

## Income Tax Act

But to answer my hon. friend directly on the matter, it must involve the exercise of judgment on the part of the minister. I think that I should say that that judgment is exercised largely on the basis of fairly well recognized and predetermined formulae in this matter and, as I have indicated, with the advice and assistance of the inspector general of banks.

As to the second question, I am informed that there has never been any question but that it should be taxable when brought back into income, but that technically the law was not clear. The putting of this provision in the law was overlooked. The banks had never questioned that if it were brought back into income it should be taxed; because these inner reserves are, of course, created out of income which has not been subject to tax. The rule is therefore made applicable to the year 1949. So far as I recall, I do not think—well, I had better not speak from memory. I do not recall whether or not any have been brought back in within the last year or two.

**Mr. Fleming:** I have an extremely strong feeling against retroactive legislation and it is not without reason, I think, Mr. Chairman. The minister has indicated that this appears to be, as he has put it, or as I understood him to put it, a codification of the principles that have been observed in connection with bank assessments hitherto. If that is the case, I think it might be quite satisfactory to leave the matter as it is and to enact legislation now to the extent necessary to deal with the situation now, to come into effect now or as of the date of the budget proposals in the ordinary way. But I do not think that the minister has made out a case for applying this section back to January 1, 1949. That is the effect of the second subsection. If there is no particular situation calling for the enactment of retroactive legislation, then I strongly urge that the committee should not approve the retroactive operation of the new amendment.

**Mr. Abbott:** No one, the banks or anyone else, has ever seriously questioned that when these inner reserves are brought back into income they should be taxed. I am afraid I could not countenance that suggestion. I do not think this procedure has ever been seriously questioned. It is to repair what may be really a technical lack in the act. That is the position.

**Mr. Macdonnell (Greenwood):** I should like to back up what the hon. member for Eglinton has said. If I thought there was any danger of tax evasion, I would not feel that way about it. But I think the minister

has assured us that is not so. Certainly my own experience would wholly confirm that view. But I feel that this habit—and it is almost a habit we are getting into—of retroactive legislation is extremely undesirable. Unless the minister feels there is some reason for it, beyond what he has given us, I would hope that he would give heed to what the hon. member for Eglinton has said.

**Mr. Abbott:** I have just as strong objection as have my hon. friends to what is really retroactive legislation. But this is a section which should have been in the act from the very moment that section 11, subsection 4, was in it; that is 1949. Nobody is going to be prejudiced by putting it in now. I feel that the two sections should be made effective from exactly the same date. I think that in this case I would have to insist on my stand.

**Mr. Macdonnell (Greenwood):** I will not say anything more except this. When we condone retroactive legislation because it is not going to hurt anybody, it is easy to do it in the case where it does hurt somebody; and later on this afternoon I am going to refer to a case where it is going to hurt somebody. That is why I am anxious to get a good precedent established.

**Mr. Abbott:** I think the exception proves the rule. There are cases, and I have seen them in the course of my experience, where so-called retroactive legislation is fully justified.

**Mr. Graydon:** And you have seen some in which it was not.

Section agreed to.

On section 3—*Deductions allowed.*

**Mr. Sinnott:** In looking over these deductions allowed, may I say that I noticed that union dues were disallowed until just recently, and I thank the minister for allowing them to be deducted. But since that time that they have been allowed to be deducted, I notice that union dues have increased to about twice the amount they were before. However, I wish to speak for another class of people in Canada, namely those who are not able to help themselves. Deductions are allowed for those in the family who are under sixteen years of age. There are quite a few people in this country who are incapacitated and who are kept by their families. Last week end I happened to visit a home not very far from Ottawa and I found a crippled person there who was unable to take care of himself, and the family is taking care of several people throughout the country. There are several boys in my own municipality who are kept wholly by their