

The Lobby Monitor

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February 17, 1997

MMT Lobby Going Strong in the Senate

The Senate Committee on Energy, Environment and Natural Resources is the site of the latest round of lobbying on the MMT bill. All the major players are coming out in full force. *See Lobbying the Senate, page 2.*

Getting Ready for the Drug Patent Review

As the Industry Committee gets ready to review the Drug Patent Act, the members are being subjected to preliminary lobbying. *See Patent Review, page 7.*

Fighting Cost Recovery

Cost recovery is an unpopular phrase with farmers. The Canadian Federation of Agriculture is fighting back. *See Cost Recovery, page 8.*

Also in this issue: Registrations page 4 and Registration Notes page 5.

Lobby Firms

Association House
Corporate Resource Cons
Earncliffe Strategy Gp
Fasken Campbell Godfrey
Fraser & Beatty (Ott)
Govt Business Cons Gp
Gowling, Strathy (Ott)
GPC Govt Policy Cons (Ott)
Hill & Knowlton Canada (Ott)
Lang Michener (Ott)
Milner Fenerty Cal)
National PR
Ogilvy Renault
SAMCI (Ott)
SAMCI (Tor)
Strategico Inc (Ott)
StrategyCorp Inc
Taylor McCaffrey

Teledesic Corporation

Client Organizations

AGT Limited
Akjuit Aerospace Inc
Alliance for Sponsorship Freed
Bridge Technologies Inc
Canadian Tire Corp
Cdn Fusion Fuels Tech Project
Cdn Inst Public Real Estate Co
Cdn Payments Association
Cdn Shipowners Assoc
Cdn Tobacco Manufacturers Coun
COM DEV
Cominco Ltd
Diavik Diamond Mines Inc.
Echo Bay Mines
Follett Campus Research
Invotronics Mfg
Kennecott Canada Inc

Kerbel Imperial Ltd
Maxlink Communications Inc.
McCarvill Corporation
Midland Walwyn Capital Inc
Montank Inc.
Motor Vehicle Mfrs Assoc
Nelson Canada
Noranda Forest Inc.
RBC Dominion Securities Inc
Rio Algom Ltd
Six Nations Geo Systems
Strait Crossing Joint Venture
Sweet Street Deserts
The R-M Trust Company
Uranerz Exploration & Mining
William Resources Inc

Lobbying the Senate Over MMT

Tough times are still ahead for the MMT bill. After being pushed through the House in a last minute flurry before Christmas, the bill has run into trouble in the Upper Chamber. The senators have decided to take their time with the bill and conduct full-scale hearings in committee.

The government has been trying for two years to pass legislation banning the interprovincial trade and importation of certain manganese-based substances, namely gasoline containing MMT. The government used time allocation before Christmas to end debate in the House and sent C-29 to the Senate. But rather than simply put its rubber stamp of approval on the bill, the Senate has opted to subject MMT to some sober second thought.

The Energy, Environment and Natural Resources Committee, chaired by Alberta Conservative Ron Ghitter, is conducting full-blown hearings on the MMT legislation and anyone who has an interest in the legislation, or is knowledgeable of its potential implications is appearing before the senate. A last-ditch, full-scale lobby effort is underway.

The Cast of Thousands

Associations pulled out all the stops to bring their senior representatives and members before the senate. "We wanted to show the importance of the issue to our organization and put some weight behind what we were saying," explained one lobbyist.

The senate hearings were kickstarted with presentations from the oil and gas industry, the strongest opponents of the bill. **Alain Perez**, President of the **Canadian Petroleum Products Institute** (CPPI), was accompanied by **Brian Fischer**, Senior Vice-president of **Imperial Oil**, **Jim Pantelidis**, Executive Vice-President of **Petro-Canada** and **Robert Routs**, President of

Shell Canada Products Ltd. "We continued to question the justification for this bill," explains **Brendan Hawley**, CPPI's Vice President of Public Affairs. "The issue of harmonizing fuel standards disappeared when the US agreed to the use of MMT, Health Canada has said there are no health implications, and the jury is still out on the impact of MMT on on-board diagnostic systems."

In their presentation to the senate, the CPPI requested that the senate "Call for a complete assessment of all the technical issues of the use of MMT..., examine the potential trade and constitutional implica-

but we're waiting to see what happens to the bill. We recommended the senate support an independent review of all the data and science in question with this bill."

The automotive industry, proponents of the legislation, were next on the senate roster. Their position has been consistently that MMT mucks up the new on-board diagnostic systems in vehicles, leading to more pollution from tailpipes.

"We asked the Senate to pass the bill without delay," says **Mark Nantais**, President of the **Canadian Vehicle Manufacturers Association**. "We can't meet 1998

Senate Committee on Energy, Environment & Natural Resources

Chair: Ron Ghitter (PC, Alberta)

Vice-Chair: Colin Kenny (Lib, Ontario)

Willie Adams (Lib, NWT)

Daniel Hays (Lib, Alberta)

Michael Kirby (Lib, N.S.)

Len Marchand (Lib, BC)

William Rompkey (Lib, Nfld)

John Buchanan (PC, N.S.)

Pat Carney (PC, BC)

Ethel Cochrane (PC, Nfld.)

Mira Spivak (PC, Manitoba)

tions of Bill C-29..., and refer the Bill for further consideration in the upcoming discussions on the Canadian Environmental Protection Act."

Ethyl Canada, appearing separately, criticized the lack of science evidence behind the bill and reiterated the bill's violation of NAFTA. "We filed an intent to lay down a claim under NAFTA," says President **David Wilson**. "The waiting period has now passed so we're free to file a claim

emissions standards without this bill." The presidents of seven automotive manufacturers — **Ford Canada**, **Chrysler**, **GM**, **Honda**, **Toyota**, **Nissan** and **Mercedes-Benz** — accompanied the CMVM before the committee to show sector wide support for the bill.

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MMT

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The CVMA has recently retained the services of **Gordon Ritchie** of **Strategic Inc.** Ritchie, former Deputy Minister of the Department Industry, Trade and Commerce and the Deputy Trade Negotiator of the Free Trade Agreement, will no doubt be an invaluable counter to the threatened trade challenges to MMT.

While MMT continues to be a battle between two of the country's most powerful industries, others are jumping into the fray. The CPPI has been lobbying provincial governments quite extensively to oppose the bill and their efforts are succeeding. Representatives from **Alberta** and **Nova Scotia** made strong presentations against the bill before the senate, while eight provinces and the territories came out against the bill at a September 1996 meeting of the Council of Energy Ministers. Alberta has announced that it will challenge the MMT bill under the

Internal Trade Agreement, with the support of two other provinces, should it be passed.

The committee is calling for testimony from constitutional and trade experts to shed light on jurisdictional issues raised in testimonies, and will also hear from municipalities who have expressed an interest in appearing before the committee.

The Political Setting

By the time a bill reaches the committee stage, lobbying is usually over. However, the Senate has been the scene of some classic political/lobby battles in recent years: the original C-91, the GST, Pearson Airport, gun control, abortion and now MMT. In this particular instance, the looming election gives the Senate, and the bill's opponents an extra weapon — time.

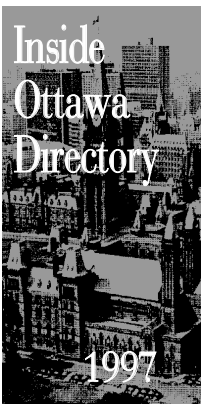
Should Bill C-29 make it through the committee it must still pass 3rd reading in the Senate. The Liberals have a mere one person majority (which itself is in question with the illness of Senator Eugene Whelen), and given how rebellious certain

Liberal senators are being, there is no guarantee they will toe the party line and vote in favor of the bill. The Senate could vote against the bill, which it has done only once under the Chrétien government, or it could send the bill back to house with amendments, depending on how obstreperous the senators are feeling.

How likely is this to happen? According to one senator's aide, turnout at the committee meetings has been high, with a number of non-committee members in regular attendance. The senators have expressed concern about the lack of scientific evidence to support the need for the bill and responded favorably to suggestions for a scientific study to be conducted, possibly by the Royal Society, before the bill is passed.

If the bill fails, it won't be a total loss for the Liberals. They will still be able to claim they gave it their best shot, without having to suffer the consequences of having it become law.

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REGISTRATION NOTES

Con-Fusion Say?

What looked pretty bleak back in 1994-95 actually looks like it might have a fighting chance now. Back in 1995, the federal Cabinet looked at a proposal to establish an **international thermonuclear experimental reactor** (iter), rather, it looked at the \$350 million price tag and said "that's nice but.." and left it at that. Luckily, the people behind the **Canadian Fusion Fuels Technology Project** had another three years before they had to have a final answer for the other international partners looking to find iter a home. According to the project supporters, a "Build it and they will come" approach is needed here. If **Ontario Hydro** (the main force behind the proposal) and the governments of Ontario and Canada each chip in \$950 million to build the facility, Japan, Russia, Europe and the US will spend the \$18 billion doing the research.

What iter needs is a site that has a nuclear license, a source of tritium and lots and lots of cheap power, all of which would be available if located beside one of Hydro's Candu reactors. And, of course, that final ingredient, government money.

Getting the government onside is the job of **Fraser Beatty** lawyer, **Richard Mahoney**. Mahoney is well in tune with the political realities of nuclear projects. He knows about the trials and tribulations of the Triumf-KAON project in BC and the recent closures of the fission experimental labs in Chalk river. Then there's the matter of the fusion project in Varenne, Quebec, which seemed dead until it received a three year reprieve. He knows that has to be included in any future fusion proposal. He also knows that the science community doesn't take too kindly to a vast diversion of funds toward

one branch of science at the expense of the others.

Mahoney says the project people are working on contingency plans if government money remains as elusive as now. One of these is a special iter bond carrying some R&D or other concessions. As things stand, he still has nine months or so to get all the pins lined up. No doubt many will be watching to see how he does.

Let's Have a Vote

Francis Saville of Calgary law firm **Milner Fenerty** has built up a small coalition of mining companies with operations in northern Canada opposed to certain proposed changes to the Canada Labour Code. In particular, they dislike changes to the rules of certification that remove the need for a secret ballot and new restrictions on the use of replacement workers. A **Cominco** spokesperson, **Louise Malkin** says that although her company has withdrawn from the coalition, it is still ready to press its concerns on legislators. She says that you cannot compare, let alone apply, the same rules to a mining operation in the far north with most federally regulated companies, such as banks or railways, that operate in the south. The registrations suggest key MPs and Senators are the targets of Saville's efforts.

The other companies in the coalition include **Echo Bay Mines** and **Kennecott Canada Inc**

Curiously, the chief contact at Kennecott, **Doug Willy**, is also the main contact person for another registration in this batch of data, **Diavik Diamond Mines, Inc**. For that company, the issue is getting approval to mine for diamonds in the fragile northern ecology. Willy has hired **Bruce Rawson** of **GPC Government**

Policy Consultants to help on the government approvals front. While Willy is busy putting all the financial and other pieces together. Rawson is responsible for feeding regular information on how the government approval process is shaping up.

How Sweet it is, is not Irrelevant

John Duffy of **Strategy Corp Inc** is helping his latest client, **Sweet Street Desserts** comply with the different labeling rules and regulations in Canada. The U.S. based company is able to make nutritional claims back home that aren't part of the game up north. Duffy's job is to find out how much they have to change the product, the labeling and the interpretation of the rules so that everyone wins.

Joint Venture

Howard Mains of **National Public Relations** is working on a joint venture. **The R-M Trust Company** and **Six Nations Geo Systems** are getting together to bid on an upcoming RFP for non-insured health benefits. The tender will have provisions for an aboriginal set-aside which calls for 51% aboriginal participation. The Health Canada contract for the administration of the project is worth about \$10 million per year, paying out benefits of over \$250 million. The RFP is expected later this month. Other competing interests include **Blue Cross**, represented by **H&K**.

It is Investment Time

Mutual funds are the biggest game in town as low interest rates and the influx of pre-retirement boomers flood investment markets with money. With all this money looking for a place to go, it is not

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Registration Notes

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surprising that there are several funds that channel money into real estate. The **Canadian Institute of Public Real Estate Companies** (CIPREC) has hired **Richard Mahoney** of **Fraser & Beatty** to straighten out a kink in the vehicle used for these, Real Estate Investment Trusts or REITS. REITs in the US are \$70 billion industry. The Canadian market is much smaller because these trust funds cannot be incorporated. Without incorporation, they cannot have limited liability. (These funds could risk losing everything in the case, say, of an environmental disaster.) Mahoney is part of a team nudging Finance to allow REITs to incorporate. KPMG has submitted a brief showing how such a move would help REITs and real estate in a big way. Everyone is standing around the scale while Finance weighs the many factors involved, including the effect on the tax regime and, equally important, the effect

on overall investment patterns and real estate markets.

McCarvill Corp is a Toronto-based specialty investment house that specializes, among other things, in royalty financing. The term is well known and well-used in mining and resource sectors, but not in other sectors. McCarvill would like to expand the use into other sectors, but wants to make sure the opportunity exists. It has hired **Edmond Chiasson** of **Government Business Consulting Group** to feel out the government scene on such ventures.

Chiasson and former ambassador **Ken Taylor** have also been hired to offer a guiding hand to **William Resources Inc**. The company, based in Toronto, has mining properties around the world. They are thinking of doing business in Eastern Europe and thought it might be a good idea to have support—and intelligence—from the Department of Foreign Affairs. Taylor is helping Williams make use of the Renaissance Eastern Europe Program (REEP).

Can You Spare a Dime?

Sara Levinson of **Corecon** is helping **Invotronics Manufacturing** negotiate a grant. Invotronics, which makes electronic parts for cars, is part of the **Atoma Group**

which, in turn, is part of **Magna** empire. Aside from **Bombardier**, there probably isn't another company which has gone so far with the help of so much government money. In this case, Invotronics is looking for a contribution from **Human Resources Development**.

Too Free a hand?

The loose coalition of companies opposed to measures contained in the privatization arrangements for cleaning up oil spills has brought in some help. The coalition, led by a team of lawyers from **Gowlings** has recruited the people at **Association House**. Former senior official **Art Silverman** along with another as-yet-unregistered-person from **Association House** have been recruited. (Silverman's initial registration identified the client as **Gowlings** rather than the members of the coalition.) The issue is the free hand that the private company cleaning up any future oil spills will have in assessing the costs of the clean-up. Given that the clean-up company is controlled by the major oil companies, the small "independents" are concerned about how they would be treated in the event of a spill.

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In Brief

The Best Laid Plans...

It's hard enough to get MP's attention on the best of days; on budget day you might as well save your energy. For the Canadian Police Association, things couldn't have turned out worse if they had tried. The CPA has scheduled its Lobby Day on the Hill for February 18, smack in the middle of their three day conference in Ottawa. Imagine how their faces must have fallen when Finance Minister Paul Martin announced that he would be tabling the much anticipated pre-election budget on the very same day. It gets worse for the

men in blue; by a trick of fate, not only will MPs and Senators be riveted to the budget show, but the media will spend the pre-budget hours locked in an airplane hanger at the other end of town. Murphy couldn't have written this one any better himself.

Code of Conduct Takes Effect

Beginning March 1, 1997 lobbyists will be subject to the Code of Conduct developed by the Ethics Counsellor. The Code, in the works for nearly two years, sets out standards of conduct for lobbyists communicating with federal officials.

The government's efforts to reform lobbying in Canada are now complete, at least on paper. While the amendments to the Lobbyists Registration Act and the Code of Conduct are now in place, a few glitches in the system still need to be ironed out. A few lobbyists have informed the Lobby Monitor that some of their electronic registrations have disappeared. Despite their best intentions to play by the new rules of the game, a wonky electronic registration system is standing in their way.

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Getting a Pole Position in Patent Review

Election rumours may be running rampant through the halls of Centre Block, but that doesn't mean that the business of parliamentary committees stopped cold. For the Industry Committee, fresh from its most recent, but ultimately futile foray into consumer-gouging credit card interest rates, the next few weeks could see its members' popularity soar among members of the lobbyist community. The reason is the rapidly approaching kick-off of the review of the drug patent legislation; the Bill Formerly Known as C-91.

Five years ago, the bill, which guarantees patent rights for new drugs for fifteen years, became the battlefield for a death struggle between patent drug manufacturers and their arch-enemies, the generics. Those who recall that clash of the Titans expect old foes to use the committee's hearings as an opportunity to renew a rivalry that has been simmering in the media for at least the last few months, and below the surface for far longer.

According to those close to the committee, even though plans to hold the review were only announced two weeks ago, heavy lobbying of committee members has already begun. With **Industry Minister John Manley** scheduled to kick off the hearings with an appearance February 17th, time is of the essence for lobbyists and interest groups hoping to see a few friendly faces on the other side of the committee room table.

The first hurdle to be tackled by the committee is the question of witnesses: how broad a swath should be cut when it comes to who will be invited to appear? "We'd rather be inclusive than exclusive," acknowledges **Michael Barton**, Legislative Assistant to Committee Chair **David Walker**. "Potential witnesses have until March 3 to submit an application,

and we're accepting written submissions until April 3." Barton says the committee hopes to hear from the major companies on both sides of the intellectual property chasm, as well as "less straight forward stakeholders" – in other words, representatives from the health and consumer communities. Barton admits that Walker has already received calls from a few lobbyists. "Some people seem to have found our number." He's also keeping an eye on the flurry of press releases on the issue that have appeared over the past few weeks, as well as advertising campaigns launched by the two factions.

Devon Baines, who handles the patent drug folder for Reform MP **Werner Schmidt**, is more up-front about the wagons that are circling the committee. "We've definitely been contacted by both sides, and so far, we're sceptical of the claims made by both sides." According to Baines, Schmidt is looking forward to the upcoming hearings. "Reform wasn't here for the last fight, so we're hoping to be

able to bring a fresh approach to the issue." But that doesn't mean that Schmidt will be entering the committee room an empty vessel. "We want to put consumers and health care in front." Baines believes that the review has the potential to get "really nasty, especially with an election coming. If seniors and health groups get involved [as part of a coalition with the generics], some promises made by the Liberals during the last campaign could come back to haunt them." On the other side of the fence, Baines thinks it likely that the **Pharmaceutical Manufacturers Association of Canada** will fill out its ranks with representatives from the bio-tech and R&D communities. "I think both sides are definitely gearing up for battle."

Liberal **Ian Murray**, who also sits on the committee, agrees that the pressure from competing interests has already begun. "I think we've all been approached by representatives from both sides," he says, "including, of

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PMAC 1, CDMA 0

To paraphrase that maestro of strategic lobbying **Bill Neville**, he who frames the issue wins the day. With that in mind, it's clear that PMAC and the forces of patent medicine have won the first skirmish in the war by ensuring that the issue has been framed as an intellectual property question, as indicated by the choice of the Industry Committee to review it, rather than the potentially more generic-sympathetic Health Committee. There's also the mysterious now-you-seem-him-now-you-don't quality to **Health Minister David Dingwall**. Originally slotted in as a co-presenter with **John Manley** at the inaugural hearing, Dingwall's name was scratched out during last minute scheduling, leaving some com-

mittee members alternately confused and suspicious. When the dust settled, Dingwall found himself recast as more of an advance man for Manley when a hastily issued release from Committee Chair **David Walker** announced that he would be making "brief introductory remarks" prior to the main event.

Industry Canada is no stranger to sibling rivalries with sister departments. Officials are still smarting over Canadian Heritage's sneak attack on the copyright bill, so it's likely that policy watchdogs will be on red alert for possible interference from their opposite numbers in the health and consumer interest corners.

Fighting Cost Recovery

Cost recovery is quickly becoming a reality for the farming community as the Pest Management Regulatory Agency (PMRA) gets ready to introduce fees for pesticide registration on April 1, 1997. The PMRA cost recovery regulations and proposed fee structure were published in the Canada Gazette on January 11.

Rather than sitting back and accepting cost recovery as a fait accompli, the **Canadian Federation of Agriculture** has pulled out all the stops in its lobby campaign to ensure the new agency meets the needs of the farming community.

"We're lobbying extensively on the issues of cost and product availability," says **Jack Wilkinson**, President of the CFA. "As it stands now, the PMRA is going beyond cost-recovery to income generation."

The CFA is arguing that farmers aren't in a position to pass on costs to their consumers, who will purchase cheaper, imported products. "Farmers have lost a lot of government funding and are now being asked to pay more for pesticides,

and product inspection. But we're also faced with cost recovery in the transportation sector with ports and rail, and other sectors." The CFA's position is that the government needs to look at the cumulative impact of government-wide cost recovery on the farming community, and explore all avenues for reducing cost before recovering costs.

The CFA is also arguing that if fees are too high, pesticide manufacturers won't register products for which they cannot recoup costs. Products that have smaller niche markets may not be registered for use in Canada, limiting the pest control options of farmers. "The US lost 40% of its products when they went to cost recovery. We want to avoid this in Canada," explains Wilkinson.

The CFA has taken its issues to the highest ranks of government, holding a number of high level meetings with senior cabinet ministers including Paul Martin, John Manley, Marcel Massé and the Prime Minister's Office. They have mobilized their members to write letters to

officials in the PMRA, as well as the politicians. The CFA joined forces with a number of like-minded organizations, including the **Chicken Farmers of Canada**, the **Dairy Farmers of Canada**, the **Canadian Feed Industry Association**, the **Canadian Fertilizer Institute**, the **Canadian Agri-Retailers Association** and the **Canadian Seed Growers**, to add strength to its position.

The CFA's lobbying efforts have paid off a little. The government reduced the amount of cost recovery from \$16.5 million to \$12.3 million and has reduced the maintenance fee payable for products for products with low sales. More changes may come from the assessment of stakeholder input on the PMRA regulations.

Patent Review

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course, PMAC and the **Canadian Drug Manufacturers Association**." While Murray says he's going into the review "a blank page", some of his comments demonstrate that he has read the brochures of the patent medicine producers cover-to-cover. "The research and development of new drugs is important. I'm also interested in the desire of generics to someday become brand names, with patents of their own to protect."

According to Walker's office, hearings are expected to last between a month

and six weeks, with a report expected to be tabled soon afterwards. As the first week or so of meetings will likely be filled with departmental officials, the real showdown probably won't begin until the first week of March, giving lobby groups from both sides an opportunity to put the finishing touches on campaigns that have been building up since virtually the day the Patent Act went into effect. But for lobby-watchers, the wildcard is still the possibility of a spring election call. If the PM drops the writ, will the committee's final report fall between the parliamentary cracks, making the Herculean efforts all for naught?

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