with *borrowed* capital used in the business to earn the income. These provisions read, in fact, as follows:

5. (1) " 'Income' as hereinbefore defined shall for the purpose of this Act be subject to the following exemptions and deductions:

(b) Such reasonable rate of interest on *borrowed* capital used in the business to earn the income as the minister in his discretion may allow . . ."

It is, therefore, the interest on *borrowed* capital, not on any capital, at such a rate as fixed by the minister, that the taxpayer is entitled to deduct from his income. There must necessarily be the relationship of borrower and lender to be able to benefit from the exemption provided.

The decision in the Reinhorn case followed that of the case of J. E. McCool Limited vs. the Minister of National Revenue, decided by the Exchequer Court in 1948, and cited in the reports for that year at page 548. The decisions completely change the whole situation in so far as the people in western Canada are concerned. For instance, when a farmer buys machinery on a large scale he usually buys on time. A farmer who purchases a combine for, say, $4,000, and has not got the money to pay for it and cannot borrow it, pays approximately one-third of the amount and gets an agreement for sale from the company for the balance, which he pays off at so much a year, with interest at 5, 6 or 7 per cent. He has followed the practice of including in his expenses for the year the interest paid on the machinery agreement. The same procedure would apply to a farmer who purchased a truck to carry on his farming operations. The practice has been to show as a deduction in his income return each year the interest content of the payments. Also, when a farmer purchases a section of land, 640 acres, and agrees to pay $30,000 for it, he cannot borrow the entire amount required to pay for that land. Probably he will pay half cash. The remaining $15,000 is secured by an agreement of sale whereunder he agrees to pay the vendor 5 per cent interest. The purchaser then proceeds to farm the land—he has paid his principal payment and his interest—and when the time comes to file his tax return he deducts the interest as being part of the cost of making his crop on that land. But if the law is as I have stated, and as decided in the Reinhorn case, he will no longer be able to deduct the interest.

A rather novel solution is suggested in the decision. On page 285 of the report I find the following:

It is true, as counsel for the appellant submitted, that if the latter had borrowed from a third party the amount necessary to pay the vendor in cash, he would have been able to benefit from the provisions of the Act allowing the deduction of interest paid on borrowed capital used in the business. Such, however, is not the case here, and the provisions of the section already quoted do not apply.

Mr. Reinhorn's appeal was dismissed. I do not suppose there will be an appeal to a higher court, because the decision is right in line with the section I have mentioned. The interest paid to the vendor will be shown in his return and he will pay income tax on the interest; but the poor purchaser is in a very different position—he pays the interest out of income and is taxed on the whole of the income without any deduction for the interest content. In effect we have, therefore, in the cases I have mentioned, a form of double taxation.

I would ask the leader of the government to have this matter brought to the attention of the Minister of National Revenue with a view to the introduction of an amendment to cover such cases, because, if I am right in my interpretation of the law as it stands, this is something which affects the whole economy of Western Canada and, probably, other parts of Canada as well. As I have said, we who carry on farming cannot borrow all the money we use in purchasing things; we have not anyone to borrow it from; and under the Act, to be able to deduct the amount of interest paid, we must have borrowed the money on a mortgage or something of that kind. It is a very serious matter for us, and one which I would not like to have stand over until we come back: in the meantime the government may be preparing some amendments of the Income Tax Act, and if they are, I hope this matter will be righted.

Hon. Mr. Campbell: To make sure I understand the point stated by the honourable senator, may I ask if, in the case he has cited, the court refused to allow the interest as a charge by reason of the form of the transaction rather than its substance? In other words, had the purchaser paid cash and then borrowed money on a mortgage, the deduction would have been proper.

Hon. Mr. Aseltine: That is correct.

Hon. Mr. Campbell: But since he followed the general practice of paying by instalments, he was not allowed an advantage to which otherwise he would have been entitled.

Hon. Mr. Aseltine: Yes.

Hon. Mr. Campbell: So the decision is really a discrimination against the taxpayer by reason of the form of the transaction rather than the substance?

Hon. Mr. Aseltine: That is so. In giving his judgment, Mr. Monet states that he is quite satisfied that the amount claimed was interest. He does not dispute that at all, but he says—

Hon. Mr. Leger: It is just a technical decision.