

*Income Tax Act*

pursuant to Standing Order 60(1), four Notices of Motions in respect of ways and means budget resolutions. I am only concerned with those dealing with the Income Tax Act. If I may read them, they are as follows:

An act to amend the Income Tax Act and other acts that it is expedient to introduce a measure to: (a) amend the Income Tax Act and to make certain provisions and alterations to the statute law related to or consequential upon the amendments to that act in accordance with Schedule "A" (printed separately), (b) amend the Income Tax Act to provide certain transitional rules related to or consequential upon the amendments described in paragraph (a) in accordance with Schedule "B" attached hereto, and (c) amend the Income Tax Act to provide certain tax changes to become effective in 1971 in accordance with Schedule "C" attached hereto.

I am only concerned with paragraph (a). There is no complaint about paragraph (b), and paragraph (c) has no relationship at all to the argument this afternoon.

It will be observed that under paragraph (a), the amendments to the Income Tax and the changes in the related and consequential statute law are restricted by the limitation "in accordance with Schedule A". It follows that the legislative measure incorporated in these amendments and changes, other than those under paragraphs (b) and (c), must literally follow the contents of Schedule "A". If we look at Schedule "A" this is confirmed, because the proposed amendments and alterations are not put forward in a general way but in an ultimate, literal and legally finished form. There is the document and it is in bill form, complete as to citation of the regnal year and parliamentary session, with marginal and explanatory notes. It could not be a better example of a bill.

During the debate that followed June 18, the House was given an opportunity to debate and then vote upon the amendments and other changes proposed in the Income Tax Act as set out in Schedule "A". On June 30, following upon the budget debate and pursuant to Standing Order 60(10), the order was read for consideration of the ways and means motion referred to earlier. The Minister of Finance moved for concurrence and the question being put, the motion was agreed to by the House on division.

In accordance with the rules, there was neither debate nor amendment of the motion due to the prohibition of debate or amendment under Standing Order 60(10). The House can only adopt or repudiate the motion. The House adopted the motion.

Here I come to a point I have raised with Your Honour before. I have in mind whether Your Honour is able to accept motions in the same form twice in the same session. As we know, under the ancient and consistently enforced parliamentary rule, any reference to a matter already before the House in the same session is forbidden. That decision by the House stands for the remainder of the present session.

Standing Order 60(11) then provides that:

That the adoption of any ways and means motion shall be an order to bring in the bill or bills based on the provisions of any such motion.

A motion was brought in and the bill must be based upon the provisions of the ways and means motion in accordance with Schedule "A". Quite frankly, we must look at Bill C-259 because it is not in accordance with Schedule "A". If Your Honour will look at this monumental bill you will see there is attached to it a fly-leaf containing three pages of noted changes. I have gone through a

number of these changes and find that some of them are of a very minor editorial nature, but others are changes in substance.

Regardless of what good intentions there may have been, what has happened here is that we have had an order from this House directing the minister to bring in a bill according to a certain schedule which ultimately became available, but when the bill was printed, or between the presentation and tabling of Schedule "A" and the printing of the bill, the drafters were still at work. Finally, the bill was brought in in an amended form. I do not know whether it is the same bill.

Either the government has the right to bring in amendments through a ways and means motion which has been adopted or it does not. I put it to you, Your Honour, that if the government has this method open to it then so have private members. We do not know whether the government, during the course of committee meetings, or between now and the time the committee has completed its study, will bring in further amendments, but it is my understanding that amendments of substance are going to be introduced.

I suggest there are two questions to be answered. We should require some form of motion to correct the difficulties which have arisen since June 30 in order to regularize Bill C-259, and I think the House would be quite prepared to agree with that. It seems to me that has to be done. If that cannot be done, then I put it to you that the bill would have to be withdrawn. I am not asking for that, but those are the alternatives open to the House in this regard.

• (3:30 p.m.)

The other point—and this one is even more interesting—is that the government adopted the procedure it did in tacking on all those provisions dealing with the form of tax reform or tax changes in the Estate Tax Act or Income Tax Act and, having tacked on all those budgetary provisions and having had those budgetary provisions agreed upon in general by this House and bearing in mind we cannot come back to a decision taken by this House in this session, is it open to anyone, either the government or any private member be he in the opposition or on the government side, to make any amendment which might disturb the ways and means? Further, it might not disturb the totality of ways and means. We must bear in mind Your Honour's decision—and this is where I think Your Honour may have to rethink the position—taken on a previous occasion with regard to the airline ticket tax proposal at which time Your Honour disallowed an amendment I had put forward which would not have disturbed the ways and means but would merely disturb the incidence of the tax. Your Honour based his decision on some citation in May's. With the greatest respect I suggest that May's was in error. This eminent work is misleading in that it is a misreading of the decisions of two different deputy chairmen in the British House at the time of World War I.

Therefore we come to this final point. Even if it is impossible to change the ways and means because the ways and means has been adopted in this House, is it possible to bring forward any amendments to this bill in committee? I pose those three questions. I am afraid we