

difficulty. This is why it is dangerous to introduce such an entrance requirement when profit margins are at 3 per cent; the Canadian trucking industry could be destroyed.

Here again, on the question of unfair practices, the American experience teaches us that caution should be the rule, given that, since the coming into force of the U.S. Motor Carrier Act of 1980, which marked the beginning of the deregulation process in the American trucking industry, the largest firms have been growing constantly. In fact, the four major firms, Roadway Express, Consolidated Freightways, Yellowfreight and United Parcel Services, have increased their share of the American market by 24 per cent. This figure demonstrates clearly that these companies intend to increase their market share and can do it rapidly.

[English]

These predatory practices by American carriers have been highlighted by the recent anti-trust suit filed by Lifschultz Fast Freight, a motor carrier based in New York, against the three largest American motor carriers in the United States, Consolidated Freightways Motor Freight, Yellow Freight System and Roadway Express.

Let me quote from the American Transport Association magazine *Transportation Topics*, from May 18:

Three of the nation's largest trucking companies asked a Federal Court to dismiss an anti-trust law suit filed against them by another carrier.

Lifschultz Fast Freight of New York filed the suit March 3, seeking over \$1 billion in treble damages from Consolidated Freightways Motor Freight, Yellow Freight System, and Roadway Express. Lifschultz alleged that the fleets attempted to use predatory pricing to drive competitors out of markets and obtain control of those markets. The three carriers were accused of doubling their combined market share in the general freight LTL market over the last ten years at the expense of 104 other carriers. Lifschultz said were driven out of business through a concerted campaign of predatory pricing.

[Translation]

Mr. Speaker, in a deregulated market where only the strong survive, the heavyweights can take advantage of their superior strength. By opening Canada's doors wide to these companies, the Government may see the same situation develop in this country, and I think the risk is even greater, because as we know, the American Anti-Trust Act has a lot more clout than the Canadian Competition Act. Despite recent amendments to our Competition Act, I have I am very much afraid that the big American companies will be able to come and do here what they are now doing in the United States and do it even more easily in Canada, because the Competition Act will not have the necessary clout to take on these companies and prevent them from abusing market forces and engaging in unfair competition with small Canadian truckers.

When the Conservative Government justifies its policy by saying that the legislation make the sector more competitive, I think we should remember that the bulk of that competition will come from the giant companies south of our borders, and that Canadian companies will be hard pressed to survive.

### *Motor Vehicle Transport Act, 1986*

Our main concern is that the legislation on combines investigations will not have enough clout to prevent this kind of unfair competition.

[English]

In the whole history of the provision which dates back to the 1950s, only six cases have come to the courts, only one conviction has been obtained and that was for goods given away in large quantities for a period of one year.

The reasons for such ineffectiveness are clear. Predatory pricing is a criminal versus civil offence under the Competition Act. All elements of the offence must be satisfied by the criminal standard of proof which is proof beyond a reasonable doubt, and all criminal law defences are available, including the Charter. The predatory pricing inquiry into Canadian newspapers was launched in 1978 and is a good example of what I am talking about.

Marshalling sufficient evidence to meet the criminal standard of proof is very difficult and is the reason most often cited by the Director of Combines for discontinuing inquiries. The courts have said that the evidence must be strong to convince them to intervene and convict.

Indeed, as Mr. Moore, in his book *How Much Price Competition* said: "The battle is likely to be over before the case is completed". Such a situation is dangerous for our trucking industries.

We recognized this and at the report stage the Liberal Party moved an amendment which, in some small measure, dealt with these very real concerns. Of course, government Members voted it down, and that is regrettable. It is regrettable because I feel that the Bill deals inadequately with this very serious situation that could arise.

In conclusion, I want to deal with the third area of practical concern which is tied to the use of predatory practices from American mega-firms.

[Translation]

The U.S. companies tend to be bigger and more monolithic, for the very simple reason that a dynamic infrastructure connecting urban centres to terminal networks, set up many years ago by the trucking companies, makes for a very efficient system and, more important, a system that works strongly in favour of the U.S. industry with respect to its ability to compete with the Canadian trucking industry.

In the United States, a network of as many as 860 highways connects metropolitan markets of over one million people. In meagre contrast, Canada has only three. Furthermore, the widening gap between our two taxation systems as a result of the major reforms introduced in the United States in 1986 is working to the advantage of the U.S. companies. They pay less income tax, proportionally, because of the way tax reform has affected vehicle depreciation in the United States. American companies pay a lot less tax on gas, and there is far less government intervention in the U.S. in labour-management