

Income Tax

By reason of article XI the whole agreement may be terminated by Canada effectively with six months' notice, and by the United Kingdom in a matter of a little more than nine months because of its tax year. Why Britain insists on retaining April 6 as the date on which it collects revenue I do not know, but in my opinion one of the negative aspects is this agreement not being made for a finite period.

With that reservation I earnestly hope that before long the government will have studied the Carter report on taxation and made up its mind on what it intends to do with regard to taxation. I hope there will not be any undue delay either on the part of the government whether this one or one formed by the opposition, in allowing the implementation of the major recommendations of that commission's report. I hope that a finite agreement can be reached expeditiously at that time.

Any further remarks I wish to make can be made more appropriately when we are considering the bill clause by clause. Once again I wish to say that I find the omnibus clauses too all-encompassing. I refer particularly to clause 2(3) which provides that—

—the Minister of National Revenue may make such orders and regulations as are, in his opinion, necessary for the purpose of carrying out the agreement or for giving effect to any of the provisions thereof.

I do not know how many times I have said that I am overly suspicious of such clauses. Administrative regulations which embody matters of policy ought first to be considered by the house, but they often find their way into legislation through a back door. For this reason I return to the point made by the committee on procedure, that there should be a committee of this house to review delegated powers. When the minister creates any regulation under the powers granted to him by clause 2(3) he should be required to come before the parliament to satisfy that body that he has not exceeded his powers or created any regulation the effect of which is retroactive to the authorization of those powers.

I urge the minister to refer this recommendation to his colleagues—because this is one of the more serious aspects that we should consider—so that regulations do not become pseudo-legislation by means of regulatory powers.

Motion agreed to, bill read the second time and the house went into committee thereon, Mr. Batten in the chair.

[Mr. Lambert.]

On clause 2—*Agreement approved.*

Mr. Lambert: Mr. Chairman, I think this may be the appropriate time, during our consideration of clause 2, to discuss the articles of schedule I. If the minister has any reason why we should not discuss it now I will defer my remarks. I wish to discuss only two articles about which I want to elicit some explanation from the minister.

● (7:20 p.m.)

Undoubtedly within the next few weeks we will have an opportunity of reading brochures from the Canadian Tax Foundation which may be more critical of this legislation. They should guide us for the future. I want particularly to consider article IV paragraphs (a) and (b). This article deals with related enterprises operating in both the United Kingdom and in Canada, and the definition contained herein refers to "where an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory." If there is a participation of, say 5 per cent—a matter of less than control—what is the degree of participation which will identify that connection between the operations in the two territories? Shall it be just isolated participation? Shall it be a matter of 1 per cent, 10 per cent, 20 per cent, effective control, or what have you?

Also, to what degree under paragraph (b) do the governments in question consider the participation directly or indirectly by, shall we say, the cross-election of directors? In other words, in order to benefit by the experience abroad or to get advice on operations abroad, a Canadian company may elect to its board of directors an experienced resident of the United Kingdom, an industrialist or financier, for example, and the converse situation may also apply. What degree of participation will attract suspicion of, shall we say the non-arms length aspect—I think that is a possible term to be used—in this relationship between the operations in the two countries?

Mr. Sharp: Mr. Chairman, may I first of all point out to the hon. gentleman that this is the standard clause that is in all our tax agreements and is identical with the clause in the former agreement with the United Kingdom. So we are not breaking any new ground here. I should have thought that since the purpose is exactly as the hon. gentleman outlines it, namely an effort to be sure that these related companies operate at arm's