

Income Tax Act

connection with the acceptance of an amendment on one basis by the chairman of the committee. As hon. members may recall, the chairman of the committee at that time said quite plainly that it would be impossible for the Leader of the Opposition (Mr. Stanfield) to redraft the amendment he had presented because of the very limited time available. I am sure that this limitation does not apply any more because hon. members who may have heard the remarks of the chairman of committee afterwards had ample time to consider the drafting of the amendment in question. This is not to be taken as an argument in favour of acceptance of the present amendment moved by the hon. member for Halifax-East Hants (Mr. McCleave).

I wish to refer to another basic difficulty with regard to the amendment. This is more a constitutional difficulty than a procedural one. I wonder to what extent the Chair can go beyond the constitution of Canada in accepting amendments that would more or less limit the powers of Parliament. After Parliament has passed a piece of legislation, can that power be limited by making that legislation subject to further affirmative resolutions of the House of Commons which makes up one part only of our parliamentary system? That is the point on which I should like to hear comments. I see the hon. member for Edmonton West (Mr. Lambert) becoming somewhat impatient while I talk.

Mr. Lambert (Edmonton West): Your Honour has forgotten some legislation we have passed.

The Acting Speaker (Mr. Laniel): I do not want to decide without first hearing from hon. members. I wish to tell the hon. member that even though he may have expressed his views on that point in particular, I may not be ready to decide immediately, in view of this very important difficulty.

Mr. Lambert (Edmonton West): Mr. Speaker, I will limit my remarks to the narrow point which seems to give Your Honour difficulty. I suggest that the argument used the other night in accepting or, shall we say, glossing over any difficulties was, frankly, one that I myself would never have accepted. I mean, a motion will either stand on its own feet or it will not. If one looks at the arguments advanced with regard to the Leader of the Opposition's motion, one will see that from the procedural point of view it was never attacked. That point was never commented upon. Therefore, it makes little difference saying that it is too late to accept a change or a redrafted version.

If there is any difficulty about the words "shall not come into force—until a day to be fixed by a proclamation that shall be subject to affirmative resolution," I would invite Your Honour to look at legislation we have passed during the present session. In the Statutory Instruments Act there is a statutory direction to that effect. There is a provision resulting precisely from the government's own use of language saying that if at any time in future bills are passed by this House whereby power is given to the governor in council to pass regulations, if the bill stipulates that there are to be these regulations, they may be passed. It is provided that these shall be subject to affirmative or negative resolution.

[The Acting Speaker (Mr. Laniel).]

One must be careful not to draw an artificial distinction between the granting of power by this House and the ability of the governor in council to pass certain orders in council that shall be subject to either affirmative or negative resolution. We are, by the changes to our standing orders, providing for affirmative and negative resolution with regard to what procedures must be followed.

The amendment moved by my colleague from Halifax-East Hants (Mr. McCleave) is perfectly legitimate. Its parentage is sound. It draws its inspiration from the government's own statutes. Although we may not have had, shall we say, in the immediate past precedents of this kind, I would invite Your Honour to look at what the government has done in the case of the Statutory Instruments Act. I think there is an exact parallel here. The amendment asks the committee to recommend to the government that certain sections of the act shall be proclaimed, as indicated—the motion is absolutely clean and impeccable in that respect—and that the remainder shall be subject to proclamation on a date fixed in the proclamation after there has been an affirmative resolution of this House.

• (8:40 p.m.)

Mr. Hogarth: That is nonsense.

Mr. Lambert (Edmonton West): The hon. member for New Westminster (Mr. Hogarth)—

An hon. Member: The Queen city.

Mr. Lambert (Edmonton West): It is a very fine place. I am only surprised that the hon. member does not shine any more brilliantly on behalf of his constituents when he wants to talk about procedure.

If it is in contemplation of an affirmative resolution or a negative resolution under the Statutory Instruments Act, as a matter of fact there is a motion on the order paper to set up a committee on statutory instruments which will make provisions for the rules because this House will have to decide precisely the procedures. We are not talking about something new or constitutionally strange. It is fully within the power of this House, if it is to have the power under any other act as provided for under the Statutory Instruments Act. If Your Honour is to rule that this type of amendment is out of order by reason of the fact that the constitutional powers exist, the Statutory Instruments Act is wrong and any action by this House following the procedure laid out in that act would be beyond its power.

I also ask whether the Chair does rule on the constitutionality or legality of certain actions. I submit the amendment of the hon. member is quite in keeping with this stage of the debate.

The Acting Speaker (Mr. Laniel): Is the hon. member rising for the purpose of asking a question?

Mr. Gibson: On the point of order, Mr. Speaker.

The Acting Speaker (Mr. Laniel): The Chair will recognize the hon. member for Winnipeg North Centre (Mr. Knowles) and then the hon. member for Hamilton-Wentworth (Mr. Gibson).

Mr. Guay (St. Boniface): Merlin.