

APPENDIX

(See p. 1168)

TRANSPORTATION OF DANGEROUS GOODS REGULATIONS

REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE ON SUBJECT MATTER

Thursday, June 27, 1985

The Standing Senate Committee on Transport and Communications has the honour to present its

FOURTH REPORT

Your Committee, to which was referred the subject-matter of the *Transportation of Dangerous Goods Regulations* made by Order in Council P.C. 1985-147, dated January 17, 1985, or any matter relating thereto, has, in obedience to the Order of Reference of Thursday, February 14, 1985, proceeded with that study and now presents the following interim report:

Your Committee has held 8 public meetings and has heard evidence from the Minister of Transport and officials from the Department of Transport, the Government of Saskatchewan, fire and police services and the private sector (see appendix). It has also received written briefs, including one from the Government of the Northwest Territories.

The subject-matter dealt with in the *Transportation of Dangerous Goods Regulations*⁽¹⁾ (The Regulations) enacted pursuant to the *Transportation of Dangerous Goods Act*⁽²⁾ (the Act) is a complex one. The Government is empowered by the Act to make regulations on diverse aspects of dangerous goods, hence the *Transportation of Dangerous Goods Regulations*, a 521-page document containing 88 pages of regulatory text and 433 pages of schedules and lists.

Certain parts of the Regulations came into force on January 23, 1985⁽³⁾ and April 8, 1985.⁽⁴⁾ Parts already in force are not regulatory in nature. In fact, the regulatory requirements as such contained in the Regulations are scheduled to come into force on July 1, 1985. Notwithstanding this, it cannot be said that they are "cast in stone", as they now stand. Two sets of proposed amendments have been published during the period your Committee was holding its hearings,⁽⁵⁾ one of them containing 95 proposed modifications. Moreover, according to the testimony of Mr. John Monteith, Director, Regulatory Requirements, Department of Transport, Parts VI, VII and VIII are at this moment "skeletal parts".⁽⁶⁾ Part XIV has yet to be published in the *Canada Gazette Part I*; this should be done in early 1986.⁽⁷⁾

Nevertheless, your Committee thinks it is necessary to report immediately on three points: first, the possible postponement of the date of implementation of the Regulations, which is scheduled to be July 1, 1985; second, the reciprocity of regulatory requirements between the U.S. and Canada; and third, the aspect of the enforcement of the Regulations.

With regard to the postponement of the coming into force of the Regulations, some organizations that appeared before your Committee were of the opinion that the implementation of the Regulations should be postponed. The suggested delay varies from two months to one year. Others said the date of July 1, 1985, was a suitable one. Your Committee was urged by some witnesses to support the coming into force of the Regulations on the scheduled date. Your Committee does not recommend that the date of the coming into force be changed. Many reasons directed this decision.

First of all, non-compliance will not be the rule. Evidence of this lies in the efforts deployed by the private sector to prepare. Second, fire and police services testified that the implementation of the Regulations will greatly assist in ensuring that public safety is enhanced. Finally, your Committee believes that the government is well aware of possible problems during the initial period of implementation. More specifically, your Committee draws attention to a statement made by the Minister of Transport before your Committee that "during this initial period, prosecutions will be placed only where there is very serious and flagrant non-compliance. Our feeling is that, since we are carving new ground here, we do not want to paralyse the industry. We want to be as firm as necessary, but fair as well".⁽⁸⁾

As to the second point, concerns were expressed by some witnesses that the implementation of the Regulations would bring a situation where American and Canadian regulatory requirements would differ. Those witnesses told your Committee that as a result of this, the traffic between the two countries could experience impediments that would restrict its current movement. This possible problem has been addressed by the proposed amendments published in the *Canada Gazette Part I* on May 31, 1985, and your Committee is confident that, when enacted, those amendments will constitute a proper response to the concerns of carriers in this respect.

The third point your Committee wishes to report on immediately has to do with enforcement personnel. This aspect of the subject-matter appears to be as yet at an exploratory level. Enforcement of the Regulations, not surprisingly, "... will be a fairly costly program...".⁽⁹⁾ The government, your Committee has been told, has not made a firm decision so far as to how this program will be devised. Different alternatives to the creation of a "new bureaucracy" are being studied, including the use of fire and police emergency services, private security firms and other existing agencies. Also, agreements with the provinces have yet to be finalized. We are encouraged to learn that