

Hon. Mr. Gillespie: Well, in the case of large firms that are located in Canada there is a provision, as you know, in the bill for a binding ruling as to whether or not that particular firm is ineligible, or non-eligible. I would expect a large number—

Senator Beaubien:—would be deemed to be—?

Hon. Mr. Gillespie:—of firms of that kind to make an application to me for a ruling which ruling will be binding on me for two years, unless there is a material change in the circumstances.

Now, that ruling may go one way or the other. I am not forecasting what that ruling will be at the moment, but there is provision in the bill for that ruling, which is binding. I think, as I indicated this morning, that that is something which was inspired by the recommendations of this committee.

Senator Gélinas: Mr. Chairman, may I ask the minister if he would tell this committee about the composition of the review agency, about the commissioner, and how many members there will be—not identifying the individuals at this moment, but as to their number, and how they will function?

Hon. Mr. Gillespie: Well, I think that with regard to what I referred to as the first stage this morning—which is proclamation of the first part, dealing with takeovers—25 professionals and roughly the same number of supporting staff would make up the agency. That does not mean that that is the total of the resources available to the agency, and I would not want to create that impression. Very much more will be available to the agency through the sector branches in my own department. So that is roughly the working group, there—forty to fifty people for the first part.

Senator Gélinas: Will you qualify that? When you say “professionals”—

Hon. Mr. Gillespie: I am not so sure what the Public Service description of a professional is, or of what an officer is, but I am referring to a professional, or an officer, as someone other than support staff. Does that help?

Senator Beaubien: Thank you. Now, will this board be travelling, or will it just be in Ottawa all the time?

Hon. Mr. Gillespie: I would expect that it will be located in Ottawa.

Senator Desruisseaux: Honourable minister, I am sorry, but I missed this morning's session; it was because of a prior obligation that I was away from here. I made an overture in the Senat—I am told, a strong, passionate overture—somewhat against the foreign review bill.

My reasons for this were, basically, twofold. You may have talked about this matter this morning, and if so I will not require an answer now; but if it has not been answered before, I would like to have your views.

I have, first, the fear that being a political policy affair, in a way, we are somewhat subjected to the policy changing as we go along, in the years to come, and my fear is also that this possible changing of policy would keep away some of the possibilities that we may have for Canada in the way of foreign investment. I am not against foreign investment, and I agree that there is a point where you have to control, to a certain extent.

My second point was that constitutionally the provinces had their rights pertaining to their own provincially formed companies, in which foreign investment was hoped for, in which it could be invested. I read the statement by the representative of the Department of Justice in connection with constitutionality, and to me it was unsatisfactory, as I saw it. Possibly I am wrong. It seems, by the approval that the bill received elsewhere, that I could be wrong. I would, however, like, if it has not been touched upon before, to get some enlightenment on these two points.

Hon. Mr. Gillespie: Perhaps, Mr. Chairman, I could ask Mr. Gibson to speak to the issue of constitutionality. Before I do that, however, I might just deal with your first point, Senator Desruisseaux—that is, the point about policy changes. You are concerned that because governments may change their priorities, or even their objectives, in terms of industrial policy, the operation of this agency itself will reflect that. I would suggest to you that is an important part of the structure, of this whole administration: that it is to be seen as an element, as an instrument, of industrial policy for Canada; that it is not remote and left aside to pronounce in an ivory tower as, perhaps, a tribunal might.

I say to you, as well, that we should not have to be defensive with others on this point, because other countries have adopted measures with respect to the screening of foreign investment in their countries which are a lot less open than the process which we propose adopting here. In fact, I would put it to you that the process we propose adopting here is as open a system, with the ground rules laid out, as any other industrialized country has adopted to date. I do not think we have to be defensive on those terms.

On the point of constitutionality, as I have indicated to honourable senators here, this is not my field. I will call upon legal advice when we get into areas of constitutional jurisdiction. Perhaps Mr. Gibson would like to speak on this.

Mr. Gibson: Mr. Chairman, the honourable senator mentioned that he had an opportunity of reviewing the evidence of an officer of the department before this committee. I was that officer, and I am not certain that there is anything I can add at this point. I have had an opportunity, since appearing before the committee, to review several briefs submitted to this committee and to the other place, among others that of the Canadian Bar Association. I noted comments, and I take some solace from the fact that most of the briefs that commented in this area raised the same grounds as the constitutional basis for this legislation as those I referred to before this committee.

I have also had an opportunity of discussing the bill on several occasions, both with the Canadian Bar Association and in other forums with lawyers, and I have found that I have substantial support, from those that I have spoken to, for the comments I made to this committee at an earlier date. I would be happy to review those again with you, if you so wish, but I do not have anything new to add on that subject.

Senator Desruisseaux: I have a question to ask for clarification purposes, and I hope it has not been touched on before here. I want to be brief on this, and I will allow you to be brief in your reply also. Some of the provinces, and particularly the Province of Quebec, have made state-