

HOUSE OF COMMONS

Thursday, March 3, 1983

The House met at 11 a.m.

● (1105)

GOVERNMENT ORDERS

[English]

INCOME TAX

AMENDMENTS TO STATUTE LAW

House in Committee of the Whole on Bill C-139, an Act to amend the statute law relating to Income Tax (No. 2)—Mr. Lalonde—Mr. Blaker in the chair.

Mr. Lewis: Mr. Chairman, I rise on a point of order concerning the procedural acceptability of certain Clauses of Bill C-139. It is our contention that the Government, in at least two instances, has attempted to exceed the authority granted to it in the Ways and Means motion. With your indulgence, Mr. Chairman, I would like to spend a few moments explaining my case, and then if you feel that the argument is valid, I suggest we postpone consideration of the affected Clauses until such time as the deficiencies can be corrected.

Mr. Chairman, I would like to draw your attention to Citation 518 of Beauchesne's Fifth Edition, which forms the basis of the procedural argument. Citation 518 states:

(1) A bill, related to a Ways and Means resolution, must be based on, but need not be identical with, the resolution. The taxing power of the Crown is limited by such resolutions, but relatively minor widening of exemptions from taxation may be allowed.

(2) The most desirable practice is for the Bill to adhere strictly to the provisions of the resolution, and departures if any, ought to be subject to the strictest interpretation.

We contend that in Clause 1 and Clause 109 the Government has attempted to extend its taxing power beyond that which is authorized in paragraphs 1 and 151 of the income tax motion. In a 1974 ruling, to which reference is given in Citation 518(1) of Beauchesne, Mr. Speaker Jerome outlined the five basic principles which apply to the question of how closely an income tax Bill should conform to the Ways and Means motion on which it is based.

With your permission, Mr. Chairman, I will review those five principles which may be found at page 224 of the *Journals* for December 18, 1974. Mr. Speaker Jerome's ruling reads in part as follows:

First, that the Ways and Means motions which follow the budget presentation are by virtue of time honoured practice and tradition, the very expression of the financial initiative of the Crown and therefore a most important aspect of our procedure.

Second, S.O. 60(11) establishes the relationship between the Ways and Means motion and the bills which follow. "The adoption of any Ways and Means motion shall be an order to bring in a bill or bills based on the provisions of any such motion."

Third, the critical words are "based on". It must be assumed that if it was intended that the bills be required to be identical to the motion, the rule would say so.

Fourth, I am further unable to find any support, either in the Minutes of the Procedure Committee of 1968 which recommended the rule changes, the debates on those new rules, or even in analogous precedents, for the proposition that the bills must be identical to the Ways and Means motions.

It is equally clear that the taxing power of the Crown is limited by the Ways and Means motion, and any bill which sought to extend such power beyond the provisions of the Ways and Means motion would be out of order.

There can be no doubt, Mr. Chairman, as to the meaning of this ruling. The provisions of the income tax Bill must fall within the four corners of the Ways and Means motion. Mr. Speaker Jerome reiterated this position on subsequent occasions, including July 14, 1975 at page 707 of the *Journals* and May 19, 1978, at pages 784 and 786 of the *Journals*.

● (1110)

In rising on this point of order, I noted that there are at least two Clauses in the Bill which are before us today which do not appear to fulfil the requirements laid down by Mr. Speaker Jerome and by Beauchesne. The first instance in which the Bill exceeds the taxation authority granted to the Government may be found—and this is unfortunate—in Clause 1 of the Bill, in the provisions relating to the automobile standby charge. Paragraph (1) of the income tax motion reads as follows:

(1) That for the 1982 and subsequent taxation years, the provisions of the Act relating to the monthly standby charge for an automobile made available by an employer, a person related to the employer, or a corporation

(a) be applicable in any case where an employee or a shareholder or a person related to the employee or shareholder made personal use of the automobile, and

(b) be modified to increase the minimum monthly standby charge to 2 per cent of the automobile's capital cost or 2/3 of its leasing costs, as the case may be,

except that, where it is established in prescribed form that the number of kilometres that the automobile was driven in the year for personal purposes is less than 1,000 kilometres per month, the amount that would otherwise be determined under subparagraph (b) be proportionately reduced.

That is paragraph (1) of the Ways and Means motion and I submit that accounting firms and others looked at the standby charge only. For example, in Thorne Riddell's review of the 1981 budget, under "Use of Company Automobiles" it states, and I quote:

The present law requires a taxpayer to include at least a "minimum standby charge" in income which is 12 per cent of the cost of the car if owned by the employer or one-third of its lease cost.