is much more harsh than one finds in other comparable jurisdictions. After all, in our committee meeting this week, the Minister of Industry, Trade and Commerce (Mr. Jamieson) stated, after questioning, that perhaps the luscious area in the world today, so far as tax incentives and tax breaks or grants are concerned to get companies active within their boundaries, is the Republic of Ireland.

I asked the minister whether he could give us some type of synopsis or a review of the relative position, nation to nation, around the world, the position of the main trading nations of the world, concerning how they treat tax write-offs, grants and other incentives to enable people to open up to advantage within their country. He has promised to do that. I think that type of consideration is something we should also be asking ourselves, certainly in committee when we consider these treaties. What is the relative position of Canada as against the United States, Ireland, Japan, Mexico and many of the other countries which have commercial concerns with whom we have to compete?

In dealing with this question, I found in the September-October, 1975, Canadian Tax Journal an interesting article written by A. M. Pilling, entitled "Tax Haven Subsidies". Mr. Pilling is a lawyer in the city of Toronto. He is well regarded, and I find it very interesting that he takes up the comments made by the Minister of Justice to which I have referred. He referred to that speech in Ottawa. If I may, I will quote directly from the Canadian Tax Journal. Mr. Pilling says that the minister's comments—

—were contained in an address to the ninth general assembly of the Inter-American Centre of Tax Administrators (CIAT) in Ottawa on June 12, 1975. The address was largely about the elusiveness of multinationals in the tax context". The minister noted in connection with the "tax haven problems" that:

"Since 1968, our tax avoidance and special investigations groups have been searching out and challenging tax haven situations. A substantial number of reassessments, some involving prosecution, have been issued, and the related tax recoveries have amounted to many millions of dollars.

At present, there are more than twenty important cases, either under investigation or in the appeal process, concerning substantial diversion of income from Canada.

Although Mr. Pilling deals with the speech in the context of the aftermath of the recent case with which most of us are familiar, the *Dominion Bridge v. The Queen,* it was pretty strongly held by the Canadian Federal Court that an offshore operation which in any way appears to be a sham or a dummy will simply be wiped out, and that the taxation will be looked upon as if the entire operation, irrespective of whatever other jurisdiction is involved, is a Canadian operation. Mr. Pilling, in his rather thoughtful article, tries to look at the consequences of this decision and of the perhaps new and rather active approach of the Department of National Revenue. He states:

First, the judgment suggests tests to determine whether or not a tax haven subsidy is a sham. Secondly, shortly after the judgment the Minister of National Revenue stated that "we now intend to move, with more confidence and vigour, against other similar arrangements".

"Similar arrangements" was the term used by the Minister of National Revenue. Mr. Pilling then goes on to state as follows, after reviewing some of the highlights of that case:

Of broader interest is the question of whether, as a result of Revenue Canada's renewed confidence in dealing with tax haven abuses, it is now necessary to introduce the distinction between active business income earned by a foreign affiliate in a treaty, as opposed to a non-treaty, country . . . While after 1975 active business income earned by a foreign affiliate in a tax haven country will not be subject to Canadian tax until repatriated to Canada, if the affiliate is regarded as a puppet of its Canadian parent its income will be subject to Canadian tax whether repatriated or not.

Mr. Speaker, in committee I would like to go into more detail concerning the actual wording of the existing tax act, the intention as far as these treaties are concerned. But the point I would like to get to in Mr. Pilling's article is in the final paragraphs of the article where he asks whether there should be a time for reappraisal. He says:

The proposal, however, ignores the competition that Canadian business faces overseas from multinational companies with vast resources, from companies located in low wage countries, from companies whose governments are in a position to and do help in securing contracts and from companies whose domestic law permits the use of tax havens without the necessity of paying domestic tax on repatriation of earnings accumulated abroad.

He gives examples of where this is the case and, oddly enough, one of the examples he gives is France: he says that through the use of a special company, the French authorities permit—actually encourage—the use of the tax haven in relation to their domestic taxation. I would point out that we are dealing with a tax treaty involving France in Bill S-32. Mr. Pilling goes on to say:

It can be argued that a country with a limited domestic market and a heavy reliance on foreign investment benefits from encouraging its domestic companies to expand overseas. While no one would contend that tax haven operations play a significant part in developing Canadian trade overseas they can be significant in some areas. For example, in technologically-oriented industries R & D staff and program can be maintained if order books can be filled with overseas business when domestic business is lean. For the engineering and construction companies the uncertainty of bidding in foreign countries can result in margins for which the only protection in many cases is a low tax rate in a company located in a low tax jurisdiction on some portion of their contract income.

Mr. Pilling continues:

If the over-all objective of encouraging the expansion of Canadian trade overseas is of greater value than the fiscal advantages resulting from the proposed international tax system, and the writer submits that it may well be, the incentive of using a tax haven country should be made available to Canadian business as it is to many of its competitors. This would suggest that the treaty-non-treaty country distinction be abolished—

Here is an authority on this general international tax question suggesting that perhaps the old-fashioned idea of having these international treaties should be abolished. I certainly do not know. I am simply looking for some comment from the government benches, having considered this suggestion, the reason they persist in going ahead with the treaties we are being asked to ratify today.

● (1500)

Mr. Pilling goes on to say that the distinction should be abolished, and I quote:

. . . that all active business income of foreign affiliates be allowed to be repatriated to Canada free of Canadian tax as in the past. This is not to say that sham operations or the artificial diversion of income from Canada should be permitted. But if a company can establish an overseas operation in a tax haven country which can withstand the management and control tests and puppet and sham tests, which are no more stringent than those applied to domestic subsidiaries, there would seem to be no reason for Canada to tax its earnings when repatriated, and