

Income Tax Act

will have to have answers. I would be quite prepared, with regard to the first point, to get to work to devise some form of motion which would regularize, shall we say, the purpose of Bill C-259 in the form in which it is before us as against the form it is in Schedule "A". I am speaking only of the first 11 clauses of Bill C-259; that is, the first 602 pages because clauses 12 to 76, which represent another 100 or so pages, are the transitional rule under Schedule "B". I put the point before Your Honour, and although there is no complaint about that portion, I would hope the government could give us an answer on this particular point. Perhaps Your Honour would like to mull over the points I have made with regard to the remainder, because I put it to you that the government has outsmarted or outfoxed itself in the way it handled the budget and the tax proposals.

Hon. John N. Turner (Minister of Justice): Mr. Speaker, I am rising on behalf of the House leader, the President of the Privy Council (Mr. MacEachen) in order to address the government's argument to the points just raised by the hon. member for Edmonton West (Mr. Lambert) on behalf of the official opposition. First of all, I submit to Your Honour that there can be no question that the pith and substance of a tax bill must not differ from the terms defined by the original notice of ways and means. That of course we concede, and it is found in citation 276, paragraph 5, *Beauchesne's Fourth Edition* at page 225. With the indulgence of Your Honour I should like to read this to you:

Debate and amendment on the stages of the Finance Bill or other Bills imposing taxes are governed by the ordinary rules of relevancy and, if any of the provisions of the Bill should be found to go beyond the resolutions of the Committee of Ways and Means or other committee of the whole House, as agreed to by the House on report upon which the Bill is founded, a further resolution must be passed by the Committee of Ways and Means or other committee of the whole House, and agreed to by the House before those provisions are considered in Committee on the Bill, or the Bill must be amended so as to conform to the resolutions to which the House has agreed.

Of course, the Committee of Ways and Means to which the citation of *Beauchesne* refers has been abolished and the original resolutions have been replaced by concurrence in notices of ways and means as found in Standing Order 60 to which the hon. member referred. In other instances, Your Honour, we have had occasion to address ourselves to the current effect of a notice of ways and means or in other instances of a recommendation from the Governor General in limiting the ultimate scope of a bill introduced either pursuant to the recommendation or to a notice of ways and means. The purpose as I understand it, and as I submit to Your Honour, of the old Committee of Ways and Means and the resolutions passed by that committee, was to provide guidelines to the draftsmen of a tax bill as to the substance of the bill. I suppose historically the purpose of both the recommendation of the Governor General or of the Crown and the resolutions in committee of ways and means was to force the Crown to come first to Parliament for the authority to incur expenditure or to set the terms under which expenditure might be incurred on the one hand, or the tax imposed on the other hand against the people of the country.

Now that responsible government operates through an executive responsible to Parliament and that executive

[Mr. Lambert (Edmonton West).]

depends for its continuing mandate upon the authority and support of Parliament, it would appear today that gradually we are seeing an elimination of the relevancy of the recommendation on the one hand, or even the concept of the limiting function of ways and means on the other. In any event there is no question that the taxation provisions of a tax bill must be explicitly founded upon a ways and means motion. However, I take issue with the learned member for Edmonton West because there is no ground whatsoever upon which one can claim that the precise verbal formulations or the precise words adopted by the draftsmen of the bill cannot differ from those used in the ways and means motion. My submission to Your Honour is that we are dealing with the pith and substance of those resolutions as compared to the pith, substance and purpose of the bill. Certainly, the substance must be the same, but there is no other limitation on the form.

Bill C-259 was based upon a notice of ways and means tabled by the Minister of Finance (Mr. Benson) on June 18 this year. The active part of that notice of ways and means read to the effect that it is expedient to introduce a measure to amend the Income Tax Act and other acts in accordance with Schedules "A", "B" and "C" which were annexed to the notice. The schedules contained a comparatively detailed description of the substance of the bill that was to be introduced upon the concurrence by the House in the notice of ways and means. Between June 18 and June 30, the day ordered for consideration of the notice of ways and means, the drafting of the actual bill was of course completed. The drafters were guided by the terms of the notice of ways and means and produced a bill based on those terms, the provisions of which in my submission to Your Honour are in accordance with the schedules to the notice of ways and means.

In the process of drafting, needless to say, the draftsmen found it necessary to make alterations in the verbal formulations used in the schedules. My learned friend referred to a glossary of changes which accompanied the bill when it was distributed to members of the House. I submit that these changes are primarily technical, but even if some of them were to amount to changes of a more substantial nature I would submit that does not disturb the ways and means but merely the incidence of the tax within the general umbrella of ways and means.

• (3:40 p.m.)

No doubt when the committee of the whole examines Bill C-259, it too will see fit in certain instances to make alterations or amendments in the verbal formulation of the bill, but these alterations will be subject to precisely the same limitations imposed upon and followed by the drafters of the bill when they completed the drafting, namely, that the bill must always remain in accordance with the ways and means motion.

The crux of the argument is: what do the words "in accordance with" mean? I submit that those words do not mean "precisely the same as". No student of language and surely no dictionary can support that claim. Indeed, the Oxford English dictionary gives the definition of the phrase "in accordance with" as "in agreement or in harmony with". As an illustration of this point, Schedule C to the notice of ways and means might well be considered. Unlike Schedule A, which was in a semi-bill form,