

*Government Orders*

an even manner, pointing out some pluses and also raising some questions.

My concern and my constituents' concerns are not funny. It is not funny. It is rather horrible that in effect through this bill there can be regulations under the Income Tax Act about special benefits and by changing those regulations the indexation of members' pensions under the Public Service Act can be changed because that is a special benefit.

• (1750)

This caused great concern in the committee, as it should have. This is why Daryl Bean and the Public Service Alliance and many other Public Service associations said: "Hey, this bill is going to attack the indexation feature of Public Service pensions". Certainly, if the indexation of members' pensions were being attacked we certainly would be a little more concerned.

I know the member for Kootenay East was a very able and consistent member on the committee. I read much of the testimony of the committee. If there is any question about this indexation and why the Public Service should be concerned, it is that the committee came up with the question there were some amendments that were turned down by the government, again with assurances. I understand from the committee evidence that the government was going to take a look to see if there was an amendment from government to clarify this issue of whether indexation could be affected by a change in regulations of the Income Tax Act.

Without getting too rhetorical in the time I have left I just want to read into the record some letters I have read as a lawyer and I must say I reread the first one because I could not fully understand it. The man who wrote the first one wrote another the day after, trying to give his opinion to the committee on the implications of clause 50 of the bill involving indexation.

In a letter dated June 3, 1992, R. R. Walsh, the general legislative counsel of the House of Commons, wrote about Bill C-55 to Mr. Farrell as follows:

At its last meeting on May 21, 1992, the Committee asked that I provide an opinion in respect of the Government's motion No. G2A amending the proposed section 71 found in clause 30 of Bill C-55. Similar amendments are proposed for clause 58 (motion No. G3A)

and clause 80 (Motion No. G4A). The Public Service Alliance of Canada has criticized the proposed amendments and I was asked to consider PSAC's concerns as well.

At committee, Mr. Macdonald explained that the proposed amendment clarifies that the power to make compliance regulations under section 71, PSSA, would be limited to prospective changes and would not allow retrospective changes in relation to what employees had already earned. It seems to me Mr. Macdonald is correct in his view that the proposed amendment would prevent "retrospective" compliance regulations.

Those are regulations that might affect the past.

In his letter of April 14th, however, the Minister assured committee members—

Another assurance by the minister, I guess by verbal commitment or by letter.

—that the Government's amendment to the proposed section 71, PSSA, would make it "absolutely clear" that there will be no change to the indexing of benefits "except by statute" (statutory amendment). To this end, the proposed section 71 as amended by motion No. G2 allows compliance regulations only in relation to section 147.1 of the Income Tax Act and Part LXXXV of the Income Tax Regulations, as they read on January 15, 1992.

Subsection 147.1(2) of the Income Tax Act sets out the rules applicable for registration of pension plans, one of which is that a plan comply with prescribed conditions for registration. Part LXXXV of the Income Tax Regulations allows as "permissible benefits" periodic cost of living adjustments based on increases in the Consumer Price Index. If, after January 15, 1992, the Income Tax Regulations were amended to remove indexation as a permissible benefit, the amendment could not be carried over to PSSA/CFSA/RCMPSA by means of a compliance regulation because a compliance regulation could only be made in respect of the Income Tax Regulations as they read on January 15, 1992.

That is the guts of it but I am going to continue to read the letter because my time is almost over.

According to its news release of May 11, 1992, PSAC says the Government's amendments do not make it "absolutely clear" that there will be no change to the indexing provisions "except by statute" (statutory amendment). PSAC suggests that motion No. G2A be worded to read as applicable to any pension, annual allowance, etc., that is payable to any person to whom PSSA applies. [PSAC also suggests a new subsection (6) requiring consultation with the Advisory Committee.]

It is not clear that amendment of the PSSA/CFSA/RCMPSA would be required to reduce or remove indexation as a permissible benefit, notwithstanding motions No. G2 and No. G2A. An amendment of the Income Tax Regulations by the Governor in Council (without the involvement of Parliament), made applicable to all pension plans, might be sufficient to reduce or remove indexation without amendment of the statutes governing the plans.