

Income Tax Act

Crown determine that a man shall go to jail, because that is the nub and essence of this problem.

An hon. Member: Come on.

Mr. Lambert (Edmonton West): This is in respect of income tax. So they broke the law! Ask the Attorney General of Canada if all people go to jail all the time for breaking the law. The emphasis is away from jail to pecuniary penalties. I ask the hon. member for Sarnia if he can justify that a minister of the Crown or members of the Department of Justice have the right to send a man to jail.

Mr. Jerome: They do not do that.

Mr. Lambert (Edmonton West): The hon. member for Sudbury wants to get the facts. There is a mandatory jail sentence.

Mr. Jerome: Surely the hon. member will agree that whether or not that discretion in the section is exercised, if it is exercised in favour of indictable proceedings there must be a trial.

Mr. Lambert (Edmonton West): The point is that perhaps the fact cannot be denied. For instance, there may be no question about the failure to file an income tax return. It does not matter whether you should have paid \$5,000 or \$3,000 in income tax. Let the parliamentary secretary study the bill, particularly sections 239 and 235.

Mr. Jerome: You are presuming guilt before trial.

Mr. Lambert (Edmonton West): This is a fact. The parliamentary secretary should know there are things which are factual and others which are not. If a demand has been made in the appropriate way by departmental officials to file an income tax return, and none has been filed, this is a fact. In Montreal today there is a summary conviction procedure outstanding for failure to file, and this carries a jail sentence if the judge so desires. However, if the Crown had proceeded by way of indictment there would be a minimum of two months and up to five years in jail without any choice. The judge has no other choice.

Mr. Jerome: The judge does have a choice.

Mr. Lambert (Edmonton West): Now we know you do not know the law.

Mr. Jerome: I do know the law. Are you saying the judge must convict?

Mr. Lambert (Edmonton West): The judge must convict.

Mr. Jerome: Guilt is assumed before trial! Don't be ridiculous.

Mr. Lambert (Edmonton West): I am telling the hon. member that if there has been a failure to file a return, no return is there—

Mr. Jerome: It has to be proven.

Mr. Lambert (Edmonton West): —and the man cannot produce any records to show he has filed—

Mr. Jerome: Then he is guilty.

Mr. Lambert (Edmonton West): He is guilty. So he goes to jail if you proceed by way of indictment. That is what I want to eliminate. Why must we have the indictable procedure when there is a mandatory jail sentence of up to five years? Is that for someone to play ducks and drakes with the taxpayers? Why must the minister play ducks and drakes? I was parliamentary secretary to a Minister of National Revenue who would under no circumstances allow a proceeding by way of indictment. He said the law was repugnant. It was up for revision.

Why should the Attorney General of Canada have this power? It is not needed. All you have to do, if you want to increase the jail sentence which provincial judges may impose—and their jurisdiction has been increased—is raise it to five years on summary conviction.

I move:

That clause 1, subsection 239(1)(g) be amended (a) by deleting the words "two years" in line 39 at page 549 and substituting the words "five years" and (b) by deleting the whole of subsection (2) thereof and renumbering the following subsections accordingly.

Mr. Bigg: I second that motion.

The Deputy Chairman: Order, please. With this amendment the committee will find itself in a procedural difficulty in the sense that although all the sections in the group are before us, only section 220 has been put. Therefore I invite discussion and advice from hon. members concerning the procedure they wish to follow. Should the committee stand section 220, the basic section, and open discussion on section 239 on which I would put the amendment?

Mr. Lambert (Edmonton West): Mr. Chairman, my amendment is in the same category as the amendments advanced the other day by the Minister of National Revenue. At that time a number of amendments were stood and are waiting until the section is called. My amendment is in the same category.

The Deputy Chairman: Order, please. I agree with the hon. member; his point is valid so long as he does not wish section 239 to be brought to a decision at this time. Shall section 220 carry?

• (9:00 p.m.)

Mr. Gray: Mr. Chairman, the hon. member has just presented an amendment and his colleague from Nova Scotia has presented one. I said, in response to his colleague's request that the government give consideration to the points he raised that the matter would be taken under advisement. I said that the hon. member, quite properly, made similar points before the supper hour and has now added to them. Now he has moved an amendment. In fairness to his colleague I suggest we should deal with the hon. member's amendment in the same way. Therefore, I would suggest that the portion of the bill before us stands so that further consideration can be given to the amendments to sections 239 and a response made as soon as possible.

Mr. Knowles (Winnipeg North Centre): We have just agreed to that.

The Deputy Chairman: Is it the minister's suggestion that section 239 be removed from the group which we are