APPENDIX

(*See p. 513*)

STANDING SENATE COMMITTEE ON BANKING, TRADE AND COMMERCE

REPORT ON THE SUBJECT MATTER OF BILL C-17, "AN ACT TO AMEND THE STATUTE LAW RELATING TO INCOME TAX AND TO AMEND THE CANADA PENSION PLAN"

December 5, 1979

On Thursday, October 25, 1979, Bill C-17, intituled "An Act to amend the statute law relating to income tax and to amend the Canada Pension Plan" received first reading in the House of Commons. This Bill is intended to implement the Ways and Means Motion relating to the *Income Tax Act* tabled by the Minister of Finance on October 23, 1979.

By resolution of the Senate on November 1, 1979, the Standing Senate Committee on Banking, Trade and Commerce was authorized to examine and consider the subject-matter of the Bill in advance of the Bill coming before the Senate, or any matter relating thereto.

In accordance with the Order of Reference, your Committee has received and considered the said Bill C-17 arising from the Ways and Means Motion and in connection with such consideration has engaged the services of Mr. Charles Albert Poissant, C.A. of Thorne Riddell & Co., Chartered Accountants, and retained as its counsel, Mr. Thomas S. Gillespie of Ogilvy, Renault. The Committee has received written submissions from the Canadian Dental Association, Polysar Limited and the law firms of McCarthy & McCarthy on behalf of Petrosar; Scales, Ghiz, Jenkins and McQuaid on behalf of Harbourside Developments Limited; Stapells & Sewell; Miller, Thomson, Sedgewick, Lewis & Healy; and Fraser & Beatty. It has also discussed the Bill with officials from the Department of Finance, Dr. E. P. Newfeld, Assistant Deputy Minister, Tax Policy and Federal-Provincial Relations Branch, Mr. R. Alan Short, Director, Tax Policy Legislation and Mr. John Haag, Special Adviser, Tax Policy and has heard The Honourable John C. Crosbie, Minister of Finance.

Subject to certain exceptions, Bill C-17 reproduces the clauses of Bill C-37 which received first reading on January 29, 1979 and which subsequently died on the order paper. Your Committee's report on Bill C-37, tabled in the Senate on Thursday, March 8, 1979, contained a number of recommendations. Several of the recommendations related to the small business deduction and your Committee is pleased to note that substantial changes are proposed by Bill C-17 in this area, which changes reflect several of your Committee's recommendations. Your Committee is also pleased to note that Bill C-17 proposes to eliminate the retroactive application of Clause 50 of Bill C-37 which proposed to tax lump sum dispositions arising on the termination of life annuity contracts issued between January 1, 1978 and November 16, 1978—thereby adopting another recommendation of your Committee. Other recommendations of your Committee in its report on Bill C-17 are reviewed below. The Bill also introduces a number of technical amendments to the provisions of Bill C-37 relating to income bonds and term preferred shares. These amendments are also reviewed in detail later in this report.

The report is divided into two parts: Part One deals with Income Bonds and Term Preferred Shares and the intention of the Minister of Finance to introduce amendments relating thereto with his December 11, 1979 budget; Part Two deals with the small business deduction and the recommendations made by your Committee with respect to Bill C-37 and which are not reflected in Bill C-17 and which the Minister has indicated he will give consideration.

PART ONE

Income Bonds and Term Preferred Shares

Bill C-37 proposed substantial changes in the income tax treatment of interest paid on income bonds and dividends paid on term preferred shares. The general thrust of these changes was to tax interest paid on income bonds as interest (not as dividends as was the case heretofore) and to deny any deduction to specified financial institutions with respect to dividends received on shares with terms of less than 10 years. These types of securities had been considered for tax purposes as equity investments, although they were essentially debt obligations. As a result, income earned by financial institutions on such securities was being received as tax-free dividends rather than as fully taxable interest.

The experience of National Revenue since November 16, 1978 concerning income bonds and term preferred shares indicated amendments were necessary and such amendments are reflected in Clauses 36, 66 and 67 of the Bill. Many of the amendments contained in Bill C-17 have retroactive effect or cause unnecessary hardship and will have to be amended further. The necessity for further amendment has been discussed at length with officials of the Department of Finance and the Minister. The Minister has undertaken before the Committee to introduce amendments with his forthcoming budget and has indicated to the Committee the general nature of these amendments.

The following is a review of those amendments your Committee feels necessary as they relate to term preferred shares. In some instances, corresponding amendments will have to be made respecting income bonds.