

Government Orders

[Translation]

The Acting Speaker (Mr. DeBlois): Is the House ready for the question?

Some hon. members: Question.

The Acting Speaker (Mr. DeBlois): Is it the pleasure of the House to adopt the motion?

Some hon. members: Agreed.

Motion No. 4A agreed to.

[English]

The Acting Speaker (Mr. DeBlois): Motions Nos. 5C and 11B.1 are grouped for debate.

Hon. Bernard Valcourt (for the Minister of State (Finance)) moved:

Motion No. 5C.

That Bill C-28 be amended in Clause 370:

(a) by striking out line 12 on page 199 and substituting the following:

“370. (1) Any oral or written statement or”;

(b) by adding immediately after line 15 on page 199, the following subsection:

“(2) The actuary or former actuary of a company who in good faith makes an oral or written statement or report under section 363 or 369 shall not be liable in any civil action seeking indemnification for damages attributable to the actuary or former actuary having made the statement or report.”

Motion No. 11B.1.

That Bill C-28 be amended in Clause 632:

(a) by striking out line 26 on page 339 and substituting the following:

“632. (1) Any oral or written statement or”;

(b) by adding, immediately after line 29 on page 339, the following subsection:

“(2) The actuary or a former actuary of a foreign company who in good faith makes an oral or written statement under subsection 627(1) or section 631 shall not be liable in any civil action seeking indemnification for damages attributable to the actuary or former actuary having made the statement or report.”

Mr. Don Blenkarn (Mississauga South): Mr. Speaker, in the course of a great deal of consideration in the Senate committee it became apparent that something ought to be done specifically to protect actuaries and former actuaries from lawsuit if they were only fulfilling the actual requirements set out in the statute to report

to the superintendent with respect to the actuarial status of a particular company.

Since most of these actuaries are employees and the effect of making a bad actuarial report may well lead to the dismissal of the actuary in one form or another, it is felt that we ought to protect the actuary from this kind of action by the amendments set out in Motions Nos. 5C and 11B.1.

I think this is in line with the other four amendments we just passed dealing with other employees including the amendment concerning auditors. Therefore I suggest that it pass in the same fashion.

Mr. John R. Rodriguez (Nickel Belt): Mr. Speaker, I notice that this motion came to us from the Senate. I recall, when I was looking up the testimony in the minutes of the finance committee when we studied this bill, that of Mr. Paul MacCrossan, president of the actuaries union. It is a very strong union. I guess that is because there are so few of them in the country. He made this pitch to the finance committee when we were studying the bill. The government did not buy it at all. Mr. LePan from the department did not buy it and the members of the finance committee did not buy it. There was a lot of debate around the idea.

We are providing freedom from liability for civil action not for an employee, as was the case put forward by the member for Malpeque. This is not the same type of thing. We are exonerating a whole class of actuaries. We are identifying a group and saying it is exempt. We are protecting them if they make a good faith statement, written or oral. Where does competency come in? Are they free from liability for civil action if they were incompetent but said: “I made it in good faith”? Where is the line? What is good faith? Are we prepared to deny people who may have the possibility of a good civil action against an actuary by protecting the actuaries with this?

I raise the question though I know the member for Mississauga South cannot speak again on this. I would hope he could, on a point of order, rise and give us a bit of enlightenment on why what was not good enough for the finance committee was good enough for the boys over in the Senate. Why did they buy that argument? Why have the government and the minister changed their minds? This intrigues me and I would appreciate if