

## THE SENATE

Saturday, August 11, 1956

The Senate met at 11 a.m. the Speaker in the Chair.

Prayers.

Routine proceedings.

### INDIAN BILL

#### LOANS

**Hon. W. Ross Macdonald:** Honourable senators, yesterday on the debate on the motion for second reading of the Indian Bill the honourable senator from Victoria (Hon. Mr. Hackett) asked me what is the amount outstanding in respect of Government loans to Indians under section 69 of the Indian Act. The information I have received is as follows: As of April 30, 1956, the principal owing on loans was \$250,287.44.

**Hon. Mr. Hackett:** Thank you.

### CANADA-GERMANY INCOME TAX AGREEMENT BILL

#### SECOND READING

**Hon. A. K. Hugessen** moved the second reading of Bill 452, an act to implement an agreement between Canada and the Federal Republic of Germany for the avoidance of double taxation with respect to income tax.

He said: Honourable senators, as its title implies, this is a bill to ratify an agreement entered into between Canada and the Federal Republic of Germany on June 4 last to prevent the incidence of double income tax between the two countries. It takes very much the form of similar bills for the avoidance of double taxation between Canada and various countries which this house has had to consider over the past few years.

I should say, perhaps, that the bill which honourable members have before them is in the form in which it was introduced in the House of Commons yesterday. It was considered and adopted by that house without any change, so that what we have here is the bill which the Commons passed.

As is customary in bills of this kind, the bill itself is very short. It refers to the agreement, which is set out in the schedule printed on the second and following pages of the bill, and states that that agreement is approved and declared to have the force of law in Canada.

As I say, this bill follows along the lines of quite a number of similar bills which we have adopted in the past. The kind of taxes

to which it refers will be found in article I of the schedule. In Canada they include income tax, including the surtax and the old age security tax; that is, of course, only federal tax. Naturally, an agreement between a foreign country and Canada can have no effect on provincial taxes. In the Federal Republic of Western Germany it includes several taxes, whose names are unfamiliar to me. One is called the Einkommensteuer, the second is called the Koerperschaftsteuer, and the third is called the Notopfer Berlin, and I am told that they correspond respectively to income tax, corporation tax, and Berlin emergency aid tax.

The territories to which this convention applies are Canada and the Federal Republic of Germany. But if honourable members will turn to article XXI of the agreement they will see that, unless the Federal Republic advises us to the contrary within three months after it comes into force, it will also apply to Land Berlin. This I presume means the section of the city of Berlin that is West Berlin, which is at present occupied by allied forces, or was until the other day, and is that part of Berlin now administered as a part of the Republic of West Berlin, although separated from it physically by an intervening section which is part of the Republic of East Berlin.

The terms of the agreement are very much the same as those of the other agreements to which I have referred. Perhaps it will make for convenience if I refer to them in this way. The most important part of the agreement deals with taxation upon companies doing business in both countries. I would like to take as an example a Canadian company which does business in both Canada and West Germany. The agreement provides that that Canadian company will not be subject to income tax in West Germany, provided it has no permanent establishment there. The term "permanent establishment" is defined very extensively and comprehensively in the agreement. Generally speaking, if a company simply carries on business from Canada by taking orders in Canada and shipping goods to Germany, it is not considered to be doing business in Germany; and if it simply has a storage warehouse in Germany for the convenience of its German customers it is not considered to be doing business in Germany. The same is true if it works in Germany through an independent agent or a subsidiary company. On the other hand, if it has anything like an establishment in Germany, an office of its own or employees of its own, then it is considered to be doing business in Germany and subject to income tax in that country on that part