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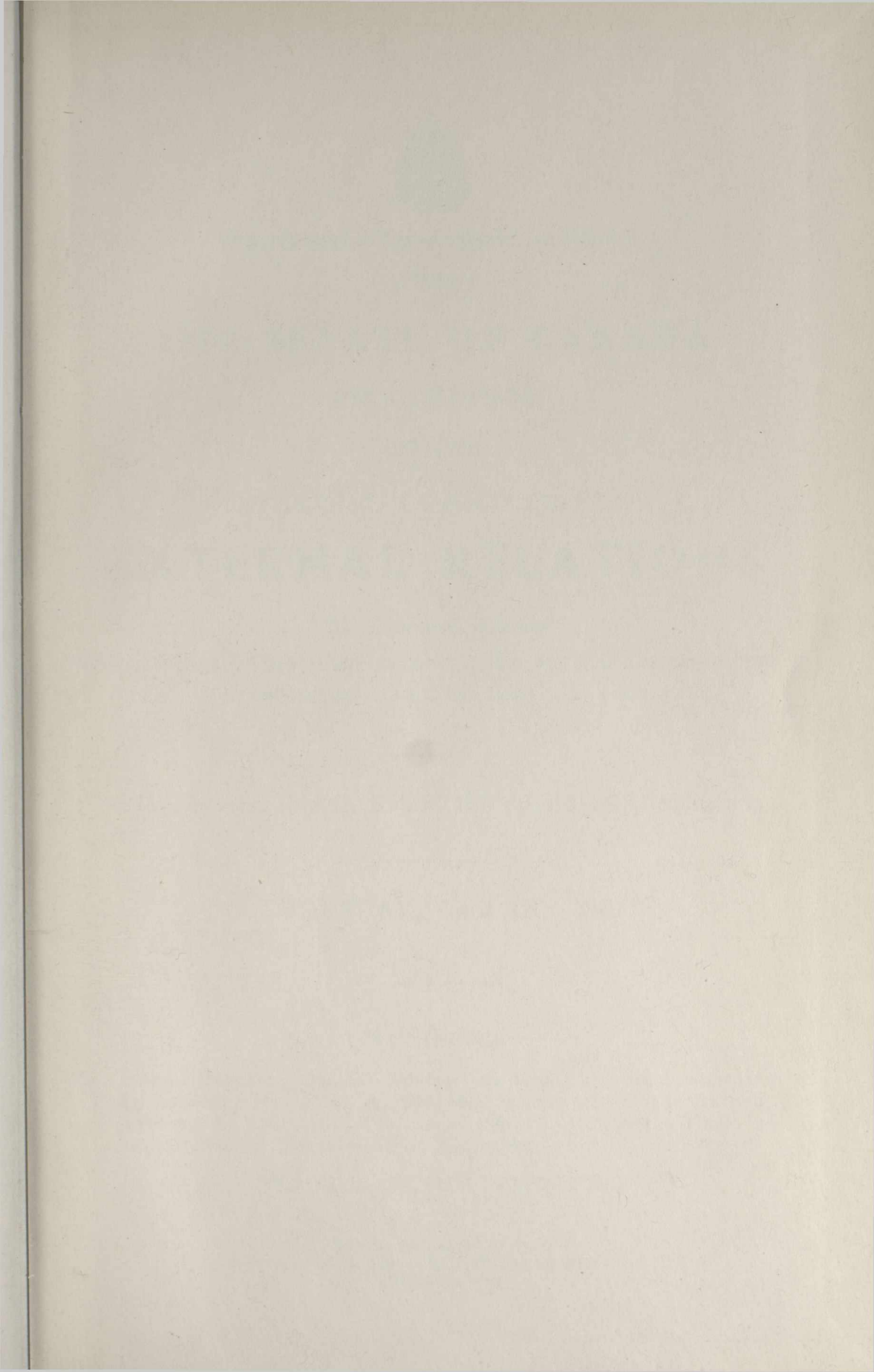
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SENATE
Standing Committee on
External Relations

5th Session, 24th Parliament
1962

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Fifth Session—Twenty-fourth Parliament

1962

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE ON
EXTERNAL RELATIONS

To whom was referred

International Wheat Agreement to be opened for signature at
Washington, D.C., on April 19, 1962.

The Honourable G. S. THORVALDSON, *Chairman*

THURSDAY, April 12th, 1962

WITNESSES:

Dr. Merrill Menzies, Special Adviser on Grain Policy, Department of
Agriculture; Mr. A. R. A. Gherson, Internal Relations Branch, De-
partment of Trade and Commerce; Mr. R. M. Esdale, Chief of the
Grain Division, Department of Agriculture.

REPORTS OF THE COMMITTEE

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1962

THE STANDING COMMITTEE ON EXTERNAL RELATIONS

The Honourable GUNNAR S. THORVALDSON, *Chairman*

The Honourable Senators

*Aseltine	Hardy	Robertson
Beaubien (<i>Provencher</i>)	Hayden	Savoie
Blois	Hnatyshyn	Taylor (<i>Norfolk</i>)
Boucher	Howard	Thorvaldson
Bradley	Hugessen	Turgeon
Brooks	Inman	Vaillancourt
Crerar	Jodoin	Veniot
Croll	Lambert	Vien
Farquhar	MacDonald	Wall
Farris	*Macdonald (<i>Brantford</i>)	White—34.
Fergusson	McLean	
Fournier	Monette	
Gouin	Pouliot	

(Quorum 7)

*Ex officio member

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Wednesday, April 11th, 1962.

The Honourable Senator Aseltine, P.C., moved, seconded by the Honourable Senator Pearson:

That it is expedient that the Houses of Parliament do approve the International Wheat Agreement to be opened for signature at Washington, D.C., on April 19, 1962, and that this House do approve the same.

After debate,

The Honourable Senator Aseltine, P.C., moved seconded by the Honourable Senator Pearson, that the Agreement be referred to the Standing Committee on External Relations for consideration and report.

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

J. F. MacNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

THURSDAY, April 12, 1962.

Pursuant to adjournment and notice the Standing Committee on External Relations met this day at 11.00 A.M.

Present: The Honourable Senators Thorvaldson, *Chairman*; Aseltine, Blois, Fergusson, Inman, Jodoin, Lambert, MacDonald, Taylor (*Norfolk*)—9.

In attendance: The Official Reporters of the Senate.

The International Wheat Agreement to be opened for signature at Washington, D.C., on April 19, 1962, was read and considered.

On Motion of the Honourable Senator Blois, it was Resolved to report recommending that authority be granted for the printing of 800 copies in English and 200 copies in French of the Committee's proceedings on the said Agreement.

Heard in explanation of the said Agreement were: Dr. Merrill Menzies, Special Adviser on Grain Policy, Department of Agriculture; Mr. A. R. A. Gherson, Internal Trade Relations Branch, Department of Trade and Commerce; Mr. R. M. Esdale, Chief of the Grain Division, Department of Agriculture.

It was Resolved to report recommending that the said Agreement be approved by the Senate.

At 12.30 P.M. the Committee adjourned to the call of the Chairman.

Attest.

Gerard Lemire,
Clerk of the Committee.

REPORTS OF THE COMMITTEE

THURSDAY, April 12, 1962.

The Standing Committee on External Relations, to whom was referred the "International Wheat Agreement to be opened for signature at Washington, D.C., on April 19th, 1962," report as follows:

Your Committee recommend that authority be granted for the printing of 800 copies in English and 200 copies in French of their proceedings on the said agreement.

All which is respectfully submitted.

G. S. THORVALDSON,
Chairman.

THURSDAY, April 12, 1962.

The Standing Committee on External Relations have in obedience to the order of reference of April 11th, 1962, considered the "International Wheat Agreement to be opened for signature at Washington, D.C., on April 19th, 1962,".

Your Committee recommends that the said Agreement be approved by the Senate.

All which is respectfully submitted.

G. S. THORVALDSON,
Chairman.

THE SENATE
STANDING COMMITTEE ON EXTERNAL RELATIONS
EVIDENCE

OTTAWA, Thursday, April 12, 1962.

The Standing Committee on External Relations, to which was referred the International Wheat Agreement, met this day at 11 a.m.

Senator Gunnar S. Thorvaldson, (*Chairman*), in the Chair.

On a motion duly moved, it was agreed that a verbatim report be made of the committee's proceedings on the International Wheat Agreement.

On a motion duly moved, it was agreed that 800 copies in English and 200 copies in French of the committee's proceedings on the International Wheat Agreement be printed.

The CHAIRMAN: Honourable senators, we have a quorum. We have with us today Dr. M. W. Menzies, Grain Policy Adviser, office of the Minister of Agriculture; Mr. R. M. Esdale, Chief, Grain Division, Department of Agriculture; Mr. A. R. A. Gherson, of the International Trade Relations Branch, Department of Trade and Commerce, and Mr. John Channon, of the Department of Agriculture. I was wondering whether it would be suitable to the committee if we asked Dr. Menzies to make a general statement in regard to the International Wheat Agreement, giving its background, and then we could ask such questions as we desire.

Dr. M. W. Menzies, Grain Policy Adviser, Office of the Minister of Agriculture: Mr. Chairman and honourable senators, you will all have before you, I assume, copies of the International Wheat Agreement, 1962, which appeared in the *Debates of the Senate* and in the *Minutes of the Proceedings of the Senate* of April 10. This agreement was finally reached after approximately six weeks of negotiation at Geneva this winter and spring. You may be interested in the background to it. In January of this year the Government of Canada received an invitation from the Secretary General of the United Nations requesting Canada to participate in the United Nations Wheat Conference commencing on January 31 in Geneva, designed to seek either renewal or replacement of the current International Wheat Agreement which came into effect on August 1, 1959, and which expires this year on July 31.

In authorizing the dispatch of a large and strong delegation of senior Government officials, Canadian Wheat Board representatives and members of the advisory committee of the Canadian Wheat Board who, as you know, at the same time are leaders of the major farm organizations in Western Canada, the Government had, I believe, two major thoughts in mind. The first consideration was the important part that successive wheat agreements since 1949 have played in assuring supplies of wheat to importing countries and markets for wheat to exporting countries at stable and equitable prices. The second consideration was the wide support for the International Wheat Agreement among producer organizations in Western Canada.

At this conference very close to sixty countries took part. They were either officially represented or they took part as observers, and the conference ended only a month ago, on March 9.

Subject to ratification by the governments concerned, a new three-year International Wheat Agreement, very similar in structure to the 1959 agreement, will come into force on August 1, so that there will be no gap between the current agreement and the new one. Should all the major exporters participating in the conference, including the U.S.S.R., ratify the agreement, virtually all the important sources of wheat will be brought within the ambit of international wheat co-operation. This is the first time we will be able to say that.

The new price range, which was finally negotiated, raises the minimum price, in U.S. dollars, for No. 1 Northern in store Fort William/Port Arthur and Vancouver from \$1.50 to \$1.62½, and the maximum price from \$1.90 to \$2.02½.

At the rate of exchange existing on March 12 this price range in Canadian dollars was \$1.71½ minimum and \$2.13⅝ maximum. Now, as you realize, any fluctuation in the rate of exchange would bring corresponding fluctuations in the Canadian prices of the maximum and minimum, but very little change has taken place since these prices in Canadian dollars were calculated.

It is well worth while noting here that the actual selling prices are not, of course, these maximum and minimum prices at the present time, but they will be within this price range for the next three years. What the actual prices will be at any given time will simply depend on market conditions, basically on supply and demand factors. It is also worth pointing out in this connection that the actual selling price in Canadian dollars for No. 1 Northern at Fort William fell during the course of the present agreement, which will end in a few months time, to a low of \$1.63⅝ in November, 1960. That is about a year and a half ago. This low price was approximately 50 cents lower than the new maximum price under the new agreement, and it was even about eight cents lower than the new minimum in Canadian dollars.

This indicates the extent to which wheat prices have recovered in the last year or so, and this has been due to two main factors. The first is a really marked change in the market situation, particularly for quality wheats such as Canada produces, almost alone, in volume. The second factor is the current discount on the Canadian dollar. I think the significance of the higher minimum price is apparent, for we have some evidence here of the extent to which prices have fallen in the recent past due to excessive supplies, and if they were to emerge again the new minimum would be very significant from the point of view of the producers.

The new wheat agreement provides that so long as prices remain below the maximum price, as specified in the agreement, each member importing country undertakes to purchase from member exporting countries a specified percentage of its total commercial purchases of wheat. In Senate *Hansard* of April 10, if you have it in front of you, you will find this indicated in Annex A on page 485. You will see in Annex A the percentage undertaking of importing countries. This is the percentage of their total commercial purchases of wheat to which importing countries commit themselves to purchase from member exporting countries.

The corresponding obligation of exporting countries is that they agreed in association with one another to supply all the commercial requirements of the importing countries so long as prices are lower than the maximum price. When prices reach the maximum, member exporting countries undertake to supply member importing countries with a definite quantity of wheat based upon their average purchases over a recent period of years and at a price not greater than the maximum.

At the maximum price importing countries are released from their obligation to make their purchases from member exporting countries. This release has no real significance because, of course, with all the important sources of

wheat within the agreement, the price of any wheat outside would be at a higher price than the maximum. Therefore, the importing countries would in fact be buying from members.

The agreement also continues to provide for an annual review of the world wheat situation. This was first introduced as an important feature of the International Wheat Agreement in 1959, and since then three annual reviews have been held. I will leave with the Chairman a copy of the latest annual review, which is published in English, French and Spanish. I believe the Russian language will also be official in the new agreement. These annual reviews are carried out in the light of information currently obtainable in relation to national production, stocks, prices and trade including special transactions under government assistance programs.

In anticipation of a possible wider participation of exporters in this agreement compared with the past agreements, as I pointed out the member importing countries have accepted a commitment to purchase a larger percentage of their commercial requirements than was the case in the 1959 agreement. This is very important to us. Another matter of importance in this agreement is that the safeguards for commercial marketings have been to some substantial extent improved in this agreement over the last one. There is a large volume of international trade in wheat carried on under some form of government auspices, either under the PL 480, which is virtually gift wheat, or under long-term credit or barter involving a substantial amount of government intervention, and we define this trade in wheat as non-commercial and it is treated separately under the agreement.

Consideration in this new agreement was also given to the effective utilization of excess supplies of wheat, when and where they might exist, in raising levels of consumption and in assisting in the general economic and market development in the newly-developed countries with low levels of individual income.

The conference at Geneva, while it did recognize that these programs are now provided, and have been for some years, by individual governments, notably the United States and to a substantial extent by Canada as well, and, in addition, on a multilateral basis—and here the proposed world food program currently being developed under the auspices of the F.A.O. is a case in point—in spite of this the International Wheat Conference, recognized that one objective of the agreement was to increase consumption. Therefore, the agreement should reflect the concern of the conference about these special problems of the developing countries.

I should point out that this agreement is basically a commercial agreement, although the non-commercial trade in wheat is reported to the Council and is fully taken into account in the annual reviews.

The new agreement represents quite a significant advance on the one developed in 1959, although it remains basically the same in structure. With all the important sources of wheat covered by the new agreement, importers will enjoy, despite quite sharp reductions in wheat supplies, particularly in hard wheats, a greater assurance that they will be able to purchase their commercial supplies of wheat at equitable and stable prices. At the same time, exporters will benefit by reason of the increased price range, and because of the increased obligations of importing countries and by reason of the improved safeguards for commercial marketings.

As was pointed out by the Acting Minister of Agriculture, the agreement at Geneva carried the unanimous support of the producer advisers who were members of the Canadian delegation throughout the conference. I wonder, sir, if you would like the names and positions of the advisers read into the record?

The CHAIRMAN: Yes, that would be appropriate.

Dr. MENZIES: The producer advisers are as follows:

A. W. Runciman, President, United Grain Growers Limited, Winnipeg; J. S. Stevens, Director, United Grain Growers Limited, Winnipeg. Mr. Stevens actually represents the province of Alberta on the advisory committee to the Canadian Wheat Board; C. W. Gibbins, President, Saskatchewan Wheat Pool, Regina; A. P. Gleave, President, Saskatchewan Farmers' Union, Saskatoon; Gordon L. Harrold, Chairman, Alberta Wheat Pool, Calgary; W. J. Parker, President, Manitoba Wheat Pool, Winnipeg.

I might add, sir, that the delegation was headed by J. H. Warren, Assistant Deputy Minister (Trade Policy), Department of Trade and Commerce. His alternates were W. C. McNamara, Chief Commissioner, Canadian Wheat Board, Winnipeg, and C. F. Wilson, who is now Consul-General for Canada in Chicago, Illinois, a man with long experience in wheat matters.

Senator LAMBERT: I asked a question in the house yesterday whether any of the established private trades associated with the Winnipeg Grain Exchange, and co-operating a good deal with the wheat board, were represented at the conference. I realize that Mr. McNamara, chairman of the board, was formerly identified with one of the old-line companies and was in charge of the Saskatchewan Wheat Pool. I was just wondering whether in view of the co-operation that exists in the process of exporting wheat on the part of a number of private organizations, and one might mention particularly the one Mr. Powell represents, if any of these people had an opportunity to present any opinions or advice with respect to this agreement?

Dr. MENZIES: I might say, sir, they were not officially represented on the delegation.

Senator LAMBERT: I would not judge so from the list you presented.

Dr. MENZIES: I might say that the representation of the producers was due to their official position as members of the advisory committee to the wheat board rather than their positions as presidents of various farm organizations.

Senator LAMBERT: Is the United Grain Growers represented on that advisory committee?

Dr. MENZIES: Yes. As a matter of fact, this time by two members.

Senator LAMBERT: They attended the conference but are they advisory members to the wheat board?

Dr. MENZIES: That is right. I might add that, as you would expect, the wheat board is in very intimate touch with all elements of the grain trade and is well aware of their views on all these matters.

Senator LAMBERT: They do facilitate co-operation with a number of the old-line organizations in the grain exchange in the actual business of exporting wheat.

Dr. MENZIES: In fact, the private firms act as agents of the board in the export of wheat.

Senator LAMBERT: That is right. Mr. Ken Powell's organization, particularly, has done a great deal of exporting in co-operation with that arrangement. I think also the Federal Grain and the Richardsons have been active in this respect.

The CHAIRMAN: Are there any further questions?

Senator FERGUSSON: Dr. Menzies, you said that more countries took part in this conference than in the previous ones. Would you tell us what additional countries participated?

Dr. MENZIES: I think I will pass this question to Mr. Gherson, if I may.

Mr. A. R. A. Gherson, International Trade Relations Branch, Department of Trade and Commerce: The significant addition to the conference on this occasion was the Soviet bloc, which was represented as full participants by the U.S.S.R. and Poland. They were also represented as observers by Czechoslovakia and Romania. I do not know whether you would include Yugoslavia in the Soviet bloc but Yugoslavia was also represented by an observer. In addition, a number of overseas territories of the United Kingdom which have lately achieved independence, were there for the first time as full-fledged members of the United Nations, particularly Nigeria. Other members who have emerged from trusteeship, such as Liberia, were represented for the first time. I would say that the new countries and the Soviet bloc made their participation felt at the conference.

Senator FERGUSON: Thank you.

Senator Lambert: I notice in the report of the International Wheat Agreement of 1959 thirty countries were listed as importing countries, and in 1962 thirty-one are so listed. There is not too much difference. One important omission is that of Russia. Russia was a considerable importer from Canada by agreement and it is now listed amongst the export countries. The 1959 agreement did not list the exporters at all, just the importing countries. One would be interested in knowing just what the relationship is with respect to the Union of Soviet Socialist Republics at this time in view of the contract and arrangements made with that nation during Mr. Howe's time. Also why is it China is not included amongst the importing countries here?

Mr. GHERSON: Mr. Chairman, in answer to the honourable senator I would point out first that the U.S.S.R., in the 1959 agreement and in previous agreements, participated as an observer but, in fact, did not sign or ratify the agreements. To that extent they were outside.

Senator LAMBERT: They were free to make a special contract with Canada, I suppose?

Mr. GHERSON: They were free to act as they wished. They were not bound by the provisions of the agreement nor did they undertake any obligations under it. This is the first time that the U.S.S.R. has given a serious impression that it will in all probability become a member of the agreement.

Senator LAMBERT: As an exporter.

Mr. GHERSON: As an exporter. In determining its status I think that every country has the right to choose how it wants to participate, but the conference did in fact lay down certain criteria which governments must take into account in determining their status. The most important of these were the potential of export availabilities during the currency of the agreement, and the ability to undertake their obligations as exporters during the currency of the agreement. It is on this basis that the U.S.S.R. determined its status as an exporting country. This, of course, does not preclude the possibility that an exporting country can always purchase as an importer.

Senator LAMBERT: I was going to mention what might be called a flexible feature of this agreement, provided in article 12. It contains four paragraphs, compared with three rather shorter ones in the 1959 agreement. It strikes me that in article 12 there is a good deal of opportunity for re-export if in agreement to the parties concerned. In other words, a country like Switzerland might import a great deal of wheat from Canada and re-export it elsewhere. There has been some suggestion that this re-export business in the past has reached countries which were regarded as inimical to our general interests. I suppose that might apply to China also.

Paragraph 3 of article 12 says, in part:

Any importing country . . . may, by written notification to the Council, apply for a reduction in its percentage undertaking. In such a case, the Council shall reduce that importing country's percentage undertaking by the proportion that its maximum annual commercial purchases during the years determined under Article 15 with respect to the non-participating or withdrawing country bears to its datum quantity with respect to all countries listed in Annex B . . .

That also applies in the other way; that is, the exporter and importer by an understanding through approval of Council can decrease or increase the supplies that it might need. Now, to that extent I think the realistic view of this agreement is that it is a very flexible instrument. Also there are escape clauses which would enable the parties to the agreement to alter a good deal of the effect of it and their participation in it. In other words, am I right in assuming that the Internatioinal Wheat Agreement is a very idealistic conception, something like the objectives of the United Nations itself for peace in the world, which may be qualified by exceptional developments from time to time? Then, of course, is the very important question with regard to maximum and minimum prices, especially minimum prices. We have had complaints in Canada with respect to United States' exports, where bloc currencies are used and certain pressure sales to relieve the large carryovers in the United States of surpluses have been built up. Was there any discussion about this during the recent conference in Geneva as to the pressure of economic conditions in countries with surpluses to use those surpluses by making special sales below the prescribed prices of this agreement? I think I am not irrelevant in referring to this possibility.

Mr. MENZIES: This is a major aspect of the agreement, and Mr. Gherson is quite capable of dealing with that.

Senator LAMBERT: All of us, including myself, are sympathetic with the degree of co-operation which can be developed in dealing with this problem, just as we are sympathetic with the objectives of the United Nations in their efforts to create peace in the world. The longer time elapses the more difficulties arise in realizing these idealistic conceptions, such as were fresh in the minds of everybody when the United Nations was first formed.

The CHAIRMAN: Would you care to comment on that, Mr. Gherson?

Mr. GHERSON: The honourable senator has raised a number of points. I apologize for not having answered the question he has raised before. If I might do so now regarding Chinese participation in the conference, China is not a member of the United Nations, and therefore—

Senator LAMBERT: Is not Nationalist China a member?

Mr. GHERSON: Nationalist China is, and as such was invited to attend, but did not participate.

The CHAIRMAN: I take it that Communist China would not be invited to attend?

Mr. GHERSON: No; not being a member there was no invitation. Now, I believe the senator was dealing with article 12 of the agreement?

Senator LAMBERT: The transactions between Canada and China on wheat were not done as members of the United Nations?

Mr. GHERSON: Outside the context of the agreement, sir.

Senator LAMBERT: I know. That is what I am trying to throw some light on, the whole picture of import and export requirements of countries. The United Kingdom, Japan and Russia have been three of the largest importers of Cana-

dian wheat in recent years. What is the prospect in the future? If Communist China cannot be considered as a party to this agreement, then what about Canada's obligation in connection with exporting to that country?

Mr. MENZIES: We have no obligation to Communist China under the agreement, because they are quite outside. It is only within the terms of another agreement that we have obligations to China.

Senator HORNER: In other words, there were no objections raised at the meeting to the sale to China by Canada?

Mr. MENZIES: Oh, no.

Senator LAMBERT: But it does affect the whole question of the International Wheat Agreement?

Senator BLOIS: I do not think so. Once we have fulfilled our contracts here, I think we are free to sell anywhere.

Senator ASELTINE: Yes, anywhere.

Mr. MENZIES: Our obligations are very explicit along with all importers and exporters, and we are fully obligated to fulfil them. We also have certain rights. Keeping in mind the obligations we might be called upon to fulfil at the maximum price, the datum entitlements that importers have built up; we have certain obligations there, and consequently we would have to keep those in mind making quite sure that we have enough supplies to provide for those obligations.

Senator HORNER: In other words, the main question is the maximum and minimum price and we are bound by that. There might be a shortage, but we are obligated to supply at those prices.

Senator LAMBERT: I presume Russia was represented at this conference?

Mr. GHERSON: Yes, sir.

Senator LAMBERT: Would they represent Communist China as well?

Mr. GHERSON: No, sir; they represented themselves only.

Senator LAMBERT: Would Communist China be invited to attend?

Mr. GHERSON: Well, she was not.

Mr. MENZIES: Mr. Chairman, I might say that in the Senate Debates where this agreement is reproduced on page 469, you will note the heading, "Part II.—Rights and Obligations". This section sets down the rights and obligations of members, both exporters and importers.

Senator LAMBERT: The question I am about to ask does not bear on the agreement, because it is an unknown quantity at the moment. We know what the import requirements are here. What on the other side of the picture do you consider to be the prospects of the exporting countries for the year 1962-63? There has been a big reduction in the carryover of surpluses in all countries, of course, and I suppose, generally speaking, that reduction applies the world over, because you have been able to get a higher minimum and a higher maximum price, cited in the agreement. So one would assume the imports are likely to be greater than supplies available.

Mr. GHERSON: Yes.

Senator LAMBERT: We have the report of the Wheat Board here which throws some light on Canada's position. I was wondering what the prospects are for the maintenance of these prices, and what the temptation is to sell under them if necessary.

Mr. GHERSON: Well, the total trade in 1961 was of the order of about 42 million tons; just about one and a half billion bushels.

Senator LAMBERT: Is that long tons?

Mr. GHERSON: Metric tons, sir.

Mr. MENZIES: And the prospect is that it will be a little higher this year, I believe?

Mr. GHERSON: Yes, the total trade between importing and exporting countries under the agreement in the last year, 1960-61, was of the order of 26 million tons, which is just under one billion bushels, or, 955 million bushels.

Senator LAMBERT: That is 26 million tons?

Mr. GHERSON: Yes.

Senator LAMBERT: The 42 million tons you referred to represents what?

Mr. GHERSON: That is the total world trade.

Senator HORNER: Is flour included in that figure?

Mr. GHERSON: Yes, sir.

Senator ASELTINE: Everything?

Mr. GHERSON: Everything?

Senator LAMBERT: The purpose of my question is to ascertain the balance between import and possible export requirements. There is still a lot of wheat in the world.

Mr. GHERSON: In so far as the obligations of the exporting countries are concerned, I would say they can be fully met.

Senator LAMBERT: Have you any indication in your figures as to how much those available supplies have been reduced in the past year or two? I am speaking now of the world's carryover of wheat, which is fairly considerable on this continent alone.

Mr. MENZIES: I wonder if Mr. Esdale could comment on this, this is a domestic market?

Mr. ESDALE: Mr. Chairman and senators, it is true there are large quantities of wheat, that have been reduced slightly. The fact is that the United States is the one remaining country with excess supplies. Australia has just finished its crop year with record exports. Australia is also participating in this Chinese business, and so its exports are in pretty good shape in relation to its stock position. The same applies to the Argentine. Of course, you are very familiar with Canada's position, which had a carryover of approximately $\frac{1}{2}$ billion bushels on July 31, 1961, and it should be slightly under 300 million bushels at the end of next July. The quality factor is important this year. The United States this year had its spring crop reduced, with premiums being paid for high protein, and this has directed buyers to Canada for very high quality wheat. Also this year we are in a strong position with stocks substantially down compared with five years ago. These large stocks are mainly in the one country, with the other exporters in relatively strong shape.

Senator LAMBERT: There are certain imponderables; for example, the requirements of China. Have you any figures to show relating to the production of wheat by China itself apart from its requirement from us?

Mr. ESDALE: I have not recent figures, sir.

Senator LAMBERT: I suggest they are very large?

Mr. ESDALE: Yes.

Senator LAMBERT: I think it is around 600 million bushels. Anyway, one wonders about this continued import requirement from China of our wheat, and also of Australia as well. I think it is all to the good that this has developed. I only hope it will keep up. The whole question under article 12 of the agreement is whether any of this is transhipped into other places where Communist interests are involved. That is the question mark in everybody's mind; not that it is an insuperable obstacle at all. If you go into trade, naturally you do not adopt the ideology of the country you trade with.

Mr. MENZIES: Under the agreement with China they cannot reship to our commercial markets.

Senator LAMBERT: They are not supposed to anyway?

Mr. MENZIES: There are some markets outside what we call the commercial markets. But where we and our competitors are competing for commercial sales of wheat, the agreement says China is not free to reship to these markets.

Senator TAYLOR (*Norfolk*): In regard to article 6 of the agreement it is stated that the basic minimum and maximum prices shall be in Canadian currency per bushel at the parity for the Canadian dollar. I would like to know from some of the witnesses the effect our reduced currency will have on the price to the producer?

Mr. MENZIES: It will affect the price to the producer, decidedly, sir. For example, the new price range under the agreement is now \$1.62½ minimum and \$2.02½ maximum. At the rate of exchange at March 12 the minimum would be in Canadian dollars \$1.71½, and nearly \$2.14 maximum. This will alter with any change in the rate of exchange, but this has been holding fairly steady recently.

The CHAIRMAN: So actually the Canadian prices are higher than the ones indicated in article 6?

Mr. MENZIES: That is right.

Senator TAYLOR (*Norfolk*): Article 6 is quoting there in United States dollars?

Mr. MENZIES: Yes.

Senator TAYLOR (*Norfolk*): Well, there would be a depreciation in Canadian dollars?

Mr. MENZIES: Our dollars are at a discount, so the prices are higher.

Senator MACDONALD (*Queens*): Three or four years ago we had a tremendous surplus of wheat on the Canadian prairies. Bins were filled and the wheat was piled outside. What is the relationship of our carryover of wheat today in comparison to say two or three years ago? Have you figures on that?

Mr. ESDALE: While I am looking for those figures, Mr. Chairman, I might mention that as of today all delivery points are placed on an open quota out west.

The CHAIRMAN: Just this very day?

Mr. ESDALE: Yes, sir.

The CHAIRMAN: When you refer to "open quota", you might explain that term briefly.

Mr. ESDALE: For some years now, in actual fact since 1951-52, farmers have not been able to deliver all the grain that they desired to because of congestion, and the Canadian Wheat Board in order to ensure that farmers had a fair share of the available space would place the station on a quota so that farmers would move up equally in relation to the space available, and they have not been able to deliver all they would wish to deliver since the 1951-52 crop year; and as of today this is the first time in ten years the farmers have been able to deliver on an open quota—no quotas at all—and to deliver to what elevator they wished.

Senator ASELTINE: Is it wide open now?

Mr. ESDALE: Yes, sir. Starting at the crop year 1952-53, the carryover as of July 31, 1953 the end of the crop year, prior to the incoming crop, was 383.2 million bushels; 1953-54, 618.7; 1954-55, 536.7; 1955-56, 579.5; 1956-57, —and this is the record year—733.5; 1957-58, 639.4; 1958-59, 549.0 million;

1959-60, 537.6; 1960-61, 524.9. And as I indicated earlier, at the end of the coming July it will possibly be slightly under 300 million bushels.

Senator TAYLOR (*Norfolk*): What is the average over a ten-year period?

Mr. ESDALE: I could figure that out for you later, sir.

The CHAIRMAN: Would the average for the ten year period be close to say 500 million bushels roughly?

Mr. ESDALE: Yes, sir, very close.

Senator MACDONALD (*Queens*): I have a further question to ask, which I direct to Mr. Esdale. Supposing I were a wheat farmer at say Rosetown, where the Leader (Hon. Mr. Aseltine) comes from, and had 20,000 bushels of wheat. Could I move that into the elevators without any trouble, or any quotas, or anything else.

Senator ASELTINE: If there is space.

Mr. ESDALE: If there is space.

The CHAIRMAN: Mr. Gherson would like to make a comment in regard to article 12.

Mr. GHERSON: A question was raised with regard to the flexibility of article 12. I wish first to point out that article 12 is in fact a very flexible article, but it is also specific, and it only comes into operation in the event that an exporting country cannot fulfil its commitment when prices reach the maximum, in which case, by agreement of the council, it then transfers its obligations to another exporting country; it does not allow for the sort of freedom of reselling that perhaps the honourable senator was commenting upon.

Senator LAMBERT: What about paragraph 4 of article 12, which says:

The datum quantity of any country acceding under paragraph 4 of article 35 shall be offset, if necessary, by appropriate adjustments by way of increase or decrease in the datum quantities of one or more exporting or importing countries, as the case may be. Such adjustments shall not be approved unless each exporting or importing country whose datum quantity is thereby changed has consented.

Mr. GHERSON: That is right.

Senator LAMBERT: Well, that is specific enough, but it does leave the way open for a good deal of change in the percentages and also the available quantity.

Mr. MENZIES: May I give one example? I believe it was in 1958 that Australia had a very poor crop and found they were not able to meet their commitments under the agreement at that time, and by agreement Canada and the United States picked up their obligations.

The CHAIRMAN: I understand Senator Fergusson wishes to ask a question?

Senator FERGUSSON: Mr. Chairman, in the debate on the bill in the Senate yesterday, Senator Austin Taylor asked a question, and since he is not here today, I thought I might draw attention to it. He said, as appears at page 502 of Senate *Hansard*:

One thing that confuses me is the relationship of the votes. What happens when those of the exporting countries and those of the importing countries are equal and there is a tie vote?

I thought I might ask that question now so that he will get the answer to his question.

Mr. MENZIES: There have been successive agreements since 1949, and a formal vote has not taken place. There have been pretty hot arguments.

Mr. GHERSON: In answer to the honourable senator, I refer to article 29, under "Decisions":

Except where otherwise specified in this Agreement, decisions of the Council shall be by a majority of the total votes cast.

That means, when it comes to voting the exporting and importing countries do not vote separately. They may do if their interests are divided and to get an absolute division one way or the other, but it is by a majority vote.

The CHAIRMAN: Before closing, I think there was a question asked of Mr. Esdale in regard to the average carryover for the past ten years. He has given me the nine-year average, which he says is 567 million bushels.

Senator BLOIS: Is that considering the present crop year 1961-62?

Mr. ESDALE: No, it does not take in the estimate for this coming July.

The CHAIRMAN: That is an estimate.

Senator LAMBERT: I have one more question. Was any consideration given during this conference in Geneva to the impact of the European economic trading bloc requirements? Now, if that comes into effect later this year, I would think it might easily change the whole complexion of this International Wheat Agreement.

Mr. GHERSON: Mr. Chairman, the whole complexion of common agricultural policy of the European Economic Community was taken into account at the conference. In fact, the European Economic Commission was represented as an observer at the conference for those aspects which pertained to this question.

As a matter of fact, there was a provision in the 1959 agreement, already anticipating such developments, which permitted in the event of economic union taking place or arrangements preceding the establishment of an economic union, transactions above the price range or outside the price range to be recorded against the obligation of the exporting country and importing country, provided both countries so agreed. On this occasion the same provision is retained, and it is also an agreed conference document which says specifically that this provision is designed to cover situations that may arise from economic unions.

I would also add that this does not preclude countries, not members of that union, from selling to members of that union at that higher price, if circumstances so warranted.

Senator LAMBERT: May I interrupt? I remember Dr. Wilson, when he came back here from Italy, stating very emphatically the headway that had been made by these countries, Italy and France, in developing their own food requirements, including wheat. These developments had been far greater than the western world really appreciated. I am just wondering, while these percentages of importing countries which are in this table indicate what the situation might be, just how far that material fact which he mentioned would affect the future of this whole trading arrangement of the European bloc of six, if it went through. Do you think Dr. Wilson overstated the situation a bit by saying that the improved production—

Senator ASELTINE: France grows as much wheat as we do in the whole of Canada, and has been doing so for years.

Senator LAMBERT: Not in France alone, but in Algeria and France. I don't think France itself grows that much.

Senator ASELTINE: Oh, yes. I went through their wheat farms and they are bigger than some we have in Saskatchewan. They grow about 400 million bushels a year. I think that is correct, is it not?

Dr. MENZIES: It is very close to that. It is a very rough statement. They have about half the acreage we have in Western Canada but produce very close to the same amount of wheat because their wheat is of a higher yield. It is a soft wheat.

Senator ASELTINE: They have a yield of about 40 bushels to the acre.

Senator LAMBERT: France is not listed amongst the importing countries.

Senator ASELTINE: No, France is an exporter.

Dr. MENZIES: That is right.

The CHAIRMAN: Is there anything further? Are we ready to report? Shall I report that the committee recommends that the said agreement be approved by the Senate?

Hon. SENATORS: Agreed.

—Thereupon the committee concluded its consideration of the International Wheat Agreement.

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE ON
EXTERNAL RELATIONS

The General Copyright Commission Report on Copyright
in Canada in 1952 and Proposed Legislation

The Honorable G. S. DONALDSON, Chairman

OTTAWA, MARCH 14, 1953

PRINTED BY

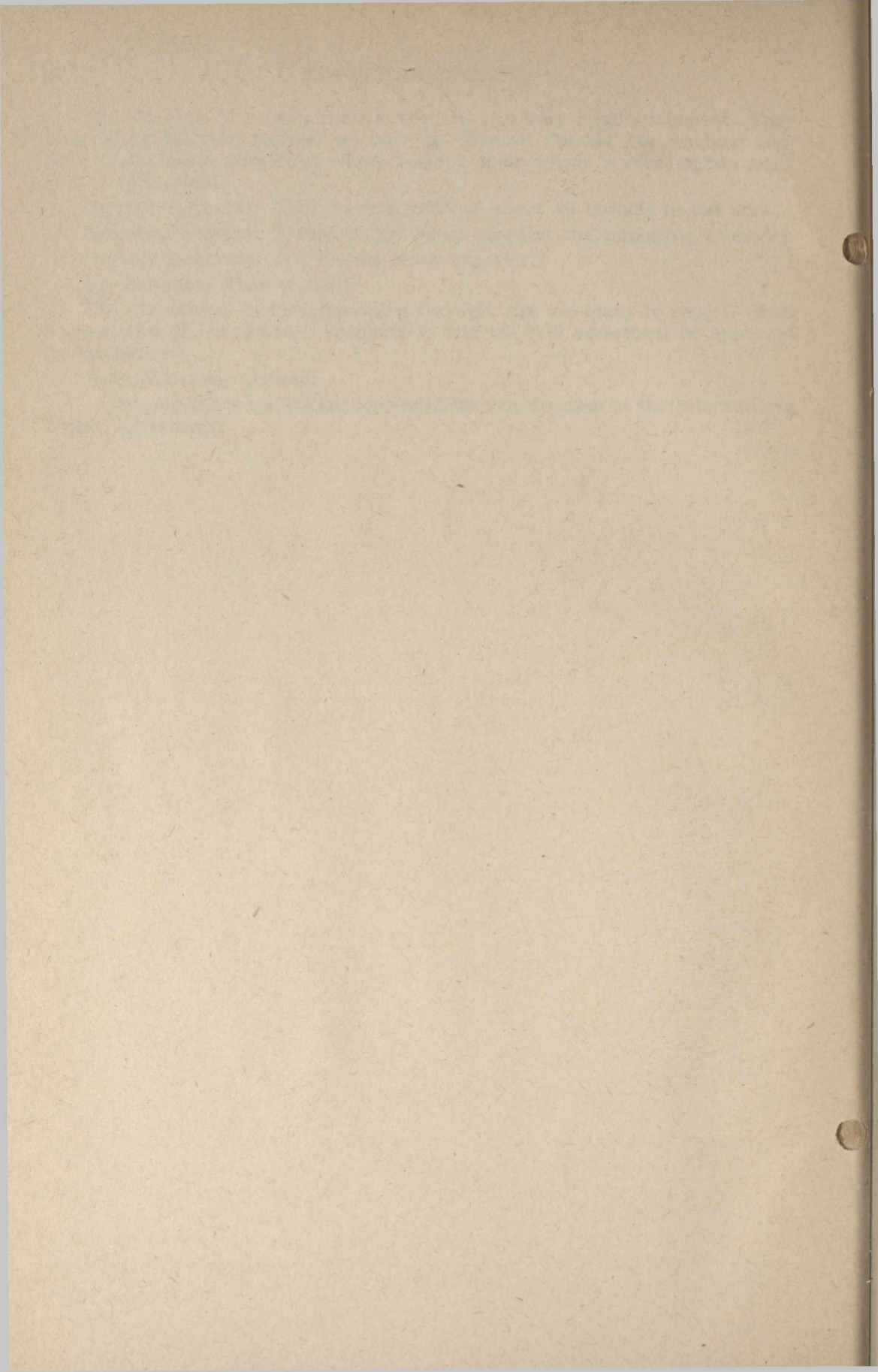
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Ontario, Department of the Secretary of State.

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Fifth Session—Twenty-fourth Parliament

1962

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE ON
EXTERNAL RELATIONS

To whom was referred

The Universal Copyright Convention signed by Canada
in Geneva in 1952 and Protocol 3 thereto.

The Honourable G. S. THORVALDSON, *Chairman*

THURSDAY, MARCH 1st, 1962

WITNESSES:

Mr. A. Alex Cattanach, Q.C., Assistant under Secretary of State and
Advisory Counsel; Mr. Harris Arbique, General Executive Assistant,
Department of the Secretary of State; Mr. J. W. Michel, Commissioner
of Patents, Department of the Secretary of State.

APPENDIX "A"

REPORTS OF THE COMMITTEE

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1962

THE STANDING COMMITTEE ON EXTERNAL RELATIONS

The Honourable GUNNAR S. THORVALDSON, *Chairman*

The Honourable Senators

*Aseltine	Hardy	Robertson
Beaubien (<i>Provencher</i>)	Hayden	Savoie
Blois	Hnatyshyn	Taylor (<i>Norfolk</i>)
Boucher	Howard	Thorvaldson
Bradley	Hugessen	Turgeon
Brooks	Inman	Vaillancourt
Crerar	Jodoin	Veniot
Croll	Lambert	Vien
Farquhar	MacDonald	Wall
Farris	*Macdonald (<i>Brantford</i>)	White
Fergusson	McLean	Wilson—35.
Fournier	Monette	
Gouin	Pouliot	

(Quorum 7)

*Ex officio member

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Wednesday, February 21st, 1962.

“Pursuant to the Order of the Day, the Senate resumed the adjourned debate on the motion of the Honourable Senator Thorvaldson, seconded by the Honourable Senator Beaubien (*Bedford*):

That it is expedient that the Houses of Parliament do approve the Universal Copyright Convention signed by Canada in Geneva in 1952 and Protocol 3 thereto, and that this House do approve the same.

After debate,

With leave of the Senate,

The Honourable Senator Thorvaldson moved, seconded by the Honourable Senator Beaubien (*Bedford*), that the proposed Resolution be referred to the Standing Committee on External Relations for consideration and report.

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

J. F. MacNeill,
Clerk of the Senate.

CHAPTER IV

The first part of the chapter discusses the general principles of the law of contract. It begins with a definition of a contract and then proceeds to discuss the elements of a contract, such as offer, acceptance, and consideration. The chapter also covers the formation of a contract and the defenses to a contract. The second part of the chapter discusses the performance of a contract and the remedies available for breach of contract. It covers the concepts of specific performance, damages, and restitution. The chapter concludes with a discussion of the discharge of a contract.

It is the policy of the law to enforce contracts and to protect the parties to a contract from the consequences of breach. The law of contract is a body of legal rules that governs the formation, performance, and enforcement of contracts. The law of contract is a fundamental part of the legal system and is essential for the functioning of a free society.

MINUTES OF PROCEEDINGS

THURSDAY, March 1, 1962.

Pursuant to adjournment and notice the Standing Committee on External Relations met this day at 11.30 A.M.

Present: The Honourable Senators Thorvaldson, *Chairman*; Blois, Bradley, Croll, Fergusson, Hnatyshyn, Hugessen, Inman, Jodoin, MacDonald, Macdonald (*Brantford*), Pouliot, Taylor (*Norfolk*), Turgeon, Wall and White. 16.

In attendance: Mr. E. Russell Hopkins, Law Clerk and Parliamentary Counsel and the Official Reporters of the Senate.

The Universal Copyright Convention signed by Canada in Geneva in 1952 and Protocol 3 thereto, was read and considered.

On motion of the Honourable Senator Blois, seconded by the Honourable Senator Croll, it was Resolved to report recommending that authority be granted for the printing of 800 copies in English and 200 copies in French of the Committee's proceedings on the said Convention.

Heard in explanation of the said Convention were: Mr. A. Alex Cattanach, Q.C., Assistant under Secretary of State and Advisory Counsel; Mr. Harris Arbique, General Executive Assistant, Department of the Secretary of State and Mr. J. W. T. Michel, Commissioner of Patents, Department of the Secretary of State.

After discussion, it was Resolved to print as Appendix "A" to these proceedings, the list of countries belonging to the said Convention.

On Motion of the Honourable Senator Croll, seconded by the Honourable Senator Wall, it was Resolved to report recommending that the said Convention be approved by the Senate.

At 12.30 P.M. the Committee adjourned to the call of the Chairman.

Attest.

Gerard Lemire,
Clerk of the Committee.

REPORT OF THE COMMITTEE

THURSDAY, March 1, 1962.

The Standing Committee on External Relations have in obedience to the order of reference of February 21st, 1962, considered the "Universal Copyright Convention signed by Canada in Geneva in 1952 and Protocol 3 thereto".

Your Committee recommends that the said Convention be approved by the Senate.

All which is respectfully submitted.

G. S. THORVALDSON,
Chairman.

THURSDAY, March 1, 1962.

The Standing Committee on External Relations to whom was referred the "Universal Copyright Convention signed by Canada in Geneva in 1952 and Protocol 3 thereto", report as follows:

Your Committee recommends that the said Convention be approved by 800 copies in English and 200 copies in French of their proceedings on the said Convention.

All which is respectfully submitted.

G. S. THORVALDSON,
Chairman.

THE SENATE
STANDING COMMITTEE ON EXTERNAL RELATIONS
EVIDENCE

OTTAWA, Thursday, March 1, 1962.

The Standing Committee on External Relations, to which was referred the Universal Copyright Convention, met this day at 11.30 a.m.

Senator G. S. THORVALDSON (*Chairman*), in the Chair.

On a motion duly moved and seconded, it was agreed that a verbatim report be made of the committee's proceedings on the convention.

On a motion duly moved and seconded, it was agreed that 800 copies in English and 200 copies in French of the committee's proceedings on the convention be printed.

The CHAIRMAN: Honourable senators, we have with us today Mr. A. Alex Cattanach, Q.C., Assistant Under-Secretary of State and Advisory Counsel. Is it the wish of the committee that Mr. Cattanach be asked to make a general statement on the subject of the Universal Copyright Convention, and that we then have an opportunity to ask questions and discuss the subject?

Hon. SENATORS: Agreed.

Mr. A. Alex CATTANACH, Q.C., Assistant Under-Secretary of State and Advisory Counsel: Honourable senators, the Universal Copyright Convention and the Copyright Act have been under study by a departmental committee composed of the former Under-Secretary of State, Mr. Charles Stein; Mr. Harris Arbique, General Executive Assistant, Department of the Secretary of State; and Mr. J. W. T. Michel, Commissioner of Patents, Department of the Secretary of State. Both Mr. Arbique and Mr. Michel have been on the committee for a protracted period of time. I came into the committee at the later stages. I believe Mr. Arbique has had his nose to the grindstone on this for some time and is much more qualified to answer questions as to detail and possibly has all the information at his finger tips. The purpose, of course, is the implementation of the Universal Copyright Convention. The Royal Commission on Patents—

Senator MACDONALD (*Brantford*): May I interrupt for a minute? I wonder if it would be helpful, in view of the Berne Convention, if one of the witnesses could tell us just what the position is today in Canada with respect to copyright, and what the position is outside of Canada with respect to copyrights obtained in Canada. It occurred to me that it might be helpful if we knew what the position is at the present time, and then have explained to us what is proposed to be done.

The CHAIRMAN: Yes, Senator Macdonald. I thought that Mr. Cattanach would just make a general statement and then, subject to the concurrence of the committee, we might ask Mr. Arbique, whom I am told has a more intimate knowledge of the subject matter than anybody else, to do the very thing you have mentioned. He will be able to speak about our present position under the Berne Convention, and then proceed to what is being done by this convention.

Will you proceed, Mr. Cattanach?

Mr. CATTANACH: I was saying, sir, that the Royal Commission on Patents, Copyrights, Trademarks and Industrial Designs, known as the Ilsley Commission, and the Royal Commission on Publications, known as the O'Leary Commission, both recommended ratification of the Universal Copyright Convention, the Ilsley Commission recommending the carrying out of certain recommendations contained in its report first, and the O'Leary Commission recommending immediate ratification.

I think the paramount reason for the ratification of the convention is that it would be in the interests of the Canadian printing and publishing trade, and would avoid the deleterious effect of the manufacturing clause in the copyright act of the United States. This law requires that printing in the United States shall enjoy full copyright protection in that country, and copies printed outside the United States only enjoy an interim protection for five years from the date of the first publication of the work, and this only on the condition that not more than 1,500 copies are imported into the United States. Therefore, Canadian owners of copyright have to go to the United States to obtain full copyright protection in that country, and that is to the detriment of the Canadian publishing industry.

If Canada were to ratify the convention then since the United States is a member of the International Copyright Convention Canadian authors would be freed from the requirement of printing in the United States, and from other requirements as to registration and notice in the United States.

Senator POULIOT: Mr. Cattanach, will you tell me what will be the change made by this? Will you give us a general outline of the changes made by this convention?

Mr. CATTANACH: The effective change, sir, would be that a Canadian author would enjoy full copyright protection in the United States.

Senator POULIOT: It is just to have protection in the United States?

Mr. CATTANACH: Yes, and in other member countries of the Universal Copyright Convention.

Senator POULIOT: Throughout the world?

Mr. CATTANACH: Not throughout the world; just in those countries who are members of the Universal Copyright Convention and in those countries who are members of the Berne Convention.

Senator POULIOT: How many countries have signed this?

Mr. CATTANACH: About 15—there might be—

The CHAIRMAN: As I said a moment ago, I thought that Mr. Cattanach would make a very general statement in regard to the subject matter, and then Mr. Arbique, who has more intelligence on the subject than anybody else, would be, probably, more competent to answer questions such as the one you have asked.

Senator POULIOT: Mr. Cattanach is all right, but why do we not take Mr. Arbique first if he knows more. I am sure Mr. Cattanach will not be offended by that.

Mr. CATTANACH: Forty countries have ratified the Universal Copyright Convention.

The CHAIRMAN: Thank you, Mr. Cattanach. I will ask Mr. Harris Arbique, the General Executive Assistant of the Secretary of State, to speak now.

Senator MACDONALD (*Brantford*): I wonder if Mr. Arbique could just give us the position today of publishers and authors so far as copyright, generally, is concerned. If I am a publisher of a novel where do I stand so far as copyright is concerned, both in Canada and outside of Canada, before this convention is ratified?

Mr. Harris ARBIQUE, General Executive Assistant, Department of the Secretary of State: A Canadian author, if he holds the copyright, or a Canadian publisher if he holds the copyright, publishing in Canada has copyright, of course, in Canada. He has copyright by virtue of the convention to which Canada already belongs, namely, the Berne Union, in the countries of the Berne Union. He has a form of copyright protection in the United States because of a bilateral agreement which already exists with the United States. He has also copyright protection in a couple of other countries with which we have copyright agreements, but they are not relevant. These countries are North Borneo and Sarawak.

Senator MACDONALD (Brantford): What would my rights be under the Berne Agreement?

Mr. ARBIQUE: Under the Berne Agreement, and the other one, Canadian works are given protection in other countries according to the domestic laws of those other countries who are members of that convention, and in reciprocity Canada must grant protection under its domestic law. The Canadian copyright law gives protection to the authors of those other signatory countries.

Senator MACDONALD (Brantford): Have you a list of the signatory countries?

Mr. ARBIQUE: Yes, sir. The Berne Union is a fairly ancient one, dating back to 1886, and there have been several revisions of the Berne Convention. In general, the Berne Union was a European organization to begin with and consequently most of the countries in it are European. Russia and China are not members of any international convention and, together with the United States, they are the only major countries who are not members of the Berne Union. There are 46 countries in the Berne Union.

Senator POULIOT: Who are they? Would you table a list of them for the purposes of our record?

Mr. ARBIQUE: Yes. I will place on record a list showing the member countries of the Berne Union, the Universal Copyright Convention, and those who are dual members.

For list of membership countries see appendix "A", p. 20

There are 39 countries who are members of the Universal Copyright Convention, the other agreement we are discussing today, and of course a number of them, some 24 or 25, are dual members, that is, members of both the Berne Union and the U.C.C. For instance, the United Kingdom, France, and the Federal Republic of Germany are members of both.

Senator MACDONALD (Brantford): You did not answer the question with respect to the position of a person holding a copyright in Canada today.

Mr. ARBIQUE: A Canadian author or publisher today has copyright in Canada as defined by the Canadian Copyright Act.

Senator MACDONALD (Brantford): Do you recall offhand what that is?

Mr. ARBIQUE: Sir, the rights are very considerable and are spelled out in the act. Do you mean the length of time?

Senator MACDONALD (Brantford): Yes.

Mr. ARBIQUE: I am sorry, sir. Generally speaking, it is the life of the author plus 50 years.

Senator HUGESSEN: The life of the author plus what?

Mr. ARBIQUE: Generally speaking it is the life of the author and 50 years after his death. This period varies according to the class of works. There are classes of work which have slightly lower periods of copyrights.

Senator CROLL: In what respect will this convention improve the position of the copyright author today over his position of yesterday?

Mr. ARBIQUE: In several ways. One is that it gives him a wider affiliation, a wider scope, because of the fact that the U.C.C. is a United Nations sponsored agreement whereas the Berne Union is a European organization. The U.C.C. was pressed by the United States because of the fact that there has always been some disappointment in copyright circles that the United States did not belong to some international copyright organization. The United States had instead upwards of 40 bilateral agreements with other countries and this situation has been felt both in the United States and international copyright circles. In any case, what I was going to say was that a number of these countries are members of both conventions but there are also a number of other countries, primarily South American and Central American countries, which are also members of the Universal Copyright Convention. In other words, should we become parties to the Universal Copyright Convention we would then have international copyright relationships with a number of South and Central American countries and, most important, with the United States.

We have a bilateral arrangement with the United States now but this agreement is one whereby we are subject to the copyright law of that country.

Senator MACDONALD (*Brantford*): Which agreement?

Mr. ARBIQUE: The bilateral agreement we have with the United States, which was signed in 1923 or 1924. By this agreement our works are given protection in the United States and we protect the works of American authors in Canada. We give them protection under our act and we are given protection under their act, but their act is very restrictive in connection with certain provisions. The main one, which is the one considered in publishing circles in Canada as an infamous clause, the manufacturing clause, requires that any work in the English language must be printed and published in the United States in order to gain full protection in that country.

Senator CROLL: We agreed to that in 1923?

Mr. ARBIQUE: That is right, sir.

Senator CROLL: And it has never been varied up to this point?

Mr. ARBIQUE: No, sir. We have always been subject to that manufacturing clause in the United States copyright law. There are those who feel that agreement was a pretty poor one to have signed but, in any event, sign it we did. At that time we also attempted to inject certain printing clauses into our own legislation, but because we were members of the Berne Union we were limited in the actual restriction which we could impose against foreign authors. In other words, our printing clauses are not anything as effective as the American clauses. They are not really printing clauses but compulsory licensing clauses.

Senator MACDONALD (*Brantford*): Should we enter the Universal Copyright Convention I understand that under Article XVII of this convention the provisions of the Berne Union will not in any way be affected?

Mr. ARBIQUE: That is right, sir.

Senator MACDONALD (*Brantford*): So that the Berne Union will remain in force along with the U.C.C.?

Mr. ARBIQUE: Yes.

Senator MACDONALD (*Brantford*): Do I understand that the Universal Copyright Convention would only affect our copyright dealings with the United States and that in so far as copyright matters are concerned we would come under the Berne Union?

Mr. ARBIQUE: We come under the Berne Union with respect to all countries which are members of the Berne Union. Our membership in that agreement requires that, I don't know what the legal phraseology would be but the Berne Union would take precedence over the other agreement were a conflict to arise.

Senator MACDONALD (*Brantford*): Let us say that countries "A", "B" and "C" have entered into the Universal Copyright Convention and countries "A" and "B" are still under the Berne agreement. Would our relationship with countries "A" and "B" come under the Berne Union or under the U.C.C.?

Mr. ARBIQUE: I think, Senator, you would find it does not really matter a great deal because the conventions do not differ that much. I think the U.C.C. can be pretty well accommodated within the Berne Union. The real significance is that different countries are involved in it. There is no getting away from the fact that the main purpose of becoming partners in this convention is with respect to our relations with the United States. That country is not a member of the Berne Union but prior to World War II considerable effort was made to bring the United States into the Berne Union. This effort was made both by the United States itself, which felt left out of international copyright arrangements, and by the other members of the Berne Union.

Senator MACDONALD (*Brantford*): Let us say that countries "A" and "B" belong to both the Berne Union and the Universal Copyright Convention and I have a publication and I say, "I want to come under the provisions of the U.C.C." and country "A" will say, "Oh, no, you come under the Berne Union and you will have to abide by its provisions."

Mr. ARBIQUE: I think, sir, there may be some confusion arising from the impression that these provisions have a certain legal effect on the countries concerned. The domestic legislation is the governing order. In other words, in Canadian copyright matters our Copyright Act is the thing that governs. All we have to be sure of is that the Canadian Copyright Act is so framed that it does no violate the rather open, unrestrictive provisions of the convention itself.

I have said that we are already bound in the United States by the United States law, but the United States by accession to the Universal Copyright Convention is required to leave inoperative in so far as Universal Copyright Convention member states are concerned certain of its provisions, among them the manufacturing clause. In other words, Article III of the convention requires that any country which has certain formalities which are a condition of copyright must consider these formalities as satisfied by compliance with certain other simple formalities, their formalities being the imposition of the insignia (a "C" in a circle), stating the name of the copyright owner, et cetera. If those formalities are complied with, you do not have to bother about deposit, registration, and so on, as the United States law requires. The big thing is the printing.

Senator HUGESSEN: To put it succinctly, under Article III of this convention we will escape from manufacture in the United States?

Mr. ARBIQUE: Correct, sir.

Senator CROLL: Has the United States accepted this Universal Copyright Convention?

Mr. ARBIQUE: Yes, they were the prime mover of this convention.

Senator CROLL: They passed it through their Congress and Senate?

Mr. ARBIQUE: Yes, sir. They were the seventh ratifying power. It required 12 to bring it into effect. It was signed in 1952. The United States ratified it, and it was the seventh country to do so, in 1954. The rest of them to make up the 12 were still lacking. The twelfth country ratified in June 1955, and it came into effect three months later.

Senator CROLL: Our authors have been under a considerable disadvantage, in the light of what you say about printing?

Mr. ARBIQUE: Our publishers.

Senator CROLL: Our publishers.

Mr. ARBIQUE: Yes.

Senator BRADLEY: At other times the United States was pirating everything outside of its own country, is that not true?

Mr. ARBIQUE: Well, it all depends on what you mean by "pirating". It meant we only had protection for five years.

Senator CROLL: The point I make is this. Since 1952, which is ten years ago, we could have assisted our publishing people. Why didn't we do so? What held us back?

Mr. ARBIQUE: I think I can explain.

The CHAIRMAN: Isn't that question contrary to what the witness said? I think he said that it required 12 countries to make the convention effective, and that did not occur until 1956.

Mr. ARBIQUE: 1955.

The CHAIRMAN: Yes, 1955. So 1955 would be the effective date.

Senator CROLL: But we could in 1952 have been one of the confirming countries.

Mr. ARBIQUE: I cannot speak for the period between 1952 and 1954, but I would not worry too much, because even the United States did not come in until 1954; but on June 11, 1954 the Royal Commission on Patents Copyright and Industrial Designs was established, and it was decided that any position Canada took should await the report of the Royal Commission. This report on copyright came out in 1957 and was tabled in 1958. Then the question perhaps occurs, why we have not done anything since then. Well, it is a little harder to answer.

Senator CROLL: I think the minister said they were studying the matter which was involved, but it struck me there was a lag.

Mr. ARBIQUE: Yes, a lag.

Senator POULIOT: What do you mean by manufacturing laws?

Mr. ARBIQUE: That any literary or outside work published outside the United States, in the English language, must be printed in the United States in order to have full copyright protection in the United States. The protection there is a fairly respectable term; it is not a five year term, it is for 56 years, made up of two terms of 28 years apiece from date of publication. In order to get that term, a Canadian author must publish in the United States, and if he does not he does not get the 56 year term of protection, he only gets five years, and that only if he imports fewer than 1,500 copies.

Senator CROLL: Fifteen hundred copies from where?

Mr. ARBIQUE: From Canada into the United States.

Senator CROLL: And after that they can pirate it?

Mr. ARBIQUE: Yes. At the end of five years it has gone, anyway.

Senator FERGUSSON: Have any of our authors been prejudiced because of this regulation of 1,500 copies?

Mr. ARBIQUE: Well, they have been prejudiced to this point that they do not print in Canada, they print in the United States in order to get full protection. That is where they want their sale. If they anticipate a sale of more than 1,500 copies they will print in the United States in order to get protection there. A few print simultaneously in both countries, but this is not economical under normal circumstances; so the author publishes in the United States, and therefore denies the business to Canadian publishers.

Senator FERGUSSON: Then it is not the author who suffers, but the publisher?

Mr. ARBIQUE: Except that it contributes towards losing his identity as a Canadian author. He probably does not get as good a deal from an American publisher as from a Canadian publisher, and he has to compete for the publisher's favour.

Senator FERGUSON: It is better for Canada to have them publish in Canada?

Mr. ARBIQUE: Yes, that is what this thing is all about.

Senator FERGUSON: If I may ask another question, reverting to the length of the copyright laws in Canada, you mentioned that a copyright can be owned by a publisher or an author, and you also said the copyright lasts 50 years after the author's death. Supposing it is owned by a publisher, does the copyright last 50 years after?

Mr. ARBIQUE: I think "author" is defined in the act. Copyright subsists for the life of the author plus 50 years. If the publisher has a copyright it is by assignment from the author.

Senator CROLL: Then we get the real advantage that will come as the result of our passing this copyright convention coming not to the author but to the printers—to the publishers?

Mr. ARBIQUE: That is largely so. I think it is useless to say anything else. The advantages to the author are sort of subsidiary ones. It is a fact, that it may be easier for him to find a publisher in Canada than in the United States. Then there is this question of Canadian literature and the identity of the Canadian author. Books coming into this country from the United States, printed by Americans, it might be that we might not recognize the fact that we are reading a book by a Canadian author simply because it is printed in the United States.

Senator CROLL: Is it not the common practice, and I have a couple of books in mind, as I recall it, that Macmillan will publish here almost the same day that Doubleday will publish in the United States?

Mr. ARBIQUE: I think that is probably the case but I am not at all familiar with the technicalities involved in book publishing.

Senator MACDONALD (*Brantford*): It would be an advantage to authors so far as the publication is sold in the United States, there is no doubt about that, is there?

Mr. ARBIQUE: No, sir. The fact that he can get over 1,500 books into the United States is an advantage and his copyright will last longer.

Senator CROLL: Fifteen hundred copies published or sold?

Mr. ARBIQUE: Imported into the United States.

Senator CROLL: Fifteen hundred copies imported into the United States.

Mr. ARBIQUE: Yes.

Senator MACDONALD (*Brantford*): Under the new universal convention he will have full copyright protection for 25 years, will he?

Mr. ARBIQUE: For 56 years in the United States—for 28 years and a renewal term of 28 years if he wants it. The imports are unlimited subject only to customs duty.

Senator WALL: Mr. Arbiq, I wonder if I can ask you about the length of term. I can see the advantages, but I was concerned about the fact that we were dragging our feet in this matter, but what is Canada's situation with regard to the term of protection if the Americans were to change their own copyright act? As I understand the term, there are recommendations for internal changes both in the United States and in the United Kingdom. Let us say they changed that term to 75 years, would that term be applicable to us later?

Mr. ARBIQUE: That is true. The Americans are on the threshold of changing their act, and one of the recommendations before them is what you say, extending the term from 56 to 76 years and also getting rid of the manufacturing clause—that is to come out.

Senator CROLL: Suppose that the Americans pass a more restrictive—I do not know in what sense, in any sense you like—are we bound by that?

Mr. ARBIQUE: What they can pass in the first place has to be something that falls within the universal copyright convention to which they are parties. So far as term is concerned they cannot pass a requirement for less than 25 years. These various things are spelt out to a degree in this convention. This is a pretty loose convention, and legislation has to be pretty bad not to be able to gear itself into this convention, but then new conventions are always that way. The main thing is to get a lot of countries into a convention and so they have to be consequently very broad and unrestricted. The Berne union is a good example.

Senator CROLL: I recall the O'Leary report but I do not recall the Ilsley report. Did the Ilsley report go beyond what we are covering now? Were there other aspects that were important in that report?

Mr. ARBIQUE: Very much so.

Senator MACDONALD (*Brantford*): I think that the Ilsley report recommended 56 years.

Mr. ARBIQUE: They recommended the American term to a considerable extent. They could not recommend the American term solely, because of obligations under the Berne convention. They recommend 56 years from date of publication or death of the author, whichever is later, and the reason for that is due to the requirement of the Berne union. Consequently they have recommended this combination of terms.

Senator MACDONALD (*Brantford*): Who recommended that?

Mr. ARBIQUE: The Ilsley commission recommended that. I think it is only fair to point out to you that with respect to the matter of term and the Ilsley commission recommendation thereon, ratifying this convention now closes the door on the Ilsley commission recommendation as to term. This is the reason for that: Article 4 of the convention is the term article and it says that the term of protection will be the life of the author plus 25 years minimum. This is because when this convention was framed life plus 50 years, or life plus something was the term in almost all countries, except the United States. In order to attract the United States into the convention it was necessary, since they were dead against a term based on the life of the author—they never had that term—to allow for a term based on publication; but it goes on to say that any state at the time they enter this convention having a term based on publication can keep it. But note that it says, at the time they enter the convention. At the time the convention comes into force in that country this must be in effect in order for them to have it. In other words it would not be possible to swing across to a term based on date of publication in any country ratifying the convention.

Senator WALL: In other words we are now making what is in fact a legislative decision?

Mr. ARBIQUE: Yes, in anticipation of the new copyright act. Our own act allows for this. There is nothing incompatible with our present act. If you are thinking in terms of a revision of the Copyright Act this is true, we are making a decision to stay with a term based on the life of the author, not necessarily our present term but as long as it is life plus 25 years. The United States on their part could swing over to this because this is a sort of ground or base term, this life plus 25 years. The United States could swing to that,

but nobody could swing the other way. You cannot swing from a term based on the life of the author to one based on the date of publication, once you have ratified.

Senator WALL: You have said, in effect, that what we are doing is putting part of the commission's recommendations into the wastepaper basket at this moment.

Mr. ARBIQUE: That is right, sir.

Senator WALL: Does that report recommend a term, or is it life of author plus?

Mr. ARBIQUE: The Ilsley Commission report recommends a term for published works of 56 years from the date of publication, or life of the author, whichever is the later. That is, on the date of death, if that is more than 56 years from the date of publication, the copyright would cease—not as is the present case. It would be shortening the term. I should like to point out that the Ilsley Commission recommendation was for this shorter term. This was to line up with the Americans primarily, because they did not want American works remaining in copyright in Canada when they went into the public domain in the United States. But they did not take cognizance of a provision in both the Universal Copyright Convention and the Berne Union—they did not take sufficient cognizance of it—in which it is set forth that under no circumstances need the term for a work be longer than the term in the country of origin. In other words, we would not be bound to protect American works in Canada for the life of the author plus 50 years, but only for 56 years from publication.

Senator MACDONALD (*Brantford*): Does this have any retroactive effect? Does it affect any authors who published in the United States before we entered this agreement?

Mr. ARBIQUE: Yes. Interim copyright under American law would be converted to full American copyright on Canadian accession to the convention. In other words, a Canadian author now enjoying say, the third of five years of interim copyright, on the date of accession of Canada to the convention it is automatically converted, under American law, to the present 56-year period.

Senator HUGESSEN: As I understand you, what has really happened since the Ilsley Commission is that the shoe is now on the other foot: instead of coming under the American system of 28 plus 28 years we are hoping the United States will come under the general system of life of author plus so many years?

Mr. ARBIQUE: No, they will not do that. There has been a considerable amount of pressure in the United States to do that. This existed before the war and since the U.C.C. came into effect, but they will not abandon it. They are not making the term one of life plus 50 years, but instead propose to raise the term from 56 to 76 years, which, when you figure it out, works out to about the same thing. But it is still based on the date of publication. It will continue for 76 years beyond the date of publication.

Senator POULIOT: From the practical point of view, quotations are permissible for literary reviews?

Mr. ARBIQUE: Yes, sir.

Senator POULIOT: Is it necessary to get the permission of the publisher who has the copyright, or the author who has the copyright, to publish a page from any author, in the report? Is it necessary to have special permission to publish a page from a book in the report?

Mr. ARBIQUE: This is spelled out in our own Copyright Act, and it is not governed by the convention. This is a matter for domestic legislation. Within our own Copyright Act there is certainly provision with respect to the reasonable usage of work.

Senator POULIOT: But what I would like to know is if it would be covered by this too? I have not read this.

Mr. ARBIQUE: I do not think it is. I rather doubt the Berne one goes into that either. These are not supposed to be the law; these do not form part of the law: all they do is to set limits within which domestic legislation must come, and must guarantee a certain minimum or a certain measure of copyright protection. Nowhere in the convention, in either this convention or the Berne Union, does it say what the rights of the author will be. This is embodied in domestic law.

Senator POULIOT: When an excerpt from a book is published anywhere, with the references—such a book, by such an author, published by such a company—it is rather an advertisement.

Mr. ARBIQUE: Mr. Cattanach has drawn this to my attention. This is covered in the Canadian Copyright Act, section 17(2), which says:

“The following acts do not constitute an infringement of copyright:”—and those acts are: For purposes of study; when author not owner; when permanently situate in public place; short passage for schools; not more than two passages; newspaper report of public lecture unless notice to contrary; reading of extract—and so on. This is found in our present legislation, but the convention does not go any further than the present legislation.

Senator POULIOT: Will a page be considered as a short passage?

Mr. J. W. T. MICHEL, Commissioner of Patents: It depends on the length of the book. If the book were two pages long and you published one, you would be publishing half the book. The act is very skimpy about it, and says, “short passages”. If you published three or four pages out of 300, there is nothing wrong there.

Senator WALL: I should like to come back to this problem of limiting our flexibility for changing our own copyright law if we accede to this convention. I am still not perfectly clear as to how far we are limiting ourselves, so that we may not make changes or accept some of the recommendations of the Ilsley report. In this connection I am thinking of a private member's bill that has been introduced in the other place, which I have not had a chance to study very fully, but which, I gather, is in large measure an implementation of the Ilsley Commission report, minus certain things. Apparently, it would be an abortive procedure if we were to go ahead and accept this, but I am wondering whether you can tell me in what important areas is our flexibility to change our own Copyright Act—maybe to bring it in line with some of the recommendations of the Ilsley Commission—circumscribed if we agree to this.

Mr. ARBIQUE: The Ilsley Commission's recommendations are all in line with the Universal Copyright Convention because they recommend adherence to this convention. The only reason why the convention was to be ratified after the change in the law was because of the nature of the recommendation that the Ilsley Commission was making just in that one respect we have discussed—that is, the term. That is the only one.

In other words, any other recommendation of the Ilsley Commission could be implemented within the terms of the Universal Copyright Convention.

Senator CROLL: This refers to literary, scientific and artistic works. Does the coverage extend to radio and television?

Mr. ARBIQUE: Radio and television broadcasting and sound recordings are not covered in the Convention. In other words, we could enact what we like with respect to those particular things. Moving pictures are covered.

Senator MACDONALD (*Brantford*): I thought radio and television were covered in the Berne agreement, in the last revision.

Mr. ARBIQUE: Yes sir, I am sorry; that is true; but the recommendation of the Ilsley Commission is that we do not accede to the Brussels revision.

Senator MACDONALD (*Brantford*): I thought the Canadian Authors' Association had requested that our act should provide for radio and television.

Mr. ARBIQUE: For ratification, certainly, of the Brussels revision of the Berne agreement.

Senator MACDONALD (*Brantford*): It was approved by the Brussels revision?

Mr. ARBIQUE: And sound recordings.

Senator MACDONALD (*Brantford*): But we have not ratified that?

Mr. ARBIQUE: No sir; and the recommendation of the Ilsley Commission is that we do not ratify the Brussels revision.

Senator MACDONALD (*Brantford*): Did the Canadian Authors' Association make the representations to the Ilsley Commission or to the Secretary of State?

Mr. ARBIQUE: To both. They continue to press their case in that connection.

Senator MACDONALD (*Brantford*): Would you like to say why?

Mr. ARBIQUE: The primary reason is that the Rome revision provides for a limited term. Most of these representations relate to term, although the term is not the most complex part. The Rome revision provided for life of the author plus 50 years, but if all countries participating do not have such a term then the domestic law will apply.

The Brussels revision says the term will be life of the author plus 50 years. The Canadian Authors' Association is concerned with the possibility that a new copyright act might restrict the term. They do not like the Ilsley Commission recommendation because it restricts the term, it has pulled it down to 56 years from publication from the previous one of life of the author plus 50 years. Therefore, they are concerned that the term should be life of the author plus 50 years as recommended by the Brussels revision. I do not imagine there would be any complaint on the part of the Canadian Authors' Association if the act said life of the author plus 50 years; but they are afraid of the possibility that a new act might reduce the term—unless it also provides for ratification or accession to the Brussels revision.

Senator CROLL: Getting back to the suggestion I made with respect to radio and television, this Universal Copyright Convention does not cover that?

Mr. ARBIQUE: It does not cover radio, television or sound recordings.

Senator CROLL: Or sound recordings?

Mr. ARBIQUE: That is right.

Senator CROLL: In the light of the world position today, how was that overlooked?

Mr. ARBIQUE: I do not know. I cannot tell you how that come about, sir, but I would point out that since it does not cover these things, it does not impose any limitation on our freedom of action with respect to these types of works.

Senator CROLL: The reverse is also true.

Mr. ARBIQUE: Yes, that is right.

Senator CROLL: And there have been no representations by any of these people with respect to this? It is not a matter of great concern?

Mr. ARBIQUE: I gather that it is not, sir. This is a very popular convention and it is a loose one. I think that everyone welcomed it as an opportunity to move into the United States market through the front door rather than the back door. At the present time we can get full American copyright protection without printing in the United States, since we can print instead in Britain

or in one of the other countries which are signatories. However, that is the back door method. I repeat that we do not have to print in the United States and I am sorry if I left that impression; we can print in any of the other countries which are signatories, such as Britain, France or Germany.

Senator HUGESSEN: But we cannot print in Canada?

Mr. ARBIQUE: The back door method does the Canadian printing industry no good, but it also does the American printing industry no good. However, that is not the point.

Senator MACDONALD (*Brantford*): Do I understand the position to be that, from the day we ratify the Universal Copyright Convention a Canadian author or publisher can publish in Canada and from then on he will have copyright protection for 25 years at least in the United States?

Senator HUGESSEN: For 28.

Mr. ARBIQUE: Yes. This much is certain, but that is only under the convention. He will get much more, but that will be the minimum. There is a time lag. After accession, a certain number of months must elapse, under one of the administrative provisions. It is three months.

Senator MACDONALD (*Brantford*): Three months after the day it is ratified he will have his minimum of 25 years from date of publication?

Mr. ARBIQUE: Yes.

Senator MACDONALD (*Brantford*): Therefore, I suppose there is some urgency, notwithstanding the fact that we waited all these years, to have this ratified as soon as possible, in the interest of authors and publishers in Canada?

Mr. ARBIQUE: Yes, sir, that is certainly true. Incidentally, we attempted some months ago to make diplomatic representations to the United States on the basis of pressure that was put on the Secretary of State by publishers in Canada to have these clauses made inoperative; but we knew what the answer would be, that this would require changing their law and that it would be far easier for us to ratify the Universal Copyright Convention.

Senator MACDONALD (*Brantford*): Why are we ratifying only one protocol? I understand there are three.

Mr. ARBIQUE: Yes, there are three. The first two protocols would require amending legislation. The third one does not. That is why we are doing it in this way. The third one is just a means of making the accession of a country conditional on the entry of the United States into the agreement, without saying so in either the convention or the protocol. It can do no good now that the United States has ratified this, but it can do no harm either, and we propose ratification.

The other two protocols have to do with extending our act to stateless persons and refugees—in other words, assimilating them with nationals of other countries. This will require legislation. They also have to do with extending our act to member countries of the Organization of American States, and this will require legislation.

In other words, there is no incumbency on a nation becoming party to this convention to ratify all the protocols. The protocols are quite separate. Protocol 3 can do no good, and it can do no harm.

Senator CROLL: I move adoption.

Senator WALL: I will second the motion with this qualification, that I think we would have been far tidier if we had made the necessary changes in our laws first.

Senator MACDONALD (*Brantford*): I quite agree, but I would not want to hold up ratification today on that account.

The CHAIRMAN: Are all honourable senators agreed?

Senator POULIOT: I have just one more question. If that convention is agreed to we will become signatories with the United States. When that occurs will the rest of the laws concerning importations of books into the United States disappear?

Mr. ARBIQUE: Yes.

Senator POULIOT: So we will be able to sell in the United States any number of Canadian printed books?

Mr. ARBIQUE: That is right, sir. This is because of a provision in the United States law that says that these restrictions in the United States law must remain inoperative insofar as any member of the Universal Copyright Convention is concerned.

Senator MACDONALD (*Brantford*): So that the sale of Canadian publications in the United States is rather the opposite side of the question raised in the O'Leary report?

Mr. ARBIQUE: Yes.

Senator POULIOT: And vice versa?

Mr. ARBIQUE: Yes, but we already protect them in that respect.

The CHAIRMAN: Is it the wish of the committee to recommend this Convention to the favourable consideration of the Senate?

Hon. SENATORS: Agreed.

The committee adjourned.

APPENDIX "A"

(See p. 9)

Memberships in the Convention (as at December 1, 1961)

Berne Union	Universal Copyright Convention	Dual Membership
Australia	Andorra	Austria
Austria	Argentina	Belgium
Belgium	Austria	Brazil
Brazil	Belgium	Czechoslovakia
Bulgaria	Brazil	Denmark
Canada	Cambodia	Federal Republic of Germany
Ceylon	Chile	France
Czechoslovakia	Costa Rica	Great Britain
Denmark	Cuba	Holy See
Federal Republic of Germany	Czechoslovakia	Iceland
Finland	Denmark	India
France	Ecuador	Ireland
Great Britain	France	Israel
Greece	Federal Republic of Germany	Italy
Holy See	Haiti	Japan
Hungary	Holy See	Lebanon
Iceland	Iceland	Liechtenstein
India	India	Luxemburg
Ireland	Ireland	Monaco
Israel	Israel	Pakistan
Italy	Italy	Philippines
Japan	Japan	Portugal
Lebanon	Laos	Spain
Liechtenstein	Lebanon	Sweden
Luxemburg	Liberia	Switzerland
Morocco	Liechtenstein	
Monaco	Luxemburg	
Netherlands	Mexico	
New Zealand	Monaco	
Norway	Nicaragua	
Pakistan	Nigeria	
Philippines	Pakistan	
Poland	Paraguay	
Portugal	Philippines	
Roumania	Portugal	
Siam	Spain	
Spain	Sweden	
South African Union	Switzerland	
Sweden	United Kingdom	
Switzerland	United States of America	
Tunisia		
Turkey		
Yugoslavia		

