengravers and Electrotypers Association is composed of Commercial shop employers in all parts of Canada. We are engaged in the production of original and duplicate printing plates of all types used in the production of printed material.

We hereby wish to go on record with you and your colleagues in Parliament as opposed to the enactment of any such legislation.

For over forty years members of our Association have negotiated Collective Bargaining agreements with the International Photoengravers Union and the Stereotypers and Electrotypers Union, both A.F. of L. affiliated Unions, and

neither Union in that lengthy period made any suggestion that the "check off" be a part of the agreements; the Unions evidently prefer to collect Union fees and assessments through their own shop stewarts, or their officers.

The friendly relationship that has existed for so many years between these Unions and the employers indicates that such legislation as proposed is unnecessary and would only mean an additional item to be included in our Union negotiations. Furthermore we believe most wage earners now have so many deductions made from their earnings that a further deduction, for Union dues—reducing considerably their take-home-pay will be keenly resented.

We would therefore be grateful if you would communicate the views of the members of this Organization to any Special Committee which may be, or has been, appointed to report on this proposal.

Yours very truly,

(S) W. T. NORTHGRAVE, JR.,
President.

6 Adelaide St. S.,
London, Ont.

February 11, 1953.

The Honourable Mr. Gregg.
Hon. Sir:—

I understand the "check-off" matter is before the Government and should it become a compulsory matter may I point out that there are those (of whom I am one) who have a conscience about being affiliated with any union or association directly or through a check-off system. Therefore could a clause be inserted that such would be free of such links by their conscience being established before a magistrate and a certificate be given by such magistrate (that is to save controversy and maintain peaceful conditions amongst workmen).

A similar consideration is before the Hon. Mr. Daley of the Ontario House, I understand.

Trusting this matter is worthy of your consideration, I am,

Your obedient servant,

(S) J. A. THOMAS.

TORONTO GRAPHIC ARTS ASSOCIATION
Eight King Street West, Toronto 1, Canada.

FEBRUARY 25, 1953.

The Honourable Milton F. Gregg, V.C.,
Minister of Labour,
Government of Canada,
Confederation Building,
Ottawa, Ontario.

Dear Sir:

Some time ago it was reported in the press that you had recommended that a special Parliamentary Committee be established to consider again the advisability of enacting legislation which would require employers to institute a system of check-off of union dues.

The undersigned organization, which is representative of the employers in the graphic arts industry, wishes to go on record as being opposed to the enactment of any such legislation.

For more than forty years there has been collective bargaining in the printing industry in Canada, and various forms of the closed shop and union

shop clauses have been adopted by individual employers and by some small groups of employers, but the vast majority of the printing industry in Canada operates on an open shop basis.

It is interesting to note also that even in the cases where there are closed shop or union shop agreements that the system of dues deductions by the employers has not been introduced.

We are convinced that it is not necessary for an employer to deduct union dues in order to have good relationships with his employees or in order to have satisfactory collective bargaining, and from our point of view it would be a serious mistake if Parliament should decide to encumber existing Collective Agreements by requiring any system of check-off of dues to be instituted.

We should point out too that many practical difficulties might arise if such legislation is enacted. For example, in some sections of the printing industry it is customary for groups of employers to associate together and to make a joint agreement with the union covering the basic terms of employment. Usually provisions relating to closed shop or union shop are not found in these group contracts, but individual employers are free to negotiate separate arrangements with the unions on this point if they so desire.

In some cases these groups of employers extend beyond provincial boundaries and hence the group contract is affected by provincial legislation in more than one province.

The printing industry would not be directly affected by Dominion legislation but the enactment of Dominion legislation on this subject would no doubt be an inspiration for similar legislation by provincial authorities in several provinces where it does not now exist.

You can imagine the confusion that would be created if, for example, we had check-off legislation in the Province of Ontario but not in the province of Quebec while we are trying to operate under a Collective Agreement which is a group or master contract covering printing firms in both Ontario and Quebec.

We are firmly convinced that arrangements for check-off are best left to the judgment of the parties at the bargaining table, and we should be grateful if you would have our views in this connection communicated to any Special Committee which may be established to deal with this subject.

Very truly yours,
F. C. AGGETT,
PRESIDENT GRAPHIC ARTS ASSOCIATION

TORONTO TYPOGRAPHIC COMPOSITION ASSOCIATION

113 St. Patrick Street,
Toronto, Ontario,
APRIL 9, 1953.

The Honourable A. F. MacDonald, M.P.,
Chairman of Standing Committee of the
House of Commons on Industrial Relations,
Government of Canada,
Confederation Building,
Ottawa, Ontario.

Dear Sir:

It has come to the attention of the undersigned Association, that recommendations have again been made to the effect that a Special Parliamentary Committee be established to consider legislation requiring employers to institute a system of check-off of union dues.

The Toronto Typographic Composition Association wishes to go on record as being strongly opposed to any such legislature.

In the Printing Industry, of which our membership forms a part, there has been collective bargaining for over forty years, both with individual open shop agreements (the vast majority of the Printing Industry in Canada operates on an open shop basis,) and closed shop union agreements, and in no case has the system of compulsory dues deduction been introduced.

This Association feels that many practical difficulties would arise if this legislation is enacted, and it would be a serious mistake if Parliament should decide to encumber existing agreements by requiring any compulsory system of dues check-off to be instituted. We are firmly convinced individual employers should settle this point with shop committees or unions to their mutual satisfaction at the bargaining table.

Yours very truly,

TORONTO TYPOGRAPHIC COMPOSITION ASSOC.,

Norman D. Prince,
Secretary.

UNION SHOP EMPLOYING PRINTERS
TORONTO

145 Adelaide Street West.
MARCH 4th, 1953.

Mr. A. F. MacDonald, M.P.,
The Chairman of the Standing Committee of
The House of Commons on Industrial Relations,
OTTAWA, Ontario.

Dear Sir:—

Some time ago it was reported in the press that you had recommended that a special Parliamentary Committee be established to consider again the advisability of enacting legislation which would require employers to institute a system of check-off of union dues.

The undersigned organization, which is representative of the employers in the graphic arts industry, wishes to go on record as being opposed to the enactment of any such legislation.

For more than forty years there has been collective bargaining in the printing industry in Canada and various forms of the closed shop and union shop clauses have been adopted by individual employers and by some small groups of employers, but the vast majority of the printing industry in Canada operates on an open shop basis.

It is interesting to note also that even in the cases where there are closed shop or union shop agreements that the system of dues deductions by the employers has not been introduced.

We are convinced that it is not necessary for an employer to deduct union dues in order to have good relationships with his employees or in order to have satisfactory collective bargaining, and from our point of view it would be a serious mistake if Parliament should decide to encumber existing Collective Agreements by requiring any system of check-off of dues to be instituted.

We should point out too that many practical difficulties might arise if such legislation is enacted. For example, in some sections of the printing industry it is customary for groups of employers to associate together and to make a joint agreement with the union covering the basic terms of employment.

Usually provisions relating to closed shop or union shop are not found in these group contracts, but individual employers are free to negotiate separate arrangements with the unions on this point if they so desire.

In some cases these groups of employers extend beyond provincial boundaries and hence the group contract is affected by provincial legislation in more than one province.

The printing industry would not be directly affected by Dominion legislation but the enactment of Dominion legislation on this subject would no doubt be an inspiration for similar legislation by provincial authorities in several provinces where it does not now exist.

You can imagine the confusion that would be created if, for example, we had check-off legislation in the Province of Ontario but not in the Province of Quebec while we are trying to operate under a Collective Agreement which is a group or master contract covering printing firms in both Ontario and Quebec.

We are firmly convinced that arrangements for check-off are best left to the judgment of the parties at the bargaining table, and we should be grateful if you would have our views in this connection communicated to any Special Committee which may be established to deal with this subject.

Very truly yours,

Samuel Smith,
President.
UNION SHOP EMPLOYING PRINTERS.

APPENDIX "C"

HOUSE OF COMMONS
CANADA

Special Delivery

OTTAWA, April 15, 1953.

Dear Sir or Madam:

The Standing Committee on Industrial Relations will meet on Wednesday, April 22, 1953, starting at 10.00 a.m. in Room 277 of the House of Commons, to consider written and oral representations, in addition to any communications already sent by your organization to the Chairman of this Committee or the Minister of Labour, in respect of each of the following:

1. Bill No. 100, An Act to prevent Discrimination in regard to Employment and Membership in Trade Unions by reason of Race, National Origin, Colour or Religion (short title: "Canada Fair Employment Practices Act"); and

2. The subject-matter of Bill No. 2, an Act to amend The Industrial Relations and Disputes Investigation Act. (Voluntary revocable check-off).

Would you kindly reply by earliest return mail whether or not it is the intention of your organization to submit written, oral, or both written and oral representations to the Committee, in addition to any representations your organization may already have made. If only oral representations are to be made, please indicate who the representative of your organization will be. If only written representations are to be made 50 copies of each brief should be submitted as soon as possible in advance of April 22. If both written and oral representations are to be made, it would be appreciated if you would name your representative and forward 50 copies of each brief with your reply.

For your information, the living and travelling expenses of out-of-town representatives are the responsibility of the organization or individual concerned.

The Committee has instructed me to indicate to you that it hopes all replies will be in its hands before Wednesday, April 22.

Yours very truly,

A. SMALL,
Clerk of the Standing Committee on Industrial Relations.

LIST OF ORGANIZATIONS

1. The Association for Civil Liberties.
2. B'nai B'rith, Eastern Canadian Council, Grand Lodge No. 1.
3. The Canadian and Catholic Confederation of Labour.
4. The Canadian Chamber of Commerce.
5. The Canadian Congress of Labour.
6. Canadian Construction Association.
7. The Canadian Federation of Business and Professional Women's Clubs.
8. Canadian Jewish Congress.
9. Canadian Manufacturers Association.
10. The Imperial Order Daughters of the Empire and Children of the Empire (Junior Branch).
11. Jewish Labor Committee of Canada.
12. National Council of Jewish Women of Canada.
13. Railway Association of Canada.
14. The Trades and Labor Congress of Canada.

HOUSE OF COMMONS

Seventh Session—Twenty-first Parliament
1952-53

STANDING COMMITTEE

ON

INDUSTRIAL RELATIONS

Chairman: A. FRED MACDONALD, Esq.

MINUTES OF PROCEEDINGS AND EVIDENCE AND REPORTS TO THE HOUSE

No. 2

MONDAY, APRIL 27, 1953

Bill No. 100—*An Act to Prevent Discrimination in regard to Employment and Membership in Trade Unions by reason of Race, National Origin, Colour or Religion.*

Bill No. 2—(Subject-matter) *An Act to amend The Industrial Relations and Disputes Investigation Act. (Voluntary revocable check-off).*

WITNESSES

Mr. A. H. Brown, Deputy Minister, Department of Labour; Mr. Gérard Picard, National President, Mr. Théodore L'Espérance, Counsel, and Mr. Jean Marchand, General Secretary, all three of the Canadian and Catholic Confederation of Labour.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1953

STANDING COMMITTEE ON INDUSTRIAL RELATIONS

Chairman: A. Fred Macdonald, Esq., and Messrs.

Balcer	Conacher	Mott
Black *(Cumberland)*	Côté *(Verdun-La Salle)*	Murphy
Boucher	Croll	Nixon
Bourget	Fairclough (Mrs.)	Pouliot
Breton	Gauthier *(Lac St. Jean)*	Ross *(Hamilton East)*
Brown *(Essex West)*	Gauthier *(Sudbury)*	Starr
Byrne	Gillis	Stewart *(Winnipeg North)*
Cardin	Higgins	Stewart *(Yorkton)*
Carroll	Johnston	Viau
Churchill	Knowles	Weaver
Clark	Lennard	
Cloutier	McWilliam	

Members, 35. Quorum, 8.

A. SMALL,
Clerk of the Committee.

REPORTS TO THE HOUSE

TUESDAY, April 28, 1953.

The Standing Committee on Industrial Relations begs leave to present the following as its

SECOND REPORT

Your Committee has considered the subject matter of Bill No. 2, "An Act to amend The Industrial Relations and Disputes Investigation Act. (Voluntary revocable checkoff)", and has agreed to report as follows:

Your Committee endorses the principle of Bill No. 2 and recommends that the principle of the said Bill, together with the submissions included in the printed Minutes of Proceedings and Evidence of the Committee on the subject-matter of this Bill, be considered by the Government in its review and proposed revision of the provisions of The Industrial Relations and Disputes Investigation Act, which the Committee is informed is now under study.

A copy of the Minutes of Proceedings and Evidence of your Committee is appended.

All of which is respectfully submitted.

A. FRED MACDONALD,
Chairman.

TUESDAY, April 28, 1953.

The Standing Committee on Industrial Relations begs leave to present the following as its

THIRD REPORT

Pursuant to its Order of Reference of April 13, your Committee has considered Bill No. 100, An Act to Prevent Discrimination in regard to Employment and Membership in Trade Unions by reason of Race, National Origin, Colour or Religion, and has agreed to report it with amendments.

A copy of the Minutes of Proceedings and Evidence of your Committee is appended.

All of which is respectfully submitted.

A. FRED MACDONALD,
Chairman.

74266—1½

MINUTES OF PROCEEDINGS

MORNING SITTING

MONDAY, April 27, 1953.

The Standing Committee on Industrial Relations met at 10.00 o'clock a.m. The Chairman, Mr. A. Fred Macdonald, presided.

Members present: Messrs. Byrne, Cloutier, Croll, Fairclough (Mrs.), Gauthier (*Sudbury*), Gillis, Higgins, Johnston, Knowles, Macdonald (*Edmonton East*), McWilliam, Pouliot, Ross (*Hamilton East*), and Stewart (*Winnipeg North*).—(14).

In attendance: Mr. A. H. Brown, Deputy Minister of Labour.

The Chairman referred to an exchange of wires between the Canadian and Catholic Confederation of Labour and the Clerk of the Committee. (*See Evidence of today for text of same*).

Agreed,—That the Committee reconvene, following this morning's sitting, at 12.00 o'clock noon today to hear the oral representations of the Canadian and Catholic Confederation of Labour on Bill No. 100.

The Committee then proceeded *In Camera* on its Report to the House on the subject-matter of Bill No. 2.

The Committee agreed that Mr. Cuthbert Scott's answer (on behalf of the Railway Association of Canada) to Mr. Knowles' question of April 22 (re check-off statistics) be printed as Appendix "A" to this issue.

The Chairman informed the Committee that a written brief had been received from the Canadian Construction Association on the subject-matter of Bill No. 2, copies of which had been distributed to members in advance. (*See today's Evidence for text*).

Mr. Brown was recalled, made a statement on the subject-matter of Bill No. 2, and was questioned thereon:

Agreed,—That the substance of Mr. Brown's oral statement made *In Camera* be provided in written form to the Clerk of the Committee for inclusion in today's evidence.

The Chairman read a draft report on the subject-matter of Bill No. 2 submitted by Mr. Croll for consideration by the Committee. After discussion thereon:

Moved by Mr. Croll,

That the Chairman present the said Report to the House as the *Second Report* of the Committee. Carried on Division.

At 10.30 'clock a.m., the Committee adjourned until 12.00 o'clock noon today.

AFTERNOON SITTING

MONDAY, April 27, 1953.

The Standing Committee on Industrial Relations met again at 12.00 o'clock noon. The Chairman, Mr. A. Fred Macdonald, presided.

Members present: Messrs. Byrne, Cloutier, Croll, Fairclough (Mrs.), Gauthier (*Lac St. Jean*), Gillis, Higgins, Johnston, Knowles, Macdonald (*Edmonton East*), McWilliam, Pouliot, Ross (*Hamilton East*), and Stewart (*Winnipeg North*)—(14).

In attendance: Messrs. Gérard Picard, National President, Théodore L'Espérance, Counsel, Jean Marchand, General Secretary, all three of the Canadian and Catholic Confederation of Labour; and Mr. A. H. Brown, Deputy Minister of Labour.

Messrs. Picard, L'Espérance and Marchand were called, heard and questioned with respect to their representations on behalf of the Canadian and Catholic Confederation of Labour on Bill No. 100.

Mr. Brown answered questions relating to the representations made by the Canadian and Catholic Confederation of Labour on Bill No. 100.

The witnesses from the Canadian and Catholic Confederation of Labour retired.

At 1.10 o'clock p.m., the Committee adjourned until 8.00 o'clock p.m. tonight.

EVENING SITTING

MONDAY, April 27, 1953.

The Standing Committee on Industrial Relations met again at 8.00 o'clock p.m. The Chairman, Mr. A. Fred Macdonald, presided.

Members present: Messrs. Brown (*Essex West*), Byrne, Cardin, Churchill, Croll, Fairclough (Mrs.), Gauthier (*Lac St. Jean*), Gillis, Johnston, Knowles, Macdonald (*Edmonton East*), Pouliot, and Stewart (*Winnipeg North*)—(13).

In attendance: Mr. A. H. Brown, Deputy Minister of Labour.

The Chairman informed the Committee that Mr. Brown had provided Mr. Knowles with copies of the Orders in Council and the form of contract requested at the Committee's morning sitting on April 22. As the said Orders in Council had been tabled in the House, the Committee agreed to dispense with printing the said material in its evidence.

The Committee proceeded to a clause-by-clause consideration of Bill No. 100, An Act to Prevent Discrimination in regard to Employment and Membership in Trade Unions by reason of Race, National Origin, Colour or Religion.

Mr. Brown was called for hearing and questioning on the various clauses of the Bill.

Clause 1 was considered and adopted.

On Clause 2:

Mrs. Fairclough moved,

That paragraph (*g*) be amended by inserting the words "nationality and" after the word *includes*.

And the question having been put, the said motion was agreed to.

Mr. Pouliot moved,

That paragraph (*g*) as amended be deleted and that the following be substituted therefor: *"national origin" means nationality.*

And the question having been put, and the said motion was negatived.

Clause 2, as amended, was adopted.

Clause 3 was considered and adopted.

On Clause 4:

Mrs. Fairclough moved,

That subclause (5) be deleted and the following substituted therefor: "No person shall use or circulate any form of application for employment or publish any advertisement in connection with employment or prospective employment or make any written or oral inquiry in connection with employment that expresses either directly or indirectly any limitation, specification or preference as to race, national origin, colour or religion unless the limitation, specification or preference is based upon a *bona fide* occupational qualification."

And the question having been put, the said motion was agreed to.

Mr. Cardin moved,

That Clause 4 be further amended by adding the following as subclause (6): "Whenever any question arises under this section as to whether a trade union discriminates contrary to this section, no presumption shall be made or inference drawn from the name of the trade union."

And the question having been put, the said motion was agreed to.

Clause 4, as amended, was adopted.

Clauses 5 to 12 inclusive were severally considered and adopted.

Mr. Stewart (*Winnipeg North*) moved:

That the Bill be further amended by adding thereto new Clause 13, as follows: "13. This Act shall come into force on the 1st day of July, 1953."

And the question having been put, it was agreed to adopt the said Clause.

The Title was considered and adopted.

The Bill, as amended, was adopted.

The witness retired.

Ordered—That the Chairman report the Bill, as amended, to the House as the *Third Report* of the Committee.

At 9.45 o'clock p.m., the Committee adjourned *sine die*.

A. SMALL,
Clerk of the Committee.

EVIDENCE

APRIL 27, 1953.
10.00 a.m.

The CHAIRMAN: Gentlemen, we have a quorum.

As I recall, gentlemen, we were expecting Mr. Picard to appear before the committee on Friday. A night letter, a copy of which has been forwarded to all members of the committee, was received from Mr. Picard on the morning of April 23, and reads as follows:

Sorry trouble with my car and arrived Ottawa at nine fifteen stop Was at Railway Committee room at nine thirty but sitting was over stop This wire will sum up in writing views of Canadian and Catholic Confederation of Labour on Bill one hundred stop First of all our organization feels that there is no reason to enact new legislation like Bill one hundred stop If in the past Government did not consider that outlawing communist party could serve any sound purpose but was rather of the opinion that trade unions would take care of subversive elements which could possibly join their ranks how is it so important today to pass an Act that can be interpreted as outlawing our organization the most anti-communist trade union in Canada stop Secondly Bill one hundred may be interpreted as outlawing in the federal field union security clauses like closed shop and union shop stop Moreover even if we agree on the principle of the Bill we oppose section four as drafted and specially subsection five of section four which as we see it is definitely against us and against some union security clauses stop Finally if Bill one hundred is to be recommended to the House we feel that it should not be put in force except by proclamation stop Those are main reasons why our organization cannot support Bill one hundred as is.

GERARD PICARD,
National President, CCCL.

Subsequent to the receipt of the night letter, the clerk of the committee wired to him:

"OTTAWA, April 24, 1953.

Gerard Picard,
National President,
Canadian and Catholic Confederation of Labour,
226 Avenue Quebec,
Outremont, Quebec.

Your night letter distributed to all members of committee for consideration when committee meets again Monday morning at ten room 277 at which time committee would hear further oral representations if you wish to appear.

A. SMALL,
Clerk of Standing Committee on
Industrial Relations,
Room 432, House of Commons".

Mr. Picard replied as follows on April 25:

Your telegram April twenty-fourth on hand. Our counsel L'Esperance General Secretary Marchand and myself will appear before

your committee on Monday morning after arrival CPR train around eleven-thirty understand arrangements have been made to that effect according to phone call received from P. E. Cote Parliamentary Assistant to Minister of Labour. Our organization has suffered first discrimination by Canadian press communication on night letter sent to you last Wednesday which has been interpreted as opposition from our part on the principle of Bill one hundred.

GERARD PICARD,
President, CCCL.

However, in the meantime, we have the brief on the subject-matter of Bill No. 2 from the Canadian Construction Association, Incorporated, which we will place in the record:

Gentlemen and Mrs. Fairclough:

The Canadian Construction Association welcomes the opportunity afforded it to reiterate its views to the Standing Committee on Industrial Relations concerning the check-off of union dues.

While the proposed amendment to the federal legislation would have no direct application to the construction trades, it is felt that an important principle in the field of industrial relations is involved that should continue to be kept uppermost in the minds of the members of the House.

It is respectfully submitted that mutual agreement is a fundamental requirement in obtaining real agreement in labour relations. Any provisions regarding so-called "union security" should be the result of free negotiation and not of legislative compulsion.

The purpose of the Industrial Relations and Disputes Investigation Act has been described on numerous occasions as that of providing the framework of the building of sound industrial relations. The actual specifications concerning the various component parts, however, are to be left to the discretion of the two parties in whose interests the collective agreement is being formed. With this principle, members of the association are in full agreement. Action which serves to subtract from the collective bargaining process will weaken the main foundation of the Act.

One of the reasons that the present Federal Labour Code has proved to be generally satisfactory is that its contents in most instances are supported by responsible employer and employee organizations. In other words, there is substantial agreement concerning its provisions by both interested parties. This also is the criterion of a satisfactory labour agreement. To impose a provision by statute concerning "union security" strongly disapproved of by many employers would not be in the best interests of employer-employee relations. The difficulties caused by federal labour legislation provisions that are not widely accepted or acceptable have been at times indicated most graphically during the last two decades in the United States of America.

It should perhaps be added that conditions within industries vary. The check-off has never been an important issue in the construction industry and it may well be that it was the late Honourable Humphrey Mitchell's long experience as a building trade union official that lent support to his views that matters of "union security" should be left entirely to the field of free collective bargaining.

Respectfully submitted,

CANADIAN CONSTRUCTION ASSOCIATION, INC.

A. C. ROSS,
Chairman, Labour Relations Committee.

The CHAIRMAN: We have the Deputy Minister of Labour, Mr. Arthur Brown, here to answer any questions and we could then proceed *in camera* on Bill No. 2, if that would be your pleasure.

Subsequently to that, we could adjourn until 12 o'clock noon at which time Mr. Picard and his associates will be here. We will hear their representations, then have questioning and dispose of Bill 100. What is your pleasure, gentlemen?

Mr. CROLL: We agree.

The CHAIRMAN: Do all agree?

Agreed. (The Committee continued *in camera* until 12.00 o'clock noon.)

The following is the substance of an oral statement made *in camera* by Mr. A. H. Brown, Deputy Minister of Labour, on the subject-matter of Bill No. 2:

Mr. Chairman:

It will be of interest to the Committee to know, on the basis of a study prepared by the Economics and Research Branch of the Department of Labour, that out of an estimated total number of 264,000 employees in industries under federal jurisdiction covered by collective agreements, the union dues of 73 per cent of that total or approximately 193,000 employees are checked off under the terms of the collective agreement in force by which they are covered.

A committee has been set up within the Department of Labour to study and review the provisions of The Industrial Relations and Disputes Investigation Act with a view to considering what amendments to the Act would be appropriate to be put forward for approval for introduction in Parliament at an appropriate time.

The form of check-off provision proposed in Bill 2 is the same as that considered back in 1948, when the present Act was first enacted.

Even in the case of those supporting the principle of a check-off provision in the Act before this Committee, there is some difference of opinion as to the form such provision should take.

From the viewpoint of the Department it would be satisfactory if the Committee were to decide to refer the matter to the Department of Labour for study in the light of the representations made to the Committee and the discussion of the matter by the Committee to be considered in conjunction with other proposals for revision of the Act which the Department now has under study and review.

12.00 a.m.

Upon resuming.

The CHAIRMAN: Gentlemen, I see we have a quorum. We have before us Bill No. 100 for further consideration.

We are very pleased to welcome to the committee this morning Mr. Gerard Picard, National President, and Mr. Jean Marchand, General-Secretary, and Mr. Theodore L'Esperance, Counsel, for the Canadian and Catholic Confederation of Labour. I may say to Mr. Picard that the telegrams which have been exchanged between he and the Clerk of the Committee have been included in today's evidence, and that we would appreciate his making his presentation to the committee and dealing with the highlights of the submission that has been made.

Mr. Gerard Picard, President of the Canadian and Catholic Confederation of Labour, called:

The WITNESS: Mr. Chairman and gentlemen: First of all I would like to thank you for giving us this opportunity of appearing before you. I may say that unforeseen circumstances prevented my appearing before your committee last week, but I am sure I am excused by your kindness. There are so many unforeseen things these days.

I would like to make only two or three remarks whereupon our Counsel, Mr. L'Esperance, if you do not mind, will explain in detail what the sections are under which we would like to have some clarification.

Our organization now has, as part of its constitution, the principle of Bill 100 as is, so we do not oppose the principle of the Bill. We were wondering only if this new piece of legislation was opportune, because we thought that labour organizations should take care of the application of such a principle, as they are doing in other cases.

But after all, if your committee and if the House of Commons, and if parliament is to pass the new Act, then there are some points we would like to explain to your committee, and explain to you our feeling, especially with regard to clause 4 and some of the subclauses of clause 4.

We feel there should be some clarification of clause 4. And I also think that, before our counsel explains the details of our presentation, I should inform your committee that even if in the constitution of the parent body the principle has been adopted by the annual convention, on the other hand, some of our groups have not so far amended their own constitutions along the same lines.

In the past, the same declaration of principles was in the by-laws of all the affiliated bodies. The last time the general convention met it agreed on that principle. In fact, this principle was respected, but it was not in the constitution as such. Our confederations have only the one annual convention which means that if there is any trouble in one year, the question has to be referred to the next convention the next year. So it does involve a matter of time.

But I know now, and I can declare that our affiliated bodies have approved to our annual convention the principle of that Bill 100. But on the other hand, and I am sure that you will appreciate it, that if there is reasonable doubt in our minds that our organization could be—if not outlawed, at least embarrassed or discriminated against by the new Bill, we feel that if the Bill is to be passed by parliament, then some clarification should be applied to it. But after all, we do not want the question of intent of anyone to be included in connection with the Bill. We know that if the Bill is passed, no court will pay too much attention to the intent of any Members of Parliament. We feel that we have stuck to the wording of the Bill as such, even if we have discussed it; otherwise, I think we will waste time and we will not be improving the situation very much.

Those are the few remarks which I wished to make before your committee, Mr. Chairman, and now, with your permission and the permission of the committee, our counsel, if Mr. L'Esperance may be heard, he will go into the details of certain sections which we feel may be interpreted as outlining the position of our labour organizations.

The CHAIRMAN: Thank you, very much. Gentlemen, we now have Mr. L'Esperance, counsel for the Canadian and Catholic Confederation of Labour. I call on Mr. L'Esperance.

Mr. Theodore L'Esperance, Counsel for the Canadian and Catholic Confederation of Labour, called:

The WITNESS: Thank you, Mr. Chairman.

The CHAIRMAN: You may sit down, if you wish, Mr. L'Esperance.

The WITNESS: I just want to touch on a few points in the draft Bill. I just want to emphasize a point which Mr. Picard has already stated, that the intent of the legislature, of course, is not evident before the Bill is passed, but we are thinking of the policy to be followed later on after the Bill is passed when, in practice, according to some, there may be some interpretation which would be in effect against the intent of the legislature, but which might be furthered just by the way the Bill is drafted. It is not the intention of the legislature of course to injure deliberately the rights of respectable groups of citizens or organizations.

The Bill, as it is proposed, gives in clause 2, subclause 2, paragraphs (*h*) and (*i*) definition of a person and of a trade union. The word "person" includes:

> (*h*) "person" includes employment agency, trade union and employers' organization; and
>
> (*i*) "trade union" means any organization of employees formed for the purpose of regulating relations between employees and employers.

And we can see further in clause 3, that the Bill applies as stated in subclause (1) to:

> (*l*) trade unions composed of such employees; and and according to paragraph (*k*) applies to:
>
> (*k*) employees or other persons employed or seeking employment upon or in connection with any such work, undertaking or business;

In section 4 we find there the gist of the Bill concerning prohibited employment practices. Mr. Picard has given to you the general trend of our organization, and he told you that in fact and in most cases because it is included in the constitutions of the various organizations, that there is no restriction and no discrimination against anyone because of race, national origin, colour or religion. There is no discrimination. Anyone is free to become a member of the union. Of course, but at the same time, these organizations are in some way related or connected with some religious belief, and it may appear officially either in the titles of these organizations that they are in some way connected with some religious belief, or I should say with some social trend which is inspired from certain religious denominations.

We would not like that the Bill be so applied that any employer would be left to his own authority to refuse to negotiate or to bargain with any organization just upon the opinion that he may form himself that the social organization is in some way connected or related in such a way that he would consider it a violation of the force of the law. If, for instance, as in clause 4, paragraph 2 "No employer shall use, in the hiring or recruitment of persons for employment, any employment agency that discriminates against persons seeking employment because of their race, national origin, colour or religion." And we see in paragraph 5 there is a disposition concerning advertising in connection with the employment or prospective employment of persons which prohibits expressing directly or indirectly any preference as to creed, et cetera. In fact and in the law, our organization does not discriminate against anybody. In what position would we be placed if some employer formed the opinion that he considers that these organizations are discriminating against anybody. They are not in fact, and we think that if the Bill is left as it is now, there may be such a risk, if there is no clarification at all. What kind of clarification could be made in order to avoid these risks? We think, because we are not against the principle of this Bill, that the clarification should be in such a way that it would be clear that the mere fact that an organization is in some way related or connected with particular characteristics as to religion or something else would not be considered as a violation of the principles of the law, if these organizations do not put any restriction or discrimination as to the conditions of membership.

There is a certain analogy between this and the Canadian Labour Act concerning the union security clauses. You remember that in that Act when the legislators enacted some forbidden practices, at the same time there was an interpretation that every clause in contracts which provided that a worker should be a member of an organization would not be considered as being a violation of the Act. It was necessary to put that interpretation in in order to avoid that, some principles which have always been admitted in our unions, be set aside.

By Mr. Croll:

Q. You will forgive me Mr. L'Esperance, but I have a little difficulty in following you to your argument. What suggestion do you make? Have you a written suggestion, or what suggestion are you making that we can deal with?—A. I am sorry, I have no written suggestion. My only suggestion is this: That the Bill, if it is left as it is now, without any clarification, would contain a risk that it could be interpreted in practice by an employer as giving him the right to refuse to negotiate or bargain with our organization.

Q. On the ground that you violate a section of the Bill?—A. Yes.

Q. That is what you say?—A. Yes. And the risk is this that these employers may be led to such an interpretation just because that organization is in a general way connected with any religious doctrine or social opinion.

Q. But there is nothing in the Act that relates to that Mr. L'Esperance.—A. We admit there is nothing definite in the Act which says that, but we contend that clause 4, paragraphs 2 and 5, if they are left as they are now, may lead an employer to the opinion that he is entitled to refuse to negotiate with our organization, so what we have to do in such a case is to apply before the court and have an interpretation from the court before we get—

Q. Mr. L'Esperance, I am trying to follow you, and to understand your point. In clause 4, section 2, which is the one you have referred to, it states: "No employer shall use, in the hiring or recruitment of persons for employment, any employment agency that discriminates against persons seeking employment because of their race, national origin, colour or religion."

This is what you are referring to.

Mr. JEAN MARCHAND (*General Secretary of the Canadian and Catholic Confederation of Labour*): Paragraphs (2) and (5).

Mr. CROLL: And paragraph 5 "No person shall publish any advertisement in connection with employment or prospective employment—" and so on. How could an employer use that against you.

Mr. MARCHAND: Suppose we have in the building trade a national catholic syndicate or union, that is a syndicate or union which plays the role of an employment agency for employers. Well, do you not believe that it might be considered as discrimination, the fact that there is a catholic union?

Mr. CROLL: No, why?

Mr. MARCHAND: Do you not think that a non-catholic will feel discriminated against when he sees that he is compelled to be a member of that organization to have a job.

Mr. CROLL: It is merely a name.

Mr. MARCHAND: But he may feel discriminated against.

Mr. CROLL: We are not dealing with what people may feel about it, but is there any actual discrimination? You call yourselves the Catholic Syndicate. That is quite all right, and anyone who joins becomes a member of the Catholic Syndicate. The view that because you use the word "Catholic" you are excluding all others is not a fact. You tell us you are in favour of the principles of the Bill.

Mr. MARCHAND: Well, there are those who would feel they are discriminated against, and if they make complaints on the basis of the Bill as it is now written, there is no doubt but that we will be spending a lot of time in court just for the purpose of getting decisions.

Mr. CROLL: Well, he cannot bring you to court because the Labour Department knows well what the situation is and certainly would not allow frivolous objections such as that to trouble you.

Mr. MARCHAND: But an employer may refuse to bargain on that ground. He in his own mind may believe that we are violating that disposition of the law, and I do not say that it would be right for them to come to that conclusion, but I think they would have a tendency to do it.

Mr. JOHNSTON: You said a minute ago there was nothing in your constitution that sets up a bar to religion, that is to say that Protestants, Christians and non-Christians could join your organization. Is that in fact true? What I mean to say, there are those belonging to your organization other than Catholics?

Mr. MARCHAND: Yes. We have syndicates where the president of the syndicate is not a Catholic.

Mr. JOHNSTON: And you have never run up against a situation where Protestants in your organization have been discriminated against because they were Protestants, and, if you have never run up against it, why do you contemplate running up against it in the future?

The WITNESS: We do not contemplate running up against that, but we do not want the law to be so worded that it may lead an employer or somebody else to put us in the situation where we will have to clear ourselves before a court or any other jurisdiction, and what may happen in any one particular case in that regard may happen in twenty cases or more.

By Mr. Johnston:

Q. Then how would you word your request to make it fit in with this? Have you any wording in mind?—A. The wording we had in mind would be something like this: That it would be clear on the face of it that the mere fact of a trade union being connected with an organization that in turn is connected in some way with a particular creed, that those circumstances could not be interpreted as constituting or being a violation of the dispositions of the Bill, provided, of course, that such organizations or unions did not discriminate as to the treatment of its members.

Q. Is that not already implied in the Bill?—A. That is already implied.

Q. Well, how could you make it clearer?—A. We want that to be very clear.

Q. It is clear.

Mr. MARCHAND: We want to discourage any possible reason on the part of an employer for not negotiating with us because he believes in his own mind that our organization in its own constitution violates the provisions of this Bill.

Mr. JOHNSTON: It seems to me, Mr. Chairman, that that is something that this organization will have to deal with itself, that in some way or other you will have to make it definitely clear that there is no such discrimination and that they have no grounds on which to refuse negotiation with you on that basis.

Mr. MARCHAND: I believe they have no grounds.

Mr. JOHNSTON: Well, if that is a true fact, that is all there is to it.

The WITNESS: But if that exception is not made in the Bill itself that may be used as a weapon to bar negotiations with our organization.

Mrs. FAIRCLOUGH: Mr. Chairman, of course the provisions of this Bill cover only labour that comes under the jurisdiction of the federal Depeartment of Labour, and I would think that the cases in which you would run into that difficulty would be rather few and far between and could be readily settled on application to the Department for a ruling.

Mr. MARCHAND: I do not think that this law is being enacted only for a few years. It might stay on the statute books for a long time.

Mrs. FAIRCLOUGH: It seems to me the point that has been raised by the witness could readily be dealt with by regulations. I do not think that is a matter that should be written into the Act.

Mr. CROLL: Not only that, but this will provide you the opportunity, Mr. L'Esperance, on many occasions to interpret the Act.

The WITNESS: I am not seeking an opportunity of acting against it.

Mr. CROLL: We want to give it to you.

Mr. PICARD: That is not a very good reason.

The WITNESS: The very same thing happened when the legislature enacted certain prohibitive practices in connection with another law. These prohibitive practices, set out in that particular Canadian labour Act, as they were enacted, may have led to the belief that union security clauses would be illegal.

The CHAIRMAN: There is no suggestion of that in this legislation, Mr. L'Esperance.

The WITNESS: I am speaking with reference to another Act. As I say, there was a danger that the interpretation put on it by some people would lead them to the belief that union security clauses would be illegal and would be considered in some cases as constituting a discrimination against people and against unions. So, in order to avoid that, there was a clause inserted in the Act stating clearly that these clauses could not be considered as a violation of the prohibited practices provided in the Act.

Mr. CROLL: Mr. Brown, what is Mr. L'Esperance having reference to? I do not recall.

The WITNESS: The Industrial Relations Act.

Mr. CROLL: It does not register with me. In what particular?

Mr. BROWN: There is no relation between the Industrial Relations and Disputes Investigation Act and this Act. The Industrial Relations and Disputes Investigation Act stands on its own feet, and if you establish your bargaining rights under this Act, the provisions of that Act and the obligations that are contained in that Act are enforceable under that Act. What we are dealing with here is something different, an entirely different subject matter—it is a question of discrimination in employment, and the Bill is dealing with specific cases of discrimination. If a trade union organization does not discriminate and if there are not any actual cases of discrimination in regard to the membership, and that is established in connection with the complaint, well that disposes of the matter. There is no offence, and certainly it does not follow from the fact that an organization may have in its name some reference to a particular form of religion, that the provisions of the Bill apply in any way because of that mere fact. We are dealing in this Bill with specific cases of discrimination. I appreciate you may be nervous about the provisions of the Bill. All I am saying is that on the statement that has been made as to the practice in the organization itself the alarm expressed certainly does not seem to be well founded, at least not on the provisions of the Bill itself—let us put it that way.

The WITNESS: No. We do not mean it is founded directly on the provisions of the Bill, it is only founded on the fact that in the application of the Act, at least in its first stages, it will be left to the opinion of the employers who will

have to deal with that, and to the opinion of other people who have to deal with it, and these organizations who may have, as Mr. Brown said, a certain reference to a particular creed in their name but in fact do not discriminate as to the admission of members, but by the very fact that they have such a reference in the name of their organization, an employer may use that very fact to refuse, at least in the very first stages, to discuss with these people. That is what I am afraid of.

By Mr. Pouliot:

Q. You are telling this committee, Mr. L'Esperance, that in some cases your union would not interfere, but that the employer would not be satisfied to take anybody that might come?—A. Yes.

Q. And that he would quote his own conditions for the employment on the contention that they were looking for jobs in his business?—A. He may believe that he would be justified and may be obliged just because of section 4, paragraph 2, to refuse to act through an employment agency or trade union which may be in some way related to a religious body.

Mr. POULIOT: You know, Mr. Chairman, it is most difficult to make the distinction.

The CHAIRMAN: I do not see any difficulties at all, personally.

Subclause 2 of clause 4 reads as follows:

> No employer shall use, in the hiring or recruitment of persons for employment, any employment agency that discriminates against persons seeking employment because of their race, national origin, colour or religion.

Now, if the locals of the Canadian and Catholic Confederation of Labour were furnishing or had a reservoir of people where one could seek employees, and on their own statement they do not discriminate—and you have made that statement—therefore I do not see anything that contravenes subclause 2 of clause 4 of the Bill as it is now written.

Mr. GILLIS: I do not know whether I am correctly informed, but I think that the arguments put forward are valid for this reason: I understand the main body of the Catholic Confederation of Labour have in their constitution a clause that provides for wide-open membership, but I am also informed that there are some locals of the Catholic Confederation that have local constitutions that may provide for membership on the religious grounds that you must be a Catholic in order to belong to that local.

As I understand it, the argument is that if this Bill is passed at this session it places some of the local organizations that have a discrimination clause in their constitution in the position where they cannot negotiate with the employer under the terms of this Act. I am also informed that these local organizations are prepared to change their constitution, but it will take time and while that situation exists the arguments put forward I think are valid at the present time until these local organizations have an opportunity to bring their constitutions in line with the national body.

By Mr. Johnston:

Q. I asked the witness about that and he said there is no discrimination in the organization.—A. There is not discrimination. Mr. Picard already explained that there might be a few locals where the constitution would have to be adjusted, but in fact we do not to our knowledge have any local with any such constitution where there has been discrimination against religion.

Q. In your opinion you do not know of any discrimination?—A. We should have enough time to bring all these locals in line with these principles. Besides

that we are afraid that this Bill in itself as it is drafted could be interpreted against us just because there might be such a reference in the title of the union.

Q. You say you do not know of any locals that have that in their constitution, but that there may be some. Would it not be an easy matter for the locals to get in line with the parent organization?

Mr. PICARD: If I may, I will try to tell you exactly the truth about our organization. The C.C.C.L. (Canadian and Catholic Confederation of Labour) has been founded since 1921 and at that time in the constitution, whether of the locals or council or federations or even the confederation, the members ought to be Catholics to join the unions. At that time that was the ground on which the organization was built up. The years passed and they realized that the employees were concerned with their collective agreements—their relations with the employers—rather than with the title of being a Catholic or not, and so in fact the constitution has been amended and the councils, federations and parent body changed their mind on that and agreed to accept into their ranks employees whether they belonged to any religious denomination or not, but the constitution was still there in some locals. A few years ago after the adoption of the Charter of the United Nations, we paid much attention to the same principle which you have in Bill 100. We put it on the agenda of one of our conventions a couple of years ago and the convention agreed to amend the constitution of the parent body to include this principle of non-discrimination. That is all right. Now, according to the provincial laws the federation and the councils and the locals are separate legal entities, so therefore, because there is a change in the parent body, that does not mean that the change is automatic in all the constitutions of the locals or councils or federations. Now that the parent body has adopted the broad principle of non-discrimination along the principles of Bill 100, we have now to wait until the federations have their own annual conventions, whether printing trades, building trades, aluminum trades or others. They will have their next convention in a few months and if for one reason or another they do not make their decisions at their next convention, they will have to wait until the following one. I presume that they will not wait. But after all you know in the constitutional field it is a very slow process. I think that you know that better than I. It is the same in our organization as in any other organization, even in parliament. So we realize that is wall take time to adjust those constitutions and this is one reason why we feel that probably this Bill should be passed on proclamation instead of being put in force under royal sanction. This is one point.

The second one raised by our Counsel, Mr. L'Esperance, is this: If an employer decides, when the Bill is passed, that one of our locals is not an agency of employment according to the terms of the Act, then he may refuse to bargain with that employment agency. By the way if it is one of our locals, what would you do with that? If we tried to discuss the intent or opinions of anyone here, we would certainly realize that there are some contradictory opinions. If we feel, for instance, that our organization will be killed in the federal field by Bill 100, that would be quite a good reason for us to come here and to try to clear up that point.

Whether we are right or wrong, it is a very important point for us. After all, we do not want to be killed without saying anything about it. I do not think any member of this committee could state what will be the opinions of employers, or of those within the country who have to deal with us. But if they make up their minds that we are not a trade union with which they may bargain according to the wording of Bill 100 as an Act, it is important to us. So we feel—and this is the point made by Mr. L'Esperance—that this very point should be clarified in the Act so that there will be no trouble with it.

We are not prepared to spend a couple of years before a superior court or before a court of appeal, or before the Supreme Court of Canada to see if this Bill applies to our organization or not. We are not prepared to do that.

A few minutes ago I think Mr. Gillis raised a point and he is right. In some of our locals the constitution is still as it was a few years ago. That does not mean to say there is any kind of discrimination. But the fact that the constitution has not been amended so far means that any employer may say: "Well, according to your constitution and by-laws, in my opinion you are not an 'employment agency' as described in Bill 100." So, what is the answer?

It seems to me that after all if we had been founded, let us say, a couple of years ago, then we would only be a new organization in the field. But we have been there since 1921. The parent body, as a first local, was founded in 1901. That means that for 50 years we have been a recognized trade union in Canada. There is a reasonable doubt in our minds, and we think that this Bill should be clarified in order to cover that doubt. We do not want to contest the opinions which have been given by any of the members of the committee, but we are afraid that other opinions which are not expressed here, such as opinions of some employers outside of your committee, may lead to a kind of embarrassment to our organization, even if it is not under the Bill as such.

The CHAIRMAN: You say that you have been an organization since 1921?

Mr. PICARD: Yes.

The CHAIRMAN: How many contracts would you have at the present time which would come under federal jurisdiction?

Mr. PICARD: Not very many. I think probably—let us say roughly, 10 to 12.

The CHAIRMAN: Would they be contracts which would be with organizations which would have ceased?

Mr. PICARD: Yes. That is, our regular contracts, our regular collective agreements with industry, but there are a lot more. They are contracts in building trades. Each time the federal Government grants a contract to a constructor, for instance, it may be with a contractor who may already have a contract with us. So, in that case, we may at some time have within the federal field even 100 contracts and even more than that. It all depends on what contracts may be granted by the federal authorities to a certain number of employers. What I am talking about is companies like longshoremen and so on.

Mr. KNOWLES: Is it not true that the question as to whether or not an employer will negotiate with a union is governed by the Industrial Relations and Disputes Investigation Act rather than by this proposed legislation?

Mr. PICARD: I quite agree.

Mr. KNOWLES: And if that is the case, even supposing, for the purposes of argument, one employer, after the passing of this Act, objected to dealing with one C.C.C.L. union, once that case was settled, would not that resolve it for all time?

Mr. PICARD: You never know with the law sir, because you never know if you will have to appear before any court of your country or not, and it all depends.

Mr. KNOWLES: But once the C.C.C.L. is recognized, as it is now, under the Industrial Relations Disputes and Investigations Act, once it is recognized after the passing of this Act as still a proper union to negotiate, would not the problem be resolved?

Mr. PICARD: I am afraid even if the local is certified under the Federal Industrial Relations Act, I am afraid sir that an employer, or the employer the local is supposed to bargain with, may take the new Act and say, well, it is all right, you are a certified local according to the Industrial Relations Act, but now there is a second Act passed by parliament absolutely like the first one, but in my opinion the second Act is above that, and against you.

I may be right or wrong. I am not arguing with you, and I am ready to continue good relations and so on, but in my opinion I think I can no longer deal with you, except if this point is clarified, and he is right to say so. We do not contest that he will have the right to say so, and we contend that if he can say so, it is because the Act is not clear on that point.

Mr. POULIOT: You want to have the opportunity to adjust matters with the locals, that do not fit into this legislation?

Mr. PICARD: Yes, it is a matter of clarification.

Mr. MARCHAND: We want to avoid arguments and debates.

Mr. POULIOT: At the present time, from what I have understood, your union is non-sectarian?

Mr. PICARD: No, though it all depends on what that means. If you take the word "sectarian" as it was understood at the beginning of the organization, I mean if it is only members of a religious creed who could join the union, that could mean a sectarian group, but now, it is a matter of doctrine. We may be right or wrong. I do not think that matters very much. But, we have besides that a social doctrine connected, as Mr. L'Esperance said, with a religious creed, so when an employee joins one of our locals or the organization as such, whether he is a Catholic, Protestant or any Canadian citizen, as far as he is an employee, he has the right to belong to one of our local organizations, but he knows when he is joining the union, that we have a special philosophy.

Mr. MARCHAND: He does not have to believe the creed.

Mr. POULIOT: He may belong to any religion, but he must accept your doctrine about trade unions and labour.

Mr. PICARD: Our social philosophy.

The CHAIRMAN: Now, if there are no further questions to place before the witnesses, I would like to assure you Mr. Picard and your associates, Mr. L'Esperance and Mr. Marchand, that the representations you have made to the committee will be given very careful study in the decision made in regard to this legislation. Thank you very much for coming here.

Gentlemen, we will re-assemble this evening at 8 o'clock in this room.

Mr. ROSS: Can we not get a smaller room where we can hear better?

The CHAIRMAN: There will be a notice saying where the committee meeting will be held at 8 o'clock tonight.

EVENING SESSION

The CHAIRMAN: Gentlemen, we have a quorum.

Mr. STEWART: Mr. Chairman, before we start on the operations proposed, there was a matter I would like to talk about with the deputy minister in connection with a division of the department.

The CHAIRMAN: Before you make these observations, might I just ask: Do you wish the material supplied to Mr. Knowles today by Mr. Brown printed as an appendix to the evidence?

Mr. STEWART: Yes.

The CHAIRMAN: It was in connection with the contractors.

Mr. Arthur Brown, Deputy Minister of Labour, called:

The WITNESS: It has been tabled in parliament already. It was a copy of an Order in Council.

Mr. STEWART: Not all that.

Mr. CROLL: No. We do not need it.

The CHAIRMAN: Have we decided not to print it.

Agreed.

By Mr. Stewart:

Q. I think it is rather ironical in view of the fact that the Minister of Labour is introducing this Bill that there is a division of the Department of Labour which deals with technical personnel and periodically a questionnaire is sent out to find out about various technical abilities of the people of Canada. One of the questions in this questionnaire is "What is the birth place of your father?" and "What is the birth place of your mother?", which answers have nothing to do with the man's technical ability, and if I were to get such a questionnaire I would be inclined to tell them where to go. Will Mr. Brown tell us what value is in this and then, if there is no value, can we get it eradicated from such forms?—A. Mr. Chairman, you must remember that these questionnaires in connection with technical personnel that are being compiled at the present time are being compiled to a very large extent for possible use in an emergency situation and they would be put into use in the assigning of technical personnel in employment to positions which may involve various matters of security and so on and I can only assume that the questionnaires which are not designed for every day employment purposes have an emergency and security angle to them.

Q. But in the matter of security would it not be the responsibility of the Mounted Police to clear a person? Why should the departments take it on themselves to get this information, which I do not suggest for a moment they ever use in any invidious way? I cannot see what use this information is to the department when we have a security branch of the government.—A. I do not wish to get into an argument with you. I am telling you now the basic reason why this material is being compiled. It is not for current employment operations. I will say this, that I will be very glad to review the questionnaire further with the people who are in charge of that operation in the light of the legislation which may be enacted in this instance.

Q. Having great faith in your discretion, your answer satisfies me completely.—A. Thank you.

Mr. JOHNSTON: Would this particular principle Mr. Stewart is referring to not come under this legislation if it were passed, Bill 100?

Mr. CROLL: It does not apply to us.

The WITNESS: It does not apply to the Crown *per se;* it applies to Crown corporations. Unless the Crown is specifically named, it does not apply. Civil Service employment comes under the Civil Service Commission and they have the responsibility to develop their own regulations. These records are not compiled for employment purposes.

Mr. STEWART: I have had my say, Mr. Chairman.

The CHAIRMAN: Are there any further questions before we go to consideration of the Bill?

We will consider the Bill. Shall clause 1 carry?

Carried.

Shall clause 2 carry?

Mrs. FAIRCLOUGH: On clause 2, paragraph (*g*). Mr. Chairman, there have been several representations made with respect to the word "nationality". I think if we are going to put in the words "nationality and" that this is the clause where they should go. This is the interpretation clause and I think this is the place where we should have discussion as to whether or not we will put in the word "nationality".

Mr. CROLL: All the people that came before us seemed to think it was of some importance. It may turn out to be of some importance. If Mrs. Fairclough will move that the word "nationality" be included, I will second it.

Mrs. FAIRCLOUGH: I move that the words "nationality and" be included.

Mr. CROLL: I will second that.

The WITNESS: I would like to speak to that. In regard to the term "National origin". I think there is some confusion on this matter. "National origin" means political origin and it is, if anything, a wider term than nationality. It includes nationality. If you say, however, in the definition of "national origin" that it includes "nationality", then I do not know what "national origin" means. If you say "national origin", you have covered the same thing.

Mrs. FAIRCLOUGH: Why do you say "ancestry"?

The WITNESS: "National origin" means the place the man comes from, his political origin. "Ancestry" means the place where his fathers or ancestors came from and you say to an employer "you cannot discriminate" and the employer says "I am not discriminating against this man because he is a Canadian, but because his father was a Pole. You have covered the present generation and the past generation in the definition of "national origin", that includes "ancestry".

Q. The representations made set out very clearly that there is quite a difference between "national origin" and "nationality" because of the fluctuations in the case of displaced persons in Europe today, and the fact that they come from one country to another, and that their "nationality" at the moment does not necessarily mean the same thing as their "national origin".—A. They may have two countries of origin; they may come to this country from two countries; they may have had two political identities. They may have had one in Poland, and been naturalized in France. But it is still their "national origin".

Q. Do you not think there is far more possibility that "national origin" and "ancestry" will mean the same thing than there is that "national origin" and "nationality" will mean the same thing?—A. I think there has been a lot of confusion about "national origin" because it used to be tied up with "ancestry".

Q. It is today, is it not?—A. No, not in the ordinary meaning of the term.

Q. Should you not change that to "nationality and ancestry"?—A. I thought that "national origin" is a broader term. "Nationality" simply means belonging to a particular nation. That is all it means.

Mr. CROLL: Yes.

By Mr. Johnston:

Q. That could be different from "national origin".—A. We are speaking, as far as a person in Canada is concerned, of his political origin, the countries from which he came.

Q. Supposing a person came from Poland, and you asked him: "What is your 'national origin'?" He would say: "Poland". That may not necessarily be his "nationality". He may be nationalized in France.—A. He would be covered either way.

Q. But he has only answered the one question which you asked him, namely, "What is your 'national origin'?" and he said, "Poland". But that does not indicate that he was nationalized in France.—A. That is all right.

Q. Who is going to discriminate against him, and on what ground, or on which grounds?—A. It is not a case of on which ground you are going to discriminate against him. It is the information which you get or which you would not be getting.—A. You are dealing with the question of discrimination.

By Mr. Pouliot:

Q. Now, in order not to discriminate against anybody, let us take the case of the Irish people. Suppose there is an Irishman who was born in Canada of Irish parentage. In origin, he is a Canadian. There is no question about that. That is his "national origin". He was born in Canada and he is a Canadian. However, he can make an option for Ireland later on when he reaches a later age. Now, with reference to this piece of legislation he will have the "national origin" of his parents who are Irish, and his "ancestry" would be that of his grandparents, would it not?—A. His own "national origin" is his own political country of origin; his "ancestry" could include his parents' country or his grandparents' country.

By Mr. Stewart:

Q. Might I interrupt by suggesting the case of a young man who is born, let us say, in China of English Missionary parents. What is his "national origin"?—A. I beg your pardon?

Q. I say, what would his "national origin" be, in the case of a young man born in China?—A. I would say that he probably is Chinese, in those circumstances. I do not know how far this may be affected by international laws, but I think his "national origin" would be China. On the other hand, his "ancestry" is protected here as well. I simply want to say this: There is only one piece of legislation in this field that I know of in which there is included the term "nationality" along with the country of origin, and that is in the case of Ontario.

Mr. CROLL: Yes.

The WITNESS: Every piece of legislation that has been operating in the United States deals only with the question of "ancestry" and "national origin". You will not find in any of those pieces of legislation the words "nationality" as well as "national origin".

Mr. CROLL: He is right on that.

The WITNESS: All I can say is that I have discussed the matter with the people in the Department of Justice and they felt that by saying "nationality" along with "national origin" all you would be doing was adding an element of confusion.

By Mrs. Fairclough:

Q. All right. But do you not think that it is significant that the only law which is in operation in Canada uses the word "nationality"? The laws which you are using to bolster your argument are not Canadian laws. They are American laws. And under American law you have a different conception of citizenship than you have under Canadian law. Let us tie this down to Canada.—A. What I am saying is that we are dealing with an Act which simply says an employer shall not discriminate against people on certain grounds. And the whole question seems to me to be the question of whether, when you have said that, you will not discriminate on the grounds of "national origin", including "ancestry", whether you have covered the situation adequately. Now I realize the representations that were made to the committee, but I could not find, or could not understand personally—the committee may—the reasons which really set out satisfactorily why we should introduce the word "nationality" in addition to "national origin". And as you say that Ontario is the only province which has such a provision in its legislation: The Manitoba Act, of course, has come into effect very recently.

Q. Has it been put into effect yet?—A. It deals with the question of "national origin".

Q I think that Saskatchewan is ahead of Manitoba.—A. The Bill they have in Saskatchewan is not the same type of legislation. It deals with matters on a different basis. I am not going to labour the matter except to say that I did discuss the question carefully with the Department of Justice when framing this legislation. I discussed it after these briefs came in. I do not consider that the present provisions leave the situation uncovered. I am not going to be dogmatic. I am just giving you my best views on the matter.

By Mr. Croll:

Q. Are you saying to us that "national origin" covers "citizenship", in your view?—A. Let me put it this way—

By Mr. Pouliot:

Q. It would not be fair.—A. Let me put in this way: If a man is going to be discriminated against because of the place that he comes from, or the place he was born, or because of his parents, or his earlier "ancestry", then it is our view that the term *"national origin"* includes *"ancestry"* is adequate. That is all I can say at the moment.

Q. But as to "ancestry", there are degrees in ancestry.—A. Yes.

Q. How many degrees does the word "ancestry" include?—A. Let me put it this way—

Q. Does it include the parents, the grandparents, and the great grandparents? It is pretty hard, you know.—A. All we are really trying to do is to develop a net through which an employer cannot slip when you accuse him of discriminating in relation to employment. We have included these various terms of "race", "ancestry", and "national origin", and the suggestion is now made that there should be included one more item of nationality to fill what is considered to be a gap. Now, all I can say on that point is that after consultation with the legal people, they did not consider there was a gap there.

Mrs. FAIRCLOUGH: I am very much interested in Mr. Pouliot's question. Let me give you an example: I am a fifth generation Canadian on both sides, maternal and paternal. My blood is 80 per cent French, and the rest is divided between Dutch and Scotch. Now, what am I?

Mr. STEWART: I would say that you are all right.

The WITNESS: Your "national origin" is Canadian of course. Your "ancestry" depends on how far you want to go back, but my point is that "ancestry" is an all-embracive term and one which we do not need to worry about. Supposing your employer says: I am discriminating against you because your grandfather was Irish, or your great-grandfather was Irish, you are still—

Mrs. FAIRCLOUGH: But I think my "national origin" is French, and my "ancestry" is French, but my "nationality" is Canadian.

Mr. POULIOT: We should go back to Shem, Ham and Japheth. They are the three sons of Noah. There is something amusing in the discussion with Orientals, and if there are two Orientals having a very hot discussion, one says to the other—and I will not use their language—your father was this and that, and your grandfather was this and this, and your grandmother was this and that, the other one starts, your mother was this and that, your grandmother was this and that, and your great grandfather was this and that, so they go back to several generations insulting each other. It is done amongst many oriental races. To say that "nationality" includes "ancestry", what "ancestry"? Your grandmother may have lived in one country, and your great-grandfather in another country, perhaps in Mesopotamia, or Asia or Africa or Europe, how can we decide?

Mr. STEWART: Is this not redundant owing to the fact that this Bill prohibits asking these questions, so we do not have to worry about it.

The WITNESS: I do not know. You are protected so far as discrimination in respect of your "ancestry", I do not care whether it is a first, second or third generation, so that you cannot be discriminated against in respect of employment in respect of "ancestry".

By Mr. Pouliot:

Q. Do you think "national origin" means the country where the parents were born?—A. No. That is not my conception of "national origin", but the origin of the man himself.

Mr. KNOWLES: If we are going to deal with this, as I think we should, would it not be better to deal with it in clause 4, subclause (1), (2) and (3) by adding the additional word "their". It seems to me by changing the definition of clause 2 we do create confusion as to what the words mean. My suggestion would be that we deal with it by adding "nationality" into the group of categories that are prohibited.

The WITNESS: I think if you are going to deal with it, and if you are going to put it in, you might as well put it in there.

Mrs. FAIRCLOUGH: In the Interpretation.

The WITNESS: But I will still not know what it means.

Mrs. FAIRCLOUGH: It seems to me that it is not so much a case of would it be necessary as, why not put it in?

The CHAIRMAN: Do you so move, Mrs. Fairclough?

Mrs. FAIRCLOUGH: I move that the words "nationality and" be inserted between the words "includes" and "ancestry" in clause 2, paragraph (*g*).

Mr. CROLL: I think that would not add too much more confusion to the Bill.

The WITNESS: As long as you do not ask me to interpret it.

The CHAIRMAN: It is moved by Mrs. Fairclough and seconded by Mr. Croll that in clause 2, paragraph (*g*) that the words "nationality and" be included.

Mrs. FAIRCLOUGH: "Nationality and" and between "includes" and "ancestry".

Mr. CROLL: And let that be carried forward through the Bill.

Mr. KNOWLES: I was going to cite this case; supposing a person was born in England, but his family moves to the United States and he becomes through process of law an American citizen and then comes to Canada. His "national origin" is what? His "ancestry", it is English, is it not? But his "nationality" is American, his "citizenship" is American, his "race" is English, and he could be discriminated against by an employer who says "you are a so-and-so American".

The WITNESS: That is his last political origin, country of origin, the United States.

Mr. JOHNSTON: I cannot see that myself.

Mr. CROLL: Let us not argue about it.

The CHAIRMAN: You have heard the motion, gentlemen.

Mr. POULIOT: Before the motion is submitted, this is not a definition of "national origin" or "nationality", but it is a kind of interpretation, but there is nothing about the definition of "race", "colour", or "religion". Will it be possible to define them? I asked one witness what he meant by "religion", and he could not answer me. I would like to know what is meant by "religion", by "race", and by "colour". A white man who goes down south would get tanned and his "colour" would be different.

Mrs. FAIRCLOUGH: Particularly if he had something to base it on.

The CHAIRMAN: Mr. Brown (*Essex West*), it has been moved by Mrs. Fairclough and seconded by Mr. Croll that in clause 2, paragraph (*g*), in addition to "national origin"—it would be "national origin and ancestry"—

Mrs. FAIRCLOUGH: "National origin" includes "nationality".

The CHAIRMAN: "National origin" includes "nationality".

Mrs. FAIRCLOUGH: And "ancestry".

Mr. POULIOT: In regard to "ancestry", we need a degree. I am serious. I cannot believe they will go to genealogists and will come up with degrees for generation after generation. It is a genealogical tree with some.

Mr. KNOWLES: But is this not a case of the employee having to say so many degrees of ancestry. The law would prohibit an employer from discriminating on account of any number of degrees of ancestry, right back to Adam.

Mrs. FAIRCLOUGH: But supposing the questionnaire says very religiously and leaves out "what is your national origin" or "what is your ancestry" or "where was your father or mother born" but says "what is your nationality"?

Mr. POULIOT: Or where do you come from. That is another question.

The CHAIRMAN: Mr. Brown, clause 2 (*g*) as moved for amendment would read *"national origin" includes "nationality and ancestry"*. You have heard the motion, gentlemen. All those in favour, please signify.

I declare the motion carried.

Mr. POULIOT: Now, Mr. Chairman, I move that the words "and ancestry" be struck out.

The CHAIRMAN: It has been moved by Mr. Pouliot that clause 2 (*g*) as amended should be amended to drop the words "and ancestry" and would read, if subsequently amended, "national origin includes nationality".

Mr. POULIOT: And then I will complete my amendment: *"National origin" includes "nationality"*.

The CHAIRMAN: Your motion then would be, Mr. Pouliot, that *"national origin" includes "nationality"*?

Mr. CROLL: "Means" instead of the word "includes".

The CHAIRMAN: You have heard the amendment. Have we a seconder for this?

Mr. KNOWLES: You do not need one in committee.

Mr. POULIOT: The whole paragraph should be amended as follows: That the words *"national origin" includes "nationality"* should be struck out and replaced by the following words, *"national origin" means "nationality"*.

The CHAIRMAN: You have heard Mr. Pouliot's motion.

Mr. CARDIN: If one of the purposes of putting "national origin" in the Bill is to cover the question of security, I believe a definite distinction should be made between "national origin" and "nationality", and I believe you cannot have, or you should not have both meaning the same thing. I rather imagine it would be better to define what you mean by "nationality" and perhaps as a definition the country in which a person was naturalized, or something to that effect. I believe you cannot make one mean the other and avoid confusion.

The CHAIRMAN: The country of which a person was a subject, for nationality?

Mr. CARDIN: That is right, yes.

Some hon. MEMBERS: Question.

The CHAIRMAN: All those in favour of Mr. Pouliot's motion will please signify.

Mr. BROWN: What is the motion?

The CHAIRMAN: That instead of *"national origin" includes "nationality and ancestry,"* it would read *"national origin" means "nationality"*. Now you have heard Mr. Pouliot's motion. Those in favour please signify? Against?

I declare the motion lost.

Does clause 2 as amended carry?

Carried.

Mr. POULIOT: Before we go further we should define "race", "colour" and "religion". If it is not defined, there is no sense of having the law. I submit that the definition or "national origin" is very wrong and it will embarrass the people concerned more than anything else, because if they are checked on their "nationality" they will have to give a lot of explanations about their "ancestry" and it will be a case of embarrassment. Now, we come to "race", "colour" or "religion". If we put it in the law we must be able to define it and I will leave it to anyone concerned to define it. Otherwise no one will be able to give any judgment in any court in connection with it. If there is no definition in the Bill, they will go to Webster's, and Webster is not recognized before the courts.

The CHAIRMAN: Clause 2 as amended is carried. Do you wish to revert to clause 2 again, Mr. Pouliot?

Mr. POULIOT: Just before you said the word "Carried", I wanted to have definitions of those three words, "race", colour" and "religion". It is unfair to proceed otherwise. It is the basis of the Bill. Those words are in the Title. Where can we go without having a clear definition of "race", "colour" and "religion"?

Mr. STEWART: I can well imagine the difficulties the drafters of this legislation were faced with. I do not think, no matter how well meaning we are or how well intentioned the Department is, that we can close every possible door, nor can we give every possible interpretation to words, and so I think in some cases we may have to leave these perhaps rather open and we will find as time goes on where the weaknesses of the Bill are, and then we can amend it.

The CHAIRMAN: Shall clause 3 carry?

Mr. POULIOT: Just before clause 2 is adopted I want to go to the library and get a copy of Webster's dictionary. Will you please hold up this clause until I come back? I will go and get the definitions of these words by Webster.

Mrs. FAIRCLOUGH: I can recognize Mr. Pouliot's concern about these words, but the words "race", "colour", and "religion" are things that are not be mentioned in any event. Now, why define what is not to be mentioned? I can understand it in the case of "national origin", because you could very well ask a person another question which would indicate "national origin" or "ancestry", but in the case of "race", "colour" or "religion", I do not know what you could ask him, to avoid those questions, that would still indicate the answer to the question which is prohibited.

Mr. KNOWLES: If you were to define under the word "religion" fifty-seven different denominations or religions, then you are giving the employer the right to decide against the one who practises the fifty-eighth religion.

Mr. POULIOT: Either it is useful or it is not. It is mentioned in the Bill and it is mentioned for some purpose. I do not know for what purpose, but if it is left in the Bill it has to be defined.

Mrs. FAIRCLOUGH: I do not agree.

Mr. POULIOT: Mr. Chairman, will you kindly suspend the discussion on this clause until I come back with Webster's dictionary?

The CHAIRMAN: Mr. Pouliot, for two weeks the Bill has been before the members and there were a great number of submissions to the committee. I think I recall correctly that these points were very thoroughly gone into.

Mr. POULIOT: No, sir, because no witnesses were able to answer that and no witness has ever tried to define "religion".

The CHAIRMAN: Probably you did not accept the answer, Mr. Pouliot, but I sense that the committee has accepted the feelings that the words in the title, "by reason of race, national origin or religion", are part of the sense of the legislation, and the broad definition was there as to the discrimination.

Mr. POULIOT: And these words are also in the Explanatory Notes, too. We will have to ask Mrs. Roosevelt.

The CHAIRMAN: Shall clause 3 carry?

Mr. POULIOT: Well, this is unfortunate.

Mr. GILLIS: Before you leave this Definition Section, Mr. Chairman: In clause 2, I read:

> (i) "trade union" means any organization of employees formed for the purpose of regulating relations between employees and employers.

Would interpretation (i) clear up the doubts that were in the minds of the Canadian and Catholic Confederation of Labour today?

The CHAIRMAN: No, but there may be something suggested a little later on that may do that, in clause 4.

The WITNESS: The definition that you speak of, Mr. Gillis, in (i) is the same as in the Industrial Relations and Disputes Investigation Act.

The CHAIRMAN: Shall clause 3 carry?

Carried.

Shall clause 4 carry?

Yesterday we received a suggested amendment that subclause (5) of clause 4 be amended to read as follows, and if you will follow the suggested amendment of yours, Mrs. Fairclough, I think you will find that this follows it very, very closely:

> No person shall use or circulate any form of application for employment or publish any advertisement in connection with employment or prospective employment or make any inquiry in connection with employment that expresses either directly or indirectly any limitation, specification or preference as to race, national origin, colour or religion unless the limitation, specification or preference is based upon a bona fide occupational qualification.

By Mrs. Fairclough:

Q. Mr. Chairman, that is exactly the same amendment I proposed with the exception of the last part of the clause. I put in the words "written or oral" in front of the word "inquiry", and I see no reason why "written or oral" should not be included. If the drafters of that amendment are willing to put in the words "written or oral" in front of the word "inquiry" I have upon consultation with my confreres decided possibly the last clause should be included and I would be quite willing to go along with that. But I see no reason why "written or oral" should not be included in that.

The WITNESS: As far as the department is concerned, I am quite prepared to accept the words.

Q. An application is naturally something that is in print. There is no reason not to put in "written or oral" and it covers any inquiry which might be made of an applicant.—A. It is quite satisfactory.

The CHAIRMAN: You have heard the amendment.

Mrs. FAIRCLOUGH: Including the words "written or oral"?

The CHAIRMAN: Yes. If you so move.

Mrs. FAIRCLOUGH: I so move.

The CHAIRMAN: Before the word "inquiry", the words "written or oral".

You have heard the amendment, gentlemen. What is your pleasure? Carried.

Before I ask if clause 4 shall carry, Mr. Brown would like to make a few remarks.

The WITNESS: I will not keep you very long. I just want to come back to the fears that were raised today by the Canadian and Catholic Confederation really arising out of their name, and their name goes back to an earlier era of operation. It does not really arise out of the operation of the Act, but there is a genuine fear that something may be raised arising out of their name and that it may be used against them. It is not too easy to deal with this point, quite frankly, but I have a suggested new subclause (6) to clause 4 that I would like to read for the consideration of the committee. It reads as follows: "Whenever any question arises under this section as to whether a trade union discriminates contrary to this section, no presumption shall be made or inference drawn from the name of the trade union." Now, the organization today was afraid of the presumption arising out of the word "Catholic" in the name, not really in the central organization, but in the subsidiary organizations which are called Catholic syndicates.

By Mr. Stewart:

Q. You feel that that would cover the fears expressed this morning?—A. It is the best thing I can devise and suggest at the moment.

Q. My own feeling is the fears were illusory although I can understand the reasoning. This would perhaps cover the situation.

Mr. GILLIS: It would give them time to get their constitutions amended. Some of their locals still carry a clause that makes it obligatory to be a Catholic in order to join the union.

Mr. JOHNSTON: This would not cover that.

The WITNESS: That is a question of the time when the Act would come into force. This is really something to meet the fear arising out of the fact that they have the term "Catholic syndicate" in the name of their local unions. That is all. And quite frankly I think we are all anxious to get the legislation operating or launched under the best possible auspices.

The CHAIRMAN: I will make it a motion moved by Mr. Cardin that a new subclause 6 be added to clause 4 and will read as follows—

Mr. CARDIN: I so move.

The CHAIRMAN: "Whenever any question arises under this section as to whether a trade union discriminates contrary to this section, no presumption shall be made or inference drawn from the name of the trade union."

Mr. CARDIN: It still does not cover their point.

The WITNESS: That will have to be dealt with subsequently with relation to the date you put the Act into force.

Mr. CROLL: If there is to be a subsequent amendment, this one is of no purpose. If you are suggesting that the Act come into force at some date in the future on proclamation, then it gives them ample time to put their house in order. What is the purpose of this amendment?

The CHAIRMAN: They would still retain the name 'Catholic syndicate"?

By Mr. Croll:

Q. How does it make any difference if they have cleared up the constitution? The only problem is that in some of the locals the charters provide that only Catholics may be members.—A. I understood they had two points in mind in their presentation. One was to give them time to amend their constitution and the other was the prejudice which they thought they would be up against in their relations with their employers arising out of the fact that their very name included "Catholic Syndicate".

Q. If we pass this section then there is no need for the time element. They can clear up that time element. They have the name which is troubling them and since the Act indicates that there is to be no inference drawn from their name, then they are clear.—A. I do not thing that is true if they still have a provision in their constitution which prohibits certain employees. I do not think we cover that point by this amendment. I had not put this amendment forward for the consideration of the committee to cure that point. I was simply dealing wih the submission that they made that they were afraid that the provisions of this Act in relation to the name of their syndicates would in itself prejudice them in their relations with the employers.

By Mrs. Fairclough:

Q. Their whole submission as I understood it was that in regard to clause 2. As we all know a great many employers appeal to the trade union which has jurisdiction over their shop to supply them with employees. Now, they say if we have a record of having only Catholic members, will an employer in this case say that he cannot ask us to supply him with employees because, if he does, he is running afoul of clause 4 (2), which says that you cannot use such an employment agency. They designate themselves in that case as an employment agency.—A. That is right.

Q. And it seems to me all that they have to do is to amend their constitutions, then they will be in the clear. But they are looking at the point that some employer may use that as a loophole to avoid dealing with them? —A. That is correct.

Q. I cannot see that this proposed clause 6 will correct that situation.

Mr. BYRNE: I think it corrects it completely.

The WITNESS: I think it only meets one phase of their submission.

Mr. CROLL: If we pass this, I think we give them what I thought they wanted. Would it be reasonable to ask to hold up the passing of this Bill until 2 or 3 locals dealt with the matter? That is all they have in the way of contracts?

Mr. GILLIS: No, that is not what they said. They said they had as many as 50 contracts, which would be mostly with contractors in the provincial field. Maybe Mr. Duplessis has jurisdiction over 49 of those contracts, but Mr. Duplessis does not like the unions anyway, and he is particularly tough on a section of this syndicate. He is in a position not to give a provincial contract to a contractor coming under this section. I got the impression today that their national body, just like the Canadian Congress of Labour, is a legislative centre.

The WITNESS: That is right.

Mr. GILLIS: But underneath that you have a large body of local unions which still have the old contracts which go back for 50 years.

Mr. JOHNSTON: He said it was only one or two.

Mr. GILLIS: I asked him after the meeting was over and he said he did not know. They do not know how many of their local unions still have old constitutions with the provision in it that you must be a "Catholic" in order to be a member.

Mr. CROLL: What about the constitutions of some of the railway unions which refuse membership to people who are coloured. They are not in here.

Mr. GILLIS: That is mostly in the United States.

Mr. CROLL: Yes, and in Canada too.

Mr. GILLIS: You belong to a railway union, Mr. Chairman. Do you know of any railway union in this country which refuses membership to a Negro?

The CHAIRMAN: There may be some.

Mr. BYRNE: I am sure we cannot write any clause into this Bill which will provide for any local union having a discriminatory clause in their constitution. All I can see is to withhold the proclamation of this Bill until such time as they can amend their constitutions. Does not clause 6 in fact remove that stigma? You cannot take action against anyone because of his name. The whole purpose of this Act is to do away with discrimination. Therefore, local unions will have to change their constitutions in order to conform with the Bill except that clause 6 does away with the fact that you have an implication arising from their name as being a Catholic syndicate.

Mr. GILLIS: I see it this way: We have begun this Act. As far as I am concerned, I do not believe in stipulating these things because when you start to stipulate things, you provide loopholes. When you begin writing definitions into an Act, you pave the way for points of discrimination. We have taken this Bill and broadened it to cover the words "religion", "nationality", "ancestry", and all the rest of it. We have permitted everybody outside of Canada who wishes to come into Canada. But here is a legitimate part of the trade union movement which goes back for 50 years in this country. If the labour movement had been a little more active 50 years ago, perhaps there would not have been any Catholic confederations. They would all have been a part of the legitimate movement. But back in those years the people accepted the only leadership that they could get, and they have those old constitutions. They are making an effort to clean them up through their national conventions, but it all takes time to change the constitutions. And if we leave it as it is, these people are going to be in a position where their local unions can be wiped out, because of employers refusing to do business with them. That would create a kind of turmoil. They are recognized today as part of the legitimate trade union movement, and they meet with government and make representations, and all that sort of thing.

I think we should be a little bit careful. We have been going about this kind of fast. They take their leadership from among the rank and file. These boys are not as brilliant as a Clarence Darrow. If the Deputy Minister says that maybe a little delay in the proclamation of this Bill might enable them to check up on these fellows to change their constitutions that is all right with me. It is pretty difficult to write anything in here that is going to cure it all, but I think the Department of Labour ought to be very careful in shoving this thing through, until they get some kind of clarification of their constitutions in Quebec.

The CHAIRMAN: You have heard the motion of Mr. Cardin.

Mrs. FAIRCLOUGH: Do you think that we should number that clause 6? I wish the committee would consider whether it should be a part, it may be, of letter (*a*), say, of clause 3.

The WITNESS: I might say that I took up this provision with the Department of Justice and they suggested that it be put in at this place.

Mrs. FAIRCLOUGH: As a separate clause?

The WITNESS: No; as subclause 6 of clause 4.

Mr. CROLL: Yes.

Mrs. FAIRCLOUGH: I was not talking about clause 4, I was talking about subclause 4 of clause 3.

The WITNESS: I think if you are going to put it in you should put it in as a separate subclause. I think that subclause 6 would be a good place to put it in, as subclause 6 of clause 4.

The CHAIRMAN: All those in favour of the motion will please signify?

Mr. POULIOT: What clause is that?

The CHAIRMAN: All those in favour will please signify? This is a new subclause, to be known as subclause 6 to clause 4. It reads as follows:

New subsection (6) of clause 4:

> (6) Whenever any question arises under this section as to whether a trade union discriminates contrary to this section, no presumption shall be made or inference drawn from the name of the trade union.

Again, all those in favour will please signify? Thank you.

And those opposed?

I declare the motion carried.

Does clause 4 as amended carry?

Carried.

Shall clause 5 carry?

Enforcement Procedure

5. (1) Any person claiming to be aggrieved because of an alleged violation of any of the provisions of this Act may make a complaint in writing to the Director and the Director may instruct an officer of the Department of Labour or any other person to inquire into the complaint.

(2) The officer shall forthwith inquire into the complaint and endeavour to effect a settlement of the matters complained of.

(3) If the officer is unable to effect a settlement of the matters complained of, the Minister may upon the recommendation of the Director refer the matters involved in the complaint to a Commission, consisting of one or more persons, to be appointed by the Minister and to be known as an Industrial Inquiry Commission, for investigation with a view to the settlement of the complaint.

(4) Immediately following its appointment, an Industrial Inquiry Commission shall inquire into the matters referred to it and shall give full opportunity to all parties to present evidence and make representations and, in the case of any matter involved in a complaint in which settlement is not effected in the meantime, if it finds that the complaint is supported by the evidence, shall recommend to the Minister the course that ought to be taken with respect to the complaint, which may include reinstatement, with or without compensation for loss of employment.

(5) If the Industrial Inquiry Commission is composed of more than one person, the recommendations of the majority constitute the recommendations of the Commission.

(6) After an Industrial Inquiry Commission has made its recommendations, the Minister may direct it to clarify or amplify its recommendations, and they shall be deemed not to have been received by the Minister until they have been so clarified or amplified.

(7) Upon receipt of the recommendations of an Industrial Inquiry Commission appointed under this section, the Minister shall furnish a copy thereof to each of the persons affected and shall publish the same if he deems it advisable in such manner as he sees fit.

(8) The Minister may issue whatever order he deems necessary to carry the recommendations of the Commission into effect and any order made by the Minister under this subsection is final and conclusive and is not open to question or review.

(9) Every person in respect of whom an order is made under this section shall comply with such order.

(10) An Industrial Inquiry Commission may determine its own procedure and may receive and accept such evidence and information on oath, affidavit or otherwise as in its discretion it sees fit, whether admissible in a court of law or not, and has all the powers of an Industrial Inquiry Commission appointed under the *Industrial Relations and Disputes Investigation Act.*

(11) The person designated by the Minister to be the Chairman of an Industrial Inquiry Commission, and the other members thereof, shall be paid remuneration and expenses at the same rate as is payable to a Chairman and members of an Industrial Inquiry Commission appointed under the *Industrial Relations and Disputes Investigation Act.*

(12) Nothing in this section operates to restrict the right of any aggrieved person to initiate proceedings under any other provisions of this Act before a court, judge or magistrate against any person for an alleged contravention of this Act.

Mr. STEWART: When this matter was before the House I raised certain objections against the permissive nature of the legislation. I thought it should be mandatory and I would like to hear what Mr. Brown has to say about my suggestion, that the word "may" be struck out of lines 32 and 38, and that the director "shall" instruct an officer of the Department of Labour or any other person to inquire into the complaint?

I am not questioning the good faith of those in the Department of Labour, but I do feel that a matter such as this should be mandatory.

The WITNESS: Mr. Chairman, that is permissive language that we have used in the *Industrial Relations and Disputes Investigation Act* in dealing with inquiries relating to trade union discrimination. I hope that you can rely on the Department of Labour to deal adequately with any complaint that comes before us.

Mr. CROLL: Is not the answer that the interpretation has always been that "may" means "shall"?

The CHAIRMAN: Yes, that is a very common phrase.

Mr. CROLL: That has been the interpretation for a very long time.

Mr. STEWART: It means "shall".

The CHAIRMAN: Does that meet your point, Mr. Stewart?

Mr. STEWART: Do you mean "shall". Canadians do no understand English very well.

The CHAIRMAN: Shall clause 5 carry?

Mr. JOHNSTON: I do not think Mr. Croll is quite right that "may" means "shall" and I do not think there is any legal interpretation in regard to that.

Mr. CROLL: Yes, there are thousands of them.

Mr. JOHNSTON: The question has come up in the House many times.

Mr. CROLL: I am talking about the courts.

Mr. CHURCHILL: That came up in the Criminal Code Committee the other day. We referred to interpretation and in the Interpretation Act it states that "may" is permissive and "shall" is mandatory.

Mr. JOHNSTON: That is the Interpretation Act.

Mr. CHURCHILL: Yes.

Mr. JOHNSTON: It does not mean "shall" and there is no argument says it does.

Mr. GILLIS: I had some experience with it 30 years ago, and when we had a dispute with the Dominion Steel and Coal on a check-off in regard to the words "may" and "shall" and they refused deductions, and we went to court and the decision we got was that "may" meant "shall", and they had had to make that check-off, and they are still making it.

Mr. JOHNSTON: The argument has been heard many times.

Mr. BROWN: The word "may" gives authority to the director to act in regard to this particular section.

Mr. JOHNSTON: You will notice that in this section 2 "the officer shall forthwith". There is no option there, but certainly in clause 5, subsection 1, there is an option whether the director may or may not.

Mr. POULIOT: Your contention is that "may" is optional.

Mr. JOHNSTON: And "shall" mandatory.

Mr. STEWART: If the department has no objection to the use of the word "shall", could it be inserted that "may" does mean "shall"?

Mr. JOHNSTON: But then you are relying on the department. If you mean "shall", it should be "shall". It is not a question of relying on the department at all.

The WITNESS: This is to provide against frivolous charges. I have investigated a lot of union grievances, and when you get down to the basic facts of the initial grievances, they have not grievances at all which would stand up in law. He had no case but he had to put it with his grievance committee or the shop steward. If someone writes to the Minister, and the Minister decides he has a case, the Minister would be required, if it was "shall", and would have no alternative but to lay charges.

Mr. STEWART: To inquire into the complaint.

The WITNESS: To inquire into the complaint at that level. It is quite a big step, whereas someone on a lower level making initial inquiries might find that there was no justification whatever.

Mr. STEWART: But surely in this legislation if I feel aggrieved because I think I have been discriminated against, I make my case, and, as I read the Bill, I may be entirely wrong, "may" does mean "shall". The department may or may not see fit to go further into my complaint. I have no doubt but there will be some frivolous ones, but there will be a great number of very genuine ones, and I want to make such that investigation will be made.

The WITNESS: I can give you the assurance that it will be.

Mr. JOHNSTON: I do not think that is the language we should be concerned with. In framing this legislation, I do not think we should depend on the discretion of the department, and that, in effect, is what you are saying. If you take clause 5, as I understand it, where the word "may" is used, it is left to the discretion of the department as to whether or not they must proceed with every complaint, but if there is a complaint which seems to be serious to them, then subclause 2 says very clearly "the officer shall forthwith" go ahead and make the investigation. Certainly in subclause 1 there is room there for them to accept the complaint or not, but in subclause 2 there is no such allowance made. "They shall forthwith" make the investigation. The whole question arises: Shall we direct them to inquire into every complaint, or shall we not? If you intend to leave the legislation loose enough so that the

director has the right to, or not to, investigate it is all right, but to merely say the department will use their better judgment in investigating every case, I do not think that is good enough.

The WITNESS: There are, as you know, frivolous charges made.

Mr. JOHNSTON: Now you are saying, Mr. Brown, the department should have sufficient latitude there to take up serious ones and discard less serious ones. I have no objection to your statement, because I think that is exactly what it means.

The WITNESS: The language we have used here in dealing with complaints under this Act is exactly the language we have used in dealing with complaints under the Industrial Relations Disputes and Investigations Act on allegations of unfair labour practices. That is the language that parliament approved.

Mr. JOHNSTON: But you are not trying to tell us now that the word "may" means "shall".

The WITNESS: I am pointing out to you from a departmental point of view—

Mr. JOHNSTON: You are putting it in the way I think it is intended to be.

The WITNESS: I think perhaps the crux of this is the word "discriminated". Any person may claim he is aggrieved under the Act, but the Minister, after hearing the evidence that has been presented to him, may decided that that person is not aggrieved. The person who thinks he is aggrieved has not read the Act very carefully, and the Minister may feel that this fellow has had everything done for him, and he really has no grievance.

The CHAIRMAN: Shall clause 5 (Enforcement Procedure) carry?

Carried.

Shall clause 6 (offences and penalties) carry?

Carried.

Shall clause 7 (Payment to Employee and Reinstatement) carry?

Carried.

Shall clause 8 (Prosecution of Employer's Organization or Trade Union) carry?

Carried.

Mr. CHURCHILL: Was there not some representation made with regard to sub-clause (12), clause 5? Before that is passed, should not something be said on that where it states "nothing in this section operates to restrict..." and so on? As I recall it, some organization thought that that destroyed the value of things that had gone earlier. I have not the record here at the moment.

Mrs. FAIRCLOUGH: There was some question as to whether clause 7 should be amended.

Mr. CROLL: The suggestion on clause 7 was whether an employer was convicted under clause 5 for violation, but it did not strike me that any amendment was needed. It was made by only one organization.

The WITNESS: I think there was a misunderstanding among those dealing with the sub-clause. They were afraid a person could come into court and lay a charge before investigation had been undertaken. That is taken care of by the fact that under clause 9, subclause (1), it is provided that "No prosecution for an offence under this Act shall be instituted without the consent in writing of the Minister." One of the purposes of that is to ensure that there will be an inquiry before any recourse is permitted to the court.

The CHAIRMAN: Shall clause 5 carry?

Carried.

Shall clause 6 carry?

Carried.

Shall clause 7 carry?

Carried.

Shall clause 8 carry?

Carried.

Shall clause 9 carry?

Carried.

Shall clause 10 carry?

Mrs. FAIRCLOUGH: Just a minute, Mr. Chairman, with regard to clause 10 —"The Minister where he deems it expedient may undertake or cause to be undertaken such inquiries and other measures as appear advisable to him to promote the purposes of the Act." Now, as members of this committee know, I have felt from the beginning that there should be some provision made for an educational program in connection with this Bill, and I think that wording "such inquiries and other measures" is too broad to indicate specifically an educational program. I have not had the opportunity to frame any amendment to this particular item and I do not propose to hold up this committee, but I just want at this place to register once more my opinion that there should be under this Bill some provision for an educational program to promote the workings of this Act. I realize it is first of all necessary to get your Bill passed and I do not want to embroider it so fully that there is no hope of it passing the House, but I do wish to once more reiterate my opinion that the Bill is likely to fall by the wayside unless some provision is made either now or ultimately for an educational program. I will even go further and recommend the setting up of a form of commission, not only to undertake educational programs, but also for the administration of this Act.

Mr. GILLIS: I would like to ask the Deputy Minister if he considered the brief presented by the Canadian Congress of Labour on this point. They made quite an elaborate presentation on the question of education and a lot of organization for that purpose, and they go into some detail on it. I have the brief here, but I do not want to read it. They suggest that this clause 10 follows pretty close the legislation in the United States. Did you look at their brief and consider the comment that they made on this clause 10?

The WITNESS: Yes, and quite frankly we have not made any provision in the Act for the appointment of a commission, but there is provisions for appointment of a director and we will provide whatever staff is necessary for the administration of the Act. Now, you have got a general provision in clause 10, and I do not think you need anything further. I am glad to have all these representations because it will be helpful when we come to the government and to parliament for money to use in the administration of the Act, and for anything that we think is necessary in the way of supplementary or complementary educational work, to make the Act operate. We do not need anything additional in the Bill itself.

Mrs. FAIRCLOUGH: Mr. Chairman, that is exactly the point, and that is the reason I am raising it. It is the reason I raised it in the House, because there is no item in the estimates relating to this Bill now. Maybe the Minister intends to put something in the supplementary estimates—I do not know—but in the present set-up there is nothing in the way of provision made for an educational program. It leaves us high and dry with nothing to be done about it, and that is the whole point I am raising.

The CHAIRMAN: Does it not seem reasonable, Mrs. Fairclough, that this being a new Act, the Department of Labour will have no appreciation of the work that will be required?

Mrs. FAIRCLOUGH: They won't have any more estimates for at least a year. They could at least put a dollar item in the estimates.

Mr. JOHNSTON: Is it the intention of the department to go ahead under this clause and do any educational work?

The WITNESS: Mr. Johnston, when the Act is passed and is before us, certainly we will do whatever complementary work by way of education and information that is necessary, and do whatever we find or think is appropriate to provide for the working of the Act in the area we are operating under, that is, in the field of federal jurisdiction. We do not need, as far as staff is concerned, very much. We set up our establishment through the Civil Service Commission and the Treasury Board, and, if new staff is needed, there is financial provision outside of the specific provision in our commitments for additional staff that may be required for that purpose.

Mr. GILLIS: You have also a million workers in the trade unions on the outside who are going to police this Act.

The WITNESS: Yes, and I hope that when this Bill does become law, these people who have been making representations will not quit working in this field.

Mr. CROLL: I have been speaking to Louis Fine over the week-end. He is administrator of the Act in the Ontario region and I discussed the question of education with him. He bears out the point raised by Mr. Gillis, that the education, to a large degree, comes from the unions, and surprisingly he finds that both business and labour have accepted the Act in Ontario. Not only are they helpful, but there is real progress arising from that Act. I do not think we need to go further than that for the moment in view of what Mr. Brown has said.

The CHAIRMAN: Shall clause 10 carry?

Carried.

Mr. CHURCHILL: I was just wondering about this wording. We can get too many words in an Act. Why do we have in this clause 10, "where he deems it expedient", whereas lower down we have the words, "as appear advisable to him"? Surely the words "where he deems it expedient" are unnecessary. Furthermore, the word "expedient" has sometimes a connotation which is not very stable. Is that not unnecessary?

The WITNESS: Well, all I can say is that clause has been drafted by the law officers.

Mr. CHURCHILL: We continually change their drafting.

Mr. CROLL: In the Criminal Code Committee, but not in this committee. I think we ought not to bother with it.

Mr. CHURCHILL: I think we should. I think the statutes of Canada should be exact.

Mr. CROLL: It would be nice if they were exact, but they are not usually exact.

The WITNESS: This provides the authority to go ahead and deal with the matter. Frankly, you are not dealing with an exact provision here anyway.

Mrs. FAIRCLOUGH: But it does appear a bit redundant, doesn't it?

Mr. CROLL: I do not know whether it does: "The Minister where he deems it expedient..."

Mr. KNOWLES: It is just one of those cases where you sometimes read "may" as "shall" and where we use a lot of words to be sure that "may" will not read "shall".

The CHAIRMAN: "Where he deems it expedient", would that not refer to the Minister, and "as appear advisable" relate to the measures?

Mr. KNOWLES: No. As appear advisable to him—him is the Minister.

The WITNESS: "The Minister where he deems it expedient may undertake or cause to be undertaken such inquiries"—you see—"and" such "other measures as appear advisable to him to promote the purposes of the Act." It has a definite meaning there.

The CHAIRMAN: Shall clause 10 carry?

Carried.

Shall clause 11 carry?

Carried.

Shall clause 12 carry?

Carried.

Now, before I put the Title of the Bill, when would you like this legislation to come into force, gentlemen? Should we include a new clause 13 that this Act shall come into force on a day to be fixed by proclammation or—

Mr. CROLL: No. When it is passed by parliament.

The WITNESS: I think you have got to provide some time at least for getting the Act operating.

Mr. CROLL: It is up to you. We pass it and you put it into operation as soon as you can. We do not fix the date for you. The Act is passed; from then on you go to it. It takes you a little longer to put your administrative machinery in order, but that is up to you.

Mr. BYRNE: If it becomes law in passing in the Senate chamber and these people feel that they may be in a bad position because of their constitutions and at that moment their unions are illegal—

Mr. CROLL: In a sense I am suggesting—

Mr. BYRNE: The government will force the department to take action; it will be someone else who will take action.

Mr. STEWART: What about sixty days after Royal Assent? Would not that give those unions a chance to amend their constitutions?

Mr. GILLIS: A lot of employers are going to have to amend their application forms also.

Mr. CROLL: They will reprint them.

Mr. KNOWLES: It seems to me that this is the type of decision that should be made by parliament. I do not like the idea of fixing it by proclamation. I think that something of the order Mr. Stewart has suggested would be better.

The CHAIRMAN: All right. Mr. Stewart has suggested sixty days. Will Mr. Stewart move that the following clause be added immediately following clause 12, to be known as clause 13, which will read as follows:

"This Act will come into force on the first day of August."

Mr. CROLL: No, no.

Mr. KNOWLES: You do not count right.

Mrs. FAIRCLOUGH: I would suggest Dominion Day.

Mr. CROLL: July 1 at the latest.

Mr. KNOWLES: Sixty days from now.

The WITNESS: It will have to pass the Senate.

Mr. CROLL: It will not take much time. They know the legislation will be passed the minute it passes the House and they do not have to wait until such time as the Senate passes it to commence to put their house in order. Surely July 1 is late enough to put this into effect. I am suggesting July 1.

Mr. STEWART: I move sixty days after Royal Assent.

The WITNESS: I would rather have a fixed date.

Mr. CROLL: July 1 is a good date.

Mrs. FAIRCLOUGH: Dominion Day.

The CHAIRMAN: "This Act shall come into force on the first day of July 1953"; it has been moved by Mr. Stewart.

Mrs. FAIRCLOUGH: Mr. Chairman, I agree entirely with the suggestion, but this is an important Bill, it means a great deal to the Canadian people, and there is more involved in it than the actual legal aspects of the Bill. Could we not include in the wording of this clause 13 the words "Dominion Day", because it means something to Canadians, and it is the 1st of July, and it is our national holiday. Could we not include those words?

Mr. CROLL: Parliament must name a day; that would be the 1st of July. The fact that it is Dominion Day is what we had in mind.

The CHAIRMAN: Shall the motion carry?

Carried.

Shall clause 13 carry?

Carried.

Shall the Title carry?

Carried.

Shall the Bill as amended carry?

Carried.

Shall I report the Bill as amended?

Carried.

Gentlemen, I wish to thank you very much for your good attention to this business.

Mr. STEWART: Before we leave I would like to congratulate Mr. Brown, and the other officers of the department for a very progressive piece of legislation. I think it is an excellent piece of legislation; and whilst I am making congratulations perhaps I should extend them to the Chairman.

Mr. KNOWLES: And to the secretary and the reporters who have worked very hard.

APPENDIX "A"

CUTHBERT SCOTT, Q.C.
Barrister and Solicitor
Blackburn Building—85 Sparks Street
Ottawa, Canada

APRIL 25th, 1953.

Stanley KNOWLES, Esq., M.P.,
House of Commons,
Ottawa.

Dear Mr. KNOWLES:

Re: Bill 2—Industrial Relations and Disputes Investigation Act.

At the sittings of the Industrial Relations Committee on Wednesday last I promised to let you have particulars showing the Brotherhoods and similar Labour Organizations who now have the check-off as a result of negotiations with Canadian National Railways and Canadian Pacific Railway Company, including their subsidiaries.

Enclosed herewith you will find statements as follows:

(*a*) for Canadian National Railways—railway lines, marine services and hotels, and

(*b*) for the Canadian Pacific Railway—communications, express, inland and coastal steamships.

Attached to this latter statement is a similar statement in respect to Canadian Pacific Airlines.

Since the enclosed material was supplied to me, I have been informed that in water transport service there are some additional cases where the check-off is operating although it is not contained in the union agreement, having been arranged informally by the parties concerned.

These cases are the following:

Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees

For Stewards, Waiters, Freight Clerks, Pursers, etc., on the British Columbia Coast Steamship Service.

For unlicensed personnel in the B.C. Lake and River Service.

You will note this does not add to the number of unions previously listed but it means that one of those now negotiating for the check-off for the great bulk of their membership also has it in effect for a comparatively small number of members in water transport service.

I understand the check-off in these instances has been in effect for a few years, and was introduced on account of the check-off being applicable to the personnel of competitive services.

I propose to file this material with the Committee on Monday, but thought that you would like to have a look at it over the weekend.

As this is the only copy in my possession, I will be obliged if you will return it to me on Monday morning when the Committee meets.

Yours very truly,
CUTHBERT SCOTT

Encl.
CS/G

CANADIAN NATIONAL RAILWAYS—CANADIAN LINES

(Rail Lines, Marine Services and Hotels)

STATEMENT SHOWING ARRANGEMENTS REGARDING CHECK-OFF WITH VARIOUS LABOUR ORGANIZATIONS

Organization	Check-off negotiated and presently in effect	Check-off negotiated in settlement with non-operating organizations Dec. 19, 1952. Details now being arranged	Other check-off agreements being negotiated separately	No check-off in effect or being negotiated	Total
RAIL LINES	Number of agreements	Number of agreements	Number of agreements	Number of agreements	
Brotherhood of Maintenance of Way Employees	.....	3	1	.....	4
C.N.R. System Federation No. 11	.....	6	1	.....	7
Division No. 4, Railway Employees' Department, A.F. of L. (Seven undermentioned Organizations)	.....	2	.....	.....	2
International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Drop Forgers and Helpers of America.					
International Association of Machinists.					
International Brotherhood of Electrical Workers.					
International Molders' Union of North America.					
United Association of Journeymen Plumbers and Steamfitters.					
International Association of Sheet Metal Workers.					
Brotherhood of Railway Carmen of America.					
Order of Railroad Telegraphers	.....	4	.....	1	5
Brotherhood of Railroad Signalmen of America	.....	1	.....	.....	1
Brotherhood of Railway & Steamship Clerks, Freight Handlers, Express & Station Employees	.....	5	.....	.....	5
Canadian Brotherhood of Railway Employees and Other Transport Workers	.....	19	.....	.....	19
Amalgamated Association of Street, Electric Railway and Motor Coach Employees of America	.....	.....	2	.....	2
Brotherhood of Locomotive Engineers	.....	.....	.....	4	4
Brotherhood of Locomotive Firemen & Enginemen	.....	.....	.....	4	4
Order of Railway Conductors	.....	.....	.....	2	2
Brotherhood of Railway Trainmen	.....	.....	.....	11	11
Oshawa Railway & Thousand Island Railway Clerical Association	.....	.....	.....	1	1
International Longshoremen's Association	.....	.....	.....	1	1
Commercial Telegraphers' Union	.....	1	.....	.....	1
	.....	41	4	24	69
MARINE SERVICES					
Seafarers' International Union of North America — Canadian District (B.C. Coast Service)	1	.....	.....	3	4
Canadian Brotherhood of Railway Employees and Other Transport Workers	4	1	.....	2	7
National Organization Masters, Mates and Pilots of America	.....	.....	1	.....	1
National Association of Marine Engineers of Canada	.....	.....	.....	4	4
Canadian Merchant Service Guild	.....	.....	.....	4	4
Commercial Telegraphers' Union	.....	.....	.....	1	1
	5	1	1	14	21

CANADIAN NATIONAL RAILWAYS—CANADIAN LINES—Conc.

(Rail Lines, Marine Services and Hotels)

STATEMENT SHOWING ARRANGEMENTS REGARDING CHECK-OFF WITH VARIOUS LABOUR ORGANIZATIONS

Organization	Check-off negotiated and presently in effect	Check-off negotiated in settlement with non-operating organizations Dec. 19, 1952. Details now being arranged	Other check-off agreements being negotiated separately	No check-off in effect or being negotiated	Total
	Number of agreements	Number of agreements	Number of agreements	Number of agreements	
HOTELS					
Canadian Brotherhood of Railway Employees and Other Transport Workers.	2	.....	.....	5	7
Hotel & Restaurant Employees & Bartenders International Union.....	.....	.....	.....	3	3
International Union of Operating Engineers.....	.....	.....	.....	1	1
	2	.....	.....	9	11

SUMMARY

	Rail Lines	Marine Services	Hotels	Total
Check-Off negotiated and presently in effect.....	.....	5	2	7
Check-Off negotiated in settlement with non-operating organizations Dec. 19, 1952—details being arranged.....	41	1	.....	42
Other Check-Off Agreements being negotiated separately.....	4	1	.....	5
No Check-Off in effect or being negotiated.....	24	14	9	47
	69	21	11	101

Personnel Department, C.N.R.,
Montreal, Que.,
January 29, 1953.

CANADIAN PACIFIC RAILWAY, COMMUNICATIONS EXPRESS, INLAND AND COASTAL STEAMSHIPS

I. Check-off already in effect:
Seafarers' International Union of North America. (B.C. Coast Service) (Bay of Fundy Service)

II. Unions with which terms of Check-off are being negotiated, twelve of which Unions were before the recent Conciliation Board of which Mr. Justice Kellock was Chairman.
Brotherhood of Maintenance of Way Employees.
Brotherhood of Sleeping Car Porters.
Division No. 4 Railway Employees' Department A.F. of L.
International Brotherhood of Electrical Workers.
International Brotherhood of Firemen, Oilers, Helpers, Roundhouse and Railway Shop Labourers.
Order of Railroad Telegraphers.
Brotherhood of Railway Signalmen of America.
Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees.
Brotherhood of Railway Carmen of America.
Commercial Telegraphers Union.
Brotherhood of Express Employees.
International Longshoremen's Association Local 1121.
Building Service Employees International Union Local 298.
Canadian Brotherhood of Railway Employees and Other Transport Workers (B.C. Lake and River Service).

III. Unions with no check-off in effect or in negotiation:
Bartenders, Hotel Service and Restaurant Employees' Union, Local 796, Moose Jaw Station Restaurant.
Hotel and Restaurant Employees and Bartenders International Union Local 526, Windsor Station Restaurant.
Brotherhood of Railroad Trainmen.
Order of Railway Conductors.
Brotherhood of Locomotive Engineers.
Brotherhood of Locomotive Firemen and Enginemen.
National Association of Marine Engineers of Canada.
Canadian Merchant Service Guild.

Number of Unions	23
Check-off in effect	1
Check-off being negotiated	14

CANADIAN PACIFIC AIR LINES

I. Check-off in effect:
International Association of Machinists. (Part of Division No. 4 on the Railway of Railway Employees Department A.F. of L.)
Order of Railroad Telegraphers.
Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees.
Hotel and Restaurant Employees and Bartenders International Union (Cafeteria Employees).

II. No check-off in effect or being negotiated:
Canadian Air Line Pilots Association.
Canadian Air Lines Flight Attendants Association.
Canadian Air Lines Navigators Association.

Number of Unions	7
Check-off in effect	4

Note: Four of the Unions representing Air Lines Employees are Railway Unions and will also be found in the Railway list.

APPENDIX B

CANADIAN NATIONAL TELEGRAPHS

1953 APRIL 15 AM 11 49

MOA 147 27-FD Montreal Que 15 1100A
The Honourable Milton F. Gregg
Minister of Labour Ottawa

Social Credit members of French Canada protest vigorously against the bill relating to recall intolerance stop Under the pretext of liberty for all races it will place obstacles against the liberty of employers

Translation

JEAN GRENIER,
Secretary.

APPENDIX "C"

NATIONAL UNITY ASSOCIATION
Chatham, Dresden, North Buxton
P.O. Box 197, Dresden, Ontario

Organized in the Interest of Better Race and Group Relations

Mr. A. Small, Clerk,
Standing Committee on Industrial Relations,
House of Commons, Canada.

Dear Sir: In answer to yours of April 22, 1953. We acknowledge same and wish to submit our suggestions. Also we wish the name of National Unity Association to appear on the list as supporting the bill and representations.

First we suggest that provisions be made prohibiting employers from requesting recent photos of applicants mainly in newspaper advertisements without showing adequate reason for photo.

Also we suggest that any aggrieved person be allowed to elect any organization to act on his behalf.

It is a known fact that certain local employers accept applications from well qualified coloured Canadians yet to date have never hired any. We suggest that all applications be made in duplicate, one copy for employer to be filed for at least two years, one for prospective employee to be used in case of denial of applications.

H. R. BURNETTE,
Secretary.

NOTE: This letter, with the following submission, received on Tuesday, April 28, 1953.

A. SMALL,
Clerk of the Committee.

SUBMISSION OF NATIONAL UNITY ASSOCIATION

Whereas it is contrary to the United Nations Declaration of Human Rights that any man, woman or child be humiliated, or in any other way injured by reason of race, creed or colour.

In the interest of Democracy, our Federal Government should do not less than incorporate the U.N. Declaration of Human Rights in a Federal Bill of Rights, prohibiting racial, or religious discrimination, affecting all minority groups.

When only a limited type of employment is available to certain groups, it lowers their living standards and educational boundaries. Consequently, their contributions as good citizens are limited. In view of present world conditions, and our efforts to sell democracy to the rest of the world, it is of the utmost importance that democracy be practised at home.

The U.N. Declaration of Human Rights is also written to protect human dignity. In Canada, without proper legislation, certain groups suffer daily by being refused ordinary service in hotels, restaurants and public places.

It is known that love cannot be legislated into a man's heart, but legislation will limit inhuman treatment to other people, regardless of race, creed or colour.

The Canada Fair Employment Practice Act of January 13, 1953, is an admission that discrimination is practised, and is harmful—and that it can be corrected by laws. This particular law will diminish discrimination in employment, but it does not go far enough. This Act should make provision to cover public service.

In view of the above mentioned facts we are asking the Federal Government to pass the effective legislation.

NATIONAL UNITY ASSOCIATION