

Act? Would the minister clarify the confusion that seems to exist there?

• (1530)

Mr. Pepin: Mr. Speaker, I prefer to go into that in committee because any short sentence or two that I give now might not be clear enough, but the general philosophy is that the two considerations will have to be reconciled. We will look at that in committee, supported by experts on that point.

Mr. Fairweather: That is the Pepin two step.

Mr. Pepin: Another basic aim of the bill is to deal with control rather than ownership. As everybody knows, these are not necessarily the same thing. For example, a widely held corporation can be controlled by a very few people. Consequently, throughout the bill reference is made to control. Now, control is more difficult to establish than ownership and this is why a system of presumption is to be found in the bill. This is a bit complicated, I will admit. There are two categories of presumptions in the bill. One is to help determine who must go through the review process before acquiring a Canadian company, and the other is to help determine when a takeover has taken place.

These presumptions are designed to simplify the administration of the law, both for the government and for business. They permit the responsible minister to look at the proportions of share ownership in the hands of foreigners and draw certain tentative conclusions. These tentative conclusions can be rebutted by the corporation. The reason for these presumptions is that while it would be relatively easy for the minister to determine the number and proportion of shares held in a corporation by various persons, only the individuals themselves know whether or not they have control. So, the procedure is that the minister will presume control in certain important cases and permit the individuals to rebut that presumption.

Cabinet looked at this problem at length, for at first glance it appears that the law would assume that a party was guilty until he proved himself innocent. But any alternatives we looked at could create greater difficulties. Since the individuals are the only persons who know who controls a company, the only alternative would be for the government to set up a rather elaborate investigative apparatus to snoop—to use a favourite word of the hon. member for Prince Albert (Mr. Diefenbaker)—into company records. This would be inimical to the Canadian way of life. It was decided to put the onus of proof on the acquirer of the enterprise being taken over. It should be relatively easy for the purchaser to satisfy the minister as to who really has the control of his company. There are several ways to do this. Filing shareholders lists is one way, the records of annual meetings is another and the presentation of affidavit evidence of the location of control of the company is still another way. The bill provides authority to the government to give advance opinion on such matters. Any decision by the minister about control should be challenged before the courts.

Speaking of these presumptions, I know that a number of Canadian controlled companies have been concerned

Foreign Takeovers Review Act

about the provision that where 5 per cent of the voting rights are held by foreigners, a company is presumed to be foreign controlled unless the contrary can be established. Some Canadian controlled companies have read this to mean that they cannot take over another Canadian controlled company without first consulting the minister. I am informed that this will not be the case. As long as the company knows that if challenged it could readily show that control lies in Canada, it does not need to consult or inform the minister.

[*Translation*]

Mr. Speaker, to conclude my comments, the government hopes that Parliament will be able to adopt this legislation before the summer recess and once it is promulgated, the screening process will obviously become operative. We know that there will be some disagreements on certain aspects of the bill. However, I think we will unanimously, or almost, recognize that it is, as a whole, useful and should be implemented as soon as possible.

My friend the hon. Minister of National Revenue begins today his consultations with provincial authorities. He will explain the bill's provisions to the provincial premiers and request their opinion on the matter. Their views, together with those of hon. members and other outside parties will be taken into consideration when the bill is referred for study to the committee.

[*English*]

Mr. R. Gordon L. Fairweather (Fundy-Royal): Mr. Speaker, it is significant that the Minister of Industry, Trade and Commerce (Mr. Pepin) is introducing this bill and not the Minister of National Revenue (Mr. Gray). If we wanted to search for the rationalization of the government's approach to the whole matter, perhaps the fact of the minister's imprimatur on the bill would provide the answer.

The minister speaks about division in the country. He mentioned particularly division amongst provincial leaders, but I do not think he mentioned the most significant division of all and one which we have watched for the last two years, the division in the Cabinet of this country.

Some hon. Members: Hear, hear!

Mr. Fairweather: What underlines this division, of course, is the fact that the Minister of Industry, Trade and Commerce was successful and the Minister of National Revenue now finds himself in the position of disassociating himself in a general way, and he said publicly, with the document entitled "Foreign Direct Investment in Canada"—

Mr. Pepin: Why is it then that he has been sent to the provinces to explain the bill?

Mr. Fairweather: I think we should discuss all the divisions, that is all. I should like the record to be clear.

The minister says that the government is looking at other measures in the foreign investment field. The problem is that when this government looks at other measures, it continues the uncertainty that is endemic with this government in the whole economic field. The minister discussed the essayist Montesquieu. I think he said some-