

I am wondering if that scheme or idea was given any consideration.

Hon. Mr. Gillespie: I think it was given consideration in the early days, by another government, from the point of view of which direction we should go—whether we should go the independent tribunal route, and there are some advantages and some disadvantages in that—or whether we should go the route that we have gone.

The point I want to make is that this agency has a much greater identity than it had in the old bill. It is headed by a man of deputy minister rank reporting directly to the minister, whereas under the previous bill it was not headed by a man of such seniority and did not have that kind of identity. That decision was considered and it was taken in the light of the policy objectives of the government to go in this direction rather than the independent tribunal route.

Senator Cook: Without appearing to press you, what would be the disadvantages of an independent tribunal?

Hon. Mr. Gillespie: Well, I suppose you remove from the policy-making process the government of the day.

Senator Cook: That is a rather broad statement. All an independent tribunal would do would be to recommend or report to the government.

Hon. Mr. Gillespie: well, you may have your own particular conception of an independent tribunal. I am not clear as to what it should be. I am merely stating the general principle.

Senator Cook: And the general principle is what, again?

Hon. Mr. Gillespie: The general principle is that the policy-making process should be the process of the government. In other words, the government should take responsibility and should be accountable for decisions relating to policy; and "significant benefit", I suggest to you, is a question of policy.

Senator Cook: But, surely, that would not bar you from taking independent advice?

Hon. Mr. Gillespie: No. As a matter of fact, I suppose there may be occasions when we will want to take independent advice under the operation of the Foreign Investment Review Agency.

Senator Connolly: You envisage the agency as a semi-advisory group, then, do you?

Hon. Mr. Gillespie: Yes. The process will be as follows: the agency advises; the minister recommends; the Cabinet decides.

The Chairman: I am not sure that the agency does advise, Mr. Minister. I think the agency is a conduit or a clearinghouse through which papers may be moved forward from the applicants to the minister and from the minister back to the applicants, and perhaps from the Governor in Council. It does not make any decision.

Hon. Mr. Gillespie: No, but I expect that the agency or the commissioner will advise the minister.

Senator Connolly: Would it be helpful to ask this question: Where does the actual screening take place? Is it done by the Agency or by the minister? I realize it is done, in part, by the government.

Hon. Mr. Gillespie: The screening agency, as I described it in the past, very likely would be divided into three sections: one would be the registrar and legal section which would deal with the initial applications, the paperwork; the second would very likely be an operating section concerned with the bargaining itself—as I have indicated, there is a bargaining process involved; and the third, very likely, would be an analysis and research section.

I am talking here about an agency that initially might have 20 to 25 professionals and a comparable number of support staff.

Senator Connolly: But they would all be attached to the Foreign Investment Review Agency?

Hon. Mr. Gillespie: They would all be members of the Foreign Investment Review Agency reporting collectively, through a commissioner, to the minister.

The Chairman: Senator Godfrey.

Senator Godfrey: Although I did not originally intend to speak on the subject which Senator Connolly has raised, I would like to comment on it. I believe in the chamber, Mr. Chairman, you did talk about the agency as being a conduit pipe. In reading clause 7 of the bill I did not agree with you at the time. Clause 7 states that the agency's function is to advise and assist. The actual word "advise" is used in that clause.

Surely it is, in effect, the agency which you will use to do the actual screening and advise you as to what the decision should be? And I would presume that you would ordinarily accept that decision.

What I really wanted to speak about—

The Chairman: Just on that point, Senator Godfrey, I do not believe the agency originates any advice. I think that may be an instrument that the minister may use. He may say, "Do some research for me on this."

Senator Cook: I think that is the practice. You make a judgment.

Senator Godfrey: What I want to speak about is the question of appeals.

The Chairman: Honourable senators, when we started our meeting this morning, I told you the minister had a commitment at 11.30 a.m. It is now a quarter to twelve. I had indicated to him that we would let him go, on his undertaking that he would be back here for 2.15 p.m., to continue the question period. If that is agreeable to senators, I suggest that we say to the minister, "Yes, you may go now." Mr. Gibson and Mr. Lazar may remain, if we have questions we want to ask them, until our usual adjournment time. Is that agreeable?

Hon. Senators: Agreed.

The Chairman: Thank you, Mr. Minister.

Senator Godfrey: I would like to speak on the question of appeals. I think I have been guilty of something which I tell the younger lawyers in our office about, not to rely on someone else's legal opinion but to do their own research. I must confess that I relied on the opinion of the Canadian Bar Association, in the brief they submitted, and also on the report of this committee.