

Income Tax Act

of administrative convenience, closed off an important method of business development?

Mr. Gordon: I do not think the hon. gentleman need worry about that. It is still perfectly open to businessmen to rent or lease a property and to write off the amount of the rental paid.

Mr. Lambert: That may be so, but I am speaking of an option for a businessman to buy a property—that is, a lease option. I do not care how you want to describe it, but a rental agreement with a right to purchase is a lease option.

Mr. Gordon: The only thing which stopped that practice before was section 18, which we are now recommending should be repealed. There is nothing to stop people doing what the hon. member has suggested.

Clause agreed to.

Clause 5 agreed to.

On clause 6.

Mr. Lambert: On clause 6, I think there were some questions asked by the hon. member for St. Lawrence-St. George who had something very pertinent to say in this regard during the resolution stage. I would refer the minister to pages 2494 and 2495 of *Hansard* where he will find some questions which, so far, he has left unanswered. With all due respect to the minister, I think his hon. friend did raise some very relevant matters to which the committee should have an answer before it can agree to go further.

I can see what the minister is trying to do. He is dealing with a straight marrying of a loss position company with one which is in a favourable position, or one with some excess profits, in an attempt to average out. I hold no brief for tax evasion. On the other hand, I hold no brief for the man who unwittingly makes himself subject to income tax. A man who is astute enough—and I do not use this adjective in a derogatory sense—to develop his business without exposing himself to taxation, is surely not to be blamed for so acting, especially when one considers that the income tax legislation contains a multitude of provisions which are contrary to the principles which govern ordinary conduct. Why should such a perfectly laudable objective be caught up in a wide sweep such as the minister is trying to make at the present time? I am sure that to business consultants, chartered accountants and lawyers primarily concerned with business the matters raised by the hon. member for St. Lawrence-St. George are very important considerations. We must be careful not to sweep out economic development purely on the grounds of administrative convenience.

Mr. Gordon: With the greatest respect, I do not think my hon. friend from St. Lawrence-St. George asked any questions about this clause. Perhaps we could ask him. There he is.

Mr. Turner: As one who has been drawn unwittingly into this debate, let me say that at the resolution stage the two matters in which I was interested were, first of all, the question of surplus strips. I may have had something to say about the retroactive nature of the provisions affecting surplus strips. Second, I may also have touched on the problem of ministerial discretion. If the hon. member is speaking of my comments on those subjects, I suppose he is referring to my speech with accuracy.

Mr. Lambert: I think the hon. member's remarks were related to the loss position.

Mr. Gordon: Very well, let me say a word about the loss position. The purpose of this clause is to prevent a company with a loss-carry-forward entitlement from changing hands, thus permitting a new owner to introduce into that business an entirely different business after the date of the budget, and having this entitlement applied against the profits of the new business enterprise. That is all. It is not intended to have any retroactive effects. It is not intended to apply if there is no change in ownership, and I believe there is no ground for the fear which has been expressed by the hon. member with regard to this clause.

Mr. Lambert: Except to the extent that if there is an entitlement of carry forward a loss position and there is subsequently a situation created whereby the loss position is wiped out, surely there is an element of retroactivity.

Mr. Gordon: The hon. member is correct. This will wipe out the loss credit position if there has been a change in ownership. The reason, of course, is obvious. People with profitable businesses who were paying taxes on their profits were making a practice of acquiring companies, often shells which had nothing in them but which were in possession of a loss-carry-forward entitlement, for the purpose of applying this entitlement against their profits and thus avoiding the payment of tax. That is what this clause is intended to prevent. I am prepared to admit that in theory, certainly, if you look upon the corporation which has the entitlement as being a separate entity, it does lose its rights, where its ownership has been transferred to somebody else. However, that is the very thing we are trying to stop.