

deemed to be on the lesser of: (a) the actual capital cost of the property to the taxpayer (in other words, the actual amount that company B paid) or (b) the amount by which the capital cost of company A, the original owner, exceeds the aggregate of the normal depreciation allowed.

The CHAIRMAN: Is it not the depreciation value on the books of the vendor?

Mr. GAVSIE: Yes.

Hon. Mr. HAYDEN: Why should it not be the fair market value less depreciation? I have looked at the definition of "arm's length", and it reads as follows:

For the purpose of this Act,

- (a) a corporation and a person or one of several persons by whom it is directly or indirectly controlled;
 - (b) corporations controlled directly or indirectly by the same person; or
 - (c) persons connected by blood relationship, marriage or adoption;
- shall, without extending the meaning of the expression "to deal with each other at arms length", be deemed not to deal with each other at arms length.

Now, surely the principle set out earlier in these amendments in relation to transactions at arms length, could very well be put on the basis of their market value.

Mr. GAVSIE: These are transactions which took place before 1949. You will remember that the rule in the first part of this was the capital cost, that is the original cost, less the depreciation taken. The application here is, if you have made a sale prior to 1949 to a related company.

Hon. Mr. McLEAN: Would you explain what "related company" means?

Mr. GAVSIE: Transactions not at arms length; that is between those taxpayers who are not at arms length.

Hon. Mr. EULER: What does that mean?

Hon. Mr. McLEAN: This definition reminds me of Ed Wynne's definition of why he was carrying an 11-foot pole. He said he was carrying it to touch those people that he wouldn't touch with a 10-foot pole.

Hon. Mr. CAMPBELL: Mr. Gavsie, is it not true that under the present practice, where you have a transaction or sale, or transfer of property from one taxpayer to another, not at arms length, the minister has always looked into the transaction and in most cases allowed the depreciation on what he considered to be the proper value, taking into account depreciation formerly taken? Actually that has been attempted with the legislation as it now stands. Under this section you are trying to spell out in proper language something to cover that particular type of transaction between two persons who are not, in effect, dealing in a manner so as to get taxation benefits by the transfer of a property which has been depreciated to another person or another company. That, as I understand it, is what is sought by this section.

Mr. GAVSIE: That is right.

Hon. Mr. CAMPBELL: Now, as to the language of the section, you first take the capital cost to the original owner and calculate the aggregate of the total amount of the depreciation taken for various purposes; the basis of depreciation is the amount by which that capital cost exceeds the depreciated value. Am I right?

The CHAIRMAN: By which it exceeds the depreciation.

Hon. Mr. CAMPBELL: Yes, by which it exceeds the depreciation.

Mr. GAVSIE: Yes.

Hon. Mr. CAMPBELL: It is not very clear, but I think that is what it means.