Room 10-A.

Canada. Parl. H.of C. Standing Comm.on External Affairs,1945.
Minutes of proceedings and evidence.

DATE	NAME - NOM

Canada. Parl. H.of C. Standing Comm.on External Affairs, 1945.

SESSION 1945

HOUSE OF COMMONS

STANDING COMMITTEE

ON

EXTERNAL AFFAIRS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 1

TUESDAY, OCTOBER 23, 1945

THURSDAY, OCTOBER 25, 1945

WITNESS:

Mr. H. H. Wrong, Assistant Under-Secretary of State for External Affairs

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1945

ORDERS OF REFERENCE

Wednesday, October 10, 1945.

Resolved,—That the following members do compose the External Affairs Committee:

Messieurs

Beaudry,	Green,	Marquis,
Benidickson,	Hackett,	Mayhew,
Blanchette,	Isnor,	McIlraith,
Boucher	Jackman,	Mutch,
Bradette,	Jaques,	Picard,
Claxton,	Kidd,	Raymond *(Beauharnois-Lapairie)*
Coldwell,	Knowles,	
Croll,	Lapointe,	Reid,
Diefenbaker,	Leger,	Sinclair *(Ontario)*,
Fleming,	Low,	Strum (Mrs.)
Fraser,	Macdonald *(Halifax)*,	Tremblay,
Graydon,	MacInnis,	Winkler—35.

Attest

(Quorum 10)

ARTHUR BEAUCHESNE
Clerk of the House.

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

Attest

ARTHUR BEAUCHESNE
Clerk of the House.

Monday, October 22, 1945.

Resolved.—That the following resolution be referred to the said Committee:

Resolved, That this House do approve of the Convention concerning the Protection against Accidents of Workers employed in Loading or Unloading Ships (Revised), which was adopted by the General Conference of the International Labour Organization of the League of Nations at its Sixteenth Session in Geneva on the 27th day of April, 1932, reading as follows:—

Convention (No. 32) concerning the protection against accidents of workers employed in loading or unloading ships (revised 1932)

47952—1½

The General Conference of the International Labour Organization of the League of Nations,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixteenth Session on 12th April, 1932, and

Having decided upon the adoption of certain proposals with regard to the partial revision of the Convention concerning the protection against accidents of workers employed in loading or unloading ships adopted by the Conference at its Twelfth Session, which is the fourth item on the Agenda of the Session, and

Considering that these proposals must take the form of a Draft International Convention,

adopts, this twenty-seventh day of April of the year one thousand nine hundred and thirty-two, the following Draft Convention for ratification by the Members of the International Labour Organization, in accordance with the provisions of Part XIII of the Treaty of Versailles and of the corresponding Parts of the other Treaties of Peace:

Article 1

For the purpose of this Convention—

(1) the term "processes" means and includes all or any part of the work performed on shore or on board ship of loading or unloading any ship whether engaged in maritime or inland navigation, excluding ships of war, in, on, or at any maritime or inland port, harbour, dock, wharf, quay or similar place at which such work is carried on; and

(2) the term "worker" means any person employed in the processes.

Article 2

Any regular approach over a dock, wharf, quay or similar premises which workers have to use for going to or from a working place at which the processes are carried on and every such working place on shore shall be maintained with due regard to the safety of the workers using them.

In particular,

(1) every said working place on shore and any dangerous parts of any said approach thereto from the nearest highway shall be safely and efficiently lighted;

(2) wharves and quays shall be kept sufficiently clear of goods to maintain a clear passage to the means of access referred to in Article 3;

(3) where any space is left along the edge of any wharf or quay, it shall be at least 3 feet (90 cm.) wide and clear of all obstructions other than fixed structures, plant and appliances in use; and

(4) so far as is practicable having regard to the traffic and working,

(*a*) all dangerous parts of the said approaches and working places (e.g. dangerous breaks, corners and edges) shall be adequately fenced to a height of not less than 2 feet 6 inches (75 cm.);

(*b*) dangerous footways over bridges, caissons and dock gates shall be fenced to a height of not less than 2 feet 6 inches (75 cm.) on each side, and the said fencing shall be continued at both ends to a sufficient distance which shall not be required to exceed 5 yards (4 m. 50).

(5) The measurement requirements of paragraph (4) of this Article shall be deemed to be complied with, in respect of appliances in use at the date of the ratification of this Convention, if the actual measurements are not more than 10 per cent less than the measurements specified in the said paragraph (4).

Article 3

(1) When a ship is lying alongside a quay or some other vessel for the purpose of the processes, there shall be safe means of access for the use of the workers at such times as they have to pass to or from the ship, unless the conditions are such that they would not be exposed to undue risk if no special appliance were provided.

(2) The said means of access shall be:—

(*a*) where reasonably practicable, the ship's accommodation ladder, a gangway or a similar construction;

(*b*) in other cases a ladder.

(3) The appliances specified in paragraph (2) (*a*) of this Article shall be at least 22 inches (55 cm.) wide, properly secured to prevent their displacement, not inclined at too steep an angle, constructed of materials of good quality and in good condition, and securely fenced throughout to a clear height of not less than 2 feet 9 inches (82 cm.) on both sides, or in the case of the ship's accommodation ladder securely fenced to the same height on one side, provided that the other side is properly protected by the ship's side.

Provided that any appliances as aforesaid in use at the date of the ratification of this Convention shall be allowed to remain in use:—

(*a*) until the fencing is renewed if they are fenced on both sides to a clear height of at least 2 feet 8 inches (80 cm.);

(*b*) for two years from the date of ratification if they are fenced on both sides to a clear height of at least 2 feet 6 inches (75 cm.).

(4) The ladders specified in paragraph (2) (*b*) of this Article shall be of adequate length and strength, and properly secured.

(5) (*a*) Exceptions to the provisions of this Article may be allowed by the competent authorities when they are satisfied that the appliances specified in the Article are not required for the safety of the workers.

(*b*) The provisions of this Article shall not apply to cargo stages or cargo gangways when exclusively used for the processes.

(6) Workers shall not use, or be required to use, any other means of access than the means specified or allowed by this Article.

Article 4

When the workers have to proceed to or from a ship by water for the processes, appropriate measures shall be prescribed to ensure their safe transport, including the conditions to be complied with by the vessels used for this purpose.

Article 5

(1) When the workers have to carry on the processes in a hold the depth of which from the level of the deck to the bottom of the hold exceeds 5 feet (1 m. 50), there shall be safe means of access from the deck to the hold for their use.

(2) The said means of access shall ordinarily be by ladder, which shall not be deemed to be safe unless it complies with the following conditions:—

(*a*) provides foothold of a depth, including any space behind the ladder, of not less than 4½ inches (11½ cm.) for a width of not less than 10 inches (25 cm.) and a firm handhold;

(*b*) is not recessed under the deck more than is reasonably necessary to keep it clear of the hatchway;

(*c*) is continued by and is in line with arrangements for secure handhold and foothold on the coamings (e.g. cleats or cups);

(*d*) the said arrangements on the coamings provide foothold of a depth, including any space behind the said arrangements, of not less than 4½ inches (11½ cm.) for a width of not less than 10 inches (25 cm.);

(*e*) if separate ladders are provided between the lower decks, the said ladders are as far as practicable in line with the ladder from the top deck.

Where, however, owing to the construction of the ship, the provision of a ladder would not be reasonably practicable, it shall be open to the competent authorities to allow other means of access, provided that they comply with the conditions laid down in this Article for ladders so far as they are applicable.

In the case of ships existing at the date of the ratification of this Convention the measurement requirements of sub-paragraphs (*a*) and (*d*) of this paragraph shall be deemed to be complied with, until the ladders and arrangements are replaced, if the actual measurements are not more than 10 per cent less than the measurements specified in the said sub-paragraphs (*a*) and (*d*).

(3) Sufficient free passage to the means of access shall be left at the coamings.

(4) Shaft tunnels shall be equipped with adequate handhold and foothold on both sides.

(5) When a ladder is to be used in the hold of a vessel which is not decked it shall be the duty of the contractor undertaking the processes to provide such ladder. It shall be equipped at the top with hooks or with other means for firmly securing it.

(6) The workers shall not use, or be required to use, other means of access than the means specified or allowed by this Article.

(7) Ships existing at the date of ratification of this Convention shall be exempt from compliance with the measurements in paragraph (2) (*a*) and (*d*) and from the provisions of paragraph (4) of this Article for a period not exceeding four years from the date of ratification of this Convention.

Article 6

(1) While the workers are on a ship for the purpose of the processes, every hatchway of a cargo hold accessible to the workers which exceeds 5 feet (1m. 50) in depth from the level of the deck to the bottom of the hold, and which is not protected to a clear height of 2 feet 6 inches (75cm.) by the coamings, shall, when not in use for the passage of goods, coal or other material, either be securely fenced to a height of 3 feet (90 cm.) or be securely covered. National laws or regulations shall determine whether the requirements of this paragraph shall be enforced during meal times and other short interruptions of work.

(2) Similar measures shall be taken when necessary to protect all other openings in a deck which might be dangerous to the workers.

Article 7

When the processes have to be carried on on a ship, the means of access thereto and all places on board at which the workers are employed or to which they may be required to proceed in the course of their employment shall be efficiently lighted.

The means of lighting shall be such as not to endanger the safety of the workers nor to interfere with the navigation of other vessels.

Article 8

In order to ensure the safety of the workers when engaged in removing or replacing hatch coverings and beams used for hatch coverings,

(1) hatch coverings and beams used for hatch coverings shall be maintained in good condition;

(2) hatch coverings shall be fitted with adequate hand grips, having regard to their size and weight, unless the construction of the hatch or the hatch coverings is of a character rendering the provision of hand grips unnecessary;

(3) beams used for hatch coverings shall have suitable gear for removing and replacing them of such a character as to render it unnecessary for workers to go upon them for the purpose of adjusting such gear;

(4) all hatch coverings and fore and aft and thwart-ship beams shall, in so far as they are not interchangeable, be kept plainly marked to indicate the deck and hatch to which they belong and their position therein;

(5) hatch coverings shall not be used in the construction of cargo stages or for any other purpose which may expose them to damage.

Article 9

Appropriate measures shall be prescribed to ensure that no hoisting machine, or gear, whether fixed or loose, used in connection therewith, is employed in the processes on shore or on board ship unless it is in a safe working condition.

In particular,

(1) before being taken into use, the said machines, fixed gear on board ship accessory thereto as defined by national laws or regulations, and chains and wire ropes used in connection therewith, shall be adequately examined and tested, and the safe working load thereof certified, in the manner prescribed and by a competent person acceptable to the national authorities;

(2) after being taken into use, every hoisting machine, whether used on shore or on board ship, and all fixed gear on board ship accessory thereto as defined by national laws or regulations shall be thoroughly examined or inspected as follows:

(*a*) to be thoroughly examined every four years and inspected every twelve months: derricks, goose necks, mast bands, derrick bands, eye-bolts, spans and any other fixed gear the dismantling of which is specially difficult;

(*b*) to be thoroughly examined every twelve months: all hoisting machines (e.g. cranes, winches), blocks, shackles and all other accessory gear not included in (*a*).

All loose gear (e.g. chains, wire ropes, rings, hooks) shall be inspected on each occasion before use unless they have been inspected within the previous three months.

Chains shall not be shortened by tying knots in them and precautions shall be taken to prevent injury to them from sharp edges.

A thimble or loop splice made in any wire rope shall have at least three tucks with a whole strand of rope and two tucks with one half of the wires cut out of each strand; provided that this requirement shall not operate to prevent the use of another form of splice which can be shown to be as efficient as the form hereby prescribed.

(3) Chains and such similar gear as is specified by national laws or regulations (e.g. hooks, rings, shackles, swivels) shall, unless they have been subjected to such other sufficient treatment as may be prescribed by national laws or regulations, be annealed as follows under the supervision of a competent person acceptable to the national authorities:—

(*a*) In the case of chains and the said gear carried on board ship:

(i) half-inch (12½-mm.) and smaller chains or gear in general use once at least in every six months;

(ii) all other chains or gear (including span chains but excluding bridle chains attached to derricks or masts) in general use once at least in every twelve months;

Provided that in the case of such gear used solely on cranes and other hoisting appliances worked by hand twelve months shall be substituted for six months in sub-paragraph (i) and two years for twelve months in sub-paragraph (ii);

Provided also that, if the competent authority is of opinion that owing to the size, design, material or infrequency of use of any of the said gear the requirements of this paragraph as to annealing are not necessary for the protection of the workers, it may, by certificate in writing (which it may at its discretion revoke), exempt such gear from the said requirements subject to such conditions as may be specified in the said certificate.

(*b*) In the case of chains and the said gear not carried on board ship:

Measures shall be prescribed to secure the annealing of the said chains and gear.

(*c*) in the case of the said chains and gear whether carried on board ship or not, which have been lengthened, altered or repaired by welding, they shall thereupon be tested and re-examined.

(4) Such duly authenticated records as will provide sufficient *prima facie* evidence of the safe condition of the machines and gear concerned shall be kept, on shore or on the ship as the case may be, specifying the safe working load and the dates and results of the tests and examinations referred to in paragraphs (1) and (2) of this Article and of the annealings or other treatment referred to in paragraph (3).

Such records shall, on the application of any person authorized for the purpose, be produced by the person in charge thereof.

(5) The safe working load shall be kept plainly marked on all cranes, derricks and chain slings and on any similar hoisting gear used on board ship as specified by national laws or regulations. The safe working load marked on chain slings shall either be in plain figures or letters upon the chains or upon a tablet or ring of durable material attached securely thereto.

(6) All motors, cogwheels, chain and friction gearing, shafting, live electric conductors and steam pipes shall (unless it can be shown that by their

position and construction they are equally safe to every worker employed as they would be if securely fenced) be securely fenced so far as is practicable without impeding the safe working of the ship.

(7) Cranes and winches shall be provided with such means as will reduce to a minimum the risk of the accidental descent of a load while in process of being lifted or lowered.

(8) Appropriate measures shall be taken to prevent exhaust steam from and, so far as practicable, live steam to any crane or winch obscuring any part of the working place at which a worker is employed.

(9) Appropriate measures shall be taken to prevent the foot of a derrick being accidentally lifted out of its socket or support.

Article 10

Only sufficiently competent and reliable persons shall be employed to operate lifting or transporting machinery whether driven by mechanical power or otherwise, or to give signals to a driver of such machinery, or to attend to cargo falls on winch ends or winch drums.

Article 11

(1) No load shall be left suspended from any hoisting machine unless there is a competent person actually in charge of the machine while the load is so left.

(2) Appropriate measures shall be prescribed to provide for the employment of a signaller where this is necessary for the safety of the workers.

(3) Appropriate measures shall be prescribed with the object of preventing dangerous methods of working in the stacking, unstacking, stowing and unstowing of cargo, or handling in connection therewith.

(4) Before work is begun at a hatch the beams thereof shall either be removed or be securely fastened to prevent their displacement.

(5) Precautions shall be taken to facilitate the escape of the workers when employed in a hold or on 'tween decks in dealing with coal or other bulk cargo.

(6) No stage shall be used in the processes unless it is substantially and firmly constructed, adequately supported and where necessary securely fastened.

No truck shall be used for carrying cargo between ship and shore on a stage so steep as to be unsafe.

Stages shall where necessary be treated with suitable material to prevent the workers slipping.

(7) When the working space in a hold is confined to the square of the hatch, and except for the purpose of breaking out or making up slings,

(*a*) hooks shall not be made fast in the bands or fastenings of bales of cotton, wool, cork, gunny-bags, or other similar goods;

(*b*) can-hooks shall not be used for raising or lowering a barrel when, owing to the construction or condition of the barrel or of the hooks, their use is likely to be unsafe.

(8) No gear of any description shall be loaded beyond the safe working load save in exceptional cases and then only in so far as may be allowed by national laws or regulations.

(9) In the case of shore cranes with varying capacity (e.g. raising and lowering jib with load capacity varying according to the angle) an automatic indicator or a table showing the safe working loads at the corresponding inclinations of the jib shall be provided on the crane.

Article 12

National laws or regulations shall prescribe such precautions as may be deemed necesary to ensure the proper protection of the workers having regard to the circumstances of each case when they have to deal with or work in proximity to goods which are in themselves dangerous to life or health by reason either of their inherent nature or of their condition at the time or work where such goods have been stowed.

Article 13

At docks, wharves, quays and similar places which are in frequent use for the processes such facilities as having regard to local circumstances shall be prescribed by national laws or regulations shall be available for rapidly securing the rendering of first-aid and in serious cases of accident removal to the nearest place of treatment. Sufficient supplies of first-aid equipment shall be kept permanently on the premises in such a condition and in such positions as to be fit and readily accessible for immediate use during working hours. The said supplies shall be in charge of a responsible person or persons who shall include one or more persons competent to render first-aid and whose services shall also be readily available during working hours.

At such docks, wharves, quays and similar places as aforesaid appropriate provision shall also be made for the rescue of immersed workers from drowning.

Article 14

Any fencing, gangway, gear, ladder, life-saving means or appliance, light, mark, stage or other thing whatsoever required to be provided under this Convention shall not be removed or interfered with by any person except when duly authorized or in case of necessity, and if removed shall be restored at the end of the period for which its removal was necessary.

Article 15

It shall be open to each Member to grant exemptions from or exceptions to the provisions of this Convention in respect of any dock, wharf, quay or similar place at which the processes are only occasionally carried on or the traffic is small and confined to small ships, or in respect of certain special ships or special classes of ships or ships below a certain small tonnage, or in cases where as a result of climatic conditions it would be impracticable to require the provisions of this Convention to be carried out.

The International Labour Office shall be kept informed of the provisions in virtue of which any exemptions and exceptions as aforesaid are allowed.

Article 16

Except as herein otherwise provided, the provisions of this Convention which affect the construction or permanent equipment of the ship shall apply to ships the building of which is commenced after the date of ratification of

the Convention, and to all other ships within four years after that date, provided that in the meantime the said provisions shall be applied so far as reasonable and practicable to such other ships.

Article 17

In order to ensure the due enforcement of any regulations prescribed for the protection of the workers against accidents,

(1) The regulations shall clearly define the persons or bodies who are to be responsible for compliance with the respective regulations;

(2) Provision shall be made for an efficient system of inspection and for penalties for breaches of the regulations;

(3) Copies or summaries of the regulations shall be posted up in prominent positions at docks, wharves, quays and similar places which are in frequent use for the processes.

Article 18

Each Member undertakes to enter into reciprocal arrangements on the basis of this Convention with the other Members which have ratified this Convention, including more particularly the mutual recognition of the arrangements made in their respective countries for testing, examining and annealing and of certificates and records relating thereto;

Provided that, as regards the construction of ships and as regards plant used on ships and the records and other matters to be observed on board under the terms of this Convention, each Member is satisfied that the arrangements adopted by the other Member secure a general standard of safety for the workers equally effective as the standard required under its own laws and regulations;

Provided also that the Governments shall have due regard to the obligations of paragraph (11) of Article 405 of the Treaty of Versailles and of the corresponding Articles of the other Treaties of Peace.

Article 19

The formal ratifications of this Convention under the conditions set forth in Part XIII of the Treaty of Versailles and in the corresponding Parts of the other Treaties of Peace shall be communicated to the Secretary-General of the League of Nations for registration.

Article 20

This Convention shall be binding only upon those Members whose ratifications have been registered with the Secretariat.

It shall come into force twelve months after the date on which the ratifications of two Members of the International Labour Organization have been registered with the Secretary-General.

Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 21

As soon as the ratifications of two Members of the International Labour Organization have been registered with the Secretariat, the Secretary-General

of the League of Nations shall so notify all the Members of the International Labour Organization. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organization.

Article 22

A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Secretary-General of the League of Nations for registration. Such denunciation shall not take effect until one year after the date on which it is registered with the Secretariat.

Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of five years and, thereafter, may denounce this Convention at the expiration of each period of five years under the terms provided for in this Article.

Article 23

At the expiration of each period of ten years after the coming into force of this Convention, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall consider the desirability of placing on the Agenda of the Conference the question of its revision in whole or in part.

Article 24

Should the Conference adopt a new Convention revising this Convention in whole or in part, the ratification by a Member of the new revising Convention shall *ipso jure* involve denunciation of this Convention without any requirement of delay, not withstanding the provisions of Article 22 above, if and when the new revising Convention shall have come into force.

As from the date of the coming into force of the new revising Convention, the present Convention shall cease to be open to ratification by the Members.

Nevertheless, this Convention shall remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 25

The French and English texts of this Convention shall both be authentic.

Attest

ARTHUR BEAUCHESNE,
Clerk of the House.

MONDAY, October 22, 1945.

Resolved,—That the following resolution be referred to the said Committee:—

Resolved, That this House do approve of the Convention concerning Statistics of Wages and Hours of Work in the Principal Mining and Manufacturing Industries, including Building and Construction and in Agriculture, which was adopted by the General Conference of the International Labour Organization of the League of Nations at its Twenty-fourth Session in Geneva, on the 20th day of June, 1938, reading as follows:—

Draft Convention (No. 63) concerning statistics of wages and hours of work in the principal mining and manufacturing industries, including building and construction, and in agriculture.

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Twenty-fourth Session on 2 June, 1938, and

Having decided upon the adoption of certain proposals with regard to statistics of wages and hours of work in the principal mining and manufacturing industries including building and construction, and in agriculture, which is the sixth item on the agenda of the Session, and

Having determined that these proposals shall take the form of a Draft International Convention, and

Having determined that, although it is desirable that all Members of the Organization should compile statistics of average earnings and of hours actually worked which comply with the requirements of Part II of this Convention, it is nevertheless expedient that the Convention should be open to ratification by Members which are not in a position to comply with the requirements of that Part,

adopts, this twentieth day of June of the year one thousand nine hundred and thirty-eight the following Draft Convention which may be cited as the Convention concerning Statistics of Wages and Hours of Work, 1938:

PART I.—GENERAL PROVISIONS

Article 1

Each Member of the International Labour Organization which ratifies this Convention undertakes that:—

(*a*) it will compile as required by this Convention statistics relating to wages and hours of work.

(*b*) it will publish the data compiled in pursuance of this Convention as promptly as possible and will endeavour to publish data collected at quarterly or more frequent intervals during the succeeding quarter and to publish data collected at intervals of six or twelve months during the succeeding six or twelve months respectively; and

(*c*) it will communicate the data compiled in pursuance of this Convention to the International Labour Office at the earliest possible date.

Article 2

1. Any Member which ratifies this Convention may by a declaration appended to its ratification exclude from its acceptance of the Convention:—

(*a*) any one of Parts II, III or IV; or
(*b*) Parts II and IV; or
(*c*) Parts III and IV.

2. Any Member which has made such a declaration may at any time cancel that declaration by a subsequent declaration.

3. Every Member for which a declaration made under paragraph 1 of this Article is in force shall indicate each year in its annual report upon the application of this Convention the extent to which any progress has been made with a view to the application of the Part or Parts of the Convention excluded from its acceptance.

Article 3

Nothing in this Convention imposes any obligation to publish or to reveal particulars which would result in the disclosure of information relating to any individual undertaking or establishment.

Article 4

1. Each Member which ratifies this Convention undertakes that its competent statistical authority shall, unless it has already obtained the information in some other way make enquiries relating either to all, or to a representative part, of the wage earners concerned, in order to obtain the information required for the purpose of the statistics which it has undertaken to compile in accordance with this Convention.

2. Nothing in this Convention shall be interpreted as requiring any Member to compile statistics in cases in which, after enquiries made in the manner required by paragraph 1 of this Article, it is found impracticable to obtain the necessary information without the exercise of compulsory powers.

PART II.—STATISTICS OF AVERAGE EARNINGS AND OF HOURS ACTUALLY WORKED IN MINING AND MANUFACTURING INDUSTRIES

Article 5

1. Statistics of average earnings and of hours actually worked shall be compiled for wage earners employed in each of the principal mining and manufacturing industries including building and construction.

2. The statistics of average earnings and of hours actually worked shall be compiled on the basis of data relating either to all establishments and wage earners or to a representative sample of establishments and wage earners.

3. The statistics of average earnings and of hours actually worked shall:—

(*a*) give separate figures for each of the principal industries; and
(*b*) indicate briefly the scope of the industries or branches of industry for which figures are given.

Article 6

The statistics of average earnings shall include:—

(*a*) all cash payments and bonuses received from the employer by the persons employed;

(*b*) contributions such as social insurance contributions payable by the employed persons and deducted by the employer; and

(*c*) taxes payable by the employed persons to a public authority and deducted by the employer.

Article 7

In the case of countries and industries in which allowances in kind, for example in the form of free or cheap housing, food or fuel, form a substantial part of the total remuneration of the wage earners employed, the statistics of average earnings shall be supplemented by particulars of such allowances, together with estimates, so far as practicable, of their money value.

Article 8

The statistics of average earnings shall be supplemented, so far as practicable, by indications as to the average amount of any family allowances per person employed in the period to which the statistics relate.

Article 9

1. The statistics of average earnings shall relate to average earnings per hour, day, week or other customary period.

2. Where the statistics of average earnings relate to average earnings per day, week or other customary period, the statistics of actual hours shall relate to the same period.

Article 10

1. The statistics of average earnings and of hours actually worked, referred to in Article 9, shall be compiled once every year and where possible at shorter intervals.

2. Once every three years and where possible at shorter intervals the statistics of average earnings, and, so far as practicable, the statistics of hours actually worked shall be supplemented by separate figures for each sex and for adults and juveniles; provided that it shall not be necessary to compile these separate figures in the case of industries in which all but an insignificant number of the wage earners belong to the same sex or age group, or to compile the separate figures of hours actually worked for males and females, or for adults and juveniles, in the case of industries in which the normal hours of work do not vary by sex or age.

Article 11

Where the statistics of average earnings and of hours actually worked relate not to the whole country but to certain districts, towns or industrial centres, these districts, towns or centres shall, so far as practicable, be indicated.

Article 12

1. Index numbers showing the general movement of earnings per hour and where possible per day, week or other customary period shall be compiled at as frequent and as regular intervals as possible on the basis of the statistics compiled in pursuance of this Part of this Convention.

2. In compiling such index numbers due account shall be taken, *inter alia*, of the relative importance of the different industries.

3. In publishing such index numbers indications shall be given as to the methods employed in their construction.

Part III.—Statistics of Time Rates of Wages and of Normal Hours of Work in Mining and Manufacturing Industries

Article 13

Statistics of time rates of wages and of normal hours of work of wage earners shall be compiled for a representative selection of the principal mining and manufacturing industries, including building and construction.

Article 14

1. The statistics of time rates of wages and of normal hours of work shall show the rates and hours:—

(*a*) fixed by or in pursuance of laws or regulations, collective agreements or arbitral awards;

(*b*) ascertained from organizations of employers and workers, from joint bodies, or from other appropriate sources of information, in cases where rates and hours are not fixed by or in pursuance of laws or regulations, collective agreements or arbitral awards.

2. The statistics of time rates of wages and of normal hours of work shall indicate the nature and source of the information from which they have been compiled and whether it relates to rates or hours fixed by or in pursuance of laws or regulations, collective agreements or arbitral awards or to rates or hours fixed by arrangements between employers and wage earners individually.

3. When rates of wages are described as minimum (other than statutory minimum) rates, standard rates, typical rates, or prevailing rates, or by similar terms, the terms used shall be explained.

4. "Normal hours of work," where not fixed by or in pursuance of laws or regulations, collective agreements, or arbitral awards, shall be taken as meaning the number of hours, per day, week or other period, in excess of which any time worked is remunerated at overtime rates or forms an exception to the rules or custom of the establishment relating to the classes of wage earners concerned.

Article 15

1. The statistics of time rates of wages and of normal hours of work shall give:—

(*a*) at intervals of not more than three years, separate figures for the principal occupations in a wide and representative selection of the different industries; and

(*b*) at least once a year, and if possible at shorter intervals, separate figures for the main occupations in the most important of these industries.

2. The data relating to time rates of wages and of normal hours of work shall be presented, so far as practicable, on the basis of the same occupational classification.

3. Where the sources of information from which the statistics are compiled do not indicate the separate occupations to which the rates or hours apply, but fix varying rates of wages or hours of work for other categories of workers (such as skilled workers, semi-skilled workers and unskilled workers) or fix normal hours of work by classes of undertakings or branches of undertakings, the separate figures shall be given according to these distinctions.

4. Where the categories of workers for which figures are given are not separate occupations, the scope of each category shall, in so far as the necessary particulars are given in the sources of information from which the statistics are compiled, be indicated.

Article 16

Where the statistics of time rates do not give the rates per hour but give rates per day, week, or other customary period:—

(*a*) the statistics of normal hours of work shall relate to the same period; and

(*b*) the Member shall communicate to the International Labour Office any information appropriate for the purpose of calculating the rates per hour.

Article 17

Where the sources of information from which the statistics are compiled give separate particulars classified by sex and age, the statistics of time rates of wages and of normal hours of work shall give separate figures for each sex and for adults and juveniles.

Article 18

Where the statistics of time rates of wages and of normal hours of work relate not to the whole country but to certain districts, towns or industrial centres, these districts, towns or centres shall, so far as practicable, be indicated.

Article 19

Where the sources of information from which the statistics of time rates and of normal hours of work are compiled contain such particulars, the statistics shall at intervals not exceeding three years indicate:—

(*a*) the scale of any payment for holidays;
(*b*) the scale of any family allowances;
(*c*) the rates or percentage additions to normal rates paid for overtime; and
(*d*) the amount of overtime permitted.

Article 20

In the case of countries and industries in which allowances in kind, for example in the form of free and cheap housing, food or fuel, form a substantial part of the total remuneration of the wage earners employed, the statistics of time rates of wages shall be supplemented by particulars of such allowances, together with estimates, so far as practicable, of their money value.

Article 21

1. Annual index numbers showing the general movement of rates of wages per hour or per week shall be compiled on the basis of the statistics compiled in pursuance of this Part of this Convention, supplemented, where necessary, by any other relevant information which may be available (for example, particulars as to changes in piece-work rates of wages).

2. Where only an index number of rates of wages per hour or only an index number of rates of wages per week is compiled, there shall be compiled an index number of changes in normal hours of work constructed on the same basis.

3. In compiling such index numbers due account shall be taken, *inter alia*, of the relative importance of the different industries.

4. In publishing such index numbers indications shall be given as to the methods employed in their construction.

Part IV.—Statistics of Wages and Hours of Work in Agriculture

Article 22

1. Statistics of wages shall be compiled in respect of wage earners engaged in agriculture.

2. The statistics of wages in agriculture shall:

(*a*) be compiled at intervals not exceeding two years;

(*b*) give separate figures for each of the principal districts; and

(*c*) indicate the nature of the allowances in kind (including housing), if any, by which money wages are supplemented, and, if possible, an estimate of the money value of such allowances.

3. The statistics of wages in agriculture shall be supplemented by indications as to:

(*a*) the categories of agricultural wage earners to which the statistics relate;

(*b*) the nature and source of the information from which they have been compiled;

(*c*) the methods employed in their compilation; and

(*d*) so far as practicable, the normal hours of work of the wage earners concerned.

Part V.—Miscellaneous Provisions

Article 23

1. Any Member the territory of which includes large areas in respect of which, by reason of the difficulty of creating the necessary administrative organization and the sparseness of the population or the stage of economic development of the area, it is impracticable to compile statistics complying with the requirements of this Convention may exclude such areas from the application of this Convention in whole or in part.

2. Each Member shall indicate in its first annual report upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organization any areas in respect of which it proposes to have recourse to the provisions of this Article and no Member shall, after the date of its first annual report, have recourse to the provisions of this Article except in respect of areas so indicated.

3. Each Member having recourse to the provisions of the present Article shall indicate in subsequent annual reports any areas in respect of which it renounces the right to have recourse to the provisions of this Article.

Article 24

1. The Governing Body of the International Labour Office may, after taking such technical advice as it may deem appropriate, communicate to the Members of the Organization proposals for improving and amplifying the statistics compiled in pursuance of this Convention or for promoting their comparability.

2. Each Member ratifying this Convention undertakes that it will:

(*a*) submit for the consideration of its competent statistical authority any such proposals communicated to it by the Governing Body;

(*b*) indicate in its annual report upon the application of the Convention the extent to which it has given effect to such proposals.

PART VI.—FINAL PROVISIONS

Article 25

The formal ratifications of this Convention shall be communicated to the Secretary-General of the League of Nations for registration.

Article 26

1. This Convention shall be binding only upon Members of the International Labour Organization whose ratifications have been registered with the Secretary-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Secretary-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 27

As soon as the ratifications of two Members of the International Labour Organization have been registered, the Secretary-General of the League of Nations shall so notify all the Members of the International Labour Organization. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organization.

Article 28

1. A Member which has ratified this Convention may denounce it, after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Secretary-General of the League of Nations for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member, which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 29

At the expiration of each period of ten years after the coming into force of this Convention, the Governing Body of the International Labour Office

shall present to the General Conference a report on the working of this Convention and shall consider the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 30

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

(*a*) the ratification by a Member of the new revising Convention shall *ipso juro* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 28 above, if and when the new revising Convention shall have come into force;

(*b*) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 31

The French and English texts of this Convention shall both be authentic.

Attest ARTHUR BEAUCHESNE,
Clerk of the House.

TUESDAY, October 23, 1945.

Ordered,—That the name of Mr. Sinclair (*Vancouver-North*) be substituted for that of Mr. Reid on the said Committee.

Ordered,—That the said Committee be empowered to print from day to day 500 copies in English and 200 copies in French of its minutes of proceedings and evidence and that Standing Order 64 be suspended in relation thereto.

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

Attest ARTHUR BEAUCHESNE,
Clerk of the House.

REPORT TO HOUSE

TUESDAY, October 23, 1945.

The Standing Committee on External Affairs begs leave to present the following as its

FIRST REPORT

Your Committee recommends

1. That it be empowered to print from day to day 500 copies in English and 200 copies in French of its minutes of proceedings and evidence and that Standing Order 64 be suspended in relation thereto.
2. That it be authorized to sit while the House is sitting.

All of which is respectfully submitted.

J. A. BRADETTE,
Chairman.

(Concurred in October 23, 1945).

MINUTES OF PROCEEDINGS

TUESDAY, October 23, 1945.

Room 268

The Standing Committee on External Affairs met at eleven o'clock, the Chairman, Mr. J. A. Bradette, presiding.

Members present: Mrs. Strum, Messrs. Beaudry, Benidickson, Boucher, Bradette, Coldwell, Fleming, Fraser, Graydon, Jaques, Kidd, Leger, Low, Mayhew, McIlraith, Mutch, Picard and Sinclair *(Ontario)*. (18).

The Chairman acknowledged the honour of having been called to preside over the deliberations of the Committee and expressed his confidence that he could count on the assistance and co-operation of every member.

He read a letter he received on October 18, 1945, from Mr. Coldwell relating to the work of the Committee.

The Chairman then called upon every member present to express his views on the functions of the Committee. Each member commended its institution and stressed its importance. Various suggestions pertaining to its business were made.

Due reference being made to the Orders of Reference, the Committee agreed to call a representative of the International Labour Organization.

After discussion and on motion of Mr. Graydon, it was *resolved* that the Committee ask leave to print from day to day 500 copies in English and 200 copies in French of its minutes of proceedings and evidence.

On motion of Mr. Fleming, it was *resolved* that the Committee ask permission to sit while the House is sitting.

At the suggestion of the chairman and on motion of Mr. Coldwell, it was *resolved* that the Chairman appoint a Steering Committee of five and report back to the Committee.

On motion of Mr. Coldwell, it was *resolved* that Mr. Graydon be appointed vice-chairman.

The Committee decided to call Mr. H. H. Wrong, Assistant Under-Secretary of State for External Affairs at its next meeting when he will be asked to present a statement on the organization of the Department of External Affairs.

On motion of Mr. Jaques, the Committee adjourned at 12.55 o'clock until Thursday, October 25 at 11.30 a.m.

THURSDAY, October 25, 1945.

Room 268

The Standing Committee on External Affairs met at 11.30 o'clock, Mr. Bradette, presiding.

Members present: Mrs. Strum, Messrs. Benidickson, Blanchette, Boucher, Bradette, Coldwell, Fleming, Fraser, Graydon, Jaques, Knowles, Leger, Low, McIlraith, Mutch, Raymond *(Beauharnois-Laprairie)*, Sinclair *(Ontario)*, Tremblay and Winkler. (19).

The Chairman reported that he had appointed Messrs. Graydon, Knowles, Low, Picard and Winkler to act with himself as a Steering Committee. He invited them to a first meeting in his office on Friday, October 26 at 10.30 o'clock.

Before proceeding to the consideration of the Orders of Reference, the Chairman invited Messrs. Winkler, Mutch, Knowles, Blanchette, Tremblay and Raymond, who could not be present at the last meeting, to express their views on the functions of the Committee.

Referring to the draft conventions before the Committee, Mr. Fleming suggested that, at the next meeting, a representative of the Department of Labour; Mr. Phelan of the International Labour Organization of Montreal, Quebec, and representatives from the Trades and Labour Congress and the Canadian Congress of Labour be asked to attend.

After discussion and on motion of Mr. Coldwell, it was *resolved* that a representative of the Department of Labour and Mr. Phelan of the International Labour Organization be called before the Committee.

The Chairman informed the Committee that Honourable Mr. St. Laurent and Mr. H. H. Wrong were attending the Senate Committee on External Relations. The proceedings were suspended to enable the Clerk to ascertain whether Honourable Mr. St. Laurent and Mr. Wrong could attend at this stage. The Clerk having returned with Mr. St. Laurent and Mr. Wrong, the proceedings were resumed and Honourable Mr. St. Laurent introduced Mr. Wrong to the Committee.

Mr. Wrong was called. He made an extemporaneous statement on the internal and external operations of the Department of External Affairs and was questioned thereon.

The Chairman thanked Mr. Wrong for his most informative statement and witness was retired.

The Committee adjourned at 1.05 to meet again at the call of the Chair.

ANTONIO PLOUFFE,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS,
October 25, 1945.

The Standing Committee on External Affairs met this day ot 11.30 o'clock a.m. The Chairman, Mr. Joseph A. Bradette, presided.

The CHAIRMAN: Order gentlemen. I greatly appreciate the fact that it is possible to have a quorum so early. I believe that the first work of the steering committee should be to see to it that our meetings begin promptly. For instance, the Veterans Affairs committee which is sitting presently includes some of our members who I know want to be present at their deliberations. So that will be a matter which the steering committee will have to adjust. I have appointed the following members to the steering committee: Messrs. Graydon, Picard, Knowles, Low and Winkler. It is likely that we will have quite a bit of work to do. I believe it would be in order to have a motion, but if you are all in agreement, I do not think we need a resolution to accept the steering committee. If that is acceptable, we might receive the sanction of the members and we will ask them to raise their hands.

(Carried.)

The CHAIRMAN: Carried. So I will ask the steering committee to meet at my office tomorrow morning at 10.30. It won't be a very long meeting. It will last about half an hour. We must try to find some way by which we can have the members of the Veterans Affairs committee present at our deliberations. This morning I had hoped to have with us Mr. Wrong, Assistant Under-Secretary of State for External Affairs. He does not know exactly what he will say, because he is starting from scratch, almost in the dark. He told me that after he had made a brief pronouncement, he would be very pleased to answer any questions put to him. The Hon. Mr. St. Laurent may come before this committee at a later date. When the Prime Minister returns, we hope to have him present at one of our sittings, to participate in our deliberations and to help us start on the proper road. I have been studying the statements made by the members of this committee at our first meeting and I have been much impressed with what we may have to face in this committee in making it a real live thing which will be helpful to parliament and the whole country. I would repeat to you the wish that this committee be not just one committee but rather a committee of individual members so that it may function not only successfully as a committee but that each individual member may have the feeling that he, in all his activities, deliberations, and work is a chairman of a committee. Anything you may wish to comment upon both to the committee and to myself personally, with respect to our deliberations, will be absolutely welcome. I ask the committee now if it will be in order to proceed before Mr. Wrong gets here. He is speaking now before the External Affairs committee of the Senate, and I do not know how long it will be before he gets here. If you are satisfied, then we will begin with a discussion of resolution No. 32.

Mr. MCILRAITH: Agreed.

The CHAIRMAN: Resolution 32 is on page 14 of the Votes and Proceedings of the Orders of the Day and have been distributed. I see some new members who could not be present at the last meeting and I would state to them that at our first meeting we asked for the advice and ideas of the members at that time. So we will ask the members who are here this morning for the first time to say a few words.

(The views expressed were off the record.)

Mr. FLEMING: With respect to No. 32 on page 14, I challenge the consideration of it, clause by clause, or article by article. I wonder how many of us are competent to deal with the matters of detail which are given here, such as the dimensions of fencing, and the dimensions of ladders, and so on. That, surely, is beyond us. Have we had any recommendations from the officials of the Labour Department with regard to this, and have there been any representations from representatives of organized labour bodies of the country? If we have their views, I think we might very well be guided by them. This is a convention which has been awaiting ratification since 1932, and it must have been reviewed by these other bodies. So I cannot see the point in going into the details clause by clause.

The CHAIRMAN: I appreciate that point. We are entering into this discussion, so to speak, within the order of the reference of the House of Commons. In addition, I expect that Mr. Wrong will be here this morning. He was called along with the Hon. Mr. St. Laurent to speak before the External Affairs committee of the Senate, but I expect that he will be here soon. In the meantime, we might approach the discussion of these two resolutions.

Mr. BOUCHER: I take it that Mr. Wrong is not going to take up this one specifically?

The CHAIRMAN: No. If I had thought that Mr. Wrong could not be here to-day, I would have had an expert from the Department of Labour.

Mr. FLEMING: I would not want any comment to be taken as being critical.

Mr. BOUCHER: Could we not use our time in exploring the possibilities of getting somebody to appear before our committee who is vitally interested in, and well acquainted with, the terms of this convention, so that we could hear his viewpoint on it. I think we might well spend some time in deciding whom we could get before the committee.

Mr. TREMBLAY: I think that would be a very good start indeed.

Mr. KNOWLES: Is there any correspondence on file indicating how or why this proposal was made at this time? Has it been asked for by labour or by other countries?

The CHAIRMAN: No. That would be the Department of Labour, and it concerns their department. We would like to have a witness from the International Labour Bureau at Montreal as well.

Mr. MUTCH: Would not we be better advised to adopt the usual committee procedure rather than by beginning consideration of a specific item like this? We know this is something which was asked for about ten or twelve years ago and which has been ratified by various other countries and is in effect at the present moment. What we are faced with is the formal application of an established condition. If we are going to hear representations, such representations will either approve or they will raise certain objections. We would then be in a position to decide on the basis of these representations. But for us to sit down and just review this thing, clause by clause, would be a sheer waste of time, because most of us, I think, have no personal knowledge of any of these problems. We should first see if our own Department of Labour is satisfied with the terms as set forth.

Mr. BOUCHER: May we have a list of the names of those people who were at the Geneva Convention, where this matter was discussed? We might have some of them come before us. We have in Ottawa Mr. Mosher, who I think was very interested in it, and we have as well, the secretary of the Federation of Labour, Mr. Dowd. And if I am not mistaken, we also have Mr. Martin, now Secretary of State, who could give us some information on it. I do not know whether he can speak to this particular convention, but he might at least give us some guidance as to who could present the problem to us.

Mr. FLEMING: It would be necessary for us to come back to the delegates who participated in the international organization meeting in 1932. But I should think that the officials of the Labour Department would be well posted on this. We might want representation from the Seamen's Unions, which could be arranged through the Canadian Trade and Labour Congress and the Canadian Congress of Labour. If they could be advised to send representations here, with that point of view, I think it would be of great assistance to the committee.

Mrs. STRUM: I hope I am not departing from the general discussion, but the other day it occured to me that the conference at Quebec certainly has international implication and is of interest to this committee.

The CHAIRMAN: No doubt.

Mrs. STRUM: Since it is a temporary thing, and it is going on now, I should like to have the findings of the conference; or perhaps the Minister of Agriculture might appear while the conference is still new, and still before us, to give us an idea. It does affect the lives of thousands of workers in agriculture. It is labour, a different kind of labour. I think it would be a mistake to pass that up.

(Proceedings suspended until arrival of Hon. Mr. St. Laurent, and Mr. Wrong.)

Hon. Mr. ST. LAURENT: I come in to apologize. Mr. Wrong and I have been attending a meeting which commenced at 10.30. We hoped it would be over so that we could have the privilege of coming before you, but the meeting is still going on. They are showing great interest in the San Francisco Charter. Mr. Graydon and Mr. Coldwell hope to be down in a few minutes to join you. So may I now retire and just ask Mr. Wrong if he will answer any questions which the members of the committee wish to have him deal with.

The CHAIRMAN: Before you leave, Mr. St. Laurent, I should like to state to you that I have advised the committee that you would appear at one of our sittings.

Hon. Mr. ST. LAURENT: I shall be glad to come up to the committee at any time that they may arrange, because these are interesting things to talk about.

THE CHAIRMAN: Before we proceed I should state that we are thankful for the presence here of Mr. Wrong. The statement made by Mrs. Strum shows to members of the committee what should be our field of endeavour in starting to work. It points out the unlimited scope of our activities. That is why the members of the committee must feel that from now on, individually, they are the committee itself. We are not here to make speeches as Mr. Raymond has said. We know how hard it will be for this committee to function and we might give some concern to the order of procedure and to the subjects to be brought before us. We are working on a new thing and personally I think it would be absolutely hopeless to think, for a moment, that I could make this committee function, unless I had the wholehearted support of all the members. You must not be backward in any way. Now, to come to the real work, I have invited Mr. Wrong to speak to us. He accepted gladly, although he realized the position he would be in, since he is an official of a department, coming before a committee of the House of Commons. He asked me to give him some pointers or directives, but I said I could not do so. I said he knew much more than I did about external affairs. After Mr. Wrong has made his statement, he will be open to questioning by the members of the committee. I thank you, Mr. Wrong, for coming here this morning.

Mr. WRONG: Mr. Chairman and members of the committee: I think that the Department of External Affairs, and its officials look forward to useful collaboration with this new committee of the House of Commons. It has been borne in on me, certainly, not only for the last few months, but particularly

over the last few years, that the field of external affairs now reaches, not only into the field of international relations, but also into all phases of government and national life. I do not think we can look forward to any diminution in that scope and extent. In fact, the end of the war has brought with it the termination of the concentration of the public and the governments of the belligerent nations on the objective of obtaining victory. It has, therefore, you might say, widened the scope of, and the necessity for, agreement in new fields. It has already brought to the Department of External Affairs activities in rather new fields which have placed, I think I may say, a rather heavy load on the department, at the present time. I did not prepare any general statement to make, because the field is so large that one would not know where to begin for the information of the committee. I do not know which line of approach would suit the committee best. I do not know whether you would be interested in my giving a perhaps elementary, brief outline of the way in which the department actually operates, as a starter?

Mr. BOUCHER: It would be very helpful.

Mr. WRONG: The Department of External Affairs is still one of the smaller departments of the government. It originated in the year 1907. Previously external affairs had been a portion of the Department of the Secretary of State. The department was established in that year by an act of parliament which is still in effect, which is still unamended. It was a very small group. I think I am one of the veterans of the department now. I think only two or three people have been in external affairs longer than I have. I have been in it since 1927. When I joined the department, you could certainly get all the members of the department in this square within these tables, something you could not manage to do now, although we are still one of the smaller departments. The obvious divisions of the department are between those who are on our staff here in Ottawa and those who are our representatives abroad. The department, as a whole, operates through the departmental organization in the east block, and through the activities of now some twenty missions which we maintain in different countries, countries of the British commonwealth and foreign countries.

The number of missions has expanded very greatly since the war began. At the outset, in 1939 we had only six missions abroad. We now have approximately twenty, and we shall have to establish a few new ones because we are already in diplomatic relationship with certain countries which are represented in Ottawa by ambassadors or ministers. Due to war conditions we have not been able to establish missions in those countries.

We maintain a foreign service, which is the new title which has just been given to it. It includes permanent officials who are stationed both in the department and in the field. They are appointed as a result of examinations, except in a few special cases, of which I was one, incidentally. When I first joined there was no procedure for entrance into the department; that is, no procedure for entrance as a result of competitive examination. Now our service must number —it is changing almost every day, because we are taking in a number of young men coming out of the armed forces—it must number 70 to 75. As to what I would call officers of the department, we have a number of distinguished Canadians who are serving as the heads of Canadian missions abroad in a number of capitals. Some of our heads of missions come from the permanent public service, and some come from outside the public service. I might cite as an example General Odlum in China, as Canadian ambassador there, and we have Mr. Justice Davis in Australia as Canadian High Commissioner. These people were appointed from outside the service, although Mr. Justice Davis had previously served as deputy minister of national war services in Ottawa. Then, we have Mr. Pearson and Mr. Wilgress, who are permanent public servants.

The problems of administration, even for a department so small in size, are pretty complicated because you have to consider the conditions of living and separate establishments in many different countries. We have to have probably a higher proportion of senior officers than most of the other departments of government. In mentioning senior officers I am not making any distinction between the permanent members of our service like Mr. Pearson, and those who have been appointed from outside the service like General Odlum. People are required who can speak with authority and with tact and distinction, to head our missions abroad, as well as for the normal hierarchy of our departmental staff in Ottawa, who direct the operations of the missions abroad and who handle the questions of external affairs in Ottawa itself.

It is necessary that the Department of External Affairs should work in very closely with a number of other departments of government, perhaps, in particular, with the Department of Trade and Commerce and with the Department of Finance, and with the Defence Departments in present conditions. I can say that in the course of two or three months, matters relating to every department in Ottawa cross my desk in the Department of External Affairs. We operate through a system of interdepartmental liaison, some unofficial, and not formalized, and some through standing official committees. I do not know if I can go much further than that. Perhaps it would be easier if members should ask me questions on specific points.

The CHAIRMAN: I think that would be easier.

Mr. BOUCHER: Mr. Wrong, will you first explain to the committee about the various status of foreign representatives such as ambassadors, ministers, high commissioners and so on, and the countries that are included in our representation?

Mr. WRONG: Well, I am not sure that I can give from memory a complete list of the countries. On your first point there is no practical distinction between the status of an ambassador and that of a minister. We originally started our representatives abroad with the rank of minister but during the war, in 1943, I think, the minister in Washington was raised to the rank of ambassador. That yas done through the mutual desire of President Roosevelt and the Prime Minister. The functions are indistinguishable now. I think I can say that the rank of minister is in course of disappearance. It seemed absurb for the United States government to exchange ambassadors with all the Latin American republics, but to have Canada represented by a minister, whereas San Salvador and the Dominican Republic were represented by ambassadors. In most countries there is no real difference in status between the two ranks. We treat ambassadors and ministers in exactly the same way in Ottawa, except on the rare occasions when the diplomatic corps forms up in order of precedence, when the ambassadors come before the ministers. I think, in time, they will all be called ambassadors.

We have ambassadors in five Latin American countries: Brazil, Argentina, Chile, Mexico and Peru. We have a minister in Cuba. In Europe we have ambassadors in Paris and Moscow and Brussels, and we have a minister in The Hague. In Asia we have an ambassador in China. I think that is the complete list of ambassadors.

Mr. KNOWLES: What about Washington?

Mr. WRONG: Yes, I forgot the most important of them. At Washington we have an ambassador, of course. I was thinking only of Latin America. Now, turn to the other type, the high commissioners. That is a rather cumbrous title, but it is one now sanctioned by long use. We have had a High Commissioner in London now since the eighteen-eighties, sixty years about. We treat, in practice, high commissioners appointed between countries of the British commonwealth in much the same, or in exactly the same way as we treat the heads

of diplomatic missions. We make no distinction except with effect to their formal place in order of precedence. Under international law an ambassador is appointed by the head of a state with credentials to the head of the state. Of course in Australia and in Canada, His Majesty the King does not accredit a Canadian High Commissioner to Australia, to himself as the King of Australia. In practice it makes very little difference. Since the war began, seeing the need for greater and more direct means of communication with other commonwealth governments, we appointed high commissioners to Australia, New Zealand, South Africa, Ireland, and later on to Newfoundland where we had many special problems to settle in consultation with the Newfoundland government which arose from our partial responsibility for the defence of Newfoundland during the war. There are six high commissioners in the British Commonwealth Countries.

In addition, we have started consular representation. We have a Consul General in New York. Also, for war purposes, which I imagine will not be continued, we have a consular representative in Greenland, because Greenland was the intervening territory between the northern part of Canada and the European war. After the occupation of Denmark, the status of Greenland was of very considerable concern to us and in addition to that there was the fact that Greenland was the sole source of natural cryolite, which was an essential ingredient in the manufacture of aluminum.

Mr. COLDWELL: Is there any difference in the channel of communication with the British government where we have a high commissioner, and where we have an ambassador? What part does the Dominions Office play in the commonwealth establishment?

Mr. WRONG: Yes there is quite a distinction, not only as between Canada and the British government, but as between all the commonwealth governments. The commonwealth governments use direct communication from government to government in the conduct of business. The arrangement is that the high commissioners receive a copy of communications which are directly exchanged. We do not necessarily answer a telegram, let us say, addressed to us by the Dominions Office by a telegram addressed to the Dominions Office. Quite frequently we answer through the High Commissioner in London. But we receive a very large volume of communications from the Dominions Office. Other governments would pass their communications through their own representatives in Ottawa or through our representative in the capital concerned. There may also be some top level communications between the heads of governments, but that is a rare occurrence.

The CHAIRMAN: I presume the committee wants this procedure to be put in Hansard?

Mr. COLDWELL: I think that is all right.

Mr. BOUCHER: Unless we say something we should not. Mr. Wrong could be the judge of that.

Mr. KNOWLES: On the subject of asking general questions, I would like to ask one which may seem uninportant but which concerned me a number of times. Most of us have had occasion to go over to the Radio Bureau in the east block in order to record our version of what happens in the House of Commons for the folks back home. Yet I am always concerned, when I go down, by what appears to be rather important external affairs filing cabinets. I do not know whether they are important or not, but they seem to be rather poorly housed.

The CHAIRMAN: May be they are paid-up bills.

Mr. KNOWLES: May be they are unpaid bills. How are you fixed in the department with respect to that?

Mr. WRONG: For some time it has been the Prime Minister's intention to equip us with better quarters.

Mr. KNOWLES: But if there were to be a fire over there?

Mr. WRONG: The east block has advantages. The rooms are large and light for the most part, but the building is far from fireproof. The filing cabinets you refer to are probably the overflow from the library and contain pamphlets and periodicals put away there. We keep our archives on the floor below, the current ones. The ones that are several years old we keep in the basement in steel cabinets which are supposed to be fire proof, but which probably would not be, if the east block went up in flames.

Mr. COLDWELL: As it might.

Mr. WRONG: Yes, as it might. We try to observe precautions in the building itself, but we hope to get a modern fireproof building before long, for this reason as well as for the comfort of the employees in the building. It is desirable that the files should have some space especially designed, as well the code and cypher communication centre and the archives of files, because we have a very large mass of secret papers in the Department of External Affairs.

Mr. KNOWLES: Is your department almost completely housed in the east block?

Mr. WRONG: We have had to separate into the new post office building because of the expansion of the department during the war. I should think that about one-third of our people are now in the new post office building. We had to move some last week.

Mr. COLDWELL: If there is direct communication between our government and the British Government, does the Dominions Office play a very important function nowadays in the scheme of things?

Mr. WRONG: I think, rather surprisingly, the role of the Dominions Office has increased in importance.

Mr. COLDWELL: Has it?

Mr. WRONG: Yes. It plays an effective part as a sort of liaison, in the British governmental machine, as well as inside the commonwealth.

The discussion took place at this point off the record.

Mr. BOUCHER: Mr. Wrong, I should personally like it to have a rough description of the set-up of the Department of External Affairs in Ottawa, I think it would be interesting to the committee.

Mr. WRONG: Well, I think I can safely say that it is not a very fixed thing. We reallocate our functions and change around our divisions on the average perhaps of once every six months to correspond with the work in hand, which changes in character all the time. At the present, the department is divided as follows: to start at the top, there is Mr. Robertson, Under Secretary, while I am the Associate Under Secretary. I have the special responsibility of supervising the political divisions of the department while Mr. Robertson, in addition to his legal responsibilites as deputy minister, supervises the other divisions of the department directly. Then the two next senior members of the staff are Mr. Read, Legal Adviser, and Mr. Beaudry, Assistant Under Secretary. There are three divisions dealing with political questions at the present time.

Mr. BOUCHER: When you speak of political questions, you mean mostly internal questions?

Mr. WRONG: International political questions entirely. The first of the three divisions deals with questions of international organization and general matters affecting the peace settlement. The other two are geographical. They deal with political affairs in certain areas. One takes in Europe and the commonwealth. It is a large assignment. The other, the American continents and the far east, on the political side. Then we have a legal division which is again extremely active at the present time and rather hard pressed. It looks

after the functions you would expect a legal division to do, including the drafting of international instruments and that sort of thing. It also contains a separate section which is concerned with looking after and furthering the interests of Canadian civilians left in enemy territory originally, and it has now taken on more problems such as repatriation and consular work and that kind of thing. Then there is an economic division which has to work very closely with the other divisions of course. It handles the current economic business passing through the department and is responsible for conducting a good deal of liaison business with the other departments at Ottawa. Then there is the diplomatic division which deals with the diplomatic corps in Ottawa and its problems, and has general responsibility for certain other questions such as passports and questions of immigration, with respect to our policies towards individual correspondence, and a number of detailed matters of that nature. We have recently established an information division to look after the international aspects of what is known by the somewhat difficult name of cultural co-operation, and to work very closely with the Wartime Information Board, which is now the Canadian Information Service.

Mr. FRASER: In picking the ambassadors for these different countries, I suppose you picked an ambassador for Brazil who could speak Portuguese?

Mr. WRONG: Not necessarily.

Mr. FRASER: How about his staff?

Mr. WRONG: We always try to ensure that there is at least one Portugese speaking member on the staff and we encourage them to learn the local language where necessary. We have been fairly fortunate in that respect. The ambassador in Brazil did not know any Portuguese until he was appointed. Our ambassador in Moscow speaks Russian and is rather an exception amongst the diplomatic corps there. If you had to limit your choice to those who could speak a certain language, you might find it very difficult, in the case for instance where a person was required to speak Yugoslav or modern Greek. You might find it very difficult to find such a person.

Mr. FRASER: But you find somebody who could help him to do it.

Mr. WRONG: We have a mission at Athens and we have with the ambassador there a gentleman as a special attache who can speak modern Greek fluently.

Mr. FRASER: Do you try to pick members of the staff for those embassies who have a knowledge of the country that they go to; I mean, habits and manners of the people, so that they can get along better with them?

Mr. WRONG: We think the best way of acquiring knowledge of conditions is to send junior members to the country in question and to let them move around from post to post in order to spread knowledge among members of the service. So we try to move the junior members of the staff every three years, on a rough average. For example, we have one junior officer who has been nearly four years in Brazil and has learnt Portuguese who now is en route to Moscow. He happened to know some Russian before he joined our service.

Mr. FRASER: I shall mention South American or Central American countries. Their habits are entirely different to ours. You would have to have men there who would understand people. I know that not only in those countries but in other countries other ambassadors have on their staffs men who are not suitable for their positions so I wondered if Canada was keeping that in mind?

Mr. WRONG: We try to bear that in mind and to instill into our representatives abroad that it is their duty to acquire a practical knowledge of the habits and life of the people where they are stationed.

Mr. FLEMING: I would like to know, Mr. Chairman, the size of the establishment of this department both in Ottawa and the various capitals abroad. I think it would be of interest to us to have some appreciation of the magnitude of the department in relation to the work with which it is charged.

Mr. WRONG: I can't give you any exact figure offhand, but I think the total number of people on our payroll now is about 500.

Mr. BOUCHER: At home and abroad?

Mr. WRONG: At home and abroad.

Mr. FLEMING: Could that information be made available?

Mr. WRONG: I think we could probably get it out. It will be prepared for the estimates in any event.

Mr. BOUCHER: One other question as to the differentiation of the functions of the Secretary of State and the Department of External Affairs in matters relating to extra departmental work such as the custody of our citizens abroad and passports and so forth. Can you give us any line of demarcation as between the two departments?

Mr. WRONG: I do not think there is any practical difficulty there, because it is the responsibility of the Secretary of State to rule on questions of nationality. But it is usually the responsibility of our department, certainly abroad, to apply those rules to the individual. Those are problems which have caused us a great volume of work, particularly in recent years or months on the European continent because there are a great number of people who have become naturalized in Canada but who returned before the war to their own countries of origin, some allied countries and some enemy countries, and who have been there for a good many years. You now have to decide whether this man is a Canadian citizen or a Canadian national. I have to use both terms, until the new bill now before the House becomes law.

Mr. BOUCHER: I have great difficulty in ascertaining the demarcation of functions between the two departments.

Mr. WRONG: The Department of the Secretary of State determines questions of nationality, but we are executors of its decisions as it were, when such decisions require execution abroad.

Mr. COLDWELL: I wanted to follow up the question of what is the relationship of a consul general and a consul to the department, and to the ambassador, where we have them in the United States?

Mr. WRONG: I can only offer you a rather offhand, and therefore rather inexact definition. An ambassador is, by international practice responsible, in general, for the activities conducted by any official of his government in the country in which he is accredited. That is, if any government official were to commit some serious breach of duty, the matter would be taken up with the ambassador, no matter what the definite relationship might be between them. That is international practice. On the other hand the relationship between an ambassador and a consular officer is different. They are both responsible to the Ottawa office here. The ambassador could request the consul to take action, but the consul general for example in New York does not communicate with us through the Embassy. He communicates with us direct. Before very long we shall probably have to establish half a dozen other consular offices in the United States whereupon the ambassador will have to see that their lines of demarcation are clearly defined and he will have to ensure that proper co-ordination is achieved, subject of course to any direction that he may get from Ottawa.

Mr. COLDWELL: The consul will report to the consul general or to the ambassador?

Mr. WRONG: He can call on them for reports on anything. It is the consul's duty to report on the general political field, reporting information, and reporting on matters which may require inter-governmental action. The consul does not deal directly with a foreign government. He may deal with local agencies in the country concerned, but not with the central government.

Mr. COLDWELL: Would that be the situation in Washington for example?

Mr. WRONG: No, except through the Embassy. He would have to ask the ambassador to do that for him.

Mr. MUTCH: He deals at consular level?

Mr. WRONG: Yes, and he has an area within which he is responsible to exercise consular functions.

Mr. MUTCH: I wonder if you would indicate if there has been any consideration given, perhaps, to this matter of policy? If you wish, you may decline to answer the question. There has been a feeling that our trade and our foreign relations bureau are very much tied up so far as our general international picture is concerned. We are sending out of this country two types of missionaries, if you like, one political and one economic or financial. To-day, as every one knows, the domestic field or international field is nearing the economic field and the two are gradually merging. I know there may be departmental difficulties in having any direct arrangement with respect to these two group, but it has occurred to some of us who are strictly laymen in the matter that there is considerable over-lapping with respect to these two services. So I was wondering if consideration had been given as to how far the two could be correlated in the interest of efficiency and economy?

Mr. WRONG: Mr. Chairman, I think I can answer that by saying that it is a subject which has been dealt with through long consultations between the two departments. During the war the normal functions of the trade commissioners were almost necessarily suspended. Their historic function has been the promotion of Canadian export trade to private importers in other countries. They have had little dealings with governments. These functions have only recently revived and attained a high level of importance. We have worked out and are applying a close system of co-ordination in the field. Trade commissioners in countries where we have either diplomatic missions or high commissioner offices in almost all cases,—except where they are stationed at points that are not capitals, that would be an exception—now are attached to the mission. For example, the senior trade commissioner in the United States is the commercial counselor of the Canadian Embassy in Washington. In Paris the same pattern applies, and where possible it is that way all around. Trade commissioner ceases to be their official title, and they become commercial counselors or commercial secretaries of the mission. That, I think, you will find in all capitals where we have diplomatic missions, and we are doing that with the high commissioner's office. The senior government trade commissioner has always been stationed at Canada House. That has been done for many years, and he is a member of the staff although he has the right to report to, and to take instructions from his own department, directly. There has not been much come to my attention in the way of friction in that field in recent years.

Mr. MUTCH: I did not hear of any friction in that field. It was purely a matter of merging of those two movements.

Mr. WRONG: I think that, in all probability, the relationship will go forward. Certainly, hardly a day passes when I do not discuss something of that nature with the Deputy Minister of Trade and Commerce.

Mr. COLDWELL: I was in Los Angeles during the summer and I found a trade commissioner there. I found a desire that the trade commissioner be raised to the status of consul, or that a consul should be placed there for the

advantage of the large number of Canadians who live there. I had a letter from Los Angeles within the week stating that the Canadian prisoners of war arriving in Los Angeles received no recognition from local Canadian authorities, but from the British consul, and that these Canadians thought themselves overlooked because there was no one there to do the job which they expected the Canadians to do.

Mr. WRONG: One reason for that is that we never know where these people were coming in from the Pacific. We were told that San Francisco was to be the clearing port for prisoners and internees and we have a representative at San Francisco who is still there. But we have found, quite often, that the ships actually arrived before we in Canada knew there were any Canadians on board. It was a matter where we could not get advance information.

Mr. COLDWELL: My friends in Los Angeles were very perturbed because they could not welcome their boys back.

Mr. FRASER: Have you got some small countries where there is only a trade commissioner?

Mr. WRONG: Particularly at the present time in the colonial territories there are only trade commissioners.

Mr. FRASER: But they act as your agents also?

Mr. WRONG: Yes, to some degree. But we are primarily concerned with matters involving intergovernmental action and we occasionally use trade commissioners for that purpose. But we do not issue very frequently instructions to them of that sort.

Mr. FRASER: You have no foreign countries where the trade commissioner acts?

Mr. WRONG: I wouldn't like to answer offhand. There may be still some countries where there is a trade commissioner, but no diplomatic representative.

Mr. FRASER: I thought of a couple of places.

Mr. FLEMING: In those countries where we have not yet accredited ambassadors or ministers, our diplomatic relations are still handled through British representatives?

Mr. WRONG: Yes, except in the case I referred to earlier where there are diplomatic representatives of those countries in Ottawa. In such cases we usually deal with the government through them.

Mr. FLEMING: The Dominions Office does not come into that picture at all?

Mr. WRONG: We handle, quite frequently, matters of concern to us by sending a direct request from Ottawa to the British representative concerned. It would depend on the nature of the subject. Sometimes we would instruct the High Commissioner in London to take up with the foreign office the request. Sometimes it would come through the High Commisioner's office, and sometimes direct from here. It depends on various matters which channel we would use. Every week we send some telegrams to a British representative in a country where we have no Canadian representative.

Mr. FLEMING: In a situation where Canada has no Canadian representative and we wished to sever diplomatic relations, what would happen?

Mr. WRONG: Our relations are really maintained by His Majesty the King, through His Majesty's United Kingdom representative on the spot. When you sever your diplomatic relations, the formal procedure would be that the king, being head of the state, would sever contact with the head of the other state. The king would act naturally through whatever representative he has there. If the king has three or four representatives, he would have to act

through them all, if the relations of all the commonwealth countries concerned were to be broken at the same time. I do not think there would be any legal bar to partial severance with foreign countries.

Mr. COLDWELL: What about Ireland? Does it conduct its business through the British foreign office? You will recall that they retained the diplomatic relationship with the countries with which we were at war?

Mr. WRONG: I think, in point of fact, that the Irish retained their diplomatic missions until the defeat of the enemies. Their ministers were in Rome and in Germany.

Mr. COLDWELL: In the event of Canada's breaking off diplomatic relationship and Great Britain not, and were represented by a British ambassador at that point, that would be a rather embarrassing situation for Great Britain, for Canada, and for the ambassador himself?

Mr. WRONG: I think it would result more likely in practice in the embarrassment of our own diplomats than of the government concerned.

Mr. COLDWELL: Presumably, because we have appointed the ambassador. We find it advantageous to have our own representative. That would be human.

Mr. WRONG: Undoubtedly.

Mr. FRASER: In places where we have not got ambassadors or consuls, and in the event of the new naturalization bill going through, will that affect the British representative?

Mr. WRONG: Yes. They would have to be notified of its terms, so that they could apply such alterations to previous practice as might be necessary.

Mr. COLDWELL: On the other hand he still represents Canadians as British subjects under that bill. The bill does not disturb that status.

Mr. FRASER: Is Mr. Wrong to say anything about this motion today?

The CHAIRMAN: We were discussing a resolution brought in by the International Labour Bureau. I do not think it would come under your department, Mr. Wrong.

Mr. WRONG: No. I could, perhaps, answer general questions on the procedure of the International Labour organization, but I cannot deal with the substance of particular conventions covered by the motions introduced by the Minister of Labour.

Mr. FRASER: I wondered if this came before your department in 1932, and if so, would you have any evidence on it, or anything on it that would help this committee?

Mr. WRONG: I think that information should properly come from the Department of Labour. It is true that in arranging for representation at the international labour conferences the Departments of Labour and External Affairs have collaborated closely and both departments have been represented. But the problems are related to the Department of Labour rather than to ours.

Mr. COLDWELL: This industrial committee should take care of this.

Mr. WRONG: Please do not involve me in that.

Mr. COLDWELL: I could not resist the comment.

Mr. FRASER: I just wanted to ask that question.

The CHAIRMAN: I would just like to ask a question. In the matter of publicity of your department, this committee feels that Canadian people generally are not greatly informed in the matter of external affairs. Is there any bulletin or statement issued by your department on its activities, ramifications and so on?

Mr. WRONG: That question touches me rather closely because, for the last three and one half years, I have conducted a weekly press conference in which I have answered, as far as I can, any inquiries of any member of the press gallery, that they may wish to bring up. I have been told by members of the press gallery that they have thought that their relationships with the Department of External Affairs were on a very good footing. I usually hold the conference at 11 o'clock on Thursday morning so it had to be cancelled this morning because of a conflict with this meeting and the Senate committee.

The CHAIRMAN: But you have no periodical of your own?

Mr. WRONG: No. It would be very difficult for us to issue a periodical which would be very informative. We give out the text of public documents promptly and we usually table them in the House and they are given in the press.

Mr. JAQUES: With regard to diplomatic privilege abroad, would the members of the Senate and the House of Commons benefit? Is it the usual practice for members of the House of Commons and the Senate to receive any kind of privilege when the are proceeding through another country?

Mr. WRONG: It would entirely depend upon whatever the country concerned chose to accord. There is no question of a right there, or question of a law.

Mr. JAQUES: Just to give an instance. Suppose I happened to be in London and we were journeying to Canada. Suppose the ship were to be routed for some reason through New York. Would we, of necessity, have to go through to be photographed and to be fingerprinted?

Mr. WRONG: That would be entirely a matter of United States regulations.

Mr. COLDWELL: It depends on the passport. I was a member of a parliamentary delegation to Great Britain in 1941 and I was at the San Francisco conference too. Our passports were marked and we were accorded not only every courtesy, but we were relieved of the necessity of going through the ordinary kind of thing that the ordinary immigrant has to do. On the other hand, when I passed in and out of the United States as an honourary visitor, or as any one else, I used to pass through the same immigration and customs routine as all the other people entering or leaving that country. But, when one is on official business, the situation is entirely different.

Mr. WRONG: Yes. The difference does not arise from the fact that you are a member of a legislative body. It arises from the fact of your official business.

Mr. COLDWELL: Yes, it arises through my official business.

Mr. WRONG: But it still remains with the country concerned, depending upon its discretion, as to what type of privilege or courtesy they will accord. There are certain treaties and international regulations laid down to facilitate the passage of delegates to certain bodies such as, for exemple, to San Francisco. Then there is article in the united nations charter whereby all the members agree to grant facilities to members of the delegations, but the grant was to the delegation not to the individuals.

Mr. BENIDICKSON: Does your department supervise the travelling of Canadian nationals abroad?

Mr. WRONG: Yes, in that passport office is attached to our department.

Mr. BENIDICKSON: I see from the new citizenship bill that, in one clause, it is stated that a Canadian citizen notwithstanding what is stated in previous portions of the bill, will remain a British subject.

Mr. WRONG: That raise a very profond political question about the nature of the British commonwealth relationship which I should not like to try to enter into at this stage.

I would rather not go further than that.

Mr. COLDWELL: May we adjourn now, Mr. Chairman?

The CHAIRMAN: Yes. I would in the name of the members of the commitee thank Mr. Wrong for coming here and answering all these questions.

Mr. WRONG: Thank you, Mr. Chairman.

The CHAIRMAN: Just a moment ago Mr. Fleming left the committee, but before he left he handed me this note which reads as follows: "Mr. Chairman: I am sorry I must leave now. My suggestion would be that at our next meeting the Department of Labour and Mr. Phelan of the I.L.O. (International Labour Organization) should be asked to attend, and the Trades and Labour Congress and the Canadian Congress of Labour should be invited to make representations. Signed Donald M. Fleming."

Mr. COLDWELL: Representations on the?

The CHAIRMAN: Representation on the resqlutions. We want to work on safe ground.

Mr. COLDWELL: I think what we should do first is to discuss the international phase of this matter, and then pass a resolution suggesting that the details leading up to the labour matters should be referred to the other committee and so reported to the House on a proper occasion.

Mr. BOUCHER: Do you know of any precedent along that line, Mr. Coldwell?

Mr. COLDWELL: No. I do not. We could discuss the international implications, the conventions, and so on, but as far as the subject matter is concerned, as Mr. Wrong so well put it this morning, he is not competent as an External Affairs officer to discuss this matter with us. It is really a matter for the Department of Labour. As for the people on this committee, I would not say they are not competent to discuss the matter. But it is not their function to do so because the other committee was established by the House for that purpose. In many instances the men placed on that committee were very competent indeed to go into these labour matters.

Mr. BENIDICKSON: Suppose we leave that actual decision to the next meeting and then be prepared to listen to whoever may be brought to explain that matter to us.

Mr. BOUCHER: One way to look at this is to do as Mr. Coldwell suggests and to leave the other thing in abeyance. Another way is that if we are to bring in proff to explain it to us, then I think we should have members of the Labour department sitting in with us at the time so that if matters were brought up which affected them, they would have heard the representations. That is my personal feeling.

Mr. COLDWELL: I should think that the proper man to do that would be Mr. Phelan.

Mr. BOUCHER: If we are going to hear anybody on this matter, in the position in which we stand, we should hear him with a viewpoint of putting our teeth into our referenced and finishing it. I think the Department of Labour should come in and join us.

The CHAIRMAN: Would you care to put that in the form of a resolution what was stated just now, because, once again, we must build properly.

Mr. COLDWELL: As far as international relationship goes, Mr. Phelan as the head of the Canadian labour organization is interested in the international agreements and the international aspects of it. So what the chairman suggests is perfectly sound.

Mr. BOUCHER: I think if that interferes with international aspects it would interefere labour problems as well.

Mr. BENIDICKSON: He said that the certain way to do it is to find out from the correspondence and the files just why this bill is now brought here. It is a curious thing that after thirteen years we are now to be asked to ratify it.

The CHAIRMAN: Our concern with the two resolutions is that they are brought in by the International Labour Bureau. If they were brought in by a local department here I would be the first one to say: we cannot deal with them.

Mr. KNOWLES: We have nothing before us except the motion of the House referring it to the committee.

Mr. LEGER: I think that Mr. Paul Martin would be the proper man to have before us.

The CHAIRMAN: But, Mr. Knowles, at the first meeting of the committee, we had all the members express the view that we had to have an order of reference. It is true, that our new committee may have to cover such a wide scope that I, myself, feel baffled as to what exactly we are going to put teeth on directly, in our activities from now on. We have to start from that.

Mr. KNOWLES: This is an external affairs committee and if the matter is referred to us on a motion of the Minister of Labour, I would like to know whether the desire to have this done arises out of the file of correspondence in the Labour department or to the file of correspondence in External Affairs department. I think we should start from the beginning.

The CHAIRMAN: Will somebody move on the suggestion I stated, that at our next meeting the Department of Labour and Mr. Phelan of the International Labour Office, Montreal, should be asked to attend, as well as the Canadian Congress of Labour and the Trades and Labour Congress, to make representations?

Mr. BOUCHER: Before that motion is put. We adopt that policy we are bringing here a body of men who are going to deal with the labour aspects of this. There are enough international aspects for us to take care of. We have this committee, and at our first meeting we embark on a matter which would probably be 95 per cent labour rather than 95 per cent external affairs. So I think before we have any witnesses here, we should see that the labour element of this bill is properly discussed by some committee of the House. Possibly we might decide that the other committee would be the better committee to discuss it. Or we might decide to have joint meetings of both committees, and then we would have their opinion and suggestions.

Mr. COLDWELL: Suppose you refrain from inviting local labour representatives at the moment and invite representatives of the Department of Labour and Mr. Phelan of the I.L.O. Then we will get a picture as to why this is before any committee of the House of Commons at the present time. Why I should just invite those two this time would be so that we could see what the implications are, and then we can proceed from there.

The CHAIRMAN: I think that is the solution to this question now. Then the motion should read: "That at our next meeting the Department of Labour and Mr. Phelan of the I.L.O., Montreal, should be asked to attend. Will anyone move that?

Mr. COLDWELL: I move it.

The CHAIRMAN: All those in favour? Carried! I want to remind the steering committee to meet at my office No. 267 at 10.30. Mr. Knowles is on that committee too.

Mr. KNOWLES: When?

The CHAIRMAN: To-morrow. It will likely be a short meeting, but there is likely to be quite a bit of work for the steering committee to do. The first question will be when our next meeting is to be called. So, to-morrow the steering committee will come to my office.

The committee adjourned at 1.05 p.m. to meet again at the call of the chair.

SESSION 1945

HOUSE OF COMMONS

STANDING COMMITTEE

ON

EXTERNAL AFFAIRS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 2

TUESDAY, OCTOBER 30, 1945

Statement of Honourable Mr. H. Mitchell, Minister of Labour

WITNESSES:

Mr. Eric Stangroom, Special Assistant to the Deputy Minister, and Miss Margaret Mackintosh, Chief of the Legislation Branch, Department of Labour.

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1945

MINUTES OF PROCEEDINGS

TUESDAY, October 30, 1945. Room 268.

The Standing Committee on External Affairs met this day at 11.30 o'clock. Mr. Bradette, the Chairman, presided.

Members present: Mrs. Strum, Messrs. Blanchette, Boucher, Bradette, Coldwell, Fleming, Fraser, Graydon, Isnor, Jaques, Knowles, Leger, Low, MacInnis, Marquis, McIlraith, Picard, Sinclair (*Ontario*) and Winkler.—(19).

Honourable Mr. H. Mitchell, the Minister of Labour was present.

As agreed at the last meeting, Mr. Eric Stangroom and Miss Margaret Mackintosh, respectively special assistant to the Deputy Minister and chief of the legislation Branch of the Department of Labour were present.

In attendance: Miss Edith Hardy, Department of Labour.

Honourable Mr. Mitchell made a brief statement on the establishment of the International Labour Organization and was questioned thereon.

Mr. Eric Stangroom was called. He made a statement of facts respecting the two conventions before the Committee. He was questioned and retired.

Miss Margaret Mackintosh was called. She made a statement concerning the procedure of ratification of conventions of the International Labour Organization. She was questioned and retired.

The Chairman thanked the Minister and the two witnesses.

Because safety measures respecting loading ships come under The Shipping Inspection Branch of the Department of Transport, and because statistics relative to wages concern the Dominion Bureau of Statistics of the Department of Trade and Commerce, it was decided to call representatives of those departments at the next meeting.

On motion of Mr. Coldwell, it was *resolved* that representatives of the Department of Transport and the Department of Trade and Commerce be called before the Committee at its next meeting.

The Chairman invited the Steering Committee to a meeting on Friday, November 2 at 10.30 o'clock in his office.

At 12.55 p.m., the Committee adjourned until Thursday, November 1, at 11.30 o'clock.

ANTONIO PLOUFFE,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS,

October 30, 1945.

The Standing Committee on External Affairs met this day at 11.30 o'clock a.m. The Chairman, Mr. Joseph A. Bradette, presided.

The CHAIRMAN: Order. The members of the committee have notice that we called the meeting again at 11.30. We had a meeting of the steering committee and we are still undecided as to the exact hour at which we should have our meetings. But we decided to hold the meeting at 11.30 today, and we will have a meeting of the steering committee again, and we will get in touch with the Committee on Veterans Affairs. That is a committee that does not want to delay its activities. We have tried to do something about the lighting but we have been so far unsuccessful. We may not be able to go very far in changing the lighting system here. This morning we have the Order of Reference and we also have the pleasure of having the Hon. Mr. Mitchell, Minister of Labour, who will address the meeting first. He has with him Mr. Eric Stangroom, and Miss Margaret Mackintosh. Now I shall leave the floor to the Hon. Mr. Mitchell.

Mr. COLDWELL: Was Mr. Phelan invited to be here?

Hon. Mr. MITCHELL: Mr. Phelan is in Paris.

Mr. MACINNIS: I understood that this was to be a meeting of the External Affairs committee. Now all we have are representatives of the Department of Labour, and, so far as I can see, no representatives of the Department of External Affairs. Either the wrong representatives are here, or this has been referred to the wrong committee.

The CHAIRMAN: That matter has been discussed and we found a measure of difficulty, first of all, when we came to the resolution. But we have had expressions of opinion that it is within the capacity of this committee to deal with these two resolutions. So, let us proceed.

Mr. FLEMING: Even if the other committee would be a more appropriate committee, the House of Commons has referred the matter to this committee.

Mr. COLDWELL: We can take it back again and say that we do not know very much about it. It might not be altogether true.

Mr. FLEMING: Maybe it is well for the measure that it was referred to the best committee.

The CHAIRMAN: I had an interview with the chairman of the Labour Relations committee. He was not speaking officially, because his committee had not met yet, but he thought it would be in order for us to start discussion, in any event, and, if necesary, then to have a meeting together. So, if that is satisfactory to the members of the committee, we will proceed now and ask the honourable the Minister of Labour to address the committee.

Hon. Mr. MITCHELL: Might I touch on the first point raised by my good friend Mr. MacInnis? As he is no doubt well aware, this is an international question. When he and I were members of the House of Commons in 1933 or 1934, we passed that social legislation, introduced at that time, and predicated upon the treaty making powers of the federal government under the British North America Act which, in itself, of course, is the basis of our international relations, the relations between Canada and the International Labour Office,

which at that time was, of course, a part of the League of Nations. But as I look over this committee this morning, I do not know of any better one to deal with the questions that we have before us. Mr. MacInnis is schooled in the problems of the longshoremen, and as to the other questions, we have members of the Labour department here. My understanding is that this committee held a preparatory meeting and that the chairman felt that if the Labour department officials were heard, that that was possibly about all you could do this morning. These two conventions affect three departments, the Labour department, the Department of Transport, and the Department of Trade and Commerce, under whose jurisdictional compilation all the statistics of the kind and character dealt with in one of these conventions comes. My statement is going to be very brief this morning. The members of this committee are as well informed as I am about the origin and establishment of the International Labour Office. It was a part, or one of the organizations developed out of the Treaty of Versailles, and I think it may be truthfully said that it has made a great contribution, and has been of great benefit to the welfare of the men and women of the respective countries which are affiliated with the organization—a greater contribution possibly than that of any other institution set up or arising out of that treaty after the last great war. At the moment it is meeting in the city of Paris, and Canada is represented by Mr. Gray Turgeon from Vancouver, as the government representative, and Mr. Phelan as his adviser, representing Mr. McNamara, who is a member of the Governing Body. Then there are also representatives from the Trades and Labour Congress of Canada, who have a member on the Governing Body, and the Canadian Congress of Labour.

Mr. COLDWELL: In an advisory capacity?

Hon. Mr. MITCHELL: Yes, in an advisory capacity; that is, advisory to the Labour delegate, and the Catholic Syndicates in the province of Quebec.

Mr. COLDWELL: They would also be in an advisory capacity?

Hon. Mr. MITCHELL: Yes, they are also in an advisory capacity. Then, of course, there are the railroad running trades, or railroad organizations. They felt, in view of the fact that the changes did not affect their organization, and in the light of the pressure of business in front of those organizations in Canada at the present time, that they should not send a delegate. Then the Canadian Manufacturers Association and the Canadian Construction Association are also represented there, in addition to three provincial governments, who have sent their ministers of Labour as advisors to the government delegates, and those are: Ontario, Quebec and Saskatchewan. That practice has always been traditional since the establishment of the International Labour Office, in view of the federal set-up of the Canadian government institution. It has always been traditional, irrespective of the government in power in the Dominion and in the provinces; and an invitation has always been extended to the representative ministers of Labour or those ministers who are jurisdictional over labour matters, to go as representatives or advisors to the government delegates.

Mr. COLDWELL: Who is the employers' delegate?

Hon. Mr. MITCHELL: Mr. Harry Taylor, who I think is the chief of personnel of the Canadian Carbide Company. He is a member of the National War Labour Relations Board and was, at one time, a member of the original War Labour Board. I should add that, of course, as to the provincial government delegates and the ministers of Labour, their expenses are paid by the governments themselves.

Mr. COLDWELL: Who is the labour representative?

Hon. Mr. MITCHELL: The labour representative is Mr. Birt Showler, president of the Vancouver and New Westminster Trades and Labour Council, the three advisers to whom are Mr. Arthur D'Aoust, vice-president of the Inter-

national Union of Papermakers, and Mr. Norman Dowd, who is the secretary of the Canadian Congress of Labour, and Mr. Alfred Charpentier, who is president of the National Catholic Syndicates in Quebec. I do not think I need go into the details of the background or ratification of these conventions because I think much more can be done through questions. One could speak for a long time about the background of this organization and about the development and the ratification of conventions of respective countries.

Mr. COLDWELL: What is the significance of the term "convention"?

Hon. Mr. MITCHELL: Well, as to convention, first of all, the word used is "recommendation". The recommendation is worked out by the nations affiliated, the representative nations affiliated with the International Labour Office. That becomes the recommendation. It is then forwarded to the members of the I.L.O., such as the recommendations that we have here this morning, these two recommendations. Then, when a certain percentage of those affiliated have ratified those recommendations, or that recommendation, it becomes a convention. This, at the moment, is a convention. I should point out that these were approved in error. There was some slip in the attachments. That is why they were not in order, and, of course, why they were introduced again by Mr. Rogers in 1939; I think it was, on March 30. But the House of Commons adjourned for the general election and the matter was not proceeded with. Under the pressure of war, I suppose a good many of these technical things were left in the discard. So I thought that now that the war is over we should begin to move forward again with the ratification of these conventions. Of course, before you can ratify a convention, the machinery must be in existence in the country that complies with the terms of the convention. The Canada Shipping Act of 1934, I think it was 1934, indicates that fact.

Mr. MACINNIS: The Canada Shipping Act was passed in 1934.

Hon. Mr. MITCHELL: But it was not applied until some later date. I understand that the terms of the Act have been complied with in Canada, so as to make possible the ratification of this convention. The other convention, with respect to the compilation of statisics on hours of labour, wages, and other related matters has since been complied with, through the Bureau of Statistics. That is as simple as I can put it, and that is about all I can say.

Mr. KNOWLES: When was the convention first passed?

Hon. Mr. MITCHELL: The convention was first passed in 1935.

Mr. KNOWLES: Was it passed unanimously?

Hon. Mr. MITCHELL: Yes, they usually are.

Mr. GRAYDON: What was the slip in the attachment?

Hon. Mr. MITCHELL: Through a clerical error the unrevised convention was attached to the resolution of the House.

Mr. KNOWLES: Have there been any developments in the meantime that would require a minute examination of this?

Hon. Mr. MITCHELL: No to my understanding no. Not to my knowledge.

Mr. KNOWLES: The convention has not been amended since that time?

Hon. Mr. MITCHELL: Not to my knowledge, no.

Mr. FLEMING: By how many countries have these two conventions been ratified?

The CHAIRMAN: In what way do you think our committee will help in dealing with this legislation?

Hon. Mr. MITCHELL: I would say that anything that has, for its purpose, the raising of labour standards of the people engaged in an industry would be to the advantage of this country and to the countries generally. My own view

is that the I.L.O. has probably done more for the nations where there are lower standards of living than it has done for nations like our own where legislative machinery is in a much more advanced condition. The general conception of all satisfactory labour legislation and social conventions is to raise the status of the workers in the whole world. You cannot have a poor neighbour and be rich yourself. That is the underlying principle behind it.

Mr. BOUCHER: All the regulations, I take it, in this convention, have been pretty well complied with in Canada, in practice?

Hon. Mr. MITCHELL: Absolutely!

Mr. BOUCHER: You do not suggest that we add or subtract from them?

Hon. Mr. MITCHELL: You cannot do that. You have to take them as is. That is why I thought it would just go through the House of Commons without any reference to a committee.

Mr. MACINNIS: We only have to approve the recommendation?

The CHAIRMAN: Mr. Mitchell, the role of this committee is to approve them. Ours is, in effect, a standing committee, and, of course, as a committee we take ourselves fairly seriously. Is it not possible, during the discussion that will follow from this resolution, that we may evolve resolutions arising out of the committee, to be considered in the future, if we can do anything with the present resolution. That is the way I feel the committee should be used.

Hon. Mr. MITCHELL: As to Mr. Fleming's questions, on the first, No. 32, convention No. 32 concerning the protection against accidents of workers, employed in loading or unloading ships, Chile, China, the United Kingdom, Italy, Mexico, New Zealand, Spain, Sweden, and Uruguay, that is, nine. On the other convention, No. 63, concerning statistics of wages and hours of work in the principal mining and manufacturing industries, including building and construction, and in agriculture, Australia, Denmark, Egypt, Mexico, The Netherlands, New Zealand, Norway, Spain, Switzerland, and the Union of South Africa.

Mr. FLEMING: So, even our ratification wont bring this into effect?

Hon. Mr. MITCHELL: Except that it adds to the power of world-wide influence. The more ratifications you get, the better.

Mr. FLEMING: I mean, immediately?

Hon. Mr. MITCHELL: Except that some one may stand up in the House of Commons or in some other deliberating assembly and say: Canada has done this. I know I often say that myself when I plead a case. It is the natural thing to do.

Mr. MACINNIS: On the point that, I think, Mr. Boucher had in mind: these draft conventions are conventions laid down in minimum?

Hon. Mr. MITCHELL: Minimum, absolutely.

Mr. MACINNIS: And we are not compelled to stick to the minimum. We can go beyond the minimum if we so wish?

Hon. Mr. MITCHELL: Absolutely. It is a minimum.

Mr. COLDWELL: There are surprisingly few ratifications.

Hon. Mr. MITCHELL: Well, yes. I think it was Mr. Bracken who raised the question the other day. There are difficulties in connection with a state like our own, where you have federal jurisdiction and provincial jurisdictions. That situation exists more particularly in the United States, Canada, Australia and Switzerland, I would say, where it is so difficult, and where we contemplate the difficulty of the jurisdictional complications. Might I say this: that I was only this morning reading "Forty Years of Life and Labour" by Samuel Gompers, who had a great deal to do with the establishment of this organization. He pointed out the difficulty of ratification of conventions where you had federal

state and where jurisdiction was divided between a federal government, and, of course, in the United States, the state governments.

Mr. COLDWELL: Our powers of ratification are constitutional.

Hon. Mr. MITCHELL: I might say this; that consideration is being given at the moment by the I.L.O., and a study is being made of that difficulty, of the ratification of conventions by a state such as our own where there is a federal jurisdiction and a provincial jurisdiction.

Mr. MACINNIS: As far as Canada is concerned, our Constitution is not a bar to the ratification of these conventions?

Hon. Mr. MITCHELL: Absolutely not. It is strictly within our jurisdiction. You and I remember quite well when Mr. Bennett introduced his social legislation in 1934 or 1935.

Mr. COLDWELL: It was in 1935.

Hon. Mr. MITCHELL: Social legislation was introduced by Mr. Bennett in 1935, the legal basis of which was the treaty making powers of the dominion government. The ratification of certain conventions of the I.L.O., of course, was challenged in the courts, and their terms were declared ultra vires by The Privy Council.

Mr. BOUCHER: You say there is no question of the provinces interfering with the original jurisdiction, so it need not be ratified by the provinces? ?

Mr. FLEMING: There is one matter which appears in all these conventions. In the first Convention, in Article 19, Article 21, and Article 22, we have reference to communications to the League of Nations through the Secretary-General. Now, in the second convention before us, in article 25, we have a similar provision: formal ratification of this convention shall be communicated to the Secretary-General of the League of Nations for registration. We know that the League of Nations is still in existence, but it may be on its way out?

Hon. Mr. MITCHELL: I think that is a safe assumption.

Mr. FLEMING: This raises the question of the relationship of the I.L.O. to the whole structure of the Economic and Social Council of the United Nations and the provision it makes for co-operating with that body in associated fields. I would like to ask the minister: I take it that there is nothing to prevent the two conventions being carried out according to their terms; that is, by communication to the Secretary-General of the League of Nations? There is nothing yet affecting the status of the League of Nations for this particular purpose?

Hon. Mr. MITCHELL: Technically the League of Nations is still in existence; but that aspect is being studied. We have got to have some organization to deal with that particular question, the broad question of labour and social problems. I think that the I.L.O. is the organization capable of doing that because it has tradition and background and it has the technicians and all the machinery necessary, I would say in a big and broad way, so far as the democratic nations at least are concerned, and it has the faith of the working people and the employers, and, might I say, of the governments. I hope that, in the big world organization being developed, that the I.L.O. will have a part to play in that organization for the development of social and industrial standards of the working people.

Mr. COLDWELL: At San Francisco, many of the delegates on the social and economic council or committee expressed the hope and desire to name the I.L.O.

Hon. Mr. MITCHELL: As a part?

Mr. COLDWELL: As the agency under the Charter. But there was very stiff opposition to it, not by the Russians alone, but by some other countries as well. The Russians based their opposition on the fact that this was a tripartite arrangement, employers, employees and the government, whereas in

Russia there is nothing analagous to our employers. As I understand it, the I.L.O. meeting recently has been trying to meet that objection. Some of us at San Francisco even thought there was something analagous to the employer in the management of the socialistic industry in Russia, and we all hoped that the difficulty would be met by a change in the I.L.O. constitution, and that the I.L.O. would become the specialized agency under the new charter. But this has not been definitely settled, and cannot be definitely settled yet until all the arrangements have been made for setting up the council of the I.L.O. But it is hoped that the I.L.O. will be designated as one of the specialized agencies.

Mr. JAQUES: Is Russia willing to co-operate in this?

Hon. Mr. MITCHELL: She is not a member, up to the moment. I speak from memory, and if my memory is not correct, I would not like it in the record. Russia resigned from the League of Nations, and the I.L.O.

Mr. COLDWELL: But prior to that time, were the Russians represented on the I.L.O?

Hon. Mr. MITCHELL: No.

Mr. FLEMING: It was quite possible to be a member of the I.L.O. and not to be a member of the League of Nations. When Japan withdrew from the League of Nations she continued to be a member of the I.L.O., because the I.L.O. was not set up by the League of Nations. It was set up under another chapter of the Treaty of Versailles, and it worked along as part of the League.

Mr. COLDWELL: I presume that under the new United Nations charter, a nation which is a member of the organization is a member of the entire organization and not, necessarily, a member of one of the specialized agencies?

Hon. Mr. MITCHELL: Quite possibly. That condition existed under all the subsidiary organizations of the League of Nations.

Mr. FLEMING: You have that same situation in Russia not having joined the food and agricultural association.

Mr. COLDWELL: Of course none of those agencies yet are specialized agencies under the social and economic council.

Mr. GRAYDON: I think there might be a point to be raised at the social and economic council as to membership: whether they were parallel or not as between members of the charter.

Mr. COLDWELL: It is open at present.

Mr. GRAYDON: Yes.

The CHAIRMAN: The fact that this will have to be adopted as read by the committee takes it out of our capacity as a committee to bring in recommendations. If that is so, what would be our work of function in discussing it, if we cannot change it? It has already been signed. But at the same time, for future reference, we should have the right to make recommendations as a committee.

Mr. BOUCHER: I take it that the only function we have is to recommend the adoption of the principles of the I.L.O. recommendation or convention.

The CHAIRMAN: It is a very limited scope.

Mr. COLDWELL: Or, you could recommend its rejection.

Hon. Mr. MITCHELL: But the legislation exists. Now, as to what the committee could do, since I have my officials here with me this morning, I thought you could hear my officials and afterwards officials from the Trade and Commerce department and the Department of Transport. You have the right to inquire, for example, under the Canada Shipping Act, whether these minimum requirements have been taken care of, and also in connection with statistics. A committee of the House of Commons has a right to know that, before it can formally ratify the convention.

Mr. COLDWELL: That is why I thought it should go to the other committee.

Mr. BOUCHER: You suggest that the committee might go into the performance in Canada of these obligations under these conventions?

The CHAIRMAN: We have been told that the scope might be enlarged, but there is no way to have it done unless there be some other recommendations. That is what I understood Mr. MacInnis to say.

Mr. COLDWELL: What Mr. MacInnis meant was that when we adopt this, we adopt the minimum standards; but that does not deter Canada from improving on those minimum standards.

The CHAIRMAN: That is what I meant.

Mr. COLDWELL: Then it is a matter for the Industrial Relations committee.

Hon. Mr. MITCHELL: It is a matter for the government itself.

The CHAIRMAN: Take for instance the Radio committee, which is a new committee. They certainly bring in recommendations emanating from their own activities, on the floor of the House of Commons, whether it be by the government or not; it is left for the government or cabinet to decide. I am not very clear on that point. Otherwise, the conventions would be practically neutralized.

Mr. COLDWELL: My meaning was this: These are minimum standards for shipping and for certain classes of labour and we could recommend to the government some improvements in them. It seems to me that they should go before another committee, the Industrial Relations committee. All we can do, it seems to me, as an External Affairs committee, is to recommend, or to recommend that we reject, or recommend the approval of this particular treaty. That is all.

The CHAIRMAN: That is all.

Hon. Mr. MITCHELL: The ratification of these conventions previously, has been a matter of form by the House of Commons. But now we have the matter referred to this committee. You never know what is going to happen when a matter is brought up in the House of Commons.

Mr. COLDWELL: I think it was referred to this committee to keep us out of mischief.

Hon. Mr. MITCHELL: No, no. We are a new House of Commons and, in view of the time factor, I thought that any discussion might better take place before this committee than before the House of Commons, particularly if you should go ino details such as under the Canada Shipping Act, for instance. It would be far better to do that here.

Mr. BOUCHER: If someone is to go into details like that, it had better be by a committee other than the External Affairs committee.

Hon. Mr. MITCHELL: I do not think it is of great moment, myself. When I was looking over this committee this morning, I said I did not know of any better body of men to discuss the matter than this group here.

Several Hon. MEMBERS: Hear, hear!

Mr. BOUCHER: We appreciate your flattery.

Mr. COLDWELL: That was a very nice compliment coming from a Cabinet Minister, and we know how to appreciate it.

Mr. KNOWLES: It includes the lady present, too.

Mrs. STRUM: I would like to know just how far the thing we endorse here really is working out. I would like to know, if we are living up to the things we commit ourselves to in international agreement. I do not know whether we may investigate ourselves, or another committee should do it, but I would like to know whether we are actually, in practice, meeting our obligations.

Hon. Mr. MITCHELL: I have been assured that we are and I thought, therefore, that this morning you might hear from my officials on those aspects

of it, and at the next meeting from officials from the Department of Transport and the Department of Trade and Commerce on their aspects of it. I have been assured by both those departments that we have lived up to our agreements.

Mr. MacInnis: I think we should be quite clear on the purpose of these conventions. They are to raise or to improve the standard of living and of safety at work in connection with those classes or work; and in order to do that, the I.L.O. adopted minimum standards, that is, a minimum that the delegates at the convention where these were adopted would agree to. Any country which adopts the conventions will agree, or it inferentially agrees, to adopt these conventions for this particular class of work. But it does not mean that we, as members of parliament, or that working class organizations, or employers' organizations, cannot press for improvements. There is nothing to be lost by approving the conventions. We may go beyond them, whereupon we will encourage other countries to adopt these minimum standards. Anyway, there is nothing to be lost or that can be lost by adopting the conventions.

Mr. Jacques: Suppose other countries who agreed to these conventions did not live up to their obligations, is there anything we can do about it?

Hon. Mr. Mitchell: I do not know. I think a nation is the master of its own destiny. I have often heard my honourable friend quote from other nations what they have done in other countries. One nation sets the standard and the other nations follow it. I have often heard my C.C.F. friends talk of New Zealand, and others talk about some other country. In the old days, they used to talk a lot about Russia. They do not talk so much about Russia today. It is a natural thing for one nation to establish standards. You get standards set up by the British people and other people follow them. That is elementary in the development of public opinion and legislation in any nation.

Mr. Coldwell: A ship coming into a Canadian port would, perhaps, comply with these regulations?

Hon. Mr. Mitchell: Absolutely, irrespective of where she came from.

Mr. Jaques: My question was: suppose we lived up to our obligations in regard to them, but another country did not. Is there anything we can do about it?

The Chairman: I believe the minister stated that he wanted to retire fairly early. We have Mr. Stangroom with us, I believe.

Mr. Fleming: That last question, I think, should be cleared up. Those standards are in the same position as any other international agreement or treaty. If one party breaks it, we have the same right as we have with respect to any other treaty. We can sever relations with that country or we can go to war with them. There is no forum for the imposition of penalties.

Mr. Picard: It is not a treaty under which any party would lose something. As the minister said, any nation that entered into the agreement would fulfil its obligation. We would not lose anything according to that agreement if the nation failed to follow the agreement. It is not the same as the type of agreement whereby we might suffer considerably if one of the other nations failed to fulfil its obligations.

Mr. Fleming: What rights arise in the event of a breach by one nation?

Mr. Coldwell: This is for the protection of our own nationals?

Hon. Mr. Mitchell: Absolutely!

Mr. Coldwell: By providing them with certain minimum standards, in the hope that others will come up to them, or may improve on them.

Mr. McIlraith: If other nations sign, do they intend to live up to their agreement?

Mr. BOUCHER: If a ship were to come into a Canadian port and it acted in a manner that did not comply with these conventions, it could be taken that we had the privilege, if we liked, to refuse them anchorage, or to refuse them service in a Canadian port, and we could expect the same thing to be done towards us.

Hon. Mr. MITCHELL: The regulations with respect to the loading and unloading of ships have to be complied with.

Mr. Low: Could not they be applied whether you had this international convention or not? How effective is this thing? Suppose we wanted to go ahead and set up our own regulations and to see that they were properly enforced?

Hon. Mr. MITCHELL: I would say this, Mr. Low: All right, if you want to live in a vacuum. You establish certain minimum standards under this convention, and then the convention is forwarded to the respective nations with the suggestion that they be adopted. Then the nations look these conventions over and use them as a basis for their own legislation. I could tell you of many nations, if I had the time, and of the immense amount of good that the I.L.O. have done for what we sometimes like to call backward nations, where they go to the I.L.O. for guidance in the establishment of old age pensions, unemployment insurance, and many other questions of a social character. At this very moment men are on their way from Canada, representatives to a meeting to be held in Copenhagen dealing with aspects of work of seamen on merchant ships. Mr. Randles, I think will represent the Department of Transport, and Mr. Foran and Mr. Sullivan from the trades and labour congress of Canada. The I.L.O., by the establishment of this convention, is the only international organization that I know of that can pass statistics on an international basis. All governments use their agency. I know that I do, and this government does.

Mr. COLDWELL: We are a confederation in Canada. A certain province adopts a general improvement. I know that in Mr. Low's own province, Alberta, there has been an improvement in education along certain organizational lines, and they have established certain standards in that respect. Other provinces follow that standard, because we are associated together. Here we are associated together in the I.L.O., and the fact that one nation adopts a certain standard is discussed by all and should prove helpful.

Mr. Low: There is just one thing that bothers me. If this organization, the I.L.O., has no power to enforce itself in any country, where any country becomes a signatory to one of these conventions and fails to live up to it, how much better is that than to have an administration which has an enlightened labour department such as we have in Canada, make a demonstration of certain regulations, in Canada, that might be of great value to the rest of the country? You would not refuse to sit down with them and to discuss matters. You would not refuse to co-operate with them and to help them to improve their standards. How different is this convention, as a demonstration, from the one I have just suggested to you?

Hon. Mr. MITCHELL: I would say this, Mr. Low: I do not know whether you have attended many of these international conventions?

Mr. Low: No, I have not.

Hon. Mr. MITCHELL: Well, I have, and I do not think there is any substitute for human contact. We cannot live in a vacuum. The world has to keep stimulated on the question of competition and all those things that enter into it. I think one of the greatest blessings that has been effected since the dawn of history is the raising of the standard of living through the establishment of this particular organization. I can speak about the South American Republics and the Central American Republics and China and the Balkan states and the

tremendous effect which the I.L.O. has had upon raising their standards of living.

Mr. Low: But we have only nine signatories?

Hon. Mr. Mitchell: There are 68 conventions.

Mr. Low: But you have only nine nations now that have ratified these two?

Hon. Mr. Mitchell: But I am talking about the maritime nations.

Mr. Low: That it a pretty small number.

Hon. Mr. Mitchell: There is America, Great Britain, China, to a lesser degree, and Greece.

Mr. Jaques: Is the United States included?

Hon. Mr. Mitchell: The United States is the greatest maritime nation in the world today.

Mr. Jaques: But she has not ratified this?

Mr. Coldwell: She was never a part of the League of Nations.

Hon. Mr. Mitchell: Until recently, when, in a comparative sense they have been members of the I.L.O., the attitude of the American government was that they should play no part in the I.L.O.

Mr. Fraser: You mean that the I.L.O. is really an educational unit trying to bring these other countries into this way of thinking? And when new devices come out for loading, it will be passed on to the other nations?

Hon. Mr. Mitchell: I think it works universally, if I might put it that way. I think the greatest educator is to mix with the people from other nations and to talk over with them your respective problems. That's what I would do, if I had my way. I have always felt this way about the I.L.O. It is good for people to see how the other fellow lives and to see the problems with which he is confronted. It is a great education, and it is money well spent. I think to attend a session of the I.L.O. is better than a year's course in a university, having regard to the practical experience that these men get.

Mr. Low: I suggest that you have me go to one of these meetings.

Mr. Fraser: I will go along with you.

Mr. Coldwell: And these suggestions work too.

Hon. Mr. Mitchell: Yes, the suggestions work too. It is amazing. Take your own movement. You go to the organizations of the League of Nations for information. You may not agree with all the theories they put forward but I am sure that in developing your particular theory, you use the statistics put forward or set out, or made available by that particular arm of the League of Nations. People in every country of the world use the studies and suggestions that are put out by the International Labour Organization.

Mr. Jaques: I am not criticizing it, but would they do what the agreement and the statements say.

Hon. Mr. Mitchell: They would improve immediate standards.

Mr. Marquis: Could it be taken for granted that wages or rates of wages are under the jurisdiction of the provinces? If you have suggestions as to wages in the differend provinces of Canada, I think you should decide to have the same rate of wages for the same kind of work throughout Canada. It would be a good thing to have the convention ratified in order that every province may have the best standards.

Hon. Mr. Mitchell: Quite so. I agree.

Mr. Graydon: Arising out of that, I have in mind asking my honourable friend: has this convention been carefully scrutinized as to the powers of the dominion in relation to provincial powers in Canada?

Hon. Mr. MITCHELL: Just as was indicated.

Mr. GRAYDON: There is nothing in this convention that will, in any way, interfere with the jurisdiction of the provinces because, as the minister well knows, the Privy Council's decision, at the time the legislation was brought before us in 1936 or 1937, established pretty clearly the delineation between provincial and federal jurisdiction at that time. I want to be sure that the provincial jurisdiction in no way is being overridden, because if it were, it might lead to some difficulties in the courts.

Hon. Mr. MITCHELL: My information, Mr. Graydon, is that there is absolutely no confusion as to jurisdiction.

Mr. COLDWELL: Is it proposed that after the honourable Mr. Mitchell goes, and after we hear the Labour department representative, we will hear a representative from the Department of Trade and Commerce?

Hon. Mr. MITCHELL: He will be here at the next meeting.

Mrs. STRUM: I am very anxious about the terms of the agreement on page 15, clause 2, under article (1) "the term worker means any person"? I submit to Mr. Mitchell that we are violating our own commitments here when we say, as appeared in the press last week, that married women will be the first people to be dismissed. We do not discriminate against men because they are married, nor do we control married or unmarried workers. We assume that the income tax will take care of excess earnings, yet in Canada we say that a woman who, because of a legal contract happens to be associated with a man, shall lose her right to employment. That is a violation of the fundamental rights of human beings and we as employers of labour in this House of Commons are violating the very principle of the thing we say that we believe in.

Hon. Mr. MITCHELL: I know nothing, Mrs. Strum, about that.

Mrs. STRUM: It is, in actual fact, being done.

Hon. Mr. MITCHELL: I have never seen any woman in this country working as a longshoreman, although I have seen them in other countries.

Mrs. STRUM: It does not matter about longshoremen.

Hon. Mr. MITCHELL: But we are talking about this particular convention.

Mrs. STRUM: What about our commitments at the San Francisco conference? We have just finished passing a charter in which we talk about equal rights for men and women while we, as employers in the field of labour—perhaps this is not longshoremen, but it is labour, and we are talking about international agreement and principles.

Mr. MCILRAITH: What I am curious about is the question raised about women. Is there some order discriminating against them? I saw the newspaper stories.

Mrs. STRUM: I do not know about an order discriminating against them but I think, practically, they have always been the first people to be dismissed.

Mr. MCILRAITH: I was not aware that there were any orders yet.

Mrs. STRUM: But it is being done in practice.

Mr. FRASER: In practice it is being done.

Mrs. STRUM: I should say, judging from my conversation with women who work here, that it is being done.

Mr. MCILRAITH: I have not found anything concrete as yet to show it is being done.

Mrs. STRUM: Except the people who are being dismissed. It can be done without an order.

Mr. COLDWELL: As Mrs. Strum says, as signatories to the San Francisco charter we are obligated to make no distinction of sex at all.

Mr. McILRAITH: I was not aware that in fact it was being made.

The CHAIRMAN: I believe we may give the minister permission to go now.

Mr. MARQUIS: I think that women are included in this convention.

Mrs. STRUM: I hope it will apply in all kinds of employment, not only to longshoremen.

Hon. Mr. MITCHELL: I have visited countries where the women worked as bricklayers, section men, and as longshoremen.

Mr. FRASER: I have seen women working on winches on ships.

(The discussion took place at this point off the record.)

Mr. FLEMING: Apart from their representation at I.L.O., have the labour organizations of this country expressed specific views as to the adoption of these two conventions?

Hon. Mr. MITCHELL: The general position of the labour organizations of this country is in favour of the adoption of the conventions of the I.L.O. I do not know of any particular resolution on this.

Mr. MACINNIS: Then the conventions cannot adversely affect labour, and labour could not logically oppose them because there is nothing to prevent labour from advocating for still better conditions in countries where conditions may be lower than this one. Consequently it puts labour in a better position to make a claim for still better conditions.

Mr. FLEMING: I wonder if there have been any specific recommendations put before parliament?

Hon. Mr. MITCHELL: Speaking from memory I could not say.

Mr. KNOWLES: Have you discussed this matter with the Minister of Trade and Commerce and with the Department of Transport.

Hon. Mr. MITCHELL: It was discussed before. These resolutions were discussed by previous ministers. I think we have got something out of this meeting this morning. It will do some good. I mean that the members of the committee will have an understanding of what the international labour organization really means.

Mr. MACINNIS: Were you attending the committee meeting over on this side of the room?

Hon. Mr. MITCHELL: Surely. It is just as bad here as in the House of Commons.

The CHAIRMAN: We thank you, Mr. Minister, for coming here to-day.

Hon. Mr. MITCHELL: I thank you. Now I must get away because I am half an hour late already. I think it has done good to have this meeting this morning because it has given us an understanding of the ramifications of the good work done by the I.L.O. I see that the members of the committee have read something about the I.L.O., in view of the establishment of this committee and the reference to it of these two conventions for discussion. I want to thank you for the very kindly way you received me this morning. Now I have got to get along.

Mr. KNOWLES: For us it is unusual.

Hon. Mr. MITCHELL: I wouldn't say that.

The CHAIRMAN: Thank you very much, Mr. Mitchell.

Mr. MACINNIS: I wonder if we might hear from Mr. Stangroom, because he is conversant with these matters.

The CHAIRMAN: Yes. I will ask the speakers not to speak too quickly. I know something about shorthand reporting myself and sometimes it becomes quite difficult. We have a shortage of shorthand men and they have to sit in for the whole of the committee. I will now call upon Mr. Stangroom.

Mr. STANGROOM: On the subject of this convention, No. 32, I would like to give the committee some information.

International Labour Convention (No. 32) concerning the protection against accidents of workers employed in loading or unloading ships was adopted by the International Labour Conference at its 1932 session. It is a revision of a convention of 1929.

The Canada Shipping Act was revised in 1934 and was proclaimed in effect on August 1, 1936. Provision was made in it for the appointment of an inspector of ships' tackle and for the making of regulations to protect persons employed in loading or unloading ships. The act repealed the rather meagre provision that had previously been made for the protection of dockers.

On December 14, 1938, an order in council approved regulations for the protection of dockers along the lines required by the convention.

The regulations follow closely the British docks regulations of 1934. As a result, there was an inadvertent omission in the Canadian regulations of a clause requiring the regulations to be posted at the docks. The British regulations were made under the authority of the British Factories Act, which, itself, requires all regulations made under its authority to be kept posted in the workplace in such positions as to be conveniently read by the workpeople.

This omission was discovered in 1942 and brought to the attention of the Department of Transport. Accordingly, the regulations were amended by order in council of February 19, 1943 to stipulate that copies or summaries of the regulations must be posted at all docks.

The parliamentary history of the Canadian docks regulations is as follows:

In February, 1935, both houses of parliament passed a resolution purporting to approve the convention of 1932 preparatory to ratification. At that time the Canada Shipping Act, 1934, was not in effect and the necessary regulations had not been made. This order of procedure, however, (that is, approval by parliament of ratification before the enactment of legislation) was in line with the then prime minister's opinion as to the proper procedure in connection with the international labour conventions. However, through a clerical error, the unrevised convention of 1929 was attached to the resolution adopted by the house of parliament in 1935.

The Hon. Norman Rogers, Minister of Labour, took up the question of ratification again on March 30, 1939, after the regulations of December, 1938, had been approved. A notice of motion to approve the convention was drafted but the parliamentary session ended on June 3 and no action was taken.

It is important to know that while the convention had not been formally ratified by Canada, its provisions for the protection of men engaged in the loading or unloading of ships have been in effect and undoubtedly have proved of great value particularly during the war period.

The above convention, adopted at the 1938 session of the International Labour Conference, requires each country ratifying it to compile and publish regularly statistics as to wages and hours of work, and to furnish the data compiled to the International Labour office. The convention also requires the compilation of information concerning average earnings and the hours actually worked. The information relates to the principal mining and manufacturing industries, including building and construction, and to agriculture.

The convention makes certain stipulations as to the frequency of publication, concerning index numbers, and other matters.

No new legislation is necessary in Canada to give effect to this convention. The Statistics Act and the Labour Department Act authorize the Dominion Bureau of Statistics and the Department of Labour, respectively, to compile and publish statistics. The only question was as to the practice under these statutes.

The Dominion Bureau of Statistics compiles and publishes statistics concerning earnings and hours of work; statistics concerning rates of wages and also of hours of work are compiled and published by the Department of Labour. The International Labour office is furnished with data by both departments. Thus, the carrying out of the convention is a joint undertaking of the Dominion Bureau of Statistics, of the Department of Trade and Commerce and of the Department of Labour.

In a letter of February 24, 1943, signed by the late Dr. S. A. Cudmore, Dominion Statistician, the statement is made that, in his opinion, "the statistics of wages and hours of work collected by this bureau comply with the terms of convention No. 63".

I think Miss Mackintosh has followed the course of these conventions very closely. She was concerned with the drafting of most of the information available here.

The CHAIRMAN: Would Miss Mackintosh care to make a statement?

Miss MACKINTOSH: I might clear up a point brought up before the minister: that was, in connection with the procedure following ratification. While it is true, as the members have said, that Canada can regard these as minimum standards, and that any country can go beyond them, yet, with respect to these immediate standards, if the convention is ratified, we are bound. Naturally, the Treaty of Versailles, in setting up the League of Nations, of which the I.L.O. is a part, provided for countries that did not adhere to their obligations, and the procedure is set out in the constitution. For instance, in connection with the dockers' convention, if some country does not enforce those provisions after ratifying the convention, another country or the employers or workers in the country may complain to the I.L.O., and the treaty lays down the procedure that is to be followed. There is an investigation made and publicity is given to the complaint and to the country's reply to the complaint, as well as to the recommendations of the committee of inquiry. Then there is a committee which is headed by Sir Arnold McNair, Vice-Chancellor of Liverpool University, which examines into the annual reports required to be made by different countries under the constitution of the I. L. O. Canada, for instance, after ratifying these conventions, must submit a report a year from now, showing how these conventions are being enforced, and the committee inquires into the adequacy of the enforcement. For example, we have to make sure that there is an inspector of ships' tackle, and that he is enforcing the regulations. Any country coming under the conventions promises to give effect to them. But the point is whether they are satisfactorily enforced. On these points, as far as the dockers' convention is concerned, the Department of Transport would have the answer. The Minister of Labour accepts the report of the Minister of Transport that the six seamen's conventions that are already in effect are being adequately complied with and on that basis the Minister of Labour has submitted an annual report. The form of the report and the questions asked therein are laid down by the I. L. O. That report is submitted every year.

There is one point in connection with the worthwhileness—not during the interregnum, as it were, between the League of Nations and any new organization—but whether it is worth while for Canada to ratify. If for no other reason, it is not very pleasant for Canada to have the delegates who attend conferences find that Canada is away down the list along with Siam and a few other countries because she has not ratified. Another point is that the principal or fundamental purpose of the I. L. O. is to raise standards throughout the world to a decent level so that there will not be unfair competition between countries on the basis of labour standards. I think, as Canadians, we ought to know something about that, because we have had what some provinces

consider unfair competition on the basis of labour standards from other provinces, and this is about the same situation on an international scale. If you sell in the markets of the world against countries that have low labour standards, they are competing on the basis of inferior working conditions, that is disregarding in some measure the welfare of human beings.

As far as labour organizations are concerned, they are handicapped in discussing these conventions by the legislative jurisdictional position. In general, the labour organizations,—that is what the labour people call central bodies, have recommended, time and again, that conventions should be ratified by the Dominion so far as possible, and that there ought to be machinery devised for putting them into effect, when they come within the scope of the provinces. That is about all I can say, or all I can think of at the moment.

Mr. MacINNIS: With respect to the report made by the minister of Labour to the I.O.L. as to the carrying out of these conventions, is a copy of that report made available to the labour organizations or employers associations in Canada?

Miss MACKINTOSH: I am not quite sure that it is made available, but it can be made available. It is made to the I.L.O. and they refer it to this international committee, these reports are always summarized in an annual report of the Director of the International Labour Office. There is generally a supplement to his report. Report of the committee of experts on the application of the conventions under article 22 of the I.L.O. constitution. The report will say that this and this is being done. Again, I would emphasize that the form of the report is laid down by the International Labour Office. The subject of the reports on the application of the conventions is, at the moment, on the agenda of the Paris conference. This is the first time that the Governing Body has ever placed on the agenda of the conference the subject of the reports on the application of the conventions. The reason is that during the war there has been an almost inevitable—not quite a disregard of conventions—but they have not been adhered to as closely, perhaps, as they would have been in peace time and documents have not been available for the use of the committee. Sir Arnold McNair's committee has put it to the Governing Body that they are not going to do a poor job, so they wanted the subject to be on the agenda. They want the question of labour inspection discussed because any labour law is dependent on the adequacy of labour inspection. If you cannot have mine and factory inspectors, and inspectors of ships' tackle and boiler inspectors who are competent men, of course you cannot enforce your labour laws. So they are going into that subject for the first time.

Mr. MacINNIS: In many countries during the war these conventions could not be applied anyway. For instance, in Great Britain, because of the conditions under which ships were loaded and unloaded and the way the dock work was done.

Miss MACKINTOSH: I do not know whether you would call that an act of God or not.

Mr. MacINNIS: It certainly was not an act of God.

Mr. FRASER: Are there any inspectors of ships' tackle in Canada?

Miss MACKINTOSH: You would have to ask the Department of Transport about that. I believe one was appointed in 1938.

Mr. MacINNIS: There is one in each port, I think.

Mr. COLDWELL: That would be a question to ask the Department of Transport.

Miss MACKINTOSH: I do know that the accident rate among longshoremen has been very high, and I think it is quite safe to say that in relation to any form of industrial enterprise we are more reckless of life and limb than they

are in the older countries. Any one who reads legal decisions or regulations will know that on the other side they are not so regardless.

Mr. WINKLER: Have there been any complaints by Canada on the failure of other countries to carry out the I.L.O. conventions?

Miss MACKINTOSH: I do not think so. I do not think we would have dared.

Mr. COLDWELL: Have there been any complaints regarding our failure to carry them out?

Miss MACKINTOSH: There has been discussion about the position in connection with the three conventions ratified in 1935. Is that what you mean?

Mr. COLDWELL: Yes.

Miss MACKINTOSH: That is, of course, an anomalous position, because we are bound by the acts of ratification and of course we are not carrying them out. You know what the situation is. It is a matter through which Canada herself must find her way.

The CHAIRMAN: Miss Mackintosh, does the federal labour department communicate some recommendations to the I.L.O. at times, or do all the formulations come in from the bureau first?

Miss MACKINTOSH: The International Labour Office is required to notify every member state four months in advance of a conference of the subjects on the agenda of the conference. The Governing Body determines the subjects which are to go on the agenda, but the International Labour Office prepares the agenda. If the director of the office thinks that a subject which has been placed on the agenda should be analysed to the extent of finding out what the practice is—you cannot adopt any convention that is not in practice in some measure in some country—then a questionnaire is usually sent to the member countries. It is a printed document with certain questions concerning the matters that enter into the subject of proposed convention. In Canada, when the subject of a questionnaire is a matter for the provinces, those questionnaires are relayed by the federal department to the provincial governments who, on the basis of the questions asked, say whether they would be in favour of, for instance, a minimum age of 15 for employment, and so on. Then on the basis of replies from the provincial government, the Canadian delegate to the conference is instructed with respect to the conventions which are within their scope. The reports made by the various countries and the answers made to those questionnaires are published by the I.L.O. Sometimes they publish a report without a questionnaire and they may proceed by what is known as the double-discussion procedure. At the Paris conference there is the question about the welfare of young workers. This will be the first discussion on that subject. They will thresh out whether the subject should be dealt with by a convention or a recommendation, because it can be in either form. Then, at the next conference, the subject will come up for final discussion and incorporation in one form or the other. The Department of Labour at Ottawa receives frequent inquiries from the I.L.O. as to the practice or legislation in Canada about this or that. Nearly every report that the office gets out is based on such information but sometimes from information derived from public documents. I might say, too, that it works the other way. The Canadian Government is greatly indebted to the staff of the I.L.O. for the information that they make available.

The CHAIRMAN: From what you have stated, Miss Mackintosh, it can readily be seen that there is a good deal of liaison between the different provinces and the federal labour department and the I.L.O. There is quite a degree of co-operation?

Miss MACKINTOSH: Yes, in the furnishing of information.

Mr. MACINNIS: Miss Mackintosh has made a statement of which I think we should take note: when she stated that the regulations respecting safety of

workers were much better enforced in Europe than they are on this side of the Atlantic.

Miss MACKINTOSH: Europe is a big place.

Mr. MACINNIS: I thought we were away ahead until I read last winter a book by Dr. Alice Hamilton: "Dangerous Trades" which emphasized how far ahead the countries of Europe were over the United States and Canada in the matter of protection of workers in dangerous trades.

The CHAIRMAN: Was that due to war organization?

Mr. MACINNIS: It was due to government regard for the welfare of the workers.

Mr. COLDWELL: Yes, we are away behind.

Mr. FRASER: Isn't that partly on account of the fact that the workers here, in many cases refuse to use safety devices?

Mr. COLDWELL: I do not think so. In Europe standards are laid down by legislation.

Miss MACKINTOSH: When I say Europe, I do not mean every country of Europe. As a pioneer country, both Canada and the United States are generally more reckless of life and limb than they are in Europe. Perhaps there are two aspects of which I might speak, but these are rather personal opinions and I do not know whether everybody would subscribe to them.

The CHAIRMAN: I believe the committee would appreciate them.

Miss MACKINTOSH: Our inspection systems are not quite all that they might be, and that too arises naturally in a new country. As new industrial developments take place, you must have men with special training and qualifications in one department of engineering or another. In few of the Canadian provinces have we got such men doing inspection work. Some members of this committee are lawyers, so I might add that under the law and legal decisions in Canada, a court will hold, in an action for damages coming outside of the Workmen's Compensation Act, that if a workman removed a guard and put his hand in a dangerous place in the machine, there will be no damages. But such is not the case in Great Britain. There the courts will hold that the guard should not have been removable or removable when the machinery was in motion or that the workman was not properly instructed in the use of the machine, that the onus is on the factory occupier to see that the machines are kept guarded; that is a duty on the employer. Our Canadian cases in that respect are very different from the British cases.

Mr. MARQUIS: I think that in Canada to-day our courts are more severe than they were in the past in connection with minor accidents.

Miss MACKINTOSH: One reason for the few cases in Canada may be because of the system of workmen's compensation that we have in Canada.

Mr. MARQUIS: There has been an improvement in that respect in the decision of the courts.

Miss MACKINTOSH: I believe I am getting off my point.

The CHAIRMAN: That is fine. There are no objections arising from the members of the committee. Are there any other questions? Well, in the name of the committee, I think it is in order to thank Miss Mackintosh and also Mr. Stangroom for their presence here and for what they have given to the committee. We are very appreciative.

Mr. COLDWELL: Before we adjourn, since we are using this room a great deal, cannot we do something about these lights?

The CHAIRMAN: I mentioned that subject when I came in this morning first. The building authorities made some changes. They put in some smaller lights, but they were worse. Then they put back the same lights that they had before.

I said that we should have to do something fairly radical about them, which may be expensive too.

Mr. COLDWELL: Cannot we make a recommendation to ask the chairman to take it up definitely to see if some other lighting system cannot be installed. I find there is a terrific glare this morning though it may be due to the fact that some of us wear glasses.

Mr. FRASER: I asked the chairman last time about that, and if they cannot get shades for them, they can at least paint a black spot, the size of a nickel, on each of these lights. That would help a very great deal.

The CHAIRMAN: The Sergeant-at-Arms is co-operating with me, and he is doing all he possibly can with regard to finding a solution.

Mr. FRASER: Just turn the lights out.

The CHAIRMAN: A resolution from the committee would be in order so that we may have members of the Department of Transport and from the Department of Trade and Commerce with us for our next meeting.

Mr. KNOWLES: I so move.

The CHAIRMAN: Would the next meeting be satisfactory for Thursday, at 11.30 o'clock of this week? Would the members of the committee keep the copies of the resolution that they have now and which we are discussing because it is hard to get them. There is only a limited amount being printed. I would like the steering committee to meet again in my office on Friday at 11 o'clock for a few moments.

Mr. KNOWLES: Could you make it 10.30?

The CHAIRMAN: That would be quite satisfactory to me. 10.30 on Friday. We will send out notices. The resolution for adjournment is carried. Thank you.

The committee adjourned at 1 p.m. to meet again on Thursday, November 1, at 11.30 in the morning.

SESSION 1945

HOUSE OF COMMONS

STANDING COMMITTEE

ON

EXTERNAL AFFAIRS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 3

THURSDAY, NOVEMBER 1, 1945

WITNESSES:

Mr. H. Marshall, Acting Dominion Statistician, Department of Trade and Commerce.

Mr. F. A. Willsher, Chairman of Board of Steamship Inspection, Department of Transport.

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1945

MINUTES OF PROCEEDINGS

THURSDAY, November 1, 1945.
Room 268

The Standing Committee on External Affairs met at 11.30 o'clock. Mr. Bradette, the Chairman, presided.

Members present: Mrs. Strum, Messrs. Benidickson, Bradette, Fleming, Fraser, Graydon, Hackett, Isnor, Jackman, Jaques, Kidd, Knowles, Leger, Low, Macdonald (*Halifax*), MacInnis, Marquis, Sinclair (*Ontario*) and Winkler. (19).

In attendance: Mr. Eric Stangroom and Miss Margaret Mackintosh of the Department of Labour.

On behalf of the Committee, the Chairman expressed his thanks to the Sergeant At Arms and to the Clerk of the Committee for the change and the improvement of the lighting fixtures.

The Chairman read a telegram from Mrs. Viola MacMillan, president of the Prospectors and Developers Association of Canada suggesting the advisability of the Extradition Treaty between Canada and the United States of America being referred to the Committee thus affording the Association opportunity to be invited to make representations.

Mr. H. Marshall, Acting Dominion Statistician was called. He made a statement relative to parts 1, 2 and 4 of Department of Trade and Commerce Convention No. 63 dealing with statistics on wages and hours of work. He was examined thereon.

The witness agreed to send forward a further written statement on payroll statistics and man hours, etc., along with thirty-six copies of a questionnaire sent to employers and referred to in his examination.

In reply to Mr. Fraser, the witness quoted from Report No. 26 being a supplement of the *Labour Gazette* of June, 1945, respecting rates per hour affecting longshoremen.

Availing himself of the presence of Mr. Marshall, Mr. Graydon paid a high tribute to the late Dr. S. A. Cudmore, Dominion Statistician.

Mr. Marshall was retired.

Mr. F. A. Willsher, Chairman of the Board of Steamship Inspection, Department of Transport was called.

He made a statement with respect to Article 17 of Convention No. 32 pertaining to safety measures of loading and unloading ships. He referred to regulations for the protection against accidents and was examined thereon. He was also questioned on the duties, salaries and qualifications of inspectors of ships' tackles.

The witness agreed to submit copies of a sample inspection report for October, 1938, as filed, as well as past qualifications asked for the post of inspector of ships' tackles.

Mr. Willsher was retired.

Mr. MacInnis suggested that the Steering Committee prepare a recommendation respecting the Conventions referred to the Committee.

The Committee adjourned at 1 o'clock until Tuesday, November 6, at 11.30 o'clock.

ANTONIO PLOUFFE,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS,

November 1, 1945.

The Standing Committee on External Affairs met this day at 11.30 o'clock a.m. The Chairman, Mr. Joseph A. Bradette, presided.

The CHAIRMAN: I now call the meeting to order. I must thank the members for coming early. It means a lot to committee work when it is possible to start on time. I believe that you realize that Colonel Franklin has done a good job in changing the lights here. I must thank him in the name of the committee for the changes he has made and I would note that our secretary has been very active too in that regard. Now I believe that every member of the committee has received the wire that I have in my hands?

Mr. FRASER: Not guilty.

The CHAIRMAN: Well then, will it be possible to have copies made of this wire?

The SECRETARY OF THE COMMITTEE: It will be incorporated in the evidence if read.

The CHAIRMAN: Then, I shall read the wire to the members of the committee.

Mr. JACKMAN: Whom is it signed by?

The CHAIRMAN: It is signed by "Prospectors and Developers Association of Canada, Mrs. Viola R. MacMillan, President." And the wire reads as follows: "For your information we have sent the following wire to members of the cabinet, leaders of the opposition and other members of parliament. We strongly urge that the resolution to approve the extradition treaty between Canada and the United States of America and protocol thereto being tabled in the house be referred to the External Affairs committee so that we may have an opportunity of making representations and presenting brief in opposition. The treaty and protocol in our opinion affects the rights of every citizen of Canada and makes him subservient to the laws and regulations of a foreign country for alleged offences which do not constitute offences under Canadian laws a new departure in extradition treaties so drastic that it affects our sovereign rights. Public opinion across Canada as evidenced by the many editorial comments appearing most recently in the Canadian press point out that the treaty and protocol are objectionable, create a dangerous precedent and represent a wide and alarming departure from the well defined and time-tested principles of extradition treaties and procedure. The practical effect of passing the treaty and protocol as now set forth would in our opinion stop most of the securities business between Canada and the United States including sale and purchase of bonds. The mining industry of Canada is particularly and principally affected. Our association is composed of prospectors, developers, mine operators and business executives across Canada who are alarmed at the serious blow that would be dealt to this most important industry so vital to Canada and the employment of our returned soldiers. We are wiring your follow members of the Canadian ministry and others likewise." I believe that we may wait until the next meeting, when the members of this committee shall have received copies of that wire, before a decision can be made. As we know, the order of reference will have to come from the government. Tomorrow morning there

will be a meeting of the steering committee at my office at 10.30, so we may again discuss that question. I believe that is all there is before the committee at the moment.

Now we have the pleasure to have with us this morning Mr. H. Marshall, acting Dominion Statistician, Bureau of Statistics, Department of Trade and Commerce, who is going to discuss convention No. 63, which you have before you at the moment. He is going to discuss parts 1, 2 and 4, and he will give the reasons why he is leaving out section 3. I will ask Mr. Marshall to come forward.

Mr. MARSHALL: Mr. Chairman, Mrs. Strum and gentlemen: With regard to this convention, I may say that it covers statistics four divisions. Three of them affect the Bureau of Statistics, but part 3 does not affect the Bureau. That is to say, it does not affect the Bureau directly, because the statistics of time, rates of wages and normal hours of work are collected in the Department of Labour, and there is a co-operative arrangement between the Bureau of Statistics and the Department of Labour whereby we use them. As to the other three sections of the convention, the Dominion Bureau of Statistics does collect statistics relating to them. I am glad to say that, in so far as this convention is concerned, the Dominion Bureau of Statistics already collects practically all of the statistics which are called for in these three parts. There are some minor matters which are mentioned which we do not collect. For example, they request a classification in which the statistics are divided into male and female, and adult and juvenile. We do classify them by sex, but we do not classify our monthly or annual statistics by adult and juvenile. On the other hand, in our decennial census, where we collect statistics of earnings, there is a classification to that effect. So I think I may say in regard to this convention, that there is very little in it which is not already covered by the activities of the Dominion Bureau of Statistics and, of course, all the statistics which we collect in this field are available to the I.L.O. and have been furnished to them.

Mr. FRASER: Would it be much trouble to let the members of this committee have a copy of your statistics dealing with this convention, or would that take up too much space?

Mr. MARSHALL: We have monthly reports and annual reports in which are set forth the statistics which we collect.

Mr. FRASER: I think if you could file them just before dealing with these three or four sections it might help this committee.

Mr. MARSHALL: I shall be very glad to do that.

Mr. FRASER: Mr. Marshall mentioned that this did not cover female labour?

Mr. MARSHALL: We do have, every six months, in our monthly inquiries concerning pay, wages, and man hours—we do have a breakdown by sex. But the convention also asks for a suggested breakdown in article 10 on page 26: "Once every three years and where possible at shorter intervals the statistics of average earnings, and, so far as practicable, the statistics of hours actually worked shall be supplemented by separate figures for each sex and for adults and juveniles; provided that it shall not be necessary to compile these separate figures in the case of industries in which all but an insignificant number of the wage earners belong to the same sex or age group, or to compile the separate figures of hours actually worked for males and females, or for adults and juveniles, in the case of industries in which the normal hours of work do not vary by sex or age." We have a distribution by sex, but we do not divide our monthly or annual statistics into adults and juveniles. We do have in our decennial census a breakdown of earnings by age groups.

Mr. FRASER: Could you give us that in the statement?

Mr. MARSHALL: Yes, I could do that.

Mr. JACKMAN: Are we confining our discussion to wages of stevedores or to all workers?

Mr. MARSHALL: Manufacturers, mining, and construction are mentioned specifically. Of course our inquiries cover a much broader field than that. Our monthly report concerns not only manufacturing and mining, but services and distribution. So we have more than is required by this convention.

Mr. LEGER: This convention deals with matters only pertaining to dock workers?

The CHAIRMAN: Mining and manufacturing, I believe.

Mr. FRASER: On page 25.

Mr. MACINNIS: No. 63.

Mr. FRASER: In your statement that you present, could you give us a separate statement in respect to part 2 regarding mining and manufacturing?

Mr. MARSHALL: Yes.

Mr. FRASER: I think it should be entirely separate from the other.

Mr. MACINNIS: May I ask Mr. Marshall a question? In compiling those statistics with regard to wages and average earnings for an industry, what wages and earnings are included in those statistics? What I would like to know is: are the salaries or wages of executives included here as well as those of labourers and other lower paid workers?

Mr. MARSHALL: We separate the salaries from the wages in our census division covering manufacturing.

Mr. MACINNIS: May I put my question another way: in the monthly report that the Bureau of Statistics brings out with regard to employment, wages, and earnings, where the average earning is, say, $30 or $32 a week, would that mean just the wages in that particular industry? That is, in a staff, that part of the staff that works for wages, or does that average earning include also the earnings of executives?

Mr. MARSHALL: It is not supposed to include the earnings of executives, but it does include overtime, bonuses and anything of that nature which the wage earner may receive.

Mr. FRASER: The class as you put it down would be for certain types of work? Would you put down machinists that way?

Mr. MARSHALL: No, we do not do it that way. Those are covered by the statistics which the Department of Labour collect. They relate to the wage rates of specific occupations.

Mr. FRASER: You would not classify them, say, those in the ordinary class and those in the foreman class?

Mr. MARSHALL: We do not do that. Ours is a payroll classification.

Mr. FRASER: Even if they were labourers, they would be included?

Mr. MARSHALL: Yes.

Mr. MACINNIS: What would be included in the payroll, say, of a shoe manufacturing company? It is listed as having so many employees. Does that number of employees indicate only those who are working at manual work or at machine labour in the factory, or does it also include the office staff?

Mr. MARSHALL: Yes, it does include office staff.

Mr. MACINNIS: Well, then, if it includes office staff, are there any of the office staff who are executives?

Mr. MARSHALL: It would not include executives or higher salaried people. But if you take a payroll now, in a factory, you will have some office staff who would be included in it. We do not break down by particular occupations, so we have got to take the payroll as a whole.

Mr. MACINNIS: What I want to know exactly is if you take the payroll as a whole is the general manager on the payroll? Is that true?

Mr. MARSHALL: He would be on the payroll of the firm, yes, but not on the factory payroll.

Mr. MACINNIS: But is he on the payroll of that manufacturing industry?

Mr. MARSHALL: If you would like to have a statement of exactly what we include in our monthly compilations, I can get that and present it along with this statement.

Mr. FRASER: I would like to ask Mr. Marshall another question. You said that the office worker is included in that. Do you bring your calculations down to hours of work?

Mr. MARSHALL: There are two phases to our monthly inquiries. We have a statement of man hours of work, and in addition, a statement of the total payroll and the total employees covered. There are a lot of firms who have not sufficient information to break down their information into man hours. So our coverage there is not so large as the other. But we have a bulletin which we publish each month stating the number of employees, the total wages paid, the man hours worked, so that we can work it out per hours.

Mr. FRASER: In the plants, a man working in the plants or a man doing labouring work, is likely to be on an hourly basis; but the office worker in that same plant, his hours might be from eight to five. But there might be, during the month, a time when that office worker would have to go to work at seven and work until six and perhaps go back at night and work an extra three hours for which he is not paid?

Mr. MARSHALL: In the statement on man hours, the monthly bulletin of man hours, we certainly would not include office workers who did not work on an hourly basis. There are a lot of manufacturing firms that have information concerning the number of hours worked by their employees, and they can give that easily. There are a sufficient number of them to enable us to have a very good index of what the hourly rate is. So, in that phase of our inquiries, we certainly would not include office workers who are paid on an hourly basis. I will furnish you with an exact statement showing what we do include in both the indexes.

Mr. FRASER: And showing as well the difference between the salaried ones and the hourly workers?

Mr. MARSHALL: Yes, I will do that.

Mr. HACKETT: What is the line of demarcation between the remunerations received that you take into consideration in making up your statement and the servants of the company whose remuneration is not taken into consideration?

Mr. MARSHALL: Well, in so far as man hours are concerned, it gives us an index of what people receive by the hour. When you send out a questionnaire to a firm, you cannot expect too much. It would not be reasonable, would it, to ask the firm to break down the salaries into exactly what they pay their people per hour. What we try to do is to get an index of the rate that the employees receive per hour or per week. That has to be based on the records,

on the system that is in vogue in the manufacturing industry. Therefore, we have to exclude from that compilation salaries, and those who are paid on a salary basis.

Mr. MACINNIS: In your monthly bulletin "Wages and Employment"—I am not just quite sure, but you have it there—I think you are concerned, in that bulletin, since you give statistics there on hourly rates, if I remember correctly. Then you are only concerned with average and per capita weekly earnings?

Mr. MARSHALL: That is right.

Mr. MACINNIS: Well, I noticed in the last one that while the average for industry dropped since the previous one and the average number of employees also dropped, that the average weekly wage had increased. I wondered how that had happened. I cannot come to any other conclusion but that lower paid workers have been laid off while higher paid workers, many of whom are among the executives, are still included in the average weekly rate?

Mr. MARSHALL: I can say in answer to that: that our bulletin on Employment and Payroll has a much wider coverage than the one on man hours. In the former I think the employees numbered some 1,800,000. In the bulletin on man hours, the employees included numbered less than 1,000,000. That is quite a considerable difference. I would like to mention this fact too: that this man hour study is one that we commenced not so very long ago. But it is our purpose, in the Bureau, as soon as we can do so, to integrate these two reports, the data of both of these reports, and to try to show just exactly why these differences occur. We have not reached that stage yet, because this is a fairly new project. But it will not be very long before we try to integrate, analyze, and interpret the results of these two. Then we shall be able to put out a statement of reconciliation. I think one reason for the difference is because of the coverage. But that may not be the only reason. Your point may be pertinent there. There may be some salaried people in this. It is pretty difficult to be able to tell from all the returns that we get, when you consider that we are covering so many firms. There may be some executives that we do not know about. I shall try to clarify this point in my written statement.

Mr. MACINNIS: Will you let me see that for a moment?

Mr. FRASER: What bulletin do you call that, Mr. Marshall?

Mr. MARSHALL: That is our monthly bulletin on employment. It is based on the number of employees in weekly payrolls. That is one bulletin. This other bulletin here is called, "Statistics, Manhours and Hourly Earnings".

The CHAIRMAN: Are those included in the *Labour Gazette?*

Mr. MARSHALL: There is some data from them published in the *Labour Gazette.*

Mr. MACINNIS: When a manufacturing firm sends in at your request the number of its employees, that number of employees would include, normally, workers in the office as well as those working in the plant?

Mr. MARSHALL: Yes.

Mr. MACINNIS: That is the point I want to make: it includes in its number those who work in the office as well as those who work in the plant. That number would not be correct unless it included all the workers in the office from the general manager down?

Mr. MARSHALL: No. The card that we send out, of course, does ask for a breakdown of salaried employees and wage earners. So we are safeguarded against the point that you raise.

Mr. FRASER: The questionnaire is separate then?

Mr. MARSHALL: No, it is on the same questionnaire. It goes out to the firm and is filled in by them. And on it we ask for the salaried employees separately from the wage earners.

The CHAIRMAN: That is what you stated at the beginning.

Mr. MACINNIS: You ask for the total number of employees?

Mr. MARSHALL: Yes. The questionnaire reads: "state present number on your payroll including salaried employees as well as wage earners." We separate the salaried employees from the wage earners.

Mr. MACINNIS: Then, do you ask for the aggregate payroll?

Mr. MARSHALL: Yes, we do. When we want to get, or make an index number of what is paid in wages, we take out the wages from the salaries. So we have a provision against that.

Mr. MACINNIS: Would not both be included in the aggregate payroll?

Mr. MARSHALL: That is a point I will have to clear up. It will come out in my statement.

Mr. FRASER: Could I see a copy of that questionnaire?

Mr. MARSHALL: Yes.

Mr. FRASER: Thank you.

Mr. MARSHALL: In this bulletin here there is no question that this does relate to the wages; that is to say, the bulletin on man hours and hourly earnings, because it has to be broken down by hours.

Mr. GRAYDON: This separates them definitely, in here. There is no trouble at all in dividing them off according to that questionnaire.

Mr. MARSHALL: We have the information.

Mr. FRASER: Could a copy of that questionnaire be filed?

Mr. MARSHALL: Yes, certainly. I can make out a statement as you suggested, and accompany it by that.

Mr. FRASER: It might be of interest to the members.

Mr. MARSHALL: And in this statement I will include a paragraph in which we shall describe the method by which the figures are compiled; that is, for both our employment and payrolls bulletin and our man hours and hourly earnings bulletin. This will show how we deal with salaries and wages respectively.

Mr. MARQUIS: Would it be possible to send that statement to every member of the committee?

Mr. MARSHALL: Yes.

Mr. JACKMAN: I wonder if Mr. Marshall could tell us what the object of the Bureau is in compiling these statistics. Do they endeavour to include, let us say, a foreman's wages? Supposing a foreman earned $2,500 a year, and a superintendent on a payroll got $3,000. Would the foreman's wages be included and not the superintendent's wages? What is the principle on which the Bureau of Statistics operates in that respect?

Mr. MARSHALL: In our census on industry we send out annual questionnaires; and in that bulletin the salaried people are separate from the wage earners.

Mr. JACKMAN: The superintendent would be a salaried man?

Mr. MARSHALL: Yes.

Mr. JACKMAN: And the foreman?

Mr. MARSHALL: Well, if he is paid a wage, he would be among the wage earners; but if he were paid a salary, he would be reported under salaries.

Mr. JACKMAN: Is there not some rule as to what are salaries and what are wages?

Mr. MARSHALL: No. It is left to the firm to do the dividing. We just separate the salaried men from the wage earners. We do not specify the various occupations which should be put under salaries and which should be put under wage earners. If a man is paid a salary, he is included in the salaried class. We do not try to break it down in the various jobs.

Mr. MARQUIS: You take the report as is?

The CHAIRMAN: But the payroll might be loaded with high salaried men passing as wage earners. There would be practically no way for your department to check it unless it be through the National Revenue department. That would be the only direct way. That is a fear of labour all the time, that the average payroll is loaded up with high salaried officers or executives.

Mr. MARSHALL: We get our information from our employment statistics, we take it out of these monthly reports, and we also get information from the census of industry. And every couple of years we send out a special questionnaire to business, in which they break down the wages they pay in the various wage groups. Salaries are kept separate. So, you see, we have a way of checking up between the results of these various inquiries. I think that the check up indicates, pretty clearly, that the results are fairly consistent throughout.

Mr. FRASER: Your statement would show that the foreman's salary or wage is not included in that, under wage. They are separate in your monthly reports?

Mr. MARSHALL: In the annual inquiry, if the firm has paid a wage, it would be among the wage earners; but if the firm paid a salary, it would be included among the salaries.

Mr. FRASER: Many of the foremen are paid hourly wages, and they would be included. What would the dock workers average wage be?

Mr. MARSHALL: On the other hand, we do get a statement every couple of years in which we have the wages received broken down into wage groups, so that you will know how many people are in the high wage group and how many are in the low wage group.

Mr. FRASER: You say every two years or so. Is that close enough to give us the necessary information for this purpose here?

Mr. MARSHALL: Yes, I would think so; we have that information along with the information which we get on our monthly reports on both man hours and payrolls. I think that is quite adequate to meet these needs here. On the other hand, I have no doubt there are some things which the I.L.O. would still like to get, and it may be that our statistics do not meet all their requirements. But I do think that our statistics meet them about 90 per cent.

Mr. FRASER: It says here: every six or twelve months, in article 1 on page 26.

Mr. MARSHALL: That is a matter of publication, is it not?

Mr. FRASER: Yes.

Mr. MARQUIS: Would Mr. Marshall tell us if there are many offices or firms which refuse, or neglect to answer the questionnaires? What proportion of them would do that?

Mr. MARSHALL: Well, we have had difficulty with some firms, but, of course, we have power under the Statistics Act to get the statistics, and eventually we do get them.

Mr. MARQUIS: Do you try to enforce that power in order to get the statistics?

Mr. MARSHALL: We try to obtain results by every other means than resorting to the courts; but we have had to do that in some cases. We have had some prosecutions, but not very many.

Mr. GRAYDON: You do not apply sanctions unless you have to?

Mr. MARSHALL: That is right.

The CHAIRMAN: Are there any other questions to be asked of Mr. Marshall? Does the committee desire that the statement which Mr. Marshall promised us should be in writing or delivered orally at the next meeting? Which would be more convenient for you?

Mr. FRASER: I think it should be in writing. I think it would be better to have it in writing.

The CHAIRMAN: You would prefer to have it in writing?

Mr. FRASER: I would like to ask Mr. Marshall another question in regard to dock workers and so on. How do you classify them in order to get their wages? The wages, perhaps, on the Atlantic coast would be entirely different from what they would be, say, at an inland port?

Mr. MARSHALL: It would vary. We do not make that sort of inquiry. It is made in the Department of Labour, and they do get actual wage rates and hours of labour for specific occupations. I have no doubt that they would have them for dock labourers, but I do not know. As to specific wage rates for various occupations, that information is collected in the Department of Labour. I had a talk with Dr. Peebles over the telephone yesterday, about that. He had read this convention carefully, and he said that they had practically all the information that was asked for here.

Mr. FRASER: In the Labour department?

Mr. MARSHALL: Yes, covering part 3 of this convention.

Mr. FRASER: I know for a fact that there is a variation between ocean ports and inland ports.

Mr. MARSHALL: They get the information. They sample it from all over the Dominion.

Mr. FRASER: That is why, a few years ago, there was a dock strike on the Pacific in the United States. There was a dock strike on the Pacific coast because they wanted their wages raised equal to those on the Atlantic.

Mr. MARSHALL: I believe the Department of Labour has much information on that, but I could not state positively, whether they have it on dock labourers, without first looking up their publication.

Mr. FRASER: Could we ask you to get this for us through the Department of Labour?

Mr. MARSHALL: Yes. Mr. Stangroom has just given me the publication of the Department of Labour, for June, 1945. On page 79 of this publication it shows the rate per hour for stevedores.

Mr. FRASER: Do they vary?

Mr. MARSHALL: Yes, they do. There is a range from 86 cents in Quebec, per hour, to $1.10 in Vancouver.

Mr. FRASER: Would it be possible to have that filed?

The CHAIRMAN: It would be in your statement, Mr. Marshall?

Mr. FRASER: If it is not too much trouble.

Mr. ISNOR: You gave us the rates for Vancouver and Quebec. What about the rates at Halifax and Saint John?

Mr. MARSHALL: Halifax is 95 cents; Saint John is 98 cents; Quebec is 86 cents; Montreal, 95 cents; Vancouver and Shipdock, $1.10; Victoria, $1.06; Port Alberni, $1.00; and Prince Rupert is 99 cents.

The CHAIRMAN: That would be in the report.

Mr. KNOWLES: May I ask Mr. Marshall a question relating to articles 7 and 8 on page 26. I am interested, first of all, in the fact that the articles relate to the reference made by the I.L.O. on family allowances as far back as 1938. But the question I wish to ask is this: are these items, such as the other items referred to in article 7, and the family allowances referred to in article 8, listed in your statistics separately from wages?

Mr. MARSHALL: Nothing, of course, has been done as yet about family allowances. That is something we will have to take into consideration for the future because it is a new thing. With regard to the other items, they are included. For example, I have got here a questionnaire which is sent out by our industrial census. This is the instruction given to the firm: "the statistics of payrolls should include production bonuses, and so, as well as salaries and wages and commissions." They include actual money wages paid, all bonuses, the value of room and board provided, as well as any other allowances forming part of the employees wages, so we do include that.

Mr. KNOWLES: Perhaps I am thinking out loud here, but I was wondering if it would not be a good idea to keep it separate in your statistical report. Let there be a column showing the total value of income to a worker. But should there not be a separation between the cash income and income in kind? That question would relate to what you are going to do when you start showing family allowances, for example. The point will become very pertinent then, and it might be argued that these allowances under article 7, free or cheap housing, are, nevertheless, paid by an industry and might very properly be included as part of the wages earned from industry. But if you carry that principle over into family allowances, you find yourself giving industry credit for what the government is paying.

Mr. MARSHALL: As far as family allowances are concerned, they would have to be a separate item altogether.

Mr. MACINNIS: They could not be included there, because the employer would not have any knowledge of them.

Mr. KNOWLES: Are you sure?

Mr. MARSHALL: Well, firms would not have the necessary information to enable them to include such data in our questionnaires.

Mr. KNOWLES: After all, statistics are used in very many places as a basis for ideas. I would not want suggestions that would help these allowances to depress wages; such things as cheap housing and free fuel and so on. It seems to me that there is a responsibility resting on your Bureau in that connection.

Mr. MARSHALL: The only reason why we do not ask for a breakdown like that is that our questionnaires are fairly long and it would involve that much more work for a firm to answer the questionnaires, if we asked for details like that. Therefore we just ask for a lump sum. That is to say, we ask for the total payment which the industry makes to the employee. But as to family allowances, that is a different question. There is another aspect to this situation. We are making a great effort in the Bureau of Statistics to improve our statistics on national income. In our study on national income we will be having more breakdowns of the kind you mention. We would want to show sources of income, and among them would be, of course, payments in kind. As a matter of fact, in our agricultural statistics, we do get information which distinguishes

between the agricultural labourer who is paid a wage only, and the agricultural worker who gets his board. So we have, in the agricultural field, some information differentiating along the lines you mention. I think, in our studies of national income, we will be making more detailed breakdowns. That would give you the kind of information you want. But it is important not to make our questionnaires any longer than we can help. If you ask for a lot of details, then it becomes all the harder to get them.

Mr. SINCLAIR (*Ontario*): Haven't we gone rather far afield? This is almost a meeting of the Labour committee this morning. Here we have two conventions before us in this booklet. At the last meeting we discussed the convention on page 14, and today we are to discuss the one on page 23. This information we are getting is very valuable but, as a lawyer, I cannot see that it has any bearing on external affairs at all. I think we should limit our discussion to external affairs and not to internal affairs except insofar as they affect external relations.

The CHAIRMAN: The point is well taken in a way. But in a discussion of this kind it is very hard to keep within the orbit of the thing itself.

Mr. SINCLAIR (*Ontario*): But there are two separate conventions. The one on page 14 relates to stevedores and so on, while the one on page 23 has to do with wages.

The CHAIRMAN: Mr. Marshall really wanted to speak on the convention on page 63. But I believe the discussion has been quite instructive. It is very hard to limit the subject matter.

Mr. SINCLAIR (*Ontario*): Yes, but is it the purpose for which parliament appointed this committee? I do not think so.

Mr. KNOWLES: I think that the honourable member is perfectly right in his objection. This is not our baby. But the baby is growing up with us and we might as well deal with it.

Mr. SINCLAIR (*Ontario*): We will have to live for a long time if we ever get to the end of it.

Mrs. STRUM: Isn't this valuable in that it shows how the decisions of the international body work out in application to internal situations?

The CHAIRMAN: There is no doubt about it.

Mrs. STRUM: Does not this show the value of these international conferences? Do we not have to make sure that they really apply within our own borders?

The CHAIRMAN: Personally, while I believe that some of the questions might have been incidental, they have been very helpful, too. If we hold the line very closely as to our inquiries, we shall be limited in most of our resolutions. There is no doubt about that.

Mr. GRAYDON: That problem arises out of the fact that most of the committee realize that this subject that we are discussing here more properly might be dealt with by the Industrial Relations committee. On the other hand, there is an external affairs point of view with respect to it and I presume that we shall have to work in between those two codes as best we can. But I am impressed with what Mr. Sinclair said: that we, perhaps, should not go too far afield and that we should just cover the subject that we have under discussion.

The CHAIRMAN: When we deal with suggestions, we have a very, very wide field.

Mr. KNOWLES: The other day, Mr. Chairman, when we questioned Mr. Mitchell about the other convention, he was able to say to us that Canada was not only living up to, but in most cases exceeding, the minimum required under

that convention. Now, I believe I understood from Mr. Marshall today that 90 per cent was the figure that he gave us; and that, at the present time, we are not fully living up to this convention.

Mr. MARSHALL: I would say that it is well above 90 per cent. I would say that 90 per cent is a low figure. There are certain items that I mentioned before: we do not break down this information monthly or annually by adults or juveniles, but it seems to me that is not terribly important.

Mr. KNOWLES: Well, if Canada does adopt this convention, then in order to live up to our commitments there will have to be more changes or improvements in the type of work done by your department?

Mr. MARSHALL: Yes, we would certainly do that. It may be that the information we have in our decennial census, where earnings are broken down by wage groups, might be adequate to satisfy the needs of the I.L.O.

Mr. MACINNIS: Are there not two implied commitments in this convention, one effecting industry itself, and the other, with which Mr. Marshall is concerned, affecting the information we give to the I.L.O.? While the information we give to the I.L.O. is important, the really important thing is the convention itself, and the reason for adopting the convention is the effect on the workers in the industry in question. And if we live up, 100 per cent to the provisions of the convention on this protection of workers in industry, then, if we fall down by 10 per cent on statistics, surely that is unimportant.

Mr. FLEMING: I think that Mr. Marshall sees no difficulty in providing the additional requirements under this convention.

Mr. MARSHALL: I think we can satisfy them entirely. We have, as a matter of fact, far more information than they are asking for here. There are one or two items for which we do not have the information at present. We can arrange our work to fill in these gaps.

The CHAIRMAN: Are there any more questions to be asked of Mr. Marshall? We have with us this morning Mr. S. A. Willsher, who is Chairman of the Board of Steamship Inspection, in the Department of Transport.

Mr. GRAYDON: Before Mr. Marshall goes, may I take the liberty at the moment of saying a word which ordinarily might be regarded as having nothing to do with the affairs of the committee or the subject under discussion. But Mr. Marshall's presence here today as acting Chief Dominion Statistician is, I think, as far as the members of this committee are concerned, the occasion for our exercising a privilege which would not be afforded to the House of Commons itself, namely, to pay a tribute to the man who for some years was Chief Dominion Statistician, Dr. S. A. Cudmore. I do not apologize to the committee for rising at this time, because I think some tribute should be paid to Dr. Cudmore by our elected representatives who from time to time have benefited by the work that he has done. I know something of his early life and the success which he attained. His life really reads more like an Horatio Alger success story than that of almost any public servant or member of parliament.

In 1888, Sedley Cudmore came out from Ireland. His parents, I rather think, had died prior to that time. He took passage for Canada and arrived in my town in that year. He took lodgings at a place on Queen street where twenty-two years afterwards I, while at high school myself, roomed and boarded. His example was many times held up to me as indicating what industry really means in a young man's life. He worked as a printer's devil in the old Brampton *Times*. When he started out he had little or no education, but in the meantime he went through Brampton High School, where he continuously stood at the top of his class. He took the Prince of Wales' or the Governor General's scholarship, I am not sure which, but it was the highest scholastic standing ever attained in that school. He went to university on a scholarship, but he still kept

on working doing odd jobs. He stood first in every class and every examination at Toronto University, and when he graduated he carried away two prizes which enabled him to go back overseas—not this time to his native Ireland, but to Oxford University. He went through Oxford University with the same scholastic success. Then he came back to Toronto University as a professor, and finally was appointed Chief Dominion Statistician. He ended his days in harness at the food and agricultural conference in Quebec city a few days ago.

Dr. Cudmore was a man of brilliance, a man with a very great heart. His was an example which I hope will not be lost on Canadians generally, in that he started with very limited opportunities and reached the top. It is, I think, a pretty good indication of the opportunities that have existed and still exist in the Dominion of Canada for those who are industrious and have the capacity to take advantage of them.

I wanted to take this opportunity of paying a tribute to the late Dr. Cudmore because he was a valuable public servant and a man who left a great heritage to us and to all Canada.

The CHAIRMAN: Mr. Willsher will deal with convention No. 32 on page 14.

Mr. F. A. WILLSHER, Chairman, Board of Steamship Inspection, Department of Transport: Mr. Chairman, Mrs. Strum and gentlemen, I see that article 17 of the convention reads as follows:

> In order to ensure the due enforcement of any regulations prescribed for the protection of the workers against accidents,
>
> (1) The regulations shall clearly define the persons or bodies who are to be responsible for compliance with the respective regulations;
>
> (2) Provision shall be made for an efficient system of inspection and for penalties for breaches of the regulations;
>
> (3) Copies or summaries of the regulations shall be posted up in prominent positions at docks, wharves, quays and similar places which are in frequent use for the processes.

There were issued on December 14, 1938, by order in council: "Regulations for the protection against accident of workers employed in loading or unloading ships," under the provisions of section 467 of the Canada Shipping Act. These regulations were made under the guidance of my predecessor and are, to the best of my knowledge, in full compliance with the requirements of the convention. These regulations have been in operation since 1938 and are provided for under section 467 of the Canada Shipping Act. Inspectors of ships' tackle are appointed at various ports throughout the dominion: one at Port Alberni, one at Vancouver, one at Montreal, one at Charlottetown, one at Halifax and one at Saint John.

Mr. MACINNIS: Is that the total number of inspectors appointed at all these places?

Mr. WILLSHER: At the moment, yes, sir.

Mr. MACINNIS: Who takes care of inspection at the ports of Victoria, Prince Rupert and New Westminster in British Columbia?

Mr. WILLSHER: That is provided by the Vancouver office.

Mr. FRASER: Would one man be able to cover all that coast?

Mr. WILLSHER: It is being submitted to me that I consider the appointment of additional inspectors of ships' tackle on the west coast. That is going to be attended to this autumn.

Mr. FRASER: It sounds to me as though there should be extra help.

Mr. WILLSHER: One of our difficulties has been to get the men.

Mr. FRASER: To get competent men?

Mr. WILLSHER: To get men.

Mr. FRASER: It seems to me that this is a job for which men should be well qualified.

Mr. WILLSHER: The salary is $1,260 minimum and $1,440 maximum.

Mr. FRASER: That is not enough.

Mr. KNOWLES: The difficulty is to get a man.

Mr. FRASER: If the income tax is taken off that amount you do not have much left.

Mr. WILLSHER: One of these men gets $2 a day when he operates—at Charlottetown—and the one at Port Alberni is paid at the rate of $10 per month.

Mr. KNOWLES: Who establishes those rates?

Mr. WILLSHER: I could not answer that.

Mr. FRASER: Would that be done by the Civil Service Commission?

Mr. WILLSHER: You can draw your own conclusions.

Mr. GRAYDON: Could it be any other body who would do it?

Mr. MACINNIS: These appointments would be made under the Department of Transport, would they not?

Mr. WILLSHER: Yes, if it is an old appointment, 1936; but that one to which I am referring is only for certain periods of the year.

Mr. KNOWLES: The suggestion is that we make proper payment.

Mr. WILLSHER: As a matter of fact I submitted in June a statement for the chief of personnel, and I asked for $2,700. My concluding paragraph reads:—

> The work has assumed greater proportions since the creation of this position, and the responsibilities have considerably increased. The present salary is inadequate and, in my opinion, unless it is doubled, there is little use advertising the position.

Mr. FRASER: Do men working on the coast and in other places get their expenses?

Mr. WILLSHER: When they travel, yes.

Mr. FRASER: Only when they travel?

Mr. WILLSHER: Yes.

Mr. FRASER: What expenses do you allow them? Is there a set figure for those expenses?

Mr. WILLSHER: For travel?

Mr. FRASER: Yes.

Mr. WILLSHER: Railway fare, room and board, and sundries.

Mr. LOW: So much per diem?

Mr. WILLSHER: No.

Mr. LOW: It is not a set amount?

Mr. WILLSHER: No.

Mr. GRAYDON: They get just their actual out-of-pocket expenses?

Mr. WILLSHER: Yes. That is the only fair way, I think.

Mr. MACINNIS: Would the Department of Transport have any statistics concerning the number of accidents and their nature in the stevedoring business?

Mr. WILLSHER: Well, it could be ascertained by reviewing all the reports of the inspectors, but as a matter of ready access, no.

Mr. FRASER: I know you will say no to this. You do not feel that a man getting that salary can do a really good job?

Mr. WILLSHER: You do not get your man at that salary.

Mr. FRASER: That is what I am saying. You cannot get the man you should have for that money?

Mr. WILLSHER: No. That is about the salary of a grade II stenographer, I understand.

Mr. FRASER: Oh yes. A man who does a job like that should certainly be a man with a knowledge of what is required and a man who can understand this convention.

Mr. WILLSHER: Certainly.

Mr. FRASER: You will not get a good man for $1,200 or $1,400.

Mr. WILLSHER: No, I am afraid we cannot.

Mr. ISNOR: Is this part-time employment?

Mr. WILLSHER: No, this is full-time employment at $1,250 to $1,440. The inspector at Vancouver is employed for twelve months of the year.

Mr. MARQUIS: When the job is a part-time job, what is the salary?

Mr. WILLSHER: This inspector at Port Alberni gets $10 per month.

Mr. MARQUIS: How much?

Mr. WILLSHER: $10 per month, and the inspector at Charlottetown is paid at the rate of $2 per day when he is employed.

Mr. MACINNIS: Do you know who the inspectors are at these points?

Mr. WILLSHER: Yes. I can give that information to you.

Mr. KNOWLES: Are they human beings?

Mr. MACINNIS: What I want to ask is this: Are they doing any other work in the employ of the government?

Mr. WILLSHER: Not in the employ of the government, as far as I know —these two,—Port Alberni and Charlottetown.

Mr. ISNOR: Will you let us have their names?

Mr. LOW: What training is given these people before they start their actual inspection work?

Mr. WILLSHER: No training. They answer an advertisement, are examined and are put into the position.

Mr. LOW: What are the requirements?

Mr. WILLSHER: These are the qualifications I am asking for, and I want the inspector to get $2,700: "primary school education; at least three years as stevedore or shipyard rigger, in capacity as charge-hand or foreman; knowledge of ships' cargo-handling gear; knowledge of ship construction and arrangement, in so far as relates to cargo stowage and cargo-handling gear; some mechanical knowledge relating to construction of winches, and make of blocks and tackle; ability to determine safeworking loads by calculation; ability to interpret regulations for the protection against accident of workers employed in loading or unloading ships; ability to prepare comprehensive reports on accidents and prevailing cargo-handling gear operations; sufficient knowledge of the English and French languages to be able to perform efficiently the duties involved; good judgment; integrity; firmness."

Mr. MACINNIS: Have you got the qualifications used in the advertisement where we are getting a man for $10 a month?

Mr. WILLSHER: I can furnish that information.

Mr. MACINNIS: On the basis of the inspection that you have indicated do you say that we are living up to the articles in the convention dealing with that inspection?

Mr. WILLSHER: In as far as it is humanly possible for these men to operate with the amount of tonnage coming into the ports at such places as Vancouver —this I know personally—and Saint John and Halifax, I say yes; these are qualified men.

Mr. MACINNIS: Yes, but does the quality of the inspection, may I say, meet with the requirements of the convention?

Mr. WILLSHER: Yes, as far as an inspector can operate.

Mr. MACINNIS: What do you mean by that?

Mr. WILLSHER: If there is a large tonnage coming into a port a man can do only a certain amount of work in a certain number of hours.

Mr. MACINNIS: Yes, but the convention has in mind all the tonnage coming into a port, and if you have not got adequate inspection for all the tonnage then we are not living up to the regulations of the convention.

Mr. WILLSHER: That is one of the wrongs I am going to try to rectify by getting more inspectors with a higher wage or salary.

Mr. FRASER: Do you know what they pay winchmen on the Vancouver boats?

Mr. WILLSHER: I could not answer that.

Mr. FRASER: With the qualifications you have for an inspector with a salary of $2,700, perhaps you could get a good man with those qualifications for that amount; but I understand that these winchmen receive nearly $5 an hour.

Mr. WILLSHER: I know they get very much in excess of our inspectors.

Mr. FRASER: They do. So you will have a very difficult time getting a man who should know what these men should know to handle and inspect the different equipment on the ships and on the docks.

Mr. WILLSHER: No, I have an idea that if I am going to get what I ask, $2,700, I will get the inspector all right.

Mr. FRASER: That is a fixed salary for him, and he might like to have it because the boats are not coming in all the time.

Mr. WILLSHER: No.

Mr. FRASER: But you will never get a good man for $1,400.

Mr. MACDONALD (*Halifax*): Generally, what are the duties of an inspector at the different ports?

Mr. WILLSHER: To inspect the tackle and gear used in loading and unloading ships and to ensure that the provisions of the regulations are complied with to such an extent as may be necessary for the protection of those employed in their operations. If it is a gangway they would have a fence to keep persons from falling over the side—I refer to the handrails; if there is any defective gear which they can see they may stop the operations until the gear is made good.

Mr. ISNOR: You were going to give Mr. MacInnis the names.

Mr. MACINNIS: I am not questioning them.

Mr. ISNOR: I would like to know the names.

Mr. WILLSHER: The inspector at Port Alberni is Captain J. Stewart. He is 67 years of age, and he was appointed in 1936.

Mr. MACINNIS: Was that his age at the time of his appointment?

Mr. WILLSHER: That is his age now, I believe. At Vancouver we have Captain A. S. Kerr, who is 58 years of age and he was appointed in 1933. At Montreal, owing to the death of the late Mr. Duval, there is a vacancy, and because of this $1,200 minimum we have not appointed anyone to replace him

yet. At Charlottetown we have Mr. L. Gormley, who is 46 years of age and he was appointed in 1936. At Halifax we have Mr. B. Orton, who is 47 years of age and he was appointed in 1940. At Saint John there is Mr. R. McK. Finlay, who is 48 years of age and he was appointed in 1940. It might interest the committee to know that only yesterday I was authorized to get a good man, discuss salary and submit it for approval for full-time employment in the meantime, to relieve the situation until the authorities can issue the advertisements and see what men are available.

Mr. LOW: Is that for Montreal?

Mr. WILLSHER: Yes.

Mr. MARQUIS: There is no one in Quebec.

Mr. WILLSHER: Not in Quebec city.

Mr. MARQUIS: Who is making the inspection there?

Mr. WILLSHER: There is no inspection being made in Quebec city.

Mr. MARQUIS: Does nobody make it?

Mr. WILLSHER: No.

Mr. JAQUES: To what extent would these inspectors be responsible?

Mr. WILLSHER: Well, according to a jury, in Vancouver they held Captain Kerr responsible for the death of one of the workmen because of a fracture of some of the gear, and I always have that picture in front of me when I think of a $1,260 salary.

Mr. KNOWLES: When we pass this convention we will have to go to town with regard to the salaries and spruce up the whole inspection service.

Mr. WILLSHER: As chief of the steamship inspection service I have been operating during the war with about 65 per cent pre-war personnel.

The CHAIRMAN: There seems to be some suggestion here that men working for this salary or these wages were doing work of a perfunctory character. Now, if these men are responsible where human lives are concerned then, from the start, the remuneration should have been much higher. There is a lot here that has not been explained or elucidated to me yet. I cannot see how men would work in such a responsible position for such wages or salary.

Mr. KNOWLES: I wonder if we could have on the record the lowest and highest salaries of these men whose names have been given.

Mr. WILLSHER: These men now have attained their maximum salary—that is, the full-time men—of $1,440.

Mr. KNOWLES: Some of them are getting that?

Mr. WILLSHER: Yes. I did not bring these particulars, but it is safe to assume that they are all getting that amount.

Mr. LOW: Are they on superannuation?

Mr. WILLSHER: They will be.

Mr. LOW: You said one man was getting $10.

Mr. WILLSHER: That is part-time work.

The CHAIRMAN: There must be some way of protecting these men. There must be some safeguard even before a ship comes in. There must be some machinery on foot either through the shipping organization or somebody else, otherwise there would be no necessity for giving $5 or $10.

Mr. JACKMAN: May I ask whether the men who are loading the ships, whether stevedores or ships' crews—

Mr. WILLSHER: Stevedores.

Mr. JACKMAN: —will come under the Workmen's Compensation Act in case of accident?

Mr. WILLSHER: Yes.

Mr. JACKMAN: If there is an accident let us say because of defects in the hand-rail, would not the ship itself be liable if the workman chose to sue the shipping company rather than obtain his benefit under the Workmen's Compensation Act?

Mr. WILLSHER: The owners are liable always.

Mr. JACKMAN: In other words, they do, in order to protect themselves, insure all the safety devices that are possible, but the Department of Transport has the additional duty of having a man there to check and to make sure that the safety devices are all right and that the gear is in good condition. May I ask what these inspectors do? Do they go down to meet the ship when it comes in to start unloading; is that the theory?

Mr. WILLSHER: Yes, that is the theory.

Mr. FRASER: Is it not true, following Mr. Jackman's question, that the ships might have all the gear necessary to cover this convention but that the stevedores when they come along might not put up that equipment?

Mr. ISNOR: The longshoremen's association are very particular for their own protection.

Mr. FRASER: But in many cases they are not, and the ship's crew do not put that up.

Mr. ISNOR: I think Mr. Willsher will agree that the longshoremen have a very important function to perform themselves in safeguarding their own interests.

Mr. WILLSHER: Such as checking the scaffolding and the staging which the stevedores put up themselves.

Mr. FRASER: Yes, I know, but it is not always done according to the way it should be done.

Mr. WILLSHER: Oh, no.

Mr. FRASER: That is why the inspector should be on the job to see that it is done.

Mr. WILLSHER: We have difficulty in enforcing these regulations because the owners object to the time involved and the cost also.

Mr. FRASER: I say that in answer to Mr. Isnor's question, because I know that one ship was held up for a day and a half so that the equipment could be put in place. The inspector held everything up and would not allow the ship to unload anything until the equipment was put in place. That was not in Canada, that was in the United States.

Mr. JACKMAN: Have these inspectors power to prevent unloading until the recommendations are complied with?

Mr. WILLSHER: Yes, they have power under the Canada Shipping Act.

Mr. MACDONALD (*Halifax*): I think the longshoremen's union take a great deal of pain to look after the interests of their own members and are very watchful in the large ports. They work with the inspectors.

Mr. WILLSHER: Then we have to contend with the views of the chief stevedore who has a contract to carry out the work.

The CHAIRMAN: There must be some other kind of inspectorship to ensure that these men would have accepted the position at all.

Mr. WILLSHER: There is steamship inspection, but not under these regulations.

Mr. JACKMAN: Who inspects the inspectors? Is that your function?

Mr. WILLSHER: Yes.

Mr. JACKMAN: Do you ask for written reports on every ship that comes in?

Mr. WILLSHER: Yes, I have a sample of a report with me.

Mr. JACKMAN: The report is supposed to cover every ship that comes into the port?

Mr. WILLSHER: Yes, he has to enumerate all the names of the ships inspected.

Mr. JACKMAN: Take Vancouver.

Mr. WILLSHER: In the month of October there were 38.

Mr. JACKMAN: Thirty-eight ships inspected; and this man receives for that how much money?

Mr. WILLSHER: I gave the maximum, $1,440.

Mr. KNOWLES: Does this man hire a stenographer to do that work?

Mr. WILLSHER: No, we are gracious enough to pay for the stenographer.

Mr. MARQUIS: Does he make his report on a form?

Mr. WILLSHER: This is one of them.

Mr. MACINNIS: Could that report be filed as an appendix to today's proceedings?

Mr. WILLSHER: If you do not mind accepting the date which is 1938. I brought it purposely in case you might require it.

Mr. FRASER: Would not the number of inspections be greater during the war years?

Mr. WILLSHER: Yes, and the work was harder because the ships came in at any hour. There was a disregard for time and men also, and the gear was not given the attention it should have been given. One should feel very gratified that there were not more accidents than there were. There is a system of recording inspections. We have all the registers of certificates that are signed in one port or another as the ship inspected at various ports in the world and necessarily the inspector in Vancouver would not have to inspect the section of this gear that had been previously inspected, say, at Montreal, if the report so showed.

Mr. MACDONALD (*Halifax*): There is one question I would like to ask. If we adopt this convention does that mean that we have to provide inspectors at the smaller ports as well as at the national ports?

Mr. WILLSHER: Well, as long as the service is made available at the smaller ports when the work is there; I think that would be an answer to your question. For instance, it would not be necessary to have a man stationed permanently at Three Rivers or at some of the smaller ports on the gulf.

Mr. MARQUIS: But an inspection should be made?

Mr. WILLSHER: The inspection could be made from Montreal or Quebec, where I hope to have inspectors appointed in due time.

Mr. JACKMAN: As regards ages, I see one man was 67, and I suppose these are positions that could well be filled by retired captains and mates?

Mr. WILLSHER: If they are not too old. When some captains retire they are not so energetic as they used to be. You have to be an energetic man to be an inspector of ship's tackle.

Mr. JACKMAN: Does the inspector have to do any physical work?

Mr. WILLSHER: He may have to climb the rigging to carry out his work properly.

Mr. LOW: How long does it usually require for the inspection of an ordinary cargo vessel?

Mr. WILLSHER: Well, with the system that is in operation now with a certain amount of work inspected at outports and accepted for a certain period, a man might go through the job in a forenoon, and he might not. Of course, there is a lot of interference. When a cargo is being discharged the inspectors are not going to expose themselves underneath the derricks and run risks.

Mr. MACINNIS: An inspector does not have to climb the rigging to see if it is safe.

Mr. WILLSHER: No, the rigging is not under his inspection, but there are some weak links that are hard to observe, and it is these weak links that usually break.

The CHAIRMAN: I think to have this report published would be rather expensive; could we not have it put in as an exhibit?

Mr. MACINNIS: I am not asking to have any more reading matter.

The CHAIRMAN: We will have it put in as an exhibit; otherwise it might take at least a week to print it.

Mr. ISNOR: Do most of these inspectors come from the ranks of stevedores or longshoremen?

Mr. WILLSHER: We cannot always entice such men to take these positions.

Mr. ISNOR: I was going to point out that the average earnings of longshoremen in Halifax for a 40-hour week over 52 weeks would amount to over $2,000—$1,976 exactly, and you pay only $1,440 as a maximum. A man would be losing $536 on the job.

Mr. MACINNIS: Longshoremen would not be working eight hours a day for 52 weeks.

Mr. WILLSHER: As a matter of fact, some of the inspectors do come from those ranks. Mr. Findlay of Saint John came from the ranks—of stevedores.

Mr. FRASER: I wonder if we could have Mr. Willsher back again before the committee. He was going to speak to us on steamboat inspection too.

Mr. WILLSHER: No.

Mr. FRASER: I thought that was what the chairman said.

Mr. WILLSHER: I would be delighted to, but I do not want to take up too much of your time.

Mr. KNOWLES: That does not come under this convention. Mr. Chairman, it seems to me that the information given to us this morning by Mr. Willsher puts us in this position, that we might recommend back to the House the adoption of this convention but with the recommendation that steps be taken to make sure that we implement the convention in full. What are our powers to make a recommendation involving the expenditure of money, I do not know; but certainly we cannot recommend a convention without making some comment as a committee.

Mr. MARQUIS: If we recommend the convention they will be obliged to act according to the convention and to pay reasonable salaries to the men and the inspectors. If we do not have inspectors we cannot apply the convention at all. So a recommendation to adopt the convention, it seems to me, would ask the government to fulfil the obligations according to the convention.

Mr. FRASER: I think Mr. Knowles has a good suggestion.

The CHAIRMAN: That has been before the committee all the time. We realize that we have the power to make recommendations, but it does not mean they will be implemented. I believe it would be a good thing to have them in our report.

Mr. KNOWLES: The impression was created by what the minister said the other day that we are already living up to these standards and that this is a perfunctory matter; we have to draw attention to the fact that we are not living up to them.

The CHAIRMAN: We will deal with that at our steering committee meeting. We should have the power. I draw your attention to the bottom of the list of protocols and to page 27, with regard to statistics of time rates of wages, etc. But we have Mr. Sinclair's point of order before us as to whether we are able to deal with it.

Mr. LEGER: Mr. Willsher told us a little while ago that he had recommended that these men should in the future be paid $2,700. Has he any indication whether his recommendation is going to be accepted or not?

Mr. WILLSHER: No, I am only authorized to see whether I can get a man who will fill this position in Montreal. If I can get him at $2,700 I believe I will get the authority to appoint him, pending action by the Civil Service Commission on my memorandum. Allowing for advertising the position about twelve months will expire before an appointment is made. It usually requires from nine to twelve months from the time the vacancy occurs until the position is filled.

The CHAIRMAN: You do not set the salary of $1,440 to get the man?

Mr. WILLSHER: No. The man does not get $1,440. According to the advertisement he gets $1,260, the minimum.

Mr. MACINNIS: I suggest that the steering committee draft a resolution which we can consider for the adoption of the conventions.

The CHAIRMAN: I am sure the committee wish to thank Mr. Willsher for his very informative remarks. We should get Dr. Alan Peebles of the Department of Labour to deal with No. 3 of the protocols. Is that satisfactory to you, Mr. Sinclair?

Mr. SINCLAIR (*Ontario*): I always bow to the will of the majority.

The committee adjourned to meet again on Tuesday, November 6.

SESSION 1945

HOUSE OF COMMONS

STANDING COMMITTEE

ON

EXTERNAL AFFAIRS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 4

TUESDAY, NOVEMBER 6, 1945

WITNESSES:

Mr. David Vaage, Chief of the Safety Section of the International Labour Office, Montreal, Quebec.

Dr. Allon Peebles, Director of the Research and Statistics Branch of the Department of Labour.

Mr. A. Cohen, Chief of the manufactures statistics, Dominion Bureau of Statistics, Department of Trade and Commerce.

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MINUTES OF PROCEEDINGS

TUESDAY, November 6, 1945.

The Standing Committee on External Affairs met at 11.30 o'clock. Mr. Bradette, the Chairman, presided.

Members present: Messrs. Benidickson, Blanchette, Boucher, Bradette, Fleming, Fraser, Jackman, Jaques, Knowles, Leger, Low, MacInnis, McIlraith, Mutch, Picard, Sinclair (*Ontario*), and Winkler.—(17).

In attendance: Messrs. R. M. Cram and L. MacKinnon, respectively supervisor of General Labour Statistics and Wages Statistics of the Department of Labour.

Miss M. E. K. Roughsedge and Mr. A. Cohen, respectively chiefs of employment and manufactures statistics, Dominion Bureau of Statistics, Department of Trade and Commerce, and Mr. A. H. Le Neveu, of the Demography Division.

The Clerk tabled information requested at the previous meeting, being:

I. A memorandum of Mr. Marshall, acting Dominion Statistician, concerning the statistics necessary to meet the requirements of draft Convention No. 63 of the International Labour Office. This memorandum was accompanied with the following documents and publications as published by the Dominion Bureau of Statistics, submitted as examples under the direction of Miss M. E. K. Roughsedge.

1. Monthly Questionnaire, E.S. Ia and E. S. Ib.
2. Bulletin entitled "The Employment Situation" at the beginning of August 1945, together with payrolls for the last week of July.
3. Statistics of Man-Hours and Hourly Earnings as at August 1 with comparisons as at July 1 and June 1, 1945.
4. Annual Review of Employment and Payrolls in Canada, 1944.
5. Annual Questionnaire of the Census of Industry.
6. Weekly Wage Schedule (used at intervals of two or three years).
7. Annual Report on the Manufacturing Industries of Canada, 1943.
8. Weekly Earnings and Hours of Work of Male and Female Wage-Earners employed in the Manufacturing Industries of Canada, 1943.
9. Weekly Earnings of Wage-Earners employed in the Manufacturing Industries of Canada, 1940.
10. Questionnaires used by the Agricultural Statistics Branch at January 15, May 15 and August 15 of each year.
11. Farm Wages in Canada.
12. Statistics of Earnings of Wage-Earners as revealed by the Decennial Census.
13. Bulletin E-1, Earnings and Employment, data obtained in the 1941 Census.
14. Bulletin, E-2, Earnings and Wage-Earners by occupation, data obtained in the 1941 Census.

II. Copies for distribution of Report No. 26, a supplement of the Labour Gazette of June 1945 on wage rates and hours of labour in Canada.

All above mentioned documents were distributed forthwith.

Mr. Marshall's memorandum was ordered printed as an appendix (*See appendix A to this day's evidence*).

Sample reports on mining operations and on various goods, prepared by the Dominion Bureau of Statistics, were also tabled for the information of the members of the Committee.

Mr. Willsher, Chairman of the Steamship Inspection Branch of the Department of Transport forwarded, as agreed,

1. A sample ship inspector's report.
2. A copy of an advertisement relative to the position of inspector of ships' tackles.

The inspector's report was distributed and the advertisement was ordered printed as an appendix (*See appendix B to this day's evidence*).

Mr. David Vaage, Chief of the Safety Section of the International Labour Office of Montreal, Quebec, was called.

He made a statement on the establishment and the accomplishments of the International Labour Office and was questioned thereon. He tabled copies of

1. A publication entitled "Industrial Safety Survey" (English and French).
2. International Labour Review (English and French).
3. A publication entitled "The Safe Installation and Use of abrasive wheels".

The witness quoted from a proposed handbook intended for the use of ships' inspectors.

Mr. Vaage was retired.

Dr. Allon Peebles was called and examined on matters relevant to Part III of Convention No. 63. The witness was retired.

Mr. A. Cohen, chief of manufacturing statistics, Dominion Bureau of Statistics, was called and answered a question relative to comparison of wages. He retired.

On motion of Mr. Blanchette, a statement from Mr. Robert Woodbury, Chief Statistician of the International Labour Office was ordered printed as an appendix (*See appendix C to this day's evidence*).

A discussion followed on the proposed report and further business of the Committee.

The Chairman invited the Steering Committee to a meeting to be held in his office on Wednesday, November 7, at 10.30 a.m.

The Committee adjourned at 1 o'clock until Thursday, November 8, at 11.30 o'clock.

ANTONIO PLOUFFE,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS,
November 6, 1945.

The Standing Committee on External Affairs met this day at 11.30 a.m. The Chairman, Mr. Joseph A. Bradette, presided.

The CHAIRMAN: Gentlemen, let us come to order. First, we have a document tabled for distribution to the members of the Standing Committee. We requested one from the Department of Labour. We have also a memorandum presented by Mr. Marshall of the Bureau of Statistics of the Department of Trade and Commerce, and another from Mr. Willsher of the Steamship Inspection Branch, Department of Transport. I believe it will be the consensus of opinion of the members that some of these documents should be printed in the report of this meeting.

(Memorandum of Mr. Marshall, Bureau of Statistics, appear as appendix "A".)

I take it that it will meet with the approval of the committee to have read into the record the "Civil Service advertisement for an Examination" pertaining to the position of inspector, of the Board of Inspection Bureau. This is supplied by Mr. Willsher. Probably it will not be necessary to read this into the record. With the committee's approval we will have it printed in our report.

("Civil Service advertisement" appears as Appendix "B".)

We have the good fortune this morning to have as our first witness Mr. David Vaage, Chief of the Safety Section of the International Labour Office, Montreal. I understand that he drove to Ottawa this morning and I hope that he did not have to break any of our laws in getting to the capital. Also we have with us this morning Dr. Allon Peebles of the Department of Labour, Ottawa. I shall call upon these two gentlemen to make a brief statement on their official and departmental activities and then they will be available for questioning. Probably it will be better to take one witness and finish with him before we proceed with the next. I shall now call on Mr. Vaage.

Mr. David VAAGE, Chief of the Safety Section, International Labour Office, Montreal, called:

The WITNESS: Mr. Chairman and members of the committee, the Labour Office in Montreal received your invitation to send somebody up here to give evidence before the committee, and we were honoured to accept that invitation; and it is in compliance with that invitation I am here today. Now, I have no prepared statement to make on either of the two conventions which are before this committee, but, perhaps, I might be allowed to make a brief statement about the International Labour Organization. As you all know the permanent secretariat of the International Labour Office was in Geneva, Switzerland, but since 1940 it has been in Montreal. The organization was set up under the peace treaties concluded after the first great war. It had its seat in Geneva, in the same place as the League of Nations, and was attached more or less to the League in so far as it collaborated with the League in social and economic problems, especially problems dealing with labour. Together with the High

Court of International Justice at The Hague, Holland, its budget was included more or less in the League budget. It was a separate part of the League budget, a particular budget, and the use of the money spent on the budget was subject to control by the control committee of the League, which was a control committee common to the three organizations: the League itself, the International Labour Organization, and the permanent High Court of Justice.

The International Labour Organization consists of an annual conference which is more or less the parliament of labour. There is, as I said, the International Labour Office which has its permanent secretariat, and that office is under the direction of a Governing Body. The Governing Body consists of thirty-two members, sixteen being Government representatives, eight employers' representatives, and eight workers' representatives. You may have seen in the press that the International Labour Conference has been sitting at its twenty-seventh session in Paris. The conference closed yesterday and elected a new Governing Body. That is the first real election that has been held since 1939. The members of the governing body now are the following governments: Australia, Brazil, Chile, Egypt, Mexico, Peru, Poland and Sweden. Those members have no permanent seats, they are elected. In addition to them there are the eight most important industrial countries, namely, Belgium, Canada, China, France, India, the Netherlands, the United Kingdom and the United States, which have permanent government seats on the Governing Body of the International Labour Office. These eight countries which I named last, and among which you will find Canada, are permanent government members of the Governing Body.

Now, the eight employers' members who were elected at Paris are as follows: India, South Africa, Denmark, China, Mexico, France, the United Kingdom and the United States. The eight workers' members are: Sweden, Canada, China, the United Kingdom, France, Australia, Mexico and the United States.

The Governing Body directs the work of the office, through the director, assistant directors and the staff and fixes the agenda of the International Labour Conference. When a subject has been placed by the Governing Body on the agenda of the Conference, the first step is that the International Labour Office works out what is usually called the Grey Report. That gives a survey of the law and practice on each particular item placed by the Governing Body on the agenda for the coming session of the Conference. The Conference usually, but not always, deals with these matters in two sessions. It is what we call the double discussion procedure. That is to say, that on the basis of the Grey Report placed before the Conference by the Office the Conference discusses the matters in a preliminary fashion. Attached to the Grey Report in that case is a draft questionnaire which the Conference in the first reading can add to or subtract from or modify as it likes; the questionnaire as adopted by the Conference is then sent out to the governments, that is, the governments are advised on such important questions as the conference in discussing the first part has decided upon. The governments have to reply within a certain time limit, and on the basis of those replies the Office again gets busy and works out what is called a Blue Report. The Blue Report is the report for the second discussion of the questions, and that report is based on the replies received from the governments to the questionnaire that the first Conference adopted.

Now, it will depend, of course, on the consultation by the governments and on the opinion expressed by the majority of them whether the Conference will adopt a draft convention or a recommendation, a draft convention being a document which is intended to be submitted to the Member States for ratification; and if the Conference decides to adopt a draft convention it then goes on on the basis of the Blue Report and of the replies submitted by the governments, and

puts into that convention such regulations as it thinks might win the approval of the majority of the governments. If on the basis of the replies from the governments there is little likelihood of a draft convention being possible, the Conference will be satisfied with adopting a recommendation, which is not subject to ratification, but which is, of course, submitted to the Member States of the Office. They are supposed to act on it as they like without any binding obligations.

Now, you have before you two of these Conventions: Nos. 32 and 63. No. 32 concerning the protection of dockers—was adopted in 1932, and this is a revised text—and No. 63 was adopted in 1938. I have no prepared statement to make on either of these two conventions, because I did not know when I was ordered to proceed to Ottawa what the committee would like to know exactly. I shall be glad, however, when I have finished with my statement on the I.L.O., to reply to any questions which you gentlemen might like to ask, but more particularly on the first of these two conventions for which I am more or less directly responsible.

The Conventions adopted by the Conference must be submitted by the International Labour Office to the governments of the Member States within a certain period, and within a normal period of not more than one year after having received them the governments are bound to lay these conventions before the legislative power of their respective countries with certain propositions. They may propose that a Convention be ratified, that it be not ratified for the time being, or that it be not ratified at all. It would depend on the situation, whether the legislation on a particular subject in that particular country is up to the standard laid down in the Convention or not; because, before a state or a country may ratify any of these Conventions, it is supposed to bring its legislation on the subject in conformity with the provisions in that particular Convention. It may take some time before that can be done. It may take some time also before a government can set up the necessary machinery to carry out the matters provided for in the Convention.

In the case of recommendations, as I said before, they are not subject to ratification; they must, however, also be submitted to the proper authorities, and the member states are supposed to use them as a basis for any amplification or any amelioration of their legislation on the points covered by the recommendation.

I may perhaps add a few words on the International Labour Office itself. I have told you about the functions of the Governing body, about the functions of the Conference. The permanent secretariat, the International Labour Office, is, first of all, in charge of the preparation of all the reports which are necessary for the Conference and for the work of the Governing Body. In addition, however, it is a great exchange centre of information on all matters of social importance—on all social questions. It issues several publications, and it replies, as far as possible, to all requests for information which come to it from member states, from employers, from workers, and from other organizations in various countries. It will also deal with the requests for information received from private persons. One of the most important publications of the office is the *International Labour Review*, which is devoted to all important matters in the social field. I have some copies of it here, which I can leave with you. One is in English and the other is in French. I am leaving them for the information of members of this committee, if any member should like to see them afterwards.

In matters especially concerning the prevention of accidents, which is the matter dealt with in Convention 32, there is a special section in the office and it issues a publication called *Industrial Safety Survey*, which is now issued in English and Spanish only. Previously it had been issued in English, French and German. I shall leave copies with you.

In addition, there is a series of special monographs on the various technical and economic questions, and I have brought one of them with me; it is just out. This, I may say, is some of my own work; it has to do with *The Safe Installation and Use of Abrasive Wheels.* That is a machine which is very dangerous, and we have brought this special publication out with regard to it.

Mr. FRASER: Is that published in Canada?

The WITNESS: In Montreal, sir.

Mr. FRASER: Not by the I.L.O.?

The WITNESS: Yes, by the International Labour Office in Montreal.

Mr. FRASER: Not the headquarters?

The WITNESS: Yes.

Mr. FRASER: Is everything moved over here now?

The WITNESS: Yes.

Mr. FRASER: And that is paid for—

The WITNESS: By the member states.

Perhaps I should go back to the beginning of this war, because the question of changing headquarters came up in 1939 when war broke out. It became more and more difficult for the Office to carry out its functions. Communications with overseas countries became more and more difficult, and little by little they were cut down almost entirely except for some things which could be got by clipper from the United States through Lisbon and Spain and southern, or what was called "unoccupied", France. It was evident that the Office could not carry on as it should if it were to remain in Geneva, and there was always the danger that the Germans would break into Switzerland and occupy the whole of that little country; our director at that time, Mr. John G. Winant, now United States ambassador to Britain, decided to move the Office from Geneva, and we were lucky enough to get a new headquarters at McGill University in Montreal. We are certainly very thankful to Canada as a whole, to the Province of Quebec, to McGill University and to the City of Montreal for the great hospitality that has been extended to us. We came over that time with about forty members. The staff in Geneva numbered between 480 and 500, so not quite 10 per cent of the staff came over, and those that did come were mostly chiefs of sections and services and a few special secretaries. They came to Montreal in September 1940. We started our work and little by little we have been able to build up again so that now we have a staff of about 200, and we shall probably have a few more after the Paris Conference, when all the decisions taken there are known. We have been able to carry on and develop the work of the Office on a much larger scale than, perhaps, anybody ever hoped when we came to Canada in 1940.

Mr. Chairman and gentlemen, I think this is about all I have to tell you now, but if there is anybody who wishes to put any questions to me on the organization or on Convention 32 I shall be glad to reply to the best of my ability.

The CHAIRMAN: Do any of the members wish to ask the witness questions?

Mr. FRASER: I should like to ask a question. I do not know whether I understood this matter rightly or not. Suppose Canada were not quite in agreement with a Convention before them and were to send back recommendations or to state that they could not agree to certain parts of the Convention, I understood from what the witness said that then the Governing Body would make recommendations; is that right?

Mr. VAAGE: No, that is not right. The Conventions have been adopted by the Conference and can only be changed by the Conference. Any country which wants to ratify a Convention must ratify it as it stands, but if after having ratified and started carrying out this Convention it is found that there are

certain difficulties or if it does not work out properly, then Canada or any other Member State is free to approach the International Labour Office and to say what it has found wrong with the Convention and to propose such measures as it thinks might be useful in remedying the situation.

Now, this particular Convention concerning the dock workers was first adopted in 1929, and was ratified by a few countries; but several countries came with complaints that certain things did not function, did not work out in practice as it had been thought they would; and the result was that then the proposals for revisions were submitted to the International Labour Office and transmitted by the Office to the Governing Body. The governing body decided to take up this Convention and make it a matter for discussion by the Conference in 1932, and the text as it is to-day is the revised text which has since been ratified by several countries.

Mr. MACINNIS: May I ask the witness which countries are allowed to make representations for a change—countries that have adopted the convention or countries that have not adopted the convention or both?

Mr. VAAGE: Well, any country belonging to the organization, whether it has ratified the convention or not, can, of course, make proposals, but it will be for a special technical committee and for the Governing Body in that case to find out whether that country has the real experience necessary; because not having ratified the convention much will depend on the circumstances whether such a proposal can be taken into account or not. Of course, the other governments will have to be consulted. The Governing Body will certainly not put it up again on the agenda for a further revision unless there is a majority among the governments and the representatives of the Governing Body for it.

Mr. JACKMAN: Mr. Vaage, these conventions have to be ratified according to the constitutional process of each of the member countries?

Mr. VAAGE: Yes.

Mr. JACKMAN: Can you tell us what happened in regard to the 1935 legislation which Canada sought and which was ratified under Mr. Bennett's government, but which was held to be ultra vires of the Dominion Government. What happens in a case like that?

Mr. VAAGE: I am not quite sure which convention it was.

Mr. JACKMAN: It had to do with labour conventions.

Mr. FLEMING: It had to do with six days a week, and eight hour days, and so on.

Mr. VAAGE: Yes. Of course, there is a difficulty in connection with Canada, the United States, and other countries which have both a federal and provincial jurisdiction. In some cases the federal government is not authorized to make commitments on certain points which belong to the provinces or, in certain countries, to the states.

Mr. JACKMAN: What happens to the convention, if the member countries have not in their federal jurisdiction, the power to ratify? Does the convention fall by the board, then?

Mr. VAAGE: No. The situation is this: the Conference adopts what is called a Draft Convention. That Draft Convention becomes a Convention, really, as soon as it is ratified by two members; there is reciprocity between the two countries on that Convention that they have ratified, and they are bound by it. It ceases to be a Draft Convention and it becomes a binding convention; and any country ratifying that Convention afterwards becomes, automatically, a party to that Convention and is bound by it. But countries which have not ratified it, are not bound by it in any way. Is that quite clear?

Mr. JACKMAN: Yes, that is clear. But supposing a country does ratify it and then there are breaches of it. Is there any sanction or punishment?

Mr. VAAGE: I do not think punishment is perhaps quite the right word; but should a country find that another country which has ratified the convention does not live up to it, then the first country has the right to complain to the International Labour Organization. Of course, any country ratifying the convention is bound to furnish annual reports on the Convention and on the legislation which it has enacted to bring its own legislation into harmony with the Convention, and also to report on such measures as it has taken to see that the Convention is carried out, how many times it has found the Convention to be broken, and what measures it took. For example, if an employer breaks the provision of a Convention, then the government is supposed to exercise sanctions against that man, or against that firm. The annual reports sent in to The International Labour Organization are examined by a special committee of experts. I have here the last report of that kind, a report to the Paris Conference, under article 22 of the constitution of the International Labour Organization. Experts go through these reports and they will see that the government of such and such a country reports that it has done this, and this, and this; and they may say that they think that on a particular point a certain government is not quite up to the standards required by the Convention; and they would recommend that attention should be drawn to the fact, and that the situation should be remedied as regards that particular point.

Mr. BOUCHER: Then it is fair to say that the International Labour Organization has no provision to exercise sanctions or impose punishments but simply to draw the attention of the offending party to it?

Mr. VAAGE: I think that is quite a good sanction in itself; I can tell you from many years experience that the delegates of certain countries have found it very hard to have the legislation or measures of their country criticized in public, because they have been discussed at the International Labour Conference. It is not comfortable for the government delegates of any country to have to sit and hear their own country criticized in front of the representatives of fifty or more nations throughout the world, and to be told that their particular country is not living up to the standard. It is only a moral sanction, quite true; there is a very strong moral force or sanction in that, though.

Mr. JACKMAN: Do minor amendments have to go through the same formal process as the original Convention?

Mr. VAAGE: If a Convention is modified it becomes a new Convention. Of course, much depends upon the degree of modification.

Mr. JACKMAN: But what about minor amendments?

Mr. VAAGE: You cannot make minor amendments. They have to go through exactly the same procedure as the original Convention. There has to be an accord on it through the Office, and it has to go before the Conference. It may, of course, be done by single discussion at one session of the Conference.

Mr. JACKMAN: In other words, there has been evidence of a good spirit on the part of the subscribing countries as to the constitutional workings?

Mr. VAAGE: Oh, yes.

Mr. KNOWLES: I should like to ask a question with respect to the dockers convention. Should this convention put Mr. Vaage in the position of having to pass judgment on Canada, and he would not wish to do that, he can just state the fact. We have been trying in this committee to find out whether to ratify the dockers convention would be purely a perfunctory act on our part; whether we are already living up to it, or whether there are any points in which we are not already fulfilling our obligations involved in that convention. In questioning our own various departmental officials we have found that in most respects we were living up to that convention already. However, we did find one respect in which we were not living quite up to it; that had to do with ships tackle

inspection. Now I would like to ask Mr. Vaage, simply as a matter of information, whether he knows of any other respects in which Canada would have to improve her practise in order to carry out the commitments under this convention should we adopt it?

Mr. VAAGE: No sir, I do not. But I must add that I have no special information on the situation in Canada, so far, except as I have seen in the minutes of this committee which have been made available to me. That information would be made available in the first report of the Canadian government to the International Labour Office. The government would have to point out exactly which legislation is in force covering these measures and what measures have been taken to enforce these provisions. But, so far as I can see, I would say that the Canada Shipping Act is quite in conformity with the Convention itself.

Mr. KNOWLES: You mentioned having read the minutes of the committee. I take it then that you have seen the reference to the inspection of ships tackle?

Mr. VAAGE: Yes.

Mr. KNOWLES: Would you say that we were justified in calling attention to the deficiency on that score?

Mr. VAAGE: Yes. I think it was very valuable that this committee should draw attention to that because I do not think, if I may express my own private opinion as a technician and an engineer and longstanding safety man in the International Labour Organization—that you can get a good man for the salary that is metioned in those minutes. There is a need for a man who could say not only that this part or that part is worn out, or not strong enough, but for a man who must also be able to control, for instance, the position of a boom on a ship. There are certain angles there which are rather complicated problems. I believe that a ship's mate or a retired captain may be able to do it, but I do not believe that just any mechanic, whatever he may be, is competent to do that sort of job.

The CHAIRMAN: That is what I thought at our last meeting. There must be somebody before the inspector gets in, who must look after safety requirements.

Mr. KNOWLES: It is our job to make sure that we have proper inspection.

Mr. VAAGE: Yes. I may say here that the International Labour Organization is bringing out a monograph on the safety of loading and unloading of ships. It will be available in English, I suppose, in about a month's time, and would certainly be a very good handbook to be distributed to the various inspectors. I believe that they could learn a lot from that handbook. I might also add that in several countries the state has issued special brochures or small handbooks dealing with that subject and has distributed them to their inspectors.

Mr. FRASER: That would hinge on the loading and unloading facilities of those countries. Perhaps, for example, on the Pacific coast, where they have not got any docks as in Central America or in South America, the situation would be entirely different there from the loading and unloading places?

Mr. VAAGE: That is true. But perhaps if national monographs or pamphlets are issued, they would take into account difficulties in each particular country. In our monograph which will be coming out pretty soon we have got to take into account, of course, more or less the international aspect of it. I have with me here a set of the first proofs of that monograph. The first chapter of it deals with the safety factor; that is a very important thing which an inspector must be capable of determining. Another deals with hoisting machines and gear on boats. In the book there are about one hundred figures to show exactly how things should be arranged and up. There is another chapter on stresses in cranes, and so on. And of course, there is one very important chapter on the slinging of loads. That, too, is a very dangerous thing if not

done properly. This monograph has been prepared by the chief port inspector at Rotterdam. His experience, I think, is absolutely unique in the whole world, because he has had such a good opportunity of seeing ships from all parts and all countries of the world coming in. His interest was drawn to this safety question when several ships came in and, while they were being unloaded, the booms fell down. Here I have a little pamphlet issued by the chief port inspector in Norway. This pamphlet is used in every port in Norway, although that country has not yet ratified the convention. It would have done so if it had not been for the war. It probably will do so soon, but in the meantime it has already issued material for the inspectors, so that the Convention can be carried out.

Mr. MacInnis: Does the International Labour Organization compile or keep comparative statistics on accidents in loading or unloading of ships?

Mr. Vaage: Well, we do keep actual statistics, so far as we can get information from the various countries. For instance, we always publish in *Industrial Safety Survey* extracts of all accident statistics that we can lay hands on. Of course, that material is also conserved in the office itself.

Mr. MacInnis: Including information with respect to those countries that have never ratified the convention?

Mr. Vaage: Yes.

Mr. Benidickson: Just for the record, would you mind describing this publication?

Mr. Vaage: It is a publication devoted exclusively to industrial safety, and to occupational diseases to a certain extent; but mainly it is devoted to industrial safety and the prevention of industrial accidents. It is published now in English and in Spanish, and we hope to have a French edition very soon, as soon as we can get the necessary staff again.

Mr. Winkler: Would you get much information say, from China, where most of the loading and unloading is done by hand?

Mr. Vaage: No. It has been very difficult to get information on that subject from China. We did get some information from Japan before the war, so long as Japan was a member of the organization. But from China I do not think we have ever had anything on that subject.

Mr. Blanchette: Would Mr. Vaage kindly inform the committee how long it generally takes for a Convention to be established?

Mr. Vaage: That depends, of course. This Convention, which is before you, No. 32, was ratified for the first time by Uruguay, about a year after, or even a less than a year after, its adoption. Italy followed Uruguay in the same year, about fourteen months after the establishment of the Convention. Then Spain was the next country, and then Mexico, about a year and a half after the Convention. It depends, of course, how the situation is. If a country has its legislation already adopted more or less along the lines of the Convention, then it can ratify without any difficulty and very soon; but if it has first to enact national legislation in order to be in conformity with the convention, then it will take much more time.

Mr. Blanchette: I mean, if the government decided to adopt this Convention, how long would it take to draw up that Convention?

Mr. Vaage: The Governing Body submits the question to the Conference in the first, or grey, report Secondly, there is a blue report. It takes two years with the double discussion system. Well, of course, if the reports are very difficult to establish, as sometimes is the case—and these reports have to be established in English and French, and in some cases in Spanish and in other languages as well—it will be a matter of how soon the Office can work out

the reports from the moment the Governing Body decided that a question shall go on the agenda of a future Conference. Then, it is more or less up to the Office; how soon they can prepare the report, in the usual languages for the Conference. It may take as much as two years.

Mr. BLANCHETTE: Thank you.

The CHAIRMAN: Are there any more questions?

Mr. JAQUES: I have one question. How is it in comparison with other countries which have the democracies, the so-called democracies? How does Spain measure up?

Mr. VAAGE: We have had no experience with Spain since the civil war broke out there in 1936.

Mr. JAQUES: But since that?

Mr. VAAGE: Since that we have not learned much about Spain because Spain retired from the organization and we have not had any reports. But so far as I can see, in my own particular field, that of accident prevention—which, of course, is no measure for the whole situation—but from that point of view I think Spain has done quite well in that particular field. But that, of course, was the same in Italy and Germany also. Those countries wanted to conserve their man power and for that reason they were very severe against accidents and occupational diseases.

Mr. JAQUES: Then the convention was well enforced?

Mr. VAAGE: Yes.

The CHAIRMAN: The Committee wishes to thank you, Mr. Vaage for coming here this morning, for your presentation to the committee, and for answering the questions. Now, Mr. Vaage, you are free to remain as long as you wish, or you may go back to Montreal. I now call on Dr. Allon Peebles, of the Department of Labour, Ottawa, who will deal with part 111 of convention No. 63, which was left out the other day.

Dr. PEEBLES: Mr. Chairman, and gentlemen: I am director of the research of the Statistics Branch of the Department of Labour. As your chairman indicates, I am here in connection with part 111 of convention 63 which deals with "statistics of time rates of wages and of normal hours of work in mining and manufacturing industries." I can say that we are fulfilling virtually all the requirements of the convention at the present time. We do have all the necessary machinery to carry out the terms of the convention. We obtain annually information from some thirteen thousand employers—and they are representative employers—and they do include industries not required under the convention. So, we go further than the terms of the convention actually require. We obtain annual reports from the employers with respect to hourly rates and also with respect to hours of work worked by their employees. We prepare the various index numbers, and we revise not only the general index for the whole country, but for the various branches of manufacturing and the various industries within that general field, and we also publish a very thorough occupational wage rate data, not once every three years as is required in the convention, but we publish that information annually and we publish it in far greater detail than the convention requires. That is, they state in article 15 that separate figures should be published at least once a year for the main occupations in the most important of these industries. Well, we publish our figures for the main occupations not only in the industries specified but in additional industries. These reports, a copy of which you have in front of you, No. 26, "Wages and Hours of Labour in Canada" are printed as supplements to the Labour Gazette, and that of course means in both French and English. They are distributed to the whole mailing list of the

Labour Gazette throughout the country. We have never had a request from the International Labour Organization for data that we have not been able to fill. I think, Mr. Chairman, perhaps that is enough in the way of a preliminary statement, but I would be glad to answer any questions you may wish to ask me.

Mr. KNOWLES: I noted Dr. Peebles' clear indication that in many instances his division is able to produce more than the International Labour Organization asked for, and that we are more than living up to the convention. But I noticed that he said in his preliminary statement that we are fulfilling virtually all the provisions. Is that word "virtually" just thrown in there, or does he mean by the use of that word that there are some few instances where we have fallen down?

Dr. PEEBLES: Yes, there are. I might add that, so far as I know, there is no country which publishes any more complete statistics on wages and hours of work than we ourselves are publishing in Canada. But I would not make that statement without some little reservation. We have not taken all the reports and checked them literally. But so far as I, and the members of my branch, know, our statistics in this field are the most complete of any that have been published. Now, as to the "virtual" side of the question, I am interested to note that you caught that word. Under article 19, for example, letter (*b*), it says: "where the sources of information from which the statistics of time rates and of normal hours of work are compiled contained such particulars, these statistics shall at intervals not exceeding three years indicate: "item (*b*) the scale of any family allowances." I have some doubt as to whether that particular clause refers to the type of family allowances which we have in Canada. I think rather that it refers to the type of thing which they have in France, for example, where there is an industrial family allowance and where the employer actually does alter the amount of money which the employee receives in accordance with the marital status of the employee and the number of dependents which the particular employee has. I think that is probably what they had in mind, when they were drafting that particular clause in the convention. In any case, I do not see how we could satisfactorily, in statistics dealing with hourly rates of wages, take into account our particular system of family allowances, because here the employer would not know, and it would cause a great deal of inconvenience to the employer if we asked him to try to find out, the number of children, and their ages, and all the other details that would be necessary in order for that particular employer to state what the family allowance is that his employee is receiving. So we are not doing that at the present time, and we certainly would not do it without a great deal of further discussion with the International Labour Organization. I think it would be unsound, technically, to attempt to do it because the primary source of our information is the employer. The employer would not have the data and, as I have suggested, it would take a great deal of time on the part of the employer to get the necessary information. We always try to bear in mind, as I think Mr. Marshall stated here the other day before this committee, the importance of not imposing such a burden on the employer, in completing his reports, that we run into sales-resistance. The degree of cooperation that we have received from the employers has been very fine, and we want to retain the happy relations that exist between us and employers in that respect. That is one item for which we are not presently getting the information.

Mr. KNOWLES: Before you leave that, if the interpretation placed on the international labour organization wording is correct, and I do hope it is, I take the position as I did the other day, that we should not compile our statistics with respect to the federal government's family allowance in such a way that it would give industry a loophole for reducing wages. But, for the sake of

carrying out our commitments, under the convention, wouldn't it be correct to say that there are no family allowances of the type of which you speak there, and for which they are asking?

Dr. PEEBLES: Quite!

Mr. KNOWLES: Then it should be easy, very easy, to answer that question?

Dr. PEEBLES: If my information is correct, I checked that subject with Dr. George Davidson to see what he thought about it, and he thought the interpretation was a sound one.

Mr. FLEMING: Is there any proposal to seek an official interpretation on it from the International Labour Organization? Is there any machinery for the interpretation of the convention when the question of ambiguity arises, for example, with respect to family allowances?

Dr. PEEBLES: I think the best way would be to go down to Montreal and to see them at the International Labour Organization and find out what their experience is and how they govern themselves.

Mr. FLEMING: But there is no machinery within the International Labour Organization to give binding interpretation on the subject matter of this convention?

Dr. PEEBLES: I do not know of any personally; but I feel confident that there would be such machinery because such questions are bound to arise in connection with any convention of this kind.

Mr. MACINNIS: Could it possibly come under this, anyway? This deals particularly with statistics of time rates of wages and of normal hours of work in mining and manufacturing industries. A family allowance is not part of a wage. You are not dealing with family income, but with family wage.

Mr. KNOWLES: Not in Canada, at any rate.

Dr. PEEBLES: That is the way I had interpreted it.

Mr. KNOWLFS: Your "virtually" is all right on that point.

Dr. PEEBLES: That is right. Now item (*d*), under article 19, "the amount of overtime permitted." We are not getting that particular item of information at the present time. It is quite minor, and we can get it; but we are getting the facts with respect to overtime and the rates of pay for overtime. We ask in our questionnaire that we send out what the rates of pay are. What do you pay for overtime, Sundays and holidays, and that sort of thing? We do not ask the specific question how much overtime do you permit, or what is your outside limit in a partcular day or in a particular week. But that would be a very simple matter to add to the questionnaire. If we had been asking questions a year ago, we would not have been complying with the second section of article 21 with respect to compiling an index of hours of work. But we have started that within the last year, and hereafter we shall continue to do that. Now, the only other item that is of significance in connection with the "virtually" is article 14, item 1, "the statistics of time rates of wages and of normal hours of work shall show the rates and hours: (*a*) fixed by or in pursuance of laws or regulations, collective agreements or arbitral awards; (*b*) ascertained from organizations of employers and workers, from joint bodies, or from other appropriate sources of information, in cases where rates and hours are not fixed by or in pursuance of laws or regulations, collective agreements or arbitral awards." We are not doing that literally at the present time because it has no signifigance at the present time in Canada. Certainly wages, it will be conceded, are all being controlled under the War Labour Board, so that such a distinction will have no signifigance at the present time. When wage regulations cease, then there will be a problem involved there. I might say that it is quite an involved and technical problem to carry out literally the terms of that first clause in article 14, and I do not know of any country which is publishing such data at the present time. Certainly the

Annual Report, the statistical report in connection with the Labour Office does not include such statistics. But apart from that, I think that we are covering all the requirements of the convention and, as I said, we do have the administrative machinery to implement this convention if it be adopted.

Mr. KNOWLES: When the controls are of, that would be a desirable provision, that information, wouldn't it?

Dr. PEEBLES: Yes, I do not know how much more we can go into these matters, but the way it is worded might cause a good many difficulties. Take hours and wages fixed in pursuance of laws, minimum wages, for example. As everybody knows, a good many employers take a considerable pride in paying more than the minimum wages. Other employers pay only the minimum wages and no more than the minimum wages. Now, in getting returns from employers on that score, it would be a very nice technical problem, for example, in those occupations where the minimum wages are established by law, to get the employer to make a distinction between the rates for those particular occupations. If he were paying the minimum only, it would not be so difficult; but what it might really amount to would be this: we would have to require this information in addition to that which we have at the present time for each occupational group. Where a particular rate of pay is concerned, we get literally from every employer the wage for each occupation, and for the sub groups within that occupation, if the rate of pay is different. We would in addition to this information have a very substantial number of employers whose answers to all that we would have to get, and we would have to get them to put in an explanation opposite each of these rates, whether they were fixed by law, or in pursuance of laws and regulations, collective agreement or arbitral award. I can foresee that it would be a very involved problem and one which, if this convention were adopted, I would like to discuss with the International Labour Organization in more detail to see just what other countries are doing to meet this particular clause of the convention.

Mr. FLEMING: But, from the point of view of your department, you do not take objection to the ratification of the convention?

Dr. PEEBLES: Not at all.

Mr. FLEMING: Would its adoption be of positive assistance to you in any way?

Dr. PEEBLES: Well, in the first place, I am very definitely in favour of the convention being adopted. I am a supporter of the International Labour Organization in my personal capacity and I believe in the ultimate objectives which it is trying to achieve, and I believe in the method of adopting conventions in order to achieve those objectives. But as to this convention being a particular help to my branch in the work we are doing, I cannot say offhand that it would make any material difference. Possibly because I have been getting very good support from my deputy minister for any changes which we have been initiating in this field, I do not think there would be anything particularly gained by adopting it, from our own standpoint. There might, however, come a time, possibly of governmental economy, or with a different type of deputy minister, when the fact that Canada had adopted this convention would be very important, for example, should we want to prevent standards which have been built up, standards of thoroughness and accuracy and so on, from being cut down. So, from that standpoint, my answer would be yes. It would be a good thing to adopt the convention.

Mr. FLEMING: Then, there is the further point too. I suppose that the more accurate the basis of comparison of Canadian statistics with those of other countries, the better.

Mr. MACINNIS: The only effect which the regulations of the convention would have on your work would be to the extent that you would have to get your statistics in more detail, under this section 14?

Dr. PEEBLES: That is right.

Mr. JACKMAN: Dr. Peebles, the Bureau of Statistics does not seek to interpret the reports of the International Labour Organization at all? Their function is purely that of a collective agency of information relative to Canada? You do not publish any report, annually or bi-annually, in regard to the rates of wages or conditions of work in Canada as compared, let us say, with European countries? Do you draw any deductions at all, or are you simply a source of information for legislators and others, to compare rates in Canada with rates in other countries?

Dr. PEEBLES: Yes, essentially that is our main function, to act as a source of information within Canada. We do occasionally prepare some comparative articles for publication in the Labour Gazette. But we do not do that on a regular basis. I might add that one of the most important phases of this work, not coming literally under the convention, is the supplying of information on a spot basis to anyone who requires it, providing we can do it within limits of finance and so on. But we have 140 to 150 inquiries a year from trade unions or from employers or from members of parliament for specific information which does not appear in this report; and within limits of time and staff we, of course, do answer all those inquiries.

Mr. JACKMAN: For instance, if you take the pulp and paper industry, it is not the function of the Dominion Bureau of Statistics to publish any information concerning the rate of wages paid to woodcutters in Canada as compared to Norway, Finland and other countries?

Dr. PEEBLES: Yes. I am not connected, except in a personal and friendly way, with the Dominion Bureau of Statistics. They look after some of the phases of this convention, but it is for the Research Statistics branch of the Department of Labour to answer any particular questions on wage rates. We do not compare hourly rates of pay in the pulp and paper industry in Canada with some other countries.

Mr. BENIDICKSON: Do you know if the Dominion Bureau of Statistics provides such information?

Dr. PEEBLES: I do not think they provide it. Do they do that, Mr. Cohen?

Mr. A. COHEN was called.

Mr. A. COHEN: No, we do not. I am chief of the general manufactures' branch of the Dominion Bureau of Statistics. The general policy of the Bureau is not to make comparisons, that is, international comparisons of our own industries with those of other countries. But, naturally, when we are asked to make some comparison, we do so as a favour inasmuch as people would not have access to the foreign statistics. For example, some time ago a manufacturer asked me to give him a statement on the general level of wages paid in Canada as compared with those paid in the United States. I searched the United States reports in this connection and made a statement in which I compared the Canadian wages and those of the United States. I did this not because it is our policy to do so, but merely to help this man out because he was very much interested in the subject.

The CHAIRMAN: Thank you, Mr. Cohen.

Dr. PEEBLES: In the Year Book of Labour Statistics published by the International Labour Organization they do what you have in mind for the general level of wages and they give those wages by industries. They give the wages in thirty important occupations.

Mr. JACKMAN: Would the 1944 figures be available to the International Labour Organization?

Dr. PEEBLES: Well, we received this in August, 1945. It applied to the years 1943 and 1944, so it would be about a year after. But in some instances, countries are left out. That is, the latest data the International Labour Organization may have received would apply to 1942 or, possibly to 1941 in some of these respects.

Mr. BENIDICKSON: What is the title of that book?

Dr. PEEBLES: "The Year Book of Labour Statistics."

The CHAIRMAN: Any more questions?

Mr. JACKMAN: May I just ask Dr. Peebles: You sent out these returns to be filled in by employers? Do you just get a fair sample, for example, from those firms having twenty or more employees?

Dr. PEEBLES: We send out forms to approximately thirteen thousand different employers. In some instances there is more than one establishment under an employer, so, in an aggregate way, we get returns from approximately fifteen thousand employers. Now, in some instances they have fifteen or more employees; but for certain types of business, such as garages and so on, the number of employees is smaller. So I think you can say very specifically that they are definitely not samples, but a very thorough report—especially when compared to before the war when we obtained returns from only approximately six thousand employers. You see we have doubled the scope of the reports.

Mr. JACKMAN: Not only is it a sample, but it is all inclusive.

Dr. PEEBLES: It is virtually all inclusive in certain fields. Yes.

The CHAIRMAN: If the members are through questioning, I would like to thank Dr. Peebles for coming here this morning.

Dr. PEEBLES: It has been a very pleasant experience for me because it is the first time I have ever appeared before a parliamentary committee.

Mr. MACINNIS: We are a fine bunch of people.

The CHAIRMAN: I shall now ask the indulgence of the members to remain here for about five or six minutes at the most. I believe it would be in order for a motion that we have the statistical report from the Chief Statistician of the International Labour Organization published as an appendix to this day's evidence.

Mr. BLANCHETTE: I move that.

The CHAIRMAN: It is moved by Mr. Blanchette that the Statistical Report from the Chief Statistician of the International Labour Organization be published as an appendix to this day's business.

(Statistical Report appears as Appendix "C")

The Committee proceeded to discuss its proposed report and its further business.

The CHAIRMAN: A motion to adjourn is in order. We will meet again on Thursday to discuss the report.

On motion of Mr. MacInnis, the committee adjourned at 1 p.m. to meet again on Thursday at 11.30 a.m.

APPENDIX A

MEMORANDUM CONCERNING STATISTICS REQUIRED TO MEET THE REQUIREMENTS OF DRAFT CONVENTION No. 63 I.L.O.

DEPARTMENT OF TRADE AND COMMERCE

DOMINION BUREAU OF STATISTICS

The Dominion Bureau of Statistics already compiles most of the information necessary for meeting the provision of Parts I, II and IV of this Convention. The Bureau will undertake to enlarge its statistics so that the requirements of the Convention will be met as fully as possible covering Parts I, II and IV.

Statistics of Time Rates of Wages and of Normal Hours of Work (Part III of the Convention) are collected by the Department of Labour.

The Dominion Bureau of Statistics maintains the following series respecting earnings and hours of work:

(a) Monthly Statistics of Employment and Payrolls

Current surveys of employees and earnings in one week in each month, based upon an exceedingly large sample of industry, to show the month-to-month fluctuations in the following main industrial groups:—manufacturing, logging, mining, transportation, communications, construction and maintenance, retail and wholesale trade, finance, and such services as hotels and restaurants, laundries and dry-cleaning establishments, etc.

These surveys, prepared in the Employment Statistics Branch, show the weekly aggregate of salaries and wages disbursed by the establishments ordinarily employing 15 persons and over, and the weekly average earnings of their employees. The series is designed primarily to show trends in employment, and in the aggregate and average earnings of wage-earners and salaried employees.

Monthly statistics are prepared upon an industrial basis for the provinces and for 20 cities having populations in excess of 35,000, as well as for the Dominion as a whole. The extent of the coverage was dealt with on pages 44 to 48 of the 1944 Annual Review of Employment, in which appeared tables showing industrial and provincial comparisons of the number of employees reported in the monthly survey of employment and payrolls for June 1, 1941, with the total number of wage-earners enumerated in the 1941 Decennial Census, and also with the enumerated wage-earners in the industries covered in the monthly surveys.

For large numbers of industries in the Dominion, and in the provinces and cities, figures are published each month showing (1) the numbers of employees reported by the co-operating establishments, (2) the amounts currently expended in aggregate weekly salaries and wages, (3) the average weekly earnings per person in recorded employment, (4) index numbers of employment and (5) index numbers of payrolls. Index numbers of average weekly earnings are also calculated on occasions.

(b) Monthly Data on Man-Hours and Hourly Earnings

Current statistics of hours actually worked and average hourly earnings of wage-earners paid at hourly rates, are obtained for the workers in each of the above-named industries who are paid at hourly rates. The coverage of such persons is relatively high considering that, apart from salaried personnel, many wage-earners are paid at other than hourly rates, in some cases at daily or weekly rates, or at piece-work rates. In such cases, it is not the custom of

Canadian industry, on the whole, to maintain adequate records of hours worked to permit the collection of accurate statistics of man-hours and hourly earnings. As a result of this factor, the number of wage-earners covered in the current surveys of man-hours and hourly earnings is smaller than the number for whom data are obtained in the monthly statistics of employment and payrolls. The attached table shows the number of salaried employees and wage-earners for whom statistics of average weekly earnings were available at August 1, 1945, and the number of wage-earners paid at hourly rates for whom satisfactory data of hours worked and average hourly earnings were obtained at the same date.

The monthly statistics of man-hours and hourly wages have been collected only within the last twelve months; when time permits the establishment of a satisfactory basic period, index numbers of man-hours, average hourly earnings and average weekly wages of hourly-rated employees will be computed and published monthly. In the meantime, data are published each month showing for a considerable list of industries in the Dominion (1) the average hours worked, (2) the average hourly earnings, (3) the number of wage-earners for whom such data are available and (4) the average weekly wages of such wage-earners. For leading industries in the provinces, statistics of average hours worked and average hourly earnings are now being published, while eventually information will also be issued for the larger cities.

(c) *Annual Census of Industry*

In the Annual Census of Industry, statistics have been prepared for many years showing the numbers of salaried employees and wage-earners employed in all manufacturing establishments, irrespective of size, and the annual aggregate of salaries and wages paid by such establishments. An annual census is also taken of the mining, construction and transportation industries. The data of these Censuses show the total wage bill in the industries covered, rather than the current trends, as in the case of the monthly surveys.

In the case of the manufacturing industries, annual aggregate and average salaries and wages are computed each year, for a lengthy list of industries in the Dominion, the provinces, the leading cities and by counties and Census Divisions. These figures of earnings are directly comparable with the statistics of volume and value of production, costs of materials, fuels, capital employed, etc., etc. They are not primarily intended as labour statistics, though they provide exceeding valuable data of the kind.

Annually, the Census of Manufactures compiles statistics showing for male and female wage-earners, the hours worked and the average hourly earnings in the week of highest employment; such data are published, together with the average weekly and annual earnings of the wage-earners employed in the establishments maintaining records of hours worked, for a considerable number of industries.

Frequency tables are also prepared, for a lengthy list of industries, for wage-earners as a whole and for male and female wage-earners, showing the distribution according to an indicated grouping of hours per week. Also published on an annual basis are tables showing the average weekly earnings of male and female wage-earners in the leading industries.

For persons employed in mining, information is prepared annually by the Mining, Metallurgical and Chemical Branch, showing the distribution of wage-earners working specified numbers of hours during one week in the month of highest employment, together with the total wages paid in that week. This material is compiled for the Dominion and on a provincial and industrial basis.

The Transportation and Public Utilities Branch publishes annually statistics giving the number of days or of hours worked in the year by steam railway employees, together with the average salaries and wages paid per day or per hour, and per year. These data are compiled on an industrial and occupational basis for the Dominion as a whole.

(d) *Statistics of Agricultural Wage-Earners*

For male wage-earners on farms, data are prepared annually in the Agricultural Statistics Branch, showing the average daily and monthly wages, with and without board. Information is not available for women farm workers, since the number of such wage-earners is exceedingly small—less than 2,000 at the date of the 1941 Decennial Census. For obvious reasons, no information is available showing the hours worked by farm labourers.

As time and circumstances permit, the Dominion Bureau of Statistics plans to supplement the above data by the following:

(1) A study of the wages paid industrial wage-earners employed at other than hourly rates, i.e., by the day, or the week, or at piece work rates. This study will be undertaken by the Employment Statistics Branch in connection with the monthly surveys of employment and payrolls, from data already available.

(2) A study of the average hours worked and the average earnings of male and female wage-earners employed by establishments ordinarily having 15 employees and over. This would supplement the present semi-annual surveys of sex distribution of employed persons, and would provide more up-to-date information than can be obtained in an annual census; if repeated at sufficiently frequent intervals, it would provide exceedingly valuable data in regard to current trends of average earnings of men and women wage-earners and hours actually worked.

(e) *Decennial Census of Earnings*

The Decennial Census furnishes data on earnings of wage-earners in the 12 month period prior to the Census date. The census definition of a wage-earner is a person who works for salary, wages, commission, or piece rate, whether he be the general manager of a bank or a day labourer. It excludes employers and workers on own account.

The foregoing indicates that, in general, the date on record in the Dominion regarding hours worked and average earnings amply fulfil the requirements of the Draft Convention.

The following notes deal briefly with the various articles under Part II of the Draft Convention.

ARTICLE

1. Information regarding earnings of persons employed in all branches of mining, manufacturing and construction, as well as in many other industries, are included (1) in our monthly statistics of employment and payrolls, and (2) in our monthly statistics of man-hours and hourly earnings.

2. The statistics of average earnings and hours worked are compiled on the basis of a representative sample of establishments and wage-earners. The coverage in our surveys is extremely high, being close to 90 p.c. in the case of manufacturing. Statistics of man-hours are available for a smaller coverage of wage-earners, for the reason that a record of hours worked is not kept for all classes of wage-earners in manufacturing as in other industries. However, statistics of average hours worked are available for between 75 and 80 p.c. of the sample of 90 p.c. of the total salaried employees and wage-earners of factories for whom data are obtained in the monthly surveys of employment. Tables VII and VIII on pages 45 and 47 of the 1944 Annual Review of Employment and Payrolls for 1944 show, for the date of the Decennial Census the coverage of the total number of employees contained in the monthly survey of employment and payrolls for June 1, 1941, by provinces and by principal industries. It is obvious that these industrial and geographical samples are fully adequate.

3. (a) Figures of hours worked and hourly earnings are published for considerable number of industries, including those covered by the Convention.

(b) The scope of the industries or branches of industry for which statistics of employment and payrolls are available is contained in Tables VII and VIII of the 1944 Annual Review, referred to above. The following table shows the number of employees for whom statistics of man-hours and hourly earnings were available in the principal industries at Aug. 1, 1945, in comparison with the number for whom statistics of employment and payrolls were available at the same date. Here again, the figures indicate an extremely large coverage in the industries with which the Convention is concerned.

Comparison of the Number of Employees for Whom (a) Statistics of Employment and Weekly Payrolls and (b) Statistics of Man-Hours, Hourly Earnings and Weekly Wages were Available at August 1, 1945

Main industrial groups	Number of Employees Included in Employment and payrolls tabulation (a)	Man-hours and hourly earnings tabulation (b)	Percentage b/a
Manufacturing	1,071,857	814,079	76·0
Logging	55,319	15,760	28·5
Mining	68,229	59,002	86·5
Communications	32,644	2,449	7·5
Transportation	165,107	42,734	25·9
Construction	152,930	68,726	44·9
Services	52,737	28,560	54·2
Trade	189,129	61,084	32·3
Eight leading industries	1,787,952	1,092,394	61·1

(Note: Statistics are published monthly for a considerable number of industries within these main broad industrial divisions.)

Comparison of Statistics of Earnings Published Monthly (a) for Salaried Employees and Wage-Earners, and (b) for Wage-Earners; these data relate to August 1, 1945

Main industrial groups	Average weekly earnings of salaried employees, wage earners	Weekly average hours worked	Average hourly earnings of hourly rated wage-earners	Average weekly wages of hourly-rated wage-earners
	$	No.	cents	$
Manufacturing	32.85	44·3	69·6	30.83
Logging	27.07	44·2	65·2	28.92
Mining	38.94	44·3	85·0	37.66
Communications	31.16	45·4	55·3	25.11
Transportation	38.38	45·9(1)	74·7(1)	34.29(1)
Construction	29.91	39·9	71·6	28.57
Services	19.68	44·1	43·0	18.96
Trade	27.35	42·3	54·9	23.22
Eight leading industries	32.15	44·0	69·2	30.45

(1) Information for the C.N.R. and C.P.R. is not included in these figures; it is expected that statistics for their employees will shortly be available.

Article 6

(*a*) The statistics of average weekly and hourly earnings, in general include the total remuneration of the persons employed by the co-operating establishments. Specifically, the reported payments include salaries and wages, in the case of the current surveys of employment and payrolls, and include wages in the case of the man-hours and hourly earnings; also included in both cases, are cost-of-living bonuses, incentive and production bonuses. The weekly earnings include commissions, such as those paid, for example, to delivery men in the case of dairies and bakeries, but in most cases, statistics of hours worked are

not available for persons partly paid by commission, so that generally speaking, they are not included in the tabulations of hours and hourly earnings, although information on their behalf is included in the monthly statistics of employment and payrolls. Bonuses which are excluded, but which are believed to be relatively rare in the case of wage-earners, are those paid on an annual or semi-annual basis to salaried employees or wage-earners. The exclusion of such occasional payments from the statistics of the current surveys is due to the fact that they are not always paid at the same time of year, nor to the same classes of employees, nor indeed in the case of many establishments are they invariably paid each year. Thus the more or less fortuitous character of such payments renders them unsuitable for inclusion in monthly surveys, designed primarily to show trends. The Annual Census of Industry tabulations, being based on yearly earnings, can and do include such periodical bonuses. In 1945, the latest year for which the Census of Industry data are available, the annual average earnings of salaried employees and wage-earners in manufacturing were $1,601. In the same year, the estimated annual average earnings of the persons reported in the current surveys for manufacturing was $1,655. Various other factors serve to produce differences in the average figures obtained in the two series, but it is obvious from this comparison that the inclusion of annual and other occasional bonuses can make little difference in the figures of earnings. It therefore appears that we are justified in stating that the statistics available in the Dominion relate to all cash payments and bonuses received from the employer by the persons employed.

(*b*) and (*d*) The statistics of earnings collected by the Annual Census of Industry and also in the monthly surveys, includes the social insurance contributions and taxes for which the employee is liable, and which are paid through payroll deductions. Also in line with the spirit of the Convention, the statistics collected in the Dominion do not include the amount of the contributions to social insurance for which the employer himself is liable on behalf of his employees.

Article 7

It is generally true that allowances in kind, (for example, of free or cheap housing, food or fuel), do not form a substantial part of the remuneration of wage-earners in the Dominion, with the exception of agricultural and domestic workers. In the case of such establishments as hotels and restaurants and in logging, however, meals and board and lodging undoubtedly constitute a part of the remuneration of the employee. In the case of logging companies, a common practice is to charge a nominal sum for the board and lodging. It is not possible in monthly surveys, to determine with any degree of accuracy the value of such payments in kind. However, in the great majority of Canadian industries payment in kind does not enter into the picture. The industries exclusive of agriculture and domestic service, in which such payments might be a factor employed just over five per cent of the total number of wage-earners as enumerated at the date of the Decennial Census. It therefore appears that the requirements of Article 7 do not pertain to the situation in Canada. It is expected that the Bureau's studies on national income tax will eventually yield information which will show more precisely the importance of this factor.

Article 8

The recent institution of Family Allowances in Canada will no doubt eventually permit the calculation of a figure showing average earnings in the Dominion supplemented by the average amounts paid in family allowances per wage-earner.

ARTICLE 9

1. The statistics of average earnings now collected in the Bureau relate to stated periods of time: (1) per year, or per week of highest employment in the case of the Annual Census of Industry, (2) per week in the case of the monthly surveys of employment and payrolls, and (3) per hour and per week in the case of the man-hours and hourly earnings statistics.

(There is scope for a third series, to provide statistics of wages earned by wage-earners who are paid at other than hourly rates. In most cases, these wage-earners are paid at daily or weekly rates, or by the piece work plan. We plan to undertake a study along these lines as soon as time permits.)

2. The statistics of average hourly earnings relate to the same period as the statistics of hours actually worked, namely, one week per month.

ARTICLE 10

1. The statistics of average earnings and of hours worked are compiled for one week in each month, in connection with the current surveys of employment and payrolls relating to manufacturing and non-manufacturing industries, while the Annual Census of Industry computes for manufacturing similar data for the week of highest employment in the year.

2. Annually, the Census of Industry prepares data showing separately the earnings of male and female wage-earners in the week of highest employment in a considerable list of manufacturing industries. No attempt has been made by the Dominion Government to prepare separate information for adults and juveniles.[1] In view of the fact that in most cases, the employment of juvenile workers is regulated by provincial laws, it would seem that the requirements of this Article for data for male and female employees are met to a considerable extent by the statistics of the Annual Census of Industry.

ARTICLE 11

The statistics of average hourly earnings and of hours actually worked are currently prepared for all provinces and for the Dominion as a whole, and in addition, for a considerable number of cities, i.e. for those having a population in excess of 35,000.

ARTICLE 12

1. Index numbers of aggregate weekly earnings are also published each month, the record now being available for a period of 4½ years. Data are available for similar index numbers of average weekly earnings, which are now occasionnally calculated. Index numbers of aggregate and average hours worked and of hourly and weekly wages of hourly-rated employees will be prepared as soon as a sufficient time has elapsed to permit the selection of a satisfactory basic period.

2. The index numbers of man-hours and hourly earnings could be weighted in accordance with the relative importance of the different industries if this were considered advisable.

3. Brief descriptions of the methods employed in preparing the monthly statistics of payrolls, and of man-hours and hourly earnings are now published in the monthly bulletins on these subjects. When index numbers for the latter are provided, similar information will be given on their behalf.

November 5, 1945.

H. MARSHALL,
Acting Dominion Statistician.

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[1] In British Columbia data are available annually in certain industries for adult and adolescent wage-earners by sex. (See Annual Report of the Provincial Department of Labour for 1944.)

APPENDIX B

(Submitted by Mr. F. A. Willsher)

Excerpt from COMP. No. 43-70

OTTAWA, February 26, 1943.

CIVIL SERVICE EXAMINATION

Applications are Invited from Male Residents of the Province of British Columbia, Ontario, Quebec, New Brunswick, Prince Edward Island and Nova Scotia, Possessing the Necessary Qualifications for Position of Inspector of Ships' Tackle, Male, Department of Transport.

$1260 per Annum, Plus Cost of Living Bonus Fixed for the Present at $18.42 per Month.

This Advertisement is Authorized by the Director of National Selective Service and Persons May Answer this Advertisement Without a Permit from the National Selective Service Office.

Salary: $1260-1440 per annum. The initial salary of $1260. per annum may be increased upon recommendation for meritorious service and increased usefulness at the rate of $60 per annum, until the maximum of $1440 has been reached.

Note: A deduction for retirement purposes is made from the compensation of all persons appointed to temporary positions, other than casual positions, in the public service of Canada. This deduction is at the rate of 5% in the case of persons not insurable under the provisions of the Unemployment Insurance Act, and 4% in the case of those who are required to pay Unemployment Insurance premiums. The deduction bears interest at the rate of 4% and will be returned to the employee on the termination of his engagement.

Duties: To inspect the tackle and gear used in loading and unloading ships to ensure that they comply with the provisions of the Canada Shipping Act, 1934; to supervise to such extent as may be necessary for the protection of those employed therein, the work of loading and unloading ships, and to perform other related work as required.

Qualifications required: Primary school education; at least one year's experience as a rigger or stevedore, or equivalent experience at sea; familiarity with the various kinds of ships' tackle and gear; good judgment; integrity; firmness. For a vacancy in the Province of Quebec, the appointee must be able to speak, read and write the English and French languages fluently.

APPENDIX C

(*Prepared by Mr. Robert Woodbury,* Chief Statistician, I.L.O.)

The "Convention Concerning Statistics of Wages and Hours of Work in the principal mining and manufacturing industries, including building and construction, and in agriculture," adopted by the International Labour Conference at its 24th Session, June 1938, provides that the countries ratifying it agree to collect, publish and send to the International Labour Office statistics of wages and hours of work in mining and manufacturing industries and agriculture, in accordance with a minimum programme as outlined in the Convention. In the case of mining and manufacturing industries, separate sections are devoted to wage rates and to earnings. A country ratifying may elect to collect statistics of wage rates or of earnings or both in mining and manufacturing industries; and it may elect to include or exclude agriculture from the scope of its wage statistics.

The purpose of ratifying is to associate the ratifying country with others who are prepared to collect statistics according to a uniform plan and with specifications for at least a minimum programme, and thus to improve the level of statistics of wages internationally and to promote international comparability of these statistics.

Ten countries have already ratified the Convention, as follows:

Australia, Denmark, Egypt, Mexico, Netherlands, New Zealand, Norway, Sweden, Switzerland and the Union of South Africa.

A country ratifying the Convention may limit its acceptance of the provisions of the programme by excluding agriculture, (Part IV) from the scope of the statistics; and/or, in the case of mining and manufacturing industries, either the statistics of earnings and actual hours of work (Part II) or the statistics of wage rates and normal hours of work (Part III). In the case of the countries which have ratified the Convention, Part II, has been excluded from ratification by Australia, New Zealand and South Africa; Part III, by Denmark, Egypt, Norway, Sweden and Switzerland; and Part IV (agriculture) has been excluded by Egypt, South Africa, and Switzerland.

SESSION 1945

HOUSE OF COMMONS

STANDING COMMITTEE

ON

EXTERNAL AFFAIRS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 5

NOVEMBER 8, 20, and 22, 1945

Including Second Report to the House

WITNESSES

Mr. J. E. Read, legal adviser of the Department of External Affairs.

Arthur Slaght, K.C., counsel for the Stock Exchanges.

Joseph Sedgwick, K.C., counsel for the Prospectors and Developers Association of Canada.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1945

ORDERS OF REFERENCE

TUESDAY, October 23, 1945.

Ordered—That the name of Mr. Sinclair (*Vancouver-North*) be substituted for that of Mr. Reid on the said Committee.

Ordered—That the said Committee be empowered to print from day to day 500 copies in English and 500 copies in French of its minutes of proceedings and evidence and that Standing Order 64 be suspended in relation thereto.

Ordered—That the said Committee be authorized to sit while the House is sitting.

Attest.

ARTHUR BEAUCHESNE,
Clerk of the House.

FRIDAY, November 16, 1945.

Ordered—That the name of Mr. Adamson be substituted for that of Mr. Graydon on the said Committee.

Attest.

ARTHUR BEAUCHESNE,
Clerk of the House.

FRIDAY, November 16, 1945.

Ordered—That the Treaty for the extradition of Criminals between Canada and the United States of America signed at Washington April 29, 1942, and the protocol annexed thereto which was signed at Ottawa, October 2, 1945, be referred to the said Committee.

Attest.

ARTHUR BEAUCHESNE,
Clerk of the House.

TUESDAY, November 20, 1945.

Ordered—That the name of Mr. Jaenicke be substituted for that of Mr. Knowles on the said Committee.

Attest.

ARTHUR BEAUCHESNE,
Clerk of the House.

WEDNESDAY, November 21, 1945.

Ordered—That the name of Mr. Marier be substituted for that of Mr. Picard on the said Committee and that the name of Mr. Dechene be substituted for that of Mr. Winkler on the same Committee.

Attest.

ARTHUR BEAUCHESNE,
Clerk of the House.

REPORT TO HOUSE

MONDAY, November 12, 1945.

The Standing Committee on External Affairs begs leave to present the following as a

SECOND REPORT

As set out in the *Votes and Proceedings* of the House of Commons of October 22, 1945, two lengthy proposed resolutions of the House were, on that day, referred to your Committee, prior to consideration by the House.

These proposed resolutions may be identified as follows:

1. Approval of the Convention (No. 32) concerning protection against accidents of workers employed in loading or unloading ships (General Conference of International Labour Organization, Geneva, 16th Session, 27th April, 1932);

2. Approval of the Convention (No. 63) concerning statistics of wages and hours of work in the principal mining and manufacturing industries, including building and construction, and in agriculture (General Conference of International Labour Organization, Geneva, 24th Session, 2nd June, 1938).

Your Committee has heard representatives from the Department of External Affairs, the Department of Labour, the Bureau for Statistics of the Department of Trade and Commerce, the Shipping Branch of the Department of Transport and from the International Labour Office of Montreal.

Your Committee recommends the adoption of the two resolutions.

As regards the inspection of tackle and gear at Canadian ports, particularly the safety measures involved in the protection of workers engaged in the loading and unloading of ships, and in order that Canada may carry out in full the provisions of Convention No. 62 in this respect, your Committee recommends that the Government consider the advisability of increasing the number of inspectors and of providing for a more adequate remuneration for inspectors commensurate with their qualifications, duties and responsibilities.

Your Committee further recommends that it be empowered to consider matters connected with external affairs and report from time to time any suggestion or recommendation deemed advisable to the House of Commons.

All of which is respectfully submitted.

J. A. BRADETTE,
Chairman.

MINUTES OF PROCEEDINGS

THURSDAY, November 8, 1945.

Room 268.

The Standing Committee on External Affairs met at 11.30 o'clock. Mr. Bradette, the Chairman, presided.

Members present: Messrs. Benidickson, Bradette, Coldwell, Fleming, Fraser, Isnor, Jackman, Jaques, Knowles, Leger, MacInnis, Sinclair (*Ontario*) and Winkler. (14).

The Chairman congratulated Messrs. Graydon, Knowles, Picard and Winkler, four members of the Committee, who were appointed delegates to the preparatory Commission of the United Nations Organization which will meet in London, England on November 28 next.

On behalf of the Steering Committee, the Chairman presented a draft Report for the consideration of the Committee, which was read by the Clerk.

Mr. Knowles moved that the said draft report be adopted.

Mr. Leger moved that the draft report be amended by deleting the last-named recommendation in said report. And the question being put on Mr. Leger's amendment, it was negatived, Yeas 3, Nays 10.

The motion of Mr. Knowles was resolved in the affirmative, on division.

On motion of Mr. MacInnis, *Ordered*, That the Chairman present the report as a second report to the House.

The Committee adjourned to the call of the Chair.

TUESDAY, November 20, 1945.

Room 497

The Standing Committee on External Affairs held an executive meeting at 11.30 o'clock. Mr. Bradette, the chairman, presided.

Members present: Messrs. Blanchette, Bradette, Coldwell, Diefenbaker, Fleming, Fraser, Jackman, Jaques, Leger, Low, MacInnis and Sinclair (*Ontario*). (13).

The Chairman reminded the members that the Treaty and Protocol for the extradition of criminals between Canada and the United States was before the Committee and that he had received several requests from bodies desirous of making representations.

At the suggestion of Mr. Coldwell, these requests will be brought to the attention of the Steering Committee.

Mr. Diefenbaker suggested that the president of the Canadian Bar Association be informed of the reference of the Treaty to the Committee.

The Committee agreed to begin its consideration of the Treaty and Protocol on Thursday, November 22 when Mr. Arthur Slaght, K.C. will be heard.

At the request of Mr. Diefenbaker, the Clerk was instructed to obtain copies of all treaties respecting extradition in effect in 1942 between Canada or Great Britain and the United States.

The Committee adjourned at 12 o'clock, until Thursday, November 22 at 11 a.m.

THURSDAY, November 22, 1945.

Room 268

The Standing Committee on External Affairs met this day at 10.00 o'clock a.m.; the Chairman, Mr. J. A. Bradette, presided.

Members present: Messrs. Benidickson, Blanchette, Boucher, Bradette, Coldwell, Fleming, Fraser, Adamson, Hackett, Jackman, Kidd, Jaenicke, Leger, MacInnis, Marquis, Marier, Sinclair (*Ontario*), Tremblay, and Dechene. (19).

In attendance:

Toronto Stock Exchange

Mr. J. B. White, President;
Mr. W. G. Malcolm, Past President;
Mr. R. J. Breckenridge, Vice President;
Mr. F. J. Crawford, former President;
Mr. A. Trebelcock, Executive to the President.

Prospectors and Developers Association of Canada

Mrs. Viola McMillan, President;
Mr. George McMillan, Secretary-treasurer;
Mr. Joseph Sedgwick, K.C., Counsel.

Ontario Security Dealers Association

Mr. W. P. Marchment, President;
Mr. Gordon Jones, Chairman, Legislation Committee.

Investment Dealers Association of Canada

Mr. J. J. Kingsmill, Secretary-treasurer;

Also

Mr. Allan Cockeram, M.P.;
Mr. McDonald, M.P., (*Pontiac*);
H. E. Walters, of The Northern Miner;
J. D. Watt, representing E. K. Williams, Esq., President, Canadian Bar Association;
John H. Roberts, Editor, The Northern Miner.

The Committee began consideration of the Extradition Treaty and Protocol thereto, signed in 1942 between Canada and the United States.

The Chairman informed the Committee that the following witnesses were present:—

1. Mr. J. E. Read, Chief of the legal division, External Affairs department;
2. Mr. Arthur Slaght, K.C., Toronto;
3. Hon. P. Brais, K.C., Montreal.

Mr. Slaght stated that he represented the following:—

(*a*) The Toronto Stock Exchange;
(*b*) The Winnipeg Stock Exchange;
(*c*) The Calgary Stock Exchange;
(*d*) The Vancouver Stock Exchange;
(*e*) The British Columbia Bond Dealers Association.

and that Hon. P. Brais, K.C., Montreal, was representing the Montreal Stock Exchange and the Montreal Curb Market.

He also stated that Mr. Ralph Salter, K.C., was representing the Ontario Security Dealers Association and that Mr. René Chênevert, K.C., was representing several Quebec mining companies.

Mr. J. E. Read was called and made a statement on the negotiations leading to the Treaty on Extradition.

He tabled, as requested, copies of a consolidation of treaties in effect in 1942 between Canada and the United States which were distributed. He also tabled three copies of a Treaty on Extradition between the United Kingdom and the United States dated December 22, 1931, and agreed to have photostat copies made.

He agreed to table correspondence from the Bell Telephone Company opposing the Treaty.

Mr. Read also promised to give information relative to the procedure for the selling of Canadian bonds on the New York Market, etc., including figures on cost.

Mr. Arthur Slaght, K.C., was called and voiced his objection on behalf of the Stock Exchanges.

He tabled for the information of the Committee letters of protest from

1. Toronto Board of Trade;
2. Ontario Mining Association.

He referred to the opposition expressed by the Canadian Bar Association and the Ontario Government.

The witness was examined and retired.

After discussion, the Committee adjourned until 4.00 p.m. this day.

AFTERNOON SESSION

Room 268

The Committee resumed at 4.00 o'clock. Mr. Bradette, the Chairman, presided.

Members present: Messrs. Beaudry, Benidickson, Boucher, Bradette, Coldwell, Fleming, Fraser, Adamson, Hackett, Jackman, Jaques, Kidd, Jaenicke, Leger, Macdonald (*Halifax*), Marquis, Marier, Sinclair (*Ontario*), Tremblay, Dechene. (20).

Owing to the departure for England of four members of the Committee, the Chairman gave the names of members who replaced them on the Steering Committee as follows.

Mr. Marier in place of Mr. Picard;

Mr. Fraser in place of Mr. Graydon;

Mr. Dechene in place of Mr. Winkler;

Mr. Jaenicke in place of Mr. Knowles.

The Committee resumed its consideration of the Extradition Treaty.

Mr. Slaght was recalled and examined particularly on Art. III, section 32, and Art. XII of the Treaty.

He suggested among other things that the Treaty might be placed before the Dominion-Provincial conference to be held on November 26 next.

The witness informed the Committee that he would table at the next meeting suggested amendments to the Treaty.

Mr. Slaght retired.

Mr. Joseph Sedgwick, K.C., counsel for the Prospectors and Developers Association of Canada was called.

He read and filed a copy of a letter addressed by J. J. Kingsmill, secretary-treasurer of the Investment Dealers Association of Canada to the Prime Minister and to Hon. Mr. St. Laurent under date of November 1, 1942.

Mr. Sedgwick proceeded with his submission.

Mr. Slaght was recalled and answered a question relating to a proposed substitution of Art. XII of the Treaty and retired.

Mr. Sedgwick retired.

On motion of Mr. Leger, the Committee adjourned until Friday, at 10 a.m.

ANTONIO PLOUFFE,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS,

November 22, 1945.

The Standing Committee on External Affairs met this day at 10 o'clock a.m. The Chairman, Mr. Joseph A. Bradette, presided.

The CHAIRMAN: I want to thank the members of the committee for being here so nearly at 10 o'clock. I must tell you the reason why the first notices were for 11 o'clock and the second were for 10; it was that we found out we had so much work to do dealing with the treaty and protocol for the extradition of criminals. Not only will we start to sit at 10 o'clock this morning but I hope we shall also be able to hold our meeting tomorrow at 10 o'clock. We are up against certain difficulties. I have been told that we have only one reporter for today, there are so many other committees functioning. I had hoped and still hope that it will be possible for our meeting to last all of three hours and we may even have to sit next week. The steering committee had a meeting yesterday in my office. Personally, I believe we should try to do all we can to terminate the enquiry with regard to the treaty. Of course, it will be left to the steering committee.

The first gentleman we will call upon to speak will be Mr. J. E. Read, legal adviser of the Department of External Affairs. Then I will call upon Mr. Slaght whom all of you already know; at least the old parliamentarians do. I will ask Mr. Slaght, before he begins to make his presentation, to present the people in the back of the room who are here as witnesses. I suppose you know most of them personally. After Mr. Slaght has delivered his brief, he will be open to questioning. After Mr. Slaght we will have Honourable Mr. Brais, legislative councillor of the province of Quebec who will also present a brief. I believe it will be in order that first, when the brief is presented by the witnesses or by the persons who present them, they will be allowed to present them without any questioning. After that it will be absolutely wide open.

Again I thank the members of our committee for being here so promptly. It is a problem at the present time to get a quorum. I know that some of you may have to leave in an hour or an hour and a half; but I would ask you to remain if possible so that we will have a quorum here to deal with this very important question in which the whole of Canada seems to be very highly interested. I will now call upon Mr. Read.

Mr. READ: Mr. Slaght suggested that he might mention the names of the people who are here before I begin.

The CHAIRMAN: That will be fine.

Mr. ARTHUR G. SLAGHT, K.C.: Mr. Chairman, for your convenience and perhaps for your record I will indicate those persons and organizations that are here represented, that I know of. There may be others.

In the first place, the Toronto Stock Exchange is represented by its president, Mr. J. B. White. Would you, stand up, Mr. White? The past president, Mr. W. G. Malcolm of Ames and Company is also here. The vice-president, Mr. R. J. Breckenridge is here. A past president and member of the management committee, Mr. F. J. Crawford is here. Then there is the executive manager, Mr. Arthur Trebelcock. In addition to the Toronto Stock Exchange—and I may say I am representing them, or to assist in representing them here as their counsel, the Winnipeg Stock Exchange, through A. B. Flett,

their president, has asked the Toronto Stock Exchange to ask me also to present their views and there is a telegram there from them in which they express their views strongly; you may want to hear it later on. The Calgary Stock Exchange, through Mr. L. Phillips, their president, desire to be represented here in the same way through myself, in the Toronto Exchange brief. The Vancouver Stock Exchange, through Mr. K. L. Patton, the president, desire to be represented in the same way. The British Columbia Bond Dealers Association, through Mr. Ross Watson, the president, desire to be represented in the same way. Then my friend, the honourable Philippe Brais, K.C. is here for the Montreal Stock Exchange and the Montreal Curb Market. I may say to you that the stock exchanges we represent constitute all the stock exchanges in Canada. Then the further parties here that I can indicate are the Prospectors and Developers Association of Canada represented by Mrs. Viola McMillan as president and her husband Mr. George McMillan as secretary-treasurer. Mr. McMillan is a prospector who has spent a good deal of his life in prospecting. Mr. Joseph Sedgwick, K.C., who is known to all of you, is here as counsel for that association. Then the Ontario Security Dealers Association are here represented by their past president, Mr. Gordon Jones. I am not sure that he is in the room but he will be. Is Mr. Jones here? And their counsel, Mr. Ralph Salter, K.C., will assist us in presenting their views. Mr. Rene Chênevert, K.C. of Montreal is here representing a number of Quebec mining companies a list of which perhaps you can have later on. That is all the representations that I can inform you about, Mr. Chairman. There may be others.

The CHAIRMAN: Thank you, Mr. Slaght. Is there anybody in the hall who has not been named as yet, and who is to appear as a witness?

Mr. SLAGHT: I should have added the name of Mr. Sidney Norman who is a mining specialist, and has been connected with press work for many years.

The CHAIRMAN: Are there any others?

Mr. SLAGHT: Mr. Chairman, the Investment Dealers Association of Canada is to be represented here by Mr. J. Kingsmill, secretary. He is not here yet because he was under the impression that the meeting was to commence at 11 o'clock, but I believe that he will appear shortly.

The CHAIRMAN: Very well, I shall now call upon Mr. Read.

JOHN E. READ, Legal Adviser to the Department of External Affairs called.

The WITNESS: Mr. Chairman, I am not going to appear for anybody who is opposing the extradition treaty. But, I gave an undertaking to the Bell Telephone Company of Canada that I would present the committee with copies of the correspondence between the Department of External Affairs and the Bell Telephone Company, in which it objects to the ratification of the treaty and the protocol. I have not such copies available as yet, because it was necessary to use our equipment in order to furnish copies, to members of the committee, of the extracts of the treaty governing extradition between Canada and the United States of America. My understanding is that I have undertaken to furnish the correspondence in question to the committee. Now I take it that the committee wants me to give an outline of the negotiations leading up to the signing of the extradition treaty and protocol and the various points considered in the course of those negotiations, in order to give you the necessary background of information for your study of this question.

By Mr. Coldwell:

Q. What is your official position, Mr. Read?—A. I am legal adviser to the Department of External Affairs, but I appear before this committee, this morning, as I understand it, at the request of Mr. St. Laurent, who regrets exceedingly that he cannot be here himself by reason of another engagement. So, I suppose that what I put before you will be the views of the Department of

External Affairs and the Department of Justice on the matter. But I am really not putting forward any views; I am just trying to discuss the facts in order to enable the committee to form its own judgment in the matter.

Extradition between Canada and the United States of America has been governed by a series of treaties, all negotiated and concluded by the United Kingdom government and extending to all parts of the British Empire. The first was the Webster-Ashburton treaty of 1842, which dealt mainly with boundary questions, but which provided, by article X, for extradition in the case of "murder, or assault with the intent to commit murder, or piracy, or arson, or robbery, or forgery, or the utterance of forged paper." The Webster-Ashburton treaty of 1842 dealt mainly with boundary questions, but, incidentally, it contained article X, which was the first provision of extradition between the United States of America and parts of the then British Empire. In the stencilled copies of extracts from the treaties, article X is printed extensively. What it really did was to provide for extradition in the case of murder, assault with intent to commit murder, or piracy, or arson, or robbery, or forgery or the utterance of forged paper. Then there was a supplemental convention in 1889, by which the scope of the extradition arrangement was widened. Article 1 provided—the provisions of the said article X are hereby made applicable to the following additional crimes: 1. manslaughter when voluntary. 2. counterfeiting or altering money; uttering or bringing into circulation counterfeit or altered money. I do not think I will read the entire list because this supplementary convention is set forth completely in the stencilled document which has been circulated. The supplementary convention is much more like an extradition treaty than the old article X of the Webster-Ashburton treaty, because it contained ancillary conditions for carrying out the scheme. Then, by a series of supplementary conventions in 1900, 1905, 1922, and 1925, we had additional items added, items 11 to 17. They, again, are set forth in the document which I furnished to the committee and it would be just a waste of time to read them over. By the way, in the document in question, I have not transcribed the full text of the supplementary conventions. I have simply transcribed the articles which add crimes. I have not put in the incidental provisions that are of no interest, or at least, I did not think they would be of any interest to this committee, because they do not touch extradition; they just link up the supplementary conventions with the main conventions.

If we examine the series of treaties and conventions, it will be observed that it involves a fairly comprehensive extradition arrangement extending to a somewhat limited list of crimes. It is based on the principle of double criminality; that is to say, in order to extradite a person from, let us say, Canada to the United States, under the old arrangement you must prove criminality under both laws. It is cumbersome and inconvenient, from the point of view of the authorities in both countries who are charged with the responsibility for the suppression of crime. It is so cumbersome and inconvenient that, practically, extradition tended to disappear as a method for dealing with fugitive criminals.

By Mr. Jackman:

Q. Do you mean that double criminality or extradition was cumbersome?—A. Double crimality made it too difficult to extradite a person. It not only doubled but it multiplied the odds in favour of the criminal.

Q. A man would have to be convicted in this country and also in the requesting country?—A. You had to prove not merely that the facts with which he was charged would constitute an offense under the laws of the requesting country, but also that they were criminal under the laws of the requested country?

By Mr. Boucher:

Q. But only to establish a prima facie case?—A. Yes, only to establish a prima facie case.

By Mr. Jackman:

Q. That principle was too difficult to keep in operation?—A. It was too difficult to make it a practical way by which to deal with the type of mobile crime with which the authorities are now concerned.

Q. About what year would that view have obtained?—A. The urge to improve extradition arrangements came on about the beginning of the war, in the late thirties.

Q. In the late thirties. But prior to that time a man had to be guilty in both the requested country and in the requesting country?—A. Yes.

By Mr. Hackett:

Q. Is it correct to use the word guilty?—A. Guilty of the act as charged, in order to constitute a charge.

By Mr. Boucher:

Q. A prima facie supposition that he might be guilty?—A. A prima facie supposition that he might be guilty. The arrangements were not regarded as being adequate by the governments of the United Kingdom and of the United States of America and a new treaty was negotiated which was signed in 1931. It did not apply to Canada and provision was included for saving the Canadian position under the old series of treaties and conventions. I was asked to furnish copies for the committee, but I could only get three copies of the British treaty for the information of the committee. If you want it very badly, I think I could have photostats made, so that each member could have one.

The CHAIRMAN: I think the members of the committee would like to have it.

The WITNESS: I thought you might prefer to table it for your record.

The CHAIRMAN: Does the committee wish to have it tabled for the record?

Mr. HACKETT: For the record!

The CHAIRMAN: Very well, tabled for the record.

(British Treaty filed with Clerk.)

The WITNESS: In the meantime, there had been important developments in both countries which affected the general problems of extradition of criminals. Smuggling had become a most serious matter both in Canada and in the United States and bands of highly organized smugglers were conducting operations directed against both countries.

Where cargoes could not be run into Canadian ports, they would be diverted to ports in the United States of America, and where persons engaged in conspiracy against the law of both countries were frustrated by the Coast Guard in United States waters, they would run the cargoes into inlets on the Canadian coast. This situation led to the establishment of close relationships between the Canadian preventive forces ad corresponding forces in the United States of America, such as the F.B.I. and the coastguard. Similar close relationships were worked out to deal with narcotics. Co-operation has been extended to other matters and it is now possible to say that a closer co-operation exists between the authorities of Canada and the United States of America, who are charged with the suppression of crime, than can be found in any other part of the civilized world. For example, in dealing with the problem of patrol by air, it was not uncommon for an aircraft on patrol to contain not merely United States coastguard operatives, but also the Canadian government preventive forces operative on the same plane. So, if the ship or motor car, or

whatever it happened to be, went one way, the coast guard and the patrol and ground police forces on the United States side would take charge of the matter; but if the motor car or ship went the other way, the Canadian government operatives would control the Canadian forces. So, we actually reached a point where there was almost complete control of smuggling and over a good many types of border crime.

By Mr. Adamson:

Q. When was that perfected?—A. That was in the thirties. It began back, I think, about 1932 or 1933, and it gradually developed and increased.

By Mr. Hackett:

Q. Did not that grow out of an attempt to enforce the Volstead Act?—A. To some extent, but also out of an attempt on this side to enforce the Canadian customs tariff. It was a two-way business. In dealing with criminals, including the lone operator, the highly organized gangs, the greatest handicap is presented by the legal effect upon the position of a criminal which results from crossing an international boundary. In the case of organized crime, the criminal who crosses an international boundary is automatically protected from pursuit of the police. He becomes, from the point of view of the country of refuge, an innocent and law-abiding citizen. He is able to escape the consequences of the crimes which he has committed; in some instances, he is able to continue, in the country of refuge, his criminal activities directed against the country from which he has fled.

By Mr. Boucher:

Q. Is there any provision in this respect, similar to the principle of hot pursuit, as between nations, the pursuit of a criminal within the borders of a foreign nation?—A. I do not think so. I do not think there is anything like hot pursuit as on the high seas. Modern methods of communication have made it legally possible, in the case of gang crime, for criminals to operate, with impunity, behind the screen of an international boundary line. Those charged with the suppression of crime have two means of combatting the mobile criminal. In the first place, there has been extradition; and, in the second, there has been deportation. Extradition under the existing series of arrangements has been so complicated and so difficult that there has been a marked tendency to abandon it in practice. The number of cases involved from year to year is insignificant and bears no genuine relationship to the escape of criminals across the boundary between the two countries. Apart from other technical difficulties involved the application of the double criminality rule makes an almost insuperable difficulty for the authorities responsible for the suppression of crime. Consequently, there has been a tendency to abandon extradition in all cases in which it is possible to deport the fugitive criminal; and, in most other cases, to let the criminal get off scott-free. Deportation may be effective where the criminal escaping from the United States of America is a citizen of that country, or where a Canadian commits a crime in Canada and escapes to the United States. It breaks down in the case of crimes committed by foreigners or citizens of the country of refuge. For instance, if a person commits a crime in the United States of America and then escapes to Canada and that person is not a United States citizen—let us say he is a Canadian or a Turk, for example—then in that case deportation will not work. There is no way by which we can deport a Canadian to the United States. There is no way by which we can deport a foreigner who is not a citizen of the United States of America to the United States. Another objection to deportation is that it is very hard to justify. The accused has no right to appear before a Canadian court and have a judge decide whether he has committed an extraditable crime, and whether he comes within the other principles laid down by the legislative

authorities of both countries to determine the conditions under which a person has to be surrendered to the other country.

By Mr. Hackett:

Q. In regard to the Turk you mentioned a moment ago, if he came into Canada from the United States, couldn't he be sent back to his country of origin?—A. Oh. yes. we could deport him to Turkey.

Q. But you couldn't deport him to the United States?—A. No. The weak point about deportation is that it may be very unjust to the individual.

The inadequacy of the existing arrangements led to negotiations between the Canadian and the United States governments which extended over a period of nearly ten years. As I pointed out, before, the principle urge arose at the beginning of the war, or just before; but the actual start of negotiations was as far back as 1931, if I remember correctly, about the time of the conclusion of the extradition treaty with the United Kingdom. In 1933, the United States government suggested the conclusion of a supplementary convention to make extraditable the offence of the use of the mails in order to defraud. The Canadian government suggested that it would be preferable to consider a completely new extradition arrangement. This suggestion was accepted by the United States government who submitted a draft treaty. Negotiations continued until 1935 but were suspended without any treaty being concluded. In July, 1941, the United States Minister to Canada submitted a new draft treaty for consideration, and negotiations were re-opened. They were concluded early in 1942, with agreement on the treaty as it now stands. On April 29, 1942, the treaty was signed in Washington by the Canadian Minister to the United States, Mr. Leighton McCarthy, and by the United States Secretary of State, Mr. Cordell Hull. On May 27, 1942, the United States Senate agreed to the resolution for ratification, and on June 6, the President of the United States ratified the treaty.

In considering the principal features of the new treaty, it should be borne in mind that it is a type of extradition arrangement which is only suitable where two countries have a long, common frontier, and where the political and legal institutions on both sides are similar in character. It is not of a type that would work effectively, let us say, between Canada and a country with a fundamentally different legal system. A treaty of this sort could be adopted between countries situated like Canada and the United States of America, but it is doubtful if it could be used elsewhere because it is based upon the assumption that both countries are deeply concerned in the suppression of organized crime regardless of technical frontiers. It is designed to be used between countries in which there is close police co-operation and in which, to a substantial extent criminal activities are directed impartially by criminal organizations against the law-abiding citizens of the governments of the two countries. It is based on the assumption that there is a definite Canadian interest in ridding Canada of fugitives from United States justice, as well as in bringing Canadian fugitives back to this country for trial. It is based on a disregard for a precise balancing between the number of criminals who may be extradited to the one side or the other in the case of any particular item, and upon the assumption that it is, in the long run, to the interest of both countries to stamp out crime on a continental basis.

The negotiations have resulted in a treaty containing the following principal features:—

(*a*) The treaty consists of fourteen articles of which article iii sets forth the list of offenses which are to be made extraditable. These fall into thirty-three groups. The remaining articles contain certain necessary provisions as to terms, procedure, proof of offenses, and so forth. The matters of particular interest are the deletion of the double

criminality rule; establishment of a new method for provisional arrest, and most expeditious surrender of offenders; and certain additions to the list of extraditable offenses.

(*b*) The deletion of the double criminality rule I think I have referred to sufficiently in dealing with the questions which were asked.

By Mr. Jaenicke:

Q. Can you point out to us where it has been omitted?—

Mr. SLAGHT: You will find that in the last part of article 9.

The WITNESS: In article 9 "extradition shall take place if the evidence be found sufficient to justify committal for trial for a crime or offense against the laws of the requesting country. In determining the sufficiency of such evidence, the courts of the requested country may apply the laws of the requested country with regard to the sufficiency of evidence to justify committal for trial in criminal causes. It shall not be essential to produce evidence sufficient to convict the accused person of the crime or offense charged were he placed on trial therefor, and it shall not be essential to establish that the crime or offense could be a crime or offense under the laws of the requested country."

By Mr. Jaenicke:

Q. It is an entirely new principle?—A. Yes, it is an entirely new principle.

By Mr. Adamson:

Q. Would you read the last four lines of that article, article 9?—A. "If the person claimed shall have been convicted of the crime or offense for which his surrender is asked, it shall be sufficient to prove that he is the identical person so convicted in the courts of the requesting country and to produce a duly authenticated copy of the sentence of the court for which such conviction took place." That is, where you are extraditing a convict who has escaped, rather than extraditing a person who has not yet been convicted.

By Mr. Boucher:

Q. Mr. Read, does that involve any requirement with respect to the court from which the judgment is issued? Is there any limitation there?—A. No.

By Mr. Hackett:

Q. Then I suppose a man might even be convicted in his absence of a misdemeanor or an offense in the demanding country and be extraditable even though what he did there would not be an offense in Canada?—A. Mr. Hackett, I am not sure. I should not like to answer that point without first looking into it.

By Mr. Boucher:

Q. It is quite possible that he might be convicted before a justice of the peace in the demanding country of an offense, and mere proof of the judgment, regardless of the court and of the official administering judgment would be sufficient, without any proof of the circumstances under which the judgment was issued?—A. I should think so.

By Mr. Jackman:

Q. This particular article, 9, seems to contain a good deal of the kernel of this whole question. Do we want to go into it now, or do we prefer for Mr. Read to finish his statement?

The CHAIRMAN: I would prefer to have Mr. Read finish his statement and then we can go over the articles one by one, if the committee so decides

By Mr. Jackman:

Q. Will Mr. Read be available at any time?

The WITNESS: I will come at any time that you want me to.

The CHAIRMAN: We can call him again, after we have heard the witnesses.

By Mr. Jackman:

Q. I was just wondering how our magistrates or judges in our courts of first instance are to know what the laws of the requesting country are in order to determine the sufficiency of the evidence?

Mr. BOUCHER: They do not have to know that. Merely to supply the judgment is sufficient.

Mr. JACKMAN: In the first paragraph of article IX: "In determining the sufficiency of such evidence, the courts of the requested country may apply the laws of the requested country." In other words, our magistrates are supposed to know the laws.

Mr. HACKETT: The ordinary rules of proof would apply.

The WITNESS: In the ordinary course it would be necessary to establish, by means of evidence given in court according to the ordinary laws of evidence, given, I should think, by a practitioner of law who practises in the community in question as to what the local legal system is.

By Mr. Jaenicke:

Q. Does not our extradition Act cover that?—A. No, I do not think so.

Q. It may be covered by the Evidence Act.—A. Assuming that the extradition is from this country, the lawyer representing them would be a member of the Canadian Bar.

By Mr. Hackett:

Q. Yes, and he would call witnesses, one of them being a lawyer of the requesting country.

Mr. JACKMAN: That would be the procedure. The United States would ask for extradition against the particular person.

Mr. HACKETT: And they would retain a Canadian lawyer who would muster the necessary proof in order to establish the claim.

Mr. JACKMAN: And they would have a counsel?

Mr. HACKETT: Yes, and the counsel would be the witness.

Mr. JACKMAN: You would have to have some person in Canada who could state what the American law was, and also you would have to have a counsel for the United States government.

Mr. HACKETT: I assume that the United States government would retain Canadian counsel who would, in collaboration with his client summon witnesses necessary to prove the case; and among the elements of proof necessary to establish the case would be the American law; so an American lawyer would undoubtedly be brought to Canada to prove that as a matter of fact.

Mr. JACKMAN: The American law would be provable as a fact.

By Mr. Boucher:

Q. The rules of evidence of the country in which the extradition is sought would prevail, not the rules of the demanding country?—A. No, the Canadian law of evidence would govern. The raison d'etre of the double criminality rule lies in the fact that there is, in most countries a divergence in legal principles and juridical concepts so that it would offend the sense of justice in the surrendering country to give up all persons whom the other country regarded

as offenders. Where there is no fundamental divergence between the legal systems of two countries, there is no need for such a rule.

By Mr. Jackman:

Q. Why would not the country apply, if you have similar legal systems in the two countries? Why wouldn't the double criminality rule be the easier one to apply in such a case, that is, between two countries where you might have different institutions? For example, take the case as between the old French criminal code that they had before they adopted the English system? That might be difficult as compared to a case between Canada and the United States. Why isn't the double criminality rule more applicable between those two countries?—A. Well, I agree it would be easier to establish double criminality in a particular instance between two countries with similar systems; but the fact remains that the double criminality rule is one that greatly hampers extradition of fugitive criminals. I am not, in any sense, an expert on that point. I simply draw what information I have on that from my colleagues in the Department of Justice and the other department concerned.

Q. But the rule about double criminality would be much harder to apply as between any other two countries than the United States and Canada?—A. Canada and the United States have similar legal systems. There may be and are differences in detail as regards the exact definition of particular offences, but there can be no justification for putting a hindrance in the way of extradition simply because of their existence. Consequently, in recognition of the fundamental agreement of the two nations in their ideas of justice, and in order to remove unnecessary delays and defects in extradition, the double criminality rule was dropped in the new treaty. In future, it will be sufficient for the country seeking extradition to show that the act involved constituted an extraditable offence in the place where it was committed and that there is sufficient evidence to justify committal for trial. That is, of course, assuming the adoption of the treaty. Now, as to provisional arrest and waiver of extraditional proceedings, experience in extradition of offenders has shown that in many cases the cumbrous procedure of making a formal request for extradition before an offender is arrested has enabled the person in question to escape. This weakness has been particularly perplexing in connection with the narcotics traffic. So article XI of the treaty introduces a new procedure under which provisional arrest can be sought at a moment's notice by the country from which the offender has fled. By this means the escape of many criminals will be prevented. If a formal order for extradition is not presented within two months following the request for provisional arrest, the person who is being held must be released. Extradition has thus been made more certain and more expeditious.

Another innovation to augment the efficiency of its operation is also included in article XI, namely, the provision that a person arrested with a view to extradition may elect to return to the country where he committed his offence without waiting for committal to trial for extradition. This can only be done with the consent of the authorities of the country in which the arrest took place. Its effect will be to enable offenders to have themselves brought immediately for trial for the offence for which they are charged, rather than spend a month or more in the process of extradition. For the authorities in both countries it will mean a saving in the time of judges and officials, and a great reduction in the cost of the whole process.

By Mr. Hackett:

Q. There is nothing new in that?—A. Well, with regard to the Department of Justice, there have been means of reaching the same results. This change was made at the request of the Canadian Departments concerned; in article

XI the change was made in order to legalize a practise of doubtful authority, if I may put it that way.

The principle new extraditable offences, items of greatest interest, are:

"26. Using the mails to defraud." This was introduced to enable the United States government to get at cases of fraud which would otherwise have to be dealt with by the various states, if at all. So far as Canada is concerned is adds nothing to item 20 which covers "fraud".

"31. Crimes or offences against the laws for the prevention of fraud in the sale or purchase of securities".

"32. Crimes or offences, if indictable against the laws regulating (a) public securities, markets, or activities affecting such markets;

By Mr. Boucher:

Q. By the way, does that mean public securities markets? I see a comma, between the words securities and markets. Does that indicate anything?—A. Yes, public securities markets, or activities affecting such markets;

By Mr. Jackman:

Q. May I refer to what you said a moment ago: When double criminality was done away with, it was only necessary to prove that the offence was an extraditable one where the offence was committed. Those of us who are not familiar with the criminal law might like to know: whether the offence committed is where the accused person is, or might it be an offence committed, for example, at the other end of a telephone line running across to the States? So, where is the offence committed under this treaty? It is in both countries? —A. Well, I am coming to that. I think it would save time if I did not deal with that point just now.

The CHAIRMAN: Yes, keep notations of that point and get on with your brief.

The WITNESS: I am not certain if that comma that was mentioned was in the original treaty. I am going to check it up with the original document.

Mr. HACKETT: Securities and markets are two distinct things.

Mr. SLAGHT: Yes!

The WITNESS: Very considerable objection has been taken by various groups and persons in Canada to the inclusion of items 31 and 32 in the new treaty. I should also add No. 26, use of the mails to defraud. Objections have been put forward by a large number of Canadian business men, firms, corporations and associations, including the stock exchanges, associations of dealers, lawyers representing clients who are concerned in security transactions, and the Premier of Ontario. There was also an objection which I mentioned earlier, that of the Bell Telephone Company. The objections may be summarized as follows: (*a*) The offences are not of a type which should be included in an extradition arrangement; (*b*) It would be extremely difficult for dealers in Canada not to violate some regulations, which would come within item 32, if they carried on any business at all with United States customers; (*c*) The risk of extradition would make it necessary to cease operations with United States customers, which would stop necessary flow of capital to Canada; (*d*) There is no reciprocal advantage for Canada in the new items; (*e*) Due to retroactive features of the Canadian Extradition Act, items 31 and 32 would render persons liable for extradition for acts done in the past which were considered legitimate business practices; (*f*) Securities legislation is a provincial matter and the federal authorities should not enter into an extradition arrangement making offences against such legislation extraditable or making it effective without provincial legislation; (*g*) Instead of admitting items 31 and 32 to the treaty, the government should

endeavour to secure amendments to the Securities Law of the United States to permit freer trading in the better grades of Canadian securities; (*h*) The special position of publishers and vendors of newspapers under items 31 and 32.

I have mentioned those points because they were the background that led to the negotiation of the protocol. The objections were presented to a meeting of a committee of the cabinet in May, 1943, and it was recognized that it would be necessary to negotiate a protocol with the United States government with a view to limiting the operation of the treaty in matters coming under items 26, 31 and 32. There was no doubt, that, assuming an extreme interpretation of the provisions of the treaty, it would subject to extradition business men who were carrying on business in Canada in accordance with the Canadian law, and who were committing technical offences under extraterritorial legislation enacted either by Congress or by the legislatures of one or more states. Further, even the publishers of Canadian newspapers and magazines might have been subject to the provisions of the legislation, as a result of publishing, in the course of ordinary business advertisements for Canadian securities which were not registered in the United States of America. Accordingly, it was recognized to be necessary to impose limitations which would protect legitimate Canadian business interests.

The basis of the protocol was limitation of the operation of the treaty to cases involving either fraud or wilful and knowing violation of the laws of the requesting country; provision that there should be no extradition for offences committed prior to coming into force of the treaty; and protection of Canadian publishers publishing newspapers or magazines for sale and circulation in Canada, the circulation of which abroad would be incidental to the ordinary course of publication in this country.

On the other hand, it was recognized that Canadian business men conducting marketing operations in the United States of America in competition with United States financial firms must comply with the laws in force in the places where their securities were being marketed. Further, it was recognized that there was no likelihood of negotiating any arrangements whereby Canadian securities could be freely sold in the United States without complying with the requirement imposed for the protection of investors in that country. That was the basis for the negotiation of the protocol.

By Mr. Hackett:

Q. Can you tell us why the telephone companies and the telegraph companies were not put into the same category as the newspapers?—A. The reason was this: that there was never, at any time, a suggestion to the government that they were covered in any way by the extradition arrangement. The suggestion was made for the first time a fortnight or so after the protocol had been established. In the negotiations between the United States government and the Canadian government there was never any suggestion by anybody that the type of transaction illustrated, let us say, by the Bell Telephone Company in its ordinary way of doing business could possibly be regarded as the commission of an offence within the United States of America and be covered by the treaty. My own personal opinion, and I offer it for what it is worth, is that there is no serious legal argument to that view. However, if the case arises, the problem will arise and will have to be dealt with.

By Mr. Marier:

Q. You do not think there would be any offence by the Bell Telephone Company?—A. Yes, I would if the Bell Telephone Company should market its shares in New York without registering them. That would constitute an offence.

Q. I know, but I mean in its operations, its business operations?—A. In the ordinary normal operation of the Bell Telephone Company I could not conceive any instance where it would be an extraditable offence.

By Mr. Boucher:

Q. Would you say the same thing with regard to the telegraph companies?—A. The telegraph companies, yes. I may be wrong there, but we have had no complaint of the telegraph companies; but if one arose, it would have to be dealt with.

Q. My own supposition was that the telegraph companies were very much within the scope.

Mr. HACKETT: The distinction there between the telegraph and the telephone companies and the newspaper companies might be a topic for future discussion.

The CHAIRMAN: Yes.

The WITNESS: The point was raised by the Premier of Ontario, when it was objected that the provinces should have a part in the negotiations. It was necessary to bear in mind that extradition is a matter which comes within the competence of the parliament of Canada. I am not going to labour that, because I think it would be improper to do so. But I feel bound to give you the basis under which the negotiations proceeded.

Looking at the protocol, it will be borne in mind that, under paragraph 4, the terms are deemed to have equal force and effect as the treaty itself and to form an integral part thereof. Now, if the treaty and protocol are approved, they will be embodied in an instrument of ratification, which instrument will include both. On the other side, it will be necessary that the protocol be submitted to the senate of the United States of America, if it be approved by the parliament of Canada, and be subject to the same type of ratification as the treaty itself. The difference would be that the United States government would end up with two instruments of ratification while we would end up with one covering both the treaty and the protocol. I think therefor that the treaty and protocol read together must be regarded as being an extradition arrangement within the meaning of the terms as used within the Extradition Act.

Section 3 of the Act provides that, in the case of any foreign state with which there is an extradition arrangement, Part I will apply during the continuance of the arrangement, but no provision of Part I which is inconsistent with any of the terms of the arrangement will have effect to contravene the arrangement, and Part I of the Act is to be read and construed so as to provide for the execution of the arrangement. It is clear, therefore, that the treaty and protocol are paramount and the provisions of the statute are to be read subject to the provisions of the extradition arrangements. The legal position in this respect is different to that which exists in the United Kingdom under the Extradition Act.

By Mr. Boucher:

Q. It will be taken as one instrument?—A. Yes, it will be taken as one instrument and it overrides the statute in case of a conflict. For example, the treaty and protocol provide that there will be no retroactive effect. The statute provides that the extradition arrangement will be retroactive.

By Mr. Hackett:

Q. All subject, of course, to the power of parliament to deal with the subjects with which it is empowered.

By Mr. Boucher:

Q. But, if a different situation should prevail in the United States in that regard?—A. No, in the United States the treaty and protocol, after ratification, will become a part of the law of the land and have direct legal effect. In this country, the treaty and protocol only obtain legal effect by virtue of the provi-

sions of Section 3 of the Extradition Act; but the net result in this case is the same.

By Mr. Hackett:

Q. We are always faced with the question as to whether the subject matter dealt with was within the competency of the contracting parties?—A. I would say that assuming the parliament of Canada is not competent to enact the Extradition Act then the question will arise.

Q. The Extradition Act gives certain rights; but the Extradition Act does not extend the powers of parliament to deal with subjects which may be beyond is competence?—A. No.

Looking at the Extradition Act and the extradition arrangement, reading them together, it will be observed that article 1 of the treaty establishes the foundation for extradition. Looking at it from a Canadian point of view, it is agreed to deliver up to the United States of America those persons who, if accused or convicted of any of the crimes or offenses enumerated in article III committed in the territory of the one shall be found in the territory of the other. The scope of the extradition therefore is limited to cases in which the accused person is found in Canada after having committed an offense within the territory of the United States of America. It is not open to any authority to apply under this extradition arrangement for the surrender of a Canadian business men who is carrying on a transaction relating to securities, notwithstanding the fact that his customer may be resident of the United States of America. On the other hand, it may be possible for a person in Canada, staying on this side of the international boundary line, so to conduct operations within the United States territory and thus find himself subject to extradition, providing of course that he has been guilty of fraud or wilful violation of United States law.

Q. Even though what he has done would not be criminal in Canada?—A. Yes.

By Mr. Jaenicke:

Q. That is only an opinion of yours. You say it may be possible?—A. Yes, I am only giving you my views.

By Mr. Fleming:

Q. I wonder if Mr. Read would read the last two sentences again?—A. What I was pointing out is that article 1 of the treaty limits its operation to offenses committed in Canada and I have attempted to point out that it was not possible under the treaty to extradite a person where the offense with which he was charged was committed in Canada from a territorial point of view. At the same time in order to avoid misleading the committee, I pointed out that it was possible—it certainly was under the decisions of the English court, particularly—for situations to arise in which a person may stay within one country and yet be regarded as committing an offense within the other country.

By Mr. Coldwell:

Q. Provided of course, that he does so wilfully and knowingly?—A. Or fraudulently.

Q. Or fraudulently?—A. Yes, you mean; (a) offenses committed in Canada; (b) fraud, I mean fraud under Canadian law; or, in the alternative (b), wilfully or knowingly violating United States law.

By Mr. Boucher:

Q. Isn't that wilful and knowing violation only limited to the extent that the protocol limits it, but it does not go all the way? In other words, the

protocol does not limit the whole Act, but only certain portions of it?—A. Yes, only in the case of offenses under 26, 31 and 32.

Mr. COLDWELL: Yes, I understand that.

By Mr. Jaenicke:

Q. Have you considered American decisions on that point?—A. No, because the actual decision will have to be a decision by a Canadian judge based on Canadian law to determine whether it comes within the scope of the treaty.

By Mr. Boucher:

Q. Shouldn't there be something in the treaty that would say what court determines the status of the offense? In other words, there may be conflict between the American law and the Canadian law as to where the offence was actually committed. The American law may say that the offence was committed in the United States, while the Canadian law may say that the same offence was committed in Canada. They may both be right according to their respective laws, but inconsistent with each other?—A. Well, on that point I can only say that the Department of External Affairs has no opinion because it is a justice point. But I am quite certain that the views of the Department of Justice are to the effect that it is solely a matter of Canadian law.

Q. Might I not put it this way: A justice of the peace in the state of Nevada, let us say, might very well hold that a bond dealer in Winnipeg had committed an offence within the state of Nevada, whereas the same rank of officer in Winnipeg might say: No, that offence was committed in Winnipeg. So you would have a conflict of the two laws, the finding by a magistrate in Nevada that the offence was committed in Nevada, and the finding of a judge or magistrate in Winnipeg that the offence was committed in Winnipeg. There does not seem to me to be anything in the Act to require consistency of the law with respect to the two states?—A. Well, in that position you might very well have a difference of opinion; but there could be no question as to which opinion would prevail; it would be the opinion of the Winnipeg judge who would decide.

By Mr. Marier:

Q. There could be no possible conflict?—A. There could be no possible conflict.

By Mr. Boucher:

Q. Yes, if the application were made before judgment. But if an application were made after judgment had been rendered in the state of Nevada, then, as I see it under this treaty, there would be no authority in Canada to contradict the finding of the original magistrate, because the evidence of a conviction is positive proof, irrespective of what our situation is. If an accused is tried say in absentia in Nevada and a justice of the peace there gives judgment and they were to extradite the accused after judgment was made, even though in Winnipeg the law would be to say the offense was committed there, in Winnipeg, I could see no way of stopping his extradition?—A. On this point, if I might apologize to the chairman of the committee, with regard to the escape of a convicted person, I have not had an opportunity of discussing that with my colleagues in the Department of Justice. I would prefer to bring Mr. Forsyth down to the committee to discuss that point, or to deal with it himself on a later occasion because it is a point that has never arisen before and it is a little bit awkward.

Mr. FLEMING: I think we should make notes of our questions and allow Mr. Read to read on.

Mr. CHAIRMAN: Yes, that is what we practically decided to do before.

The WITNESS: In order to give an indication of the circumstances that might involve the commission of an offence in a foreign state without being physically there, reference might be made to two cases under the British Extradiction Act. In the Queen versus Nillins, which is reported in volume 53, Law Journal, Magistrates' Cases, at page 157, the accused was being extradited as a fugitive criminal within the meaning of the words as used in the British Extradition Act. In the Queen versus Nillins, which is reported in volume 53, carrying on business in Germany, inducing them to part with goods and deliver them to his order to certain persons in Hambourg. The views of the court are indicated in a judgment by Mr. Justice Cave on page 158, in which he said, among other things:—

> The word used throughout this Act is fugitive criminal, so that if there were no definition we should have to consider the meaning of those words; but the term is expressly defined in section 26 as meaning "any person accused or convicted of an extradition crime committed within the jurisdiction of any foreign state, who is in or is suspected of being in some part of Her Majesty's dominion". It seems clear that the case of the present applicant comes exactly within this section: he is accused of an extradition crime committed within a foreign state; it cannot be seriously contended that he did not commit the crime in Germany; he procured the goods there, he uttered the forged notes there, and, further, they were delivered to the merchant of the port or his agent, and upon these the goods were delivered to his order at Hambourg. It is clear, then, that the crime was committed in a foreign state.

I mention that in giving an illustration of circumstances under which a man may be regarded as having committed an offense in another country.

By Mr. Jaenicke:

Q. Didn't this man go especially to Germany in order to commit the crime?—A. No, he did it all by post, by correspondence.

Q. He also sent forged correspondence?—Yes. The question was considered again in The King versus Godfrey, L.R. (1923), 1, K.B., at page 24. This was a case in which the accused was charged with obtaining goods by false pretenses in Switzerland, the false pretenses being made there by a partner. The accused was not physically present in Switzerland at the time of the offense. It was decided that the accused was a fugitive criminal within the meaning of the words as used in the Extradition Act. No serious question appears to have been raised in this case as to whether the offense had been committed in Switzerland, and it was decided that the accused was a fugitive criminal within the meaning of the definition in the Extradition Act. But it was necessarily held to be a decision that in the circumstances the offences had been committed in Switzerland notwithstanding that the accused was not in the country at any stage.

Q. He was considered to be an accessory?—A. No, as a principal criminal. I will check that point, as I have the report here.

While the decisions in these cases have been subject to a good deal of criticism, it is necessary to assume, for the purpose of considering the arrangement with the United States, that both the Nillins and Godfrey cases were properly decided. Upon that assumption, any Canadian business man who conducted security transactions in the United States of America through the medium of a partner, agent or salesman within that country would be regarded as coming within the scope of article 1 of the treaty. Similarly, a Canadian business man circularizing or corresponding with customers within the United States of America and delivering securities and taking payment within that country might be regarded as coming within the scope of article 1. In putting forward this view, it will be borne in mind that it is based upon the assumption

that the cases referred to were correctly decided and it disregards the possibility of a distinction based upon the fact that our Extradition Act does not contain any provision corresponding to that which was the foundation of the decision in both of the cases sited. I felt I was bound to put what might be regarded as an extreme view before the committee so that you could see the possible extension of extradition under the arrangement. In between the cases in which proceedings might be brought, and the cases referred to above which could not come within the scope of article 1, there are many types of transactions and it would be impossible to draw an absolute line with complete assurance that it would be followed by all of the courts which might be called upon to deal with the matter. It is necessary, however, to bear in mind that, to justify extradition, it is not only necessary to prove that the offense has been committed within the territory of the other country, but it is also necessary to prove that the offense comes within the thirty-three items of article III and that all of the conditions of the protocol have been satisfied.

In considering the position which arose under the treaty and protocol, it should not be overlooked that the extradition does not, in itself, establish criminal offenses. No person can be extradited who would not be subject to criminal prosecution if he crossed the international boundary at any time, even on a fleeting visit. There are many business men who have been concerned about the possible effect of the treaty, but who have not hesitated to visit the United States from time to time for various purposes.

By Mr. Boucher:

Q. You stated a moment ago that to be extraditable they must infringe some of the laws; and that the offense must be committed over there; but in fact, this puts Canadian citizens while still in Canada, in the position of being guilty of a breach of law in the United States?—A. Yes. But bear in mind the great expense and uncertainty of extradition procedure. It is unlikely and almost unthinkable that any one will be extradited when he visits the United States of America either on pleasure or on business. I just point that out.

By Mr. Hackett:

Q. You are advising Canadian ladies to buy their millinery at home?—A. As far as we can judge, according to the practise in recent years, United States authorities are unlikely to institute criminal proceedings, let alone extradition proceedings, except in two cases: persons who are engaged in fraudulent practices directed against United States investors; and United States business men whose proposals have been rejected by the United States authorities and who have fled to Canada to avoid capture or moved to Canada in order to conduct their market operations in the United States of America behind the screen furnished by the International Boundary Line.

By Mr. Boucher:

Q. You say: directed against American Citizens. Could it not be possible, under the Act, that legitimate Canadian business is primarily for Canadians, but might they enter into a contract with an American citizen and thus infringe the American law, thereby making the Canadian people extraditable, even though it might be a secondary part of their business?—A. I think it should be possible to conduct your business in such a way as to prevent your being subjected to extradition.

Q. Suppose the main business of the company was in Canada, and it solicited business in Canada. But their solicitation might reach the United States with the result that a contract would be affected there, leaving them extraditable even though it was an ancillary part of their business?—A. I think business could be conducted in that way so that it would come within the

scope of the treaty; but I would not go so far as to say that it was not possible, or even easy to conduct legitimate Canadian business with United States customers without coming within the scope of the treaty.

Mr. COLDWELL: Are we to have a general discussion now?

The CHAIRMAN: No. Proceed with your brief, Mr. Read.

The WITNESS: I beg your pardon, Mr. Coldwell. I have just one more paragraph to deal with. Having these points in mind, it is desirable to look at the general position which would be established upon the ratification of the treaty and protocol. It may be summarized as follows:—

First: An extradition arrangement would be established which would be simple and effective and which should help in the suppression of crime in both countries.

Second: The position of Canadian business men engaged in the marketing of securities in Canada would be absolutely protected, whether their customers resided in this country or abroad.

Third: The position of Canadian business men engaged in the marketing of securities in the United States of America would be protected in the absence of either fraud or the wilful and knowing violation of United States law.

Fourth: The position of Canadian publishers publishing in Canada would be absolutely protected notwithstanding incidental circulation in the United States.

Fifth: The extradition arrangement would have no retroactive operation. Now, Mr. Chairman, I have attempted to deal with the basis of negotiation and I may say that, in the course of my discussion, I had to give you what were my own personal opinions so I want you to bear this in mind, that there is a certain amount of difficulty. I have attempted to put everything before the committee the way we thought about it when it was being negotiated, and with complete frankness. I do not want you to think I was putting forward my opinion on anything, because a civil servant is not supposed to have any opinions.

By Mr. Fleming:

Q. I have a general question to put to Mr. Read. He has indicated certain changes in the present law. Is he in a position to tell us which of the changes are expected to benefit Canada, and which changes are expected to benefit the United States?—A. I think I would need to go over my documents. I should like the committee to bear in mind that in the negotiations, I do not think anybody on either side was thinking about a benefit either way. They were thinking of the arrangement as being an attempt to work out a scheme for the suppression of continental crime and we were not adding up this item and that item. But I could put on the records for the committee which points were put forward by us. The point about the abolition of the double criminality rule came from a Canadian source; and the other point about provisional arrest and security came from a United States source. Smuggling came from both sources. I could not say which was first in the case of smuggling, but the pressure was there from both governments.

Q. The section relation to security sales, the proposals to that section were in the United States?—A. Entirely.

By Mr. Fraser:

Q. Mr. Read will be coming back for further questions?

The CHAIRMAN: I believe it is the wish of the committee that he be recalled.

By Mr. Coldwell:

Q. What occasioned the suggestions from the United States regarding Canadian securities? Can you tell us that?—A. I can, if I may be allowed to talk off the record.

Q. I think you should be permitted to speak off the record.

The CHAIRMAN: Off the record would be the prerogative of the witness, Mr. Read?

By Mr. Fraser:

Q. I might say, in all fairness to Mr. Read, that there are many more people here than are members of the committee.—A. Oh, I would trust anybody in this group.

By Mr. Coldwell:

Q. I think we should try to get a clear idea of what this treaty and protocol is trying to do. Mr. Read stated that certain suggestions came from the United States regarding certain conditions.

At this point the discussion took place off the record.

Mr. HACKETT: It has been pointed out that there are quite a number of people here from a distance. I wonder if the committee would not think it fair to let them be heard first then we could talk this matter over to-morrow or the next day.

The CHAIRMAN: I believe your point to be well taken. The department has given its view of the point through one of its permanent officials, and I am glad of the fact. We do not expect Mr. Read to be here at all our sittings, but he may be called again at one of the final sittings. So I thank you very much, Mr. Read, for your fine brief and the information you have given us to-day. Now I believe it would be in order to call Mr. Arthur Slaght.

Mr. Read retired.

Mr. ARTHUR SLAGHT, K.C., called.

The WITNESS: Mr. Chairman, before I present the views of my clients, I would like to add for the information of your committee so that your secretary may record the fact that from the outset there are some organizations who have made representations which I did not give to you before; so if you would have the reporter set out their names in the earlier part of the record to-day. In the first place, the Board of Trade in the city of Toronto have forwarded to the Minister of Justice a strong opposition to the treaty. I do not propose to give you their views, but I would suggest that Mr. Read make available to this committee, at a later stage, the views of the Toronto city Board of Trade. Secondly, the Ontario Mining Association have already made strong representations which they sent to the Minister of Mines and also to several members, I believe, of this committee and of the Senate committee, and perhaps, at a later stage the opinion that they secured from their counsel and forwarded for use in this committee. That might also be produced by Mr. Read and made available to the committee. I have a copy of it, but it is off my line and I do not want to discuss it.

By Mr. Fleming:

Q. There is no Senate committee seized with this question?—A. No, not at the moment, but you will recall that there was set up a Foreign Relations Committee of the Senate. Its name differs from the name of this committee, but I take it that its duties will lie upon the same lines in the other place. I have been told or it has been suggested to me that the Senate will refer this matter, if it goes there from the House, to that committee over there. The Canadian Bar Association filed a protest, some considerable time ago. I have

no copy of it, but if Mr. Read would make it available to this committee later, it might be helpful. Mr. Read also mentioned to you that the Ontario government filed a protest some considerable time ago.

By Mr. Hackett:

Q. Do you represent the Ontario government?—A. I do not; but I am going to suggest, and I should say that I think it was at a time when the present Ontario government was not in office. But, through the Attorney General, I understand, Mr. Conant, a strong representation was made to the Justice department which I would like to ask Mr. Read to make available to this committee. In this representation I understand they question the right of the Federal government to deal with these matters in section 32, on the ground that they were exclusively in the field of each province. I would suggest that this committee might feel this to be a matter to go before the Dominion-Provincial conference about to be assembled, although they have plenty to do without it. With that explanation, I would, on behalf of my clients, first express their thanks to the Minister of Justice for having referred this matter to your committee. There was a question as to whehter or not it should be. My clients urged that it should come to you, and the minister has very kindly referred it now. He made two statements in parliament which I think show the spirit in which he wants you to consider this matter. He said on one occasion: "No citizen of Canada would be denied such right, that is, the right to appear before this committee and make representation. He also said in parliament that ratification of this treaty and protocol is no idle formality.

We want to thank him for throwing open the matter in that national spirit. We would also express our appreciation to the Prime Minister who is, at the present time, Minister of External Affairs, for co-operating in having it referred to this committee. This treaty which was negotiated in 1942 was signed at Washington by our then ambassador, Mr. Leighton McCarthy, and by Mr. Cordell Hull, both gentlemen of high standing who exude virtue. I might say, and I venture to say, that they never had anything to do with an extradition case in their lives, and some criticism of the treaty that was then verified may strike you by reason of that fact. Now, we take this position: that this treaty is of very great importance and that, while on the surface, to the man on the street, the terms of an extradition treaty might seem primarily for lawyers and for justice departments, we submit to you that it goes very much farther in that it will be brought to bear, partly corroborated I think by Mr. Read's statement, that security dealers would find it very difficult to market Canadian securities there after this treaty becomes effective. Our submission is that it will bring about a radical and disastrous change in the entire fiscal policy between Canada and the United States that has prevailed for fifty years, whereby heretofore, United States capital has been free and glad to come into Canada to help us develop our great natural resources. Canada does not have to apologize for seeking financial assistance from the United States for such a purpose. We say that the provisions of the treaty and the protocol, if approved by parliament, will be revolutionary in shutting off the flow of United States capital into Canada, and depriving United States citizens of those rewards which in the past they have enjoyed in a stupendous way because they have had the courage to invest their dollars to assist in the development of this small-populated country of ours with our great natural resources. Great rewards have ensued to them. I put them forward now so that we may see the result that may flow, quite aside from lawyers busying themselves about the exact proceedings of a court. We think it will prejudice gold mining, base metal mining, strategic metal mining, newsprint and paper production, lumbering, forestry, plastic and chemical production, oil refining, the rubber industry and every type of industry in this country. So many of the industries in this country are industries that deal with the develop-

ment of natural resources. Our country of 11,500,000 needs no apology for seeking United States capital in part to help us with our industries. Our submission is that while this committee might deal with the matter under the head of external affairs, it reaches away beyond that. It is a problem which ought to be considered first by our Department of Trade and Commerce; and next, by our Department of National Revenue; next by the Department of Finance; next by the Department of Labour; and next by the Department of Agriculture; then by the Department of Justice and last, but not least, the Department of Mines and Resources. We do not know whether, aside from External Affairs and Justice, any of these departments have been invited to examine this problem and to pass upon it. I would suggest with great respect to Mr. Read that possibly during the deliberations of this committee that the deputy ministers of these departments might be communicated with. The view I am going to present has to do with the effect it will have on the fiscal relations with the United States. Now, my friends Mr. Sedgwick, K.C., and Mr. Salter, K.C., will deal with certain points and the reason for this later. As to the reason why we say it will cut off this flow of capital; I know of a case where in order to get securities registered with the S.E.C., in Philadelphia, a sum of money, $50,000, had to be paid to get the securities registered. Now, if you do not get your securities registered, and if you attempt to market them, you thereby become a criminal and you may be taken over there and tried. I do not want to take up too much time, but I represent all but one of the stock exchanges in Canada.

I think you may bear with me because I have collected some figures that I believe are useful in the problem you have got to determine. I wont give you statistics generally, but I have condensed them with respect to three types of natural resources where United States money has played a dominant part in enabling these particular natural resources dealt with by these companies to be developed in Canada. Some of the data I shall give you has been furnished to me. Some of it I secured from the Mining Handbook for the year, and from the Security Handbook, published by the *Financial Post*. Some of these figures I have not been able to check carefully, but I would put it to you this way: that you may regard these as approximately correct, and if, after checking, anyone finds anything wrong, I should be happy to be corrected in that respect. A partial list of Canadian corporations which, during the past few years have been supported partly or wholly by investments of United States are: The International Nickel Company of Canada, Limited. Its head office is at 67 Wall street, New York city, and Robert C. Stanley of New York is the chairman and president. I have taken the valuation of their issued securities as being of the market value of $573,000,000 odd. That money came to Canada to develop that great nickel industry from the United States, not all of it possibly, but a great part of it. Now, the dividends paid by that company—and here is where I am putting in a word for the American investor—the dividends paid by that company to United States citizens and to Canadian citizens up to December 31, 1944, over the period of years, were: $440,000,000. The number of employees of that company in Canada, as of December 31, 1944, were 21,881. 21,000 Canadian workers are working in those subsidiaries of the International Nickel Corporation. I would next call your attention to the Hudson Bay Mining and Smelting Company Limited, at Flin Flon, Manitoba. Mr. Cornelius C. Whitney, New York, is the chairman of the board. Mr. R. H. Channing of New York is the president. That was practically all American money. Any member on this committee from Manitoba can bear me out as to that. Their present securities amount to $90,000,000, and they have paid in dividends to December 31, 1944, $46,000,000. I am giving you millions only, and I have chopped off the exact figures. The town of Flin Flon, Manitoba, with about 8,000 population, has grown up entirely as a result of this investment. They built a power plant alone that cost them

$3,000,000. The next company is Dome Mines Limited, at South Porcupine, Ontario. Clifford W. Mitchell, New York, is the president and treasurer. Their issued capital amounts to $55,000,000 and total dividends paid to December 31, 1944, are $58,000,000. Now, I mention Wright Hargreaves Mines Limited, Kirkland Lake, Ontario. Mr. Edwin L. Miller, of Buffalo, New York, is the president, and Mr. William H. Wright of Barrie, and Mr. James Y. Murdoch of Toronto, are members of the board. The company is partly Canadian and partly American owned. Their issued capital is $25,000,000, and they have paid in dividends, $42,000,000. Teck Hughes Gold Mines Limited, Kirkland Lake, Ontario. Mr. Albert W. Johnson of Greenwich, Connecticut, is the chairman of the board. Their issued securities amount to $25,000,000, and they have paid in dividends, $40,000,000. Lamaque Gold Mines Limited is a subsidiary of Tech Hughes Gold Mines, Limited. Their issued capital is $24,000,000 and they have paid total dividends of $8,000,000. Buffalo Ankarite Gold Mines Limited at South Porcupine, Ontario. Their issued capital amounts to $4,000,000, and their total dividends $2,000,000. Sigma Mines (Quebec), Limited, at Bourlamaque, province of Quebec, has an issued capital of $14,000,000 and total dividends paid of $2,880,000. Lake Shore Mines, Limited, I know something about because I incorporated it in a little back office in Haileybury, thirty-one years ago. They have three American directors, Mr. C. Max Hilton, Greenville Junction, Maine; Mr. Walter Foskett, West Palm Beach, Florida, and A. L. Wendy, Buffalo, New York.

A great deal of American capital came here originally. I might tell you a story. Two years after we started, we owed the bank $75,000 and we were faced with bankruptcy. We tried Toronto and we couldn't get a dollar in Canada. So, we got a special car which we ran out from Buffalo. Some wealthy friends came up to the mine and we sold them 500,000 shares at 32½ cents a share. That furnished sufficient money to build a sixty-ton mill, and to pay off our bank and it prevented us from going into liquidation. That was all American money. Some of those gentlemen have their shares yet. Some shares have been sold as high as $64, an all time high. Those figures which I have given you with respect to those mining companies show that there are at present outstanding securities valued at $855,000,000. Added to that they have paid $731,000,000 in dividends. There are many other types of securities and I will only be a minute with them. There are paper and newsprint companies in which there is substantial United States capital operating here. First, there is the Canadian International Paper Company Limited. Their securities have a market value of $40,000,000. Their net earnings in 1944 were $10,000,000. Then there is the Abitibi Power and Paper Company with which, as many of you know, I have had a great deal to do in the past five years, with their reorganization. Their securities are now $82,000,000 and their net income for 1943 is $10,000,000. The Minnesota and Ontario Paper Company investment securities have a market value of $12,000,000 while their net profit in 1944 was $1,000,000. Powell River Company Limited, fixed assets valued at $22,000,000 and net earnings for 1944 of $6,000,000. The Brown Company of New Hampshire, outstanding securities at market value $27,000,000, and net earnings for 1944, $3,000,000. Ontario Paper Company Limited, is a wholly owned American flotation, with a capital of about $12,000,000. It is a private company and I can give you an estimate only. The Baie Comeau Paper Company have an estimated investment, wholly United States owned, of $12,000,000. Then the Spruce Falls Paper Company Limited, which is fifty per cent United States owned has an estimated capital of $10,000,000. Finally the Marathon Paper Company Limited has an estimated capital of $10,000,000. The total capital at present day market valuations (partly estimated) of the above nine companies is $216,000,000.

The Imperial Oil Company Limited; the market price of their securities at the present time, and it is almost wholly American owned, is $480,000,000;

and their income last year from Canadian business alone was $22,000,000. The British American Oil Company Limited, which owns four Canadian refineries, has a capital valuation of $62,000,000, while last year's earnings from Canadian operations alone were $8,000,000. McColl Frontenac Limited, $29,000,000; Canadian operations last year; $5,000,000. Goodyear Tire and Rubber Company of Canada Limited, $31,000,000; and profit after income tax was $2,500,000. Now, the total invested capital at present market prices of the four above companies is approximately $603,000,000, while their annual income from Canadian business only last year, amounted to $38,000,000. A summary of the eight mining companies above listed shows a total of $855,000,000; a summary of the nine newsprint and paper companies shows $216,000,000; and summary of the three oil and one rubber company shows a total of $603,000,000, while a grand total of the twenty-one companies amounts to $1,674,000,000.

I have not had time to assemble a detailed record of the many thriving Canadian towns and communities—centres of population—whose residents are employed by these twenty-one companies. I can give you two off-hand—Flin Flon, in Manitoba, and Copper Cliff, Sudbury, and other small communities where International Nickel and their payroll constitutes the life blood. I have not been able to assemble for you the wage payrolls of these companies, nor their purchases of food raised by Canadian farmers; nor their plant, equipment and products manufactured by Canadian manufacturers. These figures would be astounding in their total—if someone had the time to compile them. Nor do these lists purport to be a complete record, there are many, many more industries that could properly be added to the list. I have by no means given you complete records. You could probe deeply into the figures, if you delved into companies where American capital predominates. That is not part of my task; but I wonder if, as a result of what you hear about this treaty, and the matters to which I will take exception, you will not ask yourself, at this very important committee—I think it is the first year that we have had an external affairs committee—whether our treaty making technique in Canada ought not to be reviewed and altered radically. I am going to suggest that that is something you may want to put in your report before you are through with your duties at this session. We are making provision for distinct Canadian nationalism by means of a Canadian flag. We are now out of our swaddling clothes. Mr. Martin's bill, I fancy, will go through. We are adopting a national status. Is this the time to make it practically impossible to bring in American money to develop our resources? Do we realize that there are grave problems of possible unemployment and depression which none of us in Canada wish to see increased in the next few years. Am I right in saying that the effect of it will be practically what I have told you. Some of my colleagues will deal with that more effectively than I can.

There was a declaration on the subject of treaty making and trade treaties which I have extracted from the *Hansard* of February 8, 1932, volume I, page 46, which was pronounced on the floor of the House during a debate on the suggested treaty for the approval of the St. Lawrence waterways. May I read you that extract and suggest that I believe that ninety-five per cent of this committee will concur and make a very very valuable contribution in your report to parliament that, in the hereafter, we should proceed along these lines. This is what was said:—

> There is one thing which I should like to ask my right honourable friend, and it is this: I attach to it great importance. If, as we are led to believe, not so much by the speech as by what has appeared in the press recently, the negociations are looking to a treaty at an early date between the United States and Canada, will he undertake to see that the house is apprised of the proposed terms of the treaty before any treaty is formally entered into between the United States and

Canada on the St. Lawrence waterway. I think I am justified not merely in making the request that he should agree to that, but in saying that such is the policy which ought to govern in a great transaction of that kind. It will serve no useful end, either to the project itself or to good relations between this country and the United States to have before the fullest discussion a treaty brought into the House that has been signed by the administration of the day and the House of Commons told that that treaty must be passed or that we shall be defaulting in our international relations. In a matter as momentous as this the House of Commons should be given all the information that can possibly be given as to the terms of a proposed treaty before the treaty itself is signed. I think the government should be authorized by resolution of the House of Commons to sign a treaty on lines to be indicated before any signature should be permitted to be placed to it. That was the position which the Liberal party, when we were in office, took with respect to this very matter of the St. Lawrence waterway, namely, that before the House was committed to any treaty, we would see that a resolution of the House would pass authorizing the administration of the day to sign a treaty. I say to my right honourable friend that the people of Canada will expect that much will be the course which he and his government will adopt.

We are thirteen years along the road from 1932. The last thing I want to do, gentlemen, is to raise any political aspects whatever in our consideration of this. This is an all party committee and I believe it is a national question you are dealing with here. I have run through *Hansard* and I do not think that the then leader, Mr. Bennett, took any exception to what Canada ought to do in the future. Our prime minister in 1942 was up to his neck in most important matters in the conduct of this war and I do not know how much time he could be expected to give to the matter of an extradition treaty that was signed by Mr. McCarthy and Mr. Hull down in Washington. I say there is no political thought in my mind in trying to make my views clear to this committee.

Mr. COLDWELL: What department made that treaty?

The WITNESS: That would be the External Affairs Department.

Mr. COLDWELL: Who was the minister?

The WITNESS: The prime minister, I take it. I think he has been the minister of External Affairs throughout the course of his administration. That is my understanding and I think you will find it to be correct. I would like this committee to note the following point well. We have no dominion or federal securities act such as the S.E.C. in the United States. But all our nine provinces, and I have got all the statutes from the nine provinces across Canada, have securities Acts. Some provinces call them securities acts. We call it security act in Ontario. On the other hand some provinces give it another name. But each province has invaded the field falling within its exclusive jurisdiction "property and civil rights", by laying down, in their province, rules for the conduct and the marketing of securities and how it may be carried on in that province. I would suggest to you, before conclusion, that this treaty is *ultra vires* of the power of the dominion. I would note the fact that each province has invaded the field by controlling the matter of marketing securities in the province and advertising securities and I would suggest that the federal government under the guise of extradition cannot invade that field or cloak themselves in so doing by making an extradition treaty. That is the jurisdiction to which the provinces are entitled.

By Mr. Boucher:

Q. You suggest the way a treaty should be signed from the statement which you read. Could you give any information as to what proceedings were taken with respect to this treaty? Was it submitted to the cabinet before signing?—A. Mr. Read would know more about that, I think, because he had something to do with it. If I knew I would gladly tell you. I do not. That, of course, has nothing to do with us here because we are now faced with a treaty that has already been signed, subject of course to constitutional ratification. So when I quote the minister's generous statement that it is not an idle formality that I ask of you to-day in approving this treaty; you are not asked to sign it on the dotted line because we would be disturbing friendly relations with our neighbours. We can surely go to them and say: "The parliament of Canada believe there are matters in this treaty that should be gone into again in a friendly way."

By Mr. Hackett:

Q. Even if it were ratified, you do not argue it would cure the constitutional difficulties?—A. I said: if Mr. Read produces for us the brief filed by the province of Ontario, it should be very easy to submit a stated case to the Supreme Court of Canada in order to find out whether this treaty, as it now stands or as amended, as an amended treaty and protocol is constitutional or not. I would ask you to embody in your report a recommendation to the House that this amendment be secured from our friends. Then, if that be done, I think we would cure the lack of constitutionality that I believe exists in the document, as it exists in its present form. I would like to give you a case so that you could read it, because it throws light on this very point. The case is: "The Attorney General of Canada against the Attorney General of Ontario", L.R., Appeal Cases, 1937, beginning at page 326. That was an appeal to the privy council on appeal from the Supreme Court of Canada as reported in 1936 S.C.R. on page 461. It is a lengthy case and I am not going to burden you with it, but I think it is worth reading. It was sought in that case to hold as *intra vires* certain legislation because the legislation was enacted in accordance with the Treaty of Versailles of 1919, to which, we were a party. The subject matter involved in that case was three statutes dealing with labour matters and the legislation was held to relate to matters coming within the class of property and civil rights within the provinces. That was the issue. Can the dominion, because it signed the Treaty of Versailles override the provinces? Can the dominion deal with labour conditions which are purely property and civil rights? And the judgment held that they cannot and that the excuse that the treaty was made does not enlarge the jurisdiction of the dominion as against the jurisdiction of the provinces. I will read you one sentence from the head note: "The Dominion could not merely by making promises to foreign countries clothe itself with legislative authority inconsistent with the constitution which gave it birth." And, a further sentence: "Lastly, in totality of legislative powers, dominion and provincial together, Canada was fully equipped to legislate in performance of treaty obligations, but the legislative powers remained distributed, and if in the exercise of her new functions derived from her new international status, Canada incurred obligations, they must, so far as legislation was concerned, when they dealt with provincial classes of subjects, be dealt with by the totality of powers—by co-operation between the dominion and the provinces". That again seems to emphasize what I read from *Hansard* of 1932.

Let me say that when I have concluded I shall be happy to be questioned on anything whatever and I also would invite interruptions. I would be very glad to be interrupted and try to clear up any difficulties that any member may feel I ought to deal with. Just recently a distinguished Canadian went

as a representative to Mexico to attend the inter-American Bar Association, which includes all south, central and north America as well as Canada. He said that the subject of extradition was discussed at great length and that the consensus of opinion was that no treaty should be signed on behalf of a country without prior submission to the governing bodies representing the people. That was stated by Mr. D. L. McCarthy who has just returned from Mexico. This gentleman who went to Mexico is Mr. D. L. McCarthy who is actively practising law and is a past president of the Canadian Bar Association. That is a distinction enjoyed as well by my honourable friend Mr. Brais who will address you. He is a past president of that organization, so I find myself in good company. I am not going to go over all the Acts of the different provinces of Canada which I have available for you on the subject to which I referred. Now, I want to make an attack of a friendly character, of course, upon article IX, a portion of article IX. I shall begin with our first complaint and that is a complaint against subclause B of section 1 of the protocol. If you will look at that subclause B, you will find it on page 11 of the pamphlet—it reads as follows: "Wilful and knowing violation of the laws of the requesting country." If you put in the word criminal before the word laws, I think it would be better drafting. Now, someone may say: if it is wilful and knowing, why shouldn't we make it extraditable? I hope to show you why. If you will read with them the last words of article IX on page 9 at the top it reads: "it shall not be essential to establish that the crime or offence would be a crime or offence under the laws of the requested country." Our view is this: Mr. Read says it is pretty difficult if you are going to confine extradition to matters which are offences in both countries. Let us leave out requesting and requested, and I will use Canada and the United States. He says: if we leave the law as it is at present, then only for offences which are offences in Canada can the United States send over and take a citizen away; and that makes it clumsy to extradite. I do not think that bare statement is good enough. Let us bear this in mind: We are venturing into real Canadian citizenship. We are all glad to remain British subjects, but we are becoming Canadian citizens. What is Canadian citizenship? It means that no man in Canada can be arrested, or any hand be laid on him, or may he be sent to jail or fined unless he breaks a law of his country, Canada. But the principle of extradition which crept in one hundred years ago in Britain and which we adopted up to date makes an exception with regard to taking that Canadian out of his own country and trying him for an offence in a foreign country before a foreign judge and jury if the offence for which he is to be taken away and tried would have been an offence if committed in Canada. That has been described by many judges as the "sovereign right of citizenship." The Habeas Corpus Act was devised to enable a man, who in the old days at the will of the sovereign or some spite, was thrown into jail. Now he can apply to the courts of the land to be released from jail on the ground that he has not contravened his country's law That right exists today in Canada. But, through the comity of nations, the belief that it is desirable, we have accepted Britain's view, and have acquiesed in extradition treaties which mean an invasion of the sovereign rights. But they have never heretofore invaded that right to the extent of taking a man away and trying him for something in the States that would not be an offence in Canada. This treaty will wipe out one hundred years of our preservation of that sovereign right and toss it to the winds. What if there is a little difficulty in order to extradite a man, if you adhere to that existing law? I do not see that there is. If our laws are very similar to the United States, presentation to a Canadian extradition commissioner, who is a judge or a magistrate, of the case for the United States and an application to take a man away merely in-

volves showing to that court a question of fact what the law is in the state, and that with other facts there in indicated a prima facie breach of the law over there.

Our judges know, if that had happened here, whether or not it is a breach of the law in Canada? I cannot see any difficulty there. That is the way we stand today, and that is the way this parliament wanted us to stand fifty-nine years ago. We passed the Extradition Act, and this treaty as proposed is definitely in the face of our existing legislation. It ignores some features of our statute. I have not heard of any resolution for a bill to amend the Criminal Code or Extradition Act. And I call to your attention now that, in the absence of an amendment to the present Extradition Act which I think is sound and good as it stands, if we authorize and approve this treaty, then we are making monkeys of ourselves because we are giving approval to a treaty that conflicts with very solid and definite provisions of our present laws. There is some confusion as to what fugitive is. A fugitive under the Act is not merely a man who did wrong in the States and then crossed the border to escape and then says that the officers cannot follow him across the border. It is broad enough to include a Canadian who has never left Canada at all. We have some amendments which I will lay before you which will enable the United States—and sometimes it is the other way around—to go into court and extradite real fugitives from the States who seek refuge in Canada. But when you come to pretty silly regulations, not laws, but regulations like the Michigan state law: if that man is an American citizen who fled to Canada, we say, you can have him and take him back to his own country and try him. That is the place to try him and we are glad to help you. Our amendment will enable that to be done to the full. But when you come to pick up a Canadian citizen here on a telegram from Washington because a disappointed man in Oklahoma has bought some Lake Shore shares from a reputable house in Montreal or Toronto and the shares happened to go down instead of up that is a very different matter—

At this point the discussion took place off the record.

Mr. SLAGHT: (continues) Let me give you three offenses under Michigan State Law. Of the forty-eight states, nearly all have regulations or security acts. My friends have the Michigan state law here and you can check them. There are forty or fifty offences.

By Mr. Hackett:

Q. I think it would be helpful if you made a reference to the provincial security laws. That might be printed as an appendix?—A. All right, I will undertake to do that. I will give you the statute of each province and the statutory reference and you can examine them. Here are three offences which have been created not by the legislature of the state of Michigan, not as far as I know by any judges, but by the Securities Commission of the state of Michigan. They are called blue sky laws. In the first place: take the case of a man in Canada against whom somebody in Detroit lays a charge for having sold him $10,000 worth of ninth victory loan bonds. The Detroit man pays the Canadian for them, but he did not have the Detroit man sign the application for the purchase on a form which was approved by the Michigan state commission. That is an extraditable offence if this treaty goes through. The second is; if he makes the sale, to the Detroit man of the security, and in connection with it—if he advertises in a Detroit newspaper a Canadian security, even though every statement in the advertisement is literally true, even if it is a conservative statement and does not indulge in puffing, let alone falsity and deceit, and he publishes it in a paper over there without having first submitted his advertisement to the Michigan Commission for approval, he is committing an extraditable crime and you can take him over to Derroit and try him.

By Mr. Boucher:

Q. Would not the same rule apply this way as well?—A. No. This treaty was signed in Washington in 1942. It made it possible for the publisher of the *Globe and Mail* which is popular in some quarters here to be extradited—I think the protocol however cured that and is broad enough, as I understand it—to protect an advertisement so far as the newspaper is concerned. Take the Ottawa *Journal* or the Ottawa *Citizen*. If they have some subscribers in New York or Philadelphia, there is a possibility of some Canadian mining securities being advertised in these papers and they are read by people over there. If the newspaper is in the business of publishing a regular newspaper and not merely that of advertising securities and brokerage, I think you will find that practically is cured, the prosecution of the company publishing the newspaper.

By Mr. Fraser:

Q. But only so far as it is intended for circulation within Canada. If it is primarily intended for circulation within the United States, then it is not protected?—A. That is right. In other words, you make criminals of every newspaper owner and editor in Canada who has a circulation in the United States. Even the protocol has not cured it.

By Mr. Jackman:

Q. If it is primarily intended for circulation in Canada, I think you are all right?—A. But suppose it is published partly and not primarily for Canada; suppose fifty per cent of the subscribers are across the line?

By Mr. Hackett:

Q. Then it would not be primarily.—A. I think we should protect our newspapers. That point having been raised before you, you gentlemen will give heed to it in your report.

Mr. ADAMSON: The *Border Cities Star* did come up. That was one paper.

By Mr. Fleming:

Q. What is the definition of primarily?—A. I should think it ought to be clarified.

By Mr. Jaenicke:

Q. Would a breach of our provincial security laws be an extraditable offence, so far as United States is concerned?—A. Under this treaty it would, or at least under the existing law, if the law is the same in both countries; but if it is not the same in both countries, and in so far as United States law was not in accord with provisions of one of our security acts under the present law, we could not extradite him. But if the treaty goes through, we could extradite him.

Q. The treaty covers not only the code but provincial laws, even though the maximum penalty in all provinces except Quebec is six months?—A. In practically all these state laws which my friend is going to give you, such as the Michigan state law, most of the penalties are two years, and they are declared to be indictable offences. They have gone away beyond what we have done in the way of punishment of a breach of the regulations. But it is a pretty serious matter to manacle Canadians and send them away to be tried for a breach of that regulation. There is a third Michigan state regulation which I have here. If you sell a man anything there or put an advertisement in a Detroit paper for a Canadian security without first submitting it to the Michigan state commission, that was the first law; the second was: that you must take an order on a form which is approved by them before you can make

a sale. The third law is: anyone filling an order for a client, that is, by making a purchase or by making a sale upon the open market—suppose a Canadian broker charged $20 too much having regard to the Michigan state laws for selling securities, he would be contravening that law and thus be extraditable for the $20 overcharge.

By Mr. Marier:

Q. Except a knowing violation?

The CHAIRMAN: We will adjourn at five minutes to one.

The WITNESS: What time is it now?

The CHAIRMAN: It is twenty minutes to one.

The WITNESS: I would be glad to stop any time. I have given you a history for the past twenty years of American money that is coming here. I think we are going to stop the possibility of American money coming in. The extradition treaty will change the whole economic policy of Canada, if we approve it, even with the "wilfully and knowingly" in. If this protocol and treaty become law, they are going to mail to every security and investment dealer in Canada a copy of the S.E.C. laws and those of every state law in the United States and they will send them here by registered mail and take a receipt. Then, if they do that, should a charge ever be laid that a Canadian wilfully and knowingly violated a law it could be said a copy of the law was sent him. When I come to the question of bail I think you will be shocked at the results this treaty would involve. Now I shall pass along to my next topic if I may. I did tell you that subclause B of article IX raised the whole question of whether you are going to safeguard a Canadian from extradition for an offence that is not an offence in Canada. But, if you are not going to do that, then you must have an amendment and I will have an amendment for you which will, in effect, say that no Canadian citizen can be extradited unless you can show it is an offence in Canada. But if you want to come over and take back an American fugitive, we won't protect any American crooks who get across the line; but we will protect Canadian sovereignty.

By Mr. Jackman:

Q. You say that if this protocol is signed, the American dealers will send copies of their statutes to their dealers on this side of the line. That fact will be taken by our courts as evidence?—A. A defence counsel would have a hard time to persuade the judge that if a man had read the law mailed to him—that in breaking it—he did not do so wilfully and knowingly—cases show that if you stay in Quebec city and write a letter to a man in New Brunswick and do not go near New Brunswick, but you sell him a security down there in breach of the law, you thereby commit an offence in New Brunswick because the postman who hands the letter to him in New Brunswick is considered to be your agent, and the mail clerk who sends his check back to you is considered as his agent. The Godfrey case makes it clear. Godfrey was not in Switzerland at all.

By Mr. Hackett:

Q. The British law is a little different?—A. I have not studied the British law, but I know the British Extradition Treaty is.

Q. I suggest that article 26 of the British Act is more specific than anything we have here?

By Mr. Marier:

Q. There was a clause according to Mr. Read?—A. I understood that Mr. Read agreed with me that, if a man in Winnipeg wrote a letter to a man in Oklahoma and enclosed a circular and invited the Oklahoma man to buy a security, then the Winnipeg man could be charged with having committed an

offence against the laws of Oklahoma and could be taken to Oklahoma on extradition proceedings and tried there for the offence without ever having left Canada.

Mr. READ: I do not think I would go quite that far.

The WITNESS: I invite him to consider that and to look into and to study the authorities.

By Mr. Jackman:

Q. Would security dealers here be said to have knowledge of American laws if the various jurisdictions sent over copies of their laws?—A. I think that is probably all they would have to do. If you have done something here that is contrary to the laws of Oklahoma, you have committed an Oklahoma offence. There are lots of lawyers here to whom I would pass on that question. Now I pass on to what I think is really a gem in the treaty; it is article XI. That article XI is difficult to understand. I will read you the first clause in order to give you the drift: "Either government may ask for the provisional apprehension and detention of a person, if it indicates at the same time its intention to request his extradition." I had a couple of extradition cases twenty years ago. A man was arrested on a telegram from Washington to the Canadian authorities and he lay in jail for eight days before I could get him out on bail. Now look what Canada is asked to promise to do in the matter of bail. "During the period of provisional arrest of a person"—I read now from article XI—and I would recommend to you to recommend to parliament to throw out this article—"whether pursuant to a formal request or otherwise, for the purpose of extradition hereunder, the legal officers of the requested countries shall oppose the release on bail of such accused or convicted person, except in cases in which the denial of bail would, in their opinion, cause injustice." Here is Canada as a country pledging its national word that regardless of any real examination of the character of the man or the type of offence,—let us say it is for selling a man in Detroit $500 worth of securities and not having taken his order on the Michigan approved order form—our legal officers are pledged to oppose granting of bail to that man while he lies in jail until Washington finds it convenient to send someone up here to present a case against him.

By Mr. Coldwell:

Q. What is the force of that suggestion?—A. I think any man arrested in Canada on a foreign charge should not be refused bail unless he is a confirmed criminal. Bail should be available to him in a proper amount to be fixed by our courts. To provide otherwise is to refuse him justice. Yet here we are agreeing to instruct our legal officers to oppose the granting of bail. I think it would be a gross injustice. Bail in England and here is matter for the judiciary to say whether it should be granted or not. It is true that Crown officers may make their views known, and defence counsel may put their views forward, but bail is a judicial function always. A magistrate or a judge should say what the previous record of this man is. If it is a crime, that is one thing; but if it is an offence against the Michigan state law of that trivial character, then why does Canada pledge herself that our legal officers shall oppose bail? I do not and I cannot understand it.

By Mr. Boucher:

Q. Could you explain the very few cases in Canada where bail is not granted as a matter of right?—A. Bail is granted almost as a matter of right except for murder, rape, or those very serious offences. But except for those major offences, certainly, when you get down to parking offences, or not making use of an order form, a particular form, bail should be granted.

By Mr. Coldwell:

Q. Is there any grave danger there?—A. Why should we be a party to any such a transaction?

By Mr. Boucher:

Q. Is it not a fact that we in Canada feel that bail is a matter of right except in extreme circumstances, whereas this would lead us to say that only in extreme circumstances may bail be granted?

By Mr. Fleming:

Q. Bail is in all cases a matter for the discretion of a judge or magistrate sitting on the case and is not for anyone to dictate to the court what action should be taken on an application for bail?—A. Why should the Dominion of Canada stick out its neck to the extent of saying to a prosecuting officer in Saskatoon: we want you to go before a magistrate and oppose bail being granted in this case. That would be interfering, in my opinion.

By Mr. Coldwell:

Q. We are not interfering with the discretion of the judge?—A. No. They won't go so far as to influence the judge.

Q. Not being a lawyer, it seems to me that all this does is to leave the matter in the discretion of the judge. But the point is raised. That is all I can see in it.

By Mr. Hackett:

Q. The legal officers of the requested country shall oppose the release?—A. "Oppose" is the verb used, yes.

By Mr. Coldwell:

Q. Isn't that the same thing as putting it up to the court to decide?—A. Oh, no.

Q. Isn't there a safeguard here?—A. I respectfully suggest, for your consideration, this is a very different thing from Canada agreeing to say that all matters of bail shall be put up to the court. Such matters are so handled any way. We could have said here that our legal officers shall attend on these cases and merely submit the facts for the judge to decide. But instead of that we use the word "oppose" and we are pledging Canada's good name that we will go there and oppose the granting of bail.

Mr. BOUCHER: Our Crown attorneys are instructed to bring out the facts, not to convict, themselves. Here, by instructing them to oppose bail, we are asking them to convict.

By Mr. Marier:

Q. The Crown attorney can oppose bail, but the judge would have discretion to grant it.—A. A man who is charged under a Michigan state law might say to the judge: This is a minor matter; on the other hand your law officer would have to say this is not a minor matter because the parliament of Canada has instructed me to oppose bail. I think we are going off the deep end in attempting to agree with a foreign power to enforce the administration of justice to that extent.

By Mr. Fleming:

Q. I think it should be left to the fairmindedness of our own courts.—A. Yes.

At this point the discussion took place off the record.

Mr. ADAMSON: Might I ask a question of Mr. Read: whether he will provide us with the information on what formulative we have to go through or what preparation we have to go through in order to sell Dominion of Canada bonds

on the New York market; what subscriptions do we have to make? Could you provide that for the committee?

Mr. READ: I think so.

Mr. BOUCHER: And what was the cost of the same.

Mr. ADAMSON: Yes, what would be the cost? I understand we had to do that in connection with the sale of our victory bonds.

Mr. READ: Yes.

The CHAIRMAN: The committee will now adjourn until 4 p.m. this afternoon.

The committee adjourned at 1 p.m. to meet again at 4 p.m. to-day.

The committee resumed at 4 p.m.

The CHAIRMAN: As we now have a quorum,—and it is very fortunate indeed that the members are able to be here at 4 o'clock—we shall begin. I want to make just a few brief statements first of all. As the members will notice, we now have some new members on our committee. As you know, we have been greatly honoured by the fact that four of our members have been chosen as delegates to the convention in London, in the persons of Messrs. Graydon, Picard, Knowles and Winkler. They are now on their way to the Old Country. By motions in the House they were replaced by other members; and that is why we have Mr. Jaenicke and Mr. Dechene to act on the steering committee in the place of those who left; and also we have Mr. Fraser and Mr. Marier who have taken the places of Mr. Picard and Mr. Winkler.

Following the directive given by the committee before we adjourned this morning, I saw Mr. St. Laurent when we went into the House; and he is perfectly satisfied, if it is possible for the committee to find time to do so, to give the opportunity to every person here to come before the committee to give their brief and their opinions on the present treaty which we are discussing. To-morrow we hope to be able to meet at 10 o'clock. But we shall not be able to get this room. I believe that the committee on Marine and Fisheries has priority on it. We will meet in room 429. Personally, I do not like to change our place of activity, but I believe we shall have to make the sacrifice for the sake of unity and cooperation. You will receive notice of the place and the hour of the meeting from the secretary of the committee. I shall now ask Mr. Slaght to proceed.

Mr. ARTHUR SLAGHT, K.C., recalled.

The WITNESS: Mr. Chairman, I asserted this morning that my clients are anxious to help parliament and the authorities make sure that any United States' citizen or any one not domiciled in Canada who might temporarily be there—a Turk was mentioned this morning; a citizen of any other country; in other words, any one who is not domiciled in Canada—may be dealt with. We desire to expediate such a treaty and protocol as will make it possible for the United States authorities to say, "You broke our law. You are a citizen of the United States and therefore you should be tried here", or "you are a citizen of Turkey—or any other country than Canada—and should be tried here." Any suggestions I will make—and I propose to file with you in the morning, if I may have the privilege, the exact terms of our short amendment so you will have them—will be found not to conflict in any way with the power to be vested in the United States to come here and take back anybody who is not domiciled in Canada or is not a citizen of Canada, and to punish him. We do not want to be here under any false guise. It gets down to what the word "fugitive" means. We are not

here to support the retention of a fugitive who commits a crime over there against his own laws and comes here and seeks to shelter himself because he is in Canada. I want to make that very, very clear. When you see our amendment, you will know that nothing we suggest will detract from that power vested in our neighbours.

Mr. HACKETT: May I ask a question, Mr. Chairman?

The CHAIRMAN: Yes.

Mr. HACKETT: Do you think Mr. Slaght would be interested in knowing that some members of the committee have found it difficult to trace the connection between the investment of American money in Canada and the treaty? He insinuated and stated this morning that if the treaty was passed, it would have an upsetting effect on the investment of American dollars in Canadian enterprises.

The WITNESS: I think I can condense that for you and answer it in this way: If the treaty and protocol as proposed for your approval had been in force when the American money came into any of the 21 companies that I gave you the facts about this morning, those in Canada who brought it in would have been guilty of a crime and extraditable to the United States.

By Mr. Hackett:

Q. Why? That is the question.—A. Because they would have gone to the United States seeking money to be invested in Canada without conforming with any state provisions that they must first conform to. Let us take International Nickel. If this were law, International Nickel would have to go over there and before they would get any American money—or take Steep Rock or any of them—they would have to first register that company with the S.E.C., and that takes an average of 4 to 6 months. It requires 20 or 30 pages of questions to be answered. It requires geological reports to be secured on the property by geologists and filed, accounting reports; and in a case that will be given you, it took $50,000 for fees to qualify for investment of $2,000,000 in Canadian money.

Mr. BOUCHER: On that point, is it fair to say that this treaty does not affect Americans who voluntarily come to Canada and invest their money while in Canada in Canadian projects, but it seriously affects the advertising, the soliciting or the attracting in the United States?

Mr. MARIER: One who is trying to get the money from the States.

Mr. BOUCHER: Yes.

The WITNESS: I want to put it to you—I gave you our case of Lake Shore.

By Mr. Marier:

Q. But will we not get more money from the United States if there is some precaution taken to cover it, to guarantee the value?—A. You will be furnished with telegrams and information from prospecting associations in the United States, the effect of which I may state—and it is with diffidence because I am not handling them—will be that in the United States there has not been a new mine produced in 5 years, and the prospectors over there blame it on the provisions of the S.E.C. which make it practically impossible for the people in the United States to get venture money into new enterprises. So that I hope my associates will be able to show you—I am answering in that way because I think my answer is a most effective one—that if this regulation were in effect, the men who brought that American money in here, would become criminals. While it may be that some American gentlemen are enterprising and may come over and look at things—they used to send scouts—most of the American money that I outlined to you this morning same here because Canadians in many cases,

like ours in Lake Shore, could not get the money in Canada, and had to go over there to get it and persuade the people to bring it in. If you have to do with that you are becoming a criminal in Canada under the proposed conditions.

By Mr. Coldwell:

Q. Do you think this is a very serious argument now, after the demonstration we have had during the war of being able to finance our own activities? Now that we have the Bank of Canada and can do all kinds of things with the Bank of Canada, if we so will it, do you think that this is a very potent argument to-day?—A. Well, I still think it is a very potent argument and may I tell you why. I am one of those who, as you perhaps know, has advocated using the Bank of Canada more freely than we have, instead of the chartered banks; and heaven forbid that you get me on that topic.

Some Hon. MEMBERS: Hear, hear.

The WITNESS: If I do, I would have to send for Comrade McGeer to back me up.

The CHAIRMAN: Order, please.

The WITNESS: Let me answer you in this way. The Bank of Canada has not now, and I do not think ever will have under a sane economic policy, the right to invest the funds of the taxpayers in the vaults of the Bank of Canada in prospecting or venture enterprises in Canada. So that with great respect I say that that problem is not really related to this one. That is my answer.

By Mr. Fleming:

Q. May I ask Mr. Slaght this question? He has indicated that he is going to bring in some amendment, and that the nature of it is such that it is designed to get over a practical difficulty in a practical way and confining in effect extradition for offences against United States securities regulations to Americans who may seek refuge in Canada.—A. Yes.

Q. How is that going to cut across your argument that it may be beyond the treaty-making powers of Canada to enter into an extradition treaty under which you are going to permit extradition for offences against securities regulations in the United States?—A. If I apprehend your question, and I think I do—

Q. It trespasses on provincial jurisdiction.—A. Yes. I answer the question in this way. Our provinces have made certain offences. If an American in New York commits an offence against the S.E.C. or New York Security Board regulations, and gets some money out of somebody improperly and comes over to Canada to seek asylum and safety here, if we in Canada make a treaty, and parliament approves of it, whereby the United States may come here and take their own citizens back and try them over there, we have not at all effected the great and sovereign right of a Canadian citizen not to be taken out of this country for an offence which is not an offence in Canada. Does that answer your question?

By Mr. Hackett:

Q. It does not meet the constitutional difficulty.—A. I think, with great respect to Mr. Hackett, that it does. I have not given great attention to the constitutional difficulty, because it was put by the province of Ontario and I understand put quite well. But I still maintain there is the difficulty. I think it meets it in this way. The constitutional difficulty presents itself because if we ratify this treaty the federal parliament are saying to a citizen of Manitoba, "Notwithstanding that you have in your provincial security act dealt with property and civil rights and how securities may be marketed in Manitoba, yet we are going to say that that makes no difference to you, and although your Manitoba law does not make it an offence, still we are going to agree that the

United States may come in and pick up a Michigan citizen and take him over because he has offended a regulation of the State of Michigan." If we do agree to that—and I say this with no great assurance however—I believe we have not infringed the constitutional rights of the province of Manitoba, because we have confined it to extradition not of a Manitoban whose own province has provided when he shall sin the matter of security laws. We have only said to the United States, "You may take your citizen back who has sinned in your own country and which is his country—and take him over there and try him and, if he is guilty, punish him." So with respect, Mr. Hackett, I do not believe if our suggestions as to amendment are found acceptable that we raise the constitutional problem at all. That is my view.

By Mr. Adamson:

Q. Nevertheless you would only allow the extradition of an American citizen if he had committed an offence in the United States?—A. If he was either convicted of it, which is one thing, or charged with it over there, and if we agreed to that my respectful submission is we have not infringed Manitoba's right to say what the Manitoban or Canadian can or cannot do in selling securities in Manitoba at all. Therefore we have not raised the constitutional question as between parliament here and the province.

By Mr. Fleming:

Q. Take the converse case. The constitutional aspect of it is bothering me a little bit. I take it that the treaty is going to be mutual as to the obligations assumed, and the United States will undertake to repatriate or extradite to Canada Canadians who commit offences against Canadian laws?—A. Definitely.

Q. That is against securities laws or regulations?—A. I mean if we have our way the United States will only be asked to send back to Canada Americans who have offended against Canadian law if it is also against the law of the United States, their own country. It is mutual.

Q. I am taking the converse case, the application to the United States to extradite to Canada Canadians who have offended the security laws or regulations of the province of Manitoba. Where do we stand then on the constitutional right of parliament to approve a treaty with reference to a breach of the provincial securities regulations in that regard?—A. I would think that no province would be heard to lodge a complaint if a Canadian had offended against a law that the province said was an offence in Canada and had taken asylum in the United States. How could the province consistently say to the federal government, "You should not have arranged for us to get him back and try him?" They would want him back and want to try him.

Mr. HACKETT: That may be, but that would not go to the essential thing about which we were talking, that it would have to fall within the ambit of criminal law, and a provincial enactment would not make an offence, which would come within the general description of criminal law as mentioned.

By Mr. Jaenicke:

Q. Would an accused be able to raise that point in the extradition proceedings in the United States?—A. I do not think he would in the case my friend puts. Let me see if I understand it. I may be stupid about this, but assume that a man from Winnipeg has committed some offence in the United States, or rather an American—it is the other way around, it is not?

By Mr. Fleming:

Q. It is a Canadian.—A. A Canadian in Winnipeg—

Q. Commits an offence against the securities regulations of Manitoba and takes refuge in the United States, and then the Canadian government under

the provisions of this treaty ask the United States authorities to extradite him to Manitoba.—A. So we can try him in Manitoba.

Q. For an offence against provincial regulations there.—A. For an offence against provincial laws.

Q. Is it in the jurisdiction of parliament to enter into a treaty for extradition to answer for a provincial offence?—A. Oh yes, but my view of that is that the federal government intervenes in that instance in aid of the enforcement by Manitoba—call it an offence instead of a crime if you like—of a law that Manitoba saw fit to set up for the protection of Manitoba citizens as to the type of selling and marketing you may do in Manitoba. I cannot conceive the Manitoba attorney-general or that province saying, "We complain of the federal government having made it easier for us to bring back a Manitoba offender who ran away to the United States to hide, and we complain that in your federal jurisdiction you are invading our field." It is in aid.

By Mr. Jaenicke:

Q. Suppose the accused raises that point?—A. Let the accused raise that point. If I were for the Crown I would say to his counsel—

Q. The proceedings will be in the United States.—A. Of course they will be and the magistrate or commissioner in the United States will have to say first, "Have they shown it is an offence in Manitoba where they have laid the charge against their own citizen. Secondly is it an offence against the laws of the United States?" If we leave things as they are, which we are asking you to do, and if he decides it is against both laws he will direct the man to be extradited, but I thought the point was being put to me that if we make that machinery possible are we not invading the field of provincial law in Manitoba? I am trying to say—and I may not be touching the point—we are only helping Manitoba bring back the man to be punished under the law they have properly passed.

By Mr. Boucher:

Q. I do not follow you entirely because as I understand it it is not only federal offences which are extraditable. Some provincial laws are also extraditable as are state laws in the United States.—A. That is correct.

Q. Secondly, the fact that the province of Manitoba want the dominion government to pass legislation to assist them in bringing a man from the United States to answer to their laws does not make it constitutional. The accused could still raise the point that it was ultra vires. There would still have to be supplementary legislation by the province and the dominion to make it valid.

Mr. HACKETT: I think there would have to be an amendment to the British North America Act.

By Mr. Marquis:

Q. Are they not offences under criminal law?—A. Yes, and in one sense parking illegally under a provincial Highway Traffic Act is an offence, or let us say over-running a red light is an offence for which a man can be sent to jail. My understanding of criminal law is that if you are before a magistrate, are convicted of an offence and go to jail it is criminal law whether it is criminal law created by a province under its right to handle certain aspects and punish people or whether it is committed under the Code.

Q. Indictable offences are supposed to be proceeded with under the Criminal Code?—A. Assume I am wrong in my suggestion that counsel for the accused man could not properly say that Ottawa had no right to bring him back when Ottawa has certain rights over extradition because it is offending against the field of provincial law. To my mind that would not be sound, but suppose it was; is that not all the more reason why this treaty should not be approved?

By Mr. Fleming:

Q. I do not want to belabour the point but I would ask Mr. Slaght if he would have that point in mind in framing the amendment he is going to introduce to the committee tomorrow morning.—A. Thank you. I shall give it careful thought tonight.

Q. We want to understand its relationship to the earlier argument about the constitutionality of a treaty of that kind, and the treaty-making power of the dominion.—A. Thank you. I will do what I can on the subject. Then, I asserted that none of the amendments we are going to propose—and I have put some of them to you already—will interfere with bringing an American scoundrel back to the United States if he is an American citizen and has broken his own law.

By Mr. Boucher:

Q. Did you not also say that if he is other than a Canadian citizen?—A. Other than a Canadian citizen.

Q. In other words, there may be somebody who is not a citizen.—A. There may be that Turk over there who wanted to break the American law and then go over to Manitoba and escape.

Mr. FLEMING: Do not point at me when you say that.

By Mr. Adamson:

Q. Break his own law within the physical confines of his own country?—A. If he is in Canada here and an American citizen, or a citizen other than domiciled in Canada, then our viewpoint is let him be extradited and charged over there if that is where he is said to have broken the law, but our point is for the protection of Canadian citizens.

By Mr. Marquis:

Q. Do you contend that a citizen is supposed to know the law of his own country but not to know the law of other countries? Is that the principle on which you are relying?—A. I cannot go quite that far. There is a presumption of law that everybody knows the law. If a man comes forward, having broken the Canadian law, and is tried here in Ottawa it will not do for him to say, "I did not know that was the law", and escape. There is a presumption that you are presumed to know the law and are punishable if you break the law in Canada, but I think the point you have in mind goes a little deeper than that. You suggest that I would perhaps argue that if a Canadian broke the law in the United States, either by doing it by letter or going over there and breaking the law, that when they sought to extradite him and try him if he got back to Canada he could say in answer to the extradition, "I did not know that was the law of the United States." I do not think that would be any more answer for him than it would be for the Ottawa man, but the magistrate's task who heard the application to take him back would be to say in the first place, "Have the United States proven that what he did over there was against the law of the United States?" That is a matter of foreign law proof by evidence.

By Mr. Hackett:

Q. That he had wilfully and knowingly— —A. Wilfully and knowingly broken it, and if we prevail and get that mutuality of law secondly, did he break the law of Canada by doing what he did in the United States? I mean is there a similar offence in Canada had he done it in Canada? Does that cover your point? That would be my answer to it. I do not know how sound it is.

By Mr. Adamson:

Q. I am sorry to labour this point so much, but if a Canadian and an American in Canada both broke the American law the American would be

extraditable and the Canadian would not?—A. That would be so under what I suggest if the American broke the law of his own country. I do not urge the parliament of Canada to keep him from going back, but I do urge the parliament of Canada not to send the Canadian who broke the very same law, who is charged with breaking a law in the United States, when if he had done it in Canada it would not have been a breach of Canadian law.

By Mr. Marier:

Q. What happens to an American who has come here and committed an offence here against our laws?—A. We would try him here and send him to jail.

Q. Suppose he goes back. There would be no possibility of extraditing him?—A. Yes, there would be.

Q. And there would be the reverse for a Canadian?—A. The reverse, exactly, but do not think I am trying to shut the door on an American who came over here, broke Canadian law, fled to the United States and we want him and are able to extradite him for having broken Canadian law.

Q. But it is possible he has broken Canadian law without breaking American law.—A. In a case like that if he has broken Canadian law but has not broken the laws of the United States I believe that the Justice Department, the people of the United States and Congress if they really got to the meat of this problem would say, "We do not want an American citizen taken to Canada and tried unless what he did over there is a breach of the law of the United States." I must go that far, and I do go that far.

By Mr. Léger:

Q. May I put this question? Say a man in Ontario has permission to sell certain stock in Ontario. Can he turn around and go to the United States with a bunch of this stock and sell it to somebody in the United States? What would happen then?—A. No. If he goes over there and is found selling stock in the United States of a company which he has not registered with the S.E.C., and if he as a dealer has not registered himself with the S.E.C. and put up a bond of $500 as a dealer allowed to sell stock in the United States he will be in trouble. That is another provision we have not mentioned. He cannot do that. If he is caught in the United States and found over there he can be tried over there and no question of extradition applies at all.

By Mr. Marier:

Q. But suppose he comes back?—A. If he comes back here and they seek to take him back for committing an offence there then if what he did over there is an offence in Canada and if is an offence over there we say, "Take the Canadian back who has broken Canadian law and United States law." I do want to make that clear. But we say, "Do not take the Canadian back if he has not done anything or is not charged with anything over there which would be an offence in Canada."

Q. It is going very far. An American can come here and commit a very serious offence or crime. He will return to the United States and the Canadian authorities would not be permitted to bring him back for the crime.

Mr. HACKETT: That is the principle of double criminality which has been underneath all extradition treaties up until now.

The WITNESS: For 100 years British law, Canadian law.

Mr. BOUCHER: As to the statement you gave when Mr. Leger asked you as to a Canadian taking securities under his arm and going to the United States, say the state of Maine, and selling them there without registering with the S.E.C. he would then have broken the law of America but he would not have broken Canadian law unless it is against the law in Canada for him to do so. If it is not he could not be extradited. But there is no extradition about that, is there?

Mr. LEGER: If he returns before—

The WITNESS: Before he was apprehended, yes. Then, there is no extradition in that. It is a question then of changing the law.

Mr. LEGER: Then he has sold stock he did not have the right to sell and he came right back without being caught.

The WITNESS: All right. Now then, if what he did is not an offence against our Canadian law—

Mr. LEGER: Because he has the right to sell that stock in Canada, but he took some of that stuff over there and sold it and came right back before he was caught.

Mr. HACKETT: In the state of Michigan.

The WITNESS: He is immune, if the present law prevails—that has been the law for 100 years—this will wipe it out, will wipe out the present law. It expressly provides in the last sentence of article 9, you do not need to prove when you come back here that he broke a Canadian law. It does not matter whether it was an offence under the Canadian law at all, if it is an offence under a regulation of the state of Michigan, a regulation of their state commission, that is enough; away he goes.

Mr. LEGER: If I understand it correctly, under this new law we propose to pass, and American would have the right to go out of Canada and sell that stock in the United States—

Mr. SLAGHT: I am afraid I have not made it clear, perhaps I should have said in answering you before that if a Canadian goes to the States with a bundle of Canadian stocks and sells them by reason of fraud or misrepresentation, this amendment that we are now complaining of, this treaty that we are now complaining of—and it has been that way for 50 years, if he goes and gets money under false pretences he is extraditable now under the law. He can still be extradited for fraud. But I am not talking about that kind of a man, I am talking about the kind of man who has done nothing fraudulent beyond the infringement of a mere regulation.

Mr. LEGER: I said that this stock that he brought over to the United States was allowed to be sold in Canada by the Canadian government or the provincial authority.

The WITNESS: Yes, but not to be sold in Canada by fraud or misrepresentation or false pretences.

Mr. LEGER: No, but that stock sold in the United States might be worth something or it might not.

The WITNESS: But, if he committed no fraud in selling it there he could not be accused of breaking any law of Canada, he has merely infringed a regulation of a state of the United States. It gets back to this, gentlemen. I see the points that are raised, but I come back to my original thesis; this is not solely a matter of extradition, it is a matter of this back door or side wheel method of changing our entire fiscal policy between Canada and the United States for permitting American money to come in for investment here.

The CHAIRMAN: If I might be allowed, the question was raised from time to time of the relative jurisdiction of the federal and provincial authority. I believe that is covered in the British North America Act, section 91, subsection 27: "The criminal law, except the constitution of courts of criminal jurisdiction, but including the procedure in criminal matters." I merely cite that as indicating that it safeguards against the possibility of the federal government infringing on provincial jurisdiction in the mater of extradition, and so on. I just brought that to your attention as a matter which you might care to consider over night.

The WITNESS: I thank you for calling my attention to that. I do not want to touch on all of these problems; but, is there anything further on that?

I am sorry I have not got our proposed amendment here, I will have it for you when you sit to-morrow morning at 10 o'clock, if you sit; then I will be able to clear up some of these matters which perhaps need clarifying.

Mr. ADAMSON: On the question of equality before the law; all men are equal before the law, whether they are Americans, Turks, or what. That is one of the questions we were asking you to deal with.

The WITNESS: Equality before the law.

The CHAIRMAN: Order, gentlemen.

Mr. MARQUIS: Your contention centres around section 30, does it?

The WITNESS: Section 30, and 31. I am not so much concerned with section 26.

Mr. MARQUIS: That deals with American nationality.

Mr. COLDWELL: What about that question which was raised about the American and the Canadian—

The WITNESS: They would be on the same basis. Let us examine that a moment: if an American comes here and a Canadian is here and they both commit the same offence here and we catch them at it here, we try them both and we convict them both and we sentence them both; we have equality before the law. But where you have an American and a Canadian, in the case just cited by Mr. Leger, committing an offence before a state commission, there we come to a different problem.

Mr. COLDWELL: Let us assume that both of them commit the same misdemeanour in the United States and come back to Canada; would not the United States extradite her own citizen? One man could be extradited and taken back to stand trial where in the case of the Canadian he could not; therefore, there is inequality before the law.

The WITNESS: No, let me answer that this way, the Canadian could not be extradited if the law of Canada did not establish it as an offence under Canadian law. The equality with which we are concerned here is equality before the Canadian law. You might have an American citizen who did the same thing as the Canadian had done and they would ask that he be sent back. And my view of it is that if he breaks the law of his own nation which he was bound to keep, why should we shelter him; but, why should we not shelter in Canada a Canadian who had not done anything that is not against the law of his country. That is the way I appreciate it.

Mr. HACKETT: You are suggesting that the rule of duality of crime be modified to that extent.

The WITNESS: Yes. As a solution the only other thing to do is to throw this treaty out. But we can't very well do that—that is only my individual view. I think the United States will receive our representations in a friendly way if parliament finds that there are matters in here which we should call to their attention; and I believe that they will study this in the most friendly way, and we may well be able to persuade my friend Mr. Read, and perhaps even convert some of the gentlemen who are working with him down there, that we are right about this thing. I am sure that the United States does not want any more than we want; and that anyone from the United States who comes over here could be extradited here for any offence against the laws of Canada which is also an offence in the United States. We must consider that the power to extradite is an extraordinary method and controvenes the principle of the comity of nations, and the reasons for it must be sound, and must safeguard the sovereign rights of Canada—the right of the Canadian to say, I am not going to be sent anywhere else unless what I am charged with having done, unless what I did over there would have been an offence if it

had been done in Canada. It all hinges on what I said, that question of the duality of crime. Now, I am going to skip some of the matters to which I had wanted to refer; perhaps you will permit me when I introduce my amending resolution to make some brief remarks about it so as to make it easier for you to appreciate what we have in mind. I want to devote myself now to—by the way, has this other matter been cleared up?

Mr. FRASER: I am not still satisfied on the matter brought up by the question put to you by Mr. Adamson, and Mr. Coldwell brought it up also when he said that it would not be equality there if an American and a Canadian committed the same crime in the States and came from there over here and the Canadian could not be sent back unless it was proven that the crime he was charged with committing was also a crime under our law.

Mr. COLDWELL: Under Mr. Slaght's suggestion the Canadian could not be taken back.

Mr. HACKETT: Not as matters stand now; if the treaty is ratified, yes.

Mr. FRASER: I would like to have that explained.

The WITNESS: Let us say that a Canadian goes over to the States—is it?

Mr. FRASER: And the American is over there.

The WITNESS: And the two of them commit a similar offence connected with the sale of securities in the States?

Mr. FRASER: Yes.

The WITNESS: And the offence they are charged with committing in the States, let us say it is in New York state, and New York state wants to get them both back, the Canadian who is here and the American who has come here.

Mr. FRASER: That is right.

The WITNESS: And they both seek refuge here having come from New York; and then, under the present law—

Mr. FRASER: And it is not a crime in Canada.

The WITNESS: Let us suppose the offence is not committed in the state of New York but in Michigan, and that the offence for which they are both charged and wanted over there was, let us say the sale of $1,000 worth of stock without using a form which has been prescribed and approved by the Michigan state commission?

Mr. FRASER: That is the idea.

The WITNESS: That happened, let us say, in Detroit. Under the present law, if Canada is asked to extradite both these gentlemen, and to send them over to Detroit for action by the State, you cannot take either of them. We cannot take either of them now. If the treaty and the protocol go through in their present form you can have both of them.

Mr. HACKETT: Yes.

The WITNESS: I am suggesting, it is only a suggestion, I am trying to find a way to have Canada meet the United States in every possible reasonable respect. They may not want this, but neither country could very much complain if a middle course were adopted as to individual cases. You can take an American citizen back because he broke a law of his own country. He ran away to avoid it. You cannot take a Canadian back because he happened to have infringed a law over there which is not an infringement in Canada.

Mr. ADAMSON: My submission is that that is not equality.

The WITNESS: Is not equality—I don't know—

Mr. ADAMSON: I do not want to prolong the argument, we have spent a lot of time on it.

The WITNESS: I have been searching my mind to see if "equality" has a scriptural source. I do not think it has, it is a man-made word, and I think we can all appreciate what it means.

Mr. BOUCHER: When you speak of equality before the law you must bear in mind that a citizen when speaking of the law must consider the law of the country to which he owes allegiance. If you consider that, then there is equality under the law.

The WITNESS: I had thought that was the basic principle which has been recognized for over 100 years in Britain, and in Canada it has been recognized ever since we have been a nation.

Mr. JACKMAN: Of course, in the case presented to us, where a man in England committed a crime in Germany and came back to live in England—

Mr. HACKETT: That bears on article 26 of the law which was cited.

Mr. ADAMSON: Let us carry this thing much further. An American and a Canadian are living in Canada and they both sell the securities to an American client. The American has broken a law of his own country but the Canadian has not broken a law of his country.

The WITNESS: Yes.

Mr. ADAMSON: Under your proposal the American would be extraditable and the Canadian would not?

The WITNESS: Yes. I must qualify that by asking you, if you will permit me, to say this: if two people, an American over here and a Canadian over here, break the law by selling securities based on fraud or deceit, and they sell securities by the use of fraud in getting the buyer to buy them; under the treaty as it now is, without an amendment at all, you can take them both away; because under the Canadian law it was wrong to sell by false pretences, it was wrong for the Canadian to sell by false pretences, and it was wrong for the American to sell by false pretences; you can take them both back to the place where the crime was committed.

Mr. ADAMSON: I agree with that.

Mr. FRASER: That is different.

Mr. JACKMAN: It is an infringement of their regulations.

Mr. MARQUIS: If it is an infringement of their regulations it is not the same thing.

Mr. BOUCHER: If it is a crime against the law in both states.

The WITNESS: Under our present law, if it is not an offence against both Canadian law as well as American law you cannot extradite him.

Mr. MARQUIS: Yes.

The WITNESS: On this clause at the end of article 9, plus the clause in sub-clause (b) of the protocol, clause 1, both of these—as Mr. Read was fair enough to explain to you—swept aside all the past law of extradition; that you cannot at present touch a Canadian, take him away and try him in some other country, unless what he did over there is an offence in Canada; such as murder, rape, all those crimes that shock morality, and crimes relating to moral turpitude; with respect to such matters all countries have said for years that extradition is desirable. But when you come down to regulations, the breaking of some mere local regulation; such, for example, as neglecting to get a form that had been prescribed by a state security commission—when you undertake to apply this extradition privilege to a matter of that kind you are infringing on the sovereign rights of a Canadian, not to be tried anywhere for an offence which is not an offence in Canada. It is one of these regulation matters which one

state in its wisdom thinks all right but we do not think it right to make it the law of Canada.

The CHAIRMAN: Then you fear the lack of uniformity of state laws in the United States more than you feel that lack in Canada?

The WITNESS: You say, fear it?

The CHAIRMAN: You fear the lack of uniformity?

The WITNESS: No. I have given very slight study to our nine provincial security Acts. Some are a good deal alike. The Ontario Act is different from the Quebec Act, and the New Brunswick Act is a little different, but in the various states they differ as distinctly as the stripes in Joseph's jacket, I was going to say, although I do not know if my biblical reference is right. They are vastly different. I have here for you, I think, forty state statutes which my friend Mr. Salter can make available for the committee. You can have an opportunity to question me again at any time if I may go on to what I regard as a very vicious item in this treaty, that has not been mentioned—that is article 12 of the treaty; it is very short, and I intend to read it. But before I do so, in order that you may see my point, I want to remind you that Canada has what we call an Extradition Act, and some provisions of the present treaty and protocol over-ride our present Extradition Act and are absolutely inconsistent with it; and that is what I propose to show you. Our Extradition Act is found in the Revised Statutes of Canada, 1927, Chapter 37. It is entitled: "An Act respecting the extradition of fugitive criminals." Probably the legal gentlemen on the committee will find that very conveniently referred to with notes and cases under it in Crankshaw's Criminal Code, at the back. It is an appendix. Sixth edition, 1935, at page 1575. There our present law on extradition is found with notes and cases under almost every section of it.

Now, then, I want to read you what section 2, subsection 3, says, and it defines "fugitive"—rather it is section 2, subsection (e), and it is on page 1577 of Cranshaw, and it defines the word "fugitive",—

> Fugitive or fugitive criminal means a person being or suspected of being in Canada who is accused or convicted of an extradition crime committed within the jurisdiction of any foreign state.

Now, will you look with me for a moment at section 27 of the Act, and section 27 of our present law. It was passed in 1886 or earlier; it was re-affirmed in 1886; and has been the law of Canada for forty-nine years, and it has a provision in aid of extradition to ease my friend Mr. Read in some of his departmental difficulties in enforcing extradition. It reads as follows—I am going to read the law of Canada to you and then I am going to show you what you are asked to approve changing the law in Canada with some safeguards in it which I think are essential:—

> Property found on fugitives: Everything found in the possession of the fugitive—

And when I read "fugitive" that means a Canadian—it means him as well as a man who runs away from the States—

> Everything found in the possession of the fugitive at the time of his arrest which may be material as evidence in making proof of the crime, may be delivered up with the fugitive on his surrender, subject to all rights of third parties with regard thereto.

Now, we think that is a very proper and reasonable provision and it has been the law of Canada for forty-nine years, and we do not want to disturb it. But when you come to a provision which replaces that in this treaty—I do not want to shock you, but I want to read to you what article 12 of the treaty provides in that regard:—

> All articles which were in the possession of the person to be surrendered at the time of his apprehension, and any articles that may serve as a proof of the crime or offence, shall be given up when the extradition takes place, in so far as this may be permitted by the law of the requested country.

Note that the framers of this treaty have struck out entirely the rights of the third parties. I want to give you an illustration of what that means. If you arrest a man in Winnipeg who is accused of breaking the Michigan State law, taking a subscription for $1,000 worth of Victory bonds, if you like, without having the application on the form of the Michigan State Commission, and they seek and arrest him in Winnipeg and take him over there, and suppose he is a security dealer on his way to the vault of a safety box or to a bank with collatered securities in his portfolio or under his arm or in his pocket—suppose he happens to have $100,000 of Victory bonds that belong either to his client or to himself, or to his wife, and he is arrested under a telegram from Washington, this treaty says that Canada has obligated herself not only to surrender him in hadcuffs but to send over the $100,000 of Victory bonds that are in his portfolio.

Mr. COLDWELL: What about those words that you have given: "...in so far as this may be permitted by the law of the requested country"?

The WITNESS: There is no law of Canada which says you cannot do that, and the treaty says you can take them away.

Mr. JAENICKE: Subject to the right of the third person.

The WITNESS: No, the law of Canada which really—

Mr. JAENICKE: Do you say that article 12 cancels 27 of the Extradition Act? I do not think so.

The WITNESS: I say it is absolutely inconsistent with it. You cannot read the two together. The whole reason was to provide in this treaty that articles such as the bonds I mentioned, and which have nothing whatever to do with the alleged crime of the sale of Hollinger stock—nothing to do with them—all articles in his possession, including the bonds I am visualizing, would be surrendered by Canada along with him, and not a word about subject to third parties.

Mr. COLDWELL: ". . . in so far as this may be permitted by the law of the requested country." I think this reading of the law and the interpretation thereof would indicate that articles belonging to a third party could not be taken away. I want Mr. Slaght to answer the question because I have great confidence in him when he is getting a fee, and I am told that any lawyer who is not getting a fee is not worth anything at all.

The WITNESS: The fee is so modest that I want you to disregard it entirely. Mr. Coldwell has raised an interesting point, and it may be that he has something that perhaps I have overlooked, but to my mind it does not take away the shocking provision already in the treaty, article 12. The second sentence provides, as our law provides, that any articles that may serve as proof of the crime or offence shall be given up along with the prisoner. That is our law—let me ask what possible excuse there is for signing a treaty with this clause after having previously, in the second sentence, said that anything on him which may serve as proof of the crime, with regard to the Hollinger shares, or whatever he is accused of having, must be surrendered? You have added all articles in his possession to be surrendered at the time of his arrest; we shall send them back; that is new. We have cut out the protective provision in the treaty that shall be subject to the right of third persons in regard thereto. It may be as Mr. Coldwell points out that defence counsel would say, "I want you to look at the Act, and this $100,000 has nothing to do with the crime."

The prosecuting attorney engaged by the United States or Canada would say, "We want all these articles over there." This can be used as blackmail by a disappointed man who invests in securities perfectly honestly but who bought a loser instead of a winner to send $100,000 worth of Victory bonds along with a man being tried in Detroit for an affair involving $1,000. It would be pretty nice to lodge him there with those bonds in the United States. I thank Mr. Coldwell for that. You may think that his counsel could go and argue: "Well, although this treaty says that everything should go except what by the law of Canada cannot go, will someone tell me what those bonds are for"?

Mr. COLDWELL: It seems to me you have to read it this way: "All articles which were in the possession of the person to be surrendered at the time of his apprehension . . . in so far as this may be permitted by the law of the requested country, and any articles that may serve as a proof of the crime or offence. . ." That is in parenthesis.

The WITNESS: Will anyone tell me what kind of articles we must surrender with him under the first phrase in article 12 of the treaty? The articles which were in the possession of the person to be surrendered at the time of his apprehension and any articles which may serve—other than any articles which may serve to help prove the crime against him. What other articles does Canada want to agree to send over?

Mr. COLDWELL: The ones that may be permitted to be sent by the law of Canada.

The WITNESS: What are they?

Mr. JAENICKE: All except third parties.

The WITNESS: Yes, I think perhaps you have hit it. Let us suppose that here is a broker on his way to his banker with $100,000 of Victory Bonds. He has had a transaction in Detroit and has sold $1,000 worth of Hollinger stock to a customer in Detroit and did not get the order on the form and they ask to extradite him for the offence of selling this stock without having the proper form. Now, we find that these $100,000 of Victory Bonds are to go over with him under this situation. Why? Why do we agree to any such nonsense as that?

Mr. HACKETT: It may make him bankrupt first while the controversy is going on and cause great damage to other innocent parties.—A. If anyone will tell me, when we have a provision we carried for forty-nine years with regard to anything on him which may serve to prove his guilt, that there is reason also to take over his own $100,000 of bonds which he is on his way to lodge in his safety deposit box, perhaps my protest might be mellowed, at least. I cannot see the reason for it. We have gone beyond all international comity, in my judgment, in putting such a clause in against the Canadian citizen.

Mr. MARQUIS: When you arrest somebody in the country, I think you have the right to see the articles which he has on his person. We bring those articles before the court and something is used as a proof of the crime. I was a Crown prosecutor myself for a little while. Something else is not used. So the attorney for the defence makes a motion and asks to see his personal letters and so on, but most of the time you do not know what will serve as proof of the crime or the offence. So, I think that when you extradite somebody you will have to judge him according to the law of the country where he is taken to. So, if you arrest somebody in the United States you should have the right to take everything that he has in his possession because you may need it as evidence. It may be half of the things will be disregarded and will be given back to the man. But what will be the damage? I want to know your personal point of view. What will be the damage? I want to know your personal viewpoint because there is no damage at all if you take something and bring it before

the court and you give it back to the person arrested immediately after.—A. May I answer in this way, if I understood the point, and I think I do. Under the clause in the treaty proposed, all articles are mentioned. Now will you visualize the facts which I put to you—a Winnipeg broker, $100,000 of Victory Bonds in his portfolio at the time he is arrested and a prospectus of Hollinger, for instance, and the offence charged against him is connected solely with Hollinger shares. The prosecuting attorney and the defence attorney would have no trouble in deciding that the $100,000 of Victory Bonds had nothing whatever to do with and could not possibly have any reference to the alleged offence. Mr. Coldwell points out, and possibly with some force, that with the clause in article XII which says, "In so far as this may be permitted by the law of the requested country" defence counsel could drag in our statute and say, "subject to all the rights of third parties with regard thereto." But this $100,000 worth of bonds do not belong to third persons at all. They belong to him. He is due at his bank to leave them that morning in order that his account may not be overdrawn by cheques outstanding. Therefore the clause in this Act is no protection against having to go back to the United States and take with him $100,000 of Victory Bonds. As Mr. Hackett says, it may ruin him, force him into bankruptcy. So Section 27, if I may respectfully say so, is no protection against the property of a man which belongs to him and yet has nothing possibly to do with the alleged crime.

By Mr. Boucher:

Q. I am worried about this section of the Criminal Code. The section of the Criminal Code which you read says they can take with them everything but third parties.—A. Yes.

Q. But this section says that, although the Criminal Code says you can take everything but third parties, we will let you take third parties.

Mr. HACKETT: The extradition treaty.

The WITNESS: The extradition treaty, not the code. I have given you the extradition treaty, section 27, "everything found at the time of his arrest which may be material as evidence in making proof of the crime."

Mr. BOUCHER: That is right.

The WITNESS: That is all our law now says you can take and subject to the rights of third parties. I am visualizing a case which, under the enlarged jurisdiction of the proposed treaty, says not only any articles which may serve to prove the offence but all articles in his possession at the time "in so far as this may be permitted by the law of the requested country." Mr. Coldwell points out that you can say, "Well, you cannot take third parties." But what about $100,000 of Victory Bonds? Why should Canada agree to let them take those?

By Mr. Marquis:

Q. You never know, when you arrest somebody, what will serve as proof of the crime. You take something in. You do not know what will serve as evidence of the crime. You have to find out after.—A. My friend, may I suggest this to you—

By Mr. Marier:

Q. Suppose you strike out the first words.—A. What is that?

Q. Suppose you strike out the first sentence.—A. You say strike it out?

Q. Yes. You will have still, "any articles that may serve as proof of the crime" and so on.—A. Certainly.

Mr. MARIER: So a man arrested with $100,000 of Victory Bonds can be brought in the United States with the money because the people arresting him may think the money may serve as a proof of the crime, because we do not

know yet what is the crime and what are the circumstances of the crime. So as a matter of fact, the same thing will happen.

By Mr. Marquis:

Q. If he is on a charge of conspiracy and those 100,000 shares are the gist of the offence, what will you do?—A. Well, if that can be shown, then they can be taken back; because if they are the gist of the offence, they are something that go to prove the accuracy of the charge in that case. But we do not use that language. We put in "anything that might go to prove the offence"—we put that in, but we pile on top of that language which I do not know the meaning of. I do not know what it means when you say, "all articles" in addition to anything that might prove it; you may take those as well.

By Mr. Marier:

Q. May I call your attention to the French version, Mr. Slaght? Have you read the French version? If you have you will come to the conclusion that it is different.—A. I wish I could.

Q. The French definition is this, anything which is found on the person, in possession of the person, and any article which can be used as proof.—A. "And" is the word.

Q. It does not mean something he has in his possession. It is something that can be used as proof. It is the meaning also of that article, because it says "All articles which were in the possession of the perosn to be surrendered, and any articles that may serve as proof." It must be something which is not in his possession at the time.

Mr. MARQUIS: They might be handed over.

The WITNESS: That is a new thought. I still, with all the help you are trying to give me, cannot find any use for those words when in the second sentence you have made provision that we must surrender with him anything that may serve as proof, whether in his possession or not, but more "all articles found in his possession," and I would insert the words, "although they have nothing whatever to do with the proof of the offence."

Mr. MARIER: Oh, no.

The WITNESS: Or with the proof of the crime.

Mr. MARIER: Oh, no.

The WITNESS: That is what they mean.

Mr. MARQUIS: As a matter of principle, when we arrest somebody, have we the right to seize the things which he has in his possession? That is the point.

The CHAIRMAN: In certain cases.

The WITNESS: I think when you arrest him on an extradition warrant, unless our law had provided for surrendering up his property—and that gets into "property and civil rights"—as well as his person, I do not think you have any right to send any of his property over there. But Canada saw fit to make a law, section 27, that if at the time of his arrest there is property of his found on him, which may help to prove the crime, we are agreeing that you can not only send his body but you can send that property of his out. But here we are stepping into something that is away beyond that. That is my complaint.

By Mr. Marquis:

Q. But take the other point of view, in the case of extraditing somebody from the United States and bringing him to Canada. We want to have proof of his crime, so we want to have his body and the articles that he had in his possession in order to make the proof,—everything he has. If you have not those articles, what would you do with the body here?—A. Answering that,

under the present law, section 27, you can bring those articles here with the body. You can bring them here. But should we go into the United States and bring some article such as an insurance policy on his home or a life insurance policy in favour of his wife? That would be blackmail to bring that over here because he is charged with taking an order for a thousand shares of Hollinger. I cannot in my mind reconcile Canada solemnly agreeing to such drastic surrender of man's personal property which has nothing to do with the offence with which he is charged.

By Mr. Coldwell:

Q. I agree with Mr. Slaght, but I cannot put that interpretation upon this clause.—A. Well, if you can escape it, I should like to know how.

Q. I mean, with the extradition treaty that he has read. There may be something in the Criminal Code, but the words that seem to remain with me are the qualifying words, "in so far as this may be permitted by the law of the requested country",—by law of Canada. That is what I cannot get over.

By Mr. Adamson:

Q. Suppose you amended this clause by striking out the first sentence, so it would now read, "all articles that may serve as proof of the crime or offence, shall be given up when the extradition takes place, in so far as this may be permitted by the law of the requested country?—A. That would do it.

Q. Is there any objection to that?—A. No. That is striking out the earlier sentence.

Mr. HACKETT: That is the law now.

The WITNESS: That is the law now. You could say, to make it perfectly clear what our intent was, that was subject to the rights of third parties. But Mr. Coldwell points out that probably the law of Canada would enable the rights of third parties to be protected but not his own rights in the $100,000.

By Mr. Marquis:

Q. Which law, Mr. Slaght, will provide that we get those articles after a man is arrested?—A. Which law? By adding just what the gentleman suggested there, by eliminating from article XII the earlier sentence "all articles which were in the possession of the person to be surrendered at the time of his apprehension"; strike that out entirely and just leave it to read as the law of Canada now reads, "any articles which may serve as proof of the crime or offence in his possession at the time shall be given up when the extradition takes place so far as this may be permitted by the law of the requested country"; and that probably drags in the safeguard of "subject to the rights of third parties."

Q. Let us go a step further. Suppose you arrest a man. He is here. You find that some articles may serve as proof of the crime. How will you get the articles to make the evidence before the court? Through which article?—A. You get them right now under the law. We passed an Act, or parliament passed it, saying that we will surrender any article which may serve to prove the crime. That is the law now.

Q. If we have not them, if we have not those articles when he is arrested, when can we get them?

Mr. MARIER: If he has not those articles in his possession. Suppose they are at home.

Mr. MARQUIS: Through what channel can we get them after he is arrested and he is in the country here?

Mr. MARIER: You can say maybe any articles found in his possession or elsewhere that may serve as proof.

Mr. COLDWELL: What is the definition of the word "possession"? Does it really mean in his personal hands? Does it mean on his person?

Mr. MARQUIS: Not necessarily.

Mr. COLDWELL: Or does it mean that which he may possess?

The WITNESS: I am speaking subject to correction of the lawyers present. Suppose it is the case of a man in Winnipeg, a bond dealer, and the officer executing the warrant goes into his office. He is sitting at his desk and there, on his desk in front of him, are certain articles which might serve as proof. It is his office, his name is on the door. Or suppose they are in any of his files. You can go into his files behind him in his filing cabinet, because they are in his possession. "Possession" does not mean in your hand nor in your pocket. It means in your physical control for the moment. That is my view.

By Mr. Fraser:

Q. Even in a vault?—A. I think so if it is his vault. If it was a partnership vault a question might arise; but if it is his own vault and he is the lessee of the premises, I think it is in his possession.

By Mr. Marquis:

Q. And under his personal control.—A. I think if it is in his vault that he owns, and it is in his office or in his house or locked up in his private desk, it is in his possession. That is my interpretation of "in the possession of". So that anything in his possession, or as our section reads now, "everything found in possession at the time of his arrest which may be material as evidence in making proof of the crime." We have safeguarded our American friends in coming over here in taking not only the body but everything there is but even may be. But nobody is going to tell me that $100,000 worth of Victory Bonds, which have nothing to do with the transaction, are proof of the offence. That is the point, gentlemen. I do not want to elaborate it. We can be paternal. We can be friendly with our neighbours. But we have got to be very hesitant about interfering not only with the person of Canadian citizens hereafter but of their property as well; and this I put as a vicious attempt to make it possible to remove property belonging to a Canadian and take it to the States, which has nothing whatever to do with possible proof of the crime.

By Mr. Beaudry:

Q. May I ask a question there, Mr. Slaght?—A. Yes.

Q. What authority will determine what constitutes possible proof or possible eventual proof at the time of the arrest?—A. I think that is very simple. Under our present machinery a man who is arrested is taken at once by the arresting officer—he is taken to jail and then he may have a hearing before a Canadian commissioner, a magistrate or a judge of the county court. I think it is the county court judge. I have not had a case for 20 years.

By Mr. Hackett:

Q. Who has been appointed under the Act.—A. Who has been appointed under the Act. He is a Canadian official. The question now before him, under the present law is this. That Canadian official, if there is a question about this $100,000 worth of bonds, is bound to enquire "Can those serve as proof of the crime?" If so, we have agreed to surrender them now without any change in the law. But if we make this new law, the Canadian official is bound to say, "What about those articles which I cannot see have any possible relevance to the crime? I am only here to administer the law as a magistrate or judge, but the parliament of Canada has said that I have got to order that they all go over to the States as well," and you ruin the man over night. That is the point.

By Mr. Jaenicke:

Q. Suppose he is a man who cracked safes, or something like that? Do you not think the law would be all right in that case?—A. Certainly, because

there would be proof. If he was found with bonds from the safe on him, the property of the man who was robbed, there would be absolute proof of the commission of burglary.

Q. Suppose the bonds were not involved in that particular safe cracking. Why should they be taken away?—A. Then the safe-cracker—I am not here to defend safe-crackers.

By Mr. Hackett:

Q. That would be reason for another charge?—A. Yes, you can lay another charge.

By Mr. Marquis:

Q. If you agree with the views of Mr. Coldwell under the last part of the article, "In so far as this may be permitted by the law of the requested country" you could not take any articles if it is not permitted by the laws of the country. If you arrest a man and bring him back to Canada you must be entitled by the law of the country to require those articles; is that right?—A. No, because the treaty is promising the United States that we will send over with him the articles found in his possession. That is what creates the inconsistency.

Q. This last part refers to the two first parts of the paragraph, I think, "In so far as this may be permitted by the law of the requested country." Taking the point of view of Canada if our country requests articles we are entitled to get. them.

Mr. MARIER: Not unless it is permitted by the law of the United States.

The WITNESS: We are reversing it.

Mr. MARQUIS: Canada is the requesting country.

The WITNESS: Requested; I was trying to keep it simple by taking the Winnipeg case. We are requested country when they come here; they are requesting. I have kept away from these phrases because they are a little confusing. Now, gentlemen, I do appreciate your putting these problems to me.

By Mr. Marquis:

Q. On the other hand if the law of Canada does not permit the giving back of these articles they cannot give them back?—A. The law of Canada is silent about all articles. The treaty pledges Canada to send all articles in the possession. Are we putting that in there to fool our neighbours or what is the reason for it? Will anybody tell me the reason for it?

Mr. MARIER: I would put that the other way, all articles in possession of the person or elsewhere that may serve as proof.

The WITNESS: I do not object to that. If you will amend it that way I do not object, but it does not read that way now. It says:—

> All articles which were in the possession of the person to be surrendered at the time of his apprehension, and . . .

That means something more, or it means what goes before is something more than what now follows. What now follows is:—

> . . . any articles that may serve as a proof.

I say you have tacked something in front of that which means something more than articles which may serve as proof. That is the point at all events, right or wrong.

By Mr. Marier:

Q. So it will be up to the judge to decide what the articles would be?—A. Would it be? The judge is told by the parliament of Canada that it is all articles in his possession regardless of whether they serve as proof, and all

articles that serve as proof. The judge will say, "I did not make this law. I do not think it is a very good law but I have to carry it out." Everything he had at the time he was arrested would have to go with him.

By Mr. Coldwell:

Q. Would he not be likely to see what was permitted by the law of Canada?—A. Yes.

Q. Would he not find certain limitations?—A. He might, but what would he say? Put ourselves in his place. What would he say as to the meaning of all articles in his possession and all articles which may serve as proof? There is a law of construction that we lawyers argue sometimes that you must give effect to every sentence in a statute or treaty. You must give effect to all of them. Do not say it does not mean anything. It was put there for a purpose, and with the disjunctive "and" there are first of all the articles in his possession and then all articles which may serve as proof. The magistrate or judge has to try and find a meaning for those phrases. In doing so I thing probably he would be justified in saying everything that this fellow has on him he will send over there with him. That opens the door to blackmail, gentlemen.

Q. Not being a lawyer if I were interpreting that in a common sense way I would say that you cannot take anything over that is not permitted by the law of Canada. I am discussing that purely as somebody who is not a lawyer.— A. I will get you to defend me if I am ever extradited. Let us look at it this way. Is what I am putting to you absolutely clear that I am wrong?

Q. Yes.— A. If you are quite clear I am wrong in that possibility happening then pay no more attention to it, but if you think it raises a very nasty question which may mean an abuse of the freedom of property of a Canadian citizen then let us strike it out of here and have no lawyers' arguments about it. Let us make it crystal clear. When I file my amendments I will ask you to substitute section 27 for article 12. Then there is no doubt about it.

By Mr. Jaques:

Q. Suppose you struck out in the second line of article 12 the words "and any articles"?—A. I do not think so. If you think there is a danger in what I am suggesting to you then to clarify it and make it accord with our law all you have got to do is say, "We ask the United States to substitute section 27 for article 12." I believe they would do it.

Mr. HACKETT: There is another answer that may be given to the gentleman who asked the question. That is this. The treaty calls for the surrender of all articles in the possession of the gentleman and for any article which is not in his possession.

Mr. ADAMSON: And the word "permitted" applies only to the second part of the article.

Mr. MARIER: In my opinion it applies to the two sentences.

Mr. ADAMSON: At least there is a question of doubt there, and I think it should be removed.

Mr. FLEMING: There is no question that in a measure of this kind we must leave no ambiguity. The subject is entitled to know his rights under the law. If we were legislating in the matter of crime we would insist that the language be crystal clear. What we are doing now is purporting to extend the territorial effect of definitions of crime. It is absolutely imperative, in my opinion that the language be crystal clear. There is ambiguity there, and at the very least that ambiguity must be removed.

The WITNESS: That is my point, gentlemen.

The CHAIRMAN: Of course, later on when we have the suggested amendment of Mr. Slaght then we will have both of them to compare.

The WITNESS: I will try to have it in the morning. You have not got the statute before you like I have, but I believe it will commend itself to you as fully covering the field. If it does, let us get rid of ambiguity because you are dealing with a very important matter, the property and civil rights of the subject. If we are going to make Canadian citizenship mean something, as you hope to do at this session, I believe we should see it is protected as well as set up. I think that is about all I want to say to you now. Let me make this suggestion. This is not a suggestion which I put out with great assurance but I do put it. When Mr. Read produces the opinion of the attorney general of Ontario that it is an infringement of the rights of provinces, and when we have the Dominion-Provincial Conference about to assemble next week, as I was told at noon today, something like this might go in your report if you think it is proper, that there should be submitted to the provinces for consideration at the Dominion-Provincial Conference the treaty and protocol and the proposed changes therein. I would hope to find at least some of those changes embodied in your report to parliament. There is the place to send it right away and let the provinces have their say. If they want this treaty then perhaps they will agree to pass supplementary legislation under the guise of property and civil rights and say, "All right, we are with you, dominion," but if they do not then you will be tangled in the supreme court.

The second suggestion is that this committee might think when the point of constitutionality is raised—and I should like to have given you the case in greater length, but I gave you the gist of it—that you cannot by making a treaty cloak the dominion with power that would be an invasion under the B.N.A. Act on provincial jurisdiction. If that be so why get ourselves in a jam with the United States? Afterwards some citizen may take it to the Supreme Court and say it is *ultra vires* and then the Supreme Court of Canada or the Privy Council may say that it is *ultra vires* of Canada. Then we have got to communicate with the United States and say, "We handed you some nice looking proposals and agreed to them but now our Supreme Court and Privy Council say we had no right to do it without consulting the provinces." Let us avoid that possible dilemma.

I know that everybody in this parliament regardless of party desires to help iron out the vexed problems of provincial and federal jurisdiction. It would be a nice gesture to say to the provinces at the conference, "We would like your views on this because one province, Ontario, has said it is unconstitutional." What harm can come from that course, gentlemen? I suggest it to you with the greatest deference and respect.

I do thank you for the very patient and courteous hearing you have given to me. I will try to have for you tomorrow morning in exact language the short amendments we suggest should go into the treaty. I do not want to be met by somebody saying, "Oh, we cannot go back to the United States again." Why can we not? They never put a pen to a treaty until Congress has approved the treaty by a two-thirds vote, as I understand their constitution. They will understand we have been doing it backwards foremost for some time over here. If we decide there is a new technique required along the lines of the language I read to you in 1932 Hansard let us have the courage to say so and recommend it to parliament. Let us get our statute and our Extradition Act amended accordingly and have the treaties come here first and then be signed afterwards so that nobody can say, "Oh well, we would be regarded as bad boys if we do not carry out exactly what we signed on the dotted line."

Look what happened at Washington in 1942. When they got over here on October 3 Mr. Atherton and our very able Minister of Justice found there

were two things in there that were hideous, that the publisher of an ordinary newspaper plying its trade could be extradited if the paper contained an ad of a mining nature and went over to the United States. That was any kind of paper. We had to correct that. If it is fair to say that those two frailties were discovered and corrected, and if I have not just been talking nonsense but have given you some very real problems from the standpoint of Canadian citizenship both as to the body and property then we will lose no face by respectfully going back to the United States authorities and saying, "This is what the House of Commons thought about it. Will you be kind enough to reconsider?" In that connection, I point out to you we have got to go back to the Congress of the United States anyway for them to approve the protocol. We can surely go back to them and say, "Please consider this with us again." I believe you will be doing a great service to our newly found Canadian citizenship by adopting that course.

Mr. HACKETT: In any event the protocol has not been ratified by Congress.

The WITNESS: No, and it has to go back before it can become a mutually binding agreement, so you are not just sending it back to Congress with something that did not need to go anyway. You are going back with what I believe would be sound suggestions embodied in your report and asking them to consider them. If Congress says, "No, they are out, we will not do it", that raises another problem, but surely we should not sit idly by—and permit treaties to be made with clauses which are shocking and then say that because somebody signed them for us we must not think for ourselves. Our own Minister of Justice said that this was no mere pro forma or perfunctory approval.

The CHAIRMAN: I believe I am voicing the sentiments of the members of the committee in expressing our appreciation for the forcible and clear way in which Mr. Slaght has brought to our attention some of the shortcomings that he believes we have in the present treaty. No doubt it will be of some guidance to us in the recommendations which this committee will be making. It is twenty-five minutes to six. I believe it would be in order—and I hope that you will agree with me—that we should now call on Mr. Sedgewick and give him a chance to start, anyway.

Mr. MARIER: As to the question raised by Mr. Slaght it may be that we have no power. It may be that the federal government has no power to pass a treaty of that kind because there are provincial rights involved. Maybe it should be proper to ask the opinion of the Minister of Justice.

The CHAIRMAN: Yes, we will do that.

Mr. MARIER: And let us get that opinion as soon as possible because there is no use discussing it if we have not power to pass it.

The CHAIRMAN: We will bring that in parallel with the recommendations we will hear from now on. I will now call on Mr. Sedgewick.

JOSEPH SEDGWICK, *Counsel for the Prospectors and Developers Association, called.*

The WITNESS: Mr. Chairman and gentlemen: I am appearing here on behalf of the Prospectors and Developers Association which is an association composed in the main of the people who have been responsible for the finding and for the development of our mineral wealth. Before I say what I want to say on their behalf, we have with us this afternoon Mr. J. J. Kingsmill, who is secretary of the Investment Dealers' Association, an association composed of those financial firms that deal in government securities principally.

Mr. Kingsmill has handed to me and has asked if I would be good enough to read and file with your chairman a copy of a letter which that association sent in November of 1942 to the Prime Minister and to the Minister of Justice

expressing their views about the proposed new treaty. And I think I may say that the views that they then expressed and the views they held are not in any way altered by the protocol that was since signed. This is the letter:—

November 14, 1942.

To Rt. Hon. W. L. MACKENZIE KING, C.M.G.,
Prime Minister and Secretary of State for External Affairs
and to Hon. L. S. ST. LAURENT, K.C.,
Minister of Justice.

Re: New Extradition Treaty between Canada and the United States

It has been drawn to the attention of The Investment Dealers' Association of Canada that the proposed new Extradition Treaty between Canada and the United States of America contains an article to the following effect:—

ARTICLE III

Extradition shall be reciprocally granted for the following crimes or offences:

32. Crimes or offences, if indictable, against the laws regulating

(*a*) public securities markets, or activities affecting such markets;

(*b*) registration or licensing of securities or of persons or companies doing business in securities, or giving advice with respect thereto;

(*c*) investment or public utility companies.

At the present time a considerable volume of business in high grade securities is carried on by letter, telegram and telephone between members of The Investment Dealers' Association of Canada and purchasers of securities in the United States of America, as a result of which a considerable amount of money is brought into Canada for investment in Canadian securities. It would be unfortunate if this flow of money into Canada and legitimate business of this character were interfered with by legislation designed for the purpose of more easily apprehending fly-by-night dealers in spurious securities. Undoubtedly such legitimate business might be seriously impeded through fear on the part of a Canadian dealer of becoming subject to the operation of the proposed Extradition Treaty by reason of an inadvertent violation of a law of some state of the United States or some federal law of the United States of America, such as laws governing the registration of dealers and the registration of securities.

Security laws in different jurisdictions are difficult of interpretation, especially in international transactions. These laws are constantly undergoing change, both by legislation and by rules and regulations made from time to time pursuant to existing regulation and it would be quite impossible for dealers in securities in Canada to be always aware of the law and the various amendments of the law relating to the sale of securities in the United States and in the various states of the union. In addition, in international transactions difficult questions arise as to where the business is actually done, including questions relating to the place or origin of the transaction, the place of completion of the transaction, and the place of delivery of and payment for the securities in question. In consequence, a transaction entered into by a Canadian dealer which might be entirely proper according to the laws of Canada or a province of Canada might constitute an offence under the laws of the United States or of some state in the United States if the transaction in question could be regarded as a United States transaction.

It seems highly inappropriate, therefore, that an Extradition Treaty should apply to offences arising out of transactions in securities unless

the transactions in question constituted offences both by the laws of Canada and the laws of the United States of America.

Hertofore it has been a principle of extradition legislation as between Canada and the United States that extradition should be granted only in cases where the crime committed in the country requesting extradition would also be a crime in the country from which extradition is sought. There are obvious crimes, such as murder, rape, forgery, etc., which are generally repugnant to the moral sense and which sovereign jurisdiction are anxious to co-operate in an endeavour to suppress. The proposed treaty, however, in article IX specifically provides that it shall not be essential to establish that the crime or offence would be a crime or offence under the laws of the requested country, that is, the country from which extradition is sought. While such a change in the law might conceivably be appropriate in respect of serious crimes such as those referred to above, it seems extraordinary that it should be extended to offences against the security laws which are of a highly technical character and in respect of which the laws of the various states of the union, the laws of the United States of America and the laws of the provinces of Canada show such a striking lack of uniformity.

While there is a certain amount of uniformity in the security laws of the various provinces of Canada, they are not uniform with the security laws of the various states of the United States, nor are the latter uniform with each other or with the federal security laws of the United States. There are no federal security laws in Canada which in any way correspond with the United States Securities Act of 1933 and the Securities Exchange Act of 1934. What might be an entirely innocent transaction if carried out in Canada might, if held to have taken place in the United States, constitute an offence against the laws of the United States of America or of some state of the union. In addition, the treaty refers to extradition in respect of indictable offences, whereas, offences against the security laws of the various provinces of Canada have never been made indictable.

Take as one outstanding example the sale of bonds of the Dominion of Canada. Outside the provincial laws relating to the registration of dealers, there is no legislation in Canada which would prevent the unrestricted sale of Dominion of Canada bonds, whether of old issues or of new issues. On the other hand, it would be an indictable offense against the federal laws of the United States of America to sell or attempt to sell a new issue of Dominion of Canada bonds to the public of the United States of America without registration under the United States Securities Act of 1933. An example of this character shows the serious nature of the proposals in question.

The Investment Dealers' Association of Canada accordingly submits that it would be undesirable that article III (32) of the proposed treaty should be ratified.

All of which is respectfully submitted.

THE INVESTMENT DEALERS' ASSOCIATION OF CANADA,

(Signed) H. E. COCHRAN,
President.

And, now, turning to the business of my clients, the Prospectors and Development Association of Canada, I should say at the outset that this is not merely a game. The Prospectors and Development Association includes in its ranks, I think every prospector in Canada of any account. It includes practically every geologist. I am informed that the president of every

chartered bank of Canada is a member. Most of the big mines, the big producing mines, are members, and most firms interested in mining as suppliers of machinery or in any other substantial way belong to the Prospectors and Development Association; and it can truly be said that they represent mining in the broadest sense of that word. Might I also point out that the 1945 executive of the association includes such names as Pierre Beauchemin the discoverer of the Sullivan mine; Gordon Calder, of the Belleterre Mine; Arthur Cockshutt and Fred C. N. McLeod, of the McLeod-Cockshutt Mine; Jules Cross, of Steep Rock, Mr. Charles Labine, one of the co-discoverers of Eldorado, and a number of other prominent prospectors, people who have spent their lives trying to discover and to exploit the mineral wealth of this country.

As to the objection that my clients make to the treaty, before I dealt with the practical side of their objection, may I refer very briefly to one or two matters that were raised during the discussion that Mr. Slaght had with members of the committee. Some mention was made of article 11 of the treaty, and Mr. Slaght referred particularly to the last paragraph of the first sentence of article 11, which contains the provision that during the period of detention the legal officers of the requested country are to oppose release on bail of such an accused or convicted person. And I think it was Mr. Coldwell who said that in his opinion that did not seem radically to alter the present practice, in that it would still be a matter of discretion for the magistrate or judicial officer before whom the apprehended person appeared. With the greatest possible respect, I do not think that is so. For a period of some years I was concerned on the Crown side of the law with the prosecution of alleged offenders, and this I can say (and I think any one who has ever had anything to do with criminal prosecutions will agree with me) ordinarily speaking, bail is almost a matter of right, and when a man is apprehended the only question is, can he give sufficient security to ensure that he will appear for trial when called on. Once you insert in a treaty a provision to the effect that bail is not a matter of right any more, but that it is the exception and not the rule, one may be quite sure that all prosecuting officials, when the question of bail is raised, will read the treaty, will read the section, and then say, "my instructions are to oppose bail"; because it is quite impossible I should think for a prosecuting official to know at the outset of a case whether the denial of bail would cause an injustice or not. It would be difficult for him to have an opinion at that stage. So that what will happen in every case is that the prosecuting official, quoting the language of the treaty, will oppose bail. And this I may say with considerable confidence, that in 999 cases out of 1000, magistrates do what the prosecuting official suggests, certainly in matters of bail; and if the prosecuting attorney opposes bail one may be reasonably sure that the magistrate would refuse bail. That would have the effect of permitting a man to be arrested, not as a result of a formal warrant, but merely as the result of a telephone call or wire. He would be lodged in jail for any period of time up to 60 days. Bail would be refused him, because we could be certain that it would be refused if this language remains in article 11. And then at the end of the 60 days the requesting official in the United States could merely say, "oh well, we have probably punished him enough, we won't bother, he may be turned loose." I say that is completely contrary to former extradition practice and is wholly wrong. It would permit officials in the United States to follow and punish any Canadian citizen they cared to punish, and then proceed no further; and to punish a man whether he be innocent or guilty by having him held in custody, 20 days, 30 days, 40 days, 50 days or 60 days, without any trial, without even a charge being brought against him at all. If you read article 11, you will see that he can be picked up on a telephone call or a wire and

lodged in jail without bail, and then they are not obliged to proceed immediately, they can proceed in any time up to two months, and if they do not proceed he is then released. It is a shocking affair. In circumstances such as I have outlined a man could spend the whole period of 60 days in jail and never know with what he had been charged, and of course without ever having been found guilty of any thing.

Then, may I turn to the controversial article 12, which Mr. Slaght was discussing at some length; and before I say a word about article 12, let me make this general observation: Mr. Read, in the submission that he made to the committee at his opening, pointed out that the paramount document is the treaty, and that the treaty supersedes the Extradition Act; that must be borne in mind,—the language of the Act itself, which by section 3 provides that it shall apply throughout the continuance of the arrangement—and, I am quoting—

> This Part shall apply during the continuance of such arrangement; but no provision of such Part, which is inconsistent with any of the terms of the arrangement, shall have effect to contravene the arrangement; and this Part shall be so read and construed as to provide for the execution of the arrangement.

I read that because it should be clear in any discussion of the proposed treaty that the paramount document is the treaty itself and not the Extradition Act, and where there is any clash as between the Act and the treaty, the treaty is the document to which we must look. Bearing that in mind, and turning to article 12, one may ask, as I did: how did this ever come to be in the treaty in substitution for the moderate and time tested provision of section 27 as appearing in the Extradition Act? I asked Mr. Read how it came about that article 12 was inserted and he pointed out to me that it is almost precisely the language contained in the treaty made in 1931 between the United Kingdom and the United States, and he added—and of course he can speak for himself—he thought that for that reason it was inserted in the present treaty without any great consideration, which is natural; it is always easier and usually better to adopt existing legislation rather than trying to frame something for yourself. Of course, the situations are completely different. The extradition treaty between the United Kingdom and the United States does not, as my recollection is, contain any provision similar to items 26, 31 and 32 of our proposed treaty, and I think one may safely say that so far as extradition between the United Kingdom and the United States is concerned it would almost inevitably be a matter of returning to his own country a national of that country. That is, the United Kingdom would demand from the United States people who had committed crimes in England and had fled to the United States, and the United States would demand of the United Kingdom people who had committed crimes in the United States and had fled to the United Kingdom. In those circumstances, it is, of course, logical—it is, I think, right—that when a man is returned, shall we say, from the States to England, everything that he has should be sent back with him. That is where he belongs, and that is where his property belongs, and that is why this provision, this article 12, appeared in the treaty between the United Kingdom and the States, and properly so. Because when a man is sent back from the United States to England where his home is his property should go with him, and vice versa, when a man is sent from England to his home in the United States I think it only reasonable that his property should go with him. But that is not the situation if this treaty goes into effect, and the danger that we apprehend, and the danger that Mr. Slaght set out is very real if this treaty is passed. It is not only possible; it is probable and likely that people living in Canada, Canadian citizens who have never left Canada, might be taken out of this country and taken to the United States for trial. As I say,

that is not merely possible, it is probable and likely, if the treaty and protocol in their present form are passed.

So that is a completely different situation from the situation as between the United Kingdom and the United States. We are breaking new ground with this extradition treaty, and the case which Mr. Slaght postulated is a quite likely one—that is, that a Canadian citizen such as Mr. Crawford, who deals in securities may for some reason or another be picked up on an extradition warrant; he may have $100,000 or a half a million dollars in securities in his pocket or in his brief case, and he may not have been in the United States for ten years, and yet, under article 12, everything he has on his person or in his possession at the time of his arrest must—and I stress the word "must"—it must, as I read the article, go to the States with him; it must be shipped over.

Mr. MARIER: This should be amended, according to the general opinion.

The WITNESS: If it is the general opinion, I am wasting my time. Mr. Slaght's amendment is that we should take out article 12 and put back the provisions of the Act. We should substitute for article 12 section 27 of the Act. That is all; or altermatively eliminate article 12 in which case section 27 of the Act would apply and that would avoid any redundancies.

Mr. SLAGHT: Would you leave that to me for reply because to some of that I am offering an amendment to make it apply only to a United States citizen who has fled and leaving Canadians out and in one or two others I am asking that they go out altogether.

The CHAIRMAN: It is just five minutes to six, are you nearly finished?

The WITNESS: This would be a very good place for me to stop.

The CHAIRMAN: Gentlemen, we have had a fruitful and interesting meeting and I thank the members of the committee for turning out in such large numbers. We will adjourn until tomorrow morning.

The committee adjourned to meet tomorrow morning, November 23, at 10 o'clock.

SESSION 1945

HOUSE OF COMMONS

STANDING COMMITTEE

ON

EXTERNAL AFFAIRS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 6

FRIDAY, NOVEMBER 23, 1945

WITNESSES:

Mr. Joseph Sedgwick, K.C., Counsel for the Prospectors and Developers Association of Canada;

Mr. Ralph Salter, K.C., Counsel for the Ontario Security Dealers Association and the Toronto Board of Trade;

Mr. Slaght, K.C., Counsel for the Stock Exchanges;

Mr. John H. Roberts, Editor of the Canadian Mining Recorder.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1945

MINUTES OF PROCEEDINGS

FRIDAY, November 23, 1945.

Room 429

The Standing Committee on External Affairs met at 10 o'clock. Mr. Bradette, the Chairman, presided.

Members present: Messrs. Benidickson, Blanchette, Boucher, Bradette, Coldwell, Fleming, Fraser, Adamson, Hackett, Jackman, Jaques, Jaenicke, Leger, Low, MacInnis, Marquis, Marier, Sinclair (*Ontario*) and Dechene—(19).

In attendance: Same as meeting of Thursday, November 22.

(See minutes of proceedings).

Also, W. R. McDonald, M.P. (*Pontiac*), and A. C. Casselman.

Mr. Hackett read a telegram from K. L. Patton of the Vancouver Stock Exchange addressed to Mr. Pearkes, M.P.

Mimeographed copies of a letter from the Ontario Government to Honourable Mr. St. Laurent relating to the Extradition Treaty were tabled by Mr. Read and distributed.

The Committee continued its consideration of the Extradition Treaty and Protocol thereto.

Mr. Joseph Sedgwick, K.C., counsel for the Prospectors and Developers Association of Canada was recalled.

He concluded his submission in the course of which he tabled three documents relating to the registration of mining shares as provided by the Securities Act, 1933, State of Philadelphia, U.S.A. He read the following telegrams:

1. From C. F. Willis, State secretary of the Arizona Small Mine Operators Association to Mr. S. Norman.

2. From R. S. Palmer, secretary of the Colorado Mining Association to Mr. S. Norman.

The witness tabled a copy of the following telegrams, quoting partly from the first two:—

1. From C. E. Newmeyer, Editor of the *Mining Record,* to Mr. S. Norman.
2. From J. P. Hall, Editor of *The Western Mining Council Incorporated* to Mr. S. Norman.
3. From F. E. Woodside, British Columbia and Yukon Chamber of Mines to Mr. S. Norman.
4. From Lucien Tourigny, Val d'Or Chamber of Commerce to Mrs. V. MacMillan.
5. From A. Ritchie to Mr. S. Norman.
6. From The Kiwanis Club of Kirkland Lake Incorporated to Walter Little, M.P.

Mr. Sedgwick was retired.

Mr. Ralph Salter, K.C., counsel for the Ontario Security Dealers Association was called and examined.

His brief, presented as well on behalf of the Toronto Board of Trade, was distributed

Messrs. Sedgwick and Slaght were recalled and supplied answers on extradition procedure. They retired.

Mr. Salter read letters from the Toronto Board of Trade and addressed to himself, to the Prime Minister and to Honourable Mr. St. Laurent. He also read a letter from the Securities Commission of the State of New Mexico addressed to the Ontario Security Dealers Association.

The witness quoted a paragraph from a communication of the Office of the Secretary of State of the State of Illinois.

On motion of Mr. Adamson, it was *resolved* that Mr. Salter table copies of the Acts respecting registration of securities in forty States of the United States presently in his possession.

(Acts filed with the Clerk).

Mr. Salter quoted from a letter of the Ontario Attorney General to the Minister of Justice, forwarded in 1942, and retired.

Mr. Slaght was recalled. He read a statement respecting United States capital invested in Canada, this being an extract of the Canada Year Book.

As promised, he distributed and commented on suggested amendments to the extradition Treaty and retired.

Mr. John H. Roberts, Editor of the *Canadian Mining Recorder* was called. He expressed his opposition to the passing of the Treaty in its present form and retired.

The Chairman invited the members of the Steering Committee to remain after adjournment to discuss the sequence of the witnesses yet to be heard.

On motion of Mr. Leger, the Committee adjourned until Monday, at 10 o'clock.

ANTONIO PLOUFFE,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS,

November 23, 1945.

The Standing Committee on External Affairs met this day at 10.20 o'clock a.m. The Chairman, Mr. Joseph A. Bradette, presided.

The CHAIRMAN: Order. Mr. Hackett would like to put on the record a telegram he has received.

Mr. HACKETT: Mr. Chairman, the telegram about which I spoke to you was addressed to General G. R. Pearkes, from the constituency of Nanaimo, by the Vancouver Stock Exchange; and with your permission I would like to read it:—

General G. R. Pearkes, M.P.,
Ottawa, Ontario.

We understand that extradition treaty and draft protocol with the United States is coming before external affairs committee tomorrow stop we respectfully submit that the chief objections raised by Canadian exchanges, prospectors' associations and other responsible bodies be emphasized as follows stop

It still provides for extradition for purely technical offences by Canadians of endeavouring to sell securities in the United States without registration under federal and state securities acts stop we greatly fear that if the treaty and protocol are ratified irreparable harm will ensue to legitimate Canadian business stop we respectfully suggest that it is unthinkable that established Canadian Securities dealers should be expected to involuntarily relinquish constitutional rights by submitting to laws and regulations of any foreign nation or its individual states especially as such regulations are partially or wholly unknown in Canada stop It is suggested further that the New York Stock Exchange and all other American exchanges or bond dealers associations would consider intolerable legislation on the part of Canada likely to bar out the sale in Canada or any American securities lacking registration under the securities acts of the Dominion or any province? particularly when contravention would constitute an extraditable offence stop Canada is relatively undeveloped and American funds in quantity are welcome but cannot possibly be honestly solicited if each and every enterprise requires registration under one or forty-eight securities acts stop we believe in upholding the sovereignty of Canada, and wish to register our emphatic protest against any such encroachment against Canada.

(Sgd.) President,
Vancouver Stock Exchange,
K. L. Patton.

The CHAIRMAN: I now call the meeting to order. I want to thank the members who have found it possible to come here so early on Friday morning, I believe it will be impossible for us to sit this afternoon because some of our members have to be away, but we hope that we will be sitting on Monday, meeting at 10 o'clock, and have two meetings on Monday, and if possible two

meetings on next Tuesday; and having these four meetings early next week we expect to be through with the witnesses who are at present here. First on our order this morning is to resume hearing the submission by Mr. Sedgwick, and later if we have time we will have Mr. Salter, and Mr. J. H. Roberts. I will ask Mr. Sedgwick to continue.

Mr. JOSEPH SEDGWICK, K.C., *recalled.*

The WITNESS: Mr. Chairman and gentlemen, before I resume, may I echo what my friend and colleague, Mr. Slaght, said; but I welcome questions and interruptions; I am not here to make a speech. I am here with the idea of convincing you. If at any time I make a statement that is not clear, or which raises questions in your mind, I hope you will not hesitate to stop me and ask me to go a little further into that particular point.

When we adjourned last night I had finished discussing articles of the treaty, and if I may now I should like to turn to the protocol, which will be found at page 11 of the little printed pamphlet. The protocol is, of course, an attempt to cure some of the viciousness of the treaty itself, and I merely make this comment in passing; one may think that it is indicative of a lack of full consideration that was given to the treaty that it should be necessary to doctor it with protocols at all. But, sir, turning to the protocol and the alleged protection that it is to give to legitimate Canadian industry I point out to the committee that the first paragraph of the preamble restricts the protection to the publishers or vendors of a lawful publication. I will read it:

> Considering that it is desired that said provisions should not extend to the extradition of a publisher or vendor of a lawful publication in the requested country which is primarily intended for sale and circulation in that country, the circulation of which in the requesting country is only incidental to the ordinary course of publication and sale in the requested country.

which is primarily intended for sale and circulation in that country. And now, one may ask why it is that the publishers who are in the main well to do people, should require this protection. But more important than that is that it does not extend any protection at all to the people who avail themselves of the publication. Let us apply that to the advertiser. Let us take any person interested in mining, any one of my clients, a prospector who is establishing an important new mining venture; if he should advertise in the Winnipeg *Free Press* asking that the public should back his endeavour and that paper should be circulated in the adjoining republic, then the prospector, the advertiser, the person who avails himself of the publication, gets no protection whatever, as I read the provision of the protocol.

Then, turning to paragraph 1, that also is a more apparent than real protection. I am concerned here with the prospectors and developers of mines, the people who start the mine at the grass roots and the tremendous difficulties of getting the first dollar, the dollar that really starts him; and I shall tell you later how much trouble they have getting that first dollar; and you will observe that the protective provisions of the protocol do not apply to those people. It reads:

> 1. No person dealing in securities in the requested country in the ordinary course of business and in compliance with the laws of the requested country shall be subject to extradition in respect of any matter involving an offence under Items 26, 31 or 32 of articles 3 of the treaty, unless the offence involves—

(*a*) fraud, as defined by the laws of both countries, or

(*b*) wilful and knowing violation of the laws of the requesting country.

Now, I take it that that applies to brokers, to those whose ordinary course of business it is to deal in securities, and the protocol undoubtedly attempts to give them some protection; but there is nothing in it that protects the prospector and developer, the accountant or the lawyer or the business man who may have an interest in the mine, who endeavours to secure some part of his capital in the United States. He, no matter how scrupulous he may be in observing the laws of Canada, derives no protection that I can see from the protocol.

Then, I merely mention this in passing, the protection that is afforded even to the limited class of those people who deal in securities in the ordinary course of business is a protection—and I am referring now to paragraph (*d*) —only where they are not guilty of "wilful and knowing violation of the laws of the requesting country". And now, I have puzzled over the words "wilful and knowing" and whether they mean merely that a person must know what he is doing, or whether they mean that he must be familiar with the laws of the requesting country I am not prepared to say. But I do say this, that it is the simplest thing in the world to seize a Canadian of full knowledge of the laws of the requesting country. All that is necessary as I see it is that the S.E.C. should send a copy of their regulations to every broker in Canada, send it by registered mail, getting receipt for it, and probably send a pamphlet copy or abridgement of the state regulations; and then I take it that would be taken for purposes of proof in any legal proceedings that a person would be seized of knowledge of the laws of the requesting country, that would be sufficient; and I suppose it could then be said that anything contrary to these laws would be a "wilful and knowing violation" of them. And now that, of course, is virtually no protection at all. It is going to stop completely the flow of American capital into mining and risk venture in this country.

And now, if I may turn to what is so far as my clients are concerned the nub of this whole matter. I am told that approximately half of all the venture capital that goes into the grass roots of our mining properties is American capital; and as I have already said we apprehend a real danger that passage of this treaty will almost completely stop that flow. The point, and this is really the nub of the whole thing, the point is that it is virtually impossible for any new mining venture to comply with the laws of the S.E.C. in the various states.

By Mr. Hackett:

Q. What information is there to justify the statement that 50 per cent of this venture capital comes from the United States?—A. I would tell you where it came from, and I am afraid I cannot support it. About a year ago Mr. W. A. Brant, who was at the time the registrar of the Ontario Securities Commission, made a survey of various applications in the office there and that was the conclusion that he reached, that it was approximately 50 per cent. Mr. Brant is dead, so I cannot call him.

Q. But he was a man with general information concerning the origin of capital?—A. Well, it is impossible to allocate capital accurately, because as you know you cannot determine it merely by looking at the list of shareholders. You may see a Montreal address, and yet the shares may in fact have been owned by people in New York or Chicago. That was the opinion that he reached based on some 15 years' experience as registrar of the Ontario Securities Commission. Whether it is accurate or inaccurate I think this may safely be said, that a very large volume of American capital does go into mining ventures. Whether it be 50 per cent, 45 per cent or 40 per cent, of course is impossible to say. However, I am told by people familiar with matters of this kind that

that is a reasonable estimate, that about half of it is so derived. And, as I was saying, in every state, and the S.E.C. regulations you are not permitted to secure American capital unless you have first a registered and qualified issue under the laws not only of the S.E.C. but also under the laws of the state. I propose addressing the rest of remarks to that question of registration, because you see unless the security is qualified, unless it is registered with the S.E.C. and with the various states, then the sale of that security or the attempt to sell that security or in any way dealing in that security becomes an offence and becomes an extraditable offence.

Mr. SLAGHT: And the broker must also be registered.

The WITNESS: As Mr. Slaght points out, not merely the issue but the person must be registered.

By Mr. Leger:

Q. At this point, would there be anything to stop an American coming here and buying shares in these new ventures?—A. No, sir; and I think if the transaction started and finished in Canada then that would not be a matter which would come under the treaty. But you see, sir, that hardly ever happens. Let us suppose (I have had something to do with matters of this kind) let us suppose an American is interested in a mining venture and comes to Canada, looks at the property and goes over the capital structure and decides to put some money into it. The decision may be made here, but it is hardly likely that the matter would be concluded at that time. He would go back to New York or Chicago. There would be correspondence. There would probably be visits of Canadians to him in New York or Chicago, and so part of the transaction would almost inevitably take place in the states. As Mr. Slaght pointed out yesterday, and as I think the unquestioned law is, if any part of the transaction, whether it be the start or the middle or the finish, takes place in the states, then I think that for the purposes of prosecution the deal takes place in the states and a person concerned in it could be prosecuted there. I think Mr. Slaght will agree with me that that is the law. We have argued about it on a number of occasions, and it is not necessary that the whole of the transaction take place there, it is sufficient if any part of it takes place there. And I think it would be impossible to conclude a transaction, or practically impossible, without some of the negotiations taking place in the states where the purchaser of the security resided.

By Mr. Fraser:

Q. Before you go on, does that apply to all 48 of the states?—A. Yes, Mr. Fraser.

Q. It applies to every state, that is Mr. Slaght's view of the situation too.—A. I must not say every state, I think every state—Mr. Salter who is better versed in the matter than I am tells me that every state has security regulations of its own, and every state requires that you must qualify the security in that state before you can sell the security in that state.

Q. Must register.—A. Register, qualify and register not merely the security, but the broker or person selling the security or offering it for sale.

Mr. ADAMSON: Every state except Delaware. Delaware has no security commission, and that is one of the reasons why so many companies go there for incorporation.

Mr. SLAGHT: And the broker has to put up $500.

The WITNESS: Mr. Slaght reminds me that the broker has to put up a bond of $500 in every state. If you want to sell your securities generally throughout the states—

By Mr. Leger:

Q. Are the regulations the same in all the states?—A. Oh, no, no, no; they are radically different. As I shall tell you later, it is not a question of not wanting to qualify the security, it is an impossibility—and I use the word advisedly—it is an impossibility to qualify the security in every state, that is within the lifetime of an ordinary person, it might be done with the years of Methuselah, but not in anyone man's ordinary lifetime could you qualify a security. Each state is radically different; and in order to qualify to sell in any state you must qualify in every state.

By Mr. Jaenicke:

Q. The same is true of Canada?—A. Yes, but we only have nine provinces where they have 48; and there is a difference, and I think this may safely be said, that in Canada if we qualify in one jurisdiction we qualify in the others.

Q. Complying with the requirements of one province does not necessarily qualify you with respect to the others?—A. No, but as a matter of fact, sir, where you have qualified in one province—the provinces have always adopted a reciprocal attitude.

Q. And, with regard to penalty?—A. If the security is selling in Montreal, Winnipeg or Toronto, it is sold throughout Canada without qualification in the other provinces. They are not invariably qualified.

Mr. JACKMAN: If a security would qualify in Ontario it would be likely to qualify everywhere. They are the main sources of funds anyway. But as a matter of fact, I think you have to qualify for every province in which you wish to sell your security.

The WITNESS: You do have to qualify to establish yourself to sell within the province. If you want to sell your issue in Manitoba, or to market your securities there in addition to the general sale in Ontario, I understand it is usual to qualify the issue again in Manitoba. However, it is a fact that any general qualification in one or two of the leading provinces paves the way for qualification in the other provinces. There is no great practical difficulty about the matter; whereas, in the states, you have 48 foreign jurisdictions.

As to the importance of this matter, Mr. Slaght mentioned yesterday the large corporation whose foundation and existence is due to American capital. And, dealing as I am largely with mining, I want to say a word about these mines. I have here a number of copies of a statistical survey which was conducted by the *Northern Miner,* if I may pass them around; and I want to make a few references to them.

As the members of the committee will see, this is a survey entitled "Statistical Background of the Mining Industry". It was prepared, as is pointed out in the first paragraph, for the information of a delegation of American journalists, who came to this country several months ago to see what the hullabaloo was all about; to see whether we had any mines here upon which to base the stock we would sell in the United States, or whether we had only moose pastures. I would ask the members of the committee to read this survey at their leisure because it is an interesting one.

I point out that the mining industry is the second most important industry in Canada. As you will see in the third column, the gross revenue of the mines in Canada in the year 1941 was some $866,000,000. That amount was exceeded only by agriculture, with a revenue of $1,431,000,000, in that year, which is the last year for which accurate statistics are available. I am sure that production has greatly increased over the last three or four years and I am sure that at the present time the products of mines are probably the biggest single revenue in the whole country. I also point out that these mines, and I refer to the first column; "Production of some active mines and dividends paid".

These mines, starting out with nothing, have produced billions of dollars. I read such names as Berens River, and Bidgood. Some came into production only in 1940. Dome produced $139,000,000; Lake Shore produced $198,000,000. Mines such as that all started with the kind of dollar that is today going into speculative ventures.

By Mr. Leger:

Q. There are also a lot of them that started, but did not finish?—A. Of course, that is true, sir. Whenever you put a dollar into a speculative thing with the possibility of getting a return of one thousand to one, you will always have some misses. Mining is speculative. It always will be speculative. You cannot get returns of one thousand to one.

I want to make this point, that they all start with nothing but hope and prospects. There is nothing yet to make sure that a promising looking surface has anything down beneath it.

Q. But, if they have a good president?—A. Yes, if this thing goes through, it will be difficult to find a president or even a board of directors.

Q. I used to look, in my younger days, to see who was the president of a company, in order to ascertain whether I should invest in that company?—A. Well, we won't get good directors if this treaty goes through, because this treaty, for the first time, makes even participation an offence. I refer to section 33, which says: "Extradition shall also take place for participation or conspiracy in any of the crimes or offences before mentioned or in any attempt to commit any such crimes or offences." That will make it impossible to get a good board for mining companies because people will be afraid to take the risk. I know that as a lawyer I would be afraid to go on the board of a mining company and I would advise my clients not to do so. The probity of the people on a board of directors is the best guarantee you can get for a run for your money.

By Mr. Hackett:

Q. In any event it is a hazardous investment and everybody knows it. All the integrity in the world in a board cannot put gold into a mine, can it?—A. No. All the board can do is to see that the money is properly spent. If the mine is there, they will bring it into production; but if the mine is not there, all they can do is to see to the proper expenditure of the company money.

By Mr. Fraser:

Q. Under section 33, they can take not only the president, but every member of the board of directors as well?—A. Yes, sir. Up to this time conspiracy has not been an indictable offence. Now we can say that all the officials, even the office boy, are conspirators. When the S.E.C. decides to proceed against the company they can indict everybody from the president to the office boy. So it would be a hazardous thing to be on a board, if this treaty goes through.

By Mr. Adamson:

Q. Might I suggest that anybody investing in mines should pay more attention to finding out whether there is an ore body rather than to any other factor. I make that suggestion as an engineer?—A. Of course. At the outset you cannot tell whether there is an ore body or not. Money must be spent, considerable money must be spent, before anyone, even an engineer, is in a position to ascertain whether there is an ore body or not.

By Mr. Jaenicke:

Q. Yesterday you spoke about a Michigan case, where a person who failed to enter an order on the proper form would be liable?—A. Yes, sir.

Q. Would that be an indictable offence?—A. I do not say that they would proceed against the man, but he would be liable. Suppose we take this case: a subscription is secured in Michigan upon a form that does not comply with the Michigan laws. The subscription comes back to the office in Montreal or Toronto, and the directors of the company accept the money and use it. I should think that all the directors of that company could be proceeded against on a conspiracy account because, after all, they are party to the transaction.

By Mr. Marier:

Q. But the transaction took place in Montreal?—A. No. The sale might well have taken place in Michigan. If the invitation was sent out from Montreal to someone in Michigan, I think the prosecution could take place in Michigan. Mr. Slaght cited some cases yesterday and I won't repeat them now. I think it quite probable, if this treaty should pass in its present form, that if a man did business in Montreal and even never left Montreal or went outside the province of Quebec to sell, he could be hauled to Michigan or to New York and be tried there for an offence, simply because he telephoned or wrote letters there.

Q. I am afraid you are going too far when you say so.

By Mr. Jaenicke:

Q. This question of conspiracy is set forth in paragraph 33 of article 111; but our courts would interpret this point on conspiracy according to our own criminal law?—A. Yes, but conspiracy has been given a very wide interpretation even under our own criminal law. When drafting a charge of conspiracy we do not usually rely simply on the criminal code. It is usual to put in a common law count for conspiracy. I am an old prosecutor myself, and I always used to put one in because it is much wider. The section on conspiracy in the Canadian Criminal Code is not the section under which most conspiracy counts are laid.

Mr. SLAGHT: The code section referred to involves the necessity in a prosecution of showing fraud and deceit. The offences that we are opposing do not contain any moral wrong at all.

By Mr. Marquis:

Q. Do you think it would be dangerous to enlarge the scope there?

Mr. SLAGHT: I think it would be dangerous.

The WITNESS: Not merely dangerous, but it is shocking. As Mr. Slaght pointed out, there are cases where there is no moral taint; there are cases where all you have to do is to fail to register a security, or to take a subscription on a form other than the prescribed form. That becomes an indictable offence. If this treaty passes in its present form, then in order to permit any securities, even the Dominion of Canada victory bonds, to be sold in all the states of the union, it will be necessary to register those securities in every state, if the law is to be complied with.

It has been said to me, I think that Mr. Sidney Norman will speak about this, that since the establishment of the S.E.C. in the United States, not one single mine has been brought into production financed by public money. The reason is that even for American citizens it is practically impossible to raise money for mining ventures and still comply with the S.E.C. regulations. Now I would like to refer to an article in the December number of "American Magazine", by Mr. Harold L. Ickes, Secretary of the Interior, entitled: "The War

and our Vanishing Resources". In this article Mr. Ickes points out that the United States is becoming a have not nation, so far as mineral wealth is concerned. They have no new production and no prospect of new production.

It has been said to me that one of the principal reasons for the lack of mineral production in the States is the impossibility of complying with the S.E.C. regulations. To that statement I would add that the S.E.C. is only one body that requires registration. Having dealt with them, you still have not satisfied the regulations if you would safely sell your securities in the States. You must still register with the other forty-seven States. I am told that the state of Delaware does no require it. In this year of grace, 1945, the S.E.C. adopted what they naively call a new short form. This is supposed to make registration simpler. I have it in my hands, the regulations as to how you are to proceed. It consists of five very finely typed pages. In addition there is a supplement to form S 11 in which they give you nineteen more finely typed pages of instructions on how you are to do it. Then, having read those—and I should remind the committee that I represent prospectors and developers some of whom do not read any too well—you then turn to the form itself, which is some thirteen pages of very finely typed material. The form is careful to point out in paragraph 2: "The entire form and the applicable rules and regulations should be read before preparation of the statement is begun." I have not read this through myself because I did not have a week to spare. Before you start to fill out the S.E.C. form, you are required to read all these pages and digest them. They are not just words, but they are carefully prepared legal documents. That is the start for registration with the S.E.C.

By Mr. Fraser:

Q. That must be something very much like the simplified income tax form?—A. Even Einstein found himself unable to solve the problem of how to make out the American income tax form. This thing would baffle a whole group of Einsteins.

By Mr. Marquis:

Q. You have conspiracy to defraud; but there is the other article 573, committing any indictable offence. It is an indictable offence any time anybody makes an agreement with another to do something illegal or to effect something illegal by legal means. So I do not think this paragraph will change anything, because it means doing something illegal by legal means.—A. This paragraph makes it extraditable now to commit a breach of a state regulation.

Q. That is 32, but not 33?—A. No. Conspiracy is not at the moment indictable. You must be indicted, at present, for the substantive offence, be it murder, arson, or rape.

Q. Perhaps it would be a good thing if conspiracy were to be made an indictable offence?—A. Perhaps so, but I cannot think that it would be desirable that a conspiracy merely to avoid a state regulation should be indictable.

By Mr. Marier:

Q. I do not think that either the United States or Canada would proceed to extradite just on account of a mere violation of a regulation. It is not the principle of the bill.—A. But if they have the power to do so; as I say I think it is wrong whether they do it or not. If they have the power, we should object.

By Mr. Fraser:

Q. They could cover that under an advertisement in one of the papers?—A. I think so. If a prospector should advertise in a Canadian paper and send copies of that paper to the United States, I think he, and probably his whole board of directors, could be proceeded against as parties to a criminal conspiracy.

Now, on the question of how simple it is to qualify a security in the States, I wonder if the committee would bear with me while I read a memorandum which was given to me and to Mr. Slaght by a very reputable solicitor in Toronto. For obvious reasons I do not want to name the company. It is a well known Canadian mining company and this is a report by its solicitor as to the difficulties they had in qualifying their stock in the United States.

> An application to the Securities & Exchange Commission to qualify for sale an issue of securities of a Canadian corporation to an amount somewhat in excess of $2,000,000 was filed early in December of 1942. The original application was drafted and printed after extensive meticulous inquiries and long consultations between United States counsel, Canadian counsel, company officials, consulting engineers and auditors which involved many weeks' work.
>
> Although the document as submitted was drafted either by or with the approval of expensive United States counsel specially experienced in S.E.C. work the first draft registration resulted in the issuing by Securities & Exchange Commission of an eleven page "deficiency" letter and a few days later by a supplementary seven page "deficiency" memorandum giving particulars of additional amendments and further information required. Subsequently the revised and refiled registration statement (again prepared with the advice and assistance of the best experts the company could employ) resulted in a further six page "deficiency" letter. The registration statement was finally made effective some three months after the formal application was originally filed.
>
> The resulting printed application was some fifty pages in length and the cost of printing and re-printing to include amendments and corrections must have run into thousands of dollars.
>
> The care with which the exact wording of each statement in the registration statement was drafted and discussed in detail by counsel with the pertinent official or consulting expert was indicative of the dangerous possibility (in the opinion of experienced counsel) of some slight slip being used on a basis for the taking of action against the persons filing the statement.
>
> Auditors' fees and fees of consulting engineers were not expressly apportioned for time spent on preparation of particulars for the registration statement and in collaboration with respect to information to be contained in the statement but the amount of time devoted by these experts to work of this type, must have involved costs to the company of thousands of dollars.
>
> The fee charged by underwriters' U.S. counsel (which included assistance given to them by Canadian counsel for the underwriters) was in excess of $50,000.

That is, the company paid United States counsel $50,000 to qualify the stock with the S.E.C.

> —although it must be borne in mind that this fee also included charges in connection with drafting the legal documents underlying the security issue and additional work in connection with other corporate financing.

We lawyers are stupid to oppose this. We could probably become independently rich if it went through.

> —The fees of Canadian counsel were not apportioned between S.E.C. work and other work undertaken for the company but the portion of fees attributable to this part of the work could be reasonably estimated in the neighbourhood of at least $10,000.

That is, in legal fees alone this Canadian company spent upwards of $60,000 to qualify the stock with the S.E.C. I will go on to the rest of the qualification.

> In addition to qualifying the security issue through the Securities and Exchange Commission it was necessary to complete additional documents and file additional material and information in nine individual states in order to qualify the securities for sale in those states. Subsequently the underwriters asked the company to qualify the shares for sale in four or five additional states but as this additional registration involved the trouble and expense of preparing some thirty-nine forms for information from officers and directors from one state and an equal number from another state, in addition to letters of reference and eight certified copies of letters patent, by-laws, specimen certificates, maps of the properties, reports by engineers, valuations of the properties, opinions of counsel, profit and loss statements and other information the Company was unwilling to undertake the additional registrations.
>
> In addition to the original application it is also necessary that very comprehensive annual statements be filed with S.E.C. and also in some of the states in which the securities are treated.

That is the experience of one company, a very big company, a very important company that attempted to qualify its stock in the United States. As I pointed out it spent upwards of $60,000 to qualify with the S.E.C. alone. This company is a well financed company and had a great deal of money in the United States.

What is going to happen to the small companies? I represent here prospectors who are trying to make mines, prospectors who have made mines. They have not got $60,000 or $6,000 to spend, and I will tell you it is heartbreaking to listen to the stories that some of them tell about their honest attempts to qualify stock in various states.

If you will look at the statistical sheet I gave you you will see a stock there called Hallnor which has produced to date upwards of $14,000,000. Hallnor is a mining property which was started by Mr. and Mrs. McMillan. Mrs. McMillan is the president of the Prospectors and Developers Association. She is a prospector. She has tramped around the bush for upwards of twenty years trying to develop mining properties. Hallnor is a good example of the way mines start. Mrs. McMillan tells me they started Hallnor with 5,000 units which they tried to sell at $10 each in order to raise money. They were not able to sell the units at $10 each, and they sold some of them at $1. They went short on food and clothing because they had faith in the property. Everybody laughed at them but they were quite sure they were going to make a mine and they were right. They developed the property, and to-day it is a large producing mine that has already produced close to $15,000,000. They had tremendous difficulty in getting their first dollar. I was talking to Mrs. McMillan since we have been down here and she said in connection with one of their ventures that at a time when they had practically no money they tried to qualify it in Michigan. They spent every dime they had in a vain effort to qualify it and finally gave up because when they had filed every document they were asked to file they were told that the mine could not be qualified unless they would pay the expenses of the state geologist going to the property and making a report.

He was to charge $50 a day and expenses. Fifty dollars a day was a sum of money that they did not have so they abandoned the attempt to qualify the security in Michigan. That was only one state. I do tell you, and I say this in all seriousness, that it will be absolutely physically impossible for any speculative mining venture to qualify either with the S.E.C. or any state of the union. The cost is prohibitive. The difficulties are too great and we will not be able to comply with the law no matter how honest we are in our desire so to do.

That is not merely a complaint that Canadian mining people make. It is a complaint that people make who are interested in mining development in the United States. We have been at some pains to get information on mining development in the mining states of the union such as Colorado and Nevada. It is from them I have information that enables me to say that since the S.E.C. was set up there has not been a single mine brought into production in the United States financed with public money.

By Mr. Jaenicke:

Q. That does not concern us.—A. It concerns us very seriously because this treaty says if we are to stay out of jail we must comply with the United States law.

Q. I mean the United States not being able to get public money for their mining enterprises does not concern us.—A. It shows that we will not be able to get it. We will not get American money because they cannot comply with the S.E.C. laws and neither will we be able to. We will have our choice of either cheating on the law and taking the risk of going to jail or doing without American capital in its entirety.

Mr. FLEMING: We do not want to import that plight into this country.

By Mr. Jaenicke:

Q. Suppose that the fugitive is a real fugitive, that he has physically committed a crime in the requesting country.—A. Then I would say he should be sent back.

Q. What is your definition of that? You listened to our discussion on it yesterday.—A. I say as to the man who is in the United States, commits an offence against the laws there and then flees to Canada for refuge that he should be sent back and while I have not sat down to amend the treaty and protocol so that would be done I do not think it is beyond the mind of man to do it.

Mr. SLAGHT: I have an amendment I will file which will accomplish that if the committee approves of it.

Mr. LEGER: It would have to accomplish that.

By Mr. Jaenicke:

Q. I do not want Canadian nationals to be extradited for things like that, of course, but if fugitive is interpreted as a man who actually did the fleeing . . . —A. Yes, if the treaty said that—

Q. Would you have any objection to the treaty then?—A. Not the slightest; if the treaty said that I would not have to be here. If the treaty said that they had to that extent protected Canadian nationals I would not be here.

Q. That seems to be the whole crux of the situation—A. Of course it is. In order for a man to be taken out of this country and taken to the United States he should have committed an offence actually and physically in the United States, and the man who has fled from American jurisdiction to seek a haven here, as Mr. Slaght has said, should be sent back.

By Mr. Hackett:

Q. But even granting that it would be a departure from the principle on which all extradition treaties have been made up until the present time. It would be abandoning the principle of dual criminality.—A. Yes.

Mr. JAENICKE: I disagree. The United States decisions are exactly contrary to the English decisions as I have been reading the law.

The WITNESS: On what point?

Mr. JAENICKE: That you must actually have fled from the country where the crime was committed.

Mr. HACKETT: That is not what I am talking about.

The WITNESS: Mr. Hackett is saying that until this time, as Mr. Read said yesterday, it was necessary that the offence for which extradition was sought be an offence in both countries, both the requesting and requested country.

Mr. JAENICKE: Dual criminality.

The WITNESS: Yes. I think that was a very sound principle and should be adhered to. This treaty completely abandons that and necessitates a study of the law of a foreign jurisdiction because under this treaty you can be taken out of Canada for doing something that is quite legal here but illegal in Idaho and Nebraska. I say that is wrong. I think we should get back to the old sound and tested principle that you are only to be extradited if the offence is an offence in both countries, both the requesting and the requested country.

By Mr. Jackman:

Q. If American money finds it difficult to develop mining prospects in the United States I wonder if you could tell the committee how it is that American money comes over here now to help in the development of our north country?—A. It comes over here because it can find no outlet there.

Q. By solicitation or does it just drift across?—A. It comes in many ways, sometimes by solicitation, sometimes by direct negotiation. The prospector or mining developer goes down to New York or Chicago and interests one or a group of capitalists there. Sometimes, of course, it is by mail solicitation. It is in many ways. One cannot generalize, but a great deal of negotiating is carried on between Canadian developers and American capital big and little. Some get their money in $50 bills and some get it in $5,000,000 lots. I do not think we can generalize as to how it is conducted. All we can safely say is that a great deal of the development of our mining industry is due to American capital that came in here in one way or another.

Q. And is still coming in?—A. And is still coming in, yes, sir, and will come in unless this treaty is passed. If this treaty passes I suppose that the flow will dry up. We, of course, are a country that needs capital. We need venture capital very badly, and I think even Mr. Coldwell will agree that we do not want the Bank of Canada putting money into moose pastures that may ultimately be mines.

Mr. COLDWELL: I do not want to see Canadian resources entirely exploited by a group of foreign capitalists.

The WITNESS: They are not exploited. We always have that in our own hands by taxation or by limitation on the import of capital. We can protect ourselves as to that.

Mr. COLDWELL: We have not done so up to the present time.

The WITNESS: That may be something we will amend, but we will not get it by passing this extradition treaty.

By Mr. Marquis:

Q. Actually the difficulties with registration do not prevent capital from coming here?—A. It does not at the moment.

Q. But you have difficulty just the same?—A. We have difficulty in getting capital here?

Q. No, with the registration.—A. Yes, even at the present time it is almost impossible to qualify a stock so you could sell it openly in the American market but still we are not prevented from writing to Americans or negotiating with them and getting capital over here. We could not sell openly on the New York board or Chicago board without qualifying the stock under S.E.C. and state regulations. That is why so few recent Canadian securities appear on the big board because registration and qualification is too difficult.

In that connection may I read one or two wires which illustrate how hard it is to get venture capital under S.E.C. regulations. This is a wire addressed to Mr. Sidney Norman who is here. It is from Mr. Charles F. Willis who is Secretary of the Arizona Small Mine Operators Association and publisher of the *Arizona Mining Journal.* He says:—

> Note external affairs committee holding hearing regarding protocol attached to proposed treaty between United States and Canada by which SEC would be given authority to press for indictment of Canadians for breaches of regulations of that commission even though business had been conducted within the laws of Canada stop the Lord help the progress of development Canadas mineral resources if SEC is permitted any part in the picture stop they almost completely fail to recognize that the early stages of all mining are speculative and risky and if they had had jurisdiction during the early days of the development of the west we would have had no mining industry in the United States today stop they have almost completely stifled legitimate new mine development in western states and have made illegal activities more vicious and dangerous stop legitimate developers merely quit because they cannot comply and will not defy while illegitimate operators go to opposite extremes and have developed technique too clever to be caught stop hope you can show parliament committee danger in permitting SEC to have any part in their picture. Kind regards.

Here is another one from the secretary of the Colorado Mining Association, a very important association. It is also addressed to Mr. Norman:—

> The mining industry of Colorado is one of our most important industries. New money for exploration and development is its life blood. Since the enactment of federal legislation to control the sale of securities the industry has been deprived of new capital. Only a few venturesome souls have attempted to run the hazardous rapids of securities and exchange commission regulations, and those who have have suffered the consequences. We know of no mining enterprise in Colorado which has been successfully financed since the enactment of this law in spite of assurances which have been given us constantly of aid and assistance. Our association does not favour irresponsible promotion but feel that the criminal statutes are adequate to take care of violations. We submit that our experience teaches us that should Canada be confronted with the same restrictions as we have been subjected to it will mean the curtailing of much new mining activity in the provinces. Best wishes.

That is from Mr. Robert S. Palmer, Secretary of the Colorado Mining Association. I have other wires to a like effect, but I do not propose to weary the

committee by reading them all. I shall table them. They all indicate that since the setting up of the S.E.C. and since the passage of these drastic regulations it has been virtually impossible for any new mining venture to start financed with public money.

By Mr. Coldwell:

Q. If the criminal law was sufficient to deal with these cases why was the S.E.C. set up?—A. Well, of course, I am not privy to the inscrutable designs of the people who drafted the S.E.C. legislation.

Q. They may have gone too far.—A. It was set up as part of the general blue sky legislation to protect investors.

Mr. MARIER: Small investors.

The WITNESS: I do not know that it was small investors especially. Small investors like a gamble, but it does what all legislation of that kind does, and this is the great vice of it. It makes it practically impossible to get speculative venture capital because you see once you say you are going to protect the small investor, then almost the first thing you say is that we must make quite sure that when he invests he gets something real, something substantial, but a mining venture in its early days is not real and is not substantial. It is a hope and a prospect. As soon as you pass legislation such as the S.E.C. you have virtually stopped that kind of investment because you have said to the little investors, "We are not going to let you put your money into gambles of that kind." There is no other answer.

By Mr. Fleming:

Q. It may have been overlooked, but the S.E.C. covers a lot more than the sale of mining securities?—A. Oh yes, everything.

Q. It is only one very small part. As I understand it, it was set up to take care of a much more developed industrial economy, and certainly investment economy, than ours. The mining securities business in the United States does not bulk in the total there to anything like the extent that it does in Canada.—A. What Mr. Fleming says is quite true. That S.E.C. regulations are probably suitable to a developed and settled economy but a questing, developing economy such as ours cannot operate under these stringent regulations, and this is the one thing I do want to leave with the committee. If this treaty and the protocol pass we, so far as American capital is concerned, are subject to all the regulations of the S.E.C. just as though we moved Canada over into the United States and called it the 49th state.

By Mr. Hackett:

Q. Do you not think there is another difference? In the United States there is sufficient capital for all their requirements. The United States does not have to import capital. We do.—A. We do.

Q. And I think that is the over-riding distinction between our situation and that of the United States.—A. That plus the fact that we still have opportunities for the investment of venture capital. These opportunities have dried up in the United States since the S.E.C., but what Mr. Hackett says is, of course, true. We are a new country; we are a developing, prospecting country and we need to import capital. The United States has capital of its own which, of course, it can use.

By Mr. Coldwell:

Q. That is a point that I think needs some consideration as to whether we do really need to import a large amount of capital and obligate ourselves with another country. During the last six years we have had a demonstration of

what Canada has been able to do for herself.—A. You are, of course, right that we have more resources of our own than we had thought before the war, but during the last six years a great deal of mining activity has taken place in new fields. But good mines have been brought into production, such for instance as Eldorado, which was a purely venture thing, a speculative venture. And in practically every one of these mines a great deal of American capital came in at the venture stage, at the stage where it was a pure gamble as to whether you would get $100 back for your dollar or whether you would get nothing but experience and a stock certificate. That kind of money, which is purely venture money necessary for exploration and development, which a country such as ours does not have.

Mr. LEGER: It looks as though in the case of the Americans that they were more inclined to gamble than we are.

The WITNESS: There are more of them, more inclined to gamble in the states, and over there they have no opportunities for purely speculative investments; and that is what mining is, and what it must be so long as it is in early stages. Nobody can tell whether there is a mine there or just a large expanse of grey rock.

I have come about to the end of my string, Mr. Chairman. I thank you and the members of the committee for your patience and kind hearing.

By Mr. Adamson:

Q. Will you file the rest of those telegrams that you had?—A. Yes.

Q. I think it is important.—A. May I merely identify them before filing them. I have here and I should like to file a wire from Mr. C. E. Newmeyer, editor of the *Mining Record*, Denver, Colorado. Now, I would like just to read a paragraph from this one. It says:

> The *Mining Record* of which I am editor now in fifty-sixth year of continuous publication. I have been with publication some forty-three years and have seen development of mining industry in western United States. Corporation financing has done work. When congress passed federal securities law with S.E.C. in charge, new mining development became stagnant. Thousands of companies have gone out of existence, counties have taken over most of undeveloped mining claims for taxes. Canada should look before it leaps. Canada should supervise its own affairs, because if Canada places the fate of its new mine financing in control of Washington its mining districts will suffer. There will be little or no fraud in Canadian mine financing if Canada rules that only treasury stock can be sold while a company is in process of financing. If Canada makes such a rule it does away with the alleged need of the United States to supervise Canadian mine financing. We in the west are faced with handicaps of federal and state securities laws. Under the present plan of the S.E.C. in Washington, Canada would be made a province of that bureau and would lose much of its present prosperity. Our best judgment would be that Canada can, without the help of the Washington S.E.C., legislate to prevent mining fraud.

I also have a wire here from Mr. J. P. Hall, president of the Western Mining Council Incorporated, of Auburn, California. It is a very short one. He says:

> Our membership with chapters in thirty-five western counties hold S.E.C. regulations have practically stopped much mining development and now grossly interfering with our efforts to find new jobs for returning servicemen. We are further opposed to S.E.C. invading Canada and messing with your development. We feel that the Canadian law can handle the matter satisfactorily.

Also I have a wire here from Mr. Frank E. Woodside, manager of the British Columbia and Yukon Chamber of Mines, Vancouver; one from the Val D'Or Chamber of Commerce, signed, Lucien Tourigny; one from Al Richie, Reno, Nevada; and one from the Kiwanis Club of Kirkland Lake. I will not read the rest of them but file them with you and they will be available.

Again, gentlemen, thank you very much.

The CHAIRMAN: Before calling the next witness, we have ready for distribution a copy of the correspondence between the province of Ontario and the government of Canada in regard to this treaty, written in 1942. This is now ready for distribution as promised by Mr. Read yesterday.

May I say now that we expect to adjourn at about five or ten minutes to one, and I will ask the members of the steering committee to stay here, and I will also ask the persons who have not been heard and who expect to come before this committee to remain a little longer so that we may arrange an order of precedence for their appearance before the committee at its further sittings.

Before I call on Mr. Salter, I believe without in any way annoying him, we might hear from Mr. Slaght who was to present to us certain recommendations or amendments.

Mr. SLAGHT: If you would permit me to do so a little later, Mr. Chairman; I only have four copies here and the stenographers down yonder whom I am using are running off a sufficient number so that each member may have a copy before him. If I may be permitted to defer my appearance until later, say about half an hour?

The CHAIRMAN: All right, Mr. Slaght. I will now call on Mr. Salter, representing the Ontario Security Dealers Association.

Mr. W. RALPH SALTER, K.C., representing the Toronto Board of Trade and the Ontario Security Dealers Association, Toronto, Ontario, *called:*

The WITNESS: Mr. Chairman and gentlemen of the committee; I am appearing on behalf of the Ontario Security Dealers Association and also on behalf of the Board of Trade of the city of Toronto. A brief has been prepared for the Security Dealers Association, and with your permission, Mr. Chairman, I should like to pass copies of the brief out to members of the committee. I do not propose to read the brief. I trust, however, that members of the committee may find time to do so. I might say that the burning of a lot of midnight oil went into the preparation of that brief. It is based on a review of the Securities Act of more than forty of the individual states of the United States, and I think it may contain information which will be helpful to the committee.

The CHAIRMAN: Order, gentlemen.

The WITNESS: I should like, Mr. Chairman, to read a letter from the Board of Trade addressed to me under date of November 21:

THE BOARD OF TRADE OF THE CITY OF TORONTO
KING EDWARD HOTEL
TORONTO, CANADA

W. R. Salter, Esq., K.C. November 21, 1945.
Messrs. Salter, Stapelle, Sewell and Reilly,
112 Yonge Street,
Toronto 1.

Dear Mr. SALTER:—

The Council of The Board of Trade of the city of Toronto would appreciate your representing the board before the Committee on External Affairs in their consideration of the extradition treaty with the United

States. This will authorize you to appear on behalf of the board at the hearings of the committee to be held on Thursday, November 22, or any adjournments thereof, and to present our views as set out in the enclosed letter to the Minister of Justice, dated October 30, 1945.

We are also enclosing a copy of a letter to the Prime Minister, dated March 15, 1943, in which we registered objection to the ratification of this treaty at that time, and you will note from the report, dated May 18, 1943, a copy of which is also attached, that we were represented at a meeting with a special Cabinet Committee in May, 1943, when our views were presented personally.

Yours very truly,

(Signed) F. D. TOLCHARD,

General Manager.

Accompanying that letter, gentlemen, is a copy of a letter addressed by the president of the Board of Trade to the Honourable the Minister of Justice, reading as follows:—

THE BOARD OF TRADE OF THE CITY OF TORONTO

TORONTO, October 30, 1945.

The Honourable Louis S. St. Laurent, K.C.,
Minister of Justice,
Parliament Buildings,
Ottawa, Ont.

Dear Mr. ST. LAURENT:—

The Board of Trade of the city of Toronto has been giving consideration to the treaty for the extradition of criminals between the United States and Canada which was signed in April, 1942, and the protocol amending such treaty which was signed on October 3, 1945. The board of trade has already made representations in concert with other organizations against the terms of the treaty because it extends the powers of extradition beyond any heretofore granted and includes offences which are not universally considered as crimes.

We feel that the essential nature of extradition is the apprehension of fugitive criminals. To extend this principle to a permission of its use for assistance in the apprehension of non-residents for their punishment for statutory offences is a surrender of our sovereignty over our subjects and those residents in our country who have never been present in the requesting country.

We wish to point out that while it is not desired to put any hindrance in the way of the pursuit of criminals, it is not felt that the citizens of Canada should be exposed to prosecution for offences which are not crimes in Canada. Consistent with this view, we would suggest that clause (*a*) of Section 1 of the protocol, which would grant extradition for fraud as defined by the laws of both countries, is not objectionable, but that clause (*b*) which would authorize extradition for wilful and knowing violation of the laws of the requesting country is objectionable on the grounds above stated.

Accordingly, we would respectfully recommend that ratification of the treaty and the protocol should not be given by the Canadian government.

Yours very truly,

(Signed) E. W. BICKLE,

President.

I also have, Mr. Chairman, a copy of a letter from the Board of Trade to the Prime Minister, under date of March 15, 1943. It reads as follows:

Dear Mr. Prime Minister:—

RE PROPOSED EXTRADITION TREATY WITH THE UNITED STATES

The Board of Trade of the city of Toronto has had under consideration the terms of the draft extradition treaty between Canada and the United States which we understand will come up for ratification at the present session of parliament. In considering the matter we have had the advantage of reading the briefs prepared by the Toronto Stock Exchange and by Ontario Security Dealers Association, with which we are in complete accord.

We noted that a new principle has been adopted by which the requesting party seeking extradition could do so even where the person to be extradited had committed a misdemeanour which was not a crime in his own country, but was a crime in the country seeking his extradition. The board feels that great hardship might be caused innocent persons in cases where individuals are affected by such new principle. For instance, in the case of a letter mailed in Canada to a point in the United States contravening the exchange regulations of the latter country, it might be considered that a crime had been committed in the United States because of such a letter having gone through the mails of that country during the latter part of its passage.

Items 26, 31 and 32 of Article III of the draft treaty might become effective to obtain extradition under the principle referred to and have reference to offences by reason of using the mails to defraud, crimes against laws for the prevention of fraud in the sale or purchase of securities and indictable crimes or offences against the laws regulating security markets, licensing of securities, security sellers or investment counsel, and offences against laws regulating investment or public utility companies.

We feel that the adoption of the provisions above referred to would be a dangerous departure from the previous position and would place Canadian citizens in jeopardy for offences which would be expensive and difficult to defend in a foreign jurisdiction. We would respectfully suggest that these three items, namely, 26, 31 and 32, of article III be deleted, and in respect of the sale of securities would recommend that if there are any real abuses requiring correction, that the Canadian law be altered to give American citizens adequate protection with respect to the sale of securities from Canada, rather than place Canadian citizens at the mercy of foreign laws.

Yours very truly,
(signed) F. D. TOLCHARD,
General Manager.

I would ask Mr. Read if he would be good enough to arrange to have the committee supplied with the originals of these letters.

The CHAIRMAN: As you have read these letters they will be in our record, and therefore I do not think there will be any necessity for Mr. Read to produce the originals.

The WITNESS: Mr. Chairman and gentlemen, on behalf of my clients, both the Ontario Security Dealers Association and the Toronto board of trade, I want to submit the proposition which I shall state very briefly. In the first place, that the treaty represents an extremely dangerous extension of the grounds of

extradition; and secondly, because of that extension, if the treaty and protocol are ratified in their present form, it would effectively and almost completely slow up the flow of American capital, venture capital, into Canada.

Now, dealing first of all with my original proposition; extradition in the past, as has been said in this committee before, and as the members well know, has been confined to crimes; crimes legally and morally regarded as such throughout the world; crimes which offend against the common conscience of mankind. And now, what does this treaty do? Instead of extradition being reserved for matters that may be regarded as crimes, under items 26, 31, 32 and 33 of the treaty were brought in the operation of the Securities Acts of 46 states and of the federal authority; and not only under the Acts, but under the regulations made by government appointed bodies, not elected bodies, by government appointed commissions. I have here the Acts and regulations of more than 40 of these states and if they would be of any assistance to the committee, I would be glad to file them. I have gone through them. They differ widely, but there is one general pattern; the Acts require registration of a security issue, registration of the broker who deals in the issue, registration of the salesman who sells the security; and in all of these Acts failure to register is ipso facto fraudulent. If you do not register, automatically you are committing a fraud. Fraud within the meaning of the Security Act does not mean common law fraud. It does not mean deception, misrepresentation; it means you have not registered—the cease desist orders issued by the various states against Canadians are based entirely on that one thing. They do not say you have to commit a fraud in the ordinary sense of the term. All they say is, your security is not registered here, therefore its sale in this country is fraudulent.

I want to quote a brief section from the New York State Law, which incidentally is one of the most conservative pieces of legislation. The New York State Act provides that failure to file a registration statement shall constitute prima facie evidence that the sale or the offering for sale of such corporation constitutes a fraudulent practice within the meaning of this Act. And, fraudulent practices are subject to prosecution as indictable offences, and are also extraditable.

As Mr. Slaght quoted some of the provisions of the Michigan Securities Act, the original blue sky law which has been the pattern for a great many of the State Security Acts. There is the law and list of offences, a very long list. One or two of them Mr. Slaght did not quote; disobeying in any way orders made by the Michigan securities commission—that is an offence under the Act, punishable, indictable, extraditable, if this treaty goes through. Use of advertising matter in connection with a sale of any security which advertising has not been approved by the Michigan securities commission. Any practice which in the judgment of the commission is not explicitly outlined in this Act tending to defraud the public.

Similar provisions occur in every one either of the Acts or regulations of the various states. I might refer briefly to the Alabama Act. You can go through them all there if you wish to, I was going to say from A to Z, and I will say from A to W anyway, and you will get the same result. Section 5406 of the Alabama Code, violation of the Alabama Securities Act, the penalty is: "Any person who wilfully does, or aids or advises in doing any act prohibited or made unlawful by the provisions of sections 9882, 9883, and 9886 of article 12 of chapter 335 of this code, shall be guilty of a felony, and upon conviction thereof in any court of competent jurisdiction, must be imprisoned in the penitentiary for not less than one nor more than seven years."

Now let me turn back to the three articles that are quoted, sections 9882, 9883 and 9886. 9882 is simply the registration clause. "No security, not exempted under any of the provisions of section 9879 of this article, unless sold in one of the transactions exempt under the provisions of section 9880 of this

article, shall be sold either directly or indirectly to any person within the state of Alabama, unless and until said security shall have been admitted to record and recorded in the Register of Qualified Securities, as hereinafter provided." Failure to register carries with it a penalty of not less than one year in the penitentiary.

Section 9883 reads as follows: "It shall be unlawful hereafter: (1) To advertise in this state, through or by means of any prospectus, circular, price list, letter, order blank, newspaper, periodical or otherwise; or (2) To circulate or publish any newspaper, periodical or either written or printed matter in which any advertisement in this section specified shall appear; or (3) To circulate any prospectus, price list, order blanks or other matters for the purpose of inducing or securing any subscription to or sale of any security or securities, not exempted under any of these provisions of sections 9878-9879 or this article; and not sold or to be sold in one of the transactions exempted under the provisions of section 9880 of this article; unless and until the requirements of section 9882 of this article have been fully complied with and such advertising matter has been filed with and approved by the president of the commission." For a breach of that provision there shall be a minimum penalty of not less than one year in the penitentiary. I can assure the committee that the provisions of the Securities Acts of more than forty of the states are in similar terms. The requirements with respect to registration may differ, but the pattern is pretty much the same. If you do not register, you are committing a fraud, and there is no attempt to limit the offences under the Act to the common law sense of the term. It is a failure to comply with the regulations.

One point I should like to mention to the committee is this: extradition in the United States is regarded much more lightly than it is regarded in Canada and in other countries throughout the world. In the United States extradition is regarded as an inter-state matter. As you know, in the United States, the criminal law is a matter for each state. There is no federal criminal law apart from certain acts which Congress have made crimes. The basic criminal law in the United States is the state criminal law. Suppose a man commits a crime in Maryland and then flees across the border into an adjoining state. Extradition procedure to be followed in that case would be practically automatic. It has to be that way where you have forty-eight separate states. We would never think of extradition here in Canada as between Ontario and Quebec or between New Brunswick and Nova Scotia, but that is the way it works across the line. So our American friends cannot understand why we make so much fuss about extradition.

By Mr. Low:

Q. Does that mean that the government of the United States does not request extradition from Canada in very many instances?—A. Either Mr. Sedgwick or Mr. Slaght can answer that question better than I. I do believe that extradition proceedings between the United States and Canada are relatively rare.

Mr. SLAGHT: I will answer the question.

Mr. SEDGWICK: In many cases, instead of extradition proceedings being instituted, our emigration authorities generally deport the person. That is why extradition cases are rare.

Mr. SLAGHT: The procedure is this: Supposing a man in Alabama wants to lay a charge against a Canadian. He first goes to the prosecuting attorney in Alabama and a charge is laid before a magistrate, or an information is sworn out. The state authorities send that most frequently to Washington, and

Washington communicates with Ottawa, and Ottawa communicates with the particular city, be it Winnipeg or Montreal or the authorities here. That, as a rule, is the way it is brought about.

Mr. COLDWELL: Are there ever instances where the state itself approaches Canada?

By Mr. Hackett:

Q. The state does it first in order to ensure the man's arrest?

Mr. SLAGHT: Yes. You should bear in mind that the prosecuting attorney and the magistrate and judges in the United States are elected officers and not appointed.

The WITNESS: As I say, extradition is regarded lightly by most American authorities because the Americans are accustomed to an automatic interchange of fugitive criminals as between the states. I submit that we in Canada cannot lightly regard the matter of extradition. This treaty and protocol, if ratified under their present form, will expose our citizens and residents to extradition for trivial offences and will put them in jeopardy in a foreign court where they are not known and where they do not know the attorneys, in short, where they are at a complete and total disadvantage as against trial in their own country. Now the question may be asked: Would the United States authorities abuse the powers that might be given to them under this treaty and protocol? The statement has been made to me: Surely the American authorities can be relied upon not to abuse the process that is given.

Mr. Chairman, there are two or three instances I should like to mention to the committee, but I would appreciate it if it were not in the official record or in the press.

At this point discussion took place off the record.

If this treaty and protocol become law in their present form, if they are ratified in their present form, no reputable business man or engineer or professional man would dare to act as a director or an officer of a mining company that was in the promotional or developmental stage, because it would be too risky. In that connection I would like to read again the provisions of article 33: "Extradition shall also take place for participation or conspiracy in any of the crimes or offences before mentioned or in any attempt to commit any of the crimes or offences." The interpretation placed on "participation" by our friends is a very broad interpretation, indeed. To give you one instance, to show the attitude of Canadian business men, their necessary attitude, if this treaty were to go through, I would cite the case of a United States investor who has had holdings in Canadian mining stocks and has been eminently successful in his investments in Canada. This man sent an order to a member of the Toronto Stock Exchange, instructing that member of the Toronto Stock Exchange, to purchase such and such shares for him. The brokerage firm in Toronto wrote back to the United States investor and said that they regretted very much, but they preferred, in view of the present situation of the law, not to execute any orders originating in the United States. This brokerage firm had received a letter from a United States source instructing them to make a purchase, and the firm did not feel that it dared to do so.

I should like to pass on to the cutting-off of the flow of United States capital into Canada, and to the importance of mining in our Canadian economy. It has been stated by a member of your committee who is well versed in mining that one man employed directly in the mining industry of Canada gives employment to twelve men employed in other industries. I have no statistics to back up that statement, but Colonel Cockeram can perhaps give them to you. But just consider this: the dollars spent in direct mining development in Canada go directly into labour, fuel, food, lumber, plant, machinery, and equipment.

That money goes directly through the entire fabric of our economy. I would venture to say that during the war years and in the years preceding the war there was no single industry, with the possible exception of agriculture, that played such an important part in the Canadian economy as did mining. It goes through the length and breadth of the country into every phase of the economic life of the nation. Now, I have it on good authority that there are in Canada today some sixty new mines in which the ore bodies have been proven by various methods. These mines are awaiting the availability of labour and supplies to bring them into production. I am not speaking about existing producers but about these new mines. It is estimated that these new mines will give employment to 20,000 people. If Colonel Cockeram's figures are correct, if 20,000 are employed in new mines in Canada, that will give employment, or help to assist with employment for one quarter of a million people in other industries. There is no doubt that since Cobalt days United States capital has played a very important part in the development of Canadian mines. I believe that, with the possible exception of Hollinger, nearly every one of our greatest mines has been financed wholly or substantially from the United States. The attractive mining belt that is being opened up in northwestern Quebec, which promises to be one of the greatest mining areas in the world, would not have reached its present state of development without American capital going in there. Noranda would have gone begging without it. Noranda was directly financed from United States sources. You can say the same about International Nickel and Dome, Lake Shore and many others that Mr. Slaght has mentioned.

Can we carry on mining development at the rate it has been carried on over the past twenty-five or thirty years, if we shut off the flow of venture capital funds that we have been receiving from the United States? It is not a one-way street, gentlemen. American investors are not making donations. I would like to read one paragraph from a statement made by the chairman of the Securities and Exchange Commission at a conference of the United States commissioners which was held in Chicago last week. He said:—

> Vast amounts of risk or venture funds are available in the United States for investment, Garson Purcell, chairman of the S.E.C., told the gathering. Big businesses are already adequately financed for reconversion, and only if a very high level of national income is achieved will any significant amount of new issues be required to take care of additional capital needs and working capital, he said. He alluded to the great demand abroad for American capital, and to the supply of money that would not be needed by industries in his country. "Without a substantial and sustained export of capital," he asserted, "it would seem clear that in the near future we could not expect to enjoy for any extended period a volume of merchandise exports anywhere approaching the level which ordinarily would accompany the high gross national production we are hoping for in the post-war period." He warned that the problems of protecting United States investors and of obtaining full disclosure would be more difficult regarding foreign securities than domestic.

By Mr. Jackman:

Q. You mentioned Noranda. Was that stock listed on the New York stock exchange at one time?—A. It was, and it was withdrawn from listing by the officials of Noranda because they were unwilling to go through the persistent and recurring headaches of filing registration statements and additional material with the Securities and Exchange Commission.

By Mr. Adamson:

Q. Have you any idea of what it costs them to withdraw from the New York Stock Exchange?—A. I have nothing on that.

Q. It was around $29,000 to delist the stock.—A. Now, gentlemen, the question has been asked, and quite properly, and Mr. Sedgewick has answered it substantially, "Why can we not comply with the United States laws? Why can we not register there?" I have one or two bits of information that I might add to what Mr. Sedgewick has already said. First of all I want to read a letter dated the 30th of August, 1945, from the Securities Commissioner of the State of New Mexico addressed to the Ontario Security Dealers Association. It reads:—

> We have your letter of the 27th instant requesting particulars as to the cost of registration in this state. Please be advised that for good and sufficient reasons we do not care to have registered for sale in New Mexico Canadian Gold Mining Stocks. In the event that such offerings should be made it would be a requirement that such shares be registered with the S.E.C. at Washington, D.C., first.
>
> Yours very truly,
>
> R. W. HEFLIN,
>
> *Securities Commissioner.*

Most of the state authorities are not so frank. The more usual procedure is just to keep you out on the end of a limb until you get tired and drop off.

I have here a letter from the office of the Secretary of State of the State of Illinois. After outlining the requirements for registration he puts in this paragraph that I think is quite enlightening.

> You will note the mechanical difficulties which are encountered in respect of procedures relating to Class "D" securities.

Incidentally any company not actually in production is regarded as being in the Class "D" section of their securities law.

> The independent certification of financial statements, including a balance sheet of a date not more than sixty days prior to the date of submission of application for qualification; the requirement that the application statement be executed in Illinois by at least one of the signatory parties; the consent to service of process within the jurisdiction of the State of Illinois, and the escrow of any securities previously issued in exchange for intangible values, including the escrow of proceeds of sale in connection with a promotional venture, would, in most cases, be insurmountable in the case of an offering of a mines and minerals venture located in Canada.
>
> Under the circumstance, I can offer little or no encouragement to the thought that Canadian mining ventures, particularly those of the undeveloped or promotional type, might be eligible for offering or sale in the State of Illinois.
>
> I may add, in direct response to your inquiries, that under any circumstances which appear to be favourable to a qualification in Illinois, the procurement of assistance from attorneys experienced in practice before the Securities Department in Illinois would, no doubt, be helpful.

I should like to mention one other matter. Some years ago an outstanding group of Canadian business men had in contemplation the formation of a mining investment trust. They had an underwriting of a large amount of the securities of the proposed trust from a New York stock exchange member house. The underwriting was conditional upon the registration with the Securities and Exchange Commission and with the securities authorities of thirteen designated states. The registration with the S.E.C. was obtained without too much diffi-

culty and then they started to work on the states. At the end of some fourteen months they had effected registration in four of the thirteen states. They had spent $23,000 which was contributed by the directors personally. They called it a day and quit.

I can give you another instance of a company financed completely from United States sources. They decided to register in the United States. Registration again was effected with the S.E.C. without too much trouble. Then they undertook to register in the one particular state where the principals in this company resided. They retained one of the most outstanding legal firms in practice in that state to sponsor their application with the state securities commission. For eight months they could not get any action and finally they instructed the attorneys either to kill it or cure it. In response to that ultimatum the state securities commission sent a telegram that was at least as long as some of those Mr. Sedgewick read this morning. The telegram was received about three o'clock Monday afternoon and it said in effect:—

> Formal hearing of your application will be held before the state securities commission to-morrow the thirteenth instant at 2 o'clock in the afternoon. At this hearing you are required to present for oral examination all directors, officers, attorneys, auditors and engineers of your company and of your predecessor company and of the predecessor's predecessor company. You are required to produce all minute books, books of account, engineers' reports, assay returns, diamond drilling data,

and so forth and so forth. Gentlemen, if that wire had been possible of compliance it would have taken nearly a railway car to transport the individuals who were required to attend and a box car to transport the documents. These documents were the accumulation over a matter of about fifteen years, and the people who had been interested in the predecessor company, and the predecessor of the predecessors company, were scattered here, there and everywhere. That wire was received on Monday afternoon for a hearing to be held the following day. The individuals concerned, without complying with the wire, went before the commission. They were told that they were not using the right lawyers. They did not register in that state at the time although subsequently enough fuss was occasioned so that registration was effected later on.

Mr. Chairman and gentlemen, in conclusion I want to say that the broad grounds upon which we base our objection to the treaty and the protocol are first of all the extremely dangerous extension of the crimes or offenses for which extradition can be granted, and in the second place we are asked in the treaty and the protocol to effect a major change in the entire economy of the nation. I submit, Mr. Chairman, that such a change should not be undertaken lightly. Thank you.

By Mr. Jackman:

Q. May I ask you a question? Occasionally I see in the newspapers advertisements of offerings of rights by Canadian companies but it specifically excludes American shareholders. Why is that?—A. Solely to save or endeavour to save the officers and directors of that company from indictment or prosecution in the United States.

Q. And it works an injustice against the American shareholder?—A. The S.E.C. takes the position that any offering of securities, whether an offering of rights or otherwise, cannot be made to residents of the United States without registration, and if the securities in question were not previously registered with the S.E.C. the offering of rights would be a contravention of the Securities Act.

By Mr. Adamson:

Q. Do you mean to say that American shareholders of Giant Yellowknife at the present time are deprived from taking up their rights?—A. If they come here or send up here to exercise their rights they would certainly be permitted to buy shares as far as the Giant Yellowknife Company is concerned, but the company has to be scrupulously careful not to send into the United States any invitation to the shareholders to exercise those rights.

Q. Can they inform their shareholders that rights will be offered.—A. With a degree of risk.

By Mr. Boucher:

Q. It is not the case that certain companies offer these rights only to Canadian holders in order to protect themselves from that very law?—A. There is no doubt that a Canadian company having a number of American shareholders—this is a relatively small proportion—if it sends notice of these rights to its American shareholders would be infringing the Securities Act of the United States and probably also of the individual state where the shareholders reside.

By Mr. Coldwell:

Q. I was going to ask you how many states have legislation of this type?—A. All but two, Delaware and Nevada.

Q. Does that not indicate pretty thoroughly that the American people are in favour of this type of security control and that they feel the people of the United States require the protection which is now being given? We have heard a terrific indictment of this security control but the thing that struck me throughout was that this control must rest upon the will of the American people. It seems to me there must be some condition underlying all this which makes the people of the United States support this type of security control enacted by the various states and by the federal authorities. There must be something wrong with what is being done in Canada to bring about such antagonism as there seems to be against Canadian securities of this type.—A. I would say this, Mr. Coldwell, that the blue sky laws of the United States, if I recall correctly, were first passed starting about 1918 or 1919 and they related not to Canadian securities but domestic investment. As Mr. Sedgewick has shown these blue sky laws—and I think this applies as much to the state laws as it does to the federal law—have effectively cut off investment of what Governor Stassen of Minnesota referred to as venture capital.

By Mr. Hackett:

Q. But they were not enacted primarily to preclude investment in ventures of this kind?—A. No.

Q. They were to preclude investment in another field entirely.—A. Yes, and also as has been pointed out securities cover all classes of securities. You could not sell a Dominion of Canada bond in the United States or a bond of any of the provinces without complying with all the registration requirements.

Mr. COLDWELL: I can see the necessity for protecting our own citizens against injustices under a treaty but on the other hand we have had such a discussion of this type of security that it struck me, resting as it does on the will of the American people, that there must be a very good reason for it.

Mr. ADAMSON: Would it not be correct to say that the Securities Exchange Commission and all these blue sky laws came into being as a protest against the speculative crash in stock values in 1929 on all exchanges, particularly the New York stock exchange.

Mr. COLDWELL: We were told it began in 1919.

Mr. ADAMSON: The Securities Exchange Commission did not come into being until the depth of the depression.

The WITNESS: Federal law yes, but the state laws, no. The federal laws were the direct result of the stock market crash of 1929, but the state laws had been built up over the period of ten years preceding.

Mr. ADAMSON: I do not think it is perfectly justifiable to say that this type of law has the wholehearted support of the American people because we must remember that they enacted a law called the Volstead Act on a wave of almost hysteria, and had a great deal of difficulty in getting rid of it.

The WITNESS: You are perfectly right. I have seen a great many letters from American residents who are holders of Canadian securities protesting against the restrictions under which they are placed by their own securities laws.

Mr. HACKETT: There were abuses in stock promotion in the United States as there were in Canada, and action was taken to preclude that, but the complaint, as I understand it, is that a general rule is made to apply to a particular type of investment which of its nature is uncertain and speculative. The ordinary rule which applies to a different kind of venture is prohibited here and the characteristics of criminality are attached to the contravention which seems unreasonable under the circumstances.

Mr. MARQUIS: Many poor people lost money in 1929 around where I live. They lost a lot of money. I think that the conduct of some salesmen was not very good. Do you not think it would be better to recommend that the provinces adopt legislation such as that to protect the people?

Mr. MARIER: There is now.

Mr. HACKETT: We have that type of legislation in all provinces.

Mr. MARQUIS: If you have that type of legislation would it not be the same thing for the country to consider it as a crime, and if it is a crime in Canada it will be a crime in the United States and there will be dual criminality, as you say.

Mr. FLEMING: The provinces cannot create crimes. They can create penal offences. They can attach the penalty of imprisonment or a fine to a breach of provincial law but they cannot create crimes.

Mr. MARQUIS: If we enact legislation to make crimes of these offences we would be on the same level.

Mr. MARIER: We are already.

By Mr. Boucher:

Q. Is it not a fact that the difference between the United States and Canada is largely due to a difference in the desire and necessity for venture capital, and that the American law is framed on the grounds they do not need venture capital in the United States while we need it in Canada?—A. That is true. You have in the United States a great reservoir of capital pressing for investment. On the other hand we have enormous undeveloped natural resources, and those resources cannot be developed without the investment of venture capital.

The CHAIRMAN: In his statement Mr. Salter said that he had copies of the Acts for registration of securities issued in 40 states, and he offered them to us. I do not know whether we are to keep them or if he has some extra ones.

The WITNESS: I will be glad to file them if they will be of any help.

The CHAIRMAN: I think they would be of some help to us if we have them for reference purposes. No doubt you have done a lot of work to gather them up, and if the committee agrees we can use them here.

Mr. ADAMSON: I so move.

Mr. FLEMING: Yesterday Mr. Slaght said he was going to furnish a list of references to all security laws in the various states.

Mr. SLAGHT: No, I was going to furnish references to our nine provinces. I am sorry I have not got it here. I will file it this afternoon, or before your committee really goes into conference on it, if I may.

Mr. COLDWELL: Have you the amendments?

Mr. SLAGHT: Yes, I have the amendments.

The CHAIRMAN: If you will allow me to interrupt, Mr. Slaght, the next speaker on our list is Mr. John H. Roberts who has to go away this afternoon, but I believe it would be in order to have Mr. Slaght go over these amendments if Mr. Roberts has no objection.

Mr. ARTHUR SLAGHT, K.C., *recalled.*

The WITNESS: Before I give you this I would like to have them distributed, if I may. Before I refer to them may I call your attention to the letter from the Ontario Attorney General which Mr. Read has been kind enough to bring, and a copy of which has been furnished to each member of the committee. This is a letter in 1942 from the Attorney General to the Minister of Justice. I should like to call your attention to two little paragraphs on the second page of it. He says:—

> Section 32, however, presents a different problem. Not only is there no offence in our criminal law which is described by this section but I doubt that the dominion has the constitutional power to enact criminal legislation which would cover subsections (b) and (c) of that section.

Then, in another paragraph of the Attorney General's letter he says:

> I am quite sure that it was not the intention of the dominion authorities that these provincial offences be made extraditable, and if it were so intended it appears that the dominion authorities would have no power to enter into such an arrangement or to make it effective without provincial legislation.

So there is a record from a province throwing doubt on the constitutionality of the treaty that you were asked to affirm.

Now, may I just give another item of information. I think it was Mr. Hackett who asked if we had any figures on the United States capital invested in Canada. You will find in the Canada Year Book for 1941 this statement, I will put it in the record:

> In 1937, the latest year for which an estimate was made British and foreign capital invested in Canada amounted to $6,765,000,000 of which $3,932,400,000 was invested by residents of the United States, $2,684,800,000 by residents of the United Kingdom and $147,800,000 by residents of other countries.

That answers that, and you will see that nearly four billion dollars at that time was invested; and, of course, that was back in 1937 and I fancy that war industries have brought considerably more in.

Mr. HACKETT: My question was directed more particularly to mining.

The WITNESS: I am sorry I cannot give you the mining figures by themselves, other than for possibly eight or nine companies. I have not been able to go any further than that.

If you would like me to, Mr. Chairman, to touch on these amendments which I placed before the meeting just now; let me say that they are only an effort to be helpful in the event that you decide it is a desirable thing to amend the provisions which now for the first time do away with the necessity of the offence being a crime in both countries. In other words, these amend-

ments would comprise, so to speak, which I feel (I only speak individually) might safeguard our Canadian citizens, which is our aim, and yet make it possible—as some of the members have suggested should be made possible—that if a United States citizen commits an offence with securities in his own country and takes refuge in Canada we want to make it possible to surrender him at once and let him go back to be tried in his own country. I do not think I need to run through these unless you wish me to. I could indicate them if you ilke. I will put it this way, this is entirely a matter for the committee;

Re EXTRADITION TREATY

SUBMISSIONS SUMMARIZED

(Presented by Mr. A. G. Slaght, K.C.)

We beg to submit with great respect the following changes which it is suggested your committee will find it desirable to recommend in their report to the House of Commons.

1. Items 26, 31 and 32 of article III of the treaty be not approved unless the following amendments and changes are made with respect to the following provisions of the treaty and protocol.

2. Article IX of treaty and ss (*b*) Clause 1 of protocol.

3. That article IX of the treaty be amended by adding the following clause to article IX:

After the word "Country" there shall be inserted a comma, and the following words shall be added:

> but the provision last above contained that it shall not be essential to establish that the crime or offence would be a crime or offence under the laws of the requested country shall not apply to a person domiciled in the demanded country and such person shall not be extradited unless the charge is a crime or offence in his own country.

4. That ss(*b*) Clause 1 of the protocol be amended by adding at the end of ss(*b*), paragraph 1 of the protocol a similar clause to read as follows:—

> There shall be inserted a comma after the word "country", and there shall be added the following words:
>
> > but the provisions of this sub-clause (*b*) shall not apply to a person domiciled in the requested country and such person so domiciled in the requested country shall not be extradited unless the charge is a crime or offence against the laws of his own country.

5. Clause 1 of Protocol

That Clause 1 of the protocol be amended by deleting the words:—

> dealing in securities in the requested country in the ordinary course of business and in compliance with the laws of the requested

so that as amended it would read:—

> 1. No person shall be subject to extradition in respect of any matter involving an offence under items 26, 31 or 32 of article 3 of the treaty, unless the offence involves
>
> (*a*) fraud, as defined by the criminal laws of both countries, or
>
> (*b*) wilful and knowing violation of the laws of the requesting country.

6. Ss(*a*) of Clause 1 of the Protocol

That ss(*a*) of clause 1 of the protocol be amended by adding before the word "laws" the word "criminal", so that as amended sub-clause (*a*) would read as follows:—

> (*a*) Fraud as defined by the "criminal" laws of both countries.

7. Article XI Second Sentence

That second sentence of Article XI of the treaty which reads as follows be struck out and deleted from the treaty:—

> During the period of provisional arrest of a person, whether pursuant to a formal request or otherwise, for the purpose of extradition hereunder, the legal officers of the requested country shall oppose the release on bail of such accused or convicted person, except in cases in which the denial of bail would, in their opinion, cause injustice.

8. Article XII

That Article XII of the treaty be struck out and deleted and that the following provision be substituted so that as amended Article XII should read as follows:—

> Everything found in the possession of the fugitive at the time of his arrest which may be material as evidence in making proof of the crime, may be delivered up with the fugitive on his surrender, subject to all rights of third parties with regard thereto.

9. General

That there should be submitted to the provinces for consideration at the dominion-provincial conference the treaty-protocol and the above proposed changes therein.

10. That the question of the constitutionality of the proposed treaty and protocol should be forthwith submitted by reference to the Supreme Court of Canada and that the provinces should be afforded an opportunity of being represented before the court of such reference.

All of which is respectfully submitted.

November 23, 1945.

I thank you.

The CHAIRMAN: Thank you, Mr. Slaght.

Mr. BOUCHER: I understand these are just your suggestions before this committee, they are not a request from your clients?

The WITNESS: My clients—I prepared it, in that the language there used is mine. It is along the lines that my clients have instructed me generally. There may be frailties in it. I did not want to come here and tear things down without suggesting something as to what we think might be a remedy, and that remedy takes the form of these suggested amendments, if you want to adopt them.

The CHAIRMAN: I will now call upon Mr. J. H. Roberts, editor of the *Canadian Mining Recorder.*

Mr. J. H. ROBERTS, editor of *Canadian Mining Recorder,* Toronto, Ontario, *called:*

The WITNESS: Mr. Chairman and gentlemen, as an editor of a mining newspaper published every week, dealing principally in the advertising of promotional and mining stocks, and with quite a large number of subscribers to that paper residing in the United States, naturally I hear a great deal of these matters from my subscribers. I have had many letters from them regarding the treaty, regarding the S.E.C., regarding various state security commissions and their laws. A number of them have come to Toronto and called upon me in my office. Many of them go up to our mines. Some times I facilitate the arrangements for them, to help them visit our mining communities. I have not yet received one letter favouring the S.E.C. or any of these state security commissions. The American people who write to me and see me and talk with me about these matters take the viewpoint that they have the right to spend their money and invest their money where they like, in

what they like and for what they like; and they regard the activities of the security commission largely as interference with their own basic rights. I had one gentleman a few weeks ago come from Michigan who is quite a heavy investor. He said to me that any time there was a good new offering put before the people he would be willing to buy 50,000 or 100,000 shares if it was a good gamble; so they are no mean people. A Toronto evening paper about that time was carrying on a campaign against stockateers, and incidentally the Michigan security commission had been mentioned, and this gentleman resides in Michigan; he said, I did not know that we had a security commission in Michigan until I read it in the Toronto *Star;* they never take any action there that we are aware of; the only activity they seem to engage in is in objecting to our people purchasing Canadian securities.

And now, I contend—and I am speaking from experience in saying this—that the present demand which has been inspired in the United States—Canada not having asked originally for this extradition treaty—the present demand is merely an effort to enlarge the extra-territoriality which the United States through these commissions is already exercising.

Two years ago I received in the mail—in the mail, mark you; in the registered mail—a subpoena from the state of New Jersey, from the attorney general, ordering me to appear in the capital of that state to give reasons why I should not be enjoined from doing business in the state of New Jersey. And now, my first impulse was entirely to ignore the subpoena on the ground that the right of the state of New Jersey did not run outside of the boundaries of that state, and certainly not outside of the boundaries of the United States, that there had been no proper service and therefore there was no compulsion upon me to appear. My lawyer prevailed upon me to be represented by counsel at the hearing. I felt too that there was another principle involved, namely, the freedom of the press. Mark you, I am not engaged in the selling of stock. I do not sell mining stock either over or under the counter, either openly or secretly. I am merely the publisher of a newspaper. So I felt that the freedom of the press was involved and that I should be represented.

They secured an injunction forbidding me to do business in the state of New Jersey. That is to say, they forbade me to circulate my newspaper there. We appealed the case but again we lost. Now the proceedings were very expensive, as you will know. I am enjoined at the present time from doing business in the State of New Jersey. That is not everything. Quite accidentally I discovered, a matter of five or six months ago, that I was the victim of a secret indictment, and that I was charged along with the head of one of the most reputable brokerage firms in the city of Toronto, with conspiring with him and others, whose names I would prefer not to give. The only thing I had done in that case was, when those firms sent me a number of addressed newspaper wrappers, all I did was to mail copies of my paper which contained a report of the property that the brokerage firm was then dealing with, a mine that is very near to production and would have been in production long ago but for the war and the lack of machinery and lack of labour. I am secretly indicted in the United States at the present time on a charge of conspiracy when all that I have done has been what any other newspaper man would do, every newspaper publisher.

Now I point out to you that that is the kind of extra-territoriality that is being practised to-day in the United States against Canada. If I believed for one moment that the people who advertise in the columns of my paper, the *Canadian Mining Reporter,* were infringing the laws of the United States, and that it was really a crime for them to sell to Americans any of the mining stocks which are advertised in the columns of my paper, I would feel myself in duty bound not to accept any subscriptions from people in the United States. But

I have adopted the viewpoint that: selling to people in the United States is not selling in the United States. There is a marked difference. For example, yesterday I bought by chance a copy of *Collier's* magazine. In that magazine I found, probably, a dozen liquor advertisements. The paper has a wide circulation here in Canada. I put this case before you as a simple man with a non-legal mind. Here I find "Old Granddad Kentucky Straight Bourbon Whisky" advertised. Suppose I wrote to those people in the States and sent them a money order and asked them to send me a case of "Old Granddad Kentucky Straight Bourbon Whisky." God forbid, I do not use it. Suppose those people sent that whisky up here and I picked it up at the customs here in Toronto and paid the duty and took it home. What would have happened. They would have sold it to me in the United States. If it were held that they had sold it to me in Canada, they would thus have sold it to me without first obtaining a licence. I believe that case is on all fours with this case. I believe that when the promoter or the brokerage firm here gets an order from the United States, he does not send the certificates out until the cheque or remittance is cleared and the whole transaction is completed in Canada, not in the United States. Because I believe that and have found nothing that would prevent any change of view on my part, I will continue to accept such advertising and I shall believe, that as a Canadian citizen, I have a perfect right to do so.

There are two things, very briefly, that I would like to say. First I want to register my objection, not as a newspaper man, not as one interested in the mining industry, but simply as a plain, common, every day citizen of Canada. I object to the government of Canada enacting legislation that will compel me to obey the laws of a foreign country even though I may never enter that foreign country. I think that should go on record as coming from not only one but from many people. We are Canadians. We are not Americans. We are not subject to Washington or to any state authority. If we obey the laws of Canada as laid down for us, then we have done our duty. If we break those laws, then we should be punished. But to compel us to obey the laws of a foreign country is a contravention of our basic rights as Canadians and I protest against it in the most emphatic way possible.

I think there is a better way than is being proceeded with under the extradition treaty. I do not know how far you gentlemen of the House or Houses are aware of what is being done in this country, particularly, in the province of Ontario, to protect the interest of the investing public. This will apply more in the future than to-day because lately Mr. Justice McTague has become chairman of the Ontario Securities Commission, and in every way the operations and regulations of that body have been strengthened and extended. But even in the past, apart from that, it happened that before any salesman could sell stock he was first investigated. His conduct was scrutinized and his record investigated. His financial position was made known and proved to be satisfactory. He had to furnish references from bankers and others. In fact it was exceedingly difficult for a stock salesman to get registered, especially if there were any black marks against him. Then the whole financial set up of the issue he wishes to sell is studied from every angle, from the angle of engineer's report, geological reports, titles. Everything is done by the Securities Commission of Ontario to see that, before an issue is allowed to be sold under the approval of the Ontario Securities Commission, everything is done to protect the interests of the investor. I have criticized the Ontario Securities Commission upon occasion and I shall probably do so again, should I find it necessary. Newspaper men like to do those kind of things sometimes. I should like to say that I am filled with admiration for the thorough, systematic way in which the Ontario Securities Commission does conduct their investigations for approving issues. But this is what might have been done to make the registration say, by Ontario reciprocal in the United

States. If our security commission here in Ontario has gone to an extraordinary amount of trouble first of all to find out if there is a mine, and then to find out if the conditions obtaining in regard to the investment are proper and correct, then let the state of Michigan accept such findings. On the other hand, if Michigan has something that it wants to have sold here in Canada, then let our commission here in Ontario, or in the other provinces, accept that and make it reciprocal.

It might easily be that in each of the states the mining company here or its underwriters would have to follow a prescribed form and appoint a representative who could be served in the States, but surely that would be the part of statesmanship and not the evident intention of a number of officials to secure registration, and I am afraid, at prohibitive fees for their own security commission. I believe that if that were done it would be helpful to the investor and helpful to the mining industry. I know that the question has been raised here as to how much money is invested in the mines of Canada by American people. I would say that the average American investor will invest more than twice as much in Canadian mines as the Canadian investor would. I would say that the great bulk of our money will come from the American investors in Canadian mines.

Now, there is one other thing to be said briefly. It is not a one-way street. One of the security commissions in the United States recently stated, and it appeared in our public press, that in the month of June, $43,000,000 had been invested by Americans in Canadian securities. That statement appeared after giving a list of a number of offenders against their security laws. The implication was that $43,000,000 had been invested in June in mining securities in Canada. It is not so. As I said, it is a two-way business. The exact amount was $20,000,000. That is the amount. In the eight months ending August 31, the people of the United States bought $195,000,000 worth of Canadian securities, most of which were dominion, provincial and municipal bonds. In the month of August last the people of Canada, approximately, invested $2 in American securities per capita while the people of the United States, per capita, invested 33 cents.

I hope that what I have said may help in the discussion and that we will succeed in preventing this noxious clause being approved.

The CHAIRMAN: Thank you, Mr. Roberts. It is now ten minutes to one and I believe that the members of the committee here present would be satisfied to adjourn.

Mr. LEGER: I move we adjourn.

The CHAIRMAN: Yes, and before we adjourn I would like our steering committee, and I ask Mr. Low, Mr. Marier, Mr. Jaenicke and Mr. Adamson, to stay for a moment. I want you to remember that we intend and we expect to sit next Monday at 10 o'clock. I would like to thank you again for coming here so numerously. From now on I want you to be missionaries so that we can have a quorum when we meet on Monday.

The committee adjourned at 12.50 p.m., to meet again on Monday, November 26, at 10 a.m.

SESSION 1945

HOUSE OF COMMONS

STANDING COMMITTEE

ON

EXTERNAL AFFAIRS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 7

MONDAY, NOVEMBER 26, 1945

WITNESSES:

Honourable Philippe Brais, K.C., counsel for the Montreal Stock Exchange and Curb Market.
Mr. G. P. Dunlop, general manager of the Montreal Stock Exchange.
Mr. Arthur Slaght, K.C., Toronto.
Mrs. Viola MacMillan, president of the Prospectors and Developers Association of Canada, Toronto.
Mr. Sidney Norman, *Globe and Mail*, Toronto.
Mr. Gordon Jones, Chairman, Legislation Committee, Ontario Security Dealers Association, Toronto.
Mr. Arthur Cockshutt, Toronto.
Mr. J. E. Read, K.C., External Affairs Department.

Including Statements of

Honourable R. L. Maitland, K.C., Attorney General, British Columbia.
W. R. McDonald, M.P., (Pontiac).
Walter Little, M.P.

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1945

ERRATA

Meeting of Thursday, November 8, 1945.

Add the name of Mr. Picard to the list of members present.

Meeting of Tuesday, November 20, 1945.

Add the name of Mr. Adamson to the list of members present.

MINUTES OF PROCEEDINGS

Monday, November 26, 1945.
Room 268

The Standing Committee on External Affairs met this day at 10 o'clock. Mr. Bradette, the Chairman, presided.

Members present: Messrs. Beaudry, Boucher, Bradette, Fleming, Fraser, Adamson, Hackett, Isnor, Jaenicke, Leger, MacInnis, Marquis, Tremblay and Dechene—(14).

In attendance:

Mr. George MacMillan,
Mr. W. P. Marchment,
Mr. Gordon Jones,
Mr. G. P. Dunlop, General Manager of the Montreal Stock Exchange,
Mr. H. McD. Paterson, Chairman, Montreal Stock Exchange,
Mr. Hugh R. McCuaig, Chairman, Montreal Curb Market,
Mr. Arthur Cockshutt,
Mr. J. D. Watt,
Mr. W. R. McDonald, M.P., (*Pontiac*),
Mr. A. C. Casselman, M.P.,
Mr. Walter Little, M.P.,
Honourable R. L. Maitland, K.C., Attorney General and Honourable H. A. Anscombe, Minister of Public Works, British Columbia,
Mr. J. E. Read, K.C., External Affairs Department.

Mr. Read tabled for distribution, as promised, copies of correspondence exchanged between the Bell Telephone Company of Canada and the External Affairs Department relating to the Extradition Treaty.

Mr. Hackett, on behalf of Mr. Slaght, tabled a list of statutes and regulations dealing with securities and security fraud prevention in the nine provinces of Canada.

On motion of Mr. Hackett, *Ordered*, that the above-mentioned list be printed as an appendix to today's evidence. (*See Appendix A of this day's minutes of proceedings and evidence*).

Honourable Philippe Brais, K.C., was called and examined.

The witness filed with the Chairman a brief on behalf of Mr. R. C. McMichael and himself. He quoted statistics on stock transactions and filed several informative circulars and market letters.

Mr. G. P. Dunlop supplemented the statistics given by Mr. Brais.

Mr. Brais gave the list of applications for extraditions since 1940 and quoted a telegram from the warden of Sing Sing penitentiary.

The witness retired.

By permission Mr. McDonald, member for Pontiac, read the following telegrams addressed to himself:

1. From Lucien Tourigny, Vice-president of Val D'Or Chamber of Commerce;
2. From the Malartic Chambre de Commerce;
3. From the Mining Committee of Rouyn-Noranda.

Mr. Arthur Slaght was recalled and made a correction in one of his suggested amendments to the Treaty and Protocol (*See minutes of evidence*). Mr. Slaght retired.

Mrs. Viola MacMillan was called. She expressed her opposition to the Treaty and retired.

Mr. Sidney Norman was called and voiced his objections. He read a telegram from Mr. E. E. Johnston of Western Mining Association of Spokane, Washington. Mr. Norman was interrogated and retired.

The Committee adjourned at 12.45 until 4 o'clock this day.

AFTERNOON SESSION

The Committee resumed its consideration of the Extradition Treaty and Protocol thereto.

Members present: Messrs. Beaudry, Benidickson, Boucher, Bradette, Croll, Fleming, Fraser, Adamson, Hackett, Jaques, Jaenicke, Léger, Marquis, Mutch and Tremblay—(15).

In attendance:

In addition to those named at the morning sitting, Mr. Louis Audette, First Secretary, External Affairs Department, Honourable Mr. Garson and Honourable R. L. Maitland, respectively Premier of Manitoba and Attorney General of British Columbia.

The members were informed that the Prime Minister had announced in the House that the Extradition Treaty might be allowed to stand until the next Session.

Honourable R. L. Maitland was called and heard.

After a short discussion on the business of the Committee, Mr. Gordon Jones of the Ontario Security Dealers Association was called. He gave statistics and information relating to prospected mineral lands and mining transactions.

The witness read a letter addressed to himself from T. H. Lewis of Minneapolis, Minnesota.

A new geological map of the Dominion of Canada supplied by Mr. F. C. C. Lynch of the Geological Service of the Department of Mines and Resources proved most helpful.

On motion of Mr. Boucher, *resolved* that the portion of evidence of Mr. Jones respecting certain methods of security registration in the United States as proposed by two lawyers in the course of an interview be referred to the Steering Committee for consideration.

Mr. Jones retired.

By permission, Mr. Walter Little, M.P., was heard in favour of the mining prospectors.

Mr. Arthur Cockshutt was called and examined on the methods of prospecting and the work of prospectors. Mr. Cockshutt retired.

Mr. Read, legal adviser of the External Affairs Department was recalled and stated that he would like to defer his comments. He introduced Mr. Louis Audette, heretofore in command of one of His Majesty's Ships, who will act as liaison officer between the Committee and the Department of External Affairs. Mr. Read retired.

The Chairman tabled the following communications. He read the first one:

1. From Bob Potter of Matheson, Ontario.
2. From René Chênevert, K.C., of Montreal.
3. From The Kirkland Lake Kiwanis Club.
4. From the Vancouver Stock Exchange with a covering letter to Mr. Reid, M.P.
5. From Mrs. Viola MacMillan with a letter to the Minister of Veterans Affairs.
6. From T. A. Sutton of Toronto.
7. From F. E. Woodside, manager of the British Columbia and Yukon Chamber of Mines.
8. From R. F. Parkinson, executive director of the Ontario Mining Association.

Some of these communications were accompanied by briefs.

On motion of Mr. Beaudry, the Committee adjourned to the call of the Chair.

ANTONIO PLOUFFE,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS
November 26, 1945

The Standing Committee on External Affairs met this day at 10.00 o'clock a.m. The Chairman, Mr. Joseph A. Bradette, presided.

The CHAIRMAN: Now that we have a quorum we will proceed. I want to thank the members of the committee for being here on Monday morning. I know it is a problem for most of you so I appreciate it very much. I came from North Bay this morning so I had to hustle. The witnesses are here now. We will have distributed to the members correspondence concerning the application to the Bell Telephone Company of Canada of the treaty for extradition of criminals concluded between Canada and the United States, etc. I would ask the secretary to distribute that to the members.

Mr. HACKETT: Before you go any further, Mr. Chairman, can my motion be put?

The CHAIRMAN: Would you repeat it?

Mr. HACKETT: I move that the list of provincial statutes enacting the security laws now in force in the different provinces be printed as an Appendix to this day's proceedings. I think you will recall that Mr. Slaght undertook to provide that list and he has just now handed it to me for the purpose of having it embodied in the record.

The CHAIRMAN: Will you second that, Mr. Beaudry?

Mr. BEAUDRY: I will.

The CHAIRMAN: Moved by Mr. Hackett, seconded by Mr. Beaudry; all those in favour kindly signify.

(Carried).

Our first witness will be Hon. F. P. Brais. Next we will have Mr. Slaght who will make some brief remarks about his suggested amendments.

Mr. SLAGHT: Just a correction.

The CHAIRMAN: And then Mr. Sidney Norman, Mrs. MacMillan and Mr. Gordon Jones. I will now call on the Hon. F. P. Brais, K.C., Legislative Councillor for the province of Quebec, Canadian, who is representing the Montreal Stock Exchange and Curb Market.

Mr. HACKETT: I know, Mr. Chairman, you are very tolerant of everyone, but this committee has sat almost continuously since last Thursday. I know that many of the members of the committee would rejoice if the hearings could be drawn to an end at 1.00 o'clock.

The CHAIRMAN: I think that the persons coming before this committee feel the same way because some of them have been put to quite a bit of expense and they do not want to prolong the procedure unduly. At the same time if it is impossible to complete our work by 1.00 o'clock I will ask, if it is at all posible, that we meet again at 4.00 o'clock this afternoon so as to complete the hearing of the witnesses.

Hon. F. P. BRAIS, K.C. Counsel for the Montreal Stock Exchange and Curb Market, *called.*

The WITNESS: I am deeply appreciative to you and the members of the committee for having been willing to allow us a hearing and to have given so much time for the consideration of this problem. Now I will get right into the subject matter. Being in agreement with the suggestion of Mr. Hackett I think I can be brief this morning. The territory has been well covered and there are only some points that we wish to add. We have here representing the Montreal Stock Exchange its chairman, Mr. H. M. Paterson, the chairman of the Montreal Curb Market, Mr. H. R. McCuaig, and the general manager of those two exchanges, Mr. G. P. Dunlop.

The CHAIRMAN: I will ask those gentlemen to stand.

The WITNESS: There has been placed in the hands of your chairman a short brief signed by Mr. R. C. McMichael, K.C., of Montreal, as counsel of the Montreal Stock Exchange, and myself on behalf of the two exchanges. There will be copies available.

The basis of our representation is that the Montreal Stock Exchange is composed of a group of business men who have never had to mix with the law in our province. There was at one time a certain number of fraudulent brokers whose activities became more evident when the markets broke. Let it be said here, and it has been said before, that they have all gone to jail. Whenever there has been any dereliction on the part of men who have been endeavouring to defraud the public in the province of Quebec, both through the activities of the Montreal Stock Exchange and through the activities of the Department of the Attorney General that situation has ceased immediately. I do not think there are any complaints that have been formulated by our friends to the south and certainly none by residents of Canada within the last ten years relative to the activities of any brokers in Montreal and in the district served by the clients whom I represent here today. It is our view that the laws of this country are certainly sufficiently rigorous to take care of any individual who is trying to defraud purchasers either here or elsewhere because he would be equally guilty if he endeavored in Canada to defraud customers in the United States.

We had, for example—and my principals recall this—boiler shops, as I think they are called, in Montreal whose business it was to sell stocks fraudulently outside of the province of Quebec, sell into Ontario and sell into the United States. Their operators have all gone to jail. They have all been to jail and I do not think there is any use giving their names because they have served their sentences and have expiated their crimes, but every last one of them has been brought to justice. Every last one of them has been convicted and today that type of business is not carried on. We are rather pleased to state that.

On the other hand the Montreal Stock Exchange and the Montreal Curb Market are carrying on an exceedingly large and legitimate business in so far as Canada is concerned and so far as business ethics are concerned with the United States. We have some statistics here which are available as they have to be sent in to the Dominion Bureau of Statistics, Internal Trade Branch. They have to do with a Montreal Stack Exchange questionnaire. They show purchase and sale of securities between Canada and the United Kingdom, United States and other countries. These statistics are sent in every month. I have here a copy of the report which was made by the Montreal Stock Exchange to the Federal Government for the month of February, 1944. It is a short month. It is interesting to note that provincial issues to the amount of $8,000 were sold in the United States; Canadian issues, municipal, to the amount of $126,000; Canadian outstanding issues guaranteed by the Dominion Government, $105,000,

and Canadian issues, other business corporations, in the amount of $41,000. The grand total of sales in the United States was almost $2 billion including resale of American securities.

By the Chairman:

Q. Is that a typical month?—A. I had it picked out on Sunday. It is February, 1944. I would say it is a typical month. What would you say, Mr. Dunlop?

Mr. DUNLOP: I think business this year—yes, it would be a typical month.

The WITNESS: Business this year would be more?

Mr. DUNLOP: No, I think that is a typical month.

The WITNESS: Let it vary 25 per cent each way. It will give you an idea of the tremendous amount of business which is being carried on from one stock exchange alone in the United States. These Canadian issues are of the highest type of security, government guaranteed and municipal issues, and are sold by the Canadian broker on the United States market. For what purpose is that done? That is in order to take advantage of the purchasing power in the United States. It is in order that we may be able to bring into Canada American dollars which are so badly needed and are still badly needed to take care of our war purchases in the United States. Having that wider market in the United States prices of bonds are higher, interest is lower. Canada in its financing is better able to sell in the United States where the rate of interest is, of course, lower than here.

Why we should preclude ourselves from going to the United States and selling not only our bonds, but also selling in the United States the more speculative forms of investment that we need to develop our industries and develop Canada, and especially to develop our natural resources, is something that we have to ask ourselves? That is a matter that we feel we are bound at this stage to place before this committee because the consequences would be exceedingly important. I know, and I am in agreement with Mr. Read, that these transactions being carried on as they are between brokers and being legitimate and honest, one is not apt to anticipate that the American Securities Commissioners would wish to arrest, for example, the Minister of Finance and the Victory Loan Chairman who sold in the United States Dominion of Canada Victory Loan, yet they were subject to arrest for having sold in the United States Dominion of Canada Victory Loan bonds because our Victory Loan was not registered there. By the same token the Province of Quebec has not seen fit not to register certain provincial bonds in the United States under the S.E.C. If a Canadian broker solicited clients in the United States for the purchase of those bonds he would be subject to the operation not only of the S.E.C. but also would be subject to the operation of all the laws of all the states in the Union.

As soon as this order is passed he would receive all the statutes from the various states of the union, and from that moment on if he saw fit to carry on his ordinary business—about 25 per cent of his business, according to these statistics, is carried on in that fashion—and he had on his desk these laws from the various states, at any moment he would be subject to arrest, and not only arrest but on the moment of arrest the attorney general would have to demand that he be held without bail. Being held without bail he could remain there for two solid months before the papers might come through. Mr. Read will agree with me that whenever extradition is contested, and even if it is not contested, that it does take almost all of two months to be able to get the required papers put through the diplomatic channels, from the Attorney General

to the State Department, through the State Department and from there to the State Department of External Affairs in Canada, and from there to the various provincial officers.

By Mr. Hackett:

Q. Without wishing to exaggerate what would be the position of the Minister of Finance for Canada and the position of the treasurer of any province who got out a prospectus for the sale of Victory Loan bonds or provincial bonds and circulated it or caused it to be circulated or permitted it to be circulated in the United States, and purchases of those bonds were made without any registration of them according to the requirements of the S.E.C. or of the similar state enactments?—A. If the 1942 treaty had been ratified by the Parliament of Canada the Chairman's action in going to New York on the earlier bonds and selling bonds there or allowing the issue of a prospectus which obviously is for solicitation purposes—no matter if you put on it that it is not for solicitation it is for that purpose—the Minister and the Chairman would be subject to arrest and would be subject to be jailed. On an application for extradition they would presumably have to remain in jail until the papers went through.

Q. Is that not equally true under the terms of the document we are considering if Mr. Spinney and Mr. Ilsley had not gone to the United States but had circulated this prospectus or permitted it to be circulated in the United States?—A. Quite. If they had allowed a prospectus to be circulated for that purpose.

Q. Or remaining in Canada and having done something that was perfectly innocent, something that is laudable as we see it, he might be a criminal in the United States and be extradited and punished?—A. Quite.

By Mr. Boucher:

Q. That might even happen if, for instance, the Minister of Finance were to send one of the chairmen of his Victory Loans to the United States to solicit business. Both the chairman and the Minister of Finance would be liable?—A. Yes. When we met the Committee of the Cabinet in 1942 on this treaty we stated to the Minister who was then present that he would be subject to extradition.

By Mr. Fleming:

Q. Is that the reason the clause is inserted in the protocol that the treaty is not to be retroactive?—A. All I can say is obviously it could have created some difficulties because they would have been subject to the operation of the treaty at the time if it had then been ratified.

Mr. ADAMSON: I asked Mr. Read if he would table with the committee the prospectus of the Dominion of Canada for the last bond issue which they tried to get registered and did get registered in the United States for sale through the S.E.C. It is germane to the question we are discussing now and I wonder if Mr. Read would see whether that can be done. I think it is a document of some twenty odd pages which the Dominion of Canada had to table with the S.E.C.

Mr. READ: I want to apologize to the committee and say that it has been a matter of incredible difficulty attending the meetings of the committee and carrying on the rest of the work of the department, and that we are in an absolute jam at the moment. There is a Dominion Provincial Conference being held and it is not possible for the Department of Finance to set to work and get this information ready. I have not even been able to see any one in the Department of Finance during the last three or four days.

Mr. ADAMSON: It was all printed and typed in this booklet. I have seen it myself. I think it would be interesting if the committee could have it.

Mr. READ: I will try to get it for you.

Mr. LEGER: We should go on with the hearing of the witnesses because we have so many.

The WITNESS: If I can give you these figures it will shorten matters because then I will not have to call any witnesses. These figures are authentic, and it will save time.

Mr. HACKETT: I was going to ask Mr. Brais, who has been very intimately associated with the Department of Finance in all these Victory Loan campaigns, if he would not be able to get this prospectus from the Department of Finance with possibly less difficulty and more expedition than Mr. Read. I think he knows the inner workings of the Department and will probably prevail upon them to file that material—if I have Mr. Read's permission—because it is a departmental document. Briefly, gentlemen, and to save time, I am going to give figures here. In order that we may not have to call witnesses and repeat the same thing, I have copies of the same thing certified by Mr. Dunlop. If you want to hear him afterwards he can be called. Otherwise, and in an effort to shorten these proceedings I am going to give you a statement of the bond sales made by Canada to the United States. I have here a certified copy of the transactions of the Montreal Stock Exchange giving representative figures for the years 1937-1945:—

MONTREAL STOCK EXCHANGE
MONTREAL CURB MARKET

Year	Value of Transactions	Buy and Sell
1937	$583,573,275	$1,167,146,550
1938	274,434,316	548,868,632
1939	225,645,856	451,291,712
1944	130,399,220	260,798,440
1945 to September 30	172,901,401	345,802,802

SALES AND PURCHASES OF SECURITIES IN THE UNITED STATES

Year	Value	Percentage of Buy and Sell
1944	76,676,460	29%
1945 to September 30	92,186,613	27%
Average percentage of U.S. business to total Buy and Sell		28%

USING THIS PERCENTAGE (28%)

Year	U.S. Business
1937	$362,800,034
1938	152,583,217
1939	126,361,679

MONTREAL STOCK EXCHANGE
MONTREAL CURB MARKET

G. P. G. Dunlop,
General Manager.

November 24, 1945.

MONTREAL STOCK EXCHANGE
MONTREAL CURB MARKET

SALES OF SECURITIES TO AND PURCHASES FROM THE UNITED STATES DURING 1944

Month	Sales to	Purchases from
January	$1,782,570 04	$1,419,411 40
January	1,660,725 60	1,293,115 83
February	1,849,050 65	1,815,161 36
February	1,383,390 36	854,693 33
March	2,072,239 68	1,824,124 38
March	1,782,916 59	1,045,431 19
April	1,449,877 92	1,255,473 79
April	1,966,898 84	1,341,328 72
May	2,023,565 11	1,819,820 76
May	1,792,126 99	1,027,234 21
June	1,674,043 97	1,185,508 18
June	1,831,108 12	1,521,966 81
July	2,401,960 08	2,175,280 74
July	1,809,943 39	1,194,892 32
August	2,240,403 33	1,821,392 96
August	1,681,356 30	1,189,140 66
September	1,423,222 85	1,258,108 54
September	1,196,608 85	623,910 00
October	1,655,442 04	1,556,216 88
October	1,542,343 49	657,632 43
November	1,760,979 80	1,577,453 07
November	1,570,841 35	1,015,137 60
December	2,247,480 92	1,895,564 46
December	2,447,504 87	2,061,859 99
Total	$43,246,601 14	$33,429,859 61
Grand Total		$76,676,460 00

MONTREAL STOCK EXCHANGE
MONTREAL CURB MARKET

G. P. G. Dunlop,
General Manager.

November 24, 1945.

Mr. JAENICKE: That does not include actual currency coming into Canada, does it?

Mr. DUNLOP: I think those are the total transactions on the exchange which you gave. Below that is the percentage of the United States.

The WITNESS: Yes, these are the total buy and sell which I presented. Below that is the percentage of buy and sell applicable to the United States.

Mr. DUNLOP: That was the total Exchange transactions.

The WITNESS: Oh, yes. Then, if you take the average of 28 per cent and apply it to the figures for this year's business to date, that would give you an indication of the percentage of American business being transacted by the Montreal Stock Exchange.

The CHAIRMAN: Could we use that for the committee?

The WITNESS: Yes, I have copies of that, sir. I brought those figures in order that they might be available to the members, and then if there are any questions they desire to ask, they would assist in the discussion.

By Mr. Beaudry:

Q. Is there any appreciable difference in the percentage from American business as compared to the total business of the exchange between 1936, I think you said, and either one of the years, 1944 or 1945?—A. Mr. Dunlop tells me it was standard. During the war the percentage would be liable to be some what less; there would be some curtailment. Now the war is over the percentage

could of course come back to the same average as in 1939. We were not able to get the earlier figures so we just took the average between 1944 and 1945, which, as you will see, is 28 per cent.

Q. What I am really trying to arrive at is, has the Treaty of 1942 lowered the percentage considerably, or has it not?—A. No, the Treaty has never yet been in force.

By Mr. Jaenicke:

Q. Are the figures in that statement of the value of the stock sold to the United States actual cash that has been sent into this country?—A. It is the value of the stock. A lot of that is washed through in the United States.

Q. What do you mean by that?—A. What we sell is compensated by what we buy in the United States; but if we could not sell at all in the United States and we had to buy down there, the balance of American money, instead of being so strong in Canada's favour as it is now, would be all the other way. There would be no money coming into Canada from that source. Do you follow me there?

Q. No, I do not. The argument put up to the committee before was that this country will suffer in respect to the flow of American capital into this country for development, of mines especially; and now, the figures that you quoted represent the money that came into Canada?—A. No, it is the money that has been owed to Canada. A lot of it has come in. Technically, it is money.

Q. You haven't the figures on that?—A. Yes, I have the figures on that, and Mr. Dunlop has these figures; and I think in order that there be absolute clarity on that that as soon as I am through, we had better have Mr. Dunlop called to give you further information.

Q. We would like to have an idea of how much American capital has been flowing into Canada all these years.

Mr. BOUCHER: You would like to know the balance between purchases and sales. That would be the net benefit to Canada, would it not?

Mr. JAENICKE: No, what I want to know is the amount of American capital coming in for the development of our mines, I would like to know how much money is coming in.

Mr. BOUCHER: In other words, what the total purchases and sales were, the net amount coming in.

The WITNESS: We have that. Mr. Dunlop will be able to give it to you. I do not want to commit myself on these exact figures.

By Mr. Fraser:

Q. That would only be the Montreal Stock Exchange, not all of Canada? —A. This is only the Montreal Stock Exchange, our total activities in mining are very much less than Toronto. Toronto is the mining centre, we are sorry to have to admit, but we do admit that; and it is very much the mining centre of Canada insofar as finance is concerned.

Q. The question was what amount of money was coming into Canada.

Mr. JAENICKE: Montreal will give us an idea.

The WITNESS: Of course, the figure of the Montreal Stock Exchange would be just a criterion in so far as ordinary stock transactions are concerned. It will not take care of the further very large entry into Canada of mining money, money for the development of natural resources.

Mr. HACKETT: What we call venture money.

The WITNESS: Venture money.

Mr. FRASER: Then you would have to call the Toronto Stock Exchange to get that.

The WITNESS: Yes, they should be able to give you the figures.

Mr. FRASER: I think that would give you a better picture of it.

Mr. FLEMING: While we are on that, let us not confine ourselves to net balances of sales in Canada, it is the gross that we are interested in.

The CHAIRMAN: Of course, we could get those statistics from the Bureau of Statistics.

Mr. DUNLOP: Our reports are filed monthly.

The WITNESS: It is the gross that is interesting. If you do not have the gross on the credit side, you do on the debit side. If this Treaty goes into effect then it would be the whole of the gross against Canada.

Mr. FRASER: We are not concerned with the net at all.

The WITNESS: I do not think so. It is not in question. And now, we need to sell in the United States to obtain from the United States money that comes in in that fashion. We send to our clients what we call trade letters. The Americans have been doing that right along in connection with securities they are selling in Canada. I see here for example a series from Goodbody and Company, one of the large American brokerage houses, obtained from Greenshields Company's office here in Ottawa this morning, a series of trade letters; they call them "Research Department Bulletins". They suggest advantageous investments and also "speculative" possibilities. They also explain why certain stocks or bonds are "oversold". On top of these sheets they say: "This is not for solicitation purposes, this is for statistical purposes". But that is obviously not meant. This solicitation in Canada is quite legitimate. The American brokerage houses maintain large offices in Canada. There have been five American brokers with offices in Montreal right through the war in spite of any stock depression, and they will be ready to continue to maintain these offices. It is legitimate for them to do so. It is honest for them to do that—unless and until they put in a statement which is untrue; and if they put in here a statement which is untrue they are liable to be extradited—to Canada for having defrauded Canadian citizens with these circulars. By the same token, the Canadian broker who sends information by, say, a telephone message or a circular which contains something which is untrue about a stock that he is trying to sell, is liable to be called to answer for it, to be sent to jail in the United States. Furthermore, he is subject to be jailed here in Canada if he in Canada through the medium of the telephone and/or mail defrauds somebody in the United States, because the crime would have been committed in both countries. I see here this morning the Attorney General for British Columbia who knows something about the criminal law and about extradition. I have every confidence that if something is done here to defraud there would be speedy extradition. I respectfully submit, gentlemen, we do not need this treaty. It makes an individual in Canada amenable to any security commission in any state of the union. This treaty would make any American citizen or any Canadian citizen amenable to United States laws not if he does something dishonest, but if he just simply solicits trade and does it honestly. I submit this with all due deference, Mr. Chairman; if a Canadian citizen solicits trade honestly in the United States I do not think he should be prevented from doing so when the American citizen can honestly solicit trade in Canada. And why should we wish to extradite and jail in Canada any American just because he has made honest sales here—carried on business which is legitimate according to our standards, which I am pleased to say, are as strict and are as rigidly enforced as anywhere in the world.

I now file these reports, Mr. Chairman, because they show actually what our American friends are doing here and what they would try to prevent us from doing over there.

The CHAIRMAN: Are the committee in favour of having this material filed?

The WITNESS: I have here, as a matter of fact, a list which we obtained from Goodbody & Company, which has been circularized throughout Canada and which we obtained in Ottawa this morning from the office of Greenshields & Company.

The CHAIRMAN: I want a motion to have that printed.

Mr. LEGER: I do not think it need be printed in our record.

Mr. ADAMSON: I do not think it need be printed, it might be well to have it filed. It would not add very much to the record. It is merely the regular circular letter sent out by practically all of the major American brokerage houses.

The WITNESS: Some of them send them out daily. Now, I have another one here which says, this letter is not to be deemed a solicitation or a prospectus; and you have a whole series of stocks of all kinds and information about them. It is suggested that a lot will go up and some of them will come down. And on the last page I read: stocks for speculation with appreciation possibilities. You have a long list—Douglas Aircraft, etc. A man reads it, and obviously he reads it because he wants a speculation instead of a straight investment opportunity. That is the purpose of a document of this kind—to give general information about markets. And our people do the same thing—they tell their clients what is going on in the markets here, what is going to happen at Noranda, and so on. It is a regular service. Every American brokerage house also does that.

Mr. ADAMSON: It is a regular brokerage service.

The WITNESS: Yes, they have the right to know that too. And now, Mr. Chairman, I want to be just as brief as I can. But I want to give this committee what, as I see it, is rather important information, and it is this. There has been no breakdown in the maintenance of justice in Canada. We have our long history here in Canada of being able to maintain peace and order.

Mr. Chairman, I know Mr. John Read well. I have, with the rest of the bar and the members of this committee I am sure, the greatest respect for his ability. I know that before long Mr. John Read will be known throughout the world as one of its great international lawyers. I say this advisedly, because I had the privilege of being with him in Washington at a conference of international jurists which preceded the San Francisco conference. I know, however, that he can have found neither the time nor the inclination to acquire much personal experience or direct contact with criminal matters or extradition. I am perfectly sure that he has never been before the courts in connection with an extradition matter or any criminal offence. I have been before the courts. I have appeared there on behalf of the Canadian government, and I have appeared there on behalf of the American government. I know what happens. I have no knowledge of any demand for extradition having been refused. That has not occurred, to my knowledge, in our jurisdiction. I have no recollection—and there I am subject to correction—but I have been in touch with the police and I have asked them about extradition conditions in Canada. I have been in touch with the United States Consul in Montreal to find out if they had any record of any request for extradition from Canada to the United States ever having been refused. I have been unable to find one. It is possible that one or two may exist, but I have not been able to find them.

Mr. HACKETT: Some of them have been vigorously resisted.

The WITNESS: Yes, some of them have been most vigorously resisted. Just on that point, there is some interest in this; here in Canada we apply our

laws and we apply them rigorously. Because we apply them rigorously we are able to follow up criminals and we are able to bring them to justice; and there has been no breakdown in the operation of our laws here as applied to fugitive American citizens coming to Canada. They do not come here because they know they cannot stay here. May I give you this as official? This is an official list of applications for extraditions since 1940 to date, at Montreal, from the United States. The first case was theft of a motor car; the American government had no proof to offer and the charge was withdrawn. That chap was in jail for quite some time before that statement was made. The same thing occurred in the second case and also in the third case. Those are cases where they were after people in 1940. Our records do not go beyond that date. There has been a new clerk since that date and I have not been able to contact Mr. John Lomax, the former clerk, who had the records previously. However, as I say, the first three cases were withdrawn by the American government. And then there are nine other cases between 1940 and 1945 in which the accused renounced their right to contest and were sent back to the United States. There was one contested case where the accused was ordered back. That is all.

Mr. JAENICKE: But these are cases where the crime was committed in the United States?

The WITNESS: Oh, obviously. That is of the very essence of the application of criminal law, and it goes to the very root of a man's right to his liberty, that he cannot be punished for something which is not known as a crime by the people amongst whom he lives. We have got laws covering every part of Canada which are as strict as any laws in the world.

Mr. JAENICKE: I agree with you there.

Mr. HACKETT: Don't you think that you could add to your statement that the number of applications for extradition was fairly low during the war period—lower than during the period immediately preceding. Do you not think it would be fair to conclude that that was due in part at least to the more effective boundary control that we had during that period?

The WITNESS: Quite. I phoned Mr. Read on Saturday and asked him if he could possibly give me the figures for the pre-war period so that we might have a picture of the days when the normal flow across the line would apply. He has not been able to get those figures for me. I think we can all understand how in normal times there would be more activity of that kind. I was in touch with Police authorities and am informed that there were more cases before the war but that the picture, the results, were essentially the same.

By Mr. Jaenicke:

Q. You mentioned some prosecutions in the Province of Quebec where the offenders were sent to jail. Were those prosecutions taken under the Code or under the Securities Fraud Act?—A. They were taken under the Criminal Code. The Code is so broad. Under the definition of theft, article 347 of the Criminal Code, theft embraces everything. To give you an example, you know how difficult it is to obtain convictions in bankruptcy frauds. Well, the last request which was made for extradition was for a chap who was accused of having falsified his books for bankruptcy purposes, a chap by the name of Albert Schneider. He was arrested and sent back to the United States.

Q. The Quebec Act seems to be more severe than the acts of the other provinces?—A. We have never used the Quebec Act for prosecution purposes because we considered that we did not need it for prosecution purposes. It has never been used.

By Mr. Hackett:

Q. Then you consider that the Criminal Code is sounder and constructed on a broader basis?—A. Quite. It is based on common law. Once I went to Malone, New York, on a manslaughter charge. It was argued over there that the conception of manslaughter was not the same there as it was under our Code, because over there the charge was based on the English common law. The American justices had gone through our Code and one of them said: "In your Code you have simply codified what we have here." The two "are similar."

We do not want to curtail the possibility of American courts prosecuting those chaps who operating from Canada are defrauding American clients. They can do it if they want to; but if they want to do it by an artificial form of crime such as was resorted to to convict Al Capone and certain other bandits, then we are abandoning the safeguard of stability and respect for justice which can never exist when "artificial" crimes are created. Our brokers who are carrying on honest transactions will find themselves precluded from soliciting business as is the custom of the trade. Now, what will they do? Will they hope that the United States won't apply the law against them? But supposing the state of Nevada, or some other state, does so for political purposes? And that does happen. Shall we do the same thing? What about the case when Oklahoma oil wells operators came into the province of Quebec and sold their stocks to every Tom, Dick and Harry, principally to doctors, lawyers and clergymen. I understand that those are the classes of people who fall most easily by the wayside. There was no complication in bringing those fellows back just because they fraudulently sold stocks. We never wanted to bring back the others who had honestly sold oil rights. We never prevented them from doing that.

Our representation, summarized, is this: we want to be allowed to carry on business which has been carried on to date, first, because it is legitimate; and second, because it is necessary to Canada. For that purpose we want to be allowed to sell in the United States without having to be called a criminal for so doing. We want to be allowed to sell all the stocks which are registered on any recognized Canadian exchange and also to be allowed, as in the past and as our American confreres are doing here in Canada, to send out our regular trade papers, our information papers so that the people who buy from us will have the information that they should have, and for which, if we do not give it to them, they will ask.

Gentlemen, Canada is the most important country in the world today from the point of view of development. The whole world has its eye upon Canada. I feel, at this moment, if we close the door to development, we are doing a very considerable disservice to Canada.

The CHAIRMAN: Thank you very much, Mr. Brais. It may be that Mr. Dunlop may want to enlarge on some of the statistical information again, Mr. Brais?

By Mr. Adamson:

Q. Mr. Brais, before you go—

(At this point the discussion took place off the record.)

By Mr. Boucher:

Q. Might I ask you one question, Mr. Brais? As a lawyer, could you give us any information as to the necessity of amending our Canadian Criminal Code in order to make an offence within Canada so as to bring the operation of this treaty, if ratified, under the jurisdiction or control of the federal government rather than the provincial governments?—A. The terms of our Code have a wide territorial coverage. For example, a charge of conspiracy will lie

against a man who does part of a transaction here, and another man who does part in the States. They can be be charged together as conspirators. There is a case on the importation of weapons into part of the British Empire. Weapons were bought in South America and sent to a man in a part of the British Empire who did not even know the name of his co-conspirators. When those men were all brought to trial, they were all convicted. That case is the standard authority on extra-territorial assistance in conspiracy.

Mr. HACKETT: It was a case about the running of arms.

By Mr. Boucher:

Q. What I was thinking about was the possible lack of jurisdiction of the federal government to make crimes. Would this treaty, when ratified, have to be ratified by the federal government without ratification by the various provinces?—A. If it were necessary the federal government could further tighten the Criminal Code in order to reach individuals who are conducting business fraudulently. But that is not necessary. Anything that is dishonest is fraudulent under the Criminal Code. We still have the old common law, notwithstanding the Code; so that anything which is dishonest in United States would still be dishonest in Canada. We can broaden the Extradition Treaty to the greatest breadth of our common law and let the United States have the advantage of that. But a man would still have to do something illegal and wrong in Canada before he would be guilty of doing such a thing in the United States.

Q. But could the federal government ratify this treaty as it stands now without the provincial governments' co-operation?—A. No, no. My opinion is definite, although I have not raised that matter here because it is a legal matter and is in the hands of the federal government. I do not want to suggest advice to the government on the constitutionality of its document. Now that I have been asked, however, I must say that it is in my opinion very definitely unconstitutional because the British North America Act gives to the federal authorities the right to legislate in criminal matters and to make treaties, but only within the confines of its powers. The federal government cannot take a citizen and order his deportation unless it be for something which comes within its orbit. Therefore it must be criminal. They cannot make a man a fugitive from justice for something that is not criminal in Canada because to do so would be depriving that man of his civil rights which are exclusively within the purview of the province. I have not the slightest doubt that that treaty will be blocked by the first extradition commission and that is why I emphasize the suggestion made somewhere that before it is ratified a reference be made to the Supreme Court by the government. I suggest that that would be a necessary step before this came on our Statute Books both in the interest of the United States as well as of Canada.

And then, of course, what is to be done with the accused's assets would be entirely unconstitutional unless the man comes within the federal jurisdiction. To do that he must come within the four corners of the Criminal Code of Canada.

Q. Then you do agree with me that a great deal of this treaty is not presently under Dominion Government jurisdiction and could not be constitutional without ratification and without change in the constitution?—A. Yes. When the protocol says that it need not be a crime in the country requested, those words would give rise to a demurrer or inscription in law. That in my view proves that treaty would not be upheld.

Mr. DUNLOP: Mr. Brais, at the end of last week, asked me to get figures on the proportion of American business done by our brokers. On the pre-war side we would have to ask all our brokers to go into their books and give us that information individually. Since the war restrictions we have filed monthly

with the Bureau of Statistics the amount of business done by all member firms of the Montreal Stock Exchange and the Montreal Curb Market in purchase and sales of securities. In the year 1944 that amounted to $76,676,500 which was 29 per cent of the buy and sell total volume on the two exchanges. In the year 1945 to September 30th that amounted to $92,186,600 which amounted to 27 per cent of the buy and sell totals on the exchanges. Taking an average of the two years of say 28 per cent and taking the buy and sell volume in the year 1937 that would amount to United States business $362,800,000; 1938, $152,580,000; 1939, $126,361,000. We have taken these percentages in wartime years where there are restrictions on dealing with the United States so consequently I think we should say that those percentages would be minimums.

The WITNESS: Just in broad figures what is the amount we got from the United States through the sale of business stocks and bonds in Montreal? You have that figure. You gave it to me the other day. If you have not got it before you I will get that exact figure.

Mr. BEAUDRY: May I ask Mr. Dunlop if these figures cover Canadian industrial stocks only or do they include American stocks?

Mr. DUNLOP: They include American stocks.

Mr. BEAUDRY: Would it be possible to get the percentage of American stocks in those figures?

Mr. DUNLOP: Yes. In 1944 it was 56 per cent American stocks and in 1945 it was 50 per cent.

The CHAIRMAN: Thank you, Mr. Dunlop.

Mr. HACKETT: They are all stocks?

Mr. DUNLOP: Stocks and bonds.

Mr. HACKETT: Securities?

Mr. DUNLOP: Yes.

The CHAIRMAN: The member from Pontiac, Mr. McDonald, has a few words that he would like to say to the committee. I know he is greatly interested because he represents a strong mining riding.

Mr. MCDONALD (*Pontiac*): Mr. Chairman and gentlemen: As you know I represent the county of Pontiac in which is located the mining district of the province of Quebec which has seen such great development in the last few years. We hope and expect there is going to be greater development in the near future. You will see from these telegrams which I will read to you that this treaty is looked upon with a great deal of suspicion in that district. They are opposed to ratification in its present form. I have here a wire from the president of the chamber of commerce of the town of Val D'Or. In that district are located Sigma Mines, Lamaque Mines, Golden Manitou, Sullivan and Siscoe.

> Western Quebec mining district strongly objects to any extradition treaty which would enable authorities of securities and exchange commission officials of United States to apply for extradition of Canadians who have not complied with rules and regulations of any of these commissions and try them in United States courts stop Canada has courts to try Canadians who commit breaches of Canadian laws

That wire is signed by Lucien Tourigny, Vice-President of the Chamber of Commerce.

Mr. FRASER: How many workers would be affected in those mines?

Mr. MCDONALD (*Pontiac*): Throughout the whole district?

Mr. FRASER: In that district you have just mentioned.

Mr. MCDONALD (*Pontiac*): A matter of 4,000 or 5,000 in that particular district.

Mr. HACKETT: Do you not think it would be more than that?

Mr. MCDONALD (*Pontiac*): I am speaking of that particular district. There would be more under ordinary conditions. There is a great lack of manpower in that district today.

Mr. HACKETT: Normally it would be more than that, would it not?

Mr. MCDONALD (*Pontiac*): I am speaking of that particular district. I am not taking in the Noranda Rouyn district or Belleterre. I have a further telegram from the Malartic district.

> Extradition treaty between USA and Canada may have unfavourable bearing on Canadian mining and Canada's sovereignty please investigate thoroughly our opinion if Americans are to reap in Canadian mining they must begin with risk capital on prospect.

Mr. FRASER: That is a different district.

Mr. MCDONALD (*Pontiac*): That is the Malartic district.

Mr. FRASER: How many workers would you have in that district?

Mr. MCDONALD (*Pontiac*): In the Malartic gold field yau have East Malartic mine, Canadian Malartic, West Malartic, Sladen Malartic, O'Brien. In those mines there would be 2,500 or 3,000 men employed today.

My next telegram is from the Rouyn Noranda district in which Noranda mine is located.

> The undersigned citizens of the mining community of Rouyn Noranda firmly oppose any change in extradition treaty enabling authorities of securities and exchange commission or officials of forty seven states of the union to apply for extradition of Canadians who have not complied with the rules and regulations of any of these commissions and try them in United States courts as we believe in upholding the sovereignty of Canada.

That wire is signed by John W. McKenzie. He is the manager of Francoeur mine. It is also signed by Allan W. Jeckell, L. D. Pilon, J. R. Linklater, J. G. W. Lee, M. J. Cavers, W. J. Hosking, who is president and manager of the McWatters mine and of the Rouyn Merger mine; A. F. Banfield, Geo. I. MacLeod, Vernon A. Oille, Howard M. Butterfield, W. E. Foster, H. J. Jewell, Julius M. Cohen, one of our important mining engineers in the north, M. B. Rochester, A. M. Hogg, H. L. Roscoe, manager of the Noranda mine, Jas. A. Carter, T. H. Smith, L. E. Closs, W. A. Stock, J. E. Desrosiers and L. Labelle.

Mr. FRASER: How many workmen would be affected in that district?

Mr. MCDONALD (*Pontiac*): Noranda employs on an average of 1,800 men, and the other producing mines in that district, including Waite Amulet, Waite Montgomery, Beattie, Senator Rouyn, Stadacona, McWatters, Francoeur, and the other prospects probably employ 3,000 more. In the neighbourhood of 4,000 or 5,000 men are employed in that district.

Mr. FRASER: You would not think there would be more than that?

Mr. MCDONALD (*Pontiac*): Not at the present time.

Mr. FRASER: But in normal times?

Mr. MCDONALD (*Pontiac*): In normal times you could add at least 25 per cent to that number because there is at least a shortage of 25 per cent all throughout that district. Then there is the Belleterre mine which is down in the lower Temiskaming district. There are 300 men employed down there. That represents the opinion of the mining men of the northern part of Quebec. That district is looking forward with great optimism to the development of that country which has seen immense development in the last few years. They look on this situation very seriously and think it would be a serious obstacle to the

development of that northern country if that treaty is ratified in its present condition. I do not want to take up any more of your time. I have had the pleasure of listening to some of the arguments advanced by the various lawyers who have appeared and other gentlemen. It is not necessary for me to repeat. I ask your serious consideration of these requests on behalf of the mining district of northwestern Quebec.

The CHAIRMAN: Thank you. I will now call on Mr. Slaght.

A. G. SLAGHT, *recalled.*

The WITNESS: Mr. Chairman, I desire to make a correction in the submissions that I filed with you last week, comprising two pages. There was a distribution amongst you, and you may have a copy of the submission in your files. I want to make a correction in article 5 which deals with clause 1 of the protocol. My suggestion is that clause 1 of the protocol be amended by deleting the words, "dealing in securities in the requested country in the ordinary course of business and in compliance with the laws of the requested country." The reason I give that to you—and I think this will commend itself to all of you—is that as presently worded the protection which it was intended to give is confined in its protective character merely to those dealing in securities in the ordinary course of business, and it would not protect an official of a mining company. It would not protect Mr. Ilsley or the members of the committee marketing our victory bonds because they do not do that in the ordinary course of business. They are not dealers or brokers. If you will strike out in your copy the balance of the words in article 5 where I went on to say that as amended the treaty would read so-and-so that will be helpful. If you leave that in it will raise confusion because it impliedly adopts clause (*b*) of the protocol which, of course, in another submission contained on the same sheet I have ventured to ask you to eliminate entirely.

The CHAIRMAN: Will you read it so as to be sure we have it correctly?

Mr. SLAGHT: Just leave in that part of item 5 down to where I have quoted the words that I suggest should be deleted and strike out the remaining four or five sentences where I improperly endeavour to quote how it would then read as amended because that would make for confusion.

The CHAIRMAN: Will you kindly read it so that we will be perfectly sure of it?

The WITNESS:

> That clause 1 of the protocol be amended by deleting the words: *'dealing in securities in the requested country in the ordinary course of business and in compliance with the laws of the requested country'*

and then strike out the rest of the language under my item 5.

By Mr. Leger:

Q. You mean strike out *"no person shall be subject to extradition"*, and so on in clause 5?—A. That is right, strike it out. May I crave one word with regard to these submissions which I ventured to file lest there be a misunderstanding with regard to what we are proposing. My clients feel, as Mr. Brais expressed, and as the letter filed with you from the province of Ontario in 1942 expressed, that to approve the treaty would be approving something that is unconstitutional and beyond the powers of parliament to pass or approve. That is our first position, but I included some draft amendments as a compromise if it is still desired by the committee when you discuss it to make it possible for the United States to come to Canada and extradite one of their own citizens, take him back and try him there for an offence he committed in the United States, to come and take him back notwithstanding that what he did over there would

not have been an offence had he done it in Canada. This amendment will still permit him to go back but will prevent a Canadian citizen being extradited and taken over there for an offence which is not an offence under our own law.

So that you will understand this our compromise is an alternative suggestion only and we do not desire to abandon our position that there should be a refusal to confirm the treaty because the treaty is unconstitutional.

By Mr. Hackett:

Q. Mr. Slaght, could one summarize your statement in this way? Take your stand on the constitutional issue. You have submitted it is beyond the competency of parliament. Then on the second issue you say that personally you believe in the doctrine of double criminality.—A. Yes.

Q. But if it is necessary to compromise in so far as your clients are concerned they are willing that an American citizen who has committed a crime in the United States and escaped to Canada be returned to the United States even though what he has done in the United States is not a crime in Canada? —A. Yes, that is correct.

By Mr. Boucher:

Q. Do you not go further and say that an American citizen who has broken the law of the United States while in Canada might still be extradited? Did I understand you to go that far?—A. I do not think the amendments go that far. I think they deal with it just as Mr. Hackett puts it, that if a man in the United States has offended against the law of the State of Michigan, for instance, using my pet example, and over in Detroit he has sold a client $1,000 worth of stock but did not take his application on a form approved by the Michigan state Commission if they still want to come over here and extradite the man for that offence and take him back even though it is not an offence in Canada to do that these amendments would permit them to take him but they say "No" if a United States official comes over here to take a Canadian over there for having committed an offence against the law of Michigan. We say "No". These amendments would prevent a Canadian being extradited for such matters as that.

Mr. LEGER: Mr. Chairman, I should like to ask a further question of Mr. Slaght. In clause No. 5 which are the words that you wish us to delete?

The WITNESS: The word *"dealing in securities in the requested country in the ordinary course of business and in compliance with the laws of the requested country."*

The CHAIRMAN: We will now call upon Mrs. MacWilliam, president of the Prospectors and Developers Association of Canada

Mrs. VIOLA MACMILLAN, president of the Prospectors and Developers Association of Canada, *called.*

The WITNESS: Mr Chairman and gentlemen, so much has been said against the treaty and protocol that there is very little left for me to say, and I do not know that I should be saying anything but I believe there is one point that has been missed, so far as I have been able to hear; and that is the point of the prospector. We have heard from the very able solicitors on behalf of the stock exchanges, and so on and so forth; but I happen to be president of the Prospectors and Developers Association of Canada. I know, about 90 per cent of the prospectors throughout Canada, and I know some of their troubles and their problems which have faced them for a number of years in getting early stage money, which is speculative money, behind them to find a mine. If this treaty and protocol goes through in the form in which it now is I think it will set Canada back at least 25 years. I know that Mr. MacMillan and

myself, and Mr. Cockshutt here, on behalf of the association, have had a great deal to do in connection with stimulating interest in prospecting throughout Canada.

During the history of mining in Canada we have had about 150 mines. We had gone along to the point where prospecting was becoming stagnant. In 1938 or 1939, we got down to where there were only about 200 prospectors in the bush across Canada prospecting. We drove for miles and miles along the geologically favourable areas for mines and could not find a prospector in the bush. Why? Because he could not get enough finances, he could not get money enough even to get 10 miles away from his shack. The big mining companies have a lot of money in their treasuries, but they are not in a position, they claim, to give up thousands of dollars for prospecting; but not only that, when they hire a prospector to work for them on a salary basis they find that the prospectors do not work so hard as they do when they have incentive, the pot of gold at the end of the rainbow.

After all, we must remember, gentlemen, that the prospector's life is not an easy one. It is a very hard life. Most of them have deprived themselves of wives and families and the pleasures of city life, and so on and so forth; and they live in the bush. Today the lot of the prospector is much better. Why? Because the Prospectors' Association is organized. They started to speak for themselves. They did not go to the government for a grub stake so they could go to work. I think in British Columbia they did get a little grub stake, but you really cannot expect a prospector to do very much on a grant of $300 a year, that is not very much for him to live on. However, it might help to buy a few cans of beans for some of them. But in Ontario and Quebec they went out and talked to people into backing them. We made a survey. We came down to see Mr. Ilsley and Dr. Clarke and they gave us a reduction for moneys going into prospecting. It is difficult to get syndicates financed. But we did get this tax reduction. We also got a program across Canada to bring out the geological possibilities, of where to go. The Dominion government and the provincial governments co-operated on that. We got our information brought up to date on the various fields. We got parties out on the program for at least three months of each year. This was in 1941 and 1942. And today, what is happening? Many of our members got financed and the result of that has been, that we not only have from two, three, or five thousand—they have up to $300,000 in many treasuries. What have been the results? We are going to build 60 new mines. We are going to have 60 new mines in Canada right now. Another thing, many treasuries have money today. The public has money which they made through the work they did during the war. A lot of that money is looking for some place to work, and the place for it to start work is with the prospector. We must not lose sight of this point. The Northwest Territories is a new frontier for development in the whole of Canada.

We need American money. The people of eastern Canada are not going to the Northwest Territories to the same extent as the Americans are. We should do nothing to stop the flow of new capital there from the American people, if they want to put it here.

And now, if it is fraud, if I have done something wrong in taking money from you or from Americans fraudulently; punish me, put me in jail; but don't bring in a treaty making it an offence for me to transgress the rules or regulations of some state commission in the United States.

Back some few years ago, I think it was around 1935 or 1936, we had a property for which we tried to get money for development in Canada. We just could not. Finally, we got a letter from an American firm in New York asking us if we wanted money for the development of our property. Well, did we want money? Does a duck swim? Certainly we wanted money for this property. There was $19,000 of debts owing the former people who had the

property before we got interested in it. We went to New York city, scraped up enough money to get us there. We stayed at the cheapest hotel we could find. But after a lot of running around we finally found from the people that it was impossible to qualify our deal. We came back with volumes of forms to fill in, and then they wanted to send an American geologist up, and unless he approved of it, we could not get the deal passed. After scraping up $1,800 and paying solicitors, besides our own solicitor here, we gave up, because of qualifying the deal. We struggled along then with that particular property over the years. Right at this very moment we are bringing in an ore body by diamond drilling. We finally came back and got the money to finance it.

What I am trying to say before this standing committee on External Affairs here is *not to do anything that would take away money from our prospectors,* because we only have 1,600 prospectors now. We are trying to encourage new boys coming out of the service to go into prospecting. We are putting on a special course to train prospectors. We are trying to do the best we can for them. We want them to be able to get financed and go out. We want them to be financed by themselves in their own syndicates. We have too big a mining industry in Canada, and Canada is too big a country to bring in any such treaty as is being proposed here. Those are my words in respect to this treaty.

Thank you.

The CHAIRMAN: Thank you, Mrs. MacMillan. You have presented your case very clearly and very ably, the prospectors will be very much indebted to you. I know something about your work because I happen to come from a mining section myself.

I will now call upon Mr. Sidney Norman, financial editor of the *Globe and Mail,* Toronto, Ontario.

Mr. SIDNEY NORMAN, financial editor of the *Globe and Mail,* Toronto, Ontario, *called.*

The WITNESS: Mr. Chairman, and members of the standing committee on External Affairs, I think I can rightly call upon you for your sympathetic indulgence in that I, a mere writer, am called upon to follow four eminent, learned and eloquent members of the Canadian bar. I do, however, intend to stick close to my notes for the record, but before I do so I should like to register an objection to part of the amendment that my friend, Mr. Slaght, has offered to you this morning. May I have a copy of it for a moment? As I understood part of his explanation, it would mean that the American citizen who came over here in good faith and became a resident, say of Toronto, as I am, (and I might add that I am an American citizen), the man who comes over to Toronto in good faith, as I said, and starts in business would still be liable to extradition to the United States if he committed an infraction, not of the law of the United States, but of the rules and regulations of these security and exchange commissions of the United States, or of 46 of the 48 states of the American union. I think that would be very unfair to the many Americans who have come over here and have done so much to put your mining industry in the state of prosperity which it occupies today.

Mr. LEGER: May I be permitted to ask you a question?

The WITNESS: Certainly.

Mr. LEGER: Are you still an American?

The WITNESS: I am an American citizen, resident in Toronto.

Mr. JAENICKE: Then the amendment Mr. Slaght has read, as far as you are concerned, it says a person domiciled in Canada—that does not mean a Canadian national.

The WITNESS: Is that the idea, Mr. Slaght?

Mr. SLAGHT: Yes. There was some discussion about that. It was redrafted and put in the present form and reads, "shall not apply to a person domiciled in the demanding country"; and I think Mr. Norman would need to establish domicile here, which is different from nationality.

Mr. BOUCHER: And different from "resident".

Mr. SLAGHT: And different from "resident".

Mr. HACKETT: A man might be a resident in Canada for 40 years and not be domiciled.

Mr. JAENICKE: It might be changed to "resident" instead of "person".

The WITNESS: I am a resident of Toronto. I have the proper papers in my possession.

Mr. BOUCHER: I think changing that to "domicile" would bring this gentleman under it.

Mr. JAENICKE: He has an established business here. I think a court would say he is domiciled here.

Mr. SLAGHT: I have no objection to your changing it to read, "resident".

The WITNESS: I think that would be better.

Mr. SLAGHT: That would cover such cases as Mr. Norman has in mind.

The CHAIRMAN: What article is that, what is the number of it?

Mr. HACKETT: That is article 4 in Mr. Slaght's memorandum.

Mr. SLAGHT: It starts with 3, 3 is the first one—"shall not apply to a person resident"—

The WITNESS: "Resident", that is fine.

Mr. SLAGHT: Then, you would have the same change made in article 4?

The WITNESS: A change in number 4; yes—person *domiciled*—that would be changed to read, *"resident"*?

Mr. SLAGHT: That would be correct.

The WITNESS: Thank you, Mr. Slaght. I did not want to remain in danger in Toronto, because I have been fighting the S.E.C. and security commissions for 35 years, and they might like to pick on me.

But now, gentlemen, from now on I am going to stick to my notes for the record, and I hope to avoid legalistic pitfalls. I am going to confine my remarks to the unparalleled opportunities offered to this dominion through the development of its vast empire of mineral possibilities, and to some explanation of the origin of the security commission and the Security Exchange Commission in the United States. I shall also try to convey to you some idea of the devastation brought upon free enterprise and development of natural resources in that country by that super-bureaucracy of destruction.

First, perhaps I might strengthen what I have to say to you by telling you I speak as an American citizen, and I appear before you as an American. I am not a broker, and I am not a promoter; merely a friend of the mining industry, and particularly of Canada which I love and in which I perhaps have more friends than in any other part of the world. Without wishing to appear self-important I might add that my experience covers over 55 years of close association with the industry on both sides of the international line. I was a pioneer in the historic stampede and development of the Slocan district in 1892 and 1893, and subsequently a prospector and miner in the rich silver camp, in the gold-copper camp of Rossland, in the copper district of Boundary, B.C., where the Granby copper and other great producing companies were born. As a matter of fact, I may remind you, gentlemen, that in these areas back in 1892 and 1893 was born the present mining movement in Canada, the greatest

and most wide flung movement of the kind in the history of the American continent. I can say to you this, and I have visited every camp in the United States of consequence, that you can take Cripple Creek Gold field, the mother lode, republic of Washington, and every other gold camp I know and drop them into that area which lies between Porcupine and the Quebec district to the east and lose them.

The CHAIRMAN: Hear, hear.

The WITNESS: That is the magnitude of the work that confronts Canadians in the mining areas which it possesses.

Following that, gentlemen, came as you remember, Yukon and Nome; Cobalt in 1903; Porcupine in 1909; Kirkland Lake in 1912; Noranda in 1927; and now the most extensive campaign in Canadian history in the province of Quebec. All under the reasonable exercise of the right of free enterprise under Canadian law.

Thirty-five years ago, I turned to journalism as an exponent of the mining and oil industries and have since then confined my efforts to that work. I have been mining editor of the Los Angeles Times. I published by own paper in Spokane, Washington, for ten years.

I have since been mining editor of the Vancouver *Sun* for four years, and of the *Globe and Mail*, more recently, for a similar period. I am not now the mining editor of the *Globe and Mail*, but I am staff writer on mining in all its subjects. That experience has taken me to every camp of importance in the thirteen western mining states, as far south as Mazatlan, in Mexico, and as far north as Alaska. In Canada I have visited most of your great mines as far north as Hudson Bay, Flin Flon mine in Manitoba, the great new Highgrade gold district of Yellowknife, Norman Wells, the world's farthest north oil fields, the Canol project, and the Alaskan highway, as well as every oil district in Alberta and nearly every important mine and district in Ontario, Quebec, and British Columbia. I feel I am in a position to realize to the fullest extent the vast possibilities of this Dominion and the necessity for continued and ever increasing encouragement to the prospector and to risk capital.

Canada possesses in her northern mining area the greatest expanse of likely territory in the world, with the possible exception of areas in South Africa, and those of Russia of which we know little of an authentic nature. Canadian territory claims two-thirds of the pre-Cambrian shield, host rocks to the great mines already found and reasonably believed to contain many more of every kind—precious metals, base metals and strategic metals and minerals.

To develop this vast northern empire, risk capital must be found for search and development over a bleak area, not counted by townships or counties, but in tens of thousands of square miles, stretching from Hudson Bay to the great north-flowing Mackenzie river.

Capital for this work must be forthcoming and to say that Canada is now in a position to furnish the vast amount of capital necessary is, in my humble opinion, not based on knowledge of the facts or extent of the need. Remember, gentlemen, please, that this great northern storehouse of yours can never be opened or peopled unless the prospector and risk capital show the way. The land will not, by its surface contribution, support life.

Successful mining corporations seldom, if ever, find mines or develop them. They sit back and buy them when most of the element of risk has been removed. That is and will remain the sphere of risk capital. When mines are found in this vast area to the north, they will repeat history by laying the foundations for other new enterprises and new, happy and prosperous communities. Otherwise it will remain as it has been for centuries, the vast silence of the north. Now, let us turn for a moment to this proposed treaty and more particularly to the protocol.

There seems to be some disposition around here to maintain secrecy concerning the instigator of this request upon a friendly country for the power to extradite its citizens for infraction of foreign bureaucratic rules and regulations—not laws, mind you—although those citizens conduct business strictly in conformity with their own laws. I am not afraid to step in where diplomatic discretion fears to tread and to say to you that this protocol has been drafted and requested by the Security Exchange Commission, the most execrated and distinctive super-bureaucracy ever created to stifle free enterprise. The S.E.C. has materially helped to bring the most richly endowed nation in all history perilously near a condition of "have not", so far as metals and minerals are concerned. This has been admitted by the United States secretary of the Interior, Mr. Ickes, in an article which is now part of this record. I am not afraid to add that the demand for such an indefensible request for extra-territorial extension of the bureaucratic power of destruction does not come from the American people, who, by a vast majority, execrate the principles and effect of such legislation, which has stifled the spirit that made the nation great.

This request comes from the same source as the recent vicious, organized publicity attack upon Canadian mines, industry, and men that flooded the papers of the United States, including those of New York, Philadelphia, Chicago, Boston, Detroit, Cleveland, and even one in Toronto, a few months ago.

You may have noticed that this virulent attack was suddenly discontinued. Is it not within the realm of credibility that it was stopped because of the rising indignation of the Canadian people and the fear that it would prejudice the possibility of acceptance by you gentlemen and parliament of this very protocol, which I unhesitatingly characterize as the most insolent and impertinent request ever made by one friendly nation of another.

I recollect that during discussion of this subject on Friday, one of the members of this committee advanced the suggestion that since forty-six of the forty-eight states have enacted securities laws, topped by the federal S.E.C. and its man-made rules and regulations, that such legislation must be the expressed will of the American nation.

I suggest to this member, who I am sorry to say is not here this morning, that, as a political figure of prominence of an opposition party, he must be aware, and he must know that legislation—good and bad—must be steered to enactment by interested parties, also good or bad—and I further suggest that, judging by the honourable gentleman's public remarks, he agrees with me that much legislation, here and elsewhere, is obviously bad and was therefore steered by bad influences. These forty-six state laws and the super monstrosity, the S.E.C., are in my humble opinion, glaring examples of the class of legislation concerning which he and I appear to be in close agreement.

Perhaps you gentlemen will bear with me while I offer my explanation of the manner in which this class of legislation was born and what interests fathered and nurtured it. My recollection goes back to 1910, when the New York Stock Exchange was riding roughshod over decency in finance, and to 1911 when, through his influence, a dear old friend of mine, a prospector, William Salter, became governor of the state of New York by the largest majority ever given in a state election. When he arrived at the state capital, Albany, he had the audacity to introduce eleven government bills aimed at the correction of abuses which had been found to exist in the operation of the New York Stock Exchange. He was impeached, tried and thrown out. Afterwards he went to Congress and was returned again by his district with the largest majority ever given to a man in that district.

About the same time Congress set up the Pujo committee of inquiry, of which the recent Chief Justice of the United States Supreme Court, Mr. Justice

Hughes, was chairman. That committee brought in a most scathing report of condemnation and warned the stock exchange that unless it immediately cleansed itself from within, it would be purified from without and brought back to a state of financial decency. That report is in existence and it can be found if any of you members wish to support what I tell you. The reputation and influence of the exchange was thus brought to a very low ebb and its cleverest brains were enlisted in an effort to regain public confidence and esteem.

About the same time, Kansas had adopted the first state "blue sky" law. That was the beginning of the "blue sky" craze in the United States, I think, in the year 1910. At the same time, the New York Open Curb market on Broad street—many of you will remember it, because it was the most fantastic exchange in world history, where finance was tried upon the cat and dog—was riding high and wide on the crest of wild public demand for the gold stock of Cripple Creek, Tonopah, Goldfield and many others such as Cobalt, on both sides of the international line.

The wise men in the Exchange took the position that money spent on Broad street must be turned into the gambling tables of the big board. So a publicity campaign was started to teach speculators that nothing but "listed" stocks should be touched. Plans were laid for extension of "blue sky" legislation to other states, in order to turn the money being put into mines into the big board's coffers on Wall street. Later, the open Curb Market was forced indoors and has since remained in a morgue on appropriate Church street, far removed from the sacred precincts of the big board.

In order to carry out the campaign of forcing "blue sky" laws upon the other states, the aid of the Better Business Bureau was enlisted, and it became the spearhead of the attack.

This committee should secure a copy of the Congressional Record of February, 1933. The exact date I have not in my mind, but I have the citations in my office in Toronto. The committee should read therein the proceedings at an inquiry under the chairmanship of the late Senator Brookhart of Indiana. It is there set forth that the Better Business Bureau accepted $100,000 from the New York Stock Exchange presumably to carry on the campaign aimed at the mining and oil industries of the United States, just as this protocol is aimed wholly and solely at those industries in Canada.

I fought the Better Business Bureau at three sessions of the Legislature of the State of Washington, and therefore I have personal knowledge of its place in that campaign. As I said before, if this committee wishes to have the citations, I shall be very glad to forward them after my return to Toronto. Then came the great financial crash of October, 1929, and the tremendous losses sustained not only by citizens of the United States, but in proportionate amount by Canadians. The blue chips were a dime a dozen. Practically everybody was broke on both sides of the line. It was that momentous catastrophe in the days of President Hoover that set the democratic brain to work on a scheme to protect the public from future calamities of the kind, and to garner votes.

The opportunity came with the first election of President Franklin D. Roosevelt and enactment of the S.E.C. laws of 1933 and 1934. Then was the august New York Stock Exchange "blue sky" conspirator at last hoist by its own petard. The New York Stock Exchange having started a fire, found itself unable to put it out. It was at last overtaken by a secondary fire created by the federal government.

The fundamental purpose of these laws was to curb what were considered nefarious practices on the New York and other stock exchanges in the country. With the tools of destruction in its hands, however, the commission became a fanatical, crusading agency and with the same itching for extension of power

that is always inherent in a bureaucracy, it gradually extended its rules and regulations to cover every kind of financial endeavour where public money, and especially risk capital, was sought.

I do not believe that it was the intention of Congress that such should happen. Many of my friends in Washington, D.C., and even in Congress, are of the same opinion. Nevertheless, the S.E.C. left to its own devices has built up and fastened upon the people of the United States the most glaring example of rule by man, as opposed to government by law, in the whole history of English-speaking nations. Having killed mining venture in its own country, it now seeks to extend its usurped power beyond its borders and into a friendly neighbouring country.

May I add that in the twelve years of the life of this commission not one important mine has been discovered or develop by public money in the United States, in spite of the fact that there are thousands of worthy prospects lying idle, awaiting only the touch of risk capital, perhaps, to convert them into producers.

Those are the facts, and it is upon the facts that you are to judge.

I should now like to draw your attention in greater detail to some of the telegrams previously mentioned by Mr. Sedgwick. I have received another one which I wish to read. It was received by me since Friday, from the Northwest Mining Association, Spokane, Washington, which embraces membership in Montana, Idaho, Washington, Oregon and across the line, as well, into British Columbia. Mr. E. E. Johnston of the legislative committee of the association says:

> The rules and regulations of the securities and exchange commission in effect in the United States have had serious effect on primary financing of new mines in this country. These rules as drafted and the interpretation placed thereon by the commission are most restrictive and oppressive in effect and Canadians should exercise extreme caution in getting connected up with that proposal. Until Congress amends the Act the commission has passed rules making it unlawful to trade between the states or sell mining or oil stock across state lines or to use the mails or instruments of interstate commerce without exhaustive and costly compliance with its rules. As a result of this condition the American public is now turning to Canada for investment opportunities and it would be a crime for your committee to consider even for a moment a proposal to become involved in the punitive police powers of the commission as it affects us. It is the opinion of our membership that nothing in the past fifty years has had a more injurious effect on free enterprise and the development of our natural resources as the so-called securities act referred to and which act was not necessary. A movement is now on foot to have it repealed in connection with mining and oil development. Is there anything more we may do or say to help your committee. (sgd)
>
> Northwest Mining Association
>
> E. E. Johnston,
>
> Legislative Committee

That association covers the Cour de Laine area, which is the greatest silver-lead producing area in the United States. It also goes as far to the east as Butte, Montana, into Oregon, Idaho, and clear down to Boise. It also reaches into British Columbia and has many members across the line.

There is another matter to which I would like to draw your attention, the telegram from Mr. Charles F. Willis, President or Secretary of the Arizona

Small Mine Operators; he also publishes the *Mining Journal* at Phoenix, Arizona. I do not recall whether Mr. Sedgwick emphasized this telegram or not.

The CHAIRMAN: It has already been read. It is part of our record.

The WITNESS: It has already been read. You will be interested to know that the Colorado Mining Association represents the whole state of Colorado and is supported by the state itself through legislation passed by the Colorado legislature. It is supported by a small tax upon the gross tonnage of all the mines in the state. As I have said before and I wish to repeat, as I see it, this extradition treaty is aimed wholly and solely at your mining industry upon which you must depend for the future expansion and prosperity of your country to a greater degree than any in history. Let me add, too, that this S.E.C. has already seen fit to mix up in purely Canadian affairs. If you care to make the proper inquiries, you will learn that it has maintained a spy, or snooper, or detective, or whatever else may be his proper classification, who has had the effrontery to demand of Toronto brokers access to their books in order to scrutinize them. He comes from the United States, as I said, representing the S.E.C., and if you care to make inquiries in Toronto you will find I am telling the truth.

By Mr. Leger:

Q. Do you know his name?—A. I do but I would rather not mention personalities.

By Mr. Fraser:

Q. On what authority does he ask for that?—A. On what authority? You can search me.

Q. I just asked the question.—A. I would not know.

Q. Does he know?—A. I do not think he does. I think he is a man with considerable nerve and he thinks perhaps he might be able to find something that would help him in this publicity campaign of the S.E.C. if he could get something on some broker.

Q. If this man from the United States did find anything in any of the broker's offices, supposing that the broker allowed him to look at some of his books, nothing could be done at the present time until this was passed, anyway? —A. No, but he could furnish the bullets for the S.E.C. to shoot in its publicity campaign. I think that is the most vicious thing that was ever attempted. I assume that was his purpose.

Q. Just looking for evidence.—A. Or to scare a man to death. That is all.

Mr. LEGER: I think it would be wise that his name should be given to the chairman so that we can see to it.

The CHAIRMAN: I do not think I will take the responsibility.

The WITNESS: It puts me in a rather delicate position. I would rather not mention personalities.

Mr. MACINNIS: I think we should have that name or the evidence should not go on the record, I do not think we should take evidence here that cannot go on the record, where names are not given.

Mr. FLEMING: I think it is pretty late in the day to start talking about rejecting evidence for lack of names because we have had all kinds of evidence of a similar nature given to us. I do not think it is a matter of great moment now because other witnesses have testified along similar lines. We are not trying the issue on that score.

Mr. MACINNIS: Surely the members of the committee will be trying the issue and if they have not got evidence which is substantiated by names and facts they will not be able to make a reasonable or correct decision.

The WITNESS: May I make a suggestion to you which will relieve me from entering into personalities? I suggest that the chairman of this committee write the S.E.C. in Philadelphia and ask it for the name of the individual who is representing them in Toronto for the last two years.

By Mr. Leger:

Q. For the last two years?—A. He has been off and on for more than that.

Mr. FRASER: He could send a wire.

The WITNESS: He could send a wire and ask for his name.

The CHAIRMAN: On the question raised by Mr. MacInnis personally I feel that any witness before the committee should give the name if it is pertinent, unless he wants it off the record when he gives his testimony, but now that we are able to get the information personally in the name of the committee I will try to get the name if Mr. Norman does not feel that he should give it.

The WITNESS: So far as I am concerned I do not want anything off the record. Anything I have said I want to go on the record. I think I can prove everything I have said to you. Now I should like to turn to a more pleasant subject, your own mineral resources and their possibilities if free enterprise and risk capital are permitted to do their work unhindered by foolish laws. Ontario, since 1911, has produced more lode gold than any state in the American union. It has been far greater than the lode gold produced in California since 1849 although the production of the latter state, including placer gold, has been greater. It has been 12,000,000 ounces greater than that of Colorado since 1858. It has been over twice as much as that of Nevada with her great Comstock lode, which you will remember saved the union in the 60's, Goldfield, Tonopah and other camps, since 1859. Ontario's gold production has been twice that of Alaska since 1880, two and a half times that of South Dakota with its great Homestake mine since 1876, three times that of Montana since 1862, five times that of Arizona since 1860, five times that of Utah since 1864, six times that of Idaho since 1863, six times that of the Philippine Islands since 1906, and ten times that of Oregon since 1852.

There are members of this committee representing constituencies in Quebec. I should like to turn to that province and the effect of the mining industry on the prosperity of the northwestern part of that province. I have just spent six weeks there and I believe I have the necessary up-to-date information. Since the smelter was blown in at Noranda on December 16th, 1927, a greater transformation has taken place over a greater stretch of previously waste land than in any part of the continent I have known, and perhaps in the world. I know that is quite a strong statement but I believe it to be absolutely true.

From the western boundary of the province over the length of twelve townships—mind you, a township is ten miles square in Quebec—120 miles east and half a dozen townships north south, great mines have been brought to production, prosperous towns built and the most extensive campaign of diamond drilling prosecuted over the past three years that I have ever heard of. I am sure it is the greatest campaign of its kind that has ever been undertaken in the world. Metal production of the province since 1927 has been over $527,000,000 up to the end of last year. At least 15 or 20 new mines have been indicated beyond reasonable doubt by diamond drilling, and underground work has started on some of them and will be vommenced on most of them within the next year, and possibly within the next six months.

Along that 120 mile stretch many prosperous towns have arisen, each wholly dependent on the mining industry. Noranda, a model town, has a population of 5,500 and was built by Noranda mines. Rouyn has a population

of 11,000. Cadillac has a population of 1,300, and has gone up from 900 in the last few months. Malartic has a population of 4,500 as compared with 3,100 last year. Val D'Or has a population now of 7,500 and is probably showing the most rapid recent growth anywhere in Canada. Bourlamaque, another model town built by Lamaque mines and Teck Hughes, has a population of 2,000. There is not a house or an apartment to be found in any one of these places I have mentioned. That is the reason that the number of workers in the mines in that area is now at a very low ebb. My recollection of the figures I presented in my paper is that the mills of the area have a capacity of 11,000 tons a day and are working at the rate of 57 per cent and that labour is down approximately 45 per cent. 2,000 men are needed in the vicinity of Val D'Or. That takes in the newly drilled area of Bourlamaque and Louvicourt townships, the Lamaque mine, Sigma mine, Golden Manitou mine, Siscoe, Sullivan and Perron mines.

That is not all that has happened in that county. Under Quebec settlement plans many a farm has been whittled from the bush or drained from the muskeg in a land that without its mines could not support existence. As it is, even with short growing season, such produce as can be grown finds a ready nearby market at the mines and communities at high prices and negligible delivery costs. In the winter seasons men of the farms can find nearby employment at high wages at the mines.

Much has been written about losses in mining but little, if anything, about American winnings in the vicious publicity compaign waged by the S.E.C. In order to offset the information that was distributed through that campaign I took upon myself the duty of making a survey of the amount of money that was at the moment invested in 66 mining stocks listed on the Toronto Stock Exchange. I have finished Quebec, Ontario, Manitoba and Saskatchewan. That is as far as I have gone now, but here is the result. I obtained from each company the percentage of the holdings of Americans in their companies, some in confidence and some from public publications. I then multiplied that amount by the prevailling quotation on the stock exchange and in that way arrived at my conclusion. It shows that in these three provinces—Manitoba and Saskatchewan are included as one because the common line of the two provinces goes through Flin Flon mine—present holdings are worth a total of $697,285,411 as determined by the then current quotations upon the Toronto Stock Exchange. The proportion of stock held by Americans had already paid dividends of $443,696,830 and the 66 mines held ore reserves of 347,288,138 tons which at an estimated average of $10 per ton makes no less than $3,472,881,380 worth of ore still lying in the workings of these 66 mines to be taken out in the future. As I say the stock has already paid $443,696,830 in dividends.

I want to emphasize once more that survey does not include British Columbia. It does not include Yellowknife. It does not include Labrador. I have forgotten whether it is in Canada or not, but it does not include anything of that kind or does it include the thousand and one semi-developed mines or prospects that American capital is interested in. So I feel that you can say with confidence that the amount of American money now invested in stocks in this country would be at least a billion dollars and probably would rise a quarter or half a billion more.

I should like you to remember that no money spent in honest mining development is ever lost. The individual may lose his little but the nation wins its much. Every dollar legitimately spent goes into labour and the many industries and merchants called upon to furnish supplies. That is a matter that we should always remember. It is only by contributions of money in

small amounts which we call risk capital that the mining industry can ever be developed to the fullest extent.

Mr. JAENICKE: You said every dollar?

The WITNESS: I said every dollar that went into the ground.

I think that is about all, Mr. Chairman. I should like to thank you, Mr. Chairman and the committee—Were you going to ask me something?

Mr. JAENICKE: Please. You were strong in your condemnation of the United States security laws, and those of the states; what is your opinion of our own provincial laws in that respect?

The WITNESS: Now, sir, I would say that: It told you I had been fighting this class of legislation for 35 years. I believe that every such law is foolish, unnecessary and destructive; especially in a new country which must depend in a greater degree than any nation in the history of the world on the development of its mining industry by the application of risk capital. I believe that the criminal code of your country covers every possible item of fraud that could be committed and which could not be cured by the security law of this province or any other.

I will ask you, sir, in answer; you have laws in this country, and in the United States, New York state—take New York state, New York City, as an example; you have laws against murder. Do they stop murder in New York City, for instance? Not at all. What these laws do is to stop driving in the streets where the murder or infraction of the laws has been made, to stop traffic in that street. That is what your security law has done. You don't do it in murder cases. You let the traffic go on, you round up the murderer and put him where he belongs. But in these cases, because dishonest men will creep into any speculative business, you stop traffic on the street; you close the street to traffic and you get nowhere in the end. If you would use your criminal law and go after the fellow who commits any dishonest act in the way of stock selling or promotion you would not need any more security law of any kind. It would not help you any more than your proper administration of the criminal code. That is my personal opinion.

Mr. FRASER: I would like to ask you a question: can you tell us how many persons are employed for each man employed in a mine; how many men are employed in industry, transportation, farming and lumbering, and so on; have you got the figures on that?

The WITNESS: I have them in my mind, sir. There have been a number of attempts to find out what it meant, and I think the general average would be 12.

The CHAIRMAN: That is what we were told before.

The WITNESS: That is the number which is accepted up in the mining country. I went through that very carefully in Timmins, and that is what we arrived at there.

Mr. FRASER: 12 to 1?

The WITNESS: Yes, 12 to 1.

By Mr. Marquis:

Q. Do you not think there should be some regulation as to the development of mines, not to the extent to which the Americans have gone with respect to infractions, but that an application should be registered, and so forth?—A. That, I believe, is the principale of the British Companies Act, and is quite sufficient. There you have to file your statement under oath; and if you, or any director of that company, or anybody representing you, commits a felony of any kind, then you are subject to the law.

Q. We ought to have some control by the government.—A. That is it, it is used everywhere in the British Empire, I believe.

By Mr. Fraser:

Q. If I remember correctly, the other day one of the members of this committee said that he did not want to see any exploitation of resources by Americans?—A. Yes, sir.

Q. Would you consider money coming from the States to develop these mines exploitation?—A. Exploration?

Q. Exploitation.—A. Exploitation?

Q. Yes?—A. No, what he said was—will you let me have your question again, did he say,—what?

Q. He said he did not want to see the resources of Canada exploited by the Americans.

Mr. FLEMING: He said, for the benefit of Americans.

The WITNESS: For the benefit of Americans; that is right.

By Mr. Fraser:

Q. Would you consider that money coming from the States into Canada——A. Exploitation?

Q. Yes.—A. With all due respect to the man who said it, I think he is entirely wrong, unquestionably wrong.

Q. That is why I brought it up at this time, because from what I have heard of the evidence I would take it that the money coming here has helped us.—A. No question about that, sir. Go back into the history of British Columbia, where I first started my mining experience, at Slocan, that whole Slocan company was made by Americans. So was your Trail smelter, the greatest smelter in the world; it would never have been started had it not been for American money and enterprise. It was started on Mr. F. Augustus Heinze. And the same thing is true of many of the other big mines in the Slocan district, like the War Eagle, the Northern Star, the Slocan Star, and so on. They were owned by Americans first. And it was because of them that the city of Spokane grew to metropolitanism. That was the cause of Spokane's rise to metropolitan status, the city of Spokane; and as you know, Spokane is only 120 or 130 miles from the border. That was the fact in British Columbia. Certainly it was the fact in Cobalt, Cobalt was practically all American money for a long time. The same thing is true of Flin Flon. The development of the Flin Flon mine in Manitoba was due directly to the investment of $27,000,000 by the estate of Harry Payne Whitney, of New York, before $1 was taken out. Yes, before $1 was taken out, $27,000,000 was invested in Flin Flon. I certainly think that was great advantage to the Dominion of Canada; because there you have a great smelting works, you have a great zinc electrolytic plant, you have a model town of 6,000 to 8,000 people served by a railroad, as any town in the country, and for that $27,000,000 which was spent you have since that time had paid out about $40,000 in dividends.

Mr. FRASER: You mean $40,000,000?

The WITNESS: $40,000,000, I should have said.

Mr. MARQUIS: Then, as a conclusion, it would be better not to modify the crimes but to punish the criminals?

The WITNESS: Absolutely.

Some Hon. MEMBERS: Well said.

The CHAIRMAN: Thank you, Mr. Norman.

We have one more person who would like to appear before the committee, Mr. Gordon Jones, mining executive. If I understand correctly it will take him about an hour. We have been working hard all day and I appreciate that it has been a sacrifice to members who were present to form a quorum. Will it be satisfactory if we meet this afternoon at 4 o'clock, and then we will be through?

Mr. FLEMING: There is a very important debate on in the House this afternoon.

The CHAIRMAN: I know there is, but there is only the one witness to be heard.

Mr. FLEMING: May I ask a question? Is it your intention, Mr. Chairman, to go directly into a consideration of our reference?

The CHAIRMAN: I will leave that for the steering committee. I have asked the steering committee to meet with me to-morrow at 2 o'clock.

Mr. FLEMING: Then you will not be going into that to-day?

The CHAIRMAN: Oh no.

Mr. JONES: I would like to co-operate with you in any way. I have been making notes as I went along during these meetings and there is a lot of repetition. I will try to avoid any repetition. I cannot estimate how long I may take, I might get through in half an hour, if you want to sit now.

The CHAIRMAN: That would be rather a hardship on the members. I think it would be more convenient for all concerned if you were to put it over until this afternoon at 4 o'clock.

Mr. SLAGHT: Mr. Chairman, just before you rise: I heard this morning that the Minister of Mines, and I believe the attorneys general of all the provinces which are meeting here had a meeting to deal in some manner with the problem before us. Might I ask you, or some of the members, to try to ascertain and before you close this afternoon get the result of their deliberations, which I believe are adverse to the treaty in toto.

The committee adjourned at 12.45 o'clock p.m. to meet again this day at 4 o'clock p.m.

AFTERNOON SESSION

The committee resumed at 4.00 p.m.

The CHAIRMAN: I want to thank the members of the committee for finding it possible to leave the deliberations in the House of Commons. I know they are going to miss them but they also realize there is good work to be performed here. I will apologize to Mr. Jones. I should like to call now the Hon. R. L. Maitland, Attorney General for British Columbia. I call him first because we know he is a very busy man just now. Without any further preliminaries I will call him.

Hon. R. L. MAITLAND, Attorney General of British Columbia, *called.*

The WITNESS: I am very grateful to you for the privilege of being here to-day and going on record in reference to this proposed extradition treaty. I was very much interested in Mr. Brais' exposition of this treaty. From his experience his views are valuable. I may say I have had something to do with criminal law —that is in the capacity always of representing someone else—for the last thirty-two years. As far as I can see—and I have not had a chance to study it very deeply—this treaty is a great departure from our idea of extradition law. At the present time anyone in Canada, whether he be a Canadian or an American or belonging to any other country, knows what the extradition law is from day to day. He knows if it is a crime under our criminal code and it is included

under the treaty then in force then he is subject to extradition, but under this we have not even power to make our extraditable offences because all they have to do in any one of these forty-eight states is to pass a regulation and that regulation then becomes an offence, and you do not know from day to day what is an extraditable offence at all. In other words we let the States say what is extraditable under our law. I disagree entirely with Mr. Slaght when he said as to what he termed double offence, I think—

Mr. HACKETT: Double criminality.

The WITNESS: That an American would be subject to extradition and a Canadian would not. I cannot conceive of that existing under our flag at all. It seems to me that when you commit an offence it is either extraditable or it is not, and I do not think that the nationality of a person enters into it. I think if an American comes up here and is here for any time without acquiring domicile—I think one of you raised the question of domicile this morning—he should be in exactly the same position as any other citizen in Canada and there should not be discrimination whereby you would take the American back and you would not take the Canadian for committing the same offence.

Mr. SLAGHT: If you will permit me I may say I am not advocating that. I stand where you do on the matter of treating both alike, but I put that forward, coming here to tear down things which are proposed, as a possible compromise solution if any members of the committee thought they should go that far.

The WITNESS: I have not much more to say except this. The provinces have the administration of criminal law. The attorney general of each province is engaged in the administration of criminal law continuously. There is no like department in the dominion government because they are not prosecuting cases. They are not carrying on the administration of criminal law at all. I would say that the Department of External Affairs never have anything to do with criminal law. It seems to me that we have this situation in Canada. We have nine security commissioners. Those are the men who try to administer these various Acts which have to do with trading in stocks, mines, and that sort of thing. They accuse us in British Columbia of being very rigid, of being very unfair because they say that our Security Frauds Act is exceptionally stringent. You have those commissioners all over Canada. You have these men who are making an expert study of the effect of this kind of legislation on securities. I would suggest to this committee that it would be a far better course to follow if the dominion government would submit the treaty to the various attorneys general in Canada. They are the ones after all who have to do with the administration of criminal law in Canada. Let them make representations as to what their views are regarding this extradition Act. I would say from sitting here this morning—and I listened very carefully to the evidence—that this committee would be well advised to call in the security commissioners from the various parts of Canada.

This matter is far too important to pass off without the very valuable information that you can get. There is nothing more technical than security law. You all know that. There is nothing more technical than all these orders they can pass in these various states. Therefore, with the greatest respect, Mr. Chairman, I should like to suggest that before this bill does come up—I heard them announce to-day in the House that it is not to be at this session—that the committee call in the security commissioners from all over Canada and get their expert advice and their expert views on this matter. These men are not acting for any interests. They are not acting for any corporations. They are neither for or against various views that might be advanced regarding a thing of this kind, but they are in a position to know whether or not this

would be beneficial. I do not want to mislead the committee, but I might say that our commissioner, who has attended I think all of the conferences in Canada for the last ten years, and a great many in the United States, is very much worried over the introduction of this bill because he thinks it will hurt mining in British Columbia, and he has the feeling that it should be held up.

Therefore, my parting suggestion would be that you get the advice of the security commissioners in Canada, and I think maybe it would not be out of the way if you have the time to ask the various attorneys general of the different provinces to let their staffs look into this matter. Having regard to the general administration of justice, having regard to the extradition law which has stood for one hundred years, this is a radical change and is getting away from what were always understood to be extraditable offences, something that existed in both countries as crimes and were agreed upon as such. I think the various provinces should be consulted before this Act is brought in.

By Mr. Fraser:

Q. Before you sit down do you think we should hear the evidence of all nine?—A. I do not see why not. They all have very important functions. They have the administration of justice in their provinces. I think you owe it to the provinces to let them express their views on legislation of this kind. I want to tell you that Act is a departure from what you have had for one hundred years. It is a radical departure and one that should be very carefully considered.

The CHAIRMAN: I am positive that the committee appreciates the fact that you have found it possible to appear before us this afternoon. No doubt your proposition will certainly be considered by our committee.

The WITNESS: Thank you very much.

The CHAIRMAN: As the last witness we have Mr. Gordon Jones. Mr. Jones is a mining executive. Before we came in he was a little perturbed by the statement made by the Prime Minister this afternoon in the House that there would be no report on that treaty as far as this committee is concerned. We all realize that all that the committee could do would be to make recommendations. We have no right to make amendments. All that we can do is make certain proposals and pass certain resolutions which would be presented to parliament to decide on. Personally—and I believe I am voicing the sentiments of all members of the committee—I believe good work has been done during the last four or five meetings. The attention of the public has been focused on the activities of the committee and also on the briefs which have been presented to this committee. I believe that information has received wide publicity which has opened the way to more deliberation and more study. As far as our committee is concerned I know I am speaking for every member of the committee when I say that we are going to scrutinize very thoroughly everything that has been stated here, and also the treaty and protocol. It is going to take a long time. I believe in the recess which we will have that the time will be well taken up by the members of the committee on this matter. It may be possible before we adjourn our activities as a committee, before prorogation of the House, to have one or two more sittings to deliberate on some of the things we expect to do when we meet again in 1946.

Mr. HACKETT: Did you say that there was to be no report from this committee?

The CHAIRMAN: We may make a report but it is not the intention of the government to deal with the treaty and protocol during the present parliament.

Mr. HACKETT: That may be, and we all understand that we cannot modify the treaty, but we were asked to study the treaty that we might make a report

to the House as to the expediency of ratifying it. With great deference I would think it was our duty to make a report in the light of the information which is before us, and the House will deal with that report as it deems wise. I cannot see why we should wait until the next session to make a report on our findings.

The CHAIRMAN: Of course there will be a report. There is bound to be a third report now, but whether we will have time to deal thoroughly with what we intend to do with the briefs that have been presented to the committee and also the witnesses that have appeared before us, besides dealing with the treaty and the protocol, I do not know.

Mr. HACKETT: I should like to make this suggestion. We all have more work than we can do conveniently here. The most economical way of doing it is to do it while it is fresh in our minds. If we let this stand until next January or February it means that all we have done now is lost and we have to begin over again. I hope that you will bring this matter before the committee and let it decide whether or not it is not opportune to dispose of the matter in so far as we are concerned. That does not mean that the House and the government will not have the ultimate say but we can say that we have found and dissolve.

Mr. LEGER: I am not a lawyer, but I understand that sometimes lawyers take months in order to prepare a case. I think it would be wise for us to take the minutes of the meetings and study them. Then, when we come back next session we will be prepared to make proper recommendations. I do not think that any of us have had the minutes of these meetings yet. The only thing we have heard is what these different gentlemen have said. I think we have to study the reports. We only have three weeks or so to go before we adjourn. We will be sitting from 11 o'clock in the morning and will be very busy. I think it would be wise to let this stand.

Mr. HACKETT: That will be a matter for the committee to determine.

Mr. MARQUIS: I should like to say a word on that point. I think what Mr. Hackett intends to do is to try to find out our conclusions and put them in the record so that we will not have to start at the beginning when we come back. We are not obliged to make recommendations right now but we can come to some conclusions.

Mr. HACKETT: We can find out what is the common denominator.

Mr. ADAMSON: I think Mr. Hackett's suggestion is very valuable and should be considered very seriously.

The CHAIRMAN: I thought we might have three or four more sittings before we present our third report. Take, for instance, the suggestion of the Hon. Mr. Maitland. I do not think we could comply with that this year, but we should certainly try to have those security commissioners before our committee early next year.

Mr. HACKETT: With great respect to what Mr. Maitland says, unless we are determined that we are going to make vice out of the infractions of the rules of these commissions, what they have to say would not be very helpful to us.

Mr. BOUCHER: At the same time, Mr. Chairman, a suggestion was made here previously that we should hear representations from the Department of Justice as to their position on it, and I do feel that we should not let this present session go by without having the representations made to the committee by the Department of Justice. After having heard that, it may be possible that this committee could come to certain conclusions that would not necessitate the prolonging of the investigation. We should at least explore the possibility

of bringing in a finding this session. If for any reason we have not made up our minds to that effect, we should postpone it. I do not think we should contemplate postponing our decision any longer than is absolutely necessary, because of two things; one, the fact that this treaty has been in existence now for some considerable length of time; and, secondly, because the public is pretty well informed of the purport of this now; and we should not leave it in an unfinished state any longer than is necessary.

The CHAIRMAN: These points are all well taken. There is the constitutional aspect of it.

Mr. LEGER: Are we discussing this now, or are we going to hear Mr. Jones?

The CHAIRMAN: I believe the discussion is in order at the present time. Mr. Jones will take half an hour. I want to have the views of members of the committee because to-mororrow we are going to have a meeting of the steering committee, and I believe it will be helpful to us to have an expression of sentiments by members of the committee when the steering committee meets, as it will give them some guidance insofar as future activities are concerned. If you are in agreement now I will call Mr. Gordon Jones.

Mr. GORDON JONES, mining executive, *called.*

Mr. FRASER: I might say, Mr. Chairman, that Mr. Jones expected a map would be here for him. It has not arrived yet, but according to his secretary it is on its way, I understand.

The WITNESS: Mr. Chairman and gentlemen; thank you Mr. Fraser, I can get along without the map. I feel somewhat at a loss following the many eminent speakers whom you have had before you. However, not being a public speaker, I did not prepare a speech; but during the interval between lunch and now I cut my observations down as much as possible; and I will try to avoid repetition of what has already been said.

You have had an excellent presentation of this case by everyone who has spoken.

And now, I would like to say a word about my profession. If I were in the real estate business you would probably call me a real estate agent, except that I go a little further than that; I am the go between between the man who owns the property and the man who is looking for a property; and in addition to that I employ a permanent staff and I have at my call a large number of technicians, and I can deliver to a job experts whom financiers do not know where to reach. I have interests at the present time in six of the provinces in addition to the Northwest Territories, so I feel that I am quite justified in speaking on the subject.

Mr. FRASER: Mr. Jones, when you say you are a "go between"; what you mean by that is that you help the prospector to find a customer for his property?

The WITNESS: I went into this business, Mr. Fraser, 14 years ago for the reason that I found that there were very few prospectors who had any knowledge of financing, and also very few financiers had any knowledge of mining, there was a big gap which I felt needed to be filled in.

And now, Mr. Norman gave you an excellent prospective of mining, Canadian mining, as a gentleman who is a citizen of the United States, and probably no one on the North American continent is better informed on mining than is Mr. Norman. However, his remarks are more or less generalized and I want to give you some figures. They will be more or less highlight figures. I find in my travels that very few Canadians, and likewise very few of our public men, have any very great knowledge of what the mines of Canada have accomplished up to date, or what their potentialities are. I have also found that the same applies to the American public.

Mr. FRASER: Perhaps Mr. Jones would like to stop a minute until they get his map up.

The WITNESS: I could cover my point better if I had the map.

Mr. HACKETT: Mr. Chairman, I hope Mr. Jones will not think that I am unappreciative, speaking only for myself, if I were to tell him that I am convinced that money which has been called venture money from the United States is most important to the development of our natural resources, and I think that the committee is pretty convinced of that too; and, if that be the case, we are detaining him unnecessarily if he is only attempting to bring us to that frame of mind.

The WITNESS: I think I can cover my whole subject in about 15 minutes, probably less.

Mr. ADAMSON: I think that every bit of evidence showing that should be given, for the sake of the record.

The WITNESS: One of the figures I am going to quote will I think possibly be startling to most of you. I was down in the department about two years ago, talking to some of the senior executives down here, and I said to them; can you tell me how much the mineral lands of Canada to date have been prospected? They answered by saying, we can't give you that; you probably can answer it for us, because you are a broker. Well, gentlemen, here is the answer; up to date we have mapped 7 percent of the known favourable, possible mineral lands of Canada. Then they asked me another question; can you say how much that has been prospected; and my reply was, I would say it was less than 20 per cent. So if you would take those figures and analyze them you would find that we have prospected approximately 1 per cent of our mineral land, and that starts away up here near the mouth of the Mackenzie River, from here down to here, and on down to Winnipeg, to a point just north of Winnipeg—

Mr. HACKETT: It might be better if you were to name the points to which you refer, just saying "here" does not mean much on the record.

The WITNESS: From the mouth of the Mackenzie, down the Mackenzie to Slave Lake; follow that line a little north of Winnipeg, down south of Winnipeg to the boundary in Ontario, between Ontario and the United States; and from there right across Ontario over into Quebec; and you come out on the St. Lawrence, down here; and from there, north. Any part of that line is potential mineral land.

Mr. BOUCHER: We would like to get this in the record. You said, down here on the St. Lawrence—where is "here"?

The WITNESS: I have forgotten this starting point down here—Lake St. John. If you were to start from there, from Lake St. John to North Bay, North Bay west of Sudbury, and take in everything north of that line to Winnipeg, Winnipeg to Slave Lake, and Slave Lake to the mouth of the Mackenzie, and from there north and east is all potential mineral land.

Now, if you pick a spot on the map and put 150 flies on there, you would have all the producing mines in Canada to-day. That is what they would represent.

Mr. FRASER: That is, coal mines and everything else?

The WITNESS: Every kind of mine.

Mr. FRASER: Silver mines and everything else?

The WITNESS: Every kind of a producer.

Mr. ADAMSON: That is the extent of development at the present time?

The WITNESS: That is right. At the present time it is estimated that we have under development shafts, sinkings, and so on—prospects—that will possibly make 100 new producing mines in the next five years.

Mr. ADAMSON: Have you the names?

The WITNESS: I haven't got it with me, but I can name a lot of them off-hand, if you want me to. We will start with the Quebec boundary and right east of the Quebec boundary—Ontario—is one, Arntfield. Right south of Arntfield you have Wasca Lake—Wasca Lake two years ago was a piece of swamp, right down in the marsh; you could hardly walk across it without getting your feet wet; but through the use of certain technical equipment that we have, we made a geophysical survey with the result that they got some readings there to give them indications where to drill; they drilled and it is estimated that they have probably got one of the big mines in western Quebec in the making. They are just starting now, but from the showing I believe they are planning something like a 700-ton Mill. I have taken these mines and I have broken them down into say 100 producers which will probably average 300 tons each. Each ton of ore takes one miner. So you multiply 300 by 100 and that gives you 30,000 miners; and if each miner supports 12 men, you will have a new population of 360,000 people who will receive their livelihood from the future mines of the next five years. That means a great deal to the factories, to the farmers, to the lumbermen, and it is a wonderful concession to the railroads.

Mr. JAQUES: What sort of mines?

The WITNESS: Mostly gold, but we have one or two base metal mines that are coming on. For instance, Quemont, which adjoins Noranda. A great deal of it lies under Onico Lake; and through these magnetometer surveys that they are using these days they have established the presence of an ore body—I was told by a very well-known mining man in Toronto over the week end that it may be another Noranda. He has seen the very latest drill results, and it is amazing, that the thing has lain there for years right along side Noranda and nothing has been done about it. Then, right at Noranda and running down a couple of miles down the line, you have a couple of other promising properties; then you have adjoining O'Brien on the west, Malartic, just opened up. You can go on there for 120 miles in that section of Quebec and every few miles there are new mines. Take for instance, the Malartic mine, just south of Val d'Or, east Malartic mine in a swamp—it lies partially under water and muskeg—there is a rather unique railroad, a full track railway built in there seven miles long in order to get their supplies in over the muskeg; and that ore body also was discovered by geophysical survey and drill. That may be, and I say maybe advisedly, that may be the next biggest copper mine in Canada. And through the discoveries there they have located other properties over to the west of that which a few years ago were considered to be moose pasture, of no value, which may be potential copper and gold producers.

But now, you jump from there, north of the transcontinental line and right across the transcontinental line from the Ontario boundary east to Senneterre, and you have probably got between 200 and 300 prospects at the present time in there being developed and being drilled. Then you jump north of that and you have another belt; then you jump 100 to 150 miles north to the Chilbougami area (don't ask me to spell that one) right across almost to Lake St. John; and it is estimated by mining men that is the biggest undeveloped area possibly in Canada to-day outside of Yellowknife—some amazing discoveries.

And now, I am going to skip along as fast as I can. Here is a point I would like to bring to your attention. Ninety-five per cent of the producers at the present time were discovered prior to 1929, and only five per cent since that time. The result has been that for the last fifteen years the market has been a buyers market and the prospector had to go begging. He could not give properties

away. Many of the properties coming to-day into production were staked and worked on years ago by the prospector who lost them because he did not have the money with which to pay the taxes to keep them up. The thing requires outlets the same as any other industry.

In the 1920's we had two thousand brokers in the province of Ontario. In 1940, due to numerous circumstances, there were not more than fifty brokers who were interested in financing mines under any conditions.

By Mr. Leger:

Q. What happened to the others?—A. Well, lack of interest among other things. At the present time we have between three hundred and fifty and four hundred brokers in Ontario who are financing mines. I cannot give you the figures for the other provinces, because I have not the registration.

If a prospector has anything today with a good showing on it, he has no difficulty whatsoever in finding the right market. It has been a boon to the prospector. Ninety-five per cent of them were broke fifteen years ago and will never go back to the bush. That is a tragedy. Now we have to cultivate a new group of prospectors that are just starting in now. A great many of the boys coming out of the army are going into the mining business. Many of the chaps who worked on the Canol project have gone back up to prospect and have made some wonderful finds. One of our ex-premiers made a statement once that if it had not been for the gold mines in 1933 and 1934, Canada would probably have been broke because we would not have had the money to pay the United States and the exchange. I do not think we should do anything to prevent these new mines from coming along as fast as they can.

World trade and credits today are in such a position that no one can predict the future. What will happen if they depreciate the pound sterling? If they do that, Canada is almost certain to be in between the United States dollar and the pound sterling. That means another premium on mines which will stimulate more mining. It will be a big boon to us.

Prior to the war the United States sold us $750,000,000 worth of goods a year and we sold them $400,000,000 worth. We used our credit in London to off-set our credit in New York. We possibly won't have a credit in London from now on. So, what are we going to sell the United States to off-set our deficits? Let me give you the imports. From 1914 to 1931, the leading imports in dollars and cents into the United States were as follows: Coffee, sugar cane, crude rubber, raw silk, newsprint, fats and oils, tin, chemicals and drugs, fruits and nuts, and furs. Of the ten, Canada only sold them two, newsprint and furs. We had nothing else in that ten. We will never sell products to the United States from our farms and orchards because they have too much of their own that they want to sell us. So the only hope I can see whereby we can increase our exports to the United States is from our mines.

Some one mentioned during this conference about money lost in mining. I agree with Mr. Norman that such money, the money invested in mining in Canada, is never lost for the reason that it never leaves Canada. That money stays in Canada. If you haven't got it, somebody else has. There are very few businesses about which you can make that statement.

How does money lost in mining compare with money lost in business? In 1940, *Forbes Magazine* in New York stated that from 1917 to 1937, which is the most prosperous twenty years in the history of the North American continent, there were thousands and thousands of people who went into business in Canada and United States. Of those thousands, at the end of 1937 there were only seven per cent still in business, and of that seven per cent still in business only three per cent could pay their way; and only three-

quarters of one per cent ever paid their dividends. Now, how does that compare with the mining business? I would say that casualties in ordinary business are far greater.

By Mr. Boucher:

Q. Are you speaking there only of incorporated companies?—A. No. Everybody who went into business is quoted in Dun and Bradstreet. That includes everybody.

New methods of finding ore, new knowledge about geology in the last five years have progressed more, I would say—although Mr. Adamson can vouch for that better than I can—than in the previous twenty years with the result that I am sure that the prospects being worked on to-day, I mean those recommended by geologists and engineers, will include a larger average of producers than ever before has been the case in history. That condition, I think, will improve because new methods of finding ore are coming out all the time.

By Mr. Adamson:

Q. They would never have found the mines according to the old method?—A. That is right. I am satisfied that no public man could help being influenced by the press. That is found to be the case. We had some very adverse publicity in the last year in the press and it rather worried people like myself who are in the mining business, because it affected our future and investments tremendously. I was delegated, or rather I should say I was requested, by some mining men in Toronto to go down to New York and try to find out just why some of this publicity was appearing. I went to New York and there I interviewed some of the leading papers in the United States. It is amazing what they did not know about Canadian mining. I am not going into detail at this time but one of the leading papers in the United States published a long double column article with big headlines about certain conditions of mining in Canada. When I talked with the editor of that paper, I found that he did not know there was a gold mine in Canada that ever paid dividends. He did not know *Time* magazine, which publishes a Canadian section—the editor of that magazine did not know that any Canadian gold mine ever paid a dividend. Moreover, they have no conception whatever of the size of a plant. They have the idea that a gold mine would be about the size of this room, and that it would be a big gold mine. When I told them that it would take two hours to walk, without stopping, through Hollinger, they did not believe me. They invited me to come back to luncheon next day and when I told them about that, I could see they still did not believe me, as I told them that were one hundred and ten miles of underground railway in Hollinger. The result was that every newspaper man in New York whom I interviewed wanted to come up to Canada in order to find out what it was all about. So I picked out four of them and brought them back with me. We made a trip of the mining country in Ontario and in that trip I took them through the Hollinger mine. When we got to the Hollinger mine I questioned the guide whether there were one hundred and ten miles of underground railroad. The guide states: we have five hundred and twenty-five miles of railway underground. That gives you only a picture of what we have. It is something that you probably do not know. The people I took through there thought previously that a gold mine was a shack with a few slush boxes in it. That is how much they knew about it. Some of our newspapers in Canada are not much better informed.

By Mr. Fraser:

Q. Did any of those newspaper men buy any stock?—A. Some of them did, and some of their friends bought stock.

Q. If this treaty goes through, would you be liable or not?—A. I would be liable, definitely.

By Mr. Hackett:

Q. I was going to ask if those newspapers that you contacted had been carrying on a subsidized campaign on the subject of mining?—A. I am coming to that. I asked the editor of one of those big papers—pardon me if I do not quote names—if he would mind telling me where they got their source of information? He said: from the Public Relations department of the S.E.C. Here are a couple of quotations.

By Mr. Leger:

Q. I think you really should give us the names. It is very important to find out where the information comes from. Mr. Norman did not want to quote names this morning. I think any statement made without names being quoted becomes just your own information?—A. Mr. Leger, sometimes you are requested not to quote names. Now, in the case of *Time* magazine, that magazine sent up a photographer and a writer. I went over the same territory a couple of weeks later. Probably you read in *Time* magazine the very excellent article. I do not mind mentioning *Time* magazine, but I was asked not to use names. It does prove rather embarrassing. As a result of that trip we have taken approximately two thousand five hundred photographs and we have circularized them thoughout the United States press and also the Canadian press. They have given us very generous space. For example, the New York *News* gave us, for three week-ends in a row, a double page spread in the centre of their rotogravure section which would have cost $16,000 in advertising space, telling the story of Canadian mining. Among the other papers that also gave publicity free of charge were the Philadelphia *Ledger* and the Cleveland *Plain Dealer*. All those papers gave us very generous space.

I have in my office at the present time more than one thousand clippings about Canadian mining that have appeared in the United States press since we made that trip. Even the movie people went up and took a picture about Canadian mining.

By Mr. Marier:

Q. I think the facts are more important than names.—A. I would be glad to show you my scrapbook. It is as thick as that table and it is filled with stuff that has appeared in the Canadian press since the last of August.

By Mr. Boucher:

Q. It might do more harm than good to print names under such circumstances.

Mr. MARQUIS: Yes, because we would have to get the people who were named to come here as witnesses.

Mr. LEGER: Anyone who makes a statement should back it up, otherwise it is not worth very much in evidence, is it? You are a lawyer. You would admit that, wouldn't you?

Mr. BOUCHER: I suppose so, strictly in law, we would be obliged to.

The WITNESS: I am afraid we would be cutting off our noses to spite our faces if we mentioned any names at the present time. I am satisfied that we will

get, with the program we have outlined at the present time, more favourable comment in the United States in the next twelve months than you have ever seen in your life before, because I found them very hungry for Canadian news. They are very, very friendly, and they are hungry for Canadian news. They said, "You have hit us at the proper time. We are just getting out of the war when all the papers have had headlines about war, and we have conversion and our public are anxious to know more about Canada."

By Mr. Leger:

Q. By the way, may I ask this question? You do not have to answer if you do not want to. Are you a Canadian?—A. That is right.

Q. Thank you.—A. Born and raised in Guelph. Now I am going to ask the reporter if he will just ignore the next remarks because this is off the record.

(Comments off the record).

If you like, you can continue, Mr. Reporter. I asked him if he would give me the names of one or two attorneys who were capable of registering a Canadian deal. He said, "I will not only give you their names, I will call them up and will make the appointments for you." He called them and made the appointment for me. When I got to New York I went and interviewed him. He said, "Pick out a property that you are familiar with and that you can talk about in detail. If you have any information, check in advance on it. Do not give him the names but give him a good phoney name." So I picked on Pandora in Cadillac Township because I was familiar with that. I called it Cook Gold Mines. When I interviewed this fellow I said, "Look, here is a property that has got three shafts down; it has got a head crane, got surface mining plants. We have got ore in one shaft, 750 feet of ore blocked out in one shaft. We want to sink that shaft down another 500 feet. We want to open up three more levels—we want to do this and that and the other thing—and it is going to cost $300,000. How can we go about it? How can we get finances for that?" So he said, "How big is the property?" I told him it was a great big property, 3 miles long, more than one and three quarter miles north and south and I said it is a consolidation of three gold properties. One of the unfortunate things in Quebec, and it is also true in Ontario, is that in the early days they went in and staked,—one guy might put a stake in one corner and another guy put a stake in another, one guy rushes out here and another rushes out and puts a stake down there, with the result that you get all sorts of crooked staking and overlapping. Now that has been stopped, with the result that this property was developed. We found we had one property at this end was L-shaped, another property at this end was L-shaped, and another in the centre here had seven claims. When we started to develop the property we found that the ore bodies dipped this way and that way and there were some ore bodies going into the other fellows' parts. So we felt we should consolidate those three properties into one, which we did, and it is now known as Pandora Cadillac. He says, "In the first place you have got a big job on your hands for this reason. You would have to go back to the very beginning, to the day the guy staked that ground and get me his name and address, get me all the particulars, the price he would get for that ground, who he sold it to, what company it went into, what happened to the company, how much money they received, how it was spent and you would have to have engineers' reports together with that and all the details of consolidation." I said, "That is an impossible situation. It cannot be done. And after all, I cannot see what the history of a property has got to do with present day financing." So I said it is an impossible situation. But tell me how much will it cost if we do register? He said, "I want $10,000. I want $5,000 on the line and $5,000 when it is finished." I said, "If you get $10,000 will you guarantee

to register." He said, "No." I said, "What happens to the $5,000?" He said, "It is gone." So I went to the other fellow, and told him the same story. He said, "I would not do it that way." He said, that we should raise $100,000 to start off with. I said, "how much will that cost?" He said that would cost $5,000. He said, "When you get the $100,000, come back and ask for another $100,000 at a later date." I said, "How much will that cost?" He said, "Each $100,000 additional with cost $2,000, plus $250 fee a day if I have to go to Philadelphia to get it through, and my expenses." I give that to show you the impossibility of any property ever getting registered with S.E.C., when you have got to put $5,000 down to start off with.

The CHAIRMAN: As chairman of the committee I doubt very much if the last part of the witness' testimony should be on the record. It is getting to the point where there is some insinuations against the Security Commission. Personally, I do not like that very much. I do not know what will be the consensus of opinion of the committee. But after all, we are a parliamentary committee, and we have to be very careful about what we report.

Mr. ADAMSON: Why not have it typed but not printed, and give it to the steering committee to decide on?

The CHAIRMAN: I think that would be the best way.

Mr. BOUCHER: I move that the portion of Mr. Gordon Jones' evidence relating to certain methods of security registration in the United States proposed by two lawyers in the course of his interview be referred to the Steering Committee for consideration.

Motion agreed to.

The WITNESS: You may ask why do they try to create animosity in the S.E.C? My only conclusion after the various interviews I had was that they have got to create confusion to justify their job or why have they got that staff there? And this public relations office that they have recently set up must have been set up for some purpose along that line for it does not serve any useful purpose.

By Mr. Hackett:

Q. That is the one that started the propaganda?—A. That is the one that started the propaganada. Why do they come over here? For the simple reason that they have not any business at all now. Mr. Norman told you there is not one single mine that has been brought into production in the United States since the S.E.C. came into existence. That is why they came over here.

By Mr. Jaques:

Q. They are opening up their own gold mining.—A. They have not opened up a new mine since the S.E.C. came into existence.

Q. Theirs is the modern kind of gold mining.—A. Oh. To confirm that we are not all one-sided on this, ex-governor Statson of Minnesota, published three articles in the *Saturday Evening Post* about a year ago concerning the S.E.C. President Truman has also expressed publicly his opinion on the activities of the S.E.C. and many senators; Senator Murray of Montana and many more. Recently, owing to the pressure brought to bear on the S.E.C. in the United States they decided to exempt registration up to $300,000 of any adventure that wanted venture capital, but restricted it to American companies. Canadians did no qualify. I just want to make that clear.

By Mr. Hackett:

Q. You say American companies. Suppose the American company owned a claim or prospect in Ontario. What would happen?—A. I am informed you

can form a Delaware corporation or a Denver corporation—I think it is Denver; it may be Nevada; you could form one of these corporations if you went to these places without any fuss and register it there without any difficulty; but they have to be American directors, mostly American directors and some one take the responsibility of service in the States. But there is some provision saying that at the present time it is limited to $300,000. I say this, gentlemen, that outfits like Henry Ford and General Motors, which are some of the world's greatest corporations and which are the industries which led the rest on the North American continent, could never have started, never have got to first base if the S.E.C. had been in existence when they started. I want to say this also, that if the S.E.C. had been in existence in the last half of the nineteenth century, the United States would never be where it is to-day, because they depended on England and Holland and France for their money.

By Mr. Boucher:

Q. You have given us the fact that not one mine was started, but the S.E.C. covers other companies. Have you any indication as to what extent it might be an impediment to other companies?—A. I cannot, except to give you general conclusions from brokers that I have contacted in the United States and they tell me it is an impossibility to get a company there. A friend of mine in Minneapolis told me a short while ago that he attempted to get one for two elderly gentlemen who were prosperous citizens. They had been in Minneapolis for a good many years, as clean as a whistle, no debts, had more than half a million dollars in the bank and they wanted to put it into a different company so they could liquidate their personal holdings, and they told me that it took over 200 pages of material to supply all the information they wanted. They sent accountants out from Washington and Philadelphia and went to a great deal of expense and they have still got their property.

Q. You told us there was not one mining company set up within the last 5 years. The S.E.C. covers much more than mining companies, so I thought possibly you could give us some idea as to the industrial companies.—A. I am sorry I cannot. I have never been interested in industrials so I have never taken the trouble to check up.

By Mr. Beaudry:

Q. Shall we draw the conclusion that the S.E.C. restricts company activities in the United States for the Americans just as much as they might restrict mining or any Canadian activities in the United States?—A. Just about as much. I also go further and say this, that in the United States if you had a new idea to-day, like many ideas that have come up in the past, and you wanted to finance it, you would be absolutely stymied and be forced to sell it to some of the big fellows because you have no place to go. There is nobody interested in financing new ideas to-day.

Another point, and I am just about through, gentlemen. Suppose you do register in the S.E.C. and you qualify in several states. Any state that is fussy, a little bit more fussy than the others can stop you. I want to say that New York is not fussy, New Jersey is not fussy and many others, if you ever do get registered; but Ohio and Illinois are particularly fussy. You heard the letter Mr. Salter read here the other day from the commissioner in Ohio. And if any one state questions your activities after you have registered, it stops the whole thing.

Somebody asked too, the other day why we go to America for money. There is a good answer to that. For one thing, the Americans have the money in the first place. In the second place, they are not as hard to sell as Canadians are.

You have had many references here about mines being started such as Noranda. Colonel Thompson who brought Chadburn here and started Noranda, if that was to-day, if this treaty went through, Thompson could not have taken the chance. Neither could Chadburn, in doing what they did at the time they started Noranda.

Another thing, and I think it is quite a logical answer, is this. They are larger individual buyers. I would rather be asked to raise $100,000 in the United States than to raise $10,000 in Canada, under similar conditions.

I mentioned the need to offset our deficit in United States exports, I covered that before. I am through but I want to give you a little illustration. After I left here last week there is a wire that I received from a man I interviewed in Minneapolis a couple of weeks ago asking me to buy him 10,000 shares of stock in selected gold mines in Canada. If that treaty would go through, I would not have filled that order, but I filled the order through my broker in Toronto after getting off there. Here is a letter from a man who had been a member of the New York Stock Exchange for thirty years. It is from Minneapolis and is dated November 17, 1945. This was not a sponsored letter. It reads:

> Dear Gordon:
>
> I am having a copy of your letter sent to Dr. Spencer and to the other stockholders here. Please understand I am not critical of you in any way but like yourself, I am a little annoyed at the delay.

I have got a deal going through at the present time. I am trying to see if I can register a deal with the S.E.C. and he is annoyed at the delay.

> You recall I have been pessimistic about our S.E.C. from the very beginning. That institution is still 100 per cent New Deal and they don't want anyone to make any money, and I think before we get through, you will find they won't let you sell any great amount of stock here.
>
> It seems to me that we have got to find some other source of buyers. I hope I'm wrong but my experience with the S.E.C. has been anything but favourable and I have never seen one deal where they allowed the promoters or underwriters to make much money. Now the other market left for us is Canada. You know that territory better than I do but I gather from your conversations during the past months that you thought the money would have to come from this country.

That is from a man who has had thirty years' experience as a member of the New York Stock Exchange.

Now, gentlemen, that is the conclusion of my remarks. I thank you very much for giving your time and attention and hope I have contributed something to your efforts. Thank you.

Mr. JAQUES: Could I ask Mr. Jones a question?

The CHAIRMAN: Yes.

By Mr. Jaques:

Q. I take it you are interested mostly in gold mines?—A. My interest?

Q. Yes, mostly in gold mines?—A. No, I will tackle anything except iron and that is something which requires too much money. I have never attempted to develop an iron property.

Q. Do you know anything about the tar sands in northern Alberta?—A. Some, yes, but not a great deal. What I know about it is more or less what I have read about it and I have talked with some people. I have had the privilege of travelling through that country but I must confess I do not know very much about oil production.

Q. You know, of course, the amount of oil that is there?—A. That is right.

Q. One mining engineer, who is perfectly conservative, told me that on a conservative estimate there was enough oil there to last the world at the present rate of consumption for 1,500 years.

The CHAIRMAN: Hear, hear.

Mr. JAQUES: It seems to me that there is real wealth.

Mr. BEAUDRY: Are we not getting away from the purpose of our evidence?

The CHAIRMAN: It is in a way. Mr. Jaques is highly interested in that. I was interested in the few words he had to say on gold mining, too.

Mr. JAQUES: I do not think it is out of the way at all. Here is a man who is before this committee and is in contact with capital seeking investments in Canada. I cannot conceive of a more useful way to invest money than trying to extract oil from those sands. If that can be solved I will say we have got more wealth there than all the gold there is in the world.

Mr. BEAUDRY: That may be possible, but we are discussing the extradition treaty.

The WITNESS: I think you have got something there, but I do not think I am capable of answering your question intelligently because I am not an oil man. I have never seen it denied by anyone that you have tremendous potential wealth there. I have not the least doubt in my own mind that the problems of separating the sand and the oil can be solved. I do not think anything is impossible nowadays.

The CHAIRMAN: Are there any other questions that any of the members wish to ask Mr. Jones?

By Mr. Fraser:

Q. Mr. Jones said that in the beginning there were 150 mines in production and he thought there would be another 100 mines in the next five years, but he did not tell us anything about how many mines never came into production.—A. I do not think there are any statistics on that for this reason, that in the past there was a lot of guesswork in mining. There is still. Anybody who gets a mine has got to consider himself somewhat lucky. I will give you an example, and I will show you what I am trying to say. I think it was 1917—Mr. Slaght probably knows better than I do—when Mr. Oakes was having difficulty with Lake Shore. A friend of mine, Charlie O'Connell, took an option on several properties in the Lake Shore which is now Kirkland Lake camp. He went over to England because at that time Consolidated Gold Company of Africa had made a lot of money from their Rand discovery. They sent their engineers out here and they spent three months up there. Probably Mr. Slaght knew them at the time they investigated. When they got done they said that the only thing they had in Kirkland Lake was a lot of cold weather and they would never make mines in that country. I only mention that to show that it is haphazard, but not so much now as it was then. Now we know more about geology. The geological department in Ottawa has done a grand job in helping the mining people by delimiting the favourable zone. There is very little excuse today for getting off the favorable zone because we know what it is. From Pamour outside of Porcupine right to the Quebec border there is only one mine that is not a producing mine. It is all good potential ground. There are millions of acres where there is the possibility of making mines that have never been looked at. So there is no excuse for going off and looking at a moose pasture. In the old days there was considerable moose pasture.

Mr. HACKETT: Has Mr. Read any further information which he could supply to the committee?

Mr. ADAMSON: Just before you go, Mr. Jones, there is one point I should like to mention as to the tar sands. It is a salient point. There may or may not be tremendous oil deposits in the Alberta tar sands. I am like you. I do not know anything about oil, but the proof of the pudding is that Canadian capital has not been available for that development. It is going to require great amounts of capital to develop the tar sands if they are to be developed, and apparently in the past years that has not been available in Canada.

The WITNESS: I understand during the war in order to bolster our oil supplies the federal government spent something like $2,225,000 up there and only got to the point where they were ready to do some testing when they had a bad fire which burned them out. It would be awfully hard for any private individual or any brokerage outfit to raise $2,225,000 on a prospect of that type.

Mr. ADAMSON: Exactly. If we are going to get risk capital we have got to get it from the United States for a venture of that kind if it is to be developed.

The WITNESS: It is much easier to get it down there.

The CHAIRMAN: Thank you. I see our mutual friend at the back of the hall, Walter Little. I believe he has a statement to make or some telegrams to read to the committee. He is highly interested in mining. He is my neighbour in the northern section of Ontario.

Mr. LITTLE: Mr. Chairman and gentlemen: I have lived in the north country for about 44 years. During the length of time I have been there I built the first building in Cobalt. I transported the first stuff into Kirkland Lake and the first material into Noranda, but I do not know very much about this extradition treaty. I have listened with great interest to the legal minds, and I am convinced in my own mind that if this thing goes through it will ruin our mining industry.

You talk about mining progress. If we did not have prospectors you would not have any mining progress. Talking of the old days in the district I have watched men go out, who were big strong fellows, with their grub stake on their backs and be out for six weeks and come back and you would not know them. It has been suggested that the government should take over that kind of work. In my opinion, if the government had ever taken over that work we would never have had a Kirkland Lake, Noranda, Timmins or any of the other mining centres. I made that suggestion to some friends of mine in my office one time and they said, "Oh well, the mining companies send out men to prospect. Why could the government not do the same thing?" I said to my friend, "You name me one of the old mines from Noranda to Timmins that was started by men who were sent out by any mining company." He thought and he could not do it. I was able to name him everyone of them from Noranda to Timmins. Let me say in passing that there has been a lot of criticism about the late Sir Harry Oakes. Let me tell you that in my opinion if it had not been for Harry Oakes and his stubbornness, or whatever you want to call it, we might not have had a Kirkland Lake for a long time. I have seen Harry Oakes himself single jacking. You gentlemen all know what that is. He would go down a certain distance and he would single jack and shoot that and fill it with a windlass and wind it up. He had no money to get anybody to help him. I am not going to give any names here but I have heard more than one geologist tell Harry Oakes he was only wasting his time in Kirkland Lake, that he was all wrong. That verifies what some of these people have said.

I am going to say that I hope that the government will subsidize our prospectors and give them a chance to proceed. They subsidize everything else in the world but the prospector. If it were not for our prospectors we would not have any progress or any mines in the country. This has nothing to do

with the treaty but I wanted to say a word for our prospectors while I was here. Thank you.

The CHAIRMAN: We certainly appreciate what you have said. We do not doubt what Walter Little says about prespecting. I know we all appreciate what he has stated. That is the end of the list of our witnesses, but I see two or three gentlemen who have not been presented. If they have something to present to the committee they are welcome now. This will be the last chance during the present session for any witness to appear before this committee.

Mr. JONES: Mr. Chairman, if I may interrupt I see that the Hon. Mr. Carson, Minister of Mines in British Columbia is here. Mr. Carson happens to be an old friend of mine. Maybe he would like to say a word with the permission of the chairman.

Hon. Mr. CARSON: I have not anything to say. I am interested in listening to the discussion. Our case has been presented by the attorney-general.

The CHAIRMAN: Have you any other persons in the hall who want to make a statement? I understand Mr. MacMillan stood up.

Mr. MACMILLAN: Probably Mr. Cockshutt will have something to say.

The CHAIRMAN: I believe that the committee will be agreeable to having the gentleman come forward.

Mr. MACMILLAN: I might introduce Mr. Cockshutt. He is one of our well-known prospectors in Canada. He has been a very successful prospector. He has already found one mine and assisted in the discovery of others.

ARTHUR COCKSHUTT, *called.*

The WITNESS: Mr. Chairman and gentlemen: I am not very good at talking but I have been a prospector in the north country. I started there in 1920 as a young man, and over the years have been fortunate in discovering one mine. I know something about what the prospector goes through and his method of financing. The prospector has to have backing from the public in order to make a mine. As Mr. Little has pointed out, and as I can more or less confirm, company prospectors on the whole have found very little. That seems like a big statement but it is quite true. The individual prospector is the fellow who has brought in the mines. In order to do that he has to have money and to get that money he has to have some backing. In the early stages of the game it is a comparatively small amount of money but as time goes on he has got to have a very large amount of money. Under our system of financing it has been done by the public of Canada and the United States. The larger mining companies have operated for years trying to find new mines. One of the largest companies in Canada has had scouts in the Eastern mining area for over twenty years, including the Noranda Timmins area, and they still have not found a new mine. Now, the prospector in order to get that backing has got to get the confidence of the public behind him.

Mr. LEGER: He forms a company?

The WITNESS: In answer to that, he may start out with a syndicate. I would like to stress this point; the prospector does not really find a mine; he finds what we would call a reasonably promising prospect. In order to develop that into a mine it may take anywhere from half a million to $5,000,000 to make that into a producing mine which will pay dividends. He may start off with a very small amount of money, a few thousand dollars. From there he has to get public financing to carry his prospect. He usually gets a group behind him who will raise the money.

If you like, I can give you an illustration of our own case. We made a discovery at Little Long Lac early in 1933. My partner, Fred McLeod, and I

staked the property ourselves. We had no backing at that time, we were working on our own money. We staked the mine and performed a certain amount of work on that particular property and brought it to a stage where we did find some gold. We did not have any money with which to carry on so we formed a small syndicate. We raised some $5,000 from some of our friends and we expended that on the property. That in turn improved the prospect, so we came to Toronto and interested a financial interest. They formed a company on the property, they did a certain amount of diamond drilling, they put out a public stock issue, the public participated. They sank a shaft, spent perhaps $135,000, and the result was inconclusive. The market was bad and they closed the property down. I might add they brought up a very prominent engineer, one of the best in Canada, to examine the property who advised—we were on the board of directors at that time—he advised the directors that there was only one thing to do, that was to close the property down, that it had no future. The property was closed down. We had about $10,000 left in the treasury, so at this time McLeod and I undertook to spend that remaining $10,000 on one last effort to see if we could not find some more ore. Furtunately, that $10,000 found an ore body, and we were therefore able with another group to get more financing. The second group finally took over the property and they raised over a million dollars to put into the property, and finally it came through as a producer and employs—we now have 180 men, but if we had normal labour conditions we could employ 400 men on the property, and it is now a producing mine and has paid some dividends.

Mr. HACKETT: What do you call it?

The WITNESS: McLeod-Cockshutt, it is still called that, McLeod-Cockshutt gold mine. It is in the Little Long Lac area, and I tell you that to illustrate the ups and downs of the mining business; here we had a property, where a lot of money was spent, and they brought up the best engineer they could find, and he said we were through. You have got to have foresight, you have got to have gambling money to carry on and spend that last few thousand dollars.

Mr. LEGER: It takes a lot of knowledge.

The WITNESS: And money.

Mr. BOUCHER: And you use about 10 per cent of your income for development.

The WITNESS: That, gentlemen, is what happens. You can spend a lot of of money. There are many, many properties, some have had as high as $2,000,000 spent on them and failed. It has to be done if you are going to find a good ore body.

Mr. HACKETT: Was that a similar case with the Kerr-Addison property?

The WITNESS: That is interesting. I could give you the story. The original discovery of the Kerr-Addison mine was made in 1901 by Dr. Redick, then head of a company called the Proprietary Gold Mine. With Dr. McKay, they put up a stamp mill and produced a very small amount of gold. At that time in Canada gold mining was looked upon more or less as wildcatting. There weren't any gold mines in Canada. In the meantime, during the years, they had different tries at it. The company was reorganized to a company called Goldfields Limited. They did not find very much. It was reorganized and called the Associated Goldfields. That would be about 1917. In 1920 it was reorganized again with the public putting up the money and was called Canadian Associated Goldfields, and it had a capital of $30,000,000 at that time. I happened to work in the mine the second year I was in the north. They sank a shaft 300 feet deep which they called the Kerr-Addison shaft. The man in charge was a very well known engineer of that time. He came from the Dome mine. He certainly did his best to find ore on that property. He ran four cross cuts to sample the orebody but could not find any payable ore. The property

was closed down in 1921—it laid there until 1935 or 1936 and a Toronto group of financiers thought they would go back and see if they could not have another go at it, the Kerr-Addison. There were stories of high grade gold. They had all the record of the old working. You remember at that time gold was $20 an ounce. Of course, it is now $35 an ounce, and I think that has some bearing on why they went back to have another whack at it. They went back in 1935 or 1936, the discovery was a large knoll full of quartz stringers, an impressive thing, but looked at from a mining standpoint I would say it would not stand up—when I say it would not stand up, it was not commercial ore. So they put four adits into the side hill and put up a sampling mill with a view to what we call bulk sampling. They put this ore through this little mill to see if it would not make commercial ore at $35 gold. The results of that were very, very disappointing. In the meantime, they had formed a new company, called Kerr-Addison Gold Mines Limited, capitalized at 5,000,000 shares, which some of the mining companies purchased, but the public were let in; and that stock was put out at a very low price, I think it was 15 cents a share.

Mr. SLAGHT: That is right, and it is worth $15 a share now.

The WITNESS: It was 15 cents to start off; and, as I say, this particular work did not produce any results. Well, they were in a quandary. They had spent, if I remember right, $75,000, and the money was gone. That was the original gamble, they had that figure of $75,000; and it was a question as to whether they should throw any more good money after bad. I recall Mr. Fairly, the consulting engineer, felt before they abandoned the thing they should put a couple of diamond drill holes down; which they did, and one of these holes produced some ore. So that in turn brought them around to the point of dewatering the old shaft, which was put down as I told you in 1920, and they opened up the mine once more; exactly the same workings that the old fellows had done; and they did, as Mr. Adamson reminded me, take three more rounds out of one corner and struck some wonderfully high grade ore in that drift. From that day on, of course, the mine has never looked back; and to-day, in the last report of the directors, that mine has 25,000,000 tons of ore as an ore reserve, with an average grade of pretty close to $10 per ton, which is $250,000,000; and yet of the mining crowd, driving on the road between Kirkland Lake and Noranda, driving up and down past that mine for 20 years; certainly no one of them ever dreamed that that mine was a potential producer. And now it looks as though it will be one of the largest gold mines in Canada. That is what happens in trying to find gold mines in Canada; and that is why you have to have certainly a little capital; someone has to take a gamble when you make a mine. That is an outstanding exception of getting your money back. There are hundreds of these things where your money is absolutely lost and you get nothing in return. But everyone hopes to get a Kerr-Addison. And the moral of that is, never give up a mine until you take another round—(That's the way I heard it).

Mr. LEGER: What would be the average that would be successful?

The WITNESS: We have said, one in a hundred. I think it is a little bit more than that.

Mr. JAQUES: Are we only interested in mines?

The CHAIRMAN: We happen to have them before us to-day.

Mr. JAQUES: I happened to mention one of the greatest deposits of ore in the world, and I was told that I was out of order.

The CHAIRMAN: No, you were not out of order; somebody else had the floor. You were not out of order.

Mr. JAQUES: I thought you suggested that I was out of order.

The CHAIRMAN: No, I do not think Mr. Tremblay suggested that either.

Mr. LEGER: Are you still a prospector?

The WITNESS: Yes, sir; I do not do as much as I did. One thing we do a lot of to-day is grubstaking prospectors. There is not a summer goes by that we do not grubstake prospectors, and I do a certain amount of prospecting in the field myself.

Mr. LEGER: But you are beyond the stage of prospecting.

The WITNESS: We go out once in a while.

Mr. ADAMSON: I may say that last summer I met Mr. Cockshutt in the bush.

The WITNESS: We go out once in a while.

Mr. MUTCH: I was just wondering whether your prospectors were anything like what we heard about the other company prospectors?

The WITNESS: No, sir. In the last ten years they have not found any mines. We keep them working in the field in the hope that they will find a mine.

The CHAIRMAN: We are doing the same thing in my section.

Mr. HACKETT: Will it not be possible to hear from Mr. Read?

The CHAIRMAN: Yes, in a moment. I know that you will bear me out when I say that we have not lost much time, but I wanted to bring out the point that Mr. Jaques was interested in.

Mr. JAQUES: What I had in mind was that more than anything else in Canada we need oil.

The CHAIRMAN: And now, I believe it is in order for Mr. Read to answer the question raised by Mr. Hackett. I am sorry I delayed you, Mr. Hackett.

Mr. HACKETT: That is all right.

Mr. READ: I would like to mention one thing to you, and to the members of the committee; and that is that the evidence which has been produced before the committee so far has raised a number of questions on which it is desirable that I should get an instruction from my minister. I tried during the week days, but the intervention of the dominion-provincial conference has created a situation in which it is very hard to get consideration of these points. So I would personally prefer to wait until I have had time to confer with them and to get instructions. Then I should like to have an opportunity of bringing these matters to the attention of the committee, if that meets with your approval, sir.

By Mr. Boucher:

Q. You mentioned, when you were here before the committee previously, getting information as to the situation when this treaty was signed, certain information from the Department of Justice on the legality and advisability of the treaty. Have you any suggestion as to whether we could proceed at the earliest possible date to get evidence from the Department of Justice, or from the Department of Mines and Resources, on this matter? I understand that you are from the Department of External Affairs but I am not primarily interested in the constitutionality or the commercial aspects of this treaty?—A. The question of constitutionality I have already discussed with my colleagues in the Department of Justice. Their feeling is that until Mr. St. Laurent has had an opportunity of considering that position, it would be undesirable for us to make any observations before the committee.

Q. You are not suggesting that the question has already been considered from that viewpoint?—A. No, I am not suggesting that. But there have been representations made to the committee which have not yet been considered. For example, Mr. Brais made representations this morning that have not yet been considered by the minister.

Q. It seems, with all due deference to yourself, rather peculiar to me that a treaty of this kind would have been signed without the Department of Justice giving full consideration to it. I think that the Department of Justice should be in a position to give evidence on it.

Mr. HACKETT: That is just a comment on your observations, Mr. Read.

Mr. MARQUIS: Will Mr. Read be coming back after he has seen the authorities?

The CHAIRMAN: Yes, Mr. Read will come back later.

Mr. SLAGHT: I was just wondering if the committee could have, from Mr. Read, if he knows, any statement as to what consideration Congress gave to this treaty? I tried to run it to earth through the *Congressional Record,* but that is such a mass of things. Mr. Read was in Washington at the time. I cannot conceive of Congress giving up the sovereign right of their subjects not to be extradited and brought to Canada for an offence which was not an offence in the United States. I have always thought that the Americans were very jealous of their sovereign rights in that regard. Mr. Read may not know, but I wonder what real consideration Congress ever gave to it, and if it was slight only. I think our people if they knew would feel less hesitant in going back to them and sitting down with them in friendly consultation and saying, "We would like to show you some things that concern you nationally as well as that concern the parliament of Canada."

Mr. READ, *called.*

The WITNESS: I should like to introduce to the committee my colleague, Mr. Louis Audette. He will not make any representations to the committee this afternoon. I was discussing the work of the committee with the Under Secretary of State for External Affairs this afternoon and he expressed himself as being most impressed with the value to the department of the work of this committee. I think it is one of greatest assistance in the work of the department. So, with your permission, Mr. Chairman, I should like to arrange that Mr. Audette be here at the meetings of your committee in order to act as a liaison officer between this committee and the Department of External Affairs so that you would be able, easily, to get access to any information we may have in the department, or to make contact with any of the divisions of the department that might be helpful to the committee in its deliberations.

The CHAIRMAN: That is a good idea.

(At this point the discussion took place off the record.)

The CHAIRMAN: The committee would be pleased to have Mr. Audette at its deliberations.

Mr. JONES: I am sorry to interrupt at this time, but I failed to mention the province of British Columbia when I was giving my evidence. I find it most embarrassing especially with the minister of mines sitting in the room here. So I would like to ask that the province of British Columbia be included in the record.

The CHAIRMAN: Yes, thank you. Now I would beg the indulgence of the members of the committee for five or six minutes. I believe these are all the witnesses we are going to have. Now I have here some messages. I would like to read one and table several others.

CANADIAN NATIONAL TELEGRAPHS

Matheson, Ont., Nov. 24, 1945.

Joseph BRADETTE, M.P.,
Chairman External Affairs Committee,
Ottawa, Ont.

As one of the oldest prospectors and developers in Ontario on behalf of myself and many associates in the mining industry vigorously and emphatically protest against the proposed change in the extradition treaty stop no one condones fraud in share transactions but it is a matter for keenest anxiety. To Canadian mining men and developers when it is proposed to make an extraditible offence that which Canadian Laws do not constitute any offence stop Our sovereign rights should not be interfered with by bureaucrates of any country no matter how friendly may be the other relations between such countries.

BOB POTTER.

Mr. FLEMING: Are they all to the same effect?

The CHAIRMAN: Yes, they all deal with the treaty from different angles.

Mr. FLEMING: And they arrive at the same conclusion?

The CHAIRMAN: Yes, all of them.

Mr. FLEMING: Including the letter from the Hon. Mr. Mackenzie?

The CHAIRMAN: No, it was just transferring a letter to the committee.

Mr. JAQUES: I would like somebody to tell us what effect this committee will have on the oil drilling situation because to my mind that is a more speculative procedure than mining?

The CHAIRMAN: I quite realize that with all the pressure of parliamentary duties you could not be here at all the meetings, Mr. Jaques, but I believe at previous sittings of this committee that matter was mentioned. You are quite right, it will have a very bad effect on promoting. That aspect was forcibly brought to the attention of the committee, that oil drilling would be badly affected.

There will be a meeting of the steering committee tomorrow afternoon at 2 o'clock but if it is agreeable it could be held in the morning, say at 11.30, in my office. Perhaps some members of the steering committee will find it strange that we hold these meetings in my office, but I have a very fine office which is near the elevator.

The steering committee will meet at 11.30 tomorrow morning. The main committee is now adjourned, but we will likely meet again on Wednesday.

The committee adjourned at 5.45 to meet again at the call of the chair.

APPENDIX "A"

List of statutes and regulations dealing with securities and security fraud prevention in the nine several provinces of Canada (Tabled by Mr. Slaght, K.C.)

(1) *British Columbia*—"Securities Act"—R.S.B.C. 1936 Chap. 254 and 1937 Chap. 69 consolidated for convenience May 16, 1938, printed 1939.

Chapter 254 is headed "An Act for the Prevention of Fraud in connection with the Sale of Securities."

There are regulations with forms in 1939.

There are further regulations respecting oil and gas interests effective March 13, 1941.

(2) *Alberta*—"Securities Act"—Chap. 243 entitled "An Act for the Prevention of Fraud in connection with the Sale of Securities."

(3) *Saskatchewan*—"Security Frauds Prevention Act" R.S.S. 1930 as amended now Chap. 287 entitled "An Act for the Prevention of Fraud in connection with the Sale of Securities."

Also regulations thereunder.

(4) *Manitoba*—"Securities Act and Regulations" issued by the Municipal and Public Utility Board September, 1937. The Act is entitled "An Act for the Prevention of Fraud in the Sale of Securities."

(5) *Ontario*—"The Securities Act 1945" 9 Geo. VI 1945 (first session) Chap. 22. By Section 84 it is to come into force on a day to be named by proclamation. We understand the proclamation has been issued bringing the Act into force on the 1st December 1945.

Regulations are under preparation and will be printed but not yet available. The simple title of this Act is as above with no further addition.

(6) *Quebec*—"The Securities Act and Regulations" issued in 1941—first contained in Quebec Statutes 1925 and various amendments thereto. The simple title is as above.

The regulations begin at the middle of page 29.

(7) *New Brunswick*—"An Act for the Prevention of Fraud in connection with the Sale of Securities"—25 Geo V., Chap. 11, together with the regulations made thereunder.

(8) *Nova Scotia*—"The Securities Act 1930 and Amendments," Office Consolidation issued in 1940 and regulations tabled March, 1942.

(9) *Prince Edward Island*—"An Act for the Prevention of Frauds in connection with the Sale of Securities," the short title to which according to Section 1 may be cited as "The Security Frauds Prevention Act."

SESSION 1945

HOUSE OF COMMONS

STANDING COMMITTEE

ON

EXTERNAL AFFAIRS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 8

FRIDAY, NOVEMBER 30, 1945

TUESDAY, DECEMBER 4, 1945

WITNESS:

Mr. J. E. Read, K.C. legal adviser of the Department of External Affairs.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1945

ERRATA

In number 7 of the minutes of proceedings, the name of Honourable Mr. Garson should be indicated as *Premier of Manitoba.*

In number 6 of the minutes of evidence, on page 142, line 30, delete the word *"indictable"* and insert thereto the word *"extraditable"*.

MINUTES OF PROCEEDINGS

FRIDAY, November 30, 1945.
Room 268.

The Standing Committee on External Affairs held an executive meeting at 10 o'clock. Mr. Bradette, the Chairman, presided.

Members present: Messrs. Adamson, Benidickson, Boucher, Bradette, Croll, Dechene, Fraser, Hackett, Isnor, Jackman, Jaenicke, Jaques, Kidd, Leger, MacInnis, Marier, Marquis, Mutch, Raymond (*Beauharnois-Laprairie*), Mrs. Strum.

The Clerk tabled a letter to him from Mr. J. E. Read of the External Affairs Department relating a statement made before the Committee about the maintenance of an S.E.C. agent in Toronto. The letter was read by the Chairman.

The Chairman read a report of the Steering Committee in which certain suggestions were advanced based on the evidence adduced before the Committee relative to the Extradition Treaty and Protocol thereto.

A motion of Mr. Boucher respecting a portion of Mr. Gordon Jones' evidence had been referred to the Steering Committee for consideration.

After discussion and on motion of Mr. Fraser:

Resolved,—That the portion of Mr. Gordon Jones' evidence relating to certain methods of security registration in the United States proposed by two lawyers in the course of his interview be retained in the minutes of evidence.

This confirmed the decision of the Steering Committee.

Mr. Hackett suggested that the Steering Committee redraft the balance of its report.

On motion of Mr. Leger, the Committee adjourned to the call of the Chair.

TUESDAY, December 4, 1945.
Room 268.

The Standing Committee on External Affairs met at four o'clock. Mr. Bradette, the Chairman, presided.

Members present: Messrs. Adamson, Benidickson, Boucher, Bradette, Dechene, Fleming, Fraser, Jackman, Jaenicke, Jaques, Leger, MacInnis, Marier, Marquis, Sinclair (*Ontario*) and Tremblay.

In attendance: Mr. Louis Audette of the Department of External Affairs.

Mr. Marquis made the following correction in the minutes of evidence (No. 6), viz:

On page 142, line 30, delete the word "indictable" and insert thereto the word "extraditable".

The Chairman tabled a telegram he received from Mr. H. C. Beatty, general manager of the Montreal Board of Trade.

Mr. Read, Legal Adviser, External Affairs Department, was recalled.

As requested earlier in the proceedings, he tabled the following Registration Statements under Securities Act of 1933 and gave other information connected thereto.

1. Amendments to items 2, 10, 13, 17 and an amended consent.
2. Amendments to items 2, 4, 6 and 9, amended Exhibit C and amended consent.
3. Registration Statement itself.
4. Prospectus of the Dominion of Canada (Issue of $90,000,000, January, 1943).
5. Exhibit C (January 1943).

Mr. Read commented on the representations heard under the following headings:

(*a*) Flow of venture or other capital.
(*b*) Double Criminality rule.
(*c*) Course followed in the negotiation of the Treaty.
(*d*) Application of double criminality rule in respect of Art. 9 of Treaty.
(*e*) The question of bail in Art. XI.
(*f*) Interpretation of Act. XII read with the Extradition Act.
(*g*) Constitutionality of Treaty.

He also commented on Mr. Arthur Slaght's proposed amendments to the Extradition Treaty and Protocol under consideration.

At the request of Mr. Fleming, Mr. Read will endeavour to secure the comments made by U.S. Congressmen when the Extradition Treaty was before Congress.

Mr. Read was interrogated and retired.

On motion of Mr. Adamson, the Committee adjourned until Friday, December 7, 1945, at 10 o'clock.

ANTONIO PLOUFFE,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS,

December 4, 1945.

The Standing Committee on External Affairs met this day at 4.00 p.m. The Chairman, Mr. Joseph A. Bradette, presided.

The CHAIRMAN: Now we have a quorum so I will call the meeting to order. As you know, Mr. Read has to make a representation to the committee, as he stated to the meeting before the last. Some members of the committee were a little baffled as to why I called a meeting early this week. But I believe some good work has been accomplished. We discussed the steering committee's report.

I have here a wire from the Montreal Board of Trade and I believe that we will file it with the other arguments that we have. I would like to thank the members of the committee for coming in such large numbers and at untimely hours. I now call upon Mr. Read.

Mr. J. E. READ, K.C., External Affairs Department, *recalled:*

Mr. MARQUIS: I would like to call attention to an error on page 142 of the minutes of evidence: "Perhaps it would be a good thing if conspiracy were to be made an indictable offence?" The word should read extraditable.

The CHAIRMAN: What page is that?

Mr. MARQUIS: Page 142. I would not want to say "indictable offence" because it was ever and always an indictable offence. So, the word should read "extraditable".

The CHAIRMAN: The correction will be made. Now, Mr. Read.

The WITNESS: Mr. Chairman and honourable members of the committee: At an earlier stage in the proceedings, I was asked to check the punctuation of item 32 (*a*) of Article III of the treaty. In the printed copy of the treaty there is a comma after the word securities and preceding the word markets. In the original text, there is no comma at that point, and the only comma in clause (*a*) is the one after the word "markets". Another point that I was asked to look into and if possible to obtain information upon was the registration of the Canadian issues of securities with the Securities Exchange Commission, or rather the Canadian government issues. I have consulted Mr. George Lowe of the Department of Finance.

With regard to the issue which was made in January, 1943, $90,000,000 of Canadian government bonds, it appears that the practice is to file the first registration statement and prospectus seven days before the actual date of the issue of the securities. There is then a period of seven days for amendments of the registration statement, which includes the changes made in the interval and, indeed, all information except the price.

On the seventh day, the registration statement itself and the prospectus are filed, and, on the following day, the securities are issued. I have not been able to obtain copies of the first registration statement, but I am furnishing for the information of the committee the following documents—(1) amendments to items 2, 10, 13, 17, and amended consent; (2) amendment No. 2; (3) Registration statement. This is a copy of the actual document filed on the seventh day, containing the complete information, including that which was contained in the first registration statement, and the amendments set forth in the two documents noted above.

By Mr. Jackman:

Q. Is that the prospectus of a Dominion of Canada issue in the United States?—A. No. The first is an amendment to the first registration statement. The next document, No. 2, is amendment No. 2. That simply is a second amendment to the first registration statement. Then, the third document is the registration statement itself. This is a copy of the actual document filed on the seventh day containing complete information including that which was contained in the first registration statement and the amendments which I have furnished.

By Mr. Fraser:

Q. Those amendments were required by the Securities Exchange Commission?—A. No. They are not required at all. It is just if there is additional information or if you want to change any of the information given in this sort of preliminary statement. It is a draft, really.

Q. Those are voluntary, then?—A. They may be due to inquiries or requests from the Securities Exchange Commission. On the other hand, they may come from other sources.

Q. But in this case they were entirely voluntary?—A. Yes. The first is just a draft and you can put in an amendment every day. But the seventh day it is the completed document.

By Mr. Marier:

Q. Including the amendments?—A. Yes, including the amendments. The fourth document is the prospectus which is nothing more or less than the registration statement in narrative form rather than in statistical form.

By Mr. Adamson:

Q. How many pages?

The CLERK: Fifty-five pages, Mr. Chairman.

By Mr. Adamson:

Q. There are fifty-five pages?—A. Yes, there are fifty-five pages.

By Mr. Fraser:

Q. And they are very closely printed?—A. Yes. Now, the fifth document is a copy of the annual statement which has to be furnished each year by the Department of Finance, as long as the securities are listed on the New York Stock Exchange.

By Mr. Fleming:

Q. Can we have the number of pages there?

The CHAIRMAN: There are nine and with the appendices they total about sixteen to twenty pages.

Mr. FLEMING: Thank you.

The WITNESS: I was asked to obtain information with regard to the way in which this was prepared. The information is prepared by an officer of the Department of Finance. As a matter of fact, it is the same Mr. Lowe to whom I referred.

Both in the original registration statement and the annual statement, the legal work is done by the departmental solicitor and the Department of Justice. The verification of the information in the registration statements involve a great deal of work on the part of the officer of the Department of Finance who is concerned, extended over some weeks, and the preparation of the annual statement involves at least a week's work every year for this particular officer.

I was asked for information as to the legal expenses to the Canadian government with regard to registration. They are nil. It might be misleading to suggest that they cost nothing, but the work was actually done by the departmental solicitor and the officers of the Department of Justice, and would be absorbed as a part of the ordinary legal expenses of the government.

The officer of the Department of Finance who furnished me with the information pointed out that, undoubtedly the underwriters made some expenditures which they absorbed as a part of underwriting charges, including some expenditures for paying their own lawyers. I have no doubt that the lawyers for Messrs. Morgan, Stanley & Company charged their clients what my friend Mr. Slaght would call a modest fee for their services which they rendered.

By Mr. Fraser:

Q. With regard to the documents you have tabled, the government has to pay for the printing of them of course?—A. I am morally certain that they were printed by the King's Printer. But there again it costs money for the King's Printer to function.

Q. You have no idea of the cost of any of that?

Mr. FLEMING: Oh, it is a part of the government's overhead.

The WITNESS: Yes. Now, coming to the general approach to the problem, I would like to express my very great appreciation to the committee for its courtesy in giving me an opportunity to discuss these questions with the Minister of Justice before proceeding with what is, I suppose, the argument of the case. I have been able to get the necessary instructions, and I am now in a position to deal with all of the points which have been raised.

It is necessary to stress the point of view underlying the negotiations which led to the conclusion of the treaty and protocol. We have, in the relations between Canada and the United States, conditions which cannot be duplicated now or at any period in history between any other countries in the world. It is possible to conduct diplomatic relations in mutual trust and in a spirit of co-operation. The co-operation is being carried to a greater degree than was thought possible a generation ago. It was thought possible to enter into arrangements without too much concern for theoretical considerations of sovereignty. The Canadian government was more concerned with the suppression of crime and the apprehension of criminals than with academic speculations and the United States government approached the questions from the same point of view.

I have no doubt that it is theoretically possible from a purely academic point of view, that some situation could arise, in which, within the four corners of the treaty and protocol, it would be possible to ask for extradition under circumstances which would involve injustice to a Canadian, and it is equally possible in a theoretical way, that there might be circumstances which potentially would involve injustice to a United States citizen. The United States authorities are justified in assuming that the Canadian agencies engaged in the administration of Canadian justice will behave in the same way in which they have traditionally behaved in the past, and the Canadian government is justified in the feeling that the corresponding agencies south of the line will continue to act in a reasonable and fair manner. If some fantastic case arises, of the sort which has been envisaged in the discussion of these questions, it will still be open, either to the United States government or to the Canadian government to take the matter up on the diplomatic level. The correspondence which was filed with you with regard to the Bell Telephone Company was a good illustration of the sort of thing I have in mind. The solicitors for the company have made out a technical legal argument, with which I do not agree, but, if I am wrong in the point of law and if the United States authorities sought to extradite the Bell Telephone Company under the circumstances under consideration, it would still be open to the Department of External Affairs to discuss the matter with the

appropriate United States authorities. If, on the other hand, some Attorney General was able to bring an equally fantastic situation within the four corners of the treaty, it would, in the same way, be up to the State Department to talk it over with the Department of External Affairs. There has, I think, never been an occasion in the one hundred and three years in which extradition arrangements have existed between the two countries, when it has been necessary for either country to adopt this course, but, if, in the coming century or so, an occasion does arise, neither of the parties to the treaty is without remedy. And, I could go a step further. No Canadian or United States resident is without remedy.

Now, coming to the particular approach to the problems which have been raised—I mentioned that general approach, because in discussing the matter with Mr. St. Laurent, he regarded it as most important that I should suggest to the committee that we look at this problem from a somewhat broader point of view than has been under consideration by some of those who have been objecting to its provisions. I do not intend, in dealing with particular points, to go into every detail which has been raised. Apart from anything else, there is not time. But I thought I might look at the principal points which have been raised in the course of the discussion.

The first point was the argument based on the flow of venture and other capital as between the two countries. There has been a great deal said on the subject. I do not think I can add anything to what I said in opening. It is the view of the departments interested in the flow of venture and other capital as between the two countries, that it is impossible to maintain that flow over a long period of time upon the assumption that we maintain a position in which the business men of either country are doing business in the other country contrary to the provisions of its laws, and that the only way to maintain that flow of capital, which is essential to the development of a country, is mutual respect for the others laws.

Now, the second point concerns the double criminality rule. Here again I do not know that there is anything that I can add to what I said in opening, except, perhaps, to point out that, in substance, it operates only in the case of articles 31 and 32 because, I think, there is probably no instance in either items where the offence listed is not an offence in both countries.

By Mr. Fraser:

Q. Wouldn't 26 come under that too, using the mails to defraud? Wouldn't it be an offence? It might be an offence there if the Canadian sent out a prospectus, or something like that, for a mine to a friend of his perhaps in Montreal, and that friend had moved down to the States. The letter was forwarded to the States and so picked up there and they claimed it was contrary to this clause in here, 26; under which they were soliciting, and these others, 32, soliciting the sale of stock?—A. Well, as far as 26 is concerned I am not suggesting that there may not be some situation in which an offence under that, under the United States laws, would not be an offence of the Canadian law. But, in discussing the matter with the Minister of Justice, he was of the opinion that if a person committed an offence under 26, under United States law, that he would be guilty of an offence under the Criminal Code of Canada. I merely pointed out that the operation of the double crime criminality role was pretty narrowly confined in so far as items dealt with in the treaty are concerned. I think you are right. There may be a place where the United States laws go further than the provisions of the criminal code of Canada dealing with the matter.

Now, the third point was raised by my friend Mr. Slaght, when he suggested that the course followed in the negotiation of this treaty was in some way improper. I do not think it is incumbent upon me to debate the propriety of the course followed by the government in the negotiation of the treaty, and in

its submission to parliament. I do think it would be appropriate for me, in this committee, to enter upon a defence of my minister in a course which he followed in the negotiations of the extradition treaty and for which he presumably will be ready to take responsibility on the appropriate occasion. I think I might even be justified in pointing out that the procedure followed with regard to the extradition treaty and protocol was not different from the procedure followed in similar negotiations with respect to any treaties concluded by those countries over the past seventeen years. There was, however, perhaps, this difference: that in this case, owing to the establishment of this committee, greater steps have been taken to ensure full parliamentary control over these treaty negotiations than in the case of other treaties that have been under consideration by the Department over that period.

Now, the fourth point was raised by my friend Mr. Slaght. No, I beg your pardon, the fourth point was one that arose during the course of the discussion on article IX of the treaty. I think it was raised by Mr. Boucher in discussing the second paragraph of the article, where it dealt with the application of the double criminality rule in the case of a convicted person. Mr. Boucher raised the question as to whether it might be possible for a person to be convicted in the United States by a court in that country for an offence which was not an offence under the Canadian law and to escape, after conviction, and then to be extradited from Canada and to be debarred from showing that the offence was not an offence under Canadian law.

Well, I told the committee, at that time, that I had not looked into that particular question and that I wanted to discuss the matter with the members of the Department of Justice before answering it. So, after discussion, I think it is clear that the double criminality rule applies to convicts as well as to persons who have not been convicted. The point that arose in the course of the argument was that it might be unfair to a person who was convicted in the United States of America under default proceedings in which he had not been heard. I shouldn't care to say that there exists anywhere in the United States a criminal procedure whereby a person can be convicted in default. On the other hand I should not care to say that there is no state or no court in any state in which that might not be a possibility. It is one of those theoretical situations that, if such a circumstance arose, I should think that it was the type of circumstance that could be dealt with by either government. I am sure it could not happen the other way, but it is the sort of circumstance that can always be dealt with by the government when an application for surrender comes up. That is not a remedy available merely to the government; it is always open to the accused person to raise the point with his own government.

Now, the fifth point concerns the first paragraph of article XI which was the paragraph dealing with the question of bail. You will bear in mind that there was a marked difference of opinion between my friend Mr. Slaght on that point and my friend Mr. Brais. Mr. Brais pointed out that it was not the practice to grant bail in extradition cases, and that it was only in very rare circumstances where it would be granted. The actual effect of the first paragraph of article XI would be to go some distance in making it possible for the accused person to get bail in a case in which denial of bail would cause injustice. I venture to suggest that the present wording of the article would be fundamentally sound in practice and would tend to prevent injustice and to make it easier to get bail in the cases in which it would be a hardship to refuse.

By Mr. Jackman:

Q. Under the present practice you said it is not customary to grant bail in extradition cases. We have a rule of double criminality at the present time. Extraditable offences are rather rare. Whereas, if this present treaty be ratified, you will have a whole new set of cases?—A. Yes.

Q. Doesn't that enforce the argument of Mr. Slaght and the other counsel? —A. If we had the ordinary provision, let us say, taking it from the old treaty position, then I should have thought that there would be a danger that the courts would go on with their present practice of refusing bail in nearly all cases. On the other hand I should expect that, under the article as presently drafted, the Department of Justice would have a good deal of voaice in questions of bail and that, if there were a case in which the denial of bail would cause injustice—for example, take the case of a Canadian business man with a home in this country, a person who is not likely to skip—then I would expect the department to take into account article XI, and I would expect the judge to take into account the fact that the Department of Justice was not making representations in the case.

Q. But here counsel for the Crown is asked to instruct that bail be opposed.

Mr. MARIER: He is doing the same thing in practice.

By Mr. Jackman:

Q. It seems to me that the weight of evidence is shifted in this case against the officer of the Crown recommending bail; whereas, at the present time, it is almost a matter of course that it will be granted unless there is a pretty good indication that the man will skip or that the crime is of a most severe nature or of a high moral turpitude.—A. I would submit that bail is practically never given now in extradition cases.

Q. But the present extraditable offences are those involving moral turpitude, or the rule of double criminality at least; whereas the government is asking for an extension of that principle to so-called indictable or extraditable offences which are not offences under Canadian law?—A. Well, certainly most of the cases would be offences under Canadian law.

Q. I think it was pointed out to us that the Security Exchange Commission provisions are of a pretty technical nature, and I think the document you have filed in connection with the Dominion government loan, as to which there must be a most complete bona fides of the highest possible investment nature attached to it, so that any misstatements in that prospectus would legally subject anyone representing the Dominion of Canada to an extraditable offence under the Security Exchange Commission law?

Mr. MARIER: Yes, but in any province it would be a fraud too, according to our laws.

Mr. JACKMAN: If we had some illustration of what went on under the Security Exchange Commission! It is quite possible, as in the state of Michigan, where you have to make your application upon an approved form, that when a dealer infringes against one of those technicalities he has committed an indictable offence under the various blue sky laws in the various states and in the federal district. Mr. Chairman, do you want to discuss the various points now, or would you prefer that Mr. Read go on and make a full statement?

The CHAIRMAN: I will leave that to Mr. Read himself.

The WITNESS: I would be quite satisfied to have the points raised as I go ahead. With regard to article XI I cannot go further than to point out that in the view of those concerned in extradition matters that it would tend to prevent the injustice that now occurs owing to the reluctance of judges to grant bail in extradition cases. In any case it is certainly not a provision in the article that was included by reason of pressure from the United States of America.

Now, the next point, or the sixth point, concerns article XII. There was a great deal of discussion about article XII and the meaning of article XII. In the course of my friend Mr. Brais' discussion before the committee, he pointed out to the committee how little I knew about criminal law or extradition procedure. I am certainly not disagreeing with him in any respect in that matter.

I simply appear before the committee and bring to your attention the information that it has been possible to gather from all of the Canadian government departments concerned. But he was good enough to point out that I was not without experience in international law in which, perhaps, the most important part is the interpretation of an article of the treaty. So, in discussing article II I may perhaps be forgiven if I do not approach it with the humility I may show in dealing with some of the more technical aspects of the problem. Article XII provides that all articles which were in the possession of the person should be surrendered at the time of his apprehension, and any articles that may serve as proof of the crime or offense, should be given up when the extradition takes place, in so far as this may be permitted by the law of the requested country. It is in accordance with modern principles of interpretation applied by all international courts and by all who are concerned with the interpretation of treaties that the words "in so far as this may be permitted by the law of the requested country" govern the two parts of the article. That is to say, all articles which were in the possession of the person, and also any articles that may serve as proof of the crime or offence; and any attempt to limit the operation of the qualifying clause to the articles that may serve as proof of the crime or offence, while it violates not merely the ordinary canons for construction of treaties, would be doing violence to the English language because it is impossible to apply the ordinary tests that we apply in finding out the meaning of an English sentence, to separate the two parts of the article and to limit the operation of the qualifying division to the second part. Further, there is another element that is always taken into account in the interpretation of treaties, and that is the intention of the contracting parties. We differ there from the rules that are applied in the interpretation of the statute, or even a contract. In this case there is not the slightest doubt as to the intention of either the United States Government or the Canadian Government. It was that the only articles that can be sent back with a man are those in which there is permission by the law of the requested country. That brings us to the law of the requested country and if we look at this particular problem from the Canadian point of view—remember Mr. Slaght's case of the man who was being extradited and was required to hand over $100,000 in bonds, which had nothing whatever to do with the offence with which he was charged, but which were merely his personal fortune.

By the Chairman:

Q. He said government bonds too?—A. Yes, he said government bonds. Now, let us take that case. We have got to go to the law of Canada to find out what he can take with him, or rather, what can be taken with him. That means that we have to go to the statute. According to common law you cannot take anything with him. You cannot take the man himself and you cannot take even one lead pencil which belongs to him, across the line to the United States of America. It is only the statutes that permit taking articles, and that is the Extradition Act itself. Now, if you will look at the Extradition Act, you will find that there are two provisions which enable taking back of property or articles with the accused.

By Mr. Fraser:

Q. That is 1927?—A. Yes, chapter 155 of the Revised Statutes, 1927. Now, section 25 enables the Minister of Justice to order the surrender of the fugitive to the officer of the foreign state. Now, by implication, and I will ask you to bear in mind the provisions of the Criminal Code with regard to the costumes which we must wear, that means that the Minister of Justice may order him to go with the clothes that are necessary to prevent his offending the Criminal Code. In other words, he must be covered. I take it that his personal clothing is carried with him by 25. Then, by 27 everything found in the

possession of the fugitive at the time of his arrest which may be material as evidence in making proof of the crime, may be delivered up with the fugitive on his surrender, subject to all rights of third persons with regard thereto. So, you have statutory power to take back with him the articles which are covered by the provisions of section 27. In the statutes I can find no other provision in the law of Canada that would enable you to take even a lead pencil with him, let alone $100,000 worth of bonds.

Now, as I understand the argument put forward by my friends on this point, I think they were in agreement on it. It is that section III of the Act, in some way, overrides this position. Section III provides that "no provision of this part which is inconsistent with any of the terms of the arrangement shall have effect to contravene the arrangement". I think it is perfectly clear that there is nothing in the terms of the extradition arrangement, reading the treaty and protocol together, that in any way is inconsistent with the provisions of the —I should have said there is nothing in the statute that is inconsistent with the provisions of the arrangement. The mere fact, that for the time being, under the existing provisions of the Extradition Act, there is something upon which the first clause of article XII could not operate is unimportant. If the Extradition Act is amended, let us say, next year or two years hence, it may contain a provision, as an extradition act might very well contain, that there may be sent back with the criminal not merely the articles which may be used as evidence, but also, let us say, articles which would be necessary to respond to a restitution order. Then there would be something in those circumstances for the first clause of article XII to operate upon. I am not sure whether there is anything in the United States law on which that first clause could operate, but at any rate it is there, to take anything else that the law may permit to be sent back with the criminal.

I pointed out to my friend Mr. Sedgwick that the article is identical with the article in the British Extradition Act.

By Mr. Adamson:

Q. It is your judgment then that the clause, subject to the right of third persons, still holds valid?—A. Absolutely.

By Mr. Jaques:

Q. You mentioned fugitives and criminals.—A. I beg your pardon?

Q. You used the phrase "fugitives and criminals"?—A. Yes.

Q. But these people whose extradition is requested, they would not be fugitives because they have not flown from anywhere, and they won't be criminals because they haven't broken any criminal law?—A. I read from the Act. The only person who can be extradited is a person who is a fugitive within the provisions of the Extradition Act.

Q. Oh, yes?—A. And in so far as criminals are concerned—I apologize for the looseness of my language—for what I really meant were persons accused of a crime. It is a crime or offence that comes within the items listed within article III.

By Mr. Jackman:

Q. Can we take it that this article adds nothing to the present law in regard to extradition, and that the wording of it is such that it could not be improved upon? Take, particularly, the "and", in the second line. It does seem to cause one to view it with some concern as something new; but your explanation would dispose of it. This section adds nothing to the law? You think that the English of it is good?—A. It does add this: article XII is like a double-barrelled shot gun. We have a cartridge, section 27 of our Extradition Act, and we can put in one barrel. Now, it may be that parliament will decide, at a later stage, to manufacture another cartridge, so the first clause is there

to take it, let us say, an article which may, for instance, add a thing stolen which might not be of such a character as could be used for proof, but it might be desirable to return it by way of restitution. You see what I mean? There might be. It is conceivable that there might be an article that the court that is trying the man should have.

By Mr. Fraser:

Q. Then, if there was something that the court which was trying the man should have, it might not be an article serving as proof necessarily?—A. No. If I might suggest this: there are cases in which a court should have an article connected with the crime notwithstanding that the article may not be useable as proof.

By Mr. Adamson:

Q. Are you setting up this case: that if a man is accused of taking, say fraudently according to state law, $100,000, or has sold $100,000 worth of securities, and he is found with $100,000 of somebody else's securities on his person, and this goes through, that that $100,000 on him could be sequestered to the United States in order to make restitution? Is that your case?—A. I am suggesting that it might be a matter to consider.

Mr. MARQUIS: But the first party has the right to claim that amount. He cannot be wiped out unless the law says so.

Mr. MARIER: It cannot affect the right of third parties. The question is: is the property he has in his possession to be taken out of the country? It can be, if it is permitted by the law of the requested country.

Mr. MARQUIS: Isn't it the same thing under the customs law? When a car is seized, if it belongs to a third party who does not know at all what is going on, then that third party has the right to claim the car?

The CHAIRMAN: No. Anything they take then belongs to the Crown.

Mr. MARQUIS: Yes, but if the car should have been stolen, I think they would have the right to claim it?

The CHAIRMAN: Not under the present regulations.

Mr. MARQUIS: Are you sure of that?

The CHAIRMAN: Yes, I think so.

Mr. MARIER: But this is a different law.

The CHAIRMAN: Anything the customs catches belongs to the government.

The WITNESS: There was one other point I wanted to bring to your attention. In discussing the matter with the Minister of Justice, he indicated that if the interpretation was placed on article XII which my friends have placed upon it, that it would not be extradition law, but would relate to property and civil rights. If any attempt were made to pass a statute, or if the present statute read in conjunction with the article is construed to mean that all articles can be taken, it would automatically make section III of the Extradition Act ultra vires. Accordingly, any court dealing with the matter and being faced with two interpretations of its provisions, one of which would be beyond the powers of parliament and the other within the powers of parliament, would be bound to place the interpretation upon the provision that is within the competence of the legislative authority which enacts it.

It would not be within the powers of parliament to make a law whereby that $100,000 worth of bonds could be taken from the possession of the accused person and sent to the United States of America—assuming that the bonds are not connected with the crime. So that the suggestion I am making is that you would be bound to place the interpretation on article XII, which, when read in conjunction with the provisions of the Extradition Act, would result in an extradition law within the powers of parliament.

The seventh point which was raised in the course of the discussion was a constitutional question. I discussed that question with the Minister of Justice and he suggested that I might inform the honourable members of the committee that he had referred the possibility of referring the question to the Supreme Court of Canada to the conference which met last week. In that respect he was, in effect, complying with one of the suggestions put forward by my friend Mr. Slaght in his opening statement and in his concrete proposals. The matter is under consideration by the Dominion-Provincial conference and it is open to the provinces concerned to deal with this aspect of the question. I have no doubt that if any province is anxious to have the constitutionality of the statute, treaty, and protocol submitted to the Supreme Court of Canada, there will be readiness on the part of the Minister to comply with the views of the provinces.

I do not know how far the committee would want me to go in discussing the constitutional question. I should think that you would probably want to make a formal request for an opinion from the minister on the constitutionality of the Act and the extradition arrangement, if you wanted to go further with this aspect of the question. There is one answer to a point which was raised in the argument which I think was not dealt with particularly. I think that nearly all questions which arise in the course of the discussion were deal with by members of the committee bringing out this, that, and the other aspect of the question. Reference was made to the provisions of the British North America Act and so forth. But there is this one point that the minister thought that I might mention to the members of the committee.

The argument was that the extradition treaty and protocol dealt in some way with provincial matters and that the provinces had enacted laws to deal with security matters. Therefore it was felt that the matters for which a person was being extradited from Canada were matters which were properly the subject matter of provincial legislation. I should like you to bear in mind that under the provisions of the treaty a person can only be extradited from this country if he has committed an offence within the territory of the United States of America. If you will look at the provisions of article I, the fundamental element of the treaty is that it can only apply to a person who has committed an offence within the United States of America. If one thing is certain in the field of constitutional law in this country, it is that the legislature of a province has no power to make laws having extra-territorial operation. The provisions of the Statute of Westminster which declare that the parliament of Canada has full power to make laws having extra-territorial operation has no application to the legislature of a province. So, there is no province of Canada which could make any laws affecting the commission of an offence by any person, let us say, in Albany or in San Francisco.

Further, if you will look at the provisions of the Extradition Act, you will see that the Extradition Act is a statutory scheme whereby machinery is set up in order to pick a man up, let us say, in Ottawa, who has committed an offence, let us say in Albany, and to put him through the appropriate judicial procedure here to maintain restraint on his person and to remove him to the border and to hand him over to the demanding authorities.

The United States Extradition Act, if you will examine its provisions, is concerned with the converse case, where it is the question of a person who has committed an offence in Canada. It is the United States legislation that picks him up and hands him over. It is perfectly clear that no provincial legislature could enact a statute that corresponded in any way to the Extradition Act.

Let us suppose that the legislature of Prince Edward Island attempted to do so, and passed a statute involving the exercise of restraint over a person, a person who has the right to habeas corpus. That person is put on the Canadian National train in Charlottetown and routed for Chicago by way of Toronto. That man could be got out on habeas corpus in New Brunswick, Quebec, and

Ontario because the legislature of Prince Edward Island has no power to make any laws having extra-territorial operation.

I should like to make particular reference to Mr. Slaght's proposals. I think you have had them before you and I should like to examine them with some care. The first proposal is in paragraph 111 of his note which related to the double criminality rule and established a discrimination between a person resident in Canada and a person not resident in Canada in the application of extradition. You will have noted that this proposal met with very strong objection from our friend Mr. Brais. It would be a most unfortunate thing, if, in dealing with this matter, we abandoned the principle that the law is no respecter of persons. It would be a far better thing to abandon the extradition altogether or abandon the extradition treaty and protocol and negotiate a new treaty than to establish, in our relations with the United States of America, a principle which is only invoked in extradition arrangements with countries such as Japan, in which there is a very fundamental difference in the legal system.

The second point relates to clause I of the protocol and it is subject to precisely the same objection.

The third submission is one with which I should not ordinarily be disposed to take issue. In all drafting, one finds alternative forms of words designed to accomplish the same objects. The present draft was designed to have the same meaning as the version suggested by Mr. Slaght and was so intended by both of the governments. If a court decided that this clause had the meaning that my friend places upon it, regardless of which way the extradition was being taken, whether to or from Canada, it would be necessary for the governments to make a new protocol. The present draft has been prepared, studied and approved by the departments of the Canadian government which are concerned, including External Affairs, Justice, Finance, State and National Health and Welfare. There are probably some of you who may be surprised that National Health and Welfare enter into the picture but they extradite more people than everybody else put together in this country because narcotics comes under their jurisdiction. It has also been studied and approved by the State Department in Washington and the Department of Justice, as well as by other departments of the United States government interested in the negotiations. It may or may not be well drafted. I would, however, deprecate the suggestion that clauses of treaties should be sent back for renegotiation merely because it is possible to make an argument or an interpretation inconsistent with the view of the contracting parties. I think you could make an argument about any draft.

By Mr. MacInnis:

Q. You are striking a serious blow there at the legal profession when you say that.

The CHAIRMAN: You are dealing with article IX?

The WITNESS: No, it is dealt with in paragraph V of Mr. Slaght's submission, when he suggests that you strike out the words "dealing with securities in the requested countries, and so on". You remember that he suggested that it meant it was restricted in its operation to dealers.

By Mr. Leger:

Q. Well, I believe afterwards he said that we should leave it as it was.—A. No, I do not think so, sir. He asked us to strike out the words and then to put in an alternative draft.

Q. I remember asking him that and this is what he did.—A. But it still leaves the first part of it. He did not want to be recorded as putting forward any constructive suggestion.

The CHAIRMAN: It is the latter part, that is all.

The WITNESS: Now, the fourth submission relates to sub-clause (*a*) of clause one of the protocol, in which it is suggested that the word "criminal" should be added to follow the word "fraud" so as to read—"fraud, as defined in the criminal laws of both countries". This suggestion was considered and rejected by the departments of the Canadian government concerned in the negotiations, whether wisely or unwisely I do not know; but at any rate the feeling was that the clause as presently worded would not be changed in any substantial way by the addition of the word criminal. I had the advantage of discussing that question again with the Minister and the Deputy Minister of Justice on Saturday, and they agreed with the view that there would be no change in substance by the addition of the word criminal to the clause in question. Secondly, I would suggest that while there would have been no serious objections to the inclusion of the word criminal at an earlier stage, it does not all enough to justify renegotiation on that point.

Frankly, I will concede to the committee that, if we were negotiating again, I would not hesitate to meet Mr. Slaght's point by adding the word criminal because I do not think there was any strong objection to its addition; but it is one of those things in the course of drafting, where you have half a dozen, and you come to the conclusion that the weight of opinion is in favour of striking out the word, but not on the basis of any change in the substantial position. If there is civil fraud in a transaction, there is not the slightest doubt that there is criminal fraud as well.

By Mr. Marier:

Q. If you say "by the laws of both countries", it would not be the law of both countries?—A. No.

Now, the fifth submission is included in paragraph VII and it relates to article XI. It would involve the renegotiation of the treaty and would eliminate the actual and substantial protection given to the accused by the second sentence of the first paragraph of article XI. It involves the elimination of the provisions with regard to bail. I said enough about that a few minutes ago and I do not need to repeat myself.

The sixth submission relates to article XII and here again I do not think I can add anything to what I have already said.

The seventh submission, which you will find under "general" in paragraph IX, for consideration of the Dominion-Provincial conference, that has already been dealt with; and the other points with reference to the Supreme Court of Canada I have already mentioned. They are under consideration.

By Mr. Leger:

Q. Has it been taken to the Supreme Court?—A. No; but, as I pointed out before, the Minister of Justice discussed this point with the conference last week; I do not know that he put it formally on the agenda, but he consulted the provincial representatives there with a view to ascertaining whether the provinces desired to have a reference to decide upon the constitutionality of the extradition arrangements act.

Now, dealing generally with the submissions made by my friend Mr. Slaght, it is necessary to bear in mind that we are considering a treaty and protocol resulting from negotiations between two countries. If it is considered that changes are desirable, there are three courses available.

The first course would be the negotiation of a new treaty with the United States of America. In such a case, it would doubtless be possible to incorporate into the main structure of the treaty the measures dealt with in the protocol. One should not overlook, in considering such a course, the diplomatic difficulties that would arise out of proposals for renegotiation.

The second course would involve negotiation of a new protocol, leaving the treaty to stand. Here again, there would be diplomatic difficulties, but it is

not an impossible course. It is, however, one which should only be resorted to if the present arrangement is regarded as involving genuine injustice to persons coming within its terms.

The third course presents less difficulty, namely, the consideration of the revision of the Extradition Act itself. Bearing in mind the general nature of the negotiations, it would, as a matter of good faith, be necessary to discuss with the United States representatives any changes in our extradition law which would have the effect of altering the bargain which would be made in the treaty and protocol. I do not myself, for the moment, suggest any curtailment in the powers of parliament of Canada or of this committee. I was merely suggesting that any plan involving a change in a basic law would, in the case of ordinary diplomatic practise involve consultation with the other countries with which a treaty has been negotiated.

By the Chairman:

Q. Before you leave that, Mr. Read, and the three courses you mentioned, just for my own information—this is a new committee—but you seem to think that there are insurmountable obstacles for the two first courses, renegotiation of a new treaty, which you think to be impossible, and secondly, renegotiation of a new protocol. I am not very clear on that yet. I know that this committee has only the power of recommendation, but surely the Canadian parliament has the right to make its sentiment or voice expressed even with respect to a treaty or protocol?—A. It is perfectly clear that parliament could object to the treaty and refuse its approval. It is equally clear that parliament could propose changes which would mean a new protocol. That is the equivalent of the reservation procedure in the Congress of the United States of America. For example, when a treaty has been concluded between two countries, say between Canada and the United States, it is by no means uncommon, over in the Senate of the United States of America, to make approval of that treaty subject to conditions which are embodied in reservations to the treaty, or in a document similar to the protocol. It would clearly be up to this committee, if it objected to the provision of the arrangement as a whole, to say: this is wrong; that is wrong; something else is wrong; we cannot recommend approval until those three points are straightened out. They could be straightened out in two ways, depending upon the nature of the point. It might be necessary to negotiate a new protocol with the United States in order to meet those objections; or it might be possible to meet the objections by change in the statute which would not involve a new protocol. The third course is a somewhat simpler course. Let us assume, for the purpose of argument, that the committee decided that the view presented by my friend Mr. Slaght, that his interpretation of article XII is well founded and that it is necessary to eliminate the inferences resulting from the wording of section three of the Extradition Act, it would not present any very great difficulty to make appropriate amendments in section III and section XXVII of the Extradition Act, so as to make it clear that the position was the position as understood by both governments at the time of the negotiation. That would present no difficulty. It would present a good deal of difficulty if you decided to follow the suggestion made by my friend Mr. Slaght, because it would necessarily mean the negotiation of a new treaty.

By Mr. Fraser:

Q. You mean that if we leave the treaty as it is and change our own Act? —A. Yes.

Q. Then an American reading this treaty would not know about the change in our Act?—A. No, he would simply read the treaty. The United States government who ratified the treaty, could call upon the Canadian government to carry out its provisions; so, a change in the Act would be in conformity with the treaty.

The CHAIRMAN: It was the new features that entered into the treaty that caused the fear.

By Mr. Adamson:

Q. In connection with diplomatic difficulty, on two occasions recently the United States Senate has not approved. I do not know whether you can use the word abrogate, but it certainly has not approved two treaties which were approved by the Canadian government and by the Canadian parliament. The first one was the St. Lawrence Deep Waterways, which was thrown out by the Senate; and the second was the Chicago Drainage Canal. In the first case, they completely threw out the treaty; and in the second case they altered and amended it to allow the diversion of water at Chicago to be greater than was originally agreed upon. Now, those treaties were signed in good faith. No Canadian diplomat could possible question the United States Senate's right to disagree with a treaty that was signed by diplomatic officials, even though we wanted the treaty very much. I cannot see or hear of any diplomatic difficulties. They have a sovereign parliament and so have we.—A. Yes.

Mr. MARIER: There would be no difficulty if the treaty were never signed; but there would be if a new treaty were negotiated.

By Mr. Adamson:

Q. The St. Lawrence treaty had been negotiated and had been signed, and so had the Chicago one. Both were thrown out by the American Senate.—A. I would like to suggest that you must have something else in mind than the Chicago diversion, because there has never been a treaty in regard to it, apart from the provisions in the St. Lawrence treaty—you may have been thinking about Niagara?

Q. The agreement was four thousand second feet, and I believe they changed and diverted it to six thousand second feet, for a period of years, irrespective of the treaty.

By Mr. Fraser:

Q. It was an agreement, wasn't it?—A. There is no record of such an agreement in the records of the Canadian government, in so far as Chicago is concerned.

Mr. BOUCHER: Didn't that come into being by way of an understanding in relation to the diversion of waters of the great lakes, through an agreement entered into with the pulp and paper mills by international consent? I do not think it was an agreement. I think it was an agreement made with the contracting parties with the approval of the state of Michigan. I do not think it arose by way of a treaty, but rather by way of a negotiation in connection with water power from lake Superior and lake Huron.

By Mr. Adamson:

Q. I shall look it up, but whether that is so or not, they definitely threw out the St. Lawrence deep waterways treaty after it had been signed?—A. Yes.

Q. There was no question about it?—A. There was no question about it.

Q. Whether or not there was a diplomatic difficulty there?

The CHAIRMAN: The only fear I see is that it deals with criminality and that some of the laws won't be applied in the meantime by the two countries. That is what I suppose the department fears.

The WITNESS: I do not want anybody to think that I am suggesting that there is any limitation on the powers of parliament or of this committee.

The CHAIRMAN: Or that those powers are limited. We know that.

The WITNESS: With regard to the treaty, I am suggesting, and I offer my suggestion for what it is worth, that it would be embarrassing from a diplo-

matic point of view to go back, let us say, to the United States of America and ask for the negotiation of a new treaty.

Mr. BOUCHER: In that respect it would be almost equally embarrassing if we were to sign this treaty as it is and subsequently amend our Extradition Act to delimit it.

By Mr. Jaenicke:

Q. Mr. Read suggested that the United States be first informed before we do that?—A. I think I discussed that before Mr. Boucher came in.

By Mr. Marquis:

Q. If we had to negotiate a new treaty, and the United States revised some clauses, there would be no difficulty at all?—A. Yes. Now, I think I will leave this point where I put it: that there is no question that it would be regarded as being an awkward position, from a diplomatic point of view, as compared with an amending statute, if it is possible to accomplish the results in that way.

By Mr. Jaenicke:

Q. May I ask a question: the objection, as I understood, before the committee was that, as to the treaty, how could we amend the statute so as to remove the objection to the treaty? The only way we could amend the statute would be in conformity with the treaty, and that would remove the objection? —A. I thought I had pointed out an illustration of a case in which there was a strong objection taken to the treaty, and the proposal was made to strike article XII out and to put in another article. That really meant a new treaty. My suggestion was that it would be better and easier to deal with that by a new protocol, if the committee thought it was necessary to do so, or even easier and better to deal with it by amending the Extradition Act. Mr. Slaght's argument was based upon his interpretation of the Extradition Act which had the effect of putting an artificial meaning on article XII, which was entirely inconsistent with the meaning that either of the governments had when they signed the treaty.

By Mr. Boucher:

Q. Wouldn't you agree with me in saying that the terms of the treaty, if inconsistent with the Act, would overrule the Act and have priority over it?—A. Yes, under section III of the Act.

Mr. JAENICKE: But we could change that, couldn't we, and say that the Act should overrule the treaty?

By Mr. Boucher:

Q. I think by international law, it is usually recognized, is it not, that a treaty overrules an Act?—A. In so far as the relation between two governments is concerned, either government is entitled to complain if you have not carried out your bargain, and it is no defence to say that there is an Act of parliament that prevents us from doing it. On the other hand, in this country apart from section III of the Extradition Act, there is no instance in which a provision of a treaty would be paramount to a provision of a statute where there is a conflict between them. Now, in the United States of America you have the opposite position.

Q. Would it not express it tersely by saying that internally there is no law or custom that puts a treaty prior to an act, but that international goodwill requires that it be so?—A. Yes.

The CHAIRMAN: It seems to me that the making of a treaty is a gigantic affair.

By Mr. Jaques:

Q. Where did this thing originate? Where did the pressure come from? I am not a lawyer so I cannot make a very fine distinction; but whose is the big idea?

Mr. JAENICKE: Oh, that was all discussed.

By Mr. Jaques:

Q. I do not think it was. If it was, I would be glad to hear it?

The CHAIRMAN: I do not think that comes within the realm of Mr. Read.

Mr. JAENICKE: It is all in the reports. Let him read them.

By Mr. Jaques:

Q. But he can give it to me in two words. I say, where did it come from?—A. Canada, one word.

Q. You say it originated in Canada?—A. Yes.

By Mr. Fraser:

Q. Not these three clauses, surely, 26, 31 and 32?—A. I understood the question to mean the treaty. If it means 26, 31 and 32, they came from Washington. I explained that in my opening statement. I am sorry to be taking so much time.

The CHAIRMAN: That is fine, don't worry about that.

Mr. LEGER: It is already twenty minutes to six.

The CHAIRMAN: But we needed that information.

By Mr. Leger:

Q. Sure, we wanted that information.—A. There was another point which was raised in the course of my opening statement, by Mr. Jaenicke.

By Mr. Jaenicke:

Q. What is a fugitive?—A. I would just like to say a word or two in regard to that because I think I am bound to mention it to the committee. Mr. Jaenicke was good enough to furnish me with citations of a number of United States decisions with regard to the operation of extradition in the United States of America. Under article 1 of the treaty, provision is made for extradition where an offence is committed by a Canadian in the United States of America or by, let us say, an American in Canada. You must have the element of an offence within the territory of the other party. In my opening statement I referred to the decisions in two cases in England, the Nillins and the Godfrey cases, where it was held that a person could be regarded as a fugitive offender within the meaning of the British Extradition Act notwithstanding that at all times he had been within the United Kingdom and had never left that country. It was pointed out to me that there were a number of United States decisions dealing with the definition of fugitive under the United States Extradition Act. I think it is clear that it is not possible to extradite a person from Canada to the United States of America unless he is a fugitive in the sense that he has been within this country and committed an offence and fled to the United States of America; so that, in the actual working out of the arrangement, not by virtue of any provision in the extradition arrangement itself, but by virtue of the decisions of the courts, there is not complete reciprocity. I felt bound to bring that to the attention of the committee, particularly in view of the fact that Mr. Jaenicke has been good enough to furnish me with the authorities. The United States law differs from ours, if you assume that Canadian courts would follow the Nillins and the Godfrey cases in an extradition out of this country. It is true that it is based on an interpretation of a provision in the British Act which is something different from the corresponding provision in the Canadian Act.

Mr. BOUCHER: As a rule of law, a British decision is more binding on a Canadian court than an American decision? Isn't that a principle of law?

Mr. JAENICKE: But the American law is the other way?

Mr. BOUCHER: And if this treaty were passed, Mr. Jaenicke, the Americans could even change that law and create the status of a fugitive even though he were not physically within this country.

By Mr. Marquis:

Q. Can we change the law in Canada? Can the United States change the law after the adoption of the treaty without informing Canada?—A. Well, in the course of ordinary practice, either country would inform the other of any changes in the legislation that would affect the provisions of a bargain made between them.

By Mr. Marquis:

Q. You said a few minutes ago that if we changed our Act, we should inform the United States?—A. That would be the ordinary course. However, if there was any suggestion at any time to change Canadian legislation, the ordinary diplomatic practice would be that we would let the United States authorities know; and if they should change their Extradition Act, they would let us know, unless the change was of such a character that it did not affect the provisions of the treaty between the two countries.

Mr. MARQUIS: If they change the interpretation of the treaty, it seems to me that they should inform the other country.

Mr. JAENICKE: Do I understand you correctly, Mr. Read, on the authority of these English decisions, that a Canadian resident could be extradited to the United States without ever being present in the United States?—A. Yes.

By Mr. Jaenicke:

Q. But according to American law, an American who commits a similar offence in Canada could not be extradited from the United States?—A. Yes.

By Mr. Boucher:

Q. Isn't that subject to variation from state to state? Every state has different laws in that respect?—A. Well, I have not been able to find any decision the other way; it is largely due to the fact that things are profoundly affected by interstate extradition. Let us say, in a case corresponding to the Nillins case or to the Godfrey case, you could not extradite between states because of the provisions of the Constitution of the United States. In it, extradition is limited. Even the definition of a fugitive is given in the Constitution of the United States, as being "one who shall flee from justice".

By Mr. Boucher:

Q. You will agree with me that fleeing from justice has such an elastic meaning that it can be a case of fleeing from justice according to the law of one state and not fleeing from justice according to the law of another state?—A. But there is only one law when it comes to the Constitution of the United States and that is the law of the United States Supreme Court.

Q. That is right, and it also interprets the law of the various state courts or the state laws.

By Mr. Marquis:

Q. We have nothing to do with the governments of the particular states; but when our country deals with extradition, it deals with the government of the United States.—A. We deal with the government of the United States, but the extradition is initiated by the state authority, just as it is in Canada, where it is initiated by the attorney general of a province.

Q. But it has to go through the channel of the United States?—A. Yes.

By Mr. Adamson:

Q. We are subject to a state law in this case?—A. You mean in the substance or in the procedural matter of extradition?

Q. In the substance?—A. That is the state, apart from federal provisions such as the Security Exchange Control.

By Mr. Marquis:

Q. Each state has its particular law; but as to extradition procedure, it comes under the federal government of the United States?—A. Yes; it comes under Congress, and the Extradition Act.

By Mr. Jaenicke:

Q. Do you mean to say that we cannot extradite any person from the United States under this treaty who has committed an offence in Canada under a Canadian provincial law and flees to the United States? Do you mean to say that?—A. No.

Q. Supposing some one commits an offence against one of our provincial security laws and then flees to the United States. Can we extradite him? —A. If the attorney general of the province desires to extradite him, the machinery is included in the extradition arrangement of the Act, and there would be no difficulty.

Q. Extradition is not provincial, because this is a provincial law?—A. No. Now, I am afraid that I am taking an unconscionable amount of time of the committee.

The CHAIRMAN: No, it is time well spent.

The WITNESS: I wanted to refer to the point raised by the Attorney General for British Columbia, Mr. Maitland. He suggested that a submission of the treaty be made to the various attorneys general in Canada and to the security commissioners.

With regard to the attorneys general, may I point out that the department has already made reference in the ordinary course and has received a very valuable comment from the attorney general of Saskatchewan who has made a very close examination of the text and has pointed out a piece of doubtful drafting in the third paragraph of article XI where the words used "committal for trial" should really have been "committal for surrender". It is possible that the department may receive representations from other attorneys general and in that case we shall, if possible, bring them to the attention of the committee.

This reference to the attorneys general was made quite a long time ago. Mr. Maitland also suggested that there should be a consultation with the security commissioners. I should like to point out that there have been consultations, a number of consultations, with the security commissioners since the signature of the treaty and in the course of the negotiation of the protocol and I think I might be justified in bringing to the attention of the committee the results of the consultations with the securities commissioners. I think, in fairness to them, that I am bound to say that we cannot regard those consultations as technically binding the governments of which they are officials because we took advantage of the existence of a committee on company matters presided over by Mr. O'Meara, Assistant Under Secretary of State of Canada. There were extensive consultations with them at an earlier stage, and in August of this year Mr. O'Meara put the present draft protocol, subject to one or two minor drafting changes—for example, letters (a) and (b) were not in the text that was submitted; it was a block sentence without being separated—Mr. O'Meara submitted it to the securities commissioners at a meeting. I should have said on the 15th of Feburary, 1944, not August. The revised draft incorporated the suggestions adopted at the meeting held by the committee dealing with the problem.

Following receipt of the memorandum setting forth the revised draft, Mr. O'Meara communicated with the securities commissioner of each of the provinces of Canada, to whom he sent copies expressing his belief that the draft in the form submitted would meet the various objections raised at our Winnipeg conference. That was an earlier conference where he consulted the commissioners in order to ascertain what objections needed to be met in the draft reservation or protocol. He added that he would be glad, however, to have any comment in the premises which the commissioners desired to place before him. Mr. O'Meara received replies from all provinces except Ontario and Prince Edward Island. The commissioners of Alberta, Saskatchewan and Nova Scotia wrote letters of approval. Mr. Cottingham, of Manitoba, advised by telephone, unofficially, of his approval, explaining however, that he had not yet received any official instructions in the matter from his attorney general to whom he had referred my letter. Mr. Logan, of New Brunswick, expressed approval in general terms, suggesting, however, that, in his opinion, an amendment ought to be effected to the Criminal Code making it an offence to solicit by telephone subscriptions for securities.

Mr. DeBeck, of British Columbia, wrote approving of the plan but expressed some concern about the reference to "fraud" without an attempt at defining the term.

Mr. Blackstock of Alberta, in his letter intimated that he had at first felt some concern on the same point but had concluded that such a problem as existed in that respect was one for the United States authorities rather than for Canada.

Messrs. Routhier and Leboeuf of Quebec, gave what I believe is implied approval, having telegraphed that "revised draft confidentially submitted to our attention merely speaks for itself and therefore needs no additional comment on our part."

It seemed that the protocol met the objections which had been raised at the Winnipeg conference. In Mr. O'Meara's opinion, it was quite unlikely that Ontario would be disposed to give approval at this time, to any form of extradition treaty covering offences in securities transactions.

In bringing this information to your attention, and in fairness to the security commissioners concerned, I think I am bound to emphasize the fact that this was an unofficial consultation. It was not a formal communication with the provinces, because there is no instance that I know of in the past where there has been a formal communication with regard to a treaty where the subject matter was the same sort as the extradition treaty and arrangement.

By Mr. Benidickson:

Q. But you did write to the attorneys general, did you not?—A. We did write, after the signature to the document. We felt it would not be fair to impose the responsibility in a matter in which it was a view of the department and also, I think, of the government, that it was a federal rather than a provincial matter in which there was no active provincial co-operation being asked and no suggestion of any need for provincial legislation.

By Mr. Fraser:

Q. Did you give the date on which they were written to?—A. They were written to in October of this year, and the replies will come in, I suppose, in the course of the year.

Mr. FRASER: I move that we adjourn.

The CHAIRMAN: If Mr. Read is through?

The WITNESS: I am through apart from saying thank you to the members of the committee.

Mr. MARQUIS: I would suggest that we have Mr. Read come back later and we can ask a few more questions of him.

The CHAIRMAN: Would you like to see Mr. Read come back before the committee at some future stage? I understand that we cannot proceed with the report until we have digested what Mr. Read has said this afternoon.

By Mr. Fleming:

Q. Mr. Read was asked by Mr. Slaght to look up the *Congressional Record* to see what expressions were uttered in Congress concerning this question?—A. I must apologize for not having got that information at the present stage, but I will get it.

Mr. BOUCHER: Before you say that it is the opinion of the committee that we should digest this before we go further, I think I should draw to the committee's attention the fact that in all probability this session will last only another week or ten days.

The CHAIRMAN: Hear, hear, that is not an unpopular statement.

Mr. BOUCHER: And that, if we are going to bring in a report at all, under this session, we will have to do so before that time expires; otherwise, in essence our committee meetings pass out.

The CHAIRMAN: We could have Mr. Read again tomorrow if it be agreeable to the committee and to Mr. Read?

Mr. LEGER: I think we should read the evidence first.

The CHAIRMAN: It would be a continuation of the evidence and then we would have the whole thing before us.

Mr. MACINNIS: But he has said that he was through.

The CHAIRMAN: Yes, but we could question him.

Mr. FRASER: I understood that we could have this report printed within two days. So, could we have a meeting on Friday morning?

The CHAIRMAN: Yes, so far as I am concerned. I am entirely at the disposal of the members.

Mr. ADAMSON: Before you go, isn't the opinion of the committee, first of all, that it is imperative that we bring in a report? We cannot just sit here and say that we report progress?

The CHAIRMAN: Decidedly, decidedly.

Mr. ADAMSON: And secondly, we have got to do it quickly. I know this is an involved matter but it has got to be done, so I move that we meet and if Mr. Read has anything more to say, we meet to-morrow at ten o'clock; otherwise let us meet on Friday, with his evidence in front of us. It is up to this committee to say.

The CHAIRMAN: In the meantime might I have a meeting of the steering committee. All agreed on Mr. Adamson's motion?

Mr. MARQUIS: It would be a good thing to discuss the matter, but perhaps we should have the report first.

Mr. ADAMSON: We will meet on Friday at ten o'clock?

The CHAIRMAN: Mr. Read says he cannot be here on Friday, but we will meet on Friday just the same and we will have Mr. Read on Monday and go ahead with our report on Monday or Tuesday.

Mr. ADAMSON: Could Mr. Read come tomorrow?

The WITNESS: I could come tomorrow morning.

Mr. ADAMSON: What more have you got?

The WITNESS: I have not anything more; I am through.

Mr. ADAMSON: Surely we have heard all the evidence Mr. Read could give us; then, let us meet on Friday and draw up our report.

The CHAIRMAN: And as to any special questions, they could be answered through the secretary or through myself.

Mr. ADAMSON: Yes.

The CHAIRMAN: The steering committee could meet on Thursday. The meeting is now adjourned.

The committee adjourned at 6.10 p.m. to meet again on Friday, December 7, at 10.00 o'clock a.m.

SESSION 1945

HOUSE OF COMMONS

STANDING COMMITTEE

ON

EXTERNAL AFFAIRS

MINUTES OF PROCEEDINGS

No. 9

TUESDAY, DECEMBER 11, 1945

INCLUDING

1. Third report to the House.
2. Index to witnesses and to appendices.

OTTAWA
EDMOND CLOUTIER
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1945

REPORT TO THE HOUSE

TUESDAY, December 11, 1945.

The Standing Committee on External Affairs begs leave to present the following as its

THIRD AND FINAL REPORT

Consideration has been given to an order of reference dated November 16, 1945, viz:—

> That the Treaty for the extradition of criminals between Canada and the United States of America signed at Washington, April 29, 1942, and the Protocol annexed thereto which was signed at Ottawa, October 3, 1945, be referred to the Standing Committee on External Affairs.

Nine meetings of the Committee were devoted to the subject-matter of the order of reference.

Mr. J. E. Read, legal adviser of the Department of External Affairs, was heard, as was Honourable R. L. Maitland, Attorney General of British Columbia.

Representations were also made by counsel on behalf of several Stock Exchanges, the Montreal Curb Market, the Toronto Board of Trade, the Prospectors and Developers Association of Canada, the Ontario Security Dealers Association and by other interested parties.

Letters, telegrams and briefs were received disapproving of the present form of the Treaty and Protocol, all of which have been either printed in the minutes of proceedings and evidence, or filed.

Your Committee is, however, of the opinion that the Government should consider the advisability of clarifying the Extradition Act in general, and in particular with respect to subsections 26, 31 and 32 of article III, article IX and article XII of the Treaty and of section 1 of the Protocol in accordance with the evidence adduced before the Committee.

Your Committee further recommends that the Treaty and Protocol thereto be reconsidered.

A copy of all printed proceedings and evidence taken throughout Session 1945 by this Committee, together with papers and documents filed with the Committee respecting two proposed resolutions (approval of conventions Nos. 32 and 63—International Labour Organization—Geneva) and the Extradition Treaty and Protocol accompanies this Report.

All of which is respectfully submitted.

J. A. BRADETTE,
Chairman.

MINUTES OF PROCEEDINGS

ROOM 268,

TUESDAY, December 11, 1945.

The Standing Committee on External Affairs held an executive meeting at 10.00 o'clock. The Chairman, Mr. Bradette, presided.

Members present: Messrs. Adamson, Blanchette, Dechene, Fleming, Fraser, Hackett, Jackman, Jaenicke, Léger, MacInnis, Marier, Marquis, McIlraith, Sinclair *(Ontario)*, and Tremblay.

The Chairman referred to a letter from Mr. Read under date of December 5, 1945, supplementing his evidence before the Committee.

Ordered,—That this letter be printed as an appendix to the minutes of proceedings *(see appendix B to this day's minutes of proceedings)*.

The Committee had for consideration from the Steering Committee a draft report which was read by the Chairman.

Mr. Léger moved that this report be adopted as presented.

After discussion, Mr. Jaenicke moved that the following be substituted for paragraphs 7 and 8 of the report, viz:—

> On the evidence submitted your committee finds that, according to the interpretation of the word "fugitive" under Canadian law, it may be possible that a person, by initiating in Canada any form of communication directed to another country, might be held to have committed a crime in that other country, and thus be subject to extradition without ever having been present in such country.
>
> The evidence further shows that, according to the laws of the United States of America, no one could be extradited from that country unless he was a fugitive within the ordinary, grammatical meaning of that term, and unless he had been actually and physically present in the United States when the offence was committed.
>
> Your committee further finds that the proposed treaty, in article IX thereof, abolishes the principle of dual criminality which has always been a fundamental principle of any extradition arrangement.
>
> Your committee finds that for the above reasons the treaty violates the principles of Canadian sovereignty inasmuch as it might be possible that a person in Canada could be extradited without ever having left Canada, and without having in any way offended against the laws of Canada or of any of the provinces.
>
> Your committee therefore recommends that before the treaty is ratified the following amendments be made to the treaty and to the Extradition Act:
>
> 1. That the Extradition Act, being Chapter 37 of the Statutes of Canada and Article 1 of the Treaty, be amended to define the term "fugitive" as a person who actually and physically was present and committed the crime of which he is accused or convicted, in the territorial jurisdiction of the requesting country.
>
> 2. That Article 9 of the Treaty be amended by striking out the words "and it shall not be essential to establish that the crime or offence would be a crime or offence under the laws of the requested country."

The question being put on Mr. Jaenicke's amendment, it was lost on division.

After further discussion, and on motion of Mr. McIlraith, it was *resolved* that paragraph 6 of the draft report be deleted.

Mr. Adamson moved that the following be inserted as paragraph 6.

> Your Committee feels that the terms of reference do not call for a detailed report to Parliament at this time on the various clauses of the Treaty, nor does it feel that it is its prerogative to suggest amendments to the Treaty and Protocol. However, it feels that sufficient evidence has been produced to enable the high contracting parties to re-draw this instrument of extradition.

Later, by leave of the Committee, Mr. Adamson withdrew his motion.

The Committee agreed to insert the word "however" in paragraph 7 of the draft report.

On motion of Mr. Leger, the report as amended was adopted on division.

On motion of Mr. Marquis:—

Ordered,—that the said amended report be presented to the House.

The Committee adjourned at 11.30 a.m.

ANTONIO PLOUFFE,
Clerk of the Committee.

APPENDIX B

DEPARTMENT OF EXTERNAL AFFAIRS

OTTAWA, December 5, 1945.

J. BRADETTE, Esq., M.P.,
Chairman, Standing Committee on External Affairs,
House of Commons,
Ottawa, Canada.

Dear Mr. BRADETTE,—I find that, in the somewhat hurried winding up of proceedings before the Committee yesterday, I overlooked one point upon which the Committee might desire to have further information. In case the Committee wants to have this additional information, I am writing to you to bring it to your attention.

The point arises out of suggestions made in the course of the argument in considering clause (*b*) in the Protocol "Wilful and knowing violation of the laws of the requesting country". It was suggested that "knowing violation" of the laws of the United States might be established by proof of service of a "cease and desist" order, or by proof of service of copies of the United States legislation.

It should not be overlooked that, under our legal system, even a judge would not regard himself as capable of forming an opinion upon a point of United States law, whether Federal or State, even if he had before him copies of the Statutes and arguments by Canadian counsel. He would only form an opinion if he were assisted by evidence from a lawyer familiar with the practice of the State in question and with the Federal laws in practice. It is, therefore, almost inconceivable that a judge could find that a Toronto broker, with a copy of the Security Exchange Commission's Statute and Regulations in his waste-paper basket, would come within the scope of "wilful and knowing violation of the laws" of the U.S.A., regardless of whether he had read the laws and regulations.

With regard to "cease and desist" orders, I think that it is clear that they could have no possible operation in Canada. They are merely instructions from officials who are without authority on this side of the border and whose instructions could properly be disregarded, in so far as this country is concerned, by a Canadian businessman.

Reference might be made to the leading case of Raphael v. Bank of England. It is reported in 17 C.B. 161; 25 L.J.C.B. 33. In that question, which was dealing with stolen bank notes, a money-changer at Paris, twelve months after he had received notice of the robbery of the bank notes, took one of the notes at Paris, giving cash for it, from a stranger whom he merely required to produce his passport and write his name on the back of the note. It was held that the circumstance of the money-changer forgetting or omitting to look for the notice was no evidence of bad faith, so as to prevent him from being in the position of a holder in due course. If, for the purpose of a civil proceeding in a civil matter, a money-changer could not be regarded as having knowingly purchased a stolen bank note by reason of a notice furnished to him by the banking authorities, *a fortiori* a businessman in this country could not be regarded as knowingly violating United States laws merely by having received copies of the Statute. It would in all cases be necessary to prove that the accused person had an actual knowledge, to bring him within the scope of this clause of the protocol.

In bringing this point to your attention I should like to repair one other omission on my part. You will remember that the crowding of the adjournment of the Committee prevented me from expressing, in any adequate way, my appreciation of the courtesy which I received from the Committee Chairman, from the members of the Committee, from the Secretary and the reporter, and of the privilege of coming before you and discussing the questions which have arisen with regard to the extradition arrangement.

Yours sincerely,

(Signed) J. E. READ.

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