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Third Session—Twenty-sixth Parliament
1965

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE
ON
BANKING AND COMMERCE

The Honourable **SALTER A. HAYDEN**, *Chairman*

No. 1

Complete Proceedings on Bill C-97,
intituled: "An Act to amend certain Acts respecting the superannuation
of persons employed in the Public Service, members of the Canadian
Forces and members of the Royal Canadian Mounted Police."

THURSDAY, MAY 13, 1965

WITNESS:

Department of Finance: Mr. H. D. Clark, Director, Pensions
and Social Insurance.

REPORT OF THE COMMITTEE

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

THE STANDING COMMITTEE
ON
BANKING AND COMMERCE

The Honourable Salter A. Hayden. *Chairman*

The Honourable Senators:

Aseltine	Gershaw	Paterson
Baird	Gouin	Pearson
Beaubien (<i>Bedford</i>)	Haig	Pouliot
Beaubien (<i>Provencher</i>)	Hayden	Power
Blois	Hugessen	Reid
Bouffard	Irvine	Roebuck
Burchill	Isnor	Smith (<i>Kamloops</i>)
Choquette	Kinley	Smith (<i>Queens-</i> <i>Shelburne</i>)
Cook	Lambert	Taylor
Crerar	Lang	Thorvaldson
Croll	Leonard	Vaillancourt
Davies	Macdonald (<i>Brantford</i>)	Vien
Dessureault	McCutcheon	Walker
Farris	McKeen	White
Fergusson	McLean	Willis
Flynn	Molson	Woodrow—(50).
Gelinas	O'Leary (<i>Carleton</i>)	

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

(Quorum 9)

ORDER OF REFERENCE

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

"Pursuant to the Order of the Day, the Honourable Senator Cook moved, seconded by the Honourable Senator Lang, that the Bill C-97, intituled: "An Act to amend certain Acts respecting the superannuation of persons employed in the Public Service, members of the Canadian Forces and members of the Royal Canadian Mounted Police", be read the second time.

After debate, and—

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

The Bill was then read the second time.

The Honourable Senator Cook moved, seconded by the Honourable Senator Lang, that the Bill be referred to the Standing Committee on Banking and Commerce.

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

J. F. MacNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

THURSDAY, May 13th, 1965.

Pursuant to adjournment and notice the Standing Committee on Banking and Commerce met this day at 9.30 a.m.

Present: The Honourable Senators Hayden (*Chairman*), Aseltine, Baird, Bouffard, Brooks, Connolly (*Ottawa West*), Cook, Croll, Davies, Gershaw, Haig, Hugessen, Isnor, Kinley, Leonard, Molson, Reid, Smith (*Queens-Shelburne*), Taylor, Vaillancourt, Willis and Woodrow. (22)

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

On Motion of the Honourable Senator Brooks it was Resolved to report recommending that authority be granted for the printing of 800 copies in English and 300 copies in French of the proceedings of the Committee on Bill C-97.

Bill C-97, An Act to amend certain Acts respecting the superannuation of persons employed in the Public Service, members of the Canadian Forces and members of the Royal Canadian Mounted Police, was read and considered, clause by clause.

The following witness was heard:

Department of Finance: Mr. H. D. Clark, Director, Pensions and Social Insurance.

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

At 10.00 a.m. the Committee adjourned to the call of the Chairman.

Attest:

Frank A. Jackson,
Clerk of the Committee.

REPORT OF THE COMMITTEE

THURSDAY, May 13th, 1965.

The Standing Committee on Banking and Commerce to which was referred the Bill C-97, intituled: "An Act to amend certain Acts respecting the superannuation of persons employed in the Public Service, members of the Canadian Forces and members of the Royal Canadian Mounted Police", has in obedience to the order of reference of May 6th, 1965, examined the said Bill and now reports the same without any amendment.

All which is respectfully submitted.

SALTER A. HAYDEN,
Chairman.

THE SENATE

THE STANDING COMMITTEE ON BANKING AND COMMERCE

EVIDENCE

OTTAWA, Thursday, May 13, 1965.

The Standing Committee on Banking and Commerce, to which was referred Bill C-97, to amend certain acts respecting the superannuation of persons employed in the Public Service, members of the Canadian Forces and members of the Royal Canadian Mounted Police, met this day at 9.30 a.m. to give consideration to the bill.

Senator **SALTER A. HAYDEN** in the Chair.

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

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

The **CHAIRMAN**: We have with us Mr. H. D. Clark, Director of Pensions and Social Insurance Section of the Department of Finance. Mr. Clark, could you give us, in your own words, an explanation of the effect of these different provisions?

Mr. H. D. Clark, Director, Pensions and Social Insurance Section, Department of Finance: Mr. Chairman, the first three clauses of this bill are required to take care of the fact that the existing provisions which they will replace have largely become inoperative in the last few years because of the different method of approaching the salary increase question, not only in the Civil Service, but to some extent in the armed forces and the R.C.M.P.

When the present provisions in these three acts were approved by Parliament we were operating on a basis whereby every few years there was what we might call a general salary or pay increase in so far as the three services were concerned, but now, particularly in the Civil Service and to some extent in the others, we have what we call a cyclical pay increase approach, whereby the Civil Service is divided into maybe four main groups. Each one of those groups is reviewed every two years, as a rule, to see whether a pay increase for that group is warranted; and with these increases, when granted, coming, say, every six months, the present provision, which you can see in the explanatory notes referring to an increase of general application, just is not operative. This means that the special contributions which the existing section contemplated had no authority for payment.

The **CHAIRMAN**: That is, both by the person who is the employee and by the Government?

Mr. CLARK: Well, I should perhaps explain that when a civil servant is contributing to the superannuation account he pays 6½ per cent of his salary, in the case of a man. When his salary is increased, of course, he pays 6½ per cent of the other salary, the higher salary. However, this is not sufficient to cover the additional pension liability arising out of this increase, and the act calls upon the Government to pay the amount of this additional liability.

The CHAIRMAN: On an actuarial basis?

Mr. CLARK: On an actuarial basis. The chief actuary of the Department of Insurance advises the Minister of Finance what this amounts to, and up until a few years ago the required contribution was made.

Coupled with this need to cover these deficits, which they really are, on the cyclical instead of on the general salary increase approach, the Minister of Finance, in an effort to even off the cost of these increases over the years, stated the Government's intention last year to provide that, instead of paying in a lump sum, the amount of this deficiency would be spread over the five years, starting in the year in which the increase was authorized. This would apply not only to the Public Service Superannuation Act but to the Canadian Forces Superannuation Act and the R.C.M.P. Superannuation Act.

Senator BROOKS: Do I understand you to say that it was every two years in the public service—that you made a review every two years?

Mr. CLARK: Each group is reviewed every two years. Some are reviewed more frequently, but at least every two years.

Senator BROOKS: But now they are amortizing it all over a period of five years—in the public service?

Mr. CLARK: That would be right.

Senator MOLSON: If the result of the periodic review of these different groups means that there is an increase every half year for some group or other, is there any advantage in spreading this over five years? There would be an almost constant amount necessary, anyway?

Mr. CLARK: The groups are not equal. There are two large groups and two small groups. Perhaps you could say it eases the burden initially. There is that point in it. It will, of course, keep fairly even throughout.

Senator MOLSON: What it would affect is the first four years?

Mr. CLARK: It is amortizing instead of paying it all in one year.

Senator HUGESSEN: As I understand it, these three sections relate solely to what one might call the actuarial calculation, not an increase in the Government's liability for pensions, resulting from an increase in salaries. Instead of making these payments gradually, they are spreading it over a period of five years.

The CHAIRMAN: Shall we move on to the other portions?

Mr. CLARK: Clause 4 is purely a remedial provision. In the amendments to the legislation in 1960 a provision was included whereby a person who was given erroneous information and failed to elect for certain service, was permitted to do so without additional penalty. We thought that we had covered all the possible cases in the 1960 amendment; but, as always happens, one other case turns up. This involved a person who had two periods of service in the Civil Service. The erroneous information related to service in between the two periods of contributory service, whereas the existing act related only to service before he first became a contributor. It is simply to permit the remedial provisions of the existing act to be extended to those odd cases where the difficulty arose in between two periods of contributory service.

Senator CROLL: Mr. Clark, where and under what circumstances can a man get erroneous information from your department?

Mr. CLARK: It so happens that the confusion arose because of the two periods of service. I believe that this man had got a return of contributions in respect of his earlier service. The officer who dealt with this unfortunately overlooked that this return had been made and the man was told that he had this prior service to his credit, where in fact he had not.

Senator ISNOR: Have you many cases like that which you have just quoted?

Mr. CLARK: The case in question is unique.

Senator ISNOR: One case?

Mr. CLARK: We made this general, just in case another turns up. This affects a person who is retiring actually in July. This would permit him to count the service which otherwise was denied to him on the original cost basis.

Senator CROLL: If nothing else, it proves the fallibility of the department, which is very human.

The CHAIRMAN: It is nice to know that. Clause 5.

Mr. CLARK: Clause 5 is required to meet the request of the Canadian Council of Resource Ministers to provide a pension provision for their staff. While a number of members of the staff are former federal civil servants, a number of them are also former provincial civil servants. Those who were former federal civil servants had been under the Superannuation Act. In looking for an appropriate pension plan, the council, after considering whether they might seek coverage under a provincial plan, decided that the federal plan was more suited to their purpose and asked that they be permitted to come under our act.

This would require the Council to pay the employer's share of the cost of the plan, in addition to the employees themselves paying their contributions, in other words, the matching contributions which the Government normally makes in respect of a civil servant would be made by the Council.

The CHAIRMAN: What is the source of funds of the Council?

Mr. CLARK: It comes from the various governments whose ministers constitute the Council.

The CHAIRMAN: In other words, provincial governments?

Mr. CLARK: That is right. In Ottawa, Mr. Laing is involved also.

Senator CROLL: Might I ask—I must admit my ignorance—who composes the Council of Resource Ministers? When was it formed?

Mr. CLARK: It was formed three or four years ago. I must admit I do not know the exact date, but it is relatively new. Their staff up to date has been actually without not only pension coverage but workmen's compensation coverage. That is the reason for paragraph (b) and also (c), which relates to the Flying Accidents Compensation Order. This will also permit them to come under the Group Surgical-Medical Plan for the Public Service of Canada—again with the employer's share of the contribution being provided by the Council.

The CHAIRMAN: The members, I understood you to say, were provincial ministers of resources, and the federal minister?

Mr. CLARK: That is right.

Senator SMITH (*Queens-Shelburne*): Who pays the wages or salaries for these people who work in the Council?

Mr. CLARK: The various governments make a contribution.

Senator SMITH (*Queens-Shelburne*): The contributions come from the provinces as well as the federal Government?

Mr. CLARK: That is correct.

Senator SMITH (*Queens-Shelburne*): In order to take the two together, you bring them under the federal Civil Service benefits?

Mr. CLARK: Yes. If it had been entirely a federal contribution, we could have brought them under the act without an amendment; the Governor in Council would have had the power to do so. But in view of the set-up of the Council, we had to have this statutory amendment.

Senator SMITH (*Queens-Shelburne*): Then, Mr. Clark, is this the situation, that their salaries are shared by the various jurisdictions?

Mr. CLARK: That is correct.

Senator SMITH (*Queens-Shelburne*): And also the amount of the employer's contribution to the fund is shared?

Mr. CLARK: That is correct.

Senator ISNOR: I am not quite clear in regard to this matter. This is a new group being brought in?

Mr. CLARK: That is correct.

Senator ISNOR: Would they automatically be included in the new pension scheme for the Government?

Mr. CLARK: The Canada Pension Plan?

Senator ISNOR: Yes.

Mr. CLARK: They will come under it next January, to the extent of the coverage that it provides. But it is not intended to cover, you know, the full pension prospects of an employee.

Senator ISNOR: That is what I wanted to know. I have a main question on this. Have you made a comparison of the costs of the plan which you now propose and the cost as coming under the new Canada Pension Plan?

Mr. CLARK: These employees will contribute under the Public Service Superannuation Act $6\frac{1}{2}$ per cent of their salary, and the Council will match that.

Now a proposal by the Government was outlined with reference to civil servants, and this would apply to this group as well. This is dependent upon legislation which the Government has stated it is its intention to introduce later this session. When it comes into operation it will provide for co-ordination or integration of the two plans whereby the over-all contributions will remain the same, but a portion of this $6\frac{1}{2}$ per cent which I have just mentioned, instead of going into the superannuation account, will be paid into the Canada Pension Plan. This means that while the $6\frac{1}{2}$ per cent payment remains the same, 1.8 per cent of the salary band from \$600 to \$5,000, will be directed into the Canada Pension Plan account.

Senator ISNOR: Thank you for the information you have given, Mr. Clark, but you have not answered the question in a definite way as to which is the more expensive.

Mr. CLARK: The two together will cost about the same amount or within a fraction of one per cent of the same amount as this would cost without the Canada Pension Plan.

Senator SMITH (*Queens-Shelburne*): Would you add to that statement some reference to the benefits which will flow from that use of the two plans?

Mr. CLARK: This integration will not, of course, provide the same benefit as would be had by adding the Canada Pension Plan completely to the benefits of the superannuation act. You could not expect that because of the diversion of contributions. The examples we have worked out show us that the most favourable case is the increase in the over-all pension on the present scale of the Canada Pension Plan to persons having a salary of \$5,000 and over with 10 years' service. The increase would be up to \$750 or more in the most favourable cases.

The CHAIRMAN: What you are saying is that resulting from integration a contributor will receive certain benefits from the Canada Pension Plan and under the superannuation act he will receive separate benefits. If you break them down, the benefits under the superannuation act after integration will be less by the amount payable under the Canada Pension Plan, but the amount payable under the Canada Pension Plan may show an increase over and above the amount previously paid out of the superannuation plan on the former basis.

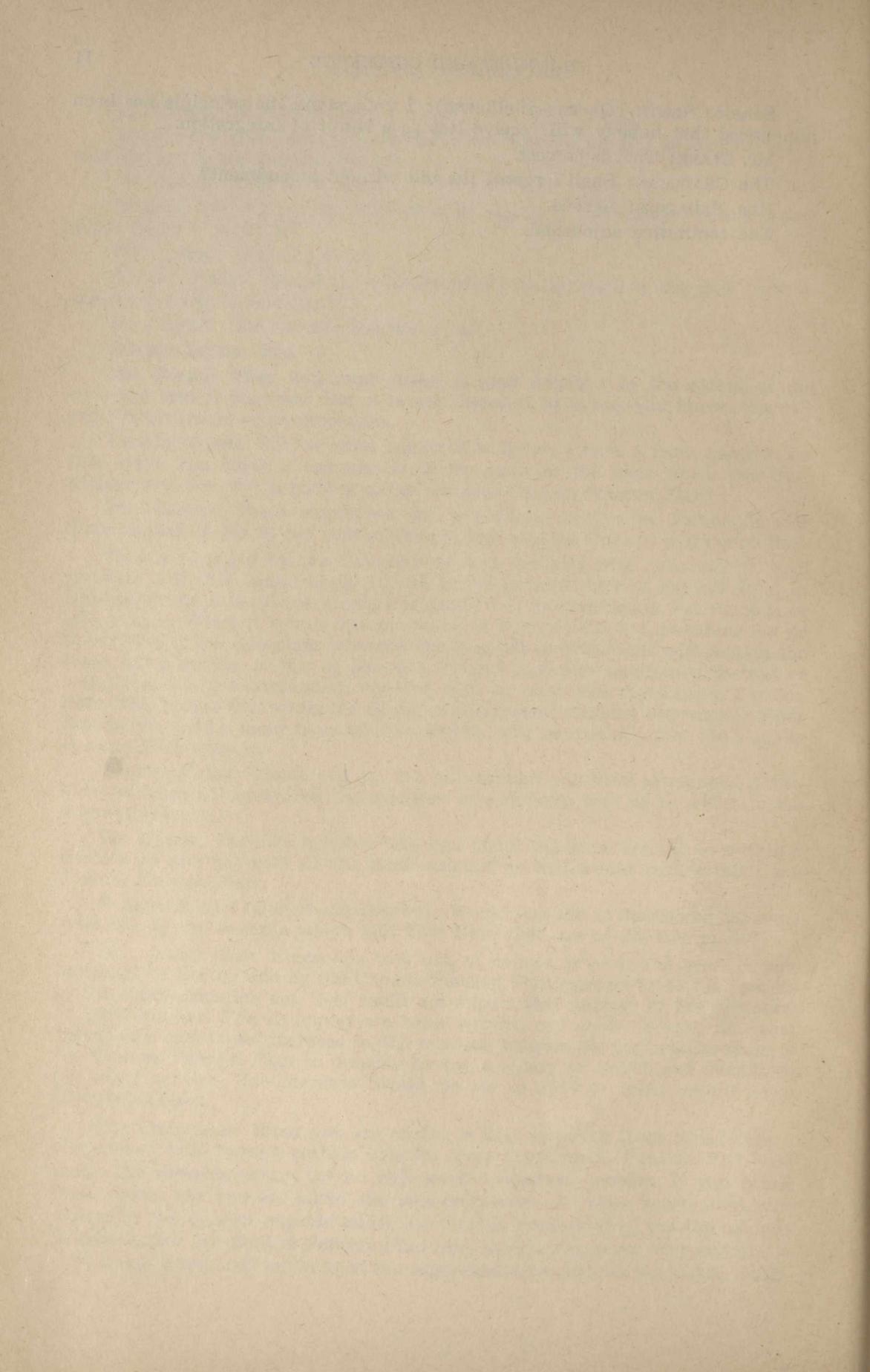
Senator SMITH (*Queens-Shelburne*): I understand the principle has been announced that nobody will receive less as a result of integration.

Mr. CLARK: That is correct.

The CHAIRMAN: Shall I report the bill without amendment?

Hon. SENATORS: Agreed.

The committee adjourned.





Third Session—Twenty-sixth Parliament

1965

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE
ON
BANKING AND COMMERCE

The Honourable **SALTER A. HAYDEN**, *Chairman*

No. 2

Complete Proceedings on Bills S-8 & C-104,
intituled respectively: "An Act to amend the Central Mortgage and
Housing Corporation Act" and "An Act to amend the National Housing
Act, 1954".

WEDNESDAY, MAY 26, 1965

WITNESSES:

Department of Citizenship and Immigration: The Hon. John R. Nicholson,
Minister, *Central Mortgage and Housing Corporation:* Mr. H. W.
Hignett, President; Mr. Jean Lupien, Vice-President.

REPORTS OF THE COMMITTEE

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

THE STANDING COMMITTEE
ON
BANKING AND COMMERCE

The Honourable Salter A. Hayden, *Chairman*

The Honourable Senators:

Aseltine	Gershaw	Paterson
Baird	Gouin	Pearson
Beaubien (<i>Bedford</i>)	Haig	Pouliot
Beaubien (<i>Provencher</i>)	Hayden	Power
Blois	Hugessen	Reid
Bouffard	Irvine	Roebuck
Burchill	Isnor	Smith (<i>Kamloops</i>)
Choquette	Kinley	Smith (<i>Queens-</i> <i>Shelburne</i>)
Cook	Lambert	Taylor
Crerar	Lang	Thorvaldson
Croll	Leonard	Vaillancourt
Davies	Macdonald (<i>Brantford</i>)	Vien
Dessureault	McCutcheon	Walker
Farris	McKeen	White
Fergusson	McLean	Willis
Flynn	Molson	Woodrow—(50).
Gelinas	O'Leary (<i>Carleton</i>)	

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

(Quorum 9)

ORDER OF REFERENCE

Extracts from the Minutes of the Proceedings of the Senate, Tuesday, May 18th, 1965, and Tuesday, May 25th, 1965:

"Pursuant to the Order of the Day, the Honourable Senator Baird moved, seconded by the Honourable Senator Cook, that the Bill S-8, intituled: "An Act to amend the Central Mortgage and Housing Corporation Act", be read the second time.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Baird moved, seconded by the Honourable Senator Cook, that the Bill be referred to the Standing Committee on Banking and Commerce.

The question being put on the motion, it was—

Resolved in the affirmative.

Pursuant to the Order of the Day, the Honourable Senator Smith (*Queens-Shelburne*) moved, seconded by the Honourable Senator Inman, that the Bill C-104, intituled: "An Act to amend the National Housing Act, 1954", be read the second time.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

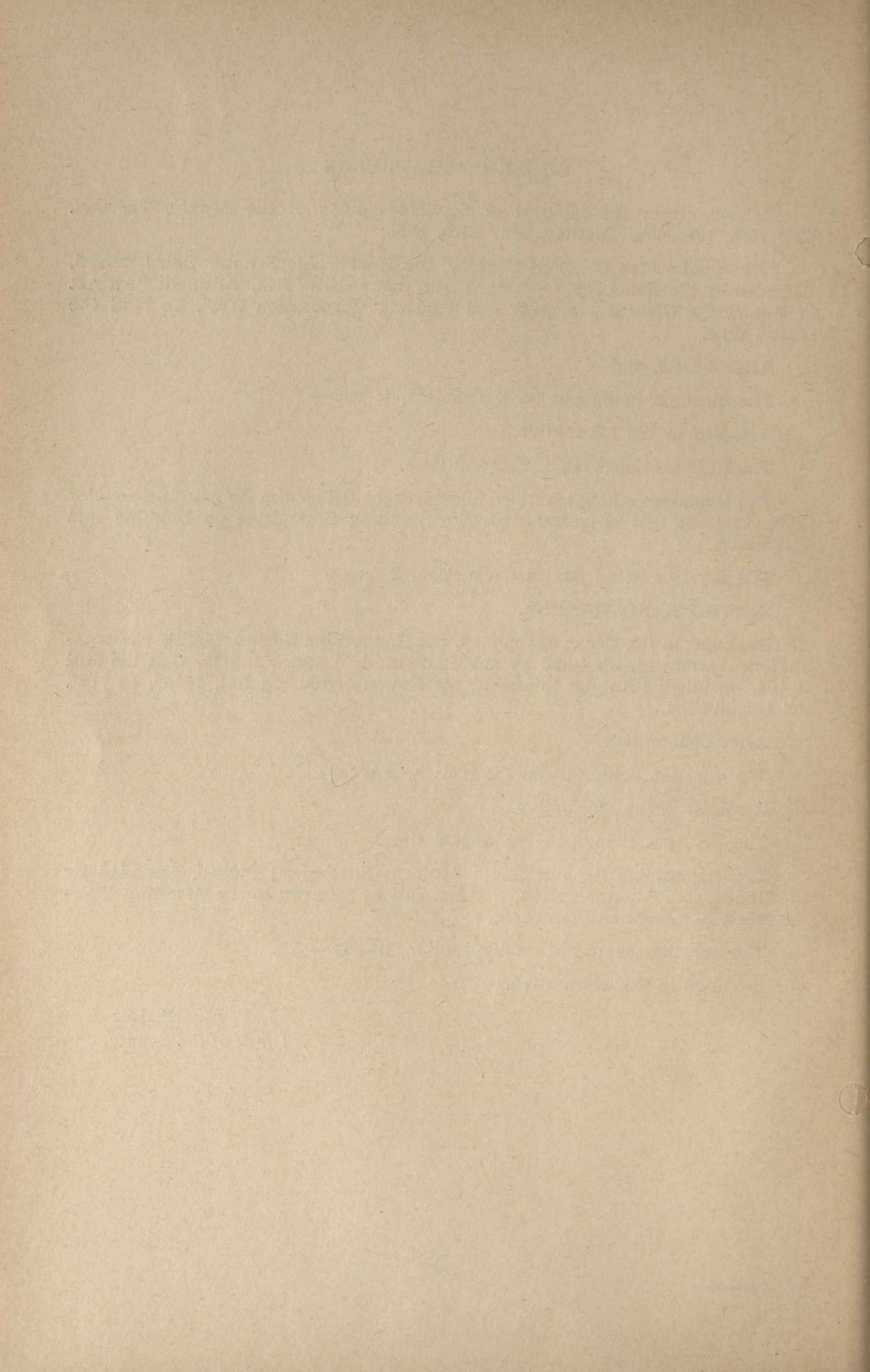
The Bill was then read the second time.

The Honourable Senator Smith (*Queens-Shelburne*) moved, seconded by the Honourable Senator Inman, that the Bill be referred to the Standing Committee on Banking and Commerce.

The question being put on the motion, it was—

Resolved in the affirmative."

J. F. MacNEILL,
Clerk of the Senate.



MINUTES OF PROCEEDINGS

WEDNESDAY, May 26, 1965.

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

Present: The Honourable Senators Aseltine, Baird, Beaubien (*Provencher*), Blois, Bouffard, Burchill, Connolly (*Ottawa West*), Flynn, Gelinas, Gershaw, Gouin, Haig, Hugessen, Irvine, Lambert, Lang, Leonard, Molson, Pouliot, Power, Reid, Smith (*Kamloops*), Smith (*Queens-Shelburne*), Taylor, Thorvaldson and Vaillancourt.—(26)

In the absence of the Chairman and on motion duly put it was resolved that the Honourable Senator Bouffard be elected Acting Chairman.

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

On motion of the Honourable Senator Croll it was resolved to report recommending that authority be granted for the printing of 800 copies in English and 300 copies in French of the proceedings of the Committee on Bills S-8 and C-104.

Bills S-8 and C-104, respectively "An Act to amend the Central Mortgage and Housing Corporation Act" and "An Act to amend the National Housing Act, 1954" were read and considered, clause by clause.

The following witnesses were heard: *Department of Citizenship and Immigration:* The Hon. John R. Nicholson, Minister. *Central Mortgage and Housing Corporation:* Mr. H. W. Hignett, President. Mr. Jean Lupien, Vice-President.

On motion of the Honourable Senator Molson it was resolved to report both said bills without amendment.

At 11.25 a.m. the Committee adjourned to the call of the Chairman.

Attest.

Frank A. Jackson,
Clerk of the Committee.

REPORT OF COMMITTEE

WEDNESDAY, May 26, 1965.

The Standing Committee on Banking and Commerce to which was referred the Bill S-8, intituled: "An Act to amend the Central Mortgage and Housing Corporation Act", has in obedience to the order of reference of May 18, 1965, examined the said Bill and now reports the same without any amendment.

All which is respectfully submitted.

PAUL H. BOUFFARD,
Acting Chairman.

REPORT OF COMMITTEE

WEDNESDAY, May 26, 1965.

The Standing Committee on Banking and Commerce to which was referred the Bill C-104, intituled: "An Act to amend the National Housing Act, 1954", has in obedience to the order of reference of May 25, 1965, examined the said Bill and now reports the same without any amendment.

All which is respectfully submitted.

PAUL H. BOUFFARD,
Acting Chairman.

THE SENATE

THE STANDING COMMITTEE ON BANKING AND COMMERCE

EVIDENCE

OTTAWA, Wednesday, May 26, 1965.

The Standing Committee on Banking and Commerce, to which was referred Bill S-8, to amend the Central Mortgage and Housing Corporation Act, met this day at 10 a.m.

Senator Paul H. Bouffard in the Chair.

The ACTING CHAIRMAN: Honourable senators, we have two bills, S-8 concerning Central Mortgage and Housing Corporation, and Bill C-104, National Housing Act, 1954. We are very glad to have the minister here to explain the bill and to have the benefit of his presentation.

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

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

Senator POULIOT: Before the minister starts to speak, I wish to welcome him to this committee. I find that the minister is quite an extraordinary man in that he holds the portfolio of the most contentious department, that of Citizenship and Immigration. Besides that he has taken charge of the Post Office Department, and on top of that he has control of Central Mortgage and Housing Corporation. I feel he is an example to others, and I wish him every success.

I wish to draw to the attention of the minister the excellent speech delivered by Senator Donald Smith last evening when he sponsored the bill. He spoke as well as any experienced lawyer would have done.

Senator FLYNN: Is that a compliment?

Senator POULIOT: It is a great compliment.

Hon. J. R. Nicholson, Minister of Citizenship and Immigration: Mr. Chairman, honourable senators, I would like first of all to thank my old friend, Senator Pouliot, for his kind words. I have heard him at times when he was in the Commons, and he wasn't always as complimentary as he was today. For that reason I know that when he does hand out bouquets he is sincere, and his remarks come from the heart. I appreciate his remarks very much.

Mr. Chairman, honourable senators, throughout the years since the end of the Second World War frequent amendments to our National Housing legislation have been proposed in Parliament. As a general rule these amendments have been passed with the wholehearted support of all parties. From a careful perusal of the series of amendments over the years I can say that on each occasion, the amendments made in the last 20 years have represented a step forward in the Government's attempt to extend facilities for the ever-changing

and increasing demands for federal assistance in this vital social and economic field of housing and allied fields. Indeed, I am sure that most honourable senators present will recall that a little less than a year ago approval was given by Parliament—and probably most of you here today participated in the deliberations at that time—to some of the most comprehensive and most significant amendments to the National Housing Act that this country has ever had, amendments which are now finding reflection throughout the country in energetic proposals designed to meet the housing needs of low-income families and elderly people, and to change and rejuvenate depressed and outdated sections of many of our cities and towns in all ten provinces. Today, however, the amendments contained in the bill now before you—that is, the bill to amend the Central Mortgage and Housing Corporation Act—do not concern the Housing Act itself, but, rather, the administrative agency, the Central Mortgage and Housing Corporation, that some years ago—I think it was 19 or 20 years ago—was brought into existence to administer this major piece of legislation.

I think you would all be interested to know that this is the first amendment to the Central Mortgage and Housing Corporation Act in 13 years. In 1952 there was a change made, but, notwithstanding the fact that the present scope of the operations of the Central Mortgage and Housing Corporation bears little, if any, resemblance to the responsibilities with which it was initially charged, the operations of the agency of Central Mortgage and Housing are still carried on largely within the framework of the original act.

I think that the success of that act over the intervening score of years bears out the wisdom of the Government of the day in establishing the federal housing agency as a crown company to operate this body, rather than as a Government department. That was really the beginning of the post-war crown companies, when Central Mortgage and Housing, Polymer Corporation and the others started to function in commercial activities.

As was pointed out by the Right Honourable J. L. Ilsley, who was then Minister of Finance and who introduced the legislation which led to the establishment of the corporation. "The operations of the federal Government in the field of housing are of a commercial or quasi-commercial character. Under the National Housing Act, the Government is 'in business.'" And I might say, gentlemen, when you hear some of the figures I will give you within a minute or two, you will see it is in big business. "Bargaining and negotiations"—with provinces, with municipalities and with other bodies—"are involved. Risks have to be appraised". And Mr. Ilsley went on to say that quite obviously no minister of the Crown could carry out such an administration personally with the political and other involvements that would be associated with it.

You will recall that during the war years housing activity had understandably been severely curtailed, but, by the end of 1945, as Mr. Ilsley also stated when he introduced the legislation:

Canada is just at the beginning of a very large, possibly an unprecedentedly large, housing programme. . . . The present time is therefore a unique occasion on which to give the administration the form which will enable it to carry out its functions most effectively.

Now, Mr. Chairman, the anticipated demand for the housing program—to which the then Minister of Finance, Mr. Ilsley, referred in 1945—still continues, and it will continue to grow even greater in the years to come. But, in addition to the housing field, there have been many other great accomplishments in the particular activities covered by the housing act, and many of these—and I can say this in all sincerity—can be attributed to the enthusiastic and efficient manner in which the Central Mortgage and Housing Corporation has

risen to each challenge that was placed before it. Its tasks, I may say, have been many and they have been varied. In the initial post-war years the newly-created corporation became immediately involved in carrying out a number of special measures introduced by the Government to meet the emergency housing demands of that period—the pent-up demands of the war and returning soldiers who were married and had families to worry about. At the same time the mortgage lending functions it had assumed from the National Housing administration, which was formerly part of the Department of Finance, continued to expand as Canada's peace-time economy rose to new levels of prosperity.

While some of you have been following the housing field more closely than I have done may not be surprised at these figures, I can say I was literally astounded when the figures of this corporation were brought to my attention a little more than a year ago, when I became minister responsible for the administration of the Act. This increasing level of lending operations has continued on an ascending scale and uninterrupted throughout that whole period. In 1946, for instance, the total number of new houses built in Canada was 64,400, which was a record up to that time. Of these 7,300 only—less than 15 per cent—were constructed with the financial assistance of the National Housing Act, 1944. By comparison, the construction of new housing last year, 1964, reached an all-time high of new dwellings, 165,600 houses, nearly three times as many as in 1946, and these were built largely with loans provided under the National Housing Act. Fifty-eight thousand loans were handled by Central Mortgage and Housing as compared to 7,300 only in 1946.

Senator HUGESSEN: What is the percentage of difference there? You said 15 per cent in 1946. What was the percentage in 1964?

Hon. Mr. NICHOLSON: Fifty-eight thousand out of 165,600. I am not sufficiently good at figures.

The ACTING CHAIRMAN: Thirty-five per cent.

Senator LAMBERT: What was the total amount involved, do you know?

Hon. Mr. NICHOLSON: Pardon, senator?

Senator LAMBERT: What was the total dollars amount of mortgages involved in the 58,000 new houses?

Hon. Mr. NICHOLSON: I will give you the other figures here to supplement that.

In 1964, for the first time in five years—that is, since 1959—less than half the total loan volume was provided in the form of insured mortgages by approved lenders operating under the Act. During the year 1964 loans for nearly 30,000 dwellings were made directly by C.M.H.C. itself, under the direct loaning authority incorporated in the Act in 1947.

Recent years have seen still more extensive broadening of the facilities of the Act and the allocation to C.M.H.C. of many new responsibilities outside the field of housing, including the provision of direct financial assistance for an impressive program of university housing and sewage treatment projects. By the end of last month, for example, nearly \$275 million of federal funds had been committed in support of these two kinds of projects—that is, university housing and the sewage. Assistance to universities had been extended for more than 100 campus residences—on-campus housing developments is the way I think it was put in most of the legislation. They provide living accommodation for over 24,000 students in Canadian universities. In combatting the problems of soil and water pollution, loans have been provided to over 800 different municipalities in all ten of the provinces.

Last summer's amendments to the National Housing Act, to which I referred earlier, also promise to add substantially to the direct lending operations of the corporation, through the authorization of high-ratio loans to provinces and municipalities for public housing.

Today it is possible for a housing corporation of one of the provinces or a municipality established by or with the approval of a province, to borrow 90 per cent of the money it needs for public housing from the federal agency, Central Mortgage and Housing. This is an alternative to the federal-provincial partnership ventures and it has resulted in more than doubling units in the Province of Ontario—and I cannot give you figures for the other provinces, but I know that live action is under way in British Columbia, Alberta, Saskatchewan, Quebec and the Maritimes in this important field.

It is an alternative to the old federal-provincial joint arrangements to provide low-rental accommodation, which was not so satisfactory because the municipalities had to come in with such a large part of the funds needed. But, in addition—and this is a new phase—the Corporation is empowered to make loans to provinces and municipalities for urban renewal activities, supplementing substantially the federal aid that was formerly available in the form of outright contributions.

Dealing with the senator's question, I can give you more exact figures. The total amount now invested by the Corporation in its variety of direct lending operations now stands at approximately \$2 billion. The administration of this immense mortgage portfolio is in itself a tremendous responsibility for Central Mortgage and Housing Corporation. The Corporation also has under its administration some \$92 billion of assets in the form of agreements for sale and mortgages arising from the sale of real estate, as well as some \$65 million in C.M.H.C.-owned properties.

A further \$115 million of federal funds has been invested through federal-provincial agreements under the N.H.A., to which I have referred, and the Corporation is charged with the responsibility for administration of the mortgage insurance and guarantee funds which have now reached the sum of approximately \$140 million. So, you have \$2 billion and, in the figures I have just given you, another \$412 million.

The Corporation is also called upon to lend assistance to the Municipal Development and Loan Board in the administration of the federally-sponsored program to increase employment opportunities throughout Canada. You will recall that fund of \$400 million. \$250 million of the total has been earmarked already for this purpose, and has been taken up through loans by more than 1,300 municipalities for municipal improvement undertakings. The responsibility for keeping an eye on these activities is that of the Central Mortgage and Housing Corporation.

Central Mortgage and Housing Corporation is also closely allied with the Department of Labour in its efforts to spur employment in the construction industry through two successful winter works building incentive programs. During these programs—that is the 1963-64 and the 1964-65 programs, of which the latter came to end on April 15—more than 61,000 dwelling units of all types were built, and approved on final inspection, for an estimated average cost of \$15,800, or a total cost of more than \$900 million.

Think of what this has done to the economy. The amount is \$900 million, and over half of it has been spent on labour. But, think of what it has done to the responsibilities of the Corporation which is charged with the inspection and approval of loans.

I have summarized rather briefly, Mr Chairman, the growth of the activities of Central Mortgage and Housing Corporation under the National Housing Act—a growth which shows the tremendous forward surge of the Canadian economy in the past 20 years. Merely to recite those figures and to think of the ease and the dispatch with which these measures have operated gives you some idea of the responsibilities of the Corporation. But, Mr. Chairman, although this brief résumé may indicate the additional responsibilities undertaken by the

Corporation over the past two decades, it also indicates, as I have said, the responsibilities which will be coupled with an increasing demand.

As I have mentioned, Canada has experienced the largest quantity of residential construction in its history, but just entering the housing market is the large number of children born during and just after the war years. As a result, net family formation is expected to rise in the latter half of the sixties—that is, in the next five years—thus ensuring a steadily increasing market for housing. I think it is fair to ask ourselves, Mr. Chairman, whether our towns and cities are prepared to cope with this expanding population?

At the moment many or all of these urban centres—and I have visited most of them of any size in this country, such as Halifax, St. John's, Moncton, Saint John, Quebec, Montreal, Windsor, Hamilton, Toronto, Winnipeg, Saskatoon and Vancouver—are plagued with antiquated services, and a certain portion of the housing stock of every one of the cities I have mentioned is either badly decayed or quite unable to measure up to present day standards.

What is required is nothing less than a nationwide crusade to promote the whole process of urbanization in Canada. It will be necessary to receive in that crusade the active participation of all levels of government in this country. The reason why I say this is that, while the federal Government can provide technical assistance, and can act as banker for urban and housing renewal, the initiative must lie at the local level because these are the prerogatives of the provinces and of the municipalities. A crusade is needed to let the people know of the possibilities of the new federal legislation passed last year, and the complementary legislation that has been passed by most of the provinces.

To provide the facilities with which any province or municipality may undertake a comprehensive urban renewal program, Parliament last June sanctioned amendments to the National Housing Act. Under these amendments a broadened program of grants and loans will be available from the federal Government through Central Mortgage and Housing Corporation. This whole program has the approval of the ten provinces, so there is no federal-provincial conflict in this field.

I have just visited Charlottetown, Prince Edward Island and Fredericton, New Brunswick, and met with provincial and municipal authorities. We discussed the best way of implementing the new legislation. Before the end of this month similar discussions will be held with officials in Manitoba and Saskatchewan. Along with senior officials of Central Mortgage and Housing Corporation, I leave tomorrow night for Winnipeg to hold meetings there with the chamber of commerce and other bodies on Friday. We shall have on Saturday a provincial housing symposium, sponsored by the provincial Government, to which representatives of every city and town in Manitoba have been invited. On Sunday we go on to Regina, and on Monday will repeat the same process there.

These two meetings—that is, the Regina and Winnipeg meetings—will be a culmination of a cross-Canada tour where similar discussions took place in every province. In the Province of Ontario we had two such meetings, one in Toronto which was attended by 626 people, and another one in Sault Ste. Marie which was attended by people from the Lakehead and Northern Ontario.

The interest shown in each one of the nine symposiums already held to date assures me that we are about to enter a period in which most cities will undertake redevolpment programs—that is, urban redevelopment programs—surpassing anything anticipated a few years ago.

Urban renewal studies were made, when we had our first meeting in Halifax at the end of September last, in 42 or 43 different communities in Canada. Today this figure is approaching 70. That has happened in the intervening period of nine months, and requests are coming in every week for more studies.

Senator POULIOT: Mr. Minister, if you will permit me, may I ask if something is being done in the Province of Quebec?

Hon. Mr. NICHOLSON: Yes, may I deal with that later? I am almost through with my remarks. I shall deal with it at the end.

We are determined, Mr. Chairman—when I say “we” I mean the Government and the official body mentioned in this bill, Central Mortgage and Housing Corporation—that this developing surge of renewal activity or any other form of housing progress, will not be restricted by lack of adequate financing. To this end there is now before Parliament—before this committee in fact—a bill calling for a substantial upward adjustment in the amount of funds the federal Government stands ready to invest in support of these endeavours under the National Housing Act.

As you will see from the bill, the changes proposed will increase from \$6 billion to \$8.5 billion the maximum amount of loans for home-ownership and rental housing which may be insured under the Act. A further \$750 million is being requested for direct lending operations by Central Mortgage and Housing Corporation, thus increasing the maximum charge on the Consolidated Revenue Fund for this purpose to \$3.25 billion.

The bill also seeks to increase the amount of funds available for loans and grants relating to urban renewal from \$100 million to \$300 million. An adjustment from \$150 million to \$200 million has been requested for loans for university housing projects, and it is proposed to raise to \$150 million, the \$50 million allocation, which is the maximum amount now available for public housing developments jointly undertaken by C.M.H.C. and by a province or its agency.

It is within this context, therefore, Mr. Chairman, that this proposal for amendment to the C.M.H.C. Act of December 18, 1945—it still has that title—is before you.

The amendment asks in effect a reorganization of the executive establishment of the corporation. The senior executive of the corporation now consists of a president and a vice-president who, in addition to their normal day to day responsibilities, are members of the board of directors.

Now, with this list of responsibilities to which I have referred—the top executive consisting of a president and one vice-president—the operation of the corporation has now expanded to a position where each of its principal portfolios, lending and mortgaging operations, urban development and public housing, and administration and finance demands senior executive direction. It is proposed, therefore, in the bill you are now considering, to increase the senior management structure from one to three vice-presidents. It is not proposed to increase the number of members of the board of directors. We have a very efficient and hard working board, representing all parts of Canada, with the president and vice-president on that board.

The corporation members on the board, the president, Mr. H. W. Hignett, and the vice-president, Mr. Jean Lupien, will continue as proposed under the legislation as members of the board. The other two vice-presidents will not be members of the board.

In its short history C.M.H.C. has established an enviable record for efficiency in its day-to-day administration of the National Housing Act. In the opinion of the directors, endorsed by the Government, the proposal now contemplated will help materially to maintain this efficiency.

I therefore commend the bill to you, honourable senators, and ask for its early passing.

If you have any questions, I have with me the president of the corporation, Mr. Hignett, the vice-president, Mr. Jean Lupien, the solicitor, Mr. Wilson, and the secretary, Mr. Tapping. Among us we will try to answer any questions you may care to put to us.

Coming back to the question asked a few moments ago by Senator Pouliot, may I say that, while there has been activity in both the housing field and less activity in the urban renewal field, there has been activity; but I have been greatly encouraged, senator, by developments during the past two and a half months.

Not long ago, in company with the president and other officials of C.M.H.C., I attended a meeting in Quebec with the premier, members and representatives of his cabinet and the provincial housing committee and their advisors. It was a good meeting. We outlined to them the steps taken in New Brunswick, in Ontario, and other provinces. We received their assurance that Quebec was going to take a greater interest in housing, and that they were going to pass complementary legislation to take advantage of the benefits of the federal act that had been passed last June. In addition to that, we were taken on a very interesting drive, and spent the whole morning going around parts of the City of Quebec, and more particularly the parliamentary city, where there is a very comprehensive urban renewal study under way. They are doing their very best to preserve the beauty and architecture of these very lovely buildings and intend to modernize and improve them. Some may have to be removed, but, where it is possible to save them, it will be done. The study is now under way.

As I have said, we have the assurance of the Quebec government that the necessary complementary legislation will be passed at an early date.

If you wish, Mr. Chairman, I will deal with the bill; it is very short.

Senator HAIG: When did the corporation, Mr. Chairman, start selling by tender?

Hon. Mr. NICHOLSON: About three years ago—1962. It relieves the demand we have to make on the federal treasury, and it has worked quite successfully, actually.

Senator THORVALDSON: What is the total value of the mortgages sold by C.M.H.C.?

Hon. Mr. NICHOLSON: \$308 million.

Senator LEONARD: Can you tell us something about the insurance fund? You say it stands at \$140 million now. Would it remain the same as in the past?

Hon. Mr. NICHOLSON: Yes, there will be no change.

Senator LEONARD: No doubt from time to time consideration will be given to a reduction of the rate. Have you any record of losses charged against the fund, which in its present state is at \$140 million?

Hon. Mr. NICHOLSON: I will not go into detail. I will refer to Mr. Hignett, or one of the others. I may say though, that within the past year we have given serious consideration to a reduction in the rate. The basic reason that it has not been reduced is that we have run into some anomalous situations, such as Elliot Lake and Banting. We thought we were going to have a similar situation in Kitimat, British Columbia. In Elliot Lake losses amounted to hundreds of thousands of dollars. So it was felt that we had better let the thing level out before coming to any decision as to a reduction.

Senator LEONARD: As long as you keep it under consideration. It seems to me that there should be an element of equity in regard to amounts charged against loans to borrowers. Of course, the building up of the fund is a tribute to the excellent way in which the corporation has carried out its business. At the same time, they have reached a stage where the fund is ample to cover all anticipated losses.

Hon. Mr. NICHOLSON: I would say, Senator Leonard, that your remark is a very trite one, and one that concerned me when I took over. I spent some considerable time on that particular study and I satisfied myself that, until we

get those particular pockets straightened out and are able to work out a future formula for new mining towns, such as Potash communities in Saskatchewan, and others, it would be dangerous to change the rate at this time. However, it is under constant study, and when the time is ripe, a change will be recommended to the Government.

Senator LEONARD: I have one or two other questions. We had announcements in the last day or so of the loan to a university residence at Waterloo, which is not a residence of the same type as the others. Is this within the terms of the bill, or is it some change that is being made whereby loans would be available to residences for university students apart from the campus or the university ownership itself?

Hon. Mr. NICHOLSON: One of the amendments made last year made this possible. It permits campus co-operatives. In the history of the corporation, one or two of the most successful ventures in housing has been co-operative housing in Prince Edward Island and Nova Scotia, and that is one of the factors that influenced us in making these changes in the Act. This is the first loan of that nature.

Senator LEONARD: To clear the matter, some of these figures in the bill are cumulative, that is to say, the figure of \$8½ billion?

Hon. Mr. NICHOLSON: Are you referring to the National Housing Act?

Senator LEONARD: Yes.

Hon. Mr. NICHOLSON: Yes, they are cumulative.

Senator LEONARD: Most of the \$6 billion has been repaid, and the actual amount outstanding is the figure of \$2 billion, that you gave us before, and authority has been given to increase—

Hon. Mr. NICHOLSON: No, senator. Mr. Hignett will answer that.

Mr. H. W. Hignett, President, Central Mortgage and Housing Corporation: Senator, up to now the corporation has insured loans made by the approved lender with a total value of \$4 billion.

In addition, the corporation has made loans of approximately \$2 billion, so the total amount of loans which have been insured or are insurable is about \$6 billion. These are generally on 25-year amortization, and it takes 17 years to pay the first half of the loan, so while the \$6 billion will have been paid the sums outstanding will be still of the order of \$4 billion to \$5 billion.

Senator LEONARD: Thank you. That is the information which I wished.

Senator LAMBERT: May I ask a question about university residences, which was raised yesterday evening in the Senate. I refer to the relationship between the department groups and the federal authority in connection with this particular enterprise, by way of example. Is this characterized by a guarantee or an insurance of the C.M.H.C. by the province?

Hon. Mr. NICHOLSON: No. In the case of university residences, within the last decade or so the understanding has been reached between the two senior levels of government that higher education is a field in which the federal Government can intervene directly, whereas the normal school system is the responsibility of the provinces. Therefore, the federal Government now makes grants on a per capita basis to each student attending university. In the same manner, with the approval of the provinces—because these amendments were discussed by my predecessor, the late Jack Garland, with all ten provinces—provision is made now in the act for loans to the universities themselves or alumni associations or co-operatives or any non-profit organization that has an interest in this matter. These loans are made to the university or the co-operative or co-operation that applies for the loan. It is a loan backed by the C.M.H.C.

Senator LAMBERT: This category is separate entirely from the category originally intended by C.M.H.C.?

Hon. Mr. NICHOLSON: That is correct.

Senator LAMBERT: This point was discussed a few years ago by one of our Senate committees, which declined the approach of the present head of the Board of Broadcast Governors, Dr. Stewart, who was the chief advocate of this expenditure on residences for university students. Eventually, the committee reconsidered it.

Hon. Mr. NICHOLSON: They reconsidered it and it has been in effective operation—not just under the present Government.

Senator LAMBERT: What would you consider to be the deciding factor?

Hon. Mr. NICHOLSON: The tremendous population explosion in the universities.

Senator SMITH (*Queens-Shelburne*): Just to get that part of the record straight, I think I should point out that the report of the Finance Committee of 1958 did recommend that consideration be given to the matter of housing students, but the committee particularized the device of having insured loans applying to universities who would get residences. Then the succeeding government has gone on to a greater extent and the result has been a laudable one, to make grants to universities.

Hon. Mr. NICHOLSON: They are not grants, they are loans, long-term loans.

Senator SMITH (*Queens-Shelburne*): Yes, long-term loans.

Hon. Mr. NICHOLSON: They are made to the university association or alumni association or non-profit association that has taken this initiative in university housing.

Senator LEONARD: I think there is a limit. Is it 60?

Mr. HIGNETT: It is 90 per cent of the cost, and there is a limit of \$7,000 per student housed.

Senator FLYNN: I would like to say I disagree with the minister, respectfully, when he says that higher education is a field that has been accepted by the provinces as being under federal jurisdiction. I would like to point out that the making of a loan to a university for building purposes is not necessarily interfering in education.

Hon. Mr. NICHOLSON: It is housing. My statement may have gone too far; but I think that all of the provincial governments have recognized that the federal Government can participate in higher education to a higher degree.

Senator FLYNN: They may have accepted it now. Are we discussing the two bills at present, Mr. Chairman?

Hon. Mr. NICHOLSON: Actually, I concluded my remarks on the C.M.H.C. bill with the reference to the National Housing Act as an instance of the greater responsibilities of the officials of the C.M.H.C. and the necessity for re-organization. I thought it would be helpful, therefore, if we dealt with both together and you could put your questions on each bill, if you have any, as they are considered separately.

Senator BURCHILL: I would like to ask a question about the facilities for housing for elderly people. Is there an amendment which permits that?

Hon. Mr. NICHOLSON: Yes.

Senator BURCHILL: Is there any restriction on the valuation?

Hon. Mr. NICHOLSON: There are different types of housing, under the Act, for senior citizens, depending upon whether it is a federal-provincial venture, or whether it is a public housing venture started by the province itself or an agency of the province. The subsidies are substantially the same. There is

provision for subsidies if the senior citizen's home does not pay, and for the apportionment of the subsidy between two or three levels of government. The federal Government is in all of them I can assure you, to a minimum of 50 per cent.

Senator BURCHILL: Voluntary organizations are interested, such as Rotary and the Kiwanis Club. I was particularly interested in an Anglican church in the Province of New Brunswick. Some very public spirited laymen devised a scheme for housing elderly people there and they bought property in Sussex. They sold the idea to the Synod. Of course, the scheme sold to the Synod was to use Central Mortgage. They thought they had worked it out with Central Mortgage. But after they got started, the scheme fell through as far as C.M.H.C. was concerned and they had to resort to private finance. That was a question, I understand, of valuation. They are building a court of apartments for elderly couples.

Hon. Mr. NICHOLSON: Senator Burchill, it is an excellent idea, and it is not peculiar to our native Province of New Brunswick. Other provinces have had fairly successful schemes and have made very important contributions in this field. Other churches have taken part, the Roman Catholics, the Presbyterians and the United Church. This particular instance of which you speak was one in which there was a legal difficulty. I would ask Mr. Hignett to deal with the Sussex venture.

Mr. HIGNETT: In the case of the Sussex project, the Anglican Church put a proposal forward, under section 16 of the act, which is the limited dividend section of the act. Loans under this section are 90 per cent loans, the lending value being determined by the corporation. But loans of this amount require the charitable organization concerned—in this case, the church—to enter into an operating agreement with the corporation, under which they have to rent the accommodation for rents that are established at the beginning and agreed upon by both the church and the Corporation. Also, the accommodation is to be rented to persons of low income, who are not necessarily Anglicans, and whose maximum income is prescribed in the operating agreement. They are required also to submit to the corporation an annual statement showing that they are abiding by the terms of this agreement.

In this case, Mr. Senator, the bishop felt that this was quite an onerous agreement, and he did not desire to enter in such an agreement with the C.M.H.C.

As an alternative, the corporation has power to make direct loans under ordinary commercial rental provisions of the National Housing Act. So we cancelled the limited dividend section loan. We did make a loan to the church under the ordinary commercial section of the act, which is on a lower level, and at a higher rate. In this case, this type of loan seemed to be more acceptable to them.

Hon. Mr. NICHOLSON: We ran into another case. In this case the bishop was told that there had to be a corporation, that the C.M.H.C. could not make the loan to an institution by name unless it was a body corporate. We went to the extent of advising how it could be done economically under the Societies Act. He decided, in the end, the church would build it themselves and did not ask for the loan. Loans are being made, however, to church bodies and more particularly to service clubs. Service clubs have done an outstanding job right across Canada. I remember particularly two housing units in Winnipeg put up by service clubs. Sometimes the ordinary builders leave no trees standing. A service club will go out and take a greater interest in natural beauty than a cold-blooded builder who is seeking the greatest return for the dollar. He will be more interested in that than the more attractive units.

Senator SMITH (*Queens-Shelburne*): Section 16, referred to a moment ago, is that the new section that came into effect last June?

Mr. HIGNETT: That is the old one. The new section is section 16A which limits the loans to charitable and non-profit corporations. These are corporations that take no dividend. Section 16, which is a limited dividend section, allows the owners to take a dividend of 5 per cent of their investment in a project.

Senator SMITH (*Queens-Shelburne*): Did this question arise in connection with the act as it was previous to last June, and this whole thing was never brought up in terms of the new act?

Mr. HIGNETT: That is right. Both sections require a similar operating agreement.

Senator LEONARD: Is there still a line of demarcation between the loans made directly by Central Mortgage and Housing, and the loans made by lending institutions? Originally the intention was that direct lending by Central Mortgage and Housing was in the field of geographical areas and the class of mortgage that would not be made by lending institutions. Is there still some line of demarcation?

Hon. Mr. NICHOLSON: Mr. Lupien may be able to answer that.

Mr. Jean Lupien, Vice-President, Central Mortgage and Housing Corporation: In the direct lending field, we act as a lender in the absence of a desire on the part of a lending company, or in the absence of funds at that time. The facilities for direct lending are available on a national basis and not only on a geographical basis, but it does occur more often in certain areas than in others. There is no direction that it shall be limited, but it just so happens, as is also the case with, for example, life insurance companies, that they are more active in certain centres than in others. However, the fact is that direct lending facilities have been made more use of in certain parts of our country.

On the other hand, on occasions when there appears to be a uniform or constant lack of lending facilities on the part of our lending institutions then our direct lending facilities are made use of on a national basis in the same ratio. This happened, for example, two years in a row when the Government introduced the winter bonus program for house construction. The bulk of financing for these two programs, as the minister pointed out, has been through the direct lending facilities to an amount of somewhat more than half a billion dollars in these two periods of five months.

Senator LEONARD: This is a continuation of the policy in effect for many years now.

Hon. Mr. NICHOLSON: That is correct, but this is a special application of that policy so far as winter works are concerned.

Senator THORVALDSON: With respect to Bill S-8, and regarding the two new vice-presidents, will they be taken from the present personnel of the corporation or will they be appointed from outside, and is it intended that they shall be full-time employees of the corporation?

Hon. Mr. NICHOLSON: Yes, but actually this is a matter of internal management. The Government, while it has the right of veto, is guided in these appointments largely by the recommendations of the board of directors of the corporation itself. I would think in this case, because of the peculiar nature of the corporation's activities, they will be appointed from the corporation itself. But that is for the directors to decide.

Senator THORVALDSON: Will their duties be specific? For example, will there be a vice-president in charge of so-and-so?

Hon. Mr. NICHOLSON: Yes. As I said this morning there are three major fields of activities in the corporation. The first is lending and mortgage operations, and Mr. Lupien, the senior vice-president, is a specialist in that field. The second is urban development and public housing. Mr. Hignett is a specialist in that field and was so before he became president. The third field is administration and finance. So there will be a vice-president in charge of mortgage and lending operations, and a vice-president in charge of urban development and renewal, and a vice-president in charge of administration and finance.

Senator THORVALDSON: That will follow closely the pattern in private organizations where specific officials cover various phases.

Hon. Mr. NICHOLSON: I was associated for 10 years with another crown corporation, the Polymer Corporation, and for the first 10 years it had one president and two vice-presidents, and now it has ten vice-presidents. It is the same as the National Research Council or the Canadian National Railways.

The ACTING CHAIRMAN: Do you think you have enough with the three now appointed?

Hon. Mr. NICHOLSON: Yes, because those new executive directors will be appointed to cover these various fields. One vice-president may have more than one executive director under him.

Senator FLYNN: In connection with the appointment of the two additional vice-presidents, I understand that only one will be a member of the board of directors. I read in section 5 that the vice-president designated a member of the board by the Governor in Council would take over in the absence of the president. Therefore there will be one vice-president who will be the second officer of the corporation.

Hon. Mr. NICHOLSON: That is correct.

Senator FLYNN: Since it is not provided that the two additional vice-presidents will have anything to do on the board and will not act on the board and will not replace the president or vice-president, I wonder if the idea was not really to appoint two administrative vice-presidents, which would leave you with one vice-president, and two administrative vice-presidents. It seems to me to be rather confusing to have three vice-presidents only one of whom is really a vice-president of the corporation, with the others having only administrative responsibility. To me the bill as drafted does not convey this idea which is otherwise apparent.

Hon. Mr. NICHOLSON: Although I appreciate your point of view, I must say that I thought the draftsmen had done an excellent job in drafting this bill. However, you must understand, by way of background to the bill, that the president and vice-president are permanent officials of the corporation, and the three other directors represent the civil service, two from Finance and one other, the President or Secretary of the Privy Council. If two more vice-presidents were brought in it would be necessary to increase the number of outside directors proportionately. As it now stands the section says:

The Board of Directors shall consist of the President, a Vice-President who shall be designated by the Governor in Council and eight other members, three of whom shall be selected from the public service of Canada and five of whom shall be selected from outside the public service of Canada.

Mr. Lupien has been designated as vice-president. The vice-president appointed by the Government under this section is automatically a member of the board, and he is the only one who is a member of the board. In the sections that follow, section 4 and section 5 of the act, the vice-president appointed by the cabinet or by the Government automatically becomes president and takes

over the responsibilities of the president in the absence of the president. This one man is unique.

Senator FLYNN: We are in full agreement, but in my suggestion we did not need a new section 6. It was easy to amend section 7 by adding at the end of paragraph 1:

The Board, with the approval of the Governor in Council, shall appoint and fix the salaries of two administrative Vice-Presidents . . .

And then you would continue:

The President, Vice-President and two Administrative Vice-Presidents hold office during good behaviour . . .

etcetera.

The President, Vice-President and two Administrative Vice-Presidents on the expiration of their term of office may, if eligible, be re-appointed.

You do not need sections 4 or 5 at all. That would have been much clearer to me.

Hon. Mr. NICHOLSON: But you would have had to amend several other sections as well. You would have had to amend section 7 of the act as it now stands.

Senator FLYNN: You would have only to amend section 7, and keep section 6 because it is another matter. The bill would have only three sections instead of seven, and you would still achieve your purpose.

Hon. Mr. NICHOLSON: Although I am a lawyer by profession and practised for several years, I have reached the stage in my life where I prefer to leave it with the experts. This is what the experts came up with, and I think they have done a very good job.

Senator LEONARD: Perhaps I might follow up Senator Flynn's question on the matter Senator Hugessen and I were discussing. Is there somewhere else in the act the power to designate the duties of these two additional vice-presidents? How are their functions prescribed? Is there the power under the act generally to do so?

Hon. Mr. NICHOLSON: The board has the power, under the internal management of the company, to do that. All we want is to have them appointed, because it is conceivable that if anything should happen to one of these gentlemen, Mr. Lupien has such qualifications. If he should succeed to the presidency or take over these responsibilities there might have to be a re-allocation of duties. Just as in Polymer, at one time we had a vice-president in charge of research. Then we had a vice-president in charge of research and sales.

Senator LEONARD: All we are concerned with is you are satisfied it is not necessary to prescribe the duties of these extra two vice-presidents in the legislation?

Hon. Mr. NICHOLSON: Not at all. We prefer not to. It would tie their hands.

Senator FLYNN: If my memory serves me right, Mr. Minister, there was a crown corporation which amended their law—

Hon. M. NICHOLSON: Yes, the Overseas Telecommunications Corporation.

Senator FLYNN: They amended their law, I think, last year, and it made the positions of administrative vice-presidents who had nothing to do in the board of directors. But it seems to me the Governor in Council might switch, within the three vice-presidents, who is going to be the real second officer of the corporation.

Hon. Mr. NICHOLSON: There is only one vice-president who is a member of the board of directors, and that vice-president automatically becomes president if the president is ill or away.

The ACTING CHAIRMAN: The designation can be managed by the corporation.

Senator FLYNN: It would be a clumsy title to say he is vice-president designated by the Governor in Council. Just imagine if he had to sign his name with his title.

Hon. Mr. NICHOLSON: With all due respect, he would not have to so sign. It is not uncommon in banks, for instance, to have a vice-president a member of the board of directors and four vice-presidents who are not. The same thing is true of the National Research Council and the Polymer Corporation.

The ACTING CHAIRMAN: Usually, I think, in those cases the senior vice-president has general supervision over all the affairs of the company, and the other vice-presidents are connected with a certain part of the administration.

Senator REID: With regard to section 7(2):

The President and Vice-Presidents hold office during good behaviour for a term of seven years but are removable by the Governor in Council, on a resolution of the Board, for permanent incapacity...

The ACTING CHAIRMAN:

...or for other cause.

Hon. Mr. NICHOLSON: That is not new, senator.

Senator REID: It is not?

Hon. Mr. NICHOLSON: No, it is not new. It is in the old act, and it is not uncommon in other similar statutes.

The ACTING CHAIRMAN: I understand that the senior vice-president will have a certain amount of supervision over the affairs of the company?

Hon. Mr. NICHOLSON: He is "No. 2 man", and it is proposed that he will get a higher salary than the other proposed vice-presidents. Or course, it is conditioned upon this body and the House of Commons approving the legislation.

Senator MOLSON: Although I have the deepest respect for our legal confrères, might I suggest this discussion on the structure conforms to the ordinary corporate practice throughout this country and the United States, and there is nothing unusual or exceptional in the fact that one or other of the vice-presidents is a member of the board and the others are not.

Senator FLYNN: I am in full agreement with my colleague. I was not discussing that at all, with all due respect.

Senator MOLSON: With all due respect, if you start to designate in the bill Vice-President (General Administration) that position would have to be so designated, and it would cause confusion when the responsibilities had been set out by the board of directors perhaps in one other sphere of the company, other than general administration—whether finance or loans and mortgages, and so on. It seems to me, to take it as it stands in that particular aspect is quite clear.

The ACTING CHAIRMAN: As a matter of fact, in section 11 of the act it states:

The Board shall manage the affairs of the Corporation and conduct its business and may for such purposes exercise all powers of the Corporation.

So it gives the board of directors all the powers necessary to make any kind of appointment they want.

Hon. Mr. NICHOLSON: I think this might help Senator Flynn. I can understand his difficulty. We want to make use of the services of one of our able executives, Mr. Lupien. The corporation's activities are not such as to merit an executive vice-president. We want three vice-presidents, but in the absence of the president for any cause we want one of those people to be the boss, and that happens to be Mr. Lupien.

Senator FLYNN: That is what I am trying to clarify in the act, because it is already mentioned.

Hon. Mr. NICHOLSON: I think it is already clear in the act.

Senator SMITH (*Queens-Shelburne*): If we have finished with the discussion of that point, I wonder if I could turn to Bill C-104 for a moment?

The ACTING CHAIRMAN: To the other bill?

Senator SMITH (*Queens-Shelburne*): Yes, the other bill, provided we have finished that discussion.

The ACTING CHAIRMAN: Is there any other question on Bill S-8?

Senator SMITH (*Queens-Shelburne*): In the discussion last evening in the Chamber, Senator Grosart raised a point I would like to bring to the attention of one of the witnesses before us. He questioned the use of the words "have been issued" in section 13 of the National Housing Act, and his question was whether the spending to date under the National Housing Act provisions had already exceeded the \$6 billion authorized prior to the amendment.

Hon. Mr. NICHOLSON: I think, Senator Smith, that has already been answered by Mr. Hignett in answer to a question put by Senator Leonard, when he gave the figures of the breakdown of guarantees to other lending institutions, approved lenders, by the corporation itself. It is just under the \$6 billion, but it is coming so dangerously close to it we need additional funds very quickly to replenish the treasury.

Senator SMITH (*Queens-Shelburne*): My purpose in having it stated again was to tie it in with respect to Senator Grosart's inquiry so he could see that that it was dealt with in committee.

Hon. Mr. NICHOLSON: I am quite sure that if there is a transcript of our remarks this morning, Mr. Hignett's answer is there, Senator Smith.

Senator SMITH (*Queens-Shelburne*): The other matter I would like to bring to the attention of the witnesses has to do with the remarks made by Senator Gladstone in the chamber, when he asked questions as to what was being done under the act in the way of housing for the Indian reserves. Will you make a short statement on that?

Hon. Mr. NICHOLSON: There is a very serious difficulty—and I speak here not as the minister responsible for the administration of the act but as Superintendent General of Indian Affairs. We have a unique problem in that lands on Indian reserves are owned by the Crown. The Indians cannot give a mortgage on the lands. We now have a group working to find some other solution that will make possible loans for the building of improved housing on Indian land. Under the present act this is impossible because the land is held by the Crown.

The CHAIRMAN: Could you not take a mortgage on the building itself instead of a mortgage on the building and the land? That is done in some instances where there are different owners of the house and the land.

Hon. Mr. NICHOLSON: All I can say, Mr. Chairman, is that the matter is under active study.

I might say this, Senator Smith—and you can pass it on to Senator Gladstone—that while we have this difficulty, two or three constructive suggestions have been made, and in addition we are carrying out an experimental housing

program for Indians and metis who have left the reserve. This is an experimental program in Northern Saskatchewan, and if it is successful it will be repeated in other provinces. However, we have to find a solution to the technical difficulty we are faced with having regard to the fact that the Crown cannot mortgage to itself.

The CHAIRMAN: Are there any other questions?

Mr. LUPIEN: Mr. Chairman, I should like to amplify the comments of the minister about loans to universities because of the provincial interest in this field. Even though this project has been discussed with the provinces only two of them have enacted legislation, or taken some participation in this field so as to maintain their right over it.

The Province of Quebec has requested each university to transmit its requests for loans through the provincial Department of Education, and in addition it is guaranteeing the amount of the loan obtained through Central Mortgage and Housing Corporation.

The Province of Ontario has recently instituted a grant, which is mandatory, in the amount of \$1,400 per student house. This grant has to be taken up by all institutions taking advantage of the lending facilities, and it has had the effect of reducing the permissible mortgage under the National Housing Act.

The CHAIRMAN: It is a grant, and not a loan.

Mr. LUPIEN: Yes, it is a grant.

Hon. Mr. NICHOLSON: I might say, Mr. Chairman, for the information of those who are interested, that we have made more loans for universities in the Province of Quebec than in all the other provinces put together, and that has been done with the approval of the government of that province.

The CHAIRMAN: Are there any other questions?

Senator LEONARD: Perhaps, I should add, Mr. Chairman, a further word of explanation with respect to what the vice-president has said. I am on the University Affairs Committee of the Province of Ontario which makes these grants. It is true that there is a maximum of \$1,400, but that is also governed by a percentage of the amount that Central Mortgage and Housing Corporation itself will lend, and, of course, it is not mandatory in the sense that the university has to take it. It is a permissible grant on the part of the province. Based largely on the fact that in charging the student the cost of the amortization of the Central Mortgage and Housing Corporation loan it was felt that the amount required was too large and, therefore, the cost of the residence would fall back on the university's revenues proper, and that this was a field in which the Province of Ontario could properly assist by directing the grant towards the university residence. That is the basis upon which it is being done.

The CHAIRMAN: Are we ready to proceed with a clause by clause study of the bill?

Hon. SENATORS: Agreed.

The CHAIRMAN: We shall take Bill S-8 first. Clause 1, striking out paragraph (j) of section 2. Does clause 1 carry?

Senator FLYNN: Mr. Chairman, I would be prepared to move an amendment that clauses 1 and 2 be deleted, but that would entail amendments to other parts of the bill. If the view is taken that we cannot improve this bill then I will stay put.

Senator LAMBERT: You can move your amendment next year.

The CHAIRMAN: Shall clause 1 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Clause 2, with respect to the board of directors?

Hon. SENATORS: Carried.

The CHAIRMAN: Clause 3, the appointment of president and vice-president?

Hon. SENATORS: Carried.

The CHAIRMAN: Clause 4, as to the executive committee?

Hon. SENATORS: Carried.

The CHAIRMAN: Clause 5, absence or incapacity of president and vice-president? Shall this clause carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Clause 6, annual statement of account to Minister. Shall this clause carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall the title of the bill carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall I report the bill without amendment?

Hon. SENATORS: Agreed.

The CHAIRMAN: We come now to Bill C-104, which is being dealt with together with Bill S-8. Is it the wish of the committee to go through it clause by clause? There have been no comments made against the bill. Shall the bill carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall I report the bill without amendment?

Hon. SENATORS: Agreed.

Hon. Mr. NICHOLSON: Thank you, Mr. Chairman, and thank you, gentlemen.

The committee adjourned.



Third Session—Twenty-sixth Parliament
1965

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE
ON
BANKING AND COMMERCE

The Honourable **SALTER A. HAYDEN**, *Chairman*

No. 3

Complete Proceedings on Bill C-98,

intituled: "An Act to make provision for the retirement of members of the Senate."

TUESDAY, JUNE 1, 1965

WITNESSES:

Department of Justice: Mr. D. S. Thorson, Assistant Deputy Minister.
Department of Finance: Mr. Hart D. Clark, Director, Pensions and Social Insurance.

REPORT OF THE COMMITTEE

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

THE STANDING COMMITTEE

ON

BANKING AND COMMERCE

The Honourable Salter A. Hayden, *Chairman*

The Honourable Senators:

Aseltine	Gershaw	Paterson
Baird	Gouin	Pearson
Beaubien (<i>Bedford</i>)	Haig	Pouliot
Beaubien (<i>Provencher</i>)	Hayden	Power
Blois	Hugessen	Reid
Bouffard	Irvine	Roebuck
Burchill	Isnor	Smith (<i>Kamloops</i>)
Choquette	Kinley	Smith (<i>Queens-</i> <i>Shelburne</i>)
Cook	Lambert	Taylor
Crerar	Lang	Thorvaldson
Croll	Leonard	Vaillancourt
Davies	Macdonald (<i>Brantford</i>)	Vien
Dessureault	McCutcheon	Walker
Farris	McKeen	White
Fergusson	McLean	Willis
Flynn	Molson	Woodrow—(50).
Gelinas	O'Leary (<i>Carleton</i>)	

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

(Quorum 9)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Thursday, May 27th, 1965:

“Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Connolly, P.C., seconded by the Honourable Senator Lambert, for the second reading of the Bill C-98, intituled: “An Act to make provision for the retirement of members of the Senate”.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Connolly, P.C., moved, seconded by the Honourable Senator Hugessen, that the Bill be referred to the Standing Committee on Banking and Commerce.

The question being put on the motion, it was—

Resolved in the affirmative.”

J. F. MacNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

TUESDAY, June 1, 1965.

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

Present: The Honourable Senators Aseltine, Baird, Beaubien (*Bedford*), Beaubien (*Provencher*), Burchill, Choquette, Connolly (*Ottawa West*), Cook, Croll, Dessureault, Fergusson, Flynn, Gershaw, Gouin, Haig, Hugessen, Irvine, Isnor, Kinley, Lambert, Lang, Leonard, Macdonald (*Brantford*), Paterson, Power, Reid, Roebuck, Smith (*Kamloops*), Smith (*Queens-Shelburne*), Taylor, Thorvaldson, White, Willis and Woodrow. (34)

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

In the absence of the Chairman and on Motion of the Honourable Senator Connolly (*Ottawa West*), the Honourable Senator Leonard was elected Acting Chairman.

On Motion of the Honourable Senator Croll it was Resolved to report recommending that authority be granted for the printing of 800 copies in English and 300 copies in French of the proceedings of the Committee on Bill C-98.

A letter was read to the Committee by the Acting Chairman from the Honourable Senator Crerar with respect to Bill C-98.

A letter was read into the record by the Honourable Senator Connolly (*Ottawa West*) from the Hon. E. J. Benson, Minister of National Revenue with respect to the registration of the pension plan for the purposes of the Income Tax Act.

Bill C-98, "An Act to make provision for the retirement of members of the Senate", was considered clause by clause.

The following witnesses were heard:

Department of Justice: D. S. Thorson, Assistant Deputy Minister. *Department of Finance:* Hart D. Clark, Director, Pensions and Social Insurance.

The Honourable Senator Flynn Moved that clause 17 be left out.

The Motion was declared lost.

The Honourable Senator Flynn further Moved that clause 15 be amended by leaving out lines 10 to 15 inclusive, with the exception of the word "or" on line 15.

The Motion was declared lost.

The Honourable Senator Flynn further Moved that subclause (1) of clause 16 be left out and the following inserted: (15) "Where a person who was granted an annuity under Section (15) dies, or when a Senator dies in Office before the expiration of the delay provided in paragraph (a) of Section 15, the Governor in Council may grant to his widow an annuity equal to one-third

of the annuity provided in said Section 15, to commence immediately after his death and to continue during her natural life." On question raised, the Acting Chairman ruled the Motion out of order.

The Honourable Senator Flynn further Moved that clause 17 be amended by adding paragraph 3 as follows: "When a Senator dies leaving no widow, or leaving a widow to whom no annuity is payable under the terms of Section 16, there shall be remitted to the estate of this Senator a sum representing the total of his contributions made under the present clause." On question raised, the Acting Chairman ruled the Motion out of order.

On Motion duly put it was Resolved to report the said Bill without amendment.

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

Attest.

Frank A. Jackson,
Clerk of the Committee.

REPORT OF THE COMMITTEE

TUESDAY, June 1, 1965.

The Standing Committee on Banking and Commerce to which was referred the Bill C-98, intituled: "An Act to make provision for the retirement of members of the Senate", has in obedience to the order of reference of May 27, 1965, examined the said Bill and now reports the same without any amendment.

All which is respectfully submitted.

T. D'Arcy Leonard,
Acting Chairman.

THE SENATE

THE STANDING COMMITTEE ON BANKING AND COMMERCE

EVIDENCE

OTTAWA, Tuesday, June 1, 1965.

The Standing Committee on Banking and Commerce, to which was referred Bill C-98, to make provision for the retirement of members of the Senate, met this day at 10 a.m. to give consideration to the bill.

Senator T. D'Arcy Leonard (*Acting Chairman*) in the Chair.

The ACTING CHAIRMAN: Honourable senators, 10 o'clock is striking and I see a quorum. I call the meeting to order. We have before us for consideration Bill C-98.

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

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

The ACTING CHAIRMAN: I have been handed a letter which is addressed to the Honourable Salter Hayden, Chairman of this committee, by Senator Crerar. I have not read it yet. Is it your wish that I read it to the committee?

Senator ROEBUCK: Yes.

The ACTING CHAIRMAN: The letter is as follows:

May 25, 1965.

Dear Senator Hayden,

In a few days the so-called Senate Reform Bill—which is no reform at all—will be before your committee.

No principle can be found upon which this legislation is based, since some people are in decline at 60 years of age and others at the peak of their powers at 80.

However, if the bill is accepted by The Senate there are definitely a few changes that should be made. In the *Toronto Star* of May 18 the following report of the conclusion of the debate in the Commons appears: "The New Democratic Party, which wants the Senate abolished, ended a hard fought battle against the bill yesterday *after winning* a concession from the government—to make senators pay 6% of their Income into a Pension Fund." This means, I take it, that senators who opt out and take the retiring allowance, and, more particularly, those senators who decide to continue as active senators, will be compelled to contribute 6% of their indemnity to a Pension Fund from which they will never draw a dollar of benefit. This is a clear violation of the terms of their appointment. If Parliament lightly disavows engagements, honourably made and honourably accepted in the past, where are we heading for? It appears to be quite clear this unwise provision *was not* in the bill when first presented, but was introduced to appease the socialists in the Commons and so get the measure through with. If The Senate accepts this, it humiliates and demeans itself. It will be laughed at and will

deserve to be laughed at. This provision should be stricken out of the bill, and there should be no false modesty about it.

There is room for some real reform in The Senate and before long we should address ourselves to it.

I shall be grateful if you will present these views to the committee.

Yours very sincerely,

"T. A. Crerar"

Then over the page there is a postscript:

It would be just as logical to pass an amendment that senators who continue on should pay annually 5% of their indemnity to the Red Cross.

We are all sorry that Senator Crerar himself is not here to express his own views, but we know that he would express them just as forcibly as he has done in this letter.

The ACTING CHAIRMAN: We have present with us Mr. D. S. Thorson, who is familiar to all of us as the Assistant Deputy Minister of Justice, and with him is Mr. Hart D. Clark, Director, Pensions and Social Insurance, Department of Finance. These gentlemen are here to give us their explanations of the bill, and, subject to your wishes, I would suggest that we proceed to deal with the bill section by section, asking for an explanation where required on each section as we go along. Some sections are more controversial than others; there are some that should be read together as being a plan. We can set aside any section which it appears should be stood until we consider any further sections. However, I think it would be more orderly if in the meantime we proceed section by section and get the explanations as we go along. Is that agreeable?

Senator ROEBUCK: Right on that point, Mr. Chairman, may I protest against the explanatory notes to this bill. They are very poorly drawn. They are not sufficient to be understood.

The ACTING CHAIRMAN: The explanatory notes are not explanatory enough?

Senator ROEBUCK: No, they are not good enough.

The ACTING CHAIRMAN: Senator Flynn?

Senator FLYNN: Mr. Chairman, I am not too sure that the procedure you suggest is appropriate. I think Part I, which contains only one section, is all right, but in the case of Part II and Part III I think it would be appropriate to examine each section separately. I think we should have an overall view of the system which is proposed in Part II, and then an overall view of Part III, before we deal with each section separately.

The ACTING CHAIRMAN: Would it meet with your views, Senator Flynn, if, in any case, we dealt with Parts I and II, and then when we come to Part III. If you want to debate the bill in general we will do so. Is that agreed?

Hon. SENATORS: Agreed.

The ACTING CHAIRMAN: In dealing with section 1 perhaps Mr. Thorson will give us the benefit of an explanation.

Mr. D. S. Thorson, Assistant Deputy Minister of Justice: Mr. Chairman, I do not know that there is much I need say about this. The section is largely self-explanatory. The existing provision of the British North America Act, whereby a senator holds his place in the Senate for life, is changed to provide that a senator summoned to the Senate after the coming into force of the bill will hold his place in the Senate only until he attains the age of 75 years. This does not disturb the tenure of office of anyone appointed to the Senate before the coming into force of the bill.

Senator REID: Why is it stated in the bill that subject to the provisions of this act a senator shall hold his place in the Senate for life?

Mr. THORSON: Of course, this would also continue to apply to those persons who are now members of the Senate. So that the exception is only as regards persons summoned to the Senate after the coming into force of the bill.

The ACTING CHAIRMAN: Those words apply to us here, and mean that there is no change in so far as we are concerned with respect to the provisions of section 1. It is only as to those appointed after the act comes into force that section 1 applies.

Senator ROEBUCK: Mr. Chairman, I would like to restate my position in regard to this matter of retiring senators at 75. I never have agreed with it, and I do not agree with it now. I do not think it will benefit the Senate or, that it will make the Senate more effective; indeed, it will make it less effective. The essential condition in the Senate is the independence of its members, and by retiring them at 75 an additional factor is introduced into their thinking; that is to say, what they are going to do after they retire. In consequence they will be more approachable than they are today. At the present moment, we having nothing to hope for and nothing to fear. If we are to retire at 75, we have to think of what we are to do after 75, and that leaves us open to approach. I am opposed to it. I do not think it will do the Senate any good. It will make the Senate less independent and less bold in its actions.

While there are parts of the bill with which I strongly agree, I want my position thoroughly understood, and I am going to restate it in the house, that I am opposed to the compulsory retirement.

The ACTING CHAIRMAN: Is there any further discussion on section 1, which deals with future appointments of senators? Are you ready for section 1? Shall it carry?

Hon. SENATORS: Carried.

Senator ROEBUCK: On division!

The Acting CHAIRMAN: On division. Section 2 is simply a draftsman's clause to redefine the British North America Act Acts, 1867 to 1965, as this act will then become a further amending act. Shall section 2 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Section 3 is actually purely verbiage, but if the members of the committee want to debate the plan which is set out in Part II and Part III, for that matter as well—section 3 provides a convenient way of doing it, or we can still continue to get the clauses out of the way which are not controversial.

Senator FLYNN: I would like the purposes of Part II to be generally outlined.

The Acting CHAIRMAN: Is that agreeable? Shall we deal with Part II at the present time, and go on and deal with Part III later?

Senator ROEBUCK: I think we should hear from the officials.

The Acting CHAIRMAN: Mr. Clark?

Mr. Hart D. Clark, Director, Pensions and Social Insurance, Department of Finance: Mr. Chairman, the primary purpose of Part II of this bill is to amend the existing Members of Parliament Retiring Allowances Act, so that the references in it would be appropriate to senators who are appointed after this bill has become law. The changes are all consequential and are required by the broadening of the application from a member of the House of Commons to a member of the Senate.

This would make it possible for a future senator to elect, for example, for prior service as a member of the House of Commons.

The other changes are purely consequential. There are references to dates which were not there before having to do with the coming into force of various provisions in the existing law.

It would also have application—this is anticipating slightly—to any present senator who elected under Part III to come under the provisions of this act; but I think perhaps we could leave any discussion of that until we come to Part III.

The ACTING CHAIRMAN: Perhaps in view of the fact that there may be some senators who will elect or might want to know whether to elect to come under Part II, we should get the explanation of the manner in which a future appointment to the Senate will be treated with respect to his contributions and to his benefits, so that we will be able to know if an existing senator elects to come under Part II, what the treatment would be.

Mr. CLARK: A senator to whom Part II would apply then would contribute at the rate of \$720 a year. This would lead to the building up of a pension at the rate of \$300 a year and in turn to the building up of a widow's benefit at the rate of \$180 a year. It would mean that, once a senator to whom it applied had contributed in respect of sessions in three or more Parliaments and left, for whatever reason he might leave, the pension produced by those contributions, on the rates which I have indicated, would be payable either to him or to his widow as the case might be.

Senator CROLL: A senator who has a pension in the House of Commons now, and is at present a member, can continue to build on that fund?

Mr. CLARK: That is correct; and a present senator who had a suspended benefit from the House of Commons, if he elected to come under Part II, then would simply be augmenting the pension which he has already accumulated to some extent in respect of his former service.

Senator HUGESSEN: What is the maximum pension he could build up?

Mr. CLARK: It is \$9,000, under the act at the moment—in other words, 30 years of service would produce the maximum of \$9,000.

Senator ROEBUCK: You will be all right on that.

Senator HUGESSEN: A person who has left the House of Commons does not come into that figure. We cannot go back to the House of Commons.

The ACTING CHAIRMAN: I understand the senator's point is that service in the House of Commons is not eligible prior to the passing of the Members of Parliament Retiring Allowances Act.

Mr. CLARK: It is possible to elect in respect of prior service—

Senator KINLEY: And pay a fee.

Mr. CLARK: Pay the contribution, plus interest.

Senator FLYNN: May I suggest that this reply would not be absolutely correct. I do not think you may buy back years under this system. I understand that someone who has added service in the House of Commons and who has built up a pension—I think this is in the case of a few, but there are some who have not stayed very long—I think those cannot add to this, but they cannot buy back years, because there are sections here that clearly exclude them. I refer to sections 6 and 7.

Senator CONNOLLY (*Ottawa West*): Of what act?

Senator FLYNN: Of this act.

Senator CONNOLLY (*Ottawa West*): Of this bill.

Senator FLYNN: It may be that if a member who has built up a pension there would have to go under Part III, he would add to what he had, to the sum he had there and build a pension accordingly.

Mr. CLARK: Section 7(2)(a) of the present act, which does not appear in this amendment but is still in force, permits a member to whom it applies to elect—

Senator CONNOLLY (*Ottawa West*): Excuse me, I think the witness has not identified the legislation to which he is referring. In this case he is referring to the Members of Parliament Retiring Allowances Act.

Mr. CLARK: In section 7(2)(a) of the Members of Parliament Retiring Allowances Act a member is permitted to elect in respect of a previous session in respect of which he received a withdrawal allowance under the former act. In other words, this applies not only to those senators who have built up a suspended pension credit under the Members of Parliament Retiring Allowances Act but it permits another member who received instead a return of contributions, or a withdrawal allowance, as it is referred to. It permits him to elect and pick up that service if he so desires.

Senator CROLL: Mr. Clark, the question that I think was asked was this—Senator Kinley asked it and used it as an example—and he is a good example always—in a case where he had 20 years' service before this pension plan came into force, then he went over to the Senate—do you suggest that under this he could pick up those 20 years?

Mr. CLARK: If he elected, under clause 14, to come under the Members of Parliament Retiring Allowances Act, it would be possible for him to elect.

Senator FLYNN: Under what section?

The ACTING CHAIRMAN: Section 7 of the Members of Parliament Retiring Allowances Act.

Senator FLYNN: Not as amended.

Mr. CLARK: The effect of the election under clause 14—here again we have to refer to clause 14—it deems him to have become a member of the Senate after “this act comes into force”. In other words, he has not been a member of the Senate up until that time. Therefore the right under clause 7(1) of the Members of Parliament Retiring Allowances Act to elect for prior service would apply to him.

Now, this could only apply to service as a member of the House of Commons because, and during the years in which he has, up to now, been a member of the Senate, he is deemed for the purposes of this, not to have been such a member.

Senator FLYNN: Section 6—the new section 7 of the Members of Parliament Retiring Allowances Act refers to—that the member must, within one year from the 20th November, 1952, in the case of a member who was a member of the House of Commons on that day—well, of course, within one year from that date—but unless he has made an election I do not think he would be qualified. Now it will be too late.

If you take section 7A, a member may, within one year from the 2nd August, 1963—it is again too late, if you speak of present members of the Senate.

Mr. CLARK: All I can say on that point is that the effect of the election under clause 14(1)—as shown in clause 14(2), on page 5 of the bill—is that he is deemed to have been summoned to the Senate “immediately after the coming into force of this act”. So he is regarded as not having been a senator, so that the effect of section 7(2)(a) of the Members of Parliament Retiring Allowances Act is to give him—

The ACTING CHAIRMAN: Re-election to the House of Commons? Is that the effect?

Mr. CLARK: The effect of section 7(2)(a) is to give him—

Senator FLYNN: From the 2nd August, 1963?

Mr. CLARK: No, from the day on which Parliament first is in session after he becomes a member after the 2nd August. Clause 14(2) says that he is "summoned to the Senate immediately after the coming into force of this act", so the year would be calculated from that time.

The ACTING CHAIRMAN: He is deemed to become a member after the 2nd day of August, 1963.

Senator FLYNN: Deemed to have become a member after the 2nd day of August, 1963, but you will not say that the 2nd day of August, 1963 is only one year ago?

Mr. THORSON: If I may explain that, the right of election under section 7A is limited to one year from the day on which Parliament first is in session after he first becomes a member after the 2nd of August, 1963.

Senator FLYNN: I know.

Mr. THORSON: So that it would run one year from the time mentioned in clause 14(2) of this bill. It would be one year from that date.

Senator FLYNN: I cannot see how it can be. I cannot see how I can "first" become a member if I have already been a member. Clause 14(2) does say that he is deemed to have been summoned to the Senate immediately after "the coming into force of this act," but he is not deemed to have been first elected after the "coming into force of this act." You have first to be a member.

Senator HUGESSEN: It is the definition of member.

Senator CONNOLLY (*Ottawa West*): It derives from the definition of member.

Senator FLYNN: But how can you say that I have "first" become a member immediately after the coming into force of this act?

Senator CONNOLLY (*Ottawa West*): That is only for the purpose of the election.

Senator CROLL: Legal reincarnation.

Senator FLYNN: How can he buy back time? I would like this to be proved. Let us hope the context says so.

Senator CONNOLLY (*Ottawa West*): My friend's objection—so that it may be clearly on the record—is that, assuming the election is made under clause 14, to come under Part II of the act, then what right has a senator who makes such an election to buy back his service in the House of Commons? Is that correct?

Senator FLYNN: That is right—when he has not built up a fund under the Members of Parliament Retiring Allowances Act.

Mr. THORSON: Because he is regarded by clause 14 of the bill as having been summoned to the Senate "immediately after the coming into force of this act." That is the time at which he becomes a "member," as defined in the Members of Parliament Retiring Allowances Act. Therefore, the right to elect runs from that time and he would have one year from the coming into force of the bill to elect.

Senator LAMBERT: That means the legislation is retroactive in so far as service in the House of Commons is concerned.

Mr. THORSON: It permits him to make an election to contribute in respect of that service.

Senator LAMBERT: Where a senator has had service in the House of Commons, does he have a right to that or does he have to pick it up now?

Mr. CLARK: Those senators who on ceasing to be members of the House of Commons were entitled to an annual payment simply pick up those rights again. But if they received a withdrawal allowance on being summoned to the

Senate, it will be necessary to elect to contribute for that service assuming that an election first of all was made under section 14, subsection 1, to come under the Members of Parliament Retiring Allowances Act, and then an election was made under section 7 of that act.

Senator LAMBERT: The point I want to make clear is that the provisions in this bill are not in effect yet. But when a member serves for more than three sessions in the other house and is appointed to the Senate are his rights as a member of the House of Commons then abandoned?

Mr. CLARK: They are held in suspense.

Senator LAMBERT: What does that mean? Unless this legislation comes into effect, there is no right under the House of Commons act.

The ACTING CHAIRMAN: The Members of Parliament Retiring Allowances Act says in section 15 that a payment shall be discontinued while that person

(a) is a Senator or a member,

(b) is employed in the public service of Canada, or

(c) renders services the remuneration for which is paid out of the Consolidated Revenue Fund or by an agent of Her Majesty in right of Canada,

Senator LAMBERT: That is the case I wanted to establish. You can now pick it up, but you couldn't have done so without this legislation.

The ACTING CHAIRMAN: Senator White.

Senator WHITE: What is the position of present senators who have paid up pensions in the House of Commons and who do not elect under section 14? What is the position with regard to the paid-up pension in the House of Commons fund?

Mr. CLARK: Under section 15 of the Members of Parliament Retiring Allowances Act that pension is discontinued so long as he is a senator. Should he resign at some stage, then it would become payable on resignation.

Senator WHITE: Do you mean a senator would receive two pensions, the paid-up pension of the House of Commons and the pension under this bill?

Mr. CLARK: That would be the case.

Senator WHITE: Are you further inferring that the senator cannot receive a pension from the House of Commons, or rather that he cannot receive the money paid in for the pension—did you say that? Did you say that the money must stay there?

Mr. CLARK: Not while he is a senator. In the event of resignation it would be payable, and in the event of death there would be a withdrawal allowance equal to the payments he had made as a member of the House of Commons.

Senator WHITE: That would hardly make sense if a senator were going to get two pensions. Is it correct that he would receive two pensions, or is that just your opinion?

Mr. CLARK: That is the position.

The ACTING CHAIRMAN: Perhaps Mr. Thorson can answer this since it is a legal question.

Mr. THORSON: That is my understanding as to what would happen.

Senator WHITE: Before this bill comes into operation, your paid-up pension in the House of Commons has to remain there, and if you retire from the Senate you would draw a pension. Therefore you cannot get the money back, but if you die there will be a refund to your estate?

The ACTING CHAIRMAN: That is not changed in this bill. But in addition there is a provision for a pension on resignation from the Senate when this bill comes into effect.

Senator MACDONALD (*Brantford*): If a senator has a credit in the fund and elects to retire, does he get the money back? Or does he have to wait until he dies?

Mr. THORSON: If he retires he gets his pension at that time.

Senator MACDONALD (*Brantford*): Did you say that a former member of the House of Commons notwithstanding the fact that the Retiring Allowances Act did not come into effect until 1952, can pay back to the day he entered Parliament even if it were back in 1935?

Mr. CLARK: That power was in the law from 1952; that is correct.

Senator MACDONALD (*Brantford*): Did I also understand you to say that if a member of the Senate who entered Parliament in 1935—and there are a number here who entered Parliament long before that, and therefore have more than 30 years' service in Parliament—did I understand you to say that if they buy—

An Hon. SENATOR: We get a free pension.

Senator MACDONALD (*Brantford*): But if you don't want to take it, you could retire and elect to buy back into the retirement fund sufficient to bring up the \$9,000 to do so?

Mr. THORVALDSON: Only if they were 30 years as a member of the House of Commons.

Senator LAMBERT: Or three sessions.

Senator MACDONALD (*Brantford*): If the service has been 30 years in Parliament, in both houses, continuously.

Mr. CLARK: I must point out that the right to elect in respect of prior service relates only to service as a member of the House of Commons.

Senator MACDONALD (*Brantford*): If a member had been in the House of Commons for more than three sessions, and he built up a credit, can he pay back now to the date on which he had that credit?

Mr. CLARK: He cannot pick up the intervening time. That is not permitted under the bill.

Senator CONNOLLY (*Ottawa West*): That is the intervening time when he was not in the Senate.

Mr. CLARK: That is right.

Senator MACDONALD (*Brantford*): From now on can he start making payments and add that to his previous service in the House of Commons?

Senator CONNOLLY (*Ottawa West*): You can pick up back time for any service in the House of Commons.

Mr. CLARK: With one qualification. If a senator was a member of the House of Commons during the time when the Members of Parliament Retiring Allowances Act was in effect, and he did not take the opportunity which that gave him to pick up prior service, then he has given up the opportunity to pick up service, say, going back to 1935, but if he picked it up, or if he did not have the opportunity to do so, then he can pick it up again now.

Senator FLYNN: That is what I was trying to indicate. If you have built up a pension in the other place, of course you can have your years in the Senate from now on in accordance with what you did at that time. But if you did not build up a pension—for instance, somebody who stayed only one session in Parliament, he cannot now elect to go under Part II and buy back his years in the House of Commons, particularly if he withdrew the amount he had paid in at that time.

Mr. CLARK: If you received a withdrawal allowance, you can pick up that service. If a senator in 1953 had service going back to 1935, and he decided

not to pick that service up, he has lost his chance, but if he had picked it up and had it to his credit, then he can still have it to his credit here if he makes the necessary election.

Senator FLYNN: Even if his contributions were returned to him when he left the house?

Mr. CLARK: He has to repay the contributions with interest.

Senator FLYNN: It is a strange wording.

The ACTING CHAIRMAN: Any further discussion on section 3?

Senator FLYNN: If we are discussing generally the application of the bill I would have a few further questions. My first question is that Part II does not apply to members of the Senate who are presently 75 or over. They have not the option to elect to come under Part II. I think this is clear in section 14.

Mr. CLARK: That is correct.

The ACTING CHAIRMAN: The answer is yes.

Senator FLYNN: Therefore, what would be the practical result of a senator, say, 70 years of age who would elect to go under Part II? First of all he has agreed thereby to resign at 75 years of age, or to retire at 75. Therefore he would contribute only five years. If there were not three Parliaments during that time he would not be able to build up a pension under this Retiring Allowances Act.

Mr. CLARK: That would be so if he had no prior service as a member of the House of Commons.

Senator FLYNN: And if he contributed during 10 years and there were three Parliaments intervening, the maximum that he could build up would be \$3,000?

Mr. CLARK: Yes, in 10 years, that is correct—with related widow's benefits of \$1,800.

Senator FLYNN: You mentioned the maximum pension under the Retiring Allowances Act was \$9,000. In this act there is provision that—it is under Part III, but I want to discuss it in relation to Part II—the maximum period for contribution is 26 $\frac{2}{3}$ years. I thought you said it took 30 years of service to get the maximum.

Mr. CLARK: This is the period related to a pension of \$8,000.

Senator FLYNN: That is 26 $\frac{2}{3}$ years; and 30 years is for a pension of \$9,000?

Mr. CLARK: Yes, that is correct.

The ACTING CHAIRMAN: Shall we go ahead now and deal with Part II clause by clause?

Senator CROLL: Could we deal with Part III and then come back to Part II, please?

The ACTING CHAIRMAN: Part III: Provisions applicable to persons summoned to Senate before commencement of act. Perhaps under section 13 we might have Mr. Thorson or Mr. Clark give us the explanation of Part III.

Mr. THORSON: Yes. As the part heading denotes, this part is applicable to persons who were summoned to the Senate before the coming into force of the act.

Section 13 defines a "senator" as being one who was summoned to the Senate before the coming into force of the act, but excludes specifically any person who makes an election under the proposed section 14.

Section 14 is the provision that has already been discussed. This section authorizes a present senator who has not attained the age of 75 to make an election within one year of the time when the bill becomes law not to have Part III of the bill apply to him. In those circumstances, by virtue of subsection

2 of the same clause—that is at the top of page 5 of the English version of the bill which I have before me—such a person would be regarded, for the purpose of section 29 of the British North America Act—which is set out in the first clause of this bill—and for all purposes of the Members of Parliament Retiring Allowances Act to have been summoned to the Senate immediately after the coming into force of this act. In other words, he is put in exactly the same position as a newly appointed senator would be, to whom Part II of the bill will apply.

Senator REID: But he would not have reached the age of 75?

Mr. THORSON: Yes, that is right. This is an election available only to those who at the time of making the election have not yet reached 75 years of age.

Senator ASELTINE: In other words, he must elect not to come under it?

Mr. THORSON: Yes, it is a positive election not to come under it.

Senator ASELTINE: If he does not elect, he automatically comes under Part III?

Mr. THORSON: Yes.

Senator CHOQUETTE: Let us assume a senator 60 years of age when this bill was passed. What would be the more advantageous election to make, the plan to elect to come under?

The ACTING CHAIRMAN: How long are you going to live?

Mr. THORSON: There are so many imponderables I think it would be very adventuresome of me even to attempt an answer to that question. I think generally, though, it can be stated that the option to take advantage of the election will be of interest primarily to those who are younger rather than those who are older. In the age groups approaching 70 or above 70 years of age, but still under 75, normally there would be no real incentive to elect to come under the Members of Parliament Retiring Allowances Act, unless they had previously been members of the House of Commons, in which case it might well be to their advantage, in effect, to build further credits on the credits they had acquired before they became members of the Senate.

Senator CHOQUETTE: That deals with my point.

Senator CROLL: Mr. Thorson, starting with the maximum of \$3,000, assuming they had 10 years more at age 65, or say 15 years, how could they conceivably build up to that maximum?

Mr. THORSON: At the age of 65, are you assuming any prior service in the House of Commons?

Senator CROLL: I am assuming prior service in the Commons, the maximum of \$3,000. The maximum at the time was \$3,000.

Mr. CLARK: Perhaps I could speak on that. It is now possible, Senator Croll, to build up in respect of prior service the previous maximum of \$3,000 to whatever higher figure would be applicable in the individual case.

The ACTING CHAIRMAN: The old \$3,000 maximum has gone.

Mr. THORSON: That was removed two years ago.

Mr. CLARK: In 1963.

Senator MACDONALD (*Brantford*): Wouldn't you have had to have had continuous service in the House of Commons up to now to build up the \$9,000 maximum? If a person retired, we will say, in 1953 and had a pension then of the maximum, which was then \$3,000, he could not build up between 1953 and the present time. Supposing he were now 65, would it be possible for him to build up to a pension of \$8,000?

Mr. CLARK: In the particular case which you have cited, related to a senator who ceased to be a member of the House of Commons in 1953, it would depend whether he had contributed on all his prior service as a member of the

House of Commons. If he had contributed on all of it, it would not be possible to increase the \$3,000; but if he had not it would now be possible to elect in respect of additional service and augment the \$3,000; and many members of the House of Commons did that after the amendments in 1963.

Senator MACDONALD (*Brantford*): Yes, but if a man were 65 now in the Senate, he would only have 10 years in which to do that. He would be required to retire at 75. Could he build up from the \$3,000 in the next 10 years, to bring it up to \$8,000?

Mr. CLARK: No, if \$3,000 was the absolute maximum that he could obtain as a member of the House of Commons, the most that he could do in 10 years under the present bill would be to build on another \$3,000, with the related widow's benefits.

Senator CROLL: So that he is much better off to stay under this pension plan at 75 and walk out with a pension of \$8,000.

Senator MACDONALD (*Brantford*): Except for the widow's rights.

Mr. THORSON: Not necessarily. It might be possible to envisage circumstances where it would be to the senator's advantage to elect in favour of a smaller pension to himself, but with potentially better benefits available to his widow.

Senator MACDONALD (*Brantford*): That is right.

Mr. THORSON: This is something that can only be assessed on an individual basis. But the benefits to widows available under the Members of Parliament Retiring Allowances Act are different from those proposed in Part III of this bill. There is an additional protection available to the person who elects under the Members of Parliament Act.

The CHAIRMAN: Then I think that brings us to section 15, the section dealing with the situation where there is no election to come under the Retiring Allowances Act. Is that right? We have gone as far as section 14, I think. Section 15, Mr. Thorson. Would you explain that?

Mr. THORSON: Yes, sir. This provision was in the bill as it was first introduced, subject to the modification relating to the time period. It authorizes the Governor in Council to grant an annuity to any senator who has attained 75 years of age, if he resigns within one year from the time that he attains that age, or if he has already attained that age when the new law comes into force, within one year of its coming into force.

Senator REID: But at what age if he is now 75 or over?

Mr. THORSON: If he is 78 when the new law comes into force then this option is to be exercised by him within one year from the time the bill itself comes into force.

Senator METHOT: And if he is 70 he can wait until he is 75?

Mr. THORSON: Yes, he can wait until the time from his 75th birthday to his 76th birthday.

Senator ROEBUCK: But why this limitation of one year? Why should not that option continue? Why should he not be able to do that at any time while he is a member of the Senate? This bill is not yet passed.

Senator CONNOLLY (*Ottawa West*): I think that is a matter of policy. It was felt that the retiring age fixed by the bill should be 75, and then it was felt there should be an option allowed for one year following the attainment of the age of 75.

Senator CHOQUETTE: But why? Why should not a man continue on to the age of 78, and then give one or two months' notice? Is there an explanation for this?

Senator CONNOLLY (*Ottawa West*): Yes, the explanation is that it is a policy decision that the retiring age should be 75.

Senator ROEBUCK: That does not apply to senators who were appointed for life. The retiring age of 75 is clearly not applicable to those senators who are here now and who were appointed for life. The bill gives only a year in which a senator may make his election. If a senator allows that year to go by then, as I understand it, he cannot retire with pension except on the ground of infirmity. That is to say, those who still feel they have a contribution to make are discriminated against in that way. Why is that so?

The ACTING CHAIRMAN: It is a matter of policy.

Senator ROEBUCK: That is no answer. It may be a wrong policy.

The ACTING CHAIRMAN: What I mean is that we cannot direct that question to our witnesses.

Senator ROEBUCK: That is true enough.

The ACTING CHAIRMAN: We have to answer that ourselves.

Senator ROEBUCK: I got the answer from the Leader of the Government, and I say that his answer is not an answer. It may be an answer to an objection to an act, but it is not an answer to a bill that is not yet passed.

Senator THORVALDSON: Mr. Chairman, this question was asked very pointedly in the house the other day. It was asked by me, and I received the answer that we have just been given. The answer by the honourable Leader of the Government was that it was felt this should be done. But, that is not an answer. The honourable Leader of the Government has just said: "Well, it is Government policy". The question that should be asked, and that should be on the record here, is: "Why is it Government policy? What is the reason for this policy? Why must the election be made within one year and not within a year and a half or two years, or ten years, or why should there be an election at all?" That is the point that bothers me and our colleague, Senator Roebuck, as I think it does many others.

We should be told the reason why this election is required to be made within one year. I do not think it is enough to say that it is Government policy without any further reason being given. This requirement of an election within one year was not contained in the bill when it was first introduced in the other place. If I am not right in that then perhaps I may be corrected. Consequently, whose policy is it? Did the Government change its policy in this regard after the bill went before the House of Commons, and if it changed its policy in this regard why did it change it? Was it as a result of pressures by minority groups, or was it because the Government felt it had made a mistake in the original bill?

I see no reason why any one should feel this is a proper provision to be in this bill. I see no reason why such a decision should be Government policy because I cannot, for the life of me, see any sense in it at all. I want to suggest, as I did in the house the other day, that the Senate and this committee should carefully consider this provision. If it is not right and if we believe that it is incorrect and should not be there—if we believe, for instance it was imposed on the Government by minority groups—then we should not accept it. It is far beneath the dignity of the Senate to accept legislation that is prompted in that manner, if such is the case.

Senator ROEBUCK: I am not so much concerned about our dignity as I am concerned about what looks to me to be an injustice. We must speak about ourselves to a certain extent in this discussion because we are thinking personally. I have no intention of retiring. I am long past 75. I could retire within one year, but if at the end of that year I feel as I do now, namely, that I still have a contribution to make, then why should I be discriminated

against in this way in that I shall be unable to retire at any later time except by reason of infirmity. That seems to me to be all wrong.

Senator POWER: Is there a question of death-bed marriages here? The great trouble I have had for many years getting pensions for soldiers was in avoiding pensions being granted to young widows who had married men of about 90. Do you know that in the United States of America in 1935 there were people drawing pensions out of the 1812 war?

Senator ROEBUCK: What application has that here?

Senator CONNOLLY (*Ottawa West*): Mr. Chairman, the idea of a retirement age for senators is certainly not new to this Government. The age of 75 is one that seemed to be appropriate in the circumstances, because it is the age, for example, at which judges of the Superior Courts retire. It is true that the provision with reference to the exercise of the option within a year was not in the original draft of the bill. The suggestion for this, I am bound to say, came from people in this chamber. It did not come from people belonging to any minority group that I am aware of, because I did not hear of it from them. In any event, there are reasons—Senator Power has mentioned one—why a number of people here felt that this was a wise provision to make.

Senator ROEBUCK: I was not among them. I did not make any such suggestion, and I do not know who did.

Senator CONNOLLY (*Ottawa West*): What I do emphasize, as I emphasized in the house when Senator Thorvaldson spoke on this matter, is that the existing patent is not disturbed. If a senator, as Senator Roebuck suggests, desires to see his patent honoured then this option is available to him and to all other senators present. This was not available in the legislation that was proposed not once but twice by the former government. That government was going to retire all senators on their attaining the age of 75 regardless of the patent. I do not think it is demeaning in any way for senators to be asked to exercise this option.

The point was raised in the house on one occasion, and other honourable senators came and spoke to me about it, and it was generally felt that it was a sensible provision. I think that clause 15 (b) is something that must be born constantly in mind in connection with the exercise of the option as well.

Senator HUGESSEN: Mr. Chairman, I must say that I take a completely different view from that taken by Senator Roebuck on this question. What we are getting here is an option that we do not have at the present time. At the present time we have nothing. We have to go on to the end of our lives, at which time our membership in the Senate comes to an end. Here we are being given an option that we did not have before to retire at 75, if we want to, on a reasonable pension, with a smaller pension for our widows. That is something we do not have now, and it is an advantage we are being given. To object to it because it has a limitation does not seem to me to be sensible at all.

Senator CHOQUETTE: What would happen if we propose an amendment and are broadminded enough to vote for it—

Senator CONNOLLY (*Ottawa West*): Oh, do not impute motives to senators.

Senator CHOQUETTE: How would that affect the bill? I have still not received a good reason or explanation as to why election must be made within one year of reaching 75; and I am saying that if we deleted that part, letting a senator go on until 77 or 78 and elect at any time if he wants to do so, how would it affect the bill?

Senator HUGESSEN: Would you prefer to have an option of retiring within a year, or no election at all—no option at all?

Senator CHOQUETTE: I would want to retire at 79 or 80, or 85 or 86.

Senator HUGESSEN: You cannot do it now.

Senator CONNOLLY (*Ottawa West*): But this is an option you are getting.

The ACTING CHAIRMAN: Senator Choquette would like a better option.

Senator FLYNN: Mr. Chairman, I think we are not following the procedure we had agreed upon. We were going to question the witnesses on matters of fact and then come back to each section and discuss the merits, and maybe move for amendment. I think we should finish with the witnesses.

The ACTING CHAIRMAN: We are really on section 15, and we got beyond the explanation into a question of policy. However, perhaps we have had enough discussion—

Senator ROEBUCK: No. I was trying to ask a question in connection with section 15, and if I am permitted, I would like to put it now. Do I understand that if one elects within a year, and then dies, his widow gets a pension? If he does not elect, but later on retires because of infirmity, does his widow still get a pension?

The ACTING CHAIRMAN: The answer is yes.

Senator ROEBUCK: And if between the time of the year and the retirement because of infirmity he is killed in an automobile accident, he does not get it?

Senator ASELTINE: That is the question I asked in the house when Senator Connolly was explaining the bill on May 20 last. The question I asked was as follows:

I have also been troubled about subsection (b) of section 15, and so I want to ask this question: If a senator who is now 75 years of age does not resign within one year, and some time after the expiration of the year, while he is still a senator, he becomes incapacitated and is unable to carry out his duties in the Senate, is it correct that he would then have the right to resign and obtain the pension rights?

Senator Connolly said that was the law. However, I was not clear at the time whether that included a pension for my wife after I passed away.

The ACTING CHAIRMAN: The answer is yes.

Senator FLYNN: The answer is to pray that you become infirm or incapacitated rather than die.

Senator REID: Mr. Chairman, may I ask a question about subsection (b) of section 15, which says, "who has become afflicted with some permanent infirmity". Is that to be carried out as it is written? Supposing he was afflicted with something else and was unable to come in. Would he be debarred then and lose his money? The subsection says specifically "who has become afflicted with some permanent infirmity."

The ACTING CHAIRMAN: Is your question related to a temporary disability which would prevent him from attending in the Senate?

Senator BAIRD: He has to have a permanent disability.

The ACTING CHAIRMAN: And resign on that account.

Senator BAIRD: May I ask a question, Mr. Chairman? Supposing I am at the tender year of 74, and I may elect to continue on, and later at age 81 or 82, I may think of marrying again. Where would my widow fit into a case of that kind, would she get anything?

Mr. THORSON: If for example, you were married at 81 while you were still a senator, then we will say two or three years later you become permanently disabled and resign, your widow would be entitled to the annuity provided for in clause 16.

The ACTING CHAIRMAN: That will be attractive to some people, Senator Baird.

Senator THORVALDSON: Mr. Chairman, I am not quite clear on the meaning of section 14, and I refrained from asking this question until we had dealt with section 15, because I want to be clear on the relationship between the two. Now, in the case of a senator of say 40 or 45 years of age, as I understand it from section 14, it says he must elect within one year from the coming into force of the act not to have the part applied to him if he does not want it applied. Supposing such a person elects not to have Part III applied to him, I take it that means that that senator at no time will have an option to elect under section 15; is that correct?

Mr. THORSON: That is correct senator.

Senator THORVALDSON: Consequently, at no time in the future will he be eligible to elect. If he would like to retire after 75 he cannot do so. Furthermore, if he should become infirm he cannot take advantage of section 15(b)?

Mr. THORSON: That is correct. What it means is that if he at the age of 45 makes such an election under section 14, he is regarded for all practical purposes as a newly-appointed senator and the compulsory retirement provision of section 29 of the British North America Act would apply to him. Similarly, he would be treated for all purposes as coming under the Members of Parliament Retiring Allowances Act, and in the event of disability the provisions applying to all new senators would apply to him.

Senator THORVALDSON: May I then ask this? You say that he completely comes then under Part II?

Mr. THORSON: Yes.

Senator THORVALDSON: What is the relationship then between Part II and the part of section 15 which says that in any event apparently he is entitled to an annuity equal to two-thirds of his sessional indemnity?

The ACTING CHAIRMAN: Not if he has elected under section 14 to come under Part II. It is only the senator who does not elect under section 14 that comes under section 15. Is that not right?

Mr. THORSON: That is correct, Mr. Chairman. If you look at the definition in section 13, Senator Thorvaldson, you will see that none of the sections of Part III apply to a senator who elects under section 14. So he does not come under the provisions of section 15.

The ACTING CHAIRMAN: It might be put this way, that a senator, say 50 years of age, who does not elect to come under Part II, takes his chance on whether he will live to 75 and take a pension under Part III; but even in that case if he is afflicted before 75, section 15(b), I understand, applies to him.

Senator THORVALDSON: I think I got the contrary answer to that a moment ago.

Mr. THORSON: Section 15(b) would only apply to a senator who did not elect under section 14. In other words, if he had made an election under section 14 he would be treated for all purposes as a newly-appointed senator, and should he become disabled he would have to look to the Members of Parliament Retiring Allowances Act to determine the benefits that would be available to him at that time.

The ACTING CHAIRMAN: Senator Gershaw?

Senator GERSHAW: Mr. Chairman, I still see trouble in subsection (b) of section 15. The average doctor hesitates to certify permanence of infirmity. For example, nowadays, heart disease, tuberculosis, and nerve or kidney diseases might disable a person for a while, and it would be difficult for a doctor to certify permanence of disability. I think that if an expression such as "seemingly" permanent or "probably" permanent, were used, it would be better.

Senator POWER: Is incapacity to understand this bill a permanent disability? If so, I am permanently disabled.

The ACTING CHAIRMAN: Does the witness wish to make any comment?

Mr. THORSON: I would normally have agreed with that comment concerning the "permanence" . . .

The ACTING CHAIRMAN: Senator Haig?

Senator HAIG: My understanding is that if you make the election you have Part II apply and you come under the House of Commons retirement. If you do not elect you come under Part III, and section 15 applies to you?

Mr. THORSON: Yes.

Senator HAIG: Therefore, you have to resign by your 76th birthday?

Mr. THORSON: No, sir.

Senator BAIRD: You get it automatically.

Mr. THORSON: Yes, the resignation is tied to the right to an annuity. There is no obligation to resign; there is simply no right to an annuity unless there is a resignation within the year.

Senator MACDONALD (*Brantford*): Do I understand correctly that if you have not elected at the present time to retire at 75, you could elect to do that, then you would have the benefit of the law in retirement and your widow will get the benefit of that?

Mr. THORSON: Yes, sir, that is correct.

Senator MACDONALD (*Brantford*): An amount of \$8,000 a year?

The ACTING CHAIRMAN: No.

Senator MACDONALD (*Brantford*): Then if you do not elect now, and if you are not 75, if you did not elect, then you have another choice when you become 75, to elect?

The ACTING CHAIRMAN: That is correct.

Mr. CLARK: That is right.

Senator MACDONALD (*Brantford*): Then the only reason for you to elect before age 75 would be to protect your widow?

The ACTING CHAIRMAN: No, it is not necessarily so, it is a question of the comparison of the benefits under the Members of Parliament Retiring Allowances Act and the benefits under Part III.

Senator MACDONALD (*Brantford*): There would be other advantages if you died before age 75? You would not get any benefit?

The ACTING CHAIRMAN: Mr. Thorson gave the answer to Senator Croll earlier, when he said that in the older years the advantage seemed to lie in staying under Part III. He did not say this, but I imagine it would follow—in the younger years it might be to advantage to go under Part II.

Senator IRVINE: Mr. Chairman, in respect to clause 15 (b), in respect to a present senator becoming incapacitated through illness, and who has not reached the retirement age of 75 years, would the pension of two-thirds of his or her annual indemnity apply?

Mr. THORSON: Yes.

Mr. CLARK: The senator is quite right, the answer to the senator is yes.

Senator IRVINE: And that includes women as well as men?

Mr. THORSON: Indeed it does.

Senator SMITH (*Queens-Shelburne*): I would like to come back to clause 15(b) in relation to what Senator Gershaw has said. I wonder if Mr. Thorson would explain to us the meaning of the language of 15 (b) and the usual interpretation of "total and permanent disability" which is found in insurance policies and so on.

Mr. THORSON: This terminology is not new to this bill, as I am sure you are aware. There are a number of pension statutes of the Parliament of Canada that contain similar language, referring to a "permanent infirmity" which is of a disabling nature. The practice, as I understand it, is that medical evidence in the form of a certificate, is required indicating that, in the opinion of the medical examiner, the infirmity is of such a nature as to make it in all probability a permanent infirmity disabling the person in question from the performance of his duties.

The Acting CHAIRMAN: Due performance.

Mr. THORSON: Due performance of his duties. In those circumstances the certificate would be accepted as evidence of the state of affairs described in clause 15 (b) and the pension would be granted on the basis of that certificate.

Senator SMITH (*Queens-Shelburne*): Perhaps Mr. Thorson could clear up this point. Is there really any difference in the meaning of this language, than the meaning of the usual language which is contained in life insurance policies, which refer to "total and permanent disability"? I do not think it says "disabling him from the due performance" of his particular occupation. In my own personal experience, the interpretation in life insurance policies in this instance bears a very close relationship to this, or might be a little stricter in its application than this could be.

I am thinking of this point, so that you will understand why I am asking the question. The person I can envisage being capable of performing some duties of running a business by a telephone call once a day, to see what sales there were, he is not completely and totally disabled, from all points of view, such as would be the man with a stroke, lying in bed. The language of this strikes me is that that would be so, that a man would have to be totally and permanently disabled from coming to the Senate and participating in the Banking and Commerce Committee from day to day. Is that the interpretation?

Mr. THORSON: Not quite, senator. You have put your finger, I think, on the distinction between the type of insurance-clause disability, where the disability must be total and permanent; and the kind of disability as referred to here.

You will note that, in paragraph (b) of clause 15, the disability in question need only be "permanent" and of such a nature as to disable the person "from the due performance of his duties in the Senate". In other words, it is conceivable that a person could be "permanently" disabled, with a condition that rendered him unable to carry on his Senate duties, but not "totally" disabled.

Senator CHOQUETTE: He could still play golf.

Mr. THORSON: The example was given of a person carrying on a business from his home, using primarily the telephone. In those circumstances, he might well be permanently disabled and indeed he might be incapable of performing his duties as a member of the Senate, but not totally disabled, which I think is a rather more severe test than simply permanently disabled.

Senator SMITH (*Queens-Shelburne*): I am wondering whether that is a more severe test than "permanently disabled", because I think that is the point at issue. I am going to refer to my own personal experience, to clarify this point. I want to say to Mr. Thorson that on two separate periods in my life I was considered by a life insurance company to be totally and permanently disabled and on that basis I was paid a pension for several years in each of those periods. Surely the interpretation that one would place on these words—

Senator ASELTINE: You were not 75 at that time.

Senator SMITH (*Queens-Shelburne*): —would not be more burdensome on a person who might be considering resigning because of disability?

Mr. THORSON: I would agree that it would not be more burdensome.

Senator SMITH (*Queens-Shelburne*): It might be that the insurance company I was dealing with was a more generous one, being a Maritime insurance company.

Senator LANG: I wonder if the witness could give some idea as to the nature of the comparable pension under the Members of Parliament Retiring Allowances Act and these benefits set out under clause 15(b)?

Mr. CLARK: This is a question of comparison of the two benefits?

Senator LANG: At the maximum level. One is fixed, the other is variable.

Mr. CLARK: This is not just related to disability, this is an ordinary retirement?

Senator LANG: Disability under clause 15(b).

Mr. CLARK: The benefit under clause 15 (b) is one of \$8,000 a year, plus the availability of the benefit to the widow. In the case of the present Members of Parliament Retiring Allowances Act the benefit available to a former member, who resigns or ceases to be a member, would be related to the contributions which he has paid. On the present level of indemnity, it would take 26 $\frac{2}{3}$ years to build up the level of \$8,000 availability under Part III.

On the other hand, by contributing for 30 years, he could build up to a maximum of \$9,000.

The widow's benefit is, as Mr. Thorson indicated a few moments ago, on a more favourable relationship to the member's own benefit under Part II, in that it is 60 per cent of the benefit that the member himself could receive—in other words, in relation to a maximum benefit to a member of \$9,000—the benefit to the widow would be \$5,400; or, in turn, if it was related to 20 years of full contributory service or \$6,000, then the widow's benefit would be \$3,600. So there is quite a benefit.

Senator LANG: Off-setting the other.

Senator BURCHILL: On the point which Senator Gershaw made, in the interpretation of the word "permanent," with all due deference to Senator Smith, let me say this. In the event of a person reaching the age of 75, and electing to remain on, would there be an added difficulty at, say, the age of 80 in determining whether he was permanently disabled or not, as distinct from infirmities due to old age. It seems to me it would be rather difficult.

The ACTING CHAIRMAN: I wonder if the answer might not be that the election or option under 15(b) starts with the senator himself, and presumably he would say "I wish to resign because I am permanently disabled." Then it is up to him to produce the evidence that this is the case.

Senator BURCHILL: But would it not be difficult for a doctor to determine this?

Senator FLYNN: The Governor has full discretion in deciding whether the evidence is sufficient or not.

The ACTING CHAIRMAN: Senator Gouin.

Senator GOUIN: Still referring to section 15(b), do I interpret it clearly to say that it applies to all senators now appointed irrespective of their age? They may be 75, but they are not obliged to come under the act. They can carry on as long as they are able and as long as they do not become disabled.

Mr. CLARK: That is right.

The Acting CHAIRMAN: Senator White.

Senator WHITE: Take the case of a senator who is 65 years of age and to whom Part III will apply. He pays into the fund for, say, nine years, which amounts to about \$7,000. Then, before he is 75 years of age he dies. I un-

derstand first of all that his widow gets no pension and that there is no refund to his estate; is that correct?

Mr. CLARK: That is correct.

Senator WHITE: Then I would like to ask Senator Connolly if that is Government policy. And I would like to ask where there is any justice in such a provision or what kind of a pension fund is it that you pay money into and get nothing out of.

Senator CONNOLLY (*Ottawa West*): This revolves around the question as to whether or not it was desirable, when this legislation was going to Parliament, that senators should make a contribution, and put themselves on the same basis as members of the House of Commons. I am first to admit, as I said in the Senate, but there are certain points in the bill that are far from perfect, but it was generally felt that senators contributing even in these circumstances would be performing the kind of act that most senators would wish to perform.

Senator WHITE: I would like to ask another question in view of that. Take the case of a member of Parliament or a senator who has a stake in the House of Commons fund. If that senator dies and he has no widow, is it correct that his estate would receive payment of the principal without interest?

Mr. THORSON: That is the case. There is, however, an additional difference here that should be appreciated. Let us suppose that a senator who remained under Part III of the bill, after this law came into effect, were to become disabled within two or three years' time. He would have under this legislation available to him an immediate annuity in the amount of \$8,000 a year. That is not available to members of the House of Commons. Under the Members of Parliament Retiring Allowances Act the benefit available to him in the event of his disability would be a benefit based on the amount of his contributions calculated in the manner described by Mr. Clark. Here, however, there would be an immediate annuity of \$8,000. So that in effect the person who has contributed over the years, albeit that he may have died before any pension became available to him, will have had in those years a very valuable insurance protection against disability. I am not sure as to the precise value of this, but perhaps Mr. Clark has some figures covering this aspect.

Mr. CLARK: We have looked into this question, which, as Mr. Thorson indicated, constitutes a substantial difference from the benefits available under the present act and the Members of Parliament Retiring Allowances Act. While disability benefits are commercially available up to the age of 55, they are normally available only for a limited period, and beyond the age of 65 the risk of disability is such that our information is that it is practically uninsurable. We have gathered some premium quotations which the Department of Insurance has supplied to us, and they indicate to us what would have to be paid to secure the benefits at the same level as is provided here. If we take the age of 55, which is perhaps a decisive age, we find that it would be necessary to pay \$122 a year to provide \$100 a month disability income. The \$8,000 benefit which would be available under Part III represents about \$660 a month. In other words multiplying \$122, the commercial premium required, by a little more than six, gives you a figure higher than the \$720 which is required to be paid under Part III.

Senator COOK: That is for a man of 55?

Mr. CLARK: That is for a man aged 55. Our advice is that it would be higher for a man of a higher age. But this \$100 a month is only payable to the age of 65, whereas in the case of senators to whom this applies on the basis of the premiums quoted, the \$8,000 a year for life would be a much more valuable benefit.

Senator COOK: And this would be to his widow too?

Mr. CLARK: And to his widow too. Furthermore, in the case of the commercial premiums I have mentioned, in the event of his death beforehand or in the event of his not becoming disabled at all there would be no return of the contributions, which was the subject of the question. This would be a straight insurance premium just as is automobile or fire insurance.

Senator CROLL: What you are saying in effect is, as I understand it, that there is no such thing as disability insurance beyond the age of 65—that nobody will carry it?

Mr. CLARK: That is our information.

Senator CROLL: That is the information I have too. Up to that age there is a prohibitive figure, without benefit to the widow.

The ACTING CHAIRMAN: Senator Boucher.

Senator BOUCHER: A senator who has reached the age of 75 and wishes to carry on does not have to give notice of that. At least that is my understanding; is that correct?

Mr. CLARK: That is correct.

The ACTING CHAIRMAN: Senator Reid.

Senator REID: Under the act it says there is one year in which to make a decision. When do you start collecting?

The ACTING CHAIRMAN: The question is when does the deduction of the \$720 commence?

Senator REID: When are you starting to collect?

Mr. CLARK: On the coming into effect of the act.

The ACTING CHAIRMAN: You start collecting when the act comes into effect.

Senator DESSUREAULT: Mr. Chairman, I would like to know why under section 15 the word "may" is used instead of the word "shall".

Mr. CLARK: I would say that this provision is similar to that contained in a number of other statutes. One I can recall particularly is the Judges Act. A number of acts affecting the members of the armed forces and the Royal Canadian Mounted Police are also on that basis. It is quite a normal provision.

Mr. THORSON: I suggest the discretion is more apparent than real.

Senator DESSUREAULT: Ten years from now it might be that "may" will be interpreted differently.

The ACTING CHAIRMAN: Perhaps Mr. Thorson can put the answer that he just said, that the discretion is more apparent than real. In other words, the circumstances under which it does not mean "shall" are very unlikely.

Mr. THORSON: Indeed, I think it is quite unthinkable that the Governor in Council would not grant an annuity where the precise legal requirements of the provisions in question had been met.

Senator MÉTHOT: Is the amount of \$720 deductible for income tax purposes?

Senator CONNOLLY (*Ottawa West*): I think perhaps I might intervene here for the benefit of all honourable senators. I would like to file a letter which I have received from the Minister of National Revenue dated May 21. Perhaps I might read it into the record because this is a ruling and it is a valuable one:

Part III of Bill C-98 provides for pensions to senators summoned before the coming into force of the bill and section 17 requires a six per cent contribution to the Consolidated Revenue Fund. I am prepared to register the arrangement established in Part III as a pension plan for the purposes of the Income Tax Act.

The Members of Parliament Retiring Allowances Act has already been registered as a pension plan and hence there should be no problem regarding contributions which may be made under that act.

I am writing to you in this connection in order that you may be in a position to answer my question which may be raised on this subject in the course of consideration of the bill in the Senate.

When the bill has been passed it is suggested that the Speaker or Clerk write to me or to Mr. McEntyre...

—incidentally, he is the deputy minister—

...requesting registration for the purposes of the Income Tax Act.

—signed E. J. Benson.

The ACTING CHAIRMAN: Does that answer your question, Senator Méthot?

Senator MÉTHOT: Yes.

Senator CONNOLLY (*Ottawa West*): Perhaps I might file a copy of this for the record.

Hon. SENATORS: Agreed.

Senator BEAUBIEN (*Bedford*): In the Pensions Act is there a limitation of \$1,500 being paid in? If a senator has already paid in \$1,500 can he add \$720 more?

Senator CONNOLLY (*Ottawa West*): I think I know Senator Beaubien's point, and I think the position is that for the year in which payments are made into a pension plan they are deductible. The payment of the pension, of course, when it is paid is taxable; the amount of the pension, when it is paid is taxable.

There are provisions of the Income Tax Act called the retirement savings plan sections, and those sections are superseded—Well, let me put it this way: permission is granted under that act to invest a certain amount of money in a personal retirement savings plan; that is to say, a retirement savings plan for the benefit of an individual. The amount that is allowed to be invested annually, non-taxable in the year in which it is made, is restricted. I forget the amount.

Senator CROLL: \$2,500.

Senator CONNOLLY (*Ottawa West*): That might be the maximum, and that \$2,500 maximum is reduced by amounts that are contributed to registered savings plans. I think that answers Senator Beaubien's question.

Senator ROEBUCK: I can add something to that. I paid, I think it was \$1,500 into the pension plan of my secretary, and this morning I received a letter from the Department of National Revenue saying it was deductible.

The ACTING CHAIRMAN: Senator Flynn?

Senator FLYNN: Mr. Chairman, in connection with the point raised by Senator Dessureault a few minutes ago, I want to ask Mr. Clark whether the use of the word "may" was not due to the fact that when the bill was first drafted there was no contribution from senators, and it was only a matter of discretion in the usual way, as it is for the judges who do not contribute, I understand, for their pensions.

Mr. THORSON: Yes, that is correct. It started off, when there was no provision for a contribution, in terms of the usual permissive authority given the Governor in Council to grant annuities such as those that are provided for here. However, it was not thought necessary to convert it into a statutory right, on the reasoning that so many pension plans are in any case on the same basis. For example, I think for 50 years the pensions available to all civil servants were written in terms of this sort of provision; and even today many pensions are nominally at least permissive. But in fact it is unthinkable, I believe, that when a person met the requirements there would be no pension granted.

Senator FLYNN: I agree. I just wanted to make the difference between the Members of Parliament Retiring Allowances Act—which uses the word "shall", or a positive rather than discretionary word—and this clear.

I would like to come back to the option which is available to go under Part II or Part III a little further than has been the case with regard to comparable benefits. I think you mentioned that the option to go under Part II is not practical for senators who are 65 or over. It can be of more benefit to younger senators.

Mr. THORSON: Unless they have prior service as members of the House of Commons.

Senator FLYNN: At least, they have to build ten years, and even at that you get only \$3,000.

Mr. THORSON: Yes, if the only contribution were for ten years.

Senator FLYNN: Might I suggest that Part III would not be considered as an ordinary pension scheme because, as was indicated, you can get \$8,000 without paying anything if you retire right away; or if I was completely disabled in an accident two days after the coming into force of this act I could get a \$8,000 pension. Whereas if I paid during 26 years and died six months or one month before making the option I would pay in \$19,000 and draw nothing at all for this, nor for my estate, nor for my wife. May I suggest that the figures given by the other witness, Mr. Clark, about the premium you would pay for disability pension makes the choice even more difficult.

The ACTING CHAIRMAN: Any other questions?

Senator WHITE: Could I ask the witness, in payments to widows you speak of an annuity. The question is: the annuity payable under this act and the widow's benefit under the House of Commons act for succession duty purposes would be an annuity or pension, or whatever you call it, capitalized?

Mr. THORSON: Yes, it would be treated in exactly the same way as any benefit of this nature arising on death.

Senator ROEBUCK: I have one comment, Mr. Chairman. I do not like this word "may". I know that governments such as we have had for the last 25 years have considered "may" as the equivalent of "shall", but no one can forecast the character of government we may have in the future. Aside from that, while we may not be taking any particular risk in respect to it, I do not like the appearance of it. A person may say to himself: "If I am satisfactory to the Government of the day I will get this; if I am not satisfactory, I will not get it". That may be a very incorrect judgment on the part of an individual, but it is certainly open to him to feel that way.

The comparisons we have been given between the Civil Service and ourselves, for instance, are not applicable because we occupy a position of independent thought in connection with Government measures. We may oppose Government measures, and we have done so frequently in the past. Some senators may feel that they are compromising their future by taking an independent position. For that reason I do not like this word "may".

Senator REID: May I ask this question: If a person did not decide to resign within the year and stayed on in the Senate for two or three years, would he get anything if he resigned three years later?

Mr. THORSON: Under section 15 (b) he would, yes, if he became disabled.

Senator REID: But suppose he was not disabled?

The ACTING CHAIRMAN: If he is not disabled and simply resigns he is in the same position as he is now. Senator Lang?

Senator LANG: Mr. Chairman, I go back to our leader's explanation in respect to the inter-relationship of this act with the Income Tax Act with respect to registered pension plans. I did not quite follow him. I am wondering—and this may answer Senator Beaubien's question—would a person who is

now contributing to a registered pension plan in the maximum amount of \$1,500, and who is not involved in any savings plan, be limited as to the deductibility of the contribution he makes under this bill?

The ACTING CHAIRMAN: Can the witnesses answer that question, or can Senator Connolly?

Mr. THORSON: I take it, sir, you are envisaging a situation where the individual has a personal retirement savings plan arrangement. Under that arrangement he is now contributing the maximum amount permitted for income tax purposes. It is my impression that in those circumstances the overall limit would apply, and he would have to make an adjustment to the amount of his contributions under the retirement savings plan—either that, or go on as before and not claim deduction of the contributions made here.

Senator LANG: Further to that, if that be the case and he pays the tax on the contributions over and above the maximum limit, when the amount is paid out to him on his retirement is it then taxable again in his hands?

Senator CONNOLLY (*Ottawa West*): That is a problem for the tax authorities. I do not think I can go that far. I think it is a very rare case that you are discussing, but let me come back again to Senator Beaubien's question. I think the provisions of the retirement savings plan sections of the Income Tax Act are optional. You can invest in a year up to a given maximum. You do not have to invest to that maximum. I speak from some personal experience because for some years I have put some money aside in this way. You need not go to the maximum. In my case my maximum will be reduced by \$720 because I am paying into this plan. In other words, you do not pay as much into the retirement savings plan. If you were paying the maximum under the retirement savings plan you will not be able to pay as much and also get the tax benefit.

Senator THORVALDSON: That is correct.

The ACTING CHAIRMAN: Have you the answer, Senator Lang?

Senator LANG: Partially.

Senator CONNOLLY (*Ottawa West*): No, that does not answer Senator Lang because he put another question. I think the answer to Senator Lang's question is that when you pay into pension plans you pay up to a maximum and you are allowed a deduction up to a maximum, and then when that plan begins to pay the pension you have to pay the tax on that pension.

The ACTING CHAIRMAN: I speak subject to what Mr. Thorson has to say, but I think the answer to your question is if you pay more than your maximum and do not, therefore, get any reduction of income tax, your pension is still taxable. Is that your understanding, Mr. Thorson?

Mr. THORSON: Yes. I think the basic proposition is that a pension of this nature, whether it is derived through a statute or as a result of a contractual relationship with an insurance company, is taxable for income tax purposes when received. The act provides, however, an amelioration as regards the contributions, in that it permits up to \$1,500 a year—which I think is the current ceiling although somebody said it was \$2,500—to be deducted in any one year. To the extent that that amount is exceeded then it is simply not deductible.

The ACTING CHAIRMAN: Have we covered all of Part III? Senator Fergusson?

Senator FERGUSSON: I should like to make a comment with respect to section 16, and perhaps ask a question on it. I might say that I am very happy that this legislation provides for annuities to senators because I am sure we all know of instances when a senator has died and left an aging widow in circumstances that were quite difficult, and at a time when perhaps she needed more money than she needed earlier. I should like to ask a question

of Mr. Thorson. Article III of the United Nations Convention on the Political Rights of Women provides that women shall be entitled to hold public office and to exercise all public functions established by national law on equal terms with men without any discrimination. In view of the fact that the only reservation that Canada made when she acceded to this related matters under provincial jurisdiction, can you explain, Mr. Thorson, why in this legislation, although provision is made for the payment of an annuity to widows, there is no similar provision with respect to the widower of a senator. I feel that this is discrimination on the basis of sex, and contrary to Article III of the Convention on the Political Rights of Women.

I have read the Members of Retirement Retiring Allowances Act, and I think it also discriminates against the women members of Parliament.

The ACTING CHAIRMAN: Section 11(6) provides:

For the purposes of this section and section 14, "widow" includes "widower".

I am referring to the Members of Parliament Retiring Allowances Act.

Senator FERGUSON: I am sorry.

The ACTING CHAIRMAN: I think what you are objecting to is a discrimination in this case, in favour of the women and against the men.

Senator FERGUSON: It is a discrimination against the lady senators—I prefer that word instead of "woman". I think in respect of much legislation it is time for Canada to consider closely whether equality is being maintained in matters affecting the federal Government. This is a case of where discrimination has entered into legislation.

Mr. THORSON: Perhaps I might make one general observation which perhaps does not directly answer your point. It is surely necessary to gear pension legislation of this sort to the particular social and other circumstances that face us. I feel a fairly good example of this is the recent Canada Pension Plan, which in the very nature of things had to take into account the current realities of life in Canada. These are not immutable conditions, but they pertain at the moment. I am sure you will recall, Senator Ferguson, that in that legislation provisions had to be included that would give protection to widows of contributors on a basis that was not granted reciprocally so far as widowers are concerned. The legislation was in that case simply taking into account the circumstances which had to be met.

Senator FERGUSON: Mr. Chairman, may I remind Mr. Thorson that although I said nothing in the committee, because I was a joint chairman, I did speak to him personally about this same subject, and would certainly like him to note that.

Mr. THORSON: I will indeed, Senator.

Senator THORVALDSON: Mr. Chairman, coming back to the matter I raised in regard to the requirement of this one year option that had to be exercised within one year, I gathered from Senator Power's remark that the reason for the one year limitation was to get away from the problem of deathbed marriages?

Senator POWER: That was my reason. I don't know the Government's reason.

Senator THORVALDSON: If that is the case, I want to refer to subsection 3 of section 16 which is in its very nature a protection against this very thing that Senator Power gave as a reason. You will note that subsection 3 says:

No annuity shall be granted under this section to the widow of a person who was granted an annuity under section 15 if the widow married such person after he resigned his place in the Senate.

In other words, that section does away with the reason given by Senator Power and cannot be applied to these deathbed marriages that are known so well in regard to military pension situations.

The ACTING CHAIRMAN: I think Senator Power was referring to a marriage before a senator resigned.

Senator THORVALDSON: But actually there are here only a few persons who could be involved in a matter of this kind, and one would think it somewhat beneath the dignity of a senator to take advantage of such a situation.

The ACTING CHAIRMAN: Well, it is still Senator Power's view. Have we had sufficient discussion? Senator Gouin?

Senator GOUIN: Is the pension of the widow subject to estate duty?

Mr. THORSON: I should think it would be in the usual way.

The ACTING CHAIRMAN: You have passed sections 1 and 2. Section 3. Shall section 3 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Shall section 4 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Shall section 5 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Shall section 6 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Shall section 7 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Shall section 8 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Shall section 9 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Shall section 10 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Shall section 11 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Shall section 12 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Part III section 13. Shall section 13 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Shall section 14 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Shall section 15 carry?

Senator CHOQUETTE: Mr. Chairman, with regard to section 15(a) I am of the opinion, with Senator Roebuck and others, that the section should read as follows:

The Governor in Council may grant to a senator

- a) who has attained the age of 75 years, if he resigns his place in the Senate

and that the remaining words of that paragraph be deleted.

The ACTING CHAIRMAN: Are you making a motion to that effect?

Senator CHOQUETTE: Yes, I am.

The ACTING CHAIRMAN: That means that all the words following the word "Senate" on line 10 of page 5 will be deleted down to and including the word "age" on line 15. Is there any discussion on the motion? Have we had sufficient discussion?

Hon. SENATORS: Question.

The ACTING CHAIRMAN: All those in favour of the motion to strike out the words after the word "Senate" down to the word "age" in line 15? Contrary, if any? I declare the motion lost.

Senator CROLL: And paragraph (b) stays the same.

The ACTING CHAIRMAN: Shall section 15 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Shall section 16 carry?

Senator FLYNN: I have an amendment to section 16. I think, as has been explained, that Part III does not provide for an annuity to a widow of a senator who dies before resigning from the Senate, even if he has served for 15 years or 26 $\frac{2}{3}$ years, and I think that Part III should embody a complete pension scheme. I therefore move that paragraph 1 of section 16 be deleted and replaced by the following:

Where a person who was granted an annuity under section 15 dies, or when a senator dies in office before the expiration of the delay provided in paragraph (a) of section 15, the Governor in Council may grant to his widow an annuity equal to one-third of the annuity provided in said section 15, to commence immediately after his death and to continue during her natural life.

Senator CROLL: May I, in a preliminary way, suggest that the amendment is quite out of order. It appears to me that the amendment would be adding to the general context.

The Acting CHAIRMAN: Senator Croll raises a point of order that the amendment proposed by Senator Flynn is out of order. Is there any discussion on the point of order? Your point, Senator Croll, is that this involves an additional appropriation?

Senator CROLL: Yes, we all agree.

Senator FLYNN: I would agree, but before you decide that it is out of order, I will say that I just hope that the member of the Government who is with us here will move an amendment to this bill as soon as possible.

Senator ROEBUCK: May I ask a question? Does your amendment apply only within the year?

Senator FLYNN: Yes, within the year—well, to those who were for the time being making their decision; because it is unfair, some may take a year and die within the year, and then they have nothing.

The Acting CHAIRMAN: Senator Flynn has moved an amendment to section 16, and Senator Croll has raised a point of order that such a motion is not in order. My view is that if this amendment were adopted it would involve an additional appropriation from the consolidated revenue fund, and therefore would be contrary to the provisions of the British North America Act and beyond the power of the Senate. Consequently, I rule the amendment out of order.

Shall section 16 carry?

Hon. Senators: Carried.

The Acting CHAIRMAN: Section 17?

Senator FLYNN: I have an amendment to section 17, in view of the fact that where there is a contribution, I suggest there is no benefit payable by way of an annuity either to a senator who dies in office or to his widow.

I therefore move that section 17 be amended by adding paragraph (3) as follows:

When a senator dies leaving no widow, or leaving a widow to whom an annuity is payable under the terms of section 16, there shall

be remitted to the estate of this senator a sum representing the total of his contributions made under the present section.

That is practically the same provision as exists in section 14 of the Members of Parliament Retiring Allowances Act.

Senator CROLL: I move an objection, Mr. Chairman, on a point of order.

The Acting CHAIRMAN: Is there any discussion on the point of order?

Senator ROEBUCK: Perhaps the amendment could be changed in its form. The amendment suggested is that the Government shall repay the senator or his estate, which is out of order constitutionally but if the amendment were that the contribution shall not be made, it would be in order.

The ACTING CHAIRMAN: The motion by Senator Flynn, on the amendment to section 17. On the point of order taken by Senator Croll, is there any further discussion on the point of order?

Again, for the same reason as in dealing with the amendment under clause 16, such an amendment in my view would require an additional appropriation out of the consolidated revenue fund therefor and therefore is contrary to the British North America Act without a special resolution to the House of Commons from the Government and therefore it is beyond the power of the Senate and out of order.

Senator THORVALDSON: I disagree with that.

The ACTING CHAIRMAN: There is the right to appeal.

Senator THORVALDSON: I do not think it is correct. This simply provides for the repayment of money that was paid in and was in the nature of a loan, or circumstances of that kind. If your ruling was accurate, it would mean that the Government could at any time enact that senators shall be paid not more than \$1 a year and the Senate could presumably not defeat such a measure because we would be affecting revenue. I think that approaches an absurdity. Therefore, I submit again that your ruling, Mr. Chairman, is not valid.

The ACTING CHAIRMAN: Perhaps I should give more adequate reasons. I had rather assumed from Senator Flynn's remarks that he agreed that it was out of order. I have here, I think the best summary of our position with respect to financial legislation. It is an article by our Law Clerk, Mr. E. Russell Hopkins, which appeared in the *Canadian Tax Journal* September-October, 1958. It refers of course particularly to the Ross Report to the Senate, incorporating therein a memorandum prepared by Messrs. Eugene Lafleur and Aimé Geoffrion, two very distinguished counsel.

The opinion of that committee and of the counsel was that, while the Senate had power to reduce an appropriation, there was not the right to increase the same without the consent of the Crown.

In my view, in this particular bill the Crown must appropriate certain funds for the purpose of paying the obligations that are made by the act, and to the extent that the contributions are lessened by any amendment the appropriation required to carry out the act is that much greater. Therefore, by reducing these contributions, we would then be calling upon the Crown to appropriate that much more money to carry out the obligations.

I believe that this is an increase in the appropriation and the appropriation required and therefore is out of order.

Senator THORVALDSON: May I say this, Mr. Chairman. Supposing a future government comes to power and passes a law to the effect that the total indemnity of a senator, less \$1, should be paid into the consolidated revenue fund to provide for a pension or provide for anything else, will your ruling not apply to that identically the same way as it does to this item involving only \$720?

The ACTING CHAIRMAN: I think I should make it perfectly clear that the Senate has power to reject the bill.

Senator THORVALDSON: That is the principle which I am urging upon you. Similarly, I suggest the Senate has power to reject the suggestion that this amount be paid in, unless there is provision for it to be paid out in cases where there is no possibility of either the estate or the widow of a deceased senator deriving any benefit from that fund. I submit that you are abridging tremendously, and in a very serious manner, the powers of the Senate, if this committee accepts the ruling that you are making in this instance.

The ACTING CHAIRMAN: I want to make it perfectly clear that the Senate would have power to reject such a bill in whole.

Senator ROEBUCK: That is why I said, Mr. Chairman, that if the amendment were changed, so that the contribution was rejected—

The Acting CHAIRMAN: Shall we deal with that when we come to it?

Senator ROEBUCK: Might I add this, too? Some suggestion was made that if our indemnity were reduced, we would have no power to reject it. That is not so, because the indemnity has already been consented to by the Crown, it is statutory, it was passed, and when it was passed there must have been consent by the Crown.

The Acting CHAIRMAN: That is a hypothetical case. I am satisfied in my own mind that this would involve an increase in the appropriation. When this particular amendment came before the House of Commons it was preceded by a resolution because it did involve an appropriation. To the extent that we decrease the contributions, I think it would require an additional appropriation; and therefore it is beyond our powers.

Senator FLYNN: I submit you are going a bit too far, Mr. Chairman.

Senator CROLL: The question.

The ACTING CHAIRMAN: The motion has been ruled out of order. Shall section 17 carry?

Senator FLYNN: I have another amendment. I think you went a little too far in your ruling on the previous amendment. I suggest you may say that if the Governor in Council or the Governor is asked to refund contributions, then we are imposing a burden on the Treasury, that is true. But now I am going to move that section 17 be deleted entirely and that section 18 be renumbered 17.

I suggest that even by deleting section 17, if there is less money in the Treasury, that I am merely reducing the appropriation. It has always been the right of the Senate to vote against a tax—which is this contribution, under the circumstances—because when the bill was first read in the other place the pension of \$8,000 and the indemnity of \$2,666 was provided for a senator who at the age of 75 or after age 75 resigned his place in the Senate; or who at any time becomes disabled and resigns because of that. There was no contribution at all. We have these provisions to assist, if not induce, senators at age 75 or more, or disabled, to resign their place in the Senate. And that was all.

The contribution was added afterwards. As this contribution does not provide members of the Senate with an adequate pension scheme, I suggest that we should delete this clause 17 in order to give the Government a chance to bring in further amendments, or to bring in an amendment next year that would provide a complete pension scheme, and then provide at the same time for the contribution based on the benefits that we will draw therefrom.

Therefore, I move:

That clause 17 be deleted; and that clause 18 be renumbered 17.

It would be an inducement to the Government to change the bill and correct it. Otherwise there would be no inducement at all.

The ACTING CHAIRMAN: Are you ready for the question?

Senator Flynn moves:

That clause 17 be deleted; and that clause 18 be renumbered 17.

All those in favour of the motion?

Those to the contrary?

I declare the motion lost.

Shall clause 17 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Shall clause 18 carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Shall the preamble carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Shall the title carry?

Hon. SENATORS: Carried.

The ACTING CHAIRMAN: Shall I report the bill without amendment?

Hon. SENATORS: Carried.

The committee adjourned.



Third Session—Twenty-sixth Parliament

1965

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE
ON
BANKING AND COMMERCE

The Honourable SALTER A. HAYDEN, *Chairman*

No. 4

Complete Proceedings on Bill C-118,
intituled: "An Act to amend the Income Tax Act and the Federal-
Provincial Arrangements Act"

TUESDAY, JUNE 29, 1965
WEDNESDAY, JUNE 30, 1965

WITNESSES:

Department of Finance: F. R. Irwin, Director, Taxation; R. Y. Grey,
Director, International Economic Relations and Defence. *Department*
of National Revenue: D. R. Pook, Chief, Technical Section.

REPORT OF THE COMMITTEE

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

THE STANDING COMMITTEE
ON
BANKING AND COMMERCE

The Honourable Salter A. Hayden, *Chairman*

The Honourable Senators:

Aseltine	Gershaw	Paterson
Baird	Gouin	Pearson
Beaubien (<i>Bedford</i>)	Haig	Pouliot
Beaubien (<i>Provencher</i>)	Hayden	Power
Blois	Hugessen	Reid
Bouffard	Irvine	Roebuck
Burchill	Isnor	Smith (<i>Kamloops</i>)
Choquette	Kinley	Smith (<i>Queens-</i> <i>Shelburne</i>)
Cook	Lambert	Taylor
Crerar	Lang	Thorvaldson
Croll	Leonard	Vaillancourt
Davies	Macdonald (<i>Brantford</i>)	Vien
Dessureault	McCutcheon	Walker
Farris	McKeen	White
Fergusson	McLean	Willis
Flynn	Molson	Woodrow—(50).
Gélinas	O'Leary (<i>Carleton</i>)	

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

(Quorum 9)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Tuesday, June 29th, 1965:

"Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Hayden, seconded by the Honourable Senator Power, P.C., for second reading of the Bill C-118, intituled: "An Act to amend the Income Tax Act and the Federal-Provincial Fiscal Arrangements Act".

After debate, and—

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

The Bill was then read the second time.

The Honourable Senator Hayden moved, seconded by the Honourable Senator Power, P.C., that the Bill be referred to the Standing Committee on Banking and Commerce.

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

J. F. MacNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

TUESDAY, June 29th, 1965.

Pursuant to adjournment and notice the Standing Committee on Banking and Commerce met this day at 8.20 p.m.

Present: The Honourable Senators Hayden (*Chairman*), Beaubien (*Provencher*), Bouffard, Burchill, Choquette, Connolly (*Ottawa West*), Cook, Croll, Farris, Fergusson, Flynn, Gouin, Hugessen, Irvine, Kinley, Lang, Leonard, McLean, O'Leary (*Carleton*), Pearson, Pouliot, Power, Smith (*Kamloops*), Smith (*Queens-Shelburne*), Vaillancourt, Walker and Woodrow.—(27).

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

On Motion of the Honourable Senator Croll it was Resolved to report recommending that authority be granted for the printing of 800 copies in English and 300 copies in French of the proceedings of the Committee on Bill C-118.

Bill C-118, An Act to amend the Income Tax Act and the Federal-Provincial Arrangements Act, was read and considered clause by clause.

The following witnesses were heard: *Department of Finance:* F. R. Irwin, Director, Taxation.

R. Y. Grey, Director, International Economic Relations and Defence.

Department of National Revenue: D. R. Pook, Chief, Technical Section.

The Motion of the Honourable Senator Flynn that clause 4 of the said Bill be amended by deleting new section 12A (2) was lost on the following division:

YEAS—5

NAYS—15

After discussion, Mr. Hopkins was directed by the Committee to submit an opinion with respect to the financial implications of an amendment such as that moved by the Honourable Senator Flynn.

At 10.20 p.m. the Committee adjourned.

WEDNESDAY, June 30th, 1965.

At 9.50 a.m. the Committee resumed consideration of Bill C-118.

Present: The Honourable Senators Hayden (*Chairman*), Blois, Bouffard, Burchill, Cook, Croll, Flynn, Hugessen, Irvine, Isnor, Lang, Leonard, Smith (*Kamloops*), Willis and Woodrow.

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

The following witness was heard: *Department of Finance:* F. R. Irwin, Director, Taxation.

REPORT OF THE COMMITTEE

WEDNESDAY, June 30th, 1965.

The Standing Committee on Banking and Commerce to which was referred the Bill C-118, intituled: "An Act to amend the Income Tax Act and the Federal-Provincial Fiscal Arrangements Act", has in obedience to the order of reference of June 29th, 1965, examined the said Bill and now reports the same without any amendment.

All which is respectfully submitted.

SALTER A. HAYDEN,
Chairman.

THE SENATE

THE STANDING COMMITTEE ON BANKING AND COMMERCE

EVIDENCE

OTTAWA, Tuesday, June 29, 1965.

The Standing Committee on Banking and Commerce, to which was referred Bill C-118, to amend the Income Tax Act and the Federal-Provincial Fiscal Arrangements Act, met this day at 8.20 p.m. to give consideration to the bill.

Senator Salter A. Hayden in the Chair.

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

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

The CHAIRMAN: We have here Mr. F. R. Irwin of the Department of Finance, who is Director, Taxation. We also have Mr. E. S. MacLatchy, Q.C., Director of the Legal Section, Department of National Revenue, and Mr. D. R. Pook, Chief of the Technical Section, Department of National Revenue. Mr. R. Y. Grey, Director, International Economic Relations and Defence, Department of Finance, will deal particularly with the magazine tax portion of this bill.

Would you commence, Mr. Irwin?

Mr. F. R. Irwin, Director, Taxation, Department of Finance: I shall try to answer any questions.

The CHAIRMAN: Since we have had you here, and since you cannot say there is one principle in the bill except finding ways of taking money or giving a deduction, suppose we start section by section. In regard to section 1, have you any short comment?

Mr. IRWIN: Clause 1 makes a change in substance and also a change in form. The change in substance extends the exemption for representation or other special allowances received by individuals in respect of services performed outside Canada. It extends this exemption to people hired under contract by the External Aid office.

This particular amendment is related to an amendment proposed in clause 28, which proposes that people hired under contract by the External Aid office shall be deemed to be residents of Canada.

Senator CROLL: "People hired under contract—?"

Mr. IRWIN: People hired under contract by the External Aid office for service abroad in connection with a foreign aid program.

Senator CROLL: Of any nationality?

Mr. IRWIN: They will almost always be Canadians.

Senator CROLL: No, no. If Canada feels that there is a man somewhere—I will have him for the moment in Japan—that it wants in Japan to do this

particular work, and it hires him under contract because he is the most competent, do we confer upon him Canadian citizenship by virtue of his contract?

The CHAIRMAN: No. The test is that he was a resident of Canada at the time he was hired.

Senator CROLL: We can carry it now. We have a great number of Japanese out in British Columbia doing work in the mining areas. There may be a very competent engineer there who understands this work we want. We hire him. Does citizenship go with it?

Mr. IRWIN: No, sir.

Senator CROLL: That is not what you said when you started out.

Mr. IRWIN: If I might explain, sir, I was only referring—rather loosely, I must admit—to clause 28, which describes this in greater detail. I was referring to clause 28 because this first clause deals with representation allowances to be paid to these people. The proposal with respect to these people is to put them in the same tax position as diplomats or members of the armed forces who are posted abroad, and such people are taxed on their salary but not on their representation or special allowances. The clause we are dealing with now will provide this tax treatment with respect to the representation or special allowances paid to the people dealt with in the first part of clause 28.

The CHAIRMAN: I think we should deal with clause 28 at the same time.

Senator HUGESSEN: That is only during the first year? For example if a man resident in Canada in January, and in February is sent to Japan on some special mission and he stays there for three years, this only applies to the first year because only in the first year was he resident in Canada during part of the year.

Mr. IRWIN: Under the ordinary rules he might be resident in Canada throughout the duration of his employment, if he had been an employee of the Government of Canada or of a province before taking this employment or if he left his home here. On the other hand if he was not such an employee or if he moved entirely out of Canada and did not leave a home here he would cease to be resident in Canada. It is because of this lack of uniformity that the amendment is proposed in clause 28 to make such people resident in Canada throughout the term of their employment.

Senator CROLL: Are you trying to cover something here for the United Nations about which we have been having a great deal of controversy and trouble? They have been urging the matter that not enough of their people have been covered, and anyone who has any sort of position or title at all there should be given tax consideration.

Mr. IRWIN: No, this is not directly related to the United Nations. This is in connection with prescribed international development assistance programs. Canada provides assistance, including technical training, to quite a number of countries, and the Canadian Government through the External Aid Office hires teachers, technical experts and others in Canada and arranges, usually under a contract of employment for one or two or three years, to send these people to these countries to teach and instruct or help in some technical assistance program.

Senator CROLL: And these are the people you are trying to reach?

Mr. IRWIN: These are the people we are trying to cover.

The CHAIRMAN: Shall section 1 and section 28 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 2.

Mr. IRWIN: Clause 1 provides that an individual who receives allowances—

The CHAIRMAN: In section 28 it is only clauses 1, 2 and 3 that relate to that subject matter. So it is only clauses 1, 2 and 3 of section 28 which are carried at this time.

Mr. IRWIN: In connection with clause 2 may I refer first to subclause (1) which provides that an individual who receives an allowance from his employer upon retirement or in respect of loss of office will not be required to include that lump sum in the year in which it is received, if he transfers it to a registered retirement savings plan or a pension plan or a deferred profit-sharing plan during the year, or within 60 days thereafter.

The CHAIRMAN: Shall that clause carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Subsection (2) deals with deductions.

Mr. IRWIN: Yes, and it adds a number of new paragraphs. For example new paragraph (x), the first one, provides a deduction for the amount payable by a taxpayer for the year as a contribution under the Canada Pension Plan or under a provincial pension plan as defined in section 3 of the Canada Pension Plan, and the new paragraph (y) provides for a deduction for expenditures made by a lessor to a lessee to obtain cancellation of a lease.

Senator PEARSON: Are there many of those?

Mr. IRWIN: Not many that would be covered by this particular amendment.

I understand that such payments, when they have been made in the past to change the tenant, have generally been allowed as an expense of earning rents, but when payments have been made to obtain free occupancy of an apartment so the property might be sold, this has not been allowed.

Senator PEARSON: This only affects federal legal jurisdiction?

The CHAIRMAN: No, any situation where it has occurred.

Mr. IRWIN: This affects taxpayers subject to the federal income tax.

Senator HUGESSEN: In the past this has been treated as a capital expenditure?

Mr. IRWIN: Yes, it has been disallowed as a capital expenditure.

The CHAIRMAN: Item (z).

Mr. IRWIN: This provides a deduction for the cost of landscaping property from which the taxpayer derives income or which is used in the taxpayer's business.

Senator PEARSON: Why was the change made in that? As it appeared in the resolution stage it was for the landscaping of property of the taxpayer. Now it is landscaping of buildings and structures.

Mr. IRWIN: We think this is more precise.

Senator PEARSON: It reduces the area covered. There was quite an argument in the other place about this.

The CHAIRMAN: The landscaping, I take it, refers to something that is on property. What else could you have other than a building or structure?

Senator PEARSON: Landscaping for irrigation purposes.

The CHAIRMAN: Any other question?

Senator PEARSON: I want to know what the purpose of this is. Does it cover all buildings, whether rural or federal?

Mr. IRWIN: There is no distinction made as to the location of a building. However, the building must be used in the business or for earning income.

Senator PEARSON: What does "structure" mean?

Mr. D. R. Pook, Chief, Technical Section, Department of National Revenue: It could be a building; it could be a dam—almost anything.

The CHAIRMAN: It could be a radio tower; it could be a bridge.

Senator HUGESSEN: If you landscape around the pigsty?

The CHAIRMAN: I suppose that might be a business.

Senator CROLL: A smelly business!

The CHAIRMAN: Are there any other questions, Senator Pearson?

Senator PEARSON: No, that is fine.

The CHAIRMAN: I think you had something on the next item about levelling and clearing.

Mr. IRWIN: Paragraph (aa) provides a deduction for the cost of making representations to governments in connection with the business carried on by the taxpayer.

Senator BURCHILL: Is that new?

Mr. IRWIN: In the past when a business sent its own employees to make representations I believe the expense was generally deductible because the employer deducted the salary or wages of those employees. But where someone in business paid an outside consulting firm or hired someone else who was not in his employ to make representations, I do not think it would have been deductible.

Senator BOUFFARD: Does that cover the expense of an appeal board case?

Mr. IRWIN: They are already covered.

The CHAIRMAN: We did that last year; we had an amendment—

Senator CROLL: Yes.

The CHAIRMAN: —permitting a deduction of expenses of carrying an income tax appeal to the Tax Appeal Board.

Senator FLYNN: Even though unsuccessful!

The CHAIRMAN: That is right. The next?

Mr. IRWIN: The new paragraph (ab) provides a deduction for the cost of investigating the suitability of a site for a building to be used by the taxpayer in connection with his business.

Senator CROLL: That seems to me so far out, I could not put it in the same context. What do they mean by that? That is not something a business does every day; it is a once-in-a-lifetime project.

Mr. IRWIN: Yes, but it might be a very important expenditure. For example, a power company might investigate four or five sites for building a power plant, or a hydro dam.

Senator CROLL: That is what I thought you had in mind. It was not meant to be for any people who were little people, but someone who is going to town.

The CHAIRMAN: Subsection 3 of section 2.

Mr. IRWIN: This amendment will insert the words "of subsection (1)". This is only for clarification, because section 5 has two subsections, each containing a paragraph (b).

The CHAIRMAN: All right. Then subsection 4 of this section 2.

Mr. IRWIN: Subclause 4 provides two new subsections. The first one, subsection 16, provides a deduction for levelling farmland and laying tile drainage on farm lands.

Senator PEARSON: I had five questions I asked. They covered specific items. That is, cutting down of timber for preparing the land, removing stones

or rock or removing fencing or old buildings or hedges. Does this cover all those items?

Mr. POOK: They would all be covered by clearing the land.

The CHAIRMAN: Any other questions on that? The second part of this?

Mr. IRWIN: The new subsection 17 recognizes that substantial costs may be incurred in preparing material to make representations to a government, and a taxpayer may not want to deduct the entire amount in the year incurred. This allows him to elect to have it deducted in 10 equal instalments.

The CHAIRMAN: Subsection 5 of this section is simply when it comes into force?

Mr. IRWIN: Yes.

Senator LEONARD: Have you made any estimate of the amount involved under all these remedial deductions in the way of taxation?

Mr. IRWIN: The deduction for the contributions to the Canada Pension Plan will, of course, amount to a substantial amount of money in several years from now. This will be in the order of \$80 million or more per year.

Senator LEONARD: I think we had that figure when we were discussing the pension plan. What about the others?

Mr. IRWIN: It is very difficult to make an estimate with regard to the others. Our best guess at this stage is in the order of \$2 million or \$3 million a year.

Senator LEONARD: \$2 million or \$3 million?

Mr. IRWIN: Yes sir.

The CHAIRMAN: Shall all these subsections under section 2 carry?

Senator COOK: In (aa) is the amount there to be paid to anybody at all when a businessman makes representations to Government, it does not say to whom the amounts are paid.

The CHAIRMAN: Whoever he employs to make representations.

Senator COOK: That could be practically anybody.

The CHAIRMAN: He would be silly to pay out money to anybody who could not do anything for him.

Senator CROLL: You have no idea how often people make mistakes.

The CHAIRMAN: The representations are made to the Government. Shall all of the subsections of section 2 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 3 of the bill.

Senator PEARSON: On number 2. Are these deductions allowable to the owner of the property in levelling or clearing land? If he did it himself, if the farmer did it himself rather than hire someone to do it for him, would he be able to deduct that as an expense?

Mr. IRWIN: This would be an operating expense on farm operations.

Senator LEONARD: If he did it himself there would be no deduction, would there?

Mr. IRWIN: Yes.

Senator PEARSON: It is not considered a capital expense if he does it himself?

Mr. IRWIN: Not if it comes under this wording.

The CHAIRMAN: Section 3?

Mr. IRWIN: Section 3 provides a relieving amendment. It refers to an amendment made to the act last year. When section 12(3) was repealed last

year certain transitional provisions were put in to cover amounts which a taxpayer might not have paid by the end of 1967. It was represented to the Government that this time limit was not adequate; that not all taxpayers would be able to pay the amounts referred to within this time, so this relieving amendment has been added to make more generous these transitional provisions.

They are rather technical. It does provide that certain expenses can be deducted before the end of 1967 if an agreement is entered into between the payor and the payee to the effect that the sum has been paid and returned as a loan.

Senator BOUFFARD: To what kind of transactions does it apply?

Mr. IRWIN: The situation where section 12(3) would have applied might be between a subsidiary and its parent company. The subsidiary might have shown amounts as owing to the parent company, but the law used to say that it could not deduct those amounts unless they were paid before the end of the year following that in which they were shown as being accrued.

The CHAIRMAN: Does section 3 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: That is all with respect to section 3, is it not?

Mr. IRWIN: Yes, sir.

The CHAIRMAN: We come now to section 4 which runs from page 4 to half-way down page 7. This deals with what we have designated as the magazine tax. I think this is where Mr. Grey comes in.

Mr. IRWIN: Yes, sir.

The CHAIRMAN: Then we shall excuse you for the moment.

Mr. R. Y. Grey, Director, International Economic Relations and Defence, Department of Finance: Mr. Chairman, the key part of this section is obviously that which provides that no deduction shall be made in respect of an otherwise deductible outlay or expense of a taxpayer for advertising space in an issue of a non-Canadian newspaper or periodical which is directed primarily to the Canadian market. That phrase "directed primarily to a market in Canada" is the same phrase that appears in the Customs Tariff item we discussed a few moments ago.

The CHAIRMAN: Yes, that is the general limitation. The next important thing is the exemption.

Mr. GREY: Well, I was going to suggest that, leaving aside subsection (2) for the moment, you might direct your attention to subsections (3) and (4) which exempt certain types of advertisements from the ambit of this section. Subsection (3) exempts those that appear in special editions of publications about Canada but which are not directed to Canada, which might be issued by a foreign publication. Subsection (4) exempts advertisements in catalogues and advertisements in certain types of publications such as those whose principal function is the encouragement, promotion or development of the fine arts. Again, these words are identical to those in the Customs Tariff item which you have just discussed.

Subsection (5) will be considered by some people as the heart of the section. This is the definition section. A portion of subsection 5 defines what a Canadian issue is. Paragraph (b) defines what a Canadian newspaper or periodical is, primarily in terms of its ownership and control. Paragraph (c) defines an issue of a non-Canadian periodical by saying it is an issue that is not a Canadian issue of a Canadian newspaper or periodical.

Then, subsection (2) to which I direct your attention, has been vulgarly called by the draftsman the "squatters' rights" subsection. It is intended to exempt from these provisions advertisements in publications that are already established in Canada but which do not meet the tests of Canadian ownership and control and which do not publish Canadian issues.

Finally, Mr. Chairman, I direct the committee's attention to subsections (6) and (7) which did not appear in the resolution but which were added in the bill. Subsection (6) deals with the problem that would arise if a periodical was owned by a trust or an estate. I think the solution here is a fairly obvious one.

Subsection (7) is intended to provide a significant grace period should some Canadian newspaper or periodical, perhaps through the death of its owner, suddenly could not meet the tests in subsection (5). It was felt that a period that would be sufficiently long to allow a publication to re-acquire Canadian ownership, if I may put it that way, should be allowed. We envisaged the owner of a Canadian weekly newspaper dying, and the newspaper left to a person who was a citizen of the United States and not a citizen of Canada. From the time of the probate of the will I would assume that the publication, in that case, could not meet the test of this section, so a twelve-month grace period is allowed.

Senator CROLL: Mr. Grey, go back to subsection (3) on page 5. The *New York Times* often carries a special edition or a special section. I have seen one on the Province of Quebec, and on another occasion I have seen one on the Province of New Brunswick. If the Province of Ontario wanted the same sort of insertion within the year, would it be prohibited?

Senator BOUFFARD: They are not prohibited. They are not taxpayers.

Senator CROLL: Would it come outside the exemption?

Mr. GREY: The phrase in the section is "and the publishers thereof publish such an issue or edition not more frequently than twice a year".

Senator CROLL: But I mentioned a third one, and asked you if it was prohibited.

Mr. GREY: I would have thought that an advertisement by a taxpayer in Canada, if it was an advertisement directed primarily to a market in Canada, would be an important test of fact to be considered.

Senator CROLL: It would have to be directed to a market in Canada?

Mr. GREY: Yes, the phrase "subsection (1)" is the operative phrase.

Senator O'LEARY (*Carleton*): Most of the advertising in the special editions of the *New York Times* is made up of Canadian advertisements directed to American consumers, and not to Canadian consumers.

The CHAIRMAN: Yes, that is right.

Senator LEONARD: And I think it appears in all editions of that particular issue of the *Times* circulated throughout the United States and Canada.

The CHAIRMAN: That is right.

Senator O'LEARY (*Carleton*): It is Canadian advertising addressed to the American market.

The CHAIRMAN: That is right. Do we come now to subsection (2), or have you dealt with that?

Mr. GREY: I merely said that the draftsman has called it the "squatters' rights" provision. I do not think there is much I can add.

The CHAIRMAN: I think it has been pretty well discussed. Are there any questions from members of the committee in respect of any part of subsection (4)? Senator Flynn?

Senator FLYNN: The first question I want to ask is in connection with paragraph (c). It seems to me that this is a sort of amendment to the definition of a Canadian newspaper or periodical. Does this mean that in the case of a newspaper which is the property of a trust or an estate, the beneficiaries of the trust or estate, or the partners, have to be Canadian citizens rather than

three-quarters of them as is required in respect of a partnership in subparagraph (ii) of paragraph (b) on page 6? In other words, would it be safer to have the newspaper held by a trust rather than a partnership?

Mr. POOK: It could be, senator but all the beneficiaries would either have to be Canadian citizens—

Senator FLYNN: "Each" means all.

Mr. POOK: Yes—or partnerships or corporations that meet the test.

Senator FLYNN: The requirement is more severe than that with respect to partnerships.

The CHAIRMAN: When it is analyzed I wonder if that is so. If the beneficiaries are individuals then each individual must be a citizen of Canada.

Senator FLYNN: Subparagraph "(b)" says—

The CHAIRMAN: Yes, you find that on page 6. If it is an individual he must be a Canadian citizen.

Senator FLYNN: Subparagraph (b) reads:

"Canadian newspaper or periodical" means a newspaper or periodical the exclusive right to produce and publish issues of which is held by one or more of the following:

- (ii) a partnership of which at least $\frac{3}{4}$ of the members are Canadian citizens and in which interests representing in value at least $\frac{3}{4}$ of the total value of the partnership property are beneficially owned by Canadian citizens.

That means that one-quarter of the partners could be United States citizens, and as long as they do not own more than one-quarter of the interests—

The CHAIRMAN: Yes, that is where there is a trust.

Senator FLYNN: Whereas, if you are dealing with a trust, all the beneficiaries have to be Canadian citizens.

The CHAIRMAN: No. What it says is that if the beneficiaries under the trust or estate are persons, then each one must be a citizen of Canada, but if the beneficiary is a partnership, association or society, so described, then it must conform to the requirements laid down on page 6 as to such partnership or association.

Senator FLYNN: If they are all persons must they all be Canadian citizens?

The CHAIRMAN: No. You find a definition of a Canadian periodical.

Senator FLYNN: With all due respect, Mr. Chairman, it seems to me that when you are dealing with individuals who are beneficiaries, if all of them are not Canadian citizens then they are not considered as such.

The CHAIRMAN: If the beneficiary is a partnership, the partnership will apply.

Senator FLYNN: I am not speaking of a partnership, but of a trust.

Senator LEONARD: Let us take the simple case of the present owner of a newspaper, dying and leaving four beneficiaries, who then own the newspaper. One of them lives in the United States and three in Canada. Now, section 6 overrides the provision of (b) and (ii) on page 6 of the bill, which says that "at least three-quarters of the total value of the partnership property are beneficially owned by Canadian citizens,"; because section 6 says each beneficiary is a person. That is the question, is it not?

Senator FLYNN: That is the question, Senator Leonard.

Mr. GREY: I think your explanation, Mr. Chairman, is correct. If the beneficiaries under the trust are individuals, then they have to be Canadian citizens; but if it happens to be a corporation it has to meet the test for a corporation on page 6 for partnerships.

Senator FLYNN: A partnership is not a corporation.

Mr. GREY: No, a partnership is dealt with separately, and then you refer to (b) and (ii) which describes the test a partnership must meet.

Senator FLYNN: But all four must be Canadian citizens.

Senator LEONARD: All four must be Canadian citizens.

The CHAIRMAN: Because they are all individuals.

Senator LEONARD: Yes.

The CHAIRMAN: But a partnership is a category specifically described, and only three-quarters have to be Canadian citizens.

Senator FLYNN: That is no reason why a partnership should be dealt with in a more lenient fashion.

The CHAIRMAN: Then let them join up and become partners.

Senator FLYNN: Oh, well!

The CHAIRMAN: Senator Gouin?

Senator GOUIN: I do not know how this applies, is it if the beneficiary is a corporation?

The CHAIRMAN: No. If the beneficiary is a corporation, then it must meet the test in paragraph (b), on page 6, which provides for a corporation that is incorporated under the laws of Canada or a province, and having a percentage of Canadian shareholders.

Any other questions on the items of this section?

Senator FLYNN: Referring to subsection (2) I would like to know from the witnesses if they know to which periodicals this can apply?

Mr. GREY: Well, sir, we assume it applies to *Time* and *Reader's Digest*. There are other publications but there is no legislation at the moment in Canada, I think, which would require information which would be available to other than the taxation authorities on the ownership and control of all publications. So there is no way of knowing about all publications. However there are certain weekly newspapers in western Canada owned by interests outside of Canada. I believe there is a commercial newspaper, publishing mainly business and commercial information, owned outside of Canada. This information is only at random, because there is no way of getting the kind of information required here, as matters now stand.

Senator FLYNN: You say *Reader's Digest* and *Time*?

Mr. GREY: Those are the principal ones. There are weekly papers now published in Canada, and one in Montreal. These are newspapers.

The CHAIRMAN: Any other questions?

Senator O'LEARY (*Carleton*): I am not going to make another speech, Mr. Chairman. You reminded me last evening and this afternoon that my own Prime Minister had contemplated legislation of this kind. I think that is true.

Senator CONNOLLY (*Ottawa West*): Who is your Prime Minister?

Senator O'LEARY (*Carleton*): We will come to that later. In the meantime, I will say that had he brought any legislation in of this category I should have opposed it with the vigour I am opposing this now. I am opposing the legislation. I think that we all here agree that we want to help Canadian periodicals. I submit, sir, that we are not helping them with these sections—with these exemptions here. We are legislating in these sections against competition that does not exist. If you leave these clauses in, we are legislating against unfair competition that does not exist. Now, surely what we want to do is to legislate against unfair competition that does exist, and that unfair competition exists only in *Time* and *Reader's Digest*. Therefore, as you say, sir, these are the two periodicals, and I am sure this is true. To be frank, cutting through all verbiage,

and so on, these clauses are aimed to exempt *Reader's Digest* and *Time* magazine. I say that if these exemptions are passed this legislation will be utterly meaningless and it will be legislating against competition that does not in fact exist and will not exist.

Therefore, Mr. Chairman, I move that these two sections be deleted.

The CHAIRMAN: Let me be quite clear. Are you referring to subsection (2)?

Senator O'LEARY (*Carleton*): Subsection (2).

The CHAIRMAN: All of subsection (2)?

Senator O'LEARY (*Carleton*): That is right.

The CHAIRMAN: Now we have a motion by Senator O'Leary that all of subsection (2) of the new proposed section 12A be deleted. So far as the Chair is concerned, my feeling is that I cannot accept the motion because it is tantamount to the imposition of a tax. Therefore, I must refuse to accept the motion.

Senator CROLL: Tantamount to the imposition of a tax?

The CHAIRMAN: Yes. If you remove an exemption, that is the effect of it. May I say that I consulted our Law Clerk in connection with this.

Senator POWER: If you remove this exemption, you therefore tax?

The CHAIRMAN: Yes.

Senator CROLL: If you remove the exemption?

Mr. HOPKINS: It is a taxing measure to tax.

The CHAIRMAN: So far as the Chair is concerned this is the ruling I make. Now, the proper procedure is to repeal the ruling.

Senator FLYNN: I think the proper procedure is to hear the arguments. I think before appealing, you should at least express your opinion, Mr. Chairman.

The CHAIRMAN: I have done so, and made the ruling. Now if you want to challenge that, that is fine.

Senator FLYNN: I am challenging the statement that the Chair should not make the ruling before listening to the arguments contrary to your view.

The CHAIRMAN: No. Having made the ruling—and you say you are appealing it—you are entitled to make any presentation you like in support of your appeal.

Senator FLYNN: I am going to make the following observations, that here we are dealing with section 12A, which says:

In computing income, no deduction shall be made in respect of an otherwise deductible outlay . . .

You are removing this exemption. That is all right. It is not an imposition of a tax, it is merely a rule as to the deduction, the refusal to admit a deduction which otherwise would be acceptable. By the amendment we are saying that this imposition will not be applied to the periodicals described in subsection (2). We are simply limiting the exception which is provided in section 12A.

The main principle, I think, is not under section 12A, but in the act when it says that an expense in earning income is deductible. I do not think it is a tax. Otherwise, Mr. Chairman, I submit with all due respect that we could never bring in an amendment because indirectly or directly we all agree that this measure is a plan of ways and means. I submit that if this amendment is out of order we could never move an amendment which could be in order.

Senator LEONARD: I am inclined to agree with Senator Flynn. As I see it, the situation at the moment is that XYZ Company, a company doing business in Canada, can advertise in *Time* magazine and claim that expense as a deduction. This subsection (2) will still allow that company to advertise in *Time* magazine and claim that deduction. There is no tax imposed and there is no

exemption taken away. What the section says is that the XYZ Company cannot advertise in *Newsweek* and claim it as a deduction.

The CHAIRMAN: No. You had better look at subsection (1) first.

Senator LEONARD: This is the submission I am making here.

The CHAIRMAN: If you do not want my help on it, that is fine.

Senator LEONARD: This section says that certain expenses for advertising are not deductible and certain other expenses are. It seems to me that Senator Flynn is correct.

The CHAIRMAN: I think you are overlooking some of the words in subsection (2) and therefore you are not paying any attention to subsection (1). Subsection (1) is the limitation of deduction.

Senator FLYNN: No, it is an exception.

Senator LEONARD: If you put both of them together, it would be clear to me that you are allowing certain expenses and disallowing other expenses.

The CHAIRMAN: May I state my point? I tried not to interfere with you. In subsection (1), if you are a non-Canadian periodical or newspaper, you are not entitled to make any deduction.

Senator LEONARD: It is not a periodical; it is the advertising.

The CHAIRMAN: The advertiser who pays for an advertisement.

Senator BOUFFARD: He cannot make the deduction.

The CHAIRMAN: He cannot make the deduction.

Senator BOUFFARD: Which he can make at the present time.

The CHAIRMAN: Yes.

Senator BOUFFARD: So we are not imposing a tax, we are just deducting one exemption.

Senator FLYNN: You are refusing the exemption.

The CHAIRMAN: In subsection (2) you say that even though it may be a non-Canadian periodical, that if it meets the conditions laid down in subsection (2) it shall not be deemed to be a non-Canadian publication and therefore it is entitled to deduct the cost of advertising.

Senator O'LEARY (*Carleton*): May I ask, as a layman, how is a new tax imposed? The way this happens is that we advertise. A man who buys his advertising actually pays more for it. He gets no exemption, so he pays more, it costs more. How does that increase taxation? It is not a tax, he simply pays more for the advertising he places in *Time* magazine. Is not that all there is to it?

The CHAIRMAN: No, Senator, there is more than that. If you are entitled to an exemption and if the exemption is taken away from you, that is tantamount to the imposing of a tax, is it not?

Senator O'LEARY (*Carleton*): It is a free choice. He does not need to advertise in *Time* magazine. This is not a compulsory thing. There are all sorts of alternatives. This is one of the things to ask—are there alternatives to *Time* magazine? All the advertiser says is, "I want to place an advertisement in *Time* magazine. I know perfectly well I am not going to be allowed the deduction, but I have a free choice." How do you change taxation that way?

Senator CONNOLLY (*Ottawa West*): I do not think anyone argues that way. As I see the situation, when he comes to make out his income tax return, let us say he is an individual or a corporation, he would normally be entitled to put down as a deduction, as an expense in business, the amounts he has paid out to *Time* magazine for advertising. That is allowed now under subsection (2). If subsection (2) is struck out, then this is annulling the deduction which is, as somebody has said here, the equivalent of taxation by that amount.

The CHAIRMAN: That is right.

Senator CONNOLLY (*Ottawa West*): Or perhaps not precisely that amount, but it would certainly add to his taxable income because you eliminate the deduction. That is the way I see it.

The CHAIRMAN: That is right.

Senator FLYNN: Then may I put a question and look for an opinion from the Chair and even from our Law Clerk? If I move to delete, in the case of XYZ, in section 2, subsection (2), you would have the same argument?

The CHAIRMAN: I am not dealing with that.

Senator FLYNN: In those sections we are granting exemptions and I could not vote against granting an exemption?

The CHAIRMAN: What I say is that I am not dealing with a hypothetical question.

Senator FLYNN: It is not a hypothetical question I am putting to the Chair; it is a very clear question that relates to a previous section of this bill.

The CHAIRMAN: Which we have passed.

Senator FLYNN: I am asking if there were an amendment which I moved to subsection (2) of section 2, would that have been out of order on the same grounds? I doubt it very much.

The CHAIRMAN: I am not dealing with that question.

Senator FLYNN: It is the same question exactly.

Senator O'LEARY (*Carleton*): There are other distinguished lawyers present. Have they no opinions to give?

The CHAIRMAN: The matter is open for discussion, before I put the question.

Senator HUGESSEN: I wonder whether the Senate has not got the right to change, that is, to decrease any deduction that comes to us in a taxation bill, if we want to do so?

The CHAIRMAN: But striking out subsection (2) is not increasing an exemption, it is removing an exemption, and exposing someone to tax who would not be taxable.

Senator HUGESSEN: Have we not the right to do that?

The CHAIRMAN: In my view that is tantamount to imposing a tax, and we have not the right to do that.

Senator POWER: That would apply to anything that came before us.

The CHAIRMAN: To decrease a tax?

Senator CROLL: It seems to me that we ought to defeat any objection on the basis of merits rather than on a ruling. I would like to defeat it on the other ground.

The CHAIRMAN: You can defer consideration of the ruling and deal with the matter on the merits.

Senator CROLL: I think that is the best.

Senator LEONARD: I would like to state my opinion, because I have disagreed with the ruling of the chairman on a legal question. I am opposed to section 4 in its entirety. I just want to have that recorded, that I do not like to have the xenophobia that is represented by this legislation directed towards non-residents.

All my life I have read newspapers and periodicals from all countries, various countries, particularly from the United States and the United Kingdom; and I think I am just as good a Canadian as anyone else, and perhaps a better Canadian than if I had been brought up reading periodicals under the kind of so-called permission that this section purports to give. This is the kind of legislation I would not like to see enacted by the United Kingdom

or by the United States directed towards any of our residents who happen to be interested in newspapers or periodicals in those countries, nor to Canadians who might be interested in other forms of business for which this might be a precedent. Although I disagree with your ruling and I think that this particular amendment moved by Senator Flynn is in order, nevertheless I am going to vote against his amendment, if it is put to a vote, because I am against the section as a whole; and consequently, bringing *Time* and *Reader's Digest* in does not meet it, from my standpoint.

Senator CROLL: I love that logic. I would agree.

The CHAIRMAN: That is really getting the best out of all worlds at the same time. You really have to be a genius to do that.

Are you prepared to deal with the motion and that we defer consideration of the ruling?

Senator CROLL: Yes.

The CHAIRMAN: All those in favour of the amendment deleting all of subsection (2), will you please raise your hands. Those who are opposed to the deletion? The motion is lost. It becomes unnecessary then to do anything about the chairman's ruling.

Senator CROLL: Forget it.

Senator POWER: We hope it will not be a precedent.

The CHAIRMAN: Shall section 4 carry?

Senator CROLL: When you made that ruling, I was set back immediately upon hearing it. I think it may not be a bad idea if the Chair, at the end, had an opinion presented by counsel and let us look at it. This may come up many times again and it shocked me a bit the way you put it. I am not so sure, except that I have great confidence in counsel. Let us have a ruling by him afterwards.

The CHAIRMAN: All right. Counsel will do that.

Senator CROLL: I think it will be very valuable.

The CHAIRMAN: We will get that written opinion for you.

Senator CROLL: There is no hurry. If the ruling is correct, we have not got any ways or means to delete any section in regard to income tax.

Senator LANG: Except administrative sections.

Senator FARRIS: When will we deal with the ruling?

The CHAIRMAN: The ruling has become unnecessary to the discussion because the amendment which provoked the ruling was defeated on the merits.

Now, section 4—shall section 4 carry?

Hon. SENATORS: Carried.

Some Hon. SENATORS: On division.

The CHAIRMAN: On division? I do not think there is any procedure for "on division" voting in committee.

Will those who support section 4 please raise their hands? Now will those who are opposed raise their hands?

Section 4 carries.

Now, Mr. Irwin, will you come back on the job dealing with section 5 on page 7.

Mr. IRWIN: Section 5 is consequential upon paragraph (aa) which I discussed a few moments ago and which allows the taxpayer to deduct expenses in making a representation. Some of these may be on account of the cost of depreciative property and so would ordinarily be part of capital

cost of depreciative property. This amendment is intended to prevent double deductions under two headings.

The CHAIRMAN: Shall this section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 6.

Mr. IRWIN: Section 6. The first subsection of section 6 allows a deduction for supporting a niece or nephew of a taxpayer or of the taxpayer's spouse, and the second part of the clause allows a deduction for amounts spent to support an aunt or uncle of the taxpayer or the taxpayer's spouse.

Senator LEONARD: Taking the first part, (ca), is there any person who really qualifies for all these conditions? Do you really run into any situations where all of these conditions in fact exist? Or is there just one such case? It is an extraordinary kind of measure to put in all these provisions as to what the niece or nephew has to do to qualify.

Mr. IRWIN: I think this situation does arise. Perhaps it does not arise frequently, but the conditions are placed in here in an effort to restrict this to situations where the taxpayer will be called upon to support a nephew or a niece. I think the Government felt that allowing a taxpayer a deduction for supporting a nephew or niece was going quite a way beyond the family circle, but there are situations where the taxpayer must support the child of, for example, a widowed sister.

Senator BOUFFARD: I wonder why the clause was in paragraph (iii) where it says:

the father of the niece or nephew, as the case may be, was deceased and the mother was not remarried,

If she was remarried does it mean that the new husband is of necessity a man of means and can support her sons and daughters? A remarriage is not always a sign of wealth.

Mr. IRWIN: No, but it is usually assumed that if there is a father of children he and not someone else is responsible for their support.

The CHAIRMAN: In this case you are talking about a stepfather.

Senator BOUFFARD: Yes.

The CHAIRMAN: I suppose the stepfather might be closer to the children if he married the mother than the taxpayer would be.

Senator BOUFFARD: It doesn't mean that he has means.

The CHAIRMAN: No, not necessarily. Mr. Irwin, you were going to say subsection 2 deals with the relationship of aunt and uncle.

Mr. IRWIN: Yes.

The CHAIRMAN: And the position is that they must be dependent upon the taxpayer and unable to support themselves.

Mr. IRWIN: That is correct.

Senator LEONARD: To make it perfectly clear, I take it that paragraphs (i), (ii) and (iii) are alternative provisions and only one is required in order to qualify.

Mr. IRWIN: That is correct.

Senator HUGESSEN: Mr. Chairman, may I refer to the effect that the ruling which you proposed to give a few minutes ago would have upon this section of the bill? Suppose the Senate decided that the exemption provided by section 6 should only be applicable in the case of a niece and not in the case of a nephew, and suppose a senator moved an amendment to strike out the word "nephew" wherever it appears in this section, would you rule that such

an amendment was out of order because it would have the effect of increasing the tax payable by a taxpayer who supported a nephew?

The CHAIRMAN: As far as I am concerned in law the question is academic. As far as the Law Clerk is concerned he will enlarge his opinion to deal with that and any suggestion that may be made.

Shall subsections 1 and 2 of section 6 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Subsection 3?

Mr. IRWIN: The new paragraphs (e) and (f) provide that the additional exemption of \$500 now allowed to a taxpayer attaining the age of 65 will not be allowed to taxpayers under the age of 70 who receive the old age security pension.

The CHAIRMAN: Shall the section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Subsection 4 on top of page 9—these are subsections 4, 5 and 6 and I think they are consequential.

Mr. IRWIN: Yes. They are related to this deduction allowed for nieces, nephews, aunts and uncles, and deal with the case where two or more persons support an aunt or an uncle, or a person claims married status because he supports a child.

The CHAIRMAN: Shall subsections 3, 4 and 5 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Subsection 6—I think this makes these amendments applicable in 1965?

Mr. IRWIN: Yes.

The CHAIRMAN: Subsection 7—this is also a consequential section. Shall it carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 7?

Mr. IRWIN: This amendment provides that a taxpayer will be allowed to deduct trade union dues and professional fees in addition to the \$100 standard deduction.

The CHAIRMAN: Shall the section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 8 on top of page 10.

Mr. IRWIN: This clause provides two amendments both of which might be described as tidying-up amendments. They make no change in substance. Paragraph (c) being repealed is not necessary and it might be misleading. The deduction referred to is allowed by another paragraph of the subsection. Subsection 10 probably should have been changed in 1958 when the regulations governing depletion allowed in respect of dividends from non-resident companies was amended.

The CHAIRMAN: Shall the section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 9.

Mr. IRWIN: This provides for the tax reduction of 10 per cent of basic tax.

Senator FLYNN: I have a question on that. I understood this reduction of 10 per cent or \$600 is made from the return before the deduction of the part of the tax payable to the province.

Mr. IRWIN: This tax deduction is designed so as not to reduce the base on which all the provinces except Quebec impose their tax.

Senator FLYNN: It would have the same result in Quebec also; it would not decrease the share.

Mr. IRWIN: It does not decrease what we call the provincial abatement for taxpayers in Quebec.

Senator FLYNN: Then is my understanding correct that this 10 per cent in fact is more than 10 per cent of the tax that would go to the federal government?

Mr. IRWIN: Yes, computed as a percentage of the actual or net tax paid to the federal Government it is more than 10 per cent.

The CHAIRMAN: How much more, would you say?

Mr. IRWIN: I think the percentage is 12.5—I have forgotten the exact figure.

Senator FLYNN: What is the percentage deductible for the provinces other than Quebec? Is it 20 or 21 per cent?

Mr. IRWIN: The provincial abatements in all provinces except Quebec in 1965 is 21 per cent of the basic tax.

Senator FLYNN: So if you pay \$6,000 in tax altogether, you get a reduction of \$600, and out of this there is a little over \$1,200 that goes to the provinces, therefore you get \$600 on \$4,800.

The CHAIRMAN: That is more than 10 per cent.

Carried?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 10?

Mr. IRWIN: Subclause 1 is intended to prevent a double deduction. You will recall that an earlier amendment provided that lump sum payments received as a retiring allowance need not be taken into income if transferred into another pension plan. This amendment is intended to make sure a taxpayer having made such a transfer may not also have an equivalent amount taxed at the favourable rate provided by section 36.

The CHAIRMAN: He cannot have it both ways.

Mr. IRWIN: Subclause 2. This imposes a limit upon the amount that may be taxed under section 36. Section 36 of the act provides that a taxpayer may elect to take certain lump sum withdrawals from pension plans or deferred profit-sharing plans or amounts paid as retiring allowances, and have them taxed as a separate piece of income at a rate computed by reference to the taxpayer's average rate of tax. That is, his tax over his income in the previous three years. This amendment will limit the amounts that may be taxed in accordance with this favourable formula.

The CHAIRMAN: He can take any amount that he is able to get away with out of the pension plan, but he could only get the favourable rate, either \$1,500 multiplied by the number of years of membership of a plan, or \$1,000 multiplied by the number of years of employment.

Mr. IRWIN: It is \$1,500 multiplied by the number of years of membership in the plan.

Senator CONNOLLY (*Ottawa West*): But if he takes an amount over and above the limit, I take it it is taxable in the year in which he receives it?

The CHAIRMAN: It would be, but if he turned around and then paid it into another retirement or pension plan he would be exempt again, wouldn't he?

Mr. IRWIN: Yes, this does not disturb his right to transfer amounts into another pension plan or retirement savings plan.

Senator POWER: I am not an economist at all, but it occurs to me there might be some application to cases I have heard of. In the Department of National Defence retirements are effected pretty frequently. They call it the

“golden Bowler”, which I think is a payment to quite senior officers who are being retired on something equivalent to a year’s pay—let us say \$15,000 or \$18,000. This payment may occur at the same time as he earns \$20,000 or \$18,000 of salary. Apparently there has been some complaint that these fellows have to pay double income tax.

The CHAIRMAN: No, he can avoid that.

Senator POWER: Can he avoid that?

Mr. IRWIN: There is a further clause which deals with that sort of payment.

Senator POWER: How do you deal with it?

Mr. IRWIN: At the present time I think if he transferred the lump sum payment to another pension plan or registered retirement savings plan while he was a member of the forces he would be able to get an adjustment. He would not be taxed on it under the existing rules, and he would, of course, get an adjustment because it was not subject to tax. But if it was done after he leaves the services, there is an amendment in this bill to give him the same privilege as the people we have been discussing who get a lump sum payment upon retiring and who transfer it to another pension plan.

Senator POWER: So he could, if he were careful about it and knew what to do, arrange that he did not have to pay on \$30,000 or \$40,000 in the one year?

The CHAIRMAN: That is right.

Senator BOUFFARD: On the other hand, he could not use that money for establishing himself or buying some kind of business. If he does, he cannot come under that.

Senator POWER: If he did that he wouldn’t have any money to put in there, because they take it off in income tax.

Senator BOUFFARD: Unless you put it in a pension plan.

The CHAIRMAN: Subsections (1) and (2), shall they carry?

Hon. SENATORS: Carried.

The CHAIRMAN: What is the next part of this, Mr. Irwin?

Mr. IRWIN: I think that finishes clause 10. It is a long and complicated clause, because people might be members of more than one plan.

The CHAIRMAN: Shall clause 10 in its entirety carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Page 14, clause 11.

Mr. IRWIN: This takes into account the change in the title of another act referred to in the Income Tax Act.

The CHAIRMAN: Carried?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 12?

Mr. IRWIN: This will provide authority for the Minister of National Revenue to enter into an agreement with a province for the transfer of over-deductions of individual income tax from a province to the federal Government, or from the federal Government to a province.

The CHAIRMAN: I think I mentioned the other day that if a man lives in Ottawa and works in Hull, or lives in Hull and works in Ottawa then you have two rates of provincial deduction, and they would have to be adjusted. Isn’t that right?

Mr. IRWIN: Yes, that is so. At the present time there is authority under the tax collection arrangements for the transfer of amounts collected as provincial taxes, but 1965 is the first year in which the rate of federal tax will be different in Quebec than in Ontario. This will give authority for over-deductions of

federal tax to be transferred to Quebec. And we anticipate it will permit over-deductions of Quebec tax to be paid to the federal Government where a resident of Ontario works in Quebec and has had Quebec tax deducted and not enough federal tax.

Senator FLYNN: I understand that as far as the members of the Senate are concerned the provincial tax deducted from the indemnity is paid to Ontario, and thereafter there is to be a transfer from Ontario to the province of residence.

Senator HUGESSEN: Yes.

Senator FLYNN: Does that section cover this problem?

Mr. IRWIN: It would certainly, I think, cover that problem. I assume the statement you have made is right; I am not familiar with the problem.

Senator HUGESSEN: Yes. All of us who are residents of Quebec got a statement from the Income Tax Department stating that a certain part of the deductions from the indemnity had been paid to the Province of Ontario, and that Ontario was going to pay it over to the Province of Quebec and be able to take it as credited in Quebec.

The CHAIRMAN: Does section 12 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: You have dealt with the explanation of that section, haven't you, section 12?

Mr. IRWIN: Yes.

The CHAIRMAN: Section 13, at the bottom of page 15—this is something that has to do with liberalizing the Tax Appeal Board regulations. I should think everybody would be in favour of that. Carried?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 14 is in the same tenor. Does section 14 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: That brings us to section 15, which deals with trusts. I gave some explanation of this last night, but would you tell us about it in your own words, Mr. Irwin?

Mr. IRWIN: This changes the special rules for determining the income of a trust to provide that a trust that earns income may not deduct any amount paid or payable to certain beneficiaries. The purpose of the amendment is to prevent non-residents who carry on business in Canada from restricting the total Canadian tax on the business profits to the 15 per cent non-resident withholding tax.

The CHAIRMAN: Does that section carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 16 on page 18?

Mr. IRWIN: This is a relieving amendment, and it is the one I was referring to a moment ago. It will give members of the armed forces who transfer a gratuity or termination allowance into a pension plan or a registered retirement savings plan in the year in which they receive equivalent tax treatment to that now available to other taxpayers.

The CHAIRMAN: Does section 16 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 17—this deals with those sections under which were set up designated areas and new businesses a few years ago. Just tell us briefly the effect of it, Mr. Irwin.

Mr. IRWIN: Yes, sir. As you explained in the Senate this amendment has been made necessary because it is now two years since the date that was

used when section 71A was placed in the law, and unless the requirement placed on new machinery is brought up to date the section may be used in ways that were not originally intended.

Senator LEONARD: This is going to have to be carried on from year to year, is it not, because the same thing is going to happen with respect to machinery purchased after June 18, 1965.

Mr. IRWIN: Yes, sir, if this is extended for more years this problem will arise again.

The CHAIRMAN: Shall section 17 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 18. This is beneficial.

Mr. IRWIN: Yes, sir, this is a relieving amendment. It provides that the limitation on the amount of earned income that a taxpayer may deduct as a premium under a registered retirement savings plan shall be increased from 10 per cent to 20 per cent. The overall dollar amounts that a taxpayer may deduct have not been changed, but the amount expressed as a percentage of earned income is being increased.

Senator HUGESSEN: It really benefits only people of low income?

Mr. IRWIN: They would be the chief beneficiaries.

Senator BOUFFARD: The maximum amount is \$2,500?

Mr. IRWIN: Yes, if you are not a member of a pension plan. If you are a member of a pension plan your overall contribution to both plans remains at a maximum of \$1,500.

The CHAIRMAN: Does section 18 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 19. This is the prospectors section that we had some discussion about today in the house.

Mr. IRWIN: This amendment is in two parts. The first deals with amounts received by a prospector and the second, which is in subsection (3), deals with amounts received by a person who finances the prospector.

The amendment is intended to restore the law to what it was thought it provided before a decision of the courts. It concerns amounts received by prospectors, or companies who finance prospectors, in return for mining claims. The law permits such amounts—that is lump sum payments or shares—to be excluded from income by the prospector. It is not intended that a flow of income such as royalties should be exempt from tax in the hands of the prospector. The courts interpreted the law a year or two ago to say that it did exempt a flow of income such as royalties.

The CHAIRMAN: That is, they interpreted the language of the sections as it then was as including rents or royalties?

Mr. IRWIN: Yes. The amendment is intended to restore the law to what it was thought it provided before the court decision, and to make clear that amounts received as royalties or similar payments must be taken into income.

Senator LEONARD: What was the case?

Mr. IRWIN: *Bolduc*.

Senator LANG: Was the *Bolduc* case a royalty payment case?

Mr. IRWIN: Yes, sir.

Senator LANG: What is the difference between a lump sum payment and a royalty payment?

The CHAIRMAN: A royalty payment is paid out of production.

Senator LANG: It does not mean it is income.

Senator LEONARD: Normally, a man selling his claim had a right to elect to take one of two kinds of payment, one being a capital sum and the other being a sum payable over a period of time. Now, if such a contract was in existence up to now is this section retroactive so as to make something taxable which hitherto has been recognized as not being taxable? I am speaking of a transaction entered into before this act comes into effect.

The CHAIRMAN: You have the decision of the Supreme Court of Canada.

Senator LEONARD: Does that decision hold in respect of that particular case, for example?

Mr. IRWIN: Yes, except it does not affect payments made before this law comes into effect.

Senator LEONARD: I would hope you would not go that far.

Mr. IRWIN: It depends upon one's interpretation of the word "retroactive". In that sense it is not retroactive, but it will make taxable payments received under an agreement that might have been signed before this becomes law.

Senator BOUFFARD: That is not very reasonable because a man who has made a contract in accordance with the law as it existed at that time may now be receiving much less.

Senator LEONARD: That is right. Had he known the law was going to be changed he might have sold for cash or shares instead of having his payment on a royalty basis.

Senator HUGESSEN: If the contract was made before the judgment in the case he must have thought he was taxable.

Senator LEONARD: The payment may not be taxable, apart from that case.

Mr. IRWIN: I do not know that anyone would have a right to believe that the law would not be changed. One can put forward various views as to what is or is not retroactive legislation. One view is that it is not retroactive to change the tax rules with respect to payments from now on. No one has a right to expect that taxes on his income will never be changed.

The CHAIRMAN: Is there any person who is so naive as to believe that?

Senator LEONARD: I have never heard the Income Tax Branch argue in that way.

The CHAIRMAN: Mr. Irwin is from the Finance Department.

Senator BOUFFARD: A person might have made a contract on a certain basis, but had he known this was going to be the law he would have taken shares and perhaps made a much bigger profit on the shares, or he may have taken a lump sum payment.

Senator FARRIS: I would like to know if it is a principle recognized by this committee against retroactive legislation.

Senator BOUFFARD: It is retroactive in certain cases.

The CHAIRMAN: We first have to define what is retroactive. If I impose a tax this year and say it shall apply on income that you have received last year and the year before, and the year before that, then that is definitely retroactive. But, if I have a contract, and under the law at the time the contract is made the proceeds that come to me from it are not taxable. Then, if suddenly in 1965 the law is changed and the proceeds are made taxable, in my view, that is not retroactive legislation.

Senator BOUFFARD: Well, for the taxpayer it is retroactive, because he has not got what he should have got. What choice is he going to make? Is he going to take shares, yearly payments or a cash payment? How can he decide?

The CHAIRMAN: All he can do is to get the best advice he can, and if he does not want to pay income tax on the royalties in 1965 perhaps he can make a new deal with the company.

Senator LANG: If a prospector died while royalties were in flow how would his estate be affected?

The CHAIRMAN: You mean from herein?

Senator LANG: The section of the act says you have to take income as a lump sum payment.

Mr. IRWIN: The right to receive royalties is a valuable asset. These things are even bought and sold, I believe. The right to receive royalties may have a marketable value. An asset of that kind passing on death would be subject to estate tax.

Senator LANG: I am not talking about estate tax, I am talking about the nature of those payments in the hands of his executors. I think the income tax authorities recognize under—I think it was section 72—that receipt of future payments like that by his executors are capital in the hands of his executors and require the executors to place a present value on those future receipts and to pay tax on that whole amount as though it were received in one year. If that section would apply and this section also applies simultaneously, he would be paying tax on the capitalized value of all his future payments, plus the income thereon afterwards, as they were received.

The CHAIRMAN: Any other questions?

Senator LANG: It seems to me a very dangerous problem in that area.

The CHAIRMAN: Have you anything to say, Mr. Irwin?

Senator FARRIS: I have not got the answers to my questions.

The CHAIRMAN: Well, Mr. Irwin is here to answer questions.

Senator FARRIS: I wanted to ask about the general policy relating to retroactivity.

The CHAIRMAN: I do not know that this committee has laid down any general policy that is applicable in relation to all situations. I would think the committee provides the basis to deal with legislation that comes before it, and in terms of that looks at what the problems are. We have no ground rules in the sense that we say anything that is retroactive we are going to strike out—because some retroactivity may be beneficial.

Senator FARRIS: All right.

The CHAIRMAN: Shall the section carry?

Senator BOUFFARD: Is there any possibility that this section would not apply to existing contracts?

Mr. IRWIN: Not under this bill sir.

Senator BOUFFARD: Would the Minister agree to an amendment?

Mr. IRWIN: I cannot answer that directly, but I can tell the committee that this question of whether this should apply to existing contracts was considered by the minister when these amendments were being examined, and this was his considered decision.

Senator HUGESSEN: The only man that might conceivably have any complaint would be the one who made these contracts after the judgment came out.

Senator BOUFFARD: I am speaking of the man who has a contract of that kind now that was not taxable at the time.

Senator HUGESSEN: But until the judgment comes out everybody considers it to be taxable.

Senator LEONARD: Bolduc would have a complaint—the man who took the case. He has won his case on a point of law and now the law has changed.

The CHAIRMAN: Well, that has happened before, senator, and I am sure it will happen again.

Senator LEONARD: Yes, but it is not fair. I think we should register that view.

The CHAIRMAN: Yes.

Senator FLYNN: In some cases it could be argued that what appears to be a royalty is only part of it, and part of it is capital. I do not think this provision would prevent such an argument either to the Department of Revenue or before the appeal board of the courts.

The CHAIRMAN: I think that is right, senator. Is there anything further you wanted to say on that, Senator Leonard, so that the record is sufficiently strong on that point?

Senator LEONARD: I think it is pretty well covered, Mr. Chairman.

The CHAIRMAN: Section 20?

Mr. IRWIN: Section 20, subclauses (1) and (2) provide a relieving amendment, and they correct what might have been an oversight when this part of the law was passed in 1962. In 1962 the act was amended to provide that an individual or corporation not in the oil or gas business could deduct exploration and drilling expenses, but a ceiling was placed on the amount of exploration and drilling expenses, and that ceiling was income from oil or gas wells.

The CHAIRMAN: In Canada?

Mr. IRWIN: Yes, income from operating oil or gas wells in Canada.

The law also provides that proceeds from the disposition of oil or gas rights must be included in income; but up until now it has not provided that this kind of income, that is, the proceeds from the disposition of oil or gas rights would be classed as income from oil or gas wells.

The CHAIRMAN: So you could not use it for these deductions, could you?

Mr. IRWIN: Could not use it to increase your ceiling against which exploration and drilling expenses could be deducted.

The CHAIRMAN: That is subsections (1) and (2)?

Mr. IRWIN: Yes.

The CHAIRMAN: Shall subsections (1) and (2) of section 20 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: We go now to subsection (3).

Mr. IRWIN: This act adds two new subsections. The first new subsection (5a) is an amendment for clarification. It brings the description of an oil or gas right more nearly into line with the terminology used in the industry.

The new subsection (5ab) is intended to plug a loophole whereby an oil or gas right could be acquired by a joint exploration company and this exploration and drilling cost then transferred to the parent company. The use of a joint exploration company is more suitable in the case of exploring for minerals, because the amounts paid for mineral rights are not classed as exploration and drilling expenses, and the proceeds therefrom are not taken into income upon disposal or sale.

Subsection (5ab) is a rather complicated amendment. The amendment itself looks simple enough, but the devices that it is intended to prevent are rather complicated.

The CHAIRMAN: I understand there is a device under which if you set up a subsidiary company, non-resident, and then you sold the gas or oil rights to that company, and ordinarily the costs that were related to that would go with it, but then the subsidiary would renounce those costs back to the parent, and the parent would use them against income. Is that not the sort of loophole you were trying to cover?

Mr. IRWIN: Yes, sir.

The CHAIRMAN: And it takes all those words that run through page 23 of the bill to deal with that situation?

Mr. IRWIN: No, sir. The amendment we are talking about only goes to the bottom of page 22. A new paragraph (5b) is added by subclause (4) starting on page 23. This is another amendment which is designed to plug a loophole.

The act at present allows certain kinds of corporations to deduct the cost of acquiring gas or oil rights. Under the present law if the kind of corporation becomes another kind of corporation when it sells the oil or gas rights, it may not have to take the proceeds into income. The purpose is to provide that if a company had the right to deduct the cost of acquiring these rights it must take the proceeds into income when it disposes of them, even though it may have become a different kind of company at the time of disposal.

The CHAIRMAN: That is subsection (4) on page 23, is that right?

Mr. IRWIN: Yes, sir.

The CHAIRMAN: And subsection (5)?

Mr. IRWIN: There is a new subsection (5f) added by subclause 5. This is for simplification. It is intended to relieve people who are traders from having to account for their income in the same way as people who are in the exploration business and who deduct the cost of acquiring rights and take the proceeds into income.

The CHAIRMAN: Shall subsection (5) carry?

Hon. SENATORS: Carried.

Mr. IRWIN: There is a new subsection (8e) added by subclause (6), which meets a request from the industry for clarification of a deduction that is already in the law.

The CHAIRMAN: So you do not take away anything or add anything, you just change the description?

Mr. IRWIN: That is right.

The CHAIRMAN: Then subsection (7) simply makes the whole section applicable to 1965 and succeeding years.

Shall all of section 20 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Now we have section 21, which is an annual thing we have in the Income Tax Act.

Mr. IRWIN: It has been an annual amendment up until now. This year it is an amendment to section 85C of the act. I think the suggestion has been made in this committee that it should not be put in every year, but should be added to the act.

The CHAIRMAN: This deals with children of new Canadians?

Mr. IRWIN: It deals with family assistance payments made for the children of new Canadians. The substance of the amendment is to require that children in respect of whom family assistance payments are made should be treated in the same way as children in respect of whom family allowance payments are made.

The CHAIRMAN: Shall section 21 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 22.

Mr. IRWIN: The first part of this is to make it clear that a taxpayer is not required to deduct the full amount of the reserve that is allowed by law; and

the second part of it increases from one-twelfth to one-sixth the rate at which companies in the business of making loans on mortgages accumulate the reserve that they may hold against possible losses.

Hon. SENATORS: Carried.

The CHAIRMAN: Section 23 is another one of those liberalizing provisions in relation to the Tax Appeal Board and the Exchequer Court.

Mr. IRWIN: Clause 24 is the same for the Exchequer Court.

The CHAIRMAN: Clause 23 deals with the Tax Appeal Board in that regard, in the matter of notices of appeal, where you do not conform to the regulations quickly, and dealing with replies. Clause 24 is in relation to the Exchequer Court, is that right?

Mr. IRWIN: Yes, sir.

The CHAIRMAN: Shall these two sections carry, sections 23 and 24?

Hon. SENATORS: Carried.

The CHAIRMAN: Then, section 25, on the top of page 26.

Mr. IRWIN: This authorizes the Minister of National Health and Welfare to give information to the Minister of National Revenue about the amount of Old Age Security pensions received by individuals.

The CHAIRMAN: Shall section 25 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 26 is this matter of solicitor-client privilege. I think the only thing new in it is to say—

Senator LEONARD: I think we should take a little time on section 26. This seems to be going a long way towards breaking the rule that is almost unbroken or invariable as regards the relations between solicitor and client. It seems to me that you are going to be in a position to ask a lawyer to get his cheques and accounts in records, and you will have the whole story of his relationship with his client, the amount of money he receives and the amount he pays out and the names of his clients and the names of the people concerned. That seems to me to be going a long way. I am wondering as to the necessity for it. What has happened to cause this? Secondly, how far has this been brought to the attention of the Barristers Association and to the Law Society? Perhaps we could hear about that?

Mr. IRWIN: The bill proposes to add to section 126A the underlined words. This section contains a number of provisions designed to protect solicitor-client privilege when tax investigations are carried out. These were introduced in 1956 at the suggestion of representatives of the Bar Association. In the past year it became evident, as a result of a court decision, that the definition of solicitor-client privilege was deficient in some respects. Representatives of the Bar Association suggested the wording that we find in the amendment.

Mr. HOPKINS: This is exactly the wording, I believe?

Mr. IRWIN: Yes, sir.

Senator FLYNN: That is strange.

Senator LEONARD: That is satisfactory to me.

Senator CONNOLLY (*Ottawa West*): This is usual in the special investigations under section 126?

The CHAIRMAN: Yes.

Mr. IRWIN: Section 126A is a fairly lengthy section dealing with solicitor-client privilege.

Hon. SENATORS: Carried.

The CHAIRMAN: Section 27.

Mr. IRWIN: Section 27 is to assist in the administration of the act. In certain cases it is necessary to prove that amounts of tax which should have been remitted to the Receiver General have not in fact been received. This permits an official charged with the keeping of the records to take an affidavit to show that he in fact has not received the amounts in question.

Senator FLYNN: When you say "should have been received" you mean "claimed"? It does not mean that this amount is due.

Mr. IRWIN: Yes, sir, amounts that the department claims it should have received and it has not received.

Senator FLYNN: The claim?

The CHAIRMAN: What they say is that this amount has not been received. The question of whether he owes it or not still has to be settled.

Senator FLYNN: I hope so.

The CHAIRMAN: I hope so, too.

Shall section 27 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: We have already dealt with section 28, subsection (1), (2) and (3). Now we come to subsection (4), which has been called sometimes "rooting out some tax havens".

Mr. IRWIN: Yes, sir. This amendment provides that a company which was incorporated in Canada and is now resident in Canada shall be deemed to continue to be resident in Canada in the future, and all companies incorporated in Canada in future shall be deemed to continue to be resident in Canada for tax purposes.

The CHAIRMAN: It becomes effective, I would say, in its application only if you still have jurisdiction over the individuals or if the assets are still within the jurisdiction.

Mr. IRWIN: Well, yes, sir.

The CHAIRMAN: Shall subsection (4) carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Subsection (5) is just the application?

Mr. IRWIN: Yes, sir.

The CHAIRMAN: Shall subsection (5) carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 29.

Mr. IRWIN: This is a technical amendment to deal with a situation where a company has been newly incorporated or newly created. It is an amendment to the provision for determining when a company has a degree of Canadian ownership. It was found that a newly created company might have an initial taxation year of, say, 20 days. It could qualify as a company with a degree of Canadian ownership for its first taxation year of 20 days; but it would not have the necessary 60 days in which to qualify for its second taxation year. So this amendment is proposed to take care of this rather unusual situation.

The CHAIRMAN: Shall section 29 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 30 simply puts in the current percentages of abatement payable to the provinces.

Mr. IRWIN: Yes, sir. This is designed to ensure that the tax reduction will not reduce the amount that is paid to the provinces under the Federal-Provincial Fiscal Arrangements Act.

The CHAIRMAN: Shall section 30 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall I report the bill without amendment?

Senator BOUFFARD: Before we close this discussion, would it not be proper to wait until Mr. Irwin has seen the minister about these annual payments for income tax purposes?

The CHAIRMAN: We could do better than that. At 9.30 in the morning we can ask the minister to come here and answer the questions himself.

Senator BOUFFARD: We do not have to have the minister. If Mr. Irwin speaks to the minister and gets the answers from him then he can tell us about it. You see what I am concerned about is when a man has received a cash amount he is exempt from all taxation, but if instead of receiving a cash amount he has a term contract or if he has sold at a price to be paid over 20 years, it seems to me that it is unfair to tax that capital while if he had received a cash payment at the beginning he would not have had to pay any tax on it.

The CHAIRMAN: Mr. Irwin, do you understand the point Senator Bouffard is making?

Mr. IRWIN: You are asking, senator, if it would be possible to consider an amendment to exempt from the clause or amendment here those individuals who have a contract providing for royalties where that contract was signed prior to budget date?

Senator BOUFFARD: Yes, and where it provided for payments of a cash amount of money.

Mr. IRWIN: This amendment deals with royalties and similar payments.

The CHAIRMAN: Then I do not put the question tonight about reporting the bill without amendment. We can deal with that tomorrow morning when Mr. Irwin comes and tells us the answers and we can debate it if necessary.

Senator LANG: What about the other budget resolutions about allowances for pollution control and matters of that kind?

Mr. IRWIN: They were not budget resolutions in the strict sense; they were announcements made in the budget speech, and the announcement was that the income tax regulations dealing with capital cost allowances would be accelerated to provide accelerated capital cost allowances in respect of property acquired for the purposes mentioned.

Senator HUGESSEN: No legislation is required as a result of that?

Mr. IRWIN: No.

Senator LANG: What about legislation governing expenses involved in research and similar matters?

Mr. IRWIN: Legislation will be required to authorize the grants, but I am not sure where the legislation stands at the present time. I think the announcement said it would become effective only in 1966.

The CHAIRMAN: We shall adjourn now until 9.30 tomorrow morning.

The committee adjourned.

THE SENATE

THE STANDING COMMITTEE ON BANKING AND COMMERCE

EVIDENCE

OTTAWA, Wednesday, June 30, 1965.

The Standing Committee on Banking and Commerce, to which was referred Bill C-118, to amend the Income Tax Act and the Federal-Provincial Fiscal Arrangements Act, met this day at 9.50 a.m. to give further consideration to the bill.

Senator Salter A. Hayden in the Chair.

The CHAIRMAN: Honourable senators, we now continue our consideration of Bill C-118. When we adjourned yesterday we had carried all the sections, but we delayed the final motion to report the bill without amendment at the request of Senator Bouffard. Mr. Irwin was to discuss with the minister the suggestion that Senator Bouffard made. Are you ready to deal with that now, Mr. Irwin?

Mr. IRWIN: Yes, sir.

When clause 19 was under consideration in this committee last evening several senators commented on the fact that the amendment would make taxable in 1965 and future years certain royalties which might be paid under an agreement or arrangement entered into before the date of this proposed legislation. The amendment under discussion would make taxable rents or royalties received by a taxpayer as consideration for a mining property that had been acquired by him as a result of his efforts as a prospector.

The amendment, as was mentioned last evening, is intended to restore this part of the law to what it was thought it provided before a decision of the Tax Appeal Board.

Before the committee rose last evening, Senator Bouffard asked if I would place before the Minister of Finance his concern about the application of this amendment in cases where a prospector, or a prospecting company, might have signed an agreement to receive royalties after the court decision but before the Income Tax Resolution was made public with the presentation of the budget. He requested that I ask the Minister of Finance if he would accept or consider an amendment to exclude from the application of clause 19 those taxpayers who had an agreement to receive royalties signed in the period between the court decision and the date of the budget speech.

Senator BOUFFARD: Including the man who went to court and in favour of whom the judgment was given.

Mr. IRWIN: I can report, Mr. Chairman, that I have spoken to the Minister of Finance as requested and the minister has directed me to tell you that he appreciates your careful examination of these complicated parts of the bill, and your desire that these changes be as fair as possible in their application. He recalled that the question of the effective date of the provision had been discussed at some length during the budget preparations. It was proposed at one time during those deliberations to make the change effective from the date of the court decision in 1963 because the interpretation placed upon this part of the law by the court was quite different from the way it had been previously administered, and it was suggested that taxpayers were not entitled to expect

that the law would not be changed. However, it was decided that to pass a law to change the tax treatment of amounts received in past years would be retroactive, and the decision was against such action.

Looking to the future the minister suggested it is not unfair or improper to make payments taxable for the future even though those payments have been exempt for one or two years. It would be nearly impossible to pass suitable tax legislation if it were accepted that exemptions could not be taken away or rates of tax increased on income received under agreements already signed.

The minister appreciates the concern of the honourable senators, but he has asked me to say that he does not believe he could justify making an amendment to clause 19.

The CHAIRMAN: Having heard this statement the last remaining question for the committee to consider is whether I should report the bill without amendment.

Senator CROLL: I move that the bill be reported without amendment.

Senator HUGESSEN: I second the motion.

The CHAIRMAN: Is the motion carried? Shall I report the bill without amendment?

Hon. SENATORS: Carried.

The committee adjourned.



Third Session—Twenty-sixth Parliament
1965

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE
ON
BANKING AND COMMERCE

The Honourable **SALTER A. HAYDEN**, *Chairman*

No. 5

Complete Proceedings on Bill C-120,
intituled: "An Act to amend the Customs Tariff".

TUESDAY, JUNE 28, 1965

WITNESSES:

Department of Finance: J. Loomer, Acting Director, Tariffs. R. Y. Grey, Director, International Economic Relations and Defence. *Department of National Revenue:* J. G. Howell, Assistant Deputy Minister, Operations.

REPORT OF THE COMMITTEE

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

THE STANDING COMMITTEE
ON
BANKING AND COMMERCE

The Honourable Salter A. Hayden, *Chairman*

The Honourable Senators:

Aseltine	Gershaw	Paterson
Baird	Gouin	Pearson
Beaubien (<i>Bedford</i>)	Haig	Pouliot
Beaubien (<i>Provencher</i>)	Hayden	Power
Blois	Hugessen	Reid
Bouffard	Irvine	Roebuck
Burchill	Isnor	Smith (<i>Kamloops</i>)
Choquette	Kinley	Smith (<i>Queens-</i> <i>Shelburne</i>)
Cook	Lambert	Taylor
Crerar	Lang	Thovaldson
Croll	Leonard	Vaillancourt
Davies	Macdonald (<i>Brantford</i>)	Vien
Dessureault	McCutcheon	Walker
Farris	McKeen	White
Fergusson	McLean	Willis
Flynn	Molson	Woodrow—50.
Gélinas	O'Leary (<i>Carleton</i>)	

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

(Quorum 9)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Monday, June 28th, 1965:

“Pursuant to the Order of the Day, the Senate resumed the debate on the motion of the Honourable Senator Hayden, seconded by the Honourable Senator Macdonald, P.C., for second reading of the Bill C-120, intituled: “An Act to amend the Customs Tariff”.

After debate, and—

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

The Bill was then read the second time.

The Honourable Senator Hayden moved, seconded by the Honourable Senator Macdonald, P.C., that the Bill be referred to the Standing Committee on Banking and Commerce.

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

J. F. MacNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

TUESDAY, June 29, 1965.

Pursuant to adjournment and notice the Standing Committee on Banking and Commerce met this day at 8.00 p.m.

Present: The Honourable Senators Hayden (*Chairman*), Beaubien (*Pro-vencher*), Bouffard, Burchill, Choquette, Connolly (*Ottawa West*), Cook, Croll, Farris, Fergusson, Flynn, Gouin, Hugessen, Irvine, Kinley, Lang, Leonard, McLean O'Leary (*Carleton*), Pearson, Pouliot, Power, Smith (*Kamloops*), Smith (*Queens-Shelburne*), Vaillancourt, Walker and Woodrow. (27)

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

On Motion of the Honourable Senator Croll it was Resolved to report recommending that authority be granted for the printing of 800 copies in English and 300 copies in French of the proceedings of the Committee on Bill C-120.

Bill C-120, An Act to amend the Customs Tariff, was read and considered.

The following witnesses were heard: *Department of Finance:* J. Loomer, Acting Director, Tariffs; R. Y. Grey, Director, International Economic Relations and Defence. *Department of National Revenue:* J. G. Howell, Assistant Deputy Minister, Operations.

On Motion duly put it was Resolved to report the said Bill without amendment.

At 8.20 p.m. the Committee proceeded to the next order of business.

Attest.

Frank A. Jackson,
Clerk of the Committee.

REPORT OF THE COMMITTEE

TUESDAY, June 29th, 1965.

The Standing Committee on Banking and Commerce to which was referred the Bill C-120, intituled: "An Act to amend the Customs Tariff", has in obedience to the order of reference of June 28th, 1965, examined the said Bill and now reports the same without any amendment.

All which is respectfully submitted.

Salter A. Hayden,
Chairman.

THE SENATE

THE STANDING COMMITTEE ON BANKING AND COMMERCE

EVIDENCE

OTTAWA, Tuesday, June 29, 1965.

The Standing Committee on Banking and Commerce, to which was referred Bill C-120, to amend the Customs Tariff, met this day at 8.00 p.m. to give consideration to the bill.

Senator Salter A. Hayden, in the Chair.

The CHAIRMAN: I call the meeting to order. We have before us tonight two bills, a bill to amend the Customs Tariff, C-120, and a bill to amend the Income Tax Act, C-118. It is the intention to proceed first with the Customs Tariff.

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

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

We have present from the Department of Finance, Mr. J. Loomer, Acting Director of Tariffs, and Mr. R. Y. Grey, Director, International Economic Relations and Defence. From the Department of National Revenue we have Mr. J. G. Howell, Assistant Deputy Minister, Operations.

The Customs Tariff bill is a very short one. Mr. Loomer is going to introduce the bill for our consideration. Since, as I say, it is a very short bill let us deal with it section by section. On section 1 of the bill are there any questions, or would you like a short statement from Mr. Loomer?

Senator O'LEARY (*Carleton*): Perhaps we could have a short statement.

The CHAIRMAN: Right.

Mr. J. Loomer, Acting Director of Tariffs, Department of Finance: Section 1 provides authority for the re-numbering of items in the Customs Tariff by Order in Council. At the moment both numbers and letters are used in the tariff, and it is proposed to convert to a purely numerical system which will permit better co-relation between individual tariff items and related statistics. There are approximately 2,500 tariff items and sub-items, and since there is to be no change of substance it is proposed to do the renumbering by Order in Council.

The CHAIRMAN: Any questions? Shall section 1 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 2.

Mr. LOOMER: This resolution provides for a miscellaneous group of amendments affecting 11 tariff items. Five of them extend the duration of the existing items for another 12 months. The items affected are 209e, 210i, 263e, which are continued until December 31, 1966, and items 440m(1) and 440n(1), which are continued until July 1, 1966. The other amendments are either of a technical or relieving nature.

The CHAIRMAN: Are there any questions?

Senator CROLL: How does this change it?

The CHAIRMAN: Five of the items are extended for a year.

Senator CROLL: And the sixth?

Mr. LOOMER: One item has been made statutory. One item was put in by order in council, and it is now statutory.

The CHAIRMAN: That is the same item.

Senator CROLL: When?

Mr. LOOMER: A provision has been added to the item to include repair parts. This could not be done by order in council. The provision with respect to repair parts requires action by Parliament.

The CHAIRMAN: Which item is that?

Mr. LOOMER: 445z.

Senator PEARSON: What items are extended?

Mr. LOOMER: Items 209e, 210i, and 263e are extended from December 31, 1965 for one year. And items 440m and 440n are extended from June 30, 1965.

Senator PEARSON: Why a year?

Mr. LOOMER: The first three items are in the Chemical Reference and it is hoped that the board's report will be available before that time. With respect to the other two items we may wish to take another look at them after the Kennedy Round of tariff negotiations.

The CHAIRMAN: So you are just getting a short term extension for one year. Did you get the answer to your question, Senator Croll? You were referring to Item 445z. This is razors.

Senator CROLL: I remember your explanation of it in the house, and it seemed to be a nice protective measure. I am against protection, so it does not do me much good.

The CHAIRMAN: It is not protection because under the British preferential tariff and the most-favoured nation tariff these things are allowed to come in free so that Canadian manufacturers can compete with the imported goods. Have you anything to say about the remaining items, Mr. Loomer?

Mr. LOOMER: In Item 384 the words "when imported by manufacturers" have been deleted so that people other than manufacturers can import their own skelp, plate, sheet or strip.

The CHAIRMAN: In that item you are trying to get away from end use?

Mr. LOOMER: No, it is still an end use item, but it was previously restricted to a manufacturer.

Item 388 is a new item providing for foundry moulding snap flasks and jackets for use therewith.

Item 541a—the only change there is that the word "knitting" has been added.

The wording of item 695c has been amended. This is really a technical change. Previously these sculptures had to be certified by the director of the National Gallery as being of a cultural nature, and now they will enter as other goods for import purposes.

Item 695e is a new item, providing for hand-woven tapestries.

The CHAIRMAN: Does section 2 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 3?

Mr. LOOMER: This is also a new item which provides for a 99 per cent drawback on knitted netting which is used in the manufacture of shapes for women's or children's headgear.

The CHAIRMAN: Does section 3 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 4 is the prohibited goods section?

Mr. LOOMER: Yes. There is an amendment to Item 1220 which covers offensive weapons. The subsections provide for the goods which are not prohibited, and in subsection (b) the words "Form 42" have been removed. In subsection (c) the words "military type rifles" have been deleted.

The CHAIRMAN: That does not really effect any change.

Mr. LOOMER: Not of any great substance.

Senator CROLL: If these changes do not affect anybody, or are not of any great substance, why are you making them? Everybody says that this does not mean anything, so we need not pay any attention to it, or that it is of no consequence. Why are these changes made?

The CHAIRMAN: The words "Form 42" are struck out because everybody has to register a gun.

Senator CROLL: Let us start over again. If this is of no substance then why bother Parliament with it?

The CHAIRMAN: It is nice to tidy up once in a while.

Senator CROLL: I have heard that before.

The CHAIRMAN: I have even heard you say it at some times, senator.

Senator LEONARD: Are not military rifles being brought in when they were not brought in before?

Mr. LOOMER: Military rifles will continue to come in under the exceptions, but automatic rifles will have to be treated under subsection (b). The ordinary standard or auto-loading rifle will continue to come in under subsection (c). This means that military rifles will be treated in the same way as other offensive weapons. If they are fully automatic they will come in under subsection (b); if they are not they will continue to come in under subsection (c).

Senator LEONARD: That is a change of some substance.

Mr. LOOMER: I said "great substance". Perhaps I should have emphasized the word "great".

The CHAIRMAN: Does subsection (4) carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Section 5?

Mr. R. Y. Grey, Director, International Economic Relations and Defence, Department of Finance: Perhaps I might speak to this, Mr. Chairman. This is one item which is set out in schedule D which deals with certain types of periodicals which, when this item comes into effect, will be prohibited entry. This is modelled closely on the recommendation of the royal commission which dealt with this subject, except for two points which, although they are more than points of detail, are not major points. One is that the prohibition does not apply to an issue which contains advertising of the type described, but to an issue subsequent to that. This is entirely for administrative reasons, to make it unnecessary for the customs officers to examine all periodicals as they enter Canada, but to deal with them after the event and to apply the prohibition to subsequent entries.

Also following a recommendation of the Royal Commission is the provision in item 1221(2). Some American magazines have a typically overflow circulation which contain advertising and which give some indication of a source of availability of service in Canada. With 5 per cent of such advertising space, publications can come in without invoking the prohibition.

I think that it can be argued that there are certain products, such as those advertised in publications like *Scientific American*, which are for very specialized markets in North America, and it would work a hardship on such publications if the existence of one such advertisement prohibited entry into Canada.

The CHAIRMAN: Any questions?

Senator O'LEARY (*Carleton*): How do you propose to police this?

Mr. GREY: I will ask Mr. Howell to answer that question.

The CHAIRMAN: Tell us how the administration will work it out, Mr. Howell?

Mr. J. G. Howell, Assistant Deputy Minister, Operations, Department of National Revenue: In the first place, Mr. Chairman, it is quite permissive for a publisher in a foreign country to submit publications to us prior to publication. He may seek a ruling from us and ask if it is prohibited within the meaning of item 1221, schedule C. If he gets such a ruling that it is prohibited he must take corrective measures, and if he does not we will prefer him. He can make an appeal to the deputy minister.

Senator O'LEARY (*Carleton*): Have you any idea of the number of American magazines or periodicals containing this sort of advertising coming to Canada? How many come in each month or week?

Mr. HOWELL: No, sir, we have no idea.

Senator O'LEARY (*Carleton*): Would it be over 100?

Mr. HOWELL: I would say so.

Senator O'LEARY (*Carleton*): It could be 200, in fact?

Mr. HOWELL: It could be.

Senator O'LEARY (*Carleton*): Are you going to tell me that you are going to police those each month?

Mr. HOWELL: Well, I sent for samples. If and when the act is passed, the regulations and a copy of the act will be sent to all publishers.

Senator O'LEARY (*Carleton*): The reason I ask you is that we considered this in the royal commission and we are told by people who are supposed to know that this would be an extremely difficult thing to police, so we say, "Oh, well, excuse them all." Personally, I am not too concerned about this. I do not think it is an important thing.

The CHAIRMAN: Any other questions? Senator Croll?

Senator CROLL: I think the other gentleman spoke about after the event, meaning that if someone sends in the periodical and it gets through, and you find out afterwards that he has not lived within the regulations, how long after the event will the regulations apply?

Mr. GREY: The phrase in both sections is "for immediately preceding issues."

Senator CROLL: That could be a month?

Mr. HOWELL: It could be.

Senator CROLL: And after that you are done for?

Mr. HOWELL: That is right, until that number of issues has passed.

The CHAIRMAN: Senator Leonard?

Senator LEONARD: Then if there are four issues that do not contain the material which justifies the prohibition, automatically the publication can come in?

Mr. HOWELL: That is right.

Senator HUGESSEN: Dealing with the policing again, under item 1221 you talk about regulations prescribed by the Governor in Council. He will make general regulations covering everything, will he?

Mr. HOWELL: The regulations would cover the prohibition.

Senator HUGESSEN: He will not make regulations for each occasion; he will make general regulations?

Mr. HOWELL: Yes.

Senator HUGESSEN: Item 1221 says, "if such preceding issue has . . . under regulations prescribed by the Governor in Council, been found to be an issue of a special edition," Found by whom?

Mr. HOWELL: As found by the deputy minister.

Senator O'LEARY (*Carleton*): Or by his officials?

Mr. HOWELL: Yes.

Senator O'LEARY (*Carleton*): Somebody has to do the finding.

Senator HUGESSEN: That is what I was asking.

Mr. HOWELL: In the name of the deputy minister.

Senator FLYNN: In your operation to enforce this provision, have you any idea of the proportion of magazines and periodicals that could be affected eventually, if the officials of the department started to examine the periodicals coming into Canada.

Mr. HOWELL: No, sir.

Senator FLYNN: Have you any idea if this will have any effect at all in practice?

Mr. HOWELL: No, sir, we do not know, we have had no such law before.

Senator FLYNN: It may not mean anything in practice?

Mr. HOWELL: It may or may not. We do not know.

Senator PEARSON: In that case, why are you bringing the rule in?

The CHAIRMAN: All he says is that he cannot say one way or another; and he did not bring the rule in, this is a matter of Government policy. Shall section 5 carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall section 6, commencement, coming into effect, carry?

Hon. SENATORS: Carried.

The CHAIRMAN: Shall I report the bill without amendment?

Hon. SENATORS: Agreed.

SENATE

Standing Committee
on
Banking and Commerce

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