

Income Tax Act

election campaign that it would make some major reforms to the Canada Pension Plan. We are still awaiting those reforms.

Has the department given any consideration to the effect this clause will have or could have on family law provisions at the provincial level? I have raised this problem at some length with the Minister of Finance.

● (2130)

It concerns whether or not the payments made by a spouse to another spouse will be deemed sufficient, or will have any effect on the matrimonial property rights, in the view of the department, which have been established at the provincial level in virtually every province. As the minister will know, it is now the established law in just about every province that a spouse has, in a sense, a constructive equity interest in the case of many family businesses. This is simply because the woman has perhaps worked in the home while the husband has gone to work in a small business. There is now provision in most of our provincial laws allowing a spouse to argue on the premise: "I have an interest in that business because I have been working at home." That gives that spouse a constructive equity interest.

My concern is based on a question which has been raised with me by many women's groups across the country. It is a question which perhaps the department should at least think about. It is as follows: Will the fact that spouses are being paid allow the paying spouse to argue that there is no equity interest there because that interest, in a sense, has been bought off on a cash basis, on an annual income basis? Therefore she has been recognized for the work which she has contributed to the business. Does the minister see this having any effect on this matrimonial property law problem?

[*Translation*]

Mr. Bussières: Mr. Chairman, concerning the problem of marriage law raised by the hon. member, I must say the legislation would have no direct effects, as he explained. However, I would like to come back to his opening comments and assure him that the government does not believe this bill will solve every problem. The government does not believe it will solve all problems involving the participation of a spouse to a pension plan, particularly the Canada Pension Plan or the Quebec Pension Plan. We certainly understand and recognize that the scope of this amendment is quite limited, yet, it is a small step forward and small steps can go a very long way if we have patience and if we can wait for the opportunity which may come our way. In the present situation, this opportunity depends mostly on the financial capabilities of the government, inasmuch as those capacities could be involved in such legislation.

I think my colleague, the Minister of National Health and Welfare, did not mean that this legislation would solve all problems. I think she is sufficiently practical and liberal to realize that the bill we are discussing may be only a small step, but it is a step forward. I believe that if we keep moving on in small steps we will eventually achieve great progress, as this

government usually does, but those measured steps must be in keeping with the government's ability to pay and our rate of social development.

[*English*]

Mr. Rae: Mr. Chairman, the minister did not answer the second part of the question. I do not know whether he thought it was too speculative or whether he was not prepared to answer it at all. But in answer to the minister's comments on the importance of taking the small paces or what we used to call banana steps, I think it was Frank Scott who said of Mackenzie King that his basic rule was never do by halves what one can always do by quarters. That seems to be the philosophy the minister is presenting today.

[*Translation*]

Mr. Bussières: Mr. Chairman, I do not wish to indulge in some sort of philosophical discussion with the hon. member since my concerns before I entered politics were directly related to the phenomenology of perception. We might spend a night which would be most interesting for those who are interested in phenomenology, but rather boring for the others. At any rate, I would like to tell him that the legislation before us will have no conflicting or direct effects, I am told, with regard to provincial legislation or marriage law. I believe our basic concern was, through a tax measure, to bring about the answer to a problem faced by spouses who take part in the work of their partner in small and medium-sized businesses. We are adjusting to problems raised by provincial laws rather than interfering with provincial marriage legislation.

[*English*]

Mr. Rae: Mr. Chairman, let me say I hope the minister is right. But I ask him if he were a spouse who had been paying his wife a salary for a number of years and was then faced with the argument that his wife had some sort of a constructive equity interest in the business, surely that spouse could argue, "No, you do not because I have been paying you a salary." If that is the case, then I suggest we may have a problem. I am not arguing this to be mischievous, and it is not because I disbelieve in the proposal that has been made. When this question was raised with me, it made a certain amount of sense. If I were counsel to the person involved it is an argument which would not have occurred to me, however, having been mentioned to me, it is something which does make a certain amount of sense; that is the question. The provisions of much of our provincial legislation are based on the fact that now the spouse has a constructive equity interest, and cases coming from the Supreme Court of Canada are clearly pointing in this direction, even for common law spouses. Therefore once you start paying your spouse a salary, surely you can argue, "You do not have any other interest other than the salary that you are being paid".

I do not know whether or not it is a problem. I am simply raising this question with the minister. It strikes me as something which is worth thinking about, and for all we know, it