

Maritime Code

I should also mention the many witnesses who appeared before the committee in the course of our deliberations on Bill C-61. A great many of the ideas, suggestions, and specific proposals put forward by those witnesses were very helpful. They contributed substantially to the measure before us in this form this evening.

To deal specifically with motion No. 1 being proposed by the Minister of Transport, I believe this can be considered and disposed of rather quickly and simply. The change is a minor correction in the technical wording of the French version of clause 8(3)(a). There is no substantive change. It is merely a technical correction. I commend it to all members for speedy adoption.

Mr. J. M. Forrestall (Dartmouth-Halifax East): Madam Speaker, I see we are not going to get very much co-operation this evening from the parliamentary secretary. We anticipated a rather lengthy introduction on this, the most massive public statute in the laws of Canada.

The parliamentary secretary is quite right with respect to the technical amendment he proposes on behalf of the government this evening. It is not controversial. It is just a matter of tidying up some language in the act.

Our challenge this evening as we consider report stage of a bill to amend the Canada Shipping Act, entitled the Maritime Code, cannot be treated nearly as lightly as the parliamentary secretary would lead us to believe. In the first place the importance of the subject requires the presence here of the Minister of Transport (Mr. Lang). We heard and saw so little of him in the standing committee that at times we were somewhat frustrated. I might add that if the minister had found it possible to be present more often during those meetings there might not have been need for the six amendments we are proposing to put forward at this time, not to mention the technical amendments which I understand are being proposed to the French version of the bill and with which I myself am not particularly qualified to deal.

● (2050)

In connection with what the parliamentary secretary had to say there are one or two observations to be made on the subject of the translation of bills. Under the old principle a draftsman wandered into the Department of Justice armed with the knowledge of what he intended to propose, singled out a person in that department, and communicated to him his requirements with respect to the legislation. That person, with his knowledge of legal terms and so on, which most of us barely comprehend, was expected to turn out the required document. That was the practice accepted in this Chamber for a long time, perhaps for 100 years.

In recent years, however, concern arose about the ability of translators to make a precise rendition from one language into the other—from English into French or from French into English, so we adopted a system of which most of us approved. This involved the director of drafting in the Department of Justice addressing himself to an English-speaking person and communicating to him the import of what he wished to convey, and then moving over and addressing himself to a person conversant with the French language, but never the twain shall meet, the principle

[Mr. Goodale.]

being that the drafters were able to communicate the content and the spirit intended in the act.

The assurance given in the House by a former Prime Minister, Mr. Pearson, by the present Prime Minister (Mr. Trudeau), and by the Secretary of State for External Affairs (Mr. MacEachen) when he was a very effective and acceptable House leader, was that these versions would be interpreted equally before the courts. That was fine, and it expedited the use of the two languages in legislation.

What do we find today in connection with Bill C-61 which leads to the amendment brought forward by the parliamentary secretary? What happens is that the director of drafting wanders into the office of the Minister of Justice, looks around, very often finds that it is understaffed, and says, "Who is available to do some work?" He may get a French drafter or an English drafter. It doesn't matter. Whoever gets the drafting chore is then responsible for getting a verbatim translation made into the other language. So we are back where we started.

My criticism of the amendment is that we find in Bill C-61 a mixture of the old system and the new. There is, in fact, a combination of two systems. The danger of this is that when an action is brought before a court, whether in English or in French, widely differing interpretations could arise. The practice of the English courts is to refer to common usage and the common understanding of a word.

The French approach to this problem is to have recourse to historical documents where possible. And if those documents do not follow a consistent pattern it is likely that judgments will be inconsistent.

That is the burden of the message which will appear in a number of places as we go through this bill, because the parliamentary secretary, the minister, and the representatives of the department who were largely responsible for drafting this bill have given us an assurance that essentially the two languages used in it will be interpreted by the courts in the same way. God help counsel whenever they have a case involving what is the most massive piece of legislation on the statute books of Canada.

As to the technical matters involved, perhaps there is not much point in my dealing with them in detail. I am sure most hon. members will understand the dilemma which faces some of us when it comes to addressing ourselves to a fairly narrow point of this kind. I take the time of the House to raise this question because I believe it to be fundamental to the administration of an act which we on this side, with two major exceptions which I can think of immediately, are prone to support.

Our reservations have to do with the very clause the parliamentary secretary seeks to amend. They have to do with the protection of primary users of transport in Canada and, as others will point out while the debate goes on this evening and for the next few days, they have to do with the movement of every single item of commerce in this country, bar none. The conflict which arises when you have a Railway Act bound in statutes to adhere to compensatory arrangements, spells out in essence our fate for those of us who live in the extremities of the country.