

SESSION 1947
HOUSE OF COMMONS

STANDING COMMITTEE
ON
PUBLIC ACCOUNTS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 3

BILL No. 22—AN ACT TO CONTINUE THE REVISED
REGULATIONS RESPECTING TRADING WITH THE
ENEMY (1943)

TUESDAY, MAY 6, 1947

WITNESSES:

Dr. E. H. Coleman, C.M.G., K.C., Deputy Custodian of Enemy Property, and
Mr. K. W. Wright, Counsel;

Mr. D. H. W. Henry, Department of Justice.

OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
CONTROLLER OF STATIONERY

1947

REPORT TO THE HOUSE

TUESDAY, May 6, 1947.

The Standing Committee on Public Accounts begs leave to present the following as a

THIRD REPORT

Your Committee has considered Bill No. 22, An Act to continue the Revised Regulations respecting Trading with the Enemy (1943), and has agreed to report it with amendments.

A reprint of the said Bill has been ordered.

All of which is respectfully submitted.

GORDON B. ISNOR,
Vice-Chairman.

MINUTES OF PROCEEDINGS

TUESDAY, May 6, 1947.

The Standing Committee on Public Accounts met at 11.30 o'clock a.m., the Vice-Chairman, Mr. Gordon B. Isnor, presiding.

Members present: Messrs. Burton, Boucher, Cleaver, Cockeram, Cote (Verdun), Cruickshank, Fleming, Fraser, Gladstone, Golding, Hamel, Harris (Danforth), Isnor, Jackman, Johnston, Kirk, Marshall, Pinard, Probe, Stewart (Winnipeg North), Stuart (Charlotte), Warren, Winkler.

In attendance: Dr. E. H. Coleman, C.M.G., K.C., Deputy Custodian of Enemy Property, and Mr. K. W. Wright, Counsel; Mr. D. H. W. Henry, Department of Justice.

The Committee resumed consideration of the Schedule to Bill 22, An Act to continue the Revised Regulations respecting Trading with the Enemy (1943).

Paragraph 1: On motion of Mr. Golding, subparagraph (k) was amended by the addition of the following words after the word *enemy* in the last thereof:
; and for the purposes of this Regulation the war between His Majesty and the German Reich shall be deemed to have commenced on the second day of September, nineteen hundred and thirty-nine.

Paragraph 1, as amended, was adopted.

Paragraph 6: On motion of Mr. Golding, subparagraph (2) was amended by the deletion of the words *the Secretary of State or* in the second line thereof.

Paragraph 6, as amended, was adopted.

Paragraph 7, on motion of Mr. Golding, was deleted and the following substituted therefor:

7. No person shall be liable for any act or omission in the exercise or performance or purported exercise or performance, in good faith and on reasonable grounds, of any power, discretion, authority or duty conferred or imposed by or under these Regulations.

Paragraph 15: On motion of Mr. Fleming, subparagraph (11) was amended by the deletion of the word *may* in the first line thereof and the substitution therefor of the word *shall*.

On motion of Mr. Golding, paragraph 15 was further amended by the addition of the following:

(14) Notwithstanding anything in this Regulation, where the Secretary of State has made an order under this Regulation, any person affected by the order may, within fifteen days from the day on which he receives notice of the order, apply to a judge of the Exchequer Court of Canada or of a superior court in the province in which the business is situated, to review the order and the judge may thereupon confirm or set aside the order.

Paragraph 15, as amended, was adopted.

Paragraph 27: On motion of Mr. Golding, subparagraph (2) was deleted and the following substituted therefor:

(2) Any person may, not less than thirty days after giving the Custodian notice of his claim, proceed in the Exchequer Court of Canada for an order declaring that he is not an enemy and

(a) that the property held or controlled by the Custodian is not subject to these Regulations and he is the owner thereof or of an interest therein; or

(b) that he was the owner of property or an interest in property immediately prior to its vesting in the Custodian under these Regulations; and if the Court makes such an order, the Court may thereupon direct the Custodian to deliver the property to the owner or to such other person as the Court may determine.

Paragraph 27, as amended, and paragraph 36 were adopted.

Paragraph 68, on motion of Mr. Golding, was deleted.

Paragraph 70 was adopted.

The Schedule, as amended, was adopted.

Clause one of the bill was adopted.

On motion of Mr. Golding, Clause two was deleted and the following substituted therefor:

2. (1) The Revised Regulations Respecting Trading with the Enemy (1943), set out in the Schedule to this Act, as established by an Order of the Governor in Council made under the *War Measures Act* on the thirteenth day of November, nineteen hundred and forty-three, and continued in force by an Order of the Governor in Council made on the twenty-eighth day of December, nineteen hundred and forty-five, under section four of *The National Emergency Transitional Powers Act, 1945*, and amended by an Order of the Governor in Council made on the fourteenth day of January, nineteen hundred and forty-seven, and by this Act shall, while this Act is in force, continue and be in full force and effect.

(2) The Revised Regulations Respecting Trading with the Enemy (1943) shall be read and construed as if the following provisions had been duly enacted as amendments thereto to take effect from the commencement of this Act:

(a) Paragraph (k) of Regulation one is amended by adding thereto the following:

; and for the purposes of this Regulation the war between His Majesty and the German Reich shall be deemed to have commenced on the 2nd day of September, nineteen hundred and thirty-nine;

(b) Paragraphs (c) and (f) of Regulation three are revoked;

(c) Section (2) of Regulation six is revoked and the following substituted therefor:

(2) Any power or duty conferred or imposed by or under these Regulations upon the Custodian may be delegated by him to such person or persons as he thinks proper.;

(d) Regulation seven is revoked and the following substituted therefor:

7. No person shall be liable for any act or omission in the exercise or performance or purported exercise or performance, in good faith and on reasonable grounds, of any power, discretion, authority or duty conferred or imposed by or under these Regulations.;

(e) Subparagraphs (i) and (ii) of paragraph (f) of Regulation eight are revoked and the following substituted therefor:

(i) whether the business is carried on for the benefit of or under the control of an enemy;

(ii) the relations existing or which have, either before or after the commencement of the present war, existed between a person interested in the business and an enemy.;

(f) Section (2) of Regulation eleven is revoked and the following substituted therefor:

(2) The power of the Secretary of State to appoint a supervisor under this Regulation shall include a power to appoint a supervisor of the business carried on by any person for the purpose of ascertaining whether the business is carried on for the benefit of or under the control of an enemy, or for the purpose of ascertaining the relations existing, or which before the commencement of the present war existed, between such person and any enemy.

(g) Section (11) of Regulation fifteen is revoked and the following substituted therefor:

(11) The Secretary of State shall from time to time prepare and publish in the *Canada Gazette* lists of the persons as to whom orders have been made under this Regulation.;

(h) Regulation fifteen is amended by adding thereto the following as section (14):

(14) Notwithstanding anything in this Regulation, where the Secretary of State has made an order under this Regulation, any person affected by the order may, within fifteen days from the day on which he receives notice of the order, apply to a judge of the Exchequer Court of Canada or of a superior court in the province in which the business is situated, to review the order and the judge may thereupon confirm or set aside the order.;

(i) Regulation sixteen is revoked and the following substituted therefor:

16. Where, on the application of the Secretary of State, it appears to a judge of the Exchequer Court of Canada that a contract entered into prior to or after the commencement of the present war with an enemy or with a person in respect of whose business an order has been made under Regulation 15 of these Regulations is injurious to the public interest, the judge may by order cancel or determine the contract either unconditionally or upon such conditions as he deems proper and thereupon such contract shall be deemed to be cancelled or determined accordingly.;

(j) Regulation twenty-five is revoked;

(k) Section (2) of Regulation twenty-seven is revoked and the following substituted therefor:

(2) Any person may, not less than ninety days after giving the Custodian notice of his claim, proceed in the Exchequer Court of Canada for an order declaring that he is not an enemy and

(a) that the property held or controlled by the Custodian is not subject to these Regulations and he is the owner thereof or of an interest therein; or

(b) that he was the owner of property or an interest in property immediately prior to its vesting in the Custodian under these Regulations;

and if the Court makes such an order, the Court may thereupon direct the Custodian to deliver the property to the owner or to such other person as the Court may determine;

(l) Section (2) of Regulation forty-five is revoked and the following substituted therefor:

(2) Any person desiring to record such claims or property may obtain the necessary forms for that purpose from the Custodian but the action of the Custodian shall be confined to entering upon the record claims of which particulars are supplied to him, and it shall in no way commit the Custodian or the Government of Canada either to responsibility for the correctness of the claim entered or to taking action on the conclusion of hostilities or otherwise for the recovery of the claim or property in question;

(m) Regulation 68 is revoked.

On motion of Mr. Golding, Clause three was deleted and the following substituted therefor:

3. The Custodian appointed by the Revised Regulations Respecting Trading with the Enemy (1943) shall, as soon as possible after the 31st day of December in each year and in any event within three months thereof, prepare an Annual Report of the affairs and operations of the Custodian's Office during the twelve month period ending on the 31st day of December, and the Secretary of State shall forthwith lay the said Report before Parliament if Parliament is then in session or within fifteen days of the commencement of the next session of Parliament.

Clause four, the preamble and the title were adopted.

The Bill, as amended, was adopted and the Vice-Chairman ordered to report to the House accordingly.

On motion of Mr. Fraser:

Ordered,—That the Bill, as amended, be reprinted.

At 12.10 o'clock p.m. the Committee adjourned to meet at the call of the Chair.

A. L. BURGESS,
Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS,

May 6, 1947.

The Standing Committee on Public Accounts met this day at 11.30 a.m. The Vice-Chairman, Mr. Gordon B. Isnor, presided.

The VICE-CHAIRMAN: Now, gentlemen, we have a quorum and we will at once proceed with the business before us. An inquiry was made of me this morning as to when I thought this bill would be ready to report and, knowing the members of the committee, and appreciating the manner in which they have cooperated, I took the liberty of saying that we would report this bill this afternoon. Mr. Probe, as usual, smiles. My thought is that I at once place before you the unfinished sections and those which have been stood over. They are eight in number, only, so I think I will be able to report the bill unless we run across some unexpected obstacles.

Mr. GOLDING: Would you give us a list of the sections concerned?

The VICE-CHAIRMAN: Yes, paragraph 1, subsection (k); Paragraph 6, subsection (2); paragraph 7; paragraph 15; paragraph 27; paragraph 36; paragraph 68; paragraph 70.

Mr. Fleming asked that certain of these paragraphs be stood aside and others were stood aside in order that Dr. Coleman might give them some study over the week-end. Shall we take up first paragraph 1, subsection (k).

Dr. E. H. Coleman, C.M.G., K.C., recalled:

The WITNESS: After consultation with the officers of the Department of Justice we propose that the committee approve, and that the members move, that we add thereto the following, that is, paragraph (k) of regulation 1 is amended by adding thereto:—

And for the purpose of this regulation the war between His Majesty and the German Reich shall be deemed to have commenced on the second day of September, nineteen hundred and thirty-nine.

The regulations which were first passed under a state of apprehended war were made applicable from the second day of September. The subsequent regulations which were passed after war was declared were likewise made applicable from the second day of September, 1939, and it would have a rather disastrous effect on the regulations if that amendment were not to be made here.

Mr. FLEMING: May I ask why the second of September was chosen?

The WITNESS: The day before war was declared.

Mr. FLEMING: By Britain and France?

The WITNESS: Yes, after the invasion of Poland.

Mr. FLEMING: The invasion of Poland commenced on the first of September.

The WITNESS: Yes, and Britain and France presented their notes on the first.

Mr. FLEMING: If I may ask, why does Dr. Coleman choose the first?

The WITNESS: I did not choose it, it was chosen at the time and it has been operating on that basis. I think there was still some hope on the first that there might be a withdrawal and it was not until the second that it became clear the invasion was underway.

The VICE-CHAIRMAN: For the benefit of the latecomers, particularly Mr. Stewart, I would say that we are now dealing with subsection (k) of section 1, and an amendment has been proposed by Dr. Coleman to cover the point raised by Mr. Stewart.

The WITNESS: The amendment is, "and for the purposes of this regulation the war between His Majesty and the German Reich shall be deemed to have commenced on the second day of September, 1939."

The VICE-CHAIRMAN: Is the amendment agreeable? Shall the amendment carry?

Carried.

The next item is paragraph 6, subsection (2).

The WITNESS: In connection with this matter I have had the advantage of conferring with the minister and it would be agreeable, if the committee approves, to stroke out the words "The secretary of state or".

Mr. BURTON: Whereabouts is that?

The WITNESS: Page 5.

The VICE-CHAIRMAN: Yes, page 5.

The WITNESS: Paragraph 2 of regulation 6 is revoked and the following substituted therefor:

(2) Any power or duty conferred or imposed by or under these regulations upon the custodian may be delegated by him to such person or persons as he thinks proper.

That is, any of the powers out of the ordinary under these regulations, providing for the exercise of such powers by the Secretary of State. It is actually taken care of by the section of the interpretation Act. The department feels it is not necessary to have it in any longer.

The VICE-CHAIRMAN: Is it agreeable?

Mr. FLEMING: It does not touch the matter of delegation as far as the custodian is concerned, and while I don't want to be dogmatic about this, it seems to me important powers like this, conferred on the custodian, should not be open to unlimited delegation. I agree that the amendment proposed helps a good deal, but I think there should have been some limit imposed on the extent of powers of delegation.

Mr. COTE: Would you have any suggestions to offer?

Mr. FLEMING: What I suggested when this item was reached at an earlier meeting was that the power of those delegations should be confined to certain individuals like the deputy assistant. Actually, as I understand it, the powers of the custodian under the regulation have never been exercised as a result of delegation by more than about two officials.

The WITNESS: Other than the inspectors and so forth.

Mr. FLEMING: These individuals derive their powers under other sections of the regulations and not by delegation under subsection (2) of section 6. Now, here, unlimited power of delegation is being preserved in time of peace where, even in time of war, it was not necessary to have the power of delegation extend beyond a couple of officials of the department.

Mr. JOHNSTON: What is the purpose of having the power in here.

The VICE-CHAIRMAN: I think Dr. Coleman explained that at the last meeting. Would you enlarge upon it again, doctor?

The WITNESS: It is a pure matter of administration. The custodian himself cannot possibly do all the things in his own person, things which he is required to do under the regulations, and he has to appoint agents or officials to do those things for him.

Mr. JOHNSTON: It has been suggested he never used the powers during the war and is not likely to use them again.

The WITNESS: No, that is not quite correct. He has given limited powers of delegation to certain people but the only people to whom he gave general powers happened to be the deputy custodian and the assistant custodian, but he gave them plenty. In specific matters he gave limited powers to various people.

The VICE-CHAIRMAN: Shall paragraph 6, subsection (2) carry?

Carried.

The WITNESS: As a matter of technical procedure, a representative of the Department of Justice has asked me if you would give consideration to a motion in the form which I read a minute ago,

Paragraph (2) of regulation 6 is revoked and the following substituted therefor:

(2) Any power or duty conferred or imposed by or under these regulations upon the custodian may be delegated by him to such person or persons as he thinks proper.

The object in that is to comply with ordinary parliamentary practice when a section is altered.

Agreed.

The VICE-CHAIRMAN: The next is section 7.

The WITNESS: This regulation, No. 7, which was held over, was carefully considered by the department, together with the representatives of the Department of Justice, and it is proposed to revoke that regulation and put in a substitution which reads,

7. No person shall be liable for any act or omission in the exercise or performance or purported exercise or performance, in good faith and on reasonable grounds, of any power, discretion, authority or duty conferred or imposed by or under these regulations.

I understand that is substantially the amendment as made in bill 104 and in two or three of the orders in council which were covered there.

The VICE-CHAIRMAN: Mr. Fleming raised that point. Is that agreeable to you, Mr. Fleming?

Mr. FLEMING: Well, if one might have seen the important amendments of that kind together, it would have made it easier to follow. I think, as far as I can tell at the moment, that it meets some of the objections, but you will remember that section was tied up with some points raised in connection with sections 27 and 36. If we could see all of them together it might help in following each of them.

The VICE-CHAIRMAN: Gentlemen, I am sorry but I have not sufficient quantities to pass around. Mr. Fleming raised this point, and if you will not misunderstand me, I will pass this copy which I have along to Mr. Fleming. It has been suggested that we deal with 7, and 27 together. We will pass up 15 and come back to it later. Will you read regulations 7 and 27 together, gentlemen? You will find 27 on page 12.

The WITNESS: The proposal is that paragraph (2) of regulation 27 is revoked and the following substituted therefor:

(2) Any person may, not less than ninety days after giving the custodian notice of his claim, proceed in the Exchequer Court of Canada for an order declaring that he is not an enemy and

(a) that property held or controlled by the custodian is not subject to these regulations and he is the owner thereof or of an interest therein; or

(b) that he was the owner of property or an interest in property immediately prior to its vesting in the custodian under these regulations; and if the court makes such an order, the court may thereupon direct the custodian to deliver the property to the owner or to such other person as the court may determine.

The vital section is of course in the last part, "and if the court makes such an order, the court may thereupon direct the custodian to deliver the property to the owner or to such other person as the court may determine."

Mr. FLEMING: Mr. Chairman, may I ask is there any amendment proposed to regulation 36?

The WITNESS: It was thought, if regulations 7 and 27 were adopted in the amended form it would obviate any necessity of amending regulation No. 36. My colleague, Mr. Henry of the Department of Justice is here and he might have a word or two to say about it.

Mr. FLEMING: What about the question that I raised at the last meeting? Does it prevent a defendant in an action commenced in the Exchequer Court or an action commenced by the Custodian, to counter-claim?

The WITNESS: It seems to be the opinion of the Department of Justice that would be involved in any case.

Mr. FLEMING: Would Mr. Henry speak up?

Mr. HENRY: I do not like to say dogmatically that the individual would have a right to counter-claim in the same action in the Exchequer Court, but, if section 7 as amended is adopted, he would have a right of action according to law for the remedy which he is seeking in whatever court has jurisdiction to entertain it. We have not limited it to any court whatsoever. I would not like to say he could proceed by way of counter-claim in the Exchequer Court in an action brought by the custodian under section 36, but he would have a remedy if the Exchequer Court has jurisdiction. Then he could proceed. Also he could proceed in any other court in an action instituted by himself.

Mr. FLEMING: He might conceivably be thwarted by the time limit in section 27. I do not suppose the custodian is going to take a severe stand with respect to the time limit, but suppose the ninety days has gone by and no action has been taken by the individual and the custodian then takes action against him. I think under those circumstances it would be fair to allow him to make his counter-claim. I think Dr. Coleman indicated in the last meeting that in no case had the custodian insisted on his rights under the section requiring that notice to be given within the ninety-day period. Now, so long as that practice is followed by the custodian, I suppose there is no serious difficulty that could arise without a specific provision for making a counter-claim.

Mr. HENRY: I think, Mr. Fleming, I am right in saying this. There are cases in which the Crown, quite apart from these regulations, can proceed in its own court, the Exchequer Court, where there is no provision for the subject to bring action himself in that particular type of claim against the Crown and you have there the same proposition. The situation is usually worked out by

the Crown, in that case, bringing its action in the court where the subject himself can bring a counter-claim. The situation is not much different in this case.

Mr. FLEMING: I think these amendments, Mr. Chairman, are a big improvement.

The VICE-CHAIRMAN: Well, gentlemen, shall the sections carry, sections 7, 27 and 36?

Carried.

The VICE-CHAIRMAN: We will go back to 15, on page 8, the appointment of controller.

The WITNESS: I think you have covered, if I may say so, sir, all the subsections until (11), where it was proposed by a member of the committee that the word "may" should be altered to the word "shall".

The VICE-CHAIRMAN: That change was made.

The WITNESS: We propose that paragraph (11) of regulation 15 be revoked and the following substituted therefor: "(11) The Secretary of State shall from time to time prepare and publish in the *Canada Gazette* lists of the persons as to whom orders have been made under this regulation."

And then the other point raised in connection with regulation (14) was dealt with by adding thereto the following:

(14) Notwithstanding anything in this regulation where the Secretary of State has made an order under this regulation, any person affected by the order may, within fifteen days from the day on which he received notice of the order, apply to a judge of the Exchequer Court of Canada or of a superior court in the province in which the business is situated, to review the order and the judge may thereupon confirm or set aside the order.

That would meet the objection which was made.

Mr. FLEMING: May I ask on what ground the judge may proceed under the proposed subclause?

The WITNESS: The view of the Department of Justice is that he would then put himself in the position of the Secretary of State and hear evidence if there were grounds upon which that order had been made and should be confirmed.

The VICE-CHAIRMAN: Shall the section carry?

Carried.

Then there is 68 on page 21.

Mr. FLEMING: Mr. Chairman, what about this new section 16 that was proposed?

The VICE-CHAIRMAN: Was not that passed the other day?

The WITNESS: Yes, it covers all the ones that were passed. Now the proposals of the officers of the minister are that we revoke section 68.

The VICE-CHAIRMAN: Shall section 68 be revoked?

Carried.

The VICE-CHAIRMAN: What about section 70?

The WITNESS: That was held over for technical reasons in the event of the bill changing the year of the regulations. Our proposal is that it continue in these words and the main form of the bill be conformatory to the regulations of 1943. If that clause of the bill is accepted we would want regulation 70 to be retained.

Mr. FLEMING: I may be dense on this, but I still do not see the cause for retaining 70. Surely from now on reference is going to be to this bill by whatever bill may appear as an Act of parliament, and all reference will be made to the schedule of the statute. Therefore I do not see any reason now for retaining the designation for the schedule other than that it should be referred to as the schedule of the statute.

Mr. HENRY: Mr. Fleming, the only purpose of the bill is to continue the order in council in force without allowing it to expire, as will the other orders in council not continued in force and which were passed under the War Measures Act and which will remain in force by virtue of an order made under the War Emergency Powers Act. The name of the regulations is "revised regulations respecting trading with the enemy, (1943)" and they are to be considered or deemed to be amended by this Act in the same way that orders in council appearing in bill 104 were deemed to be amended by the parliamentary amendments written into the schedule of the Act. Now, all you have done here is that you have printed regulations under the schedule as it has been practical to do, but it has not been practical to do so under bill 104, and you are continuing these regulations in force. Now we are trying to show amendments which parliament has made somewhere in the bill and it is an unwieldy thing to have to do. The amendments must be shown in the bill and if you change the date of the regulations you then have a new set of regulations and it is difficult to show the amendments to them because if you were to call them by date, 1947, you have a completely new set of regulations, not the old set as amended by parliament.

Mr. FLEMING: It is not a matter, perhaps, of supreme importance.

Mr. HENRY: No, it is just a matter of a practical set-up of the bill.

The VICE-CHAIRMAN: Shall the section carry?

Carried.

Now, gentlemen, we will deal with the bill itself. The short title, shall it carry?

Carried.

Section 2.

The WITNESS: Under 2 it is proposed, if agreeable to the committee, that the present regulation 2, with the addition of two or three words, shall be paragraph (1) of section 2.

2(1) The revised regulations respecting trading with the enemy (1943), set out in the schedule to this Act, as established by an order of the Governor in Council made under the War Measures Act on the thirteenth day of November, nineteen hundred and forty-three, and continued in force by an order of the Governor in Council made on the twenty-eighth day of December, nineteen hundred and forty-five, under section four of the National Emergency Transitional Powers Act, 1945, and amended by an order of the Governor in Council made on the fourteenth day of January, nineteen hundred and forty-seven, and by this Act shall, while this Act is in force, continue and be in full force and effect subject to amendment under this Act.

Mr. FLEMING: That is just incorporating the amendment here.

The WITNESS: Yes. Then it is proposed to put in subsection (2):

(2) The revised regulations respecting trading with the enemy (1943) shall be read and constructed as if the following provisions had been duly enacted as amendments thereto to take effect from the commencement of this Act.

And then it is proposed, if the committee approves, to set out fully all the amendments, am I right, Mr. Henry, right in the body of the bill.

Mr. FLEMING: Mr. Chairman, if the matter is open for discussion, no doubt, it will be said that there is a precedent for this sort of thing in the omnibus bill, but personally I do not like the precedent. I think it is a very cumbersome and unwieldy method of legislating. I do not know why we should not be making our own amendments under these regulations as though this schedule is what a schedule normally is, part of a bill, and appended to the bill for special reasons. Here we are showing the schedule as part of the bill and it is deemed to have force and effect of law, then we go and in another section we say, "no, that is not just so, it is a schedule as printed, but it is not the law." Having said in paragraph (1) it is the law, then we say we will make more amendments under subsection (2). Now surely that is, on the face of it, a most cumbersome and unwieldy type of manner in which to legislate. We are trying to make our legislation as simple and direct as possible. If that is so, why do we not say in the bill that the second schedule is the law and write the schedule in terms of the law as it is to be after we have finished with the amendments.

Mr. HENRY: Mr. Chairman, that is what we intend to do. The amendments must be shown in the Act to show what parliament has done because you are not setting up a new set of regulations, you are continuing the old ones in force.

Mr. FLEMING: Would not that be taken care of in the reprint of the bill in the schedule?

Mr. HENRY: Yes. Your schedule will be complete, that will be the schedule as amended by parliament.

The VICE-CHAIRMAN: Mr. Fleming's point is if they are reprinted as amended by this committee why is there a necessity to add this third clause?

Mr. FLEMING: Well, it is clause (2) of section 2.

Mr. HENRY: The reason for that is to show the amendments which parliament has made.

Mr. FLEMING: On the basis of Mr. Henry's explanation, it is at least repetition, because these regulations will come to an end on the 15th of May, in any event.

Mr. HENRY: Yes.

Mr. FLEMING: What we are trying to do now is to legislate something that will take its place after May 15.

Mr. HENRY: You are continuing in force the order in council and parliament has said they wished certain changes made and the changes which parliament has recommended are shown in the bill and for convenience we print the complete regulation as amended and not the schedule. It was not practical to do that in the case of bill 104, but here we have something to continue, at least we presume it will continue, until the peace treaties are signed, and how long that will be we do not know.

Mr. FLEMING: Let us be quite clear on this. The official version of the revised regulations respecting trading with the enemy shall be in force and effect from the date of enactment of this bill and after that the official version is to be the schedule appended to the bill.

Mr. HENRY: That is correct.

Mr. FLEMING: And there will not be any question of going back to the order in council?

Mr. HENRY: No, you do not have to read the amendment because the schedule will be correct.

Mr. FLEMING: But we do not want to have a situation like we have with respect to bill 104, where you have to go back to the Privy Council to get the original order in council. Now, just one question, Mr. Chairman, do the words in what will be subsection (1) of section 2 continue as before, "and be in full force and effect subject to amendment under this Act"?

Mr. HENRY: That is correct.

Mr. FLEMING: I might as well say I do not like the idea that is embodied in that phrase, and also in section 3. I do not think we ought, speaking as members of parliament now, to be continuing a power of the Governor in Council to make or change the regulations which now give force to statute as a schedule to this Act. The reason given is that changes may be necessary in the light of the peace treaties. Well, surely that situation can be dealt with by parliament when the treaties are presented to parliament for ratification. If there are any changes necessary in this measure, assuming it is then statute law, any other parliament can make it at that time. I do not believe parliament ought to be saying, "All right, we will make these regulations today and we will give them force and effect of statute but in case there are some treaties of peace presented later on to parliament and some changes may be necessary then, we will now give the Governor in Council power to change those regulations which are part of this Act". Surely to goodness when parliament comes to deal with the ratification of those peace treaties parliament can say what changes ought to be made in the provisions of this Act. For my part I think we ought to cut out those words in section 2, now subsection (1), the subject of amendment to this Act, and I think we ought to cut out section 3 from the bill entirely.

The VICE-CHAIRMAN: Dealing with the words in section 2, Mr. Fleming, what words do you refer to particularly?

Mr. FLEMING: The last line, "subject to amendment under this Act".

The VICE-CHAIRMAN: Would not this Act more or less automatically go out of force when the peace treaties are signed?

Mr. FLEMING: They would only go out of force and effect subject to the terms of the peace treaties and the measure by which parliament proposed to give those peace treaties force and effect under the law in Canada.

The VICE-CHAIRMAN: What would you say to that, Mr. Henry?

The WITNESS: Well, I have had the opportunity, while you have been talking, to discuss this with Mr. Henry. This bill, as you understand, has been prepared by the officers of the law but I now think we would be prepared to drop it altogether.

Mr. FLEMING: And with it, the words "subject to amendment under this Act" in subsection (1) of section 2.

The WITNESS: Yes.

The VICE-CHAIRMAN: Section 3 is deleted.
Carried.

The WITNESS: Then we have another suggestion to make, sir, for the time when this will be discussed by the House of Commons.

The VICE-CHAIRMAN: Let us have it now.

The WITNESS: The Secretary of State has no objection to the custodian being required to file an annual report and it is proposed to insert in the bill the following:

The custodian appointed by the revised regulations respecting trading with the enemy (1943) shall, as soon as possible after the 31st day of December in each year and in any event within three months thereof, prepare an annual report of the affairs and operations of the custodian's office during the twelve month period ending on the 31st day of December, and the Secretary of State shall forthwith lay the said report before parliament if parliament is then in session or within fifteen days of the commencement of the next session of parliament.

Mr. FLEMING: I am glad to have that.

The VICE-CHAIRMAN: Would that be No. 3 now?

The WITNESS: Yes.

Mr. FLEMING: I would be very happy to move that.

The VICE-CHAIRMAN: The new provision would now be known as No. 3.

The WITNESS: Yes.

The VICE-CHAIRMAN: Shall the proposed section No. 3 carry?
Carried.

The next is section 4, "Duration". Shall the section carry?
Carried.

Shall the Act carry?

Carried.

Shall I report the bill?

Carried.

A motion to reprint is in order.

Mr. FRASER: I so move.

The VICE-CHAIRMAN: Moved by Mr. Fraser, seconded by Mr. Cote, that the bill be reprinted.

And now a motion that the bill as amended be reported to the House?

A Hon. MEMBER: Moved.

Carried.

The VICE-CHAIRMAN: Thank you very much, gentlemen, we will adjourn now.

The committee adjourned at 12.10 p.m. to meet again at the call of the chair.