

*Income Tax Act*

Having said that, I wish to address myself briefly to a couple of subsections of section 28 dealing with aspects of administration, and then to some of the other subsections related thereto. First, may I ask the Parliamentary Secretary to the Minister of Finance whether, for the purposes of section 28(1), the government intends to include fishermen? That is, when we speak of the possibility of people in the farming business being able to make use of the cash method of accounting, are we to include fishermen as well?

Section 28(1) reads in part:

For the purpose of computing the income of a taxpayer for a taxation year from a farming business, the income from the business for that year may, if the taxpayer so elects, be computed in accordance with a method (hereinafter in this section referred to as the 'cash' method)—

I am wondering if the government intends to give fishermen the benefit of this type of privilege that is given to farmers. If so, I suggest with deference that this should be specifically spelled out in section 28(1). I also wonder, when we consider subsections (4) and (5) of section 28, whether there may be difficulty in determining especially in the case of subsection (5), what type of income is being referred to. Probably the difficulty may be resolved if one looks at some of the definitions of income in sections 5, 9 and 56 of the act. Possibly there may be an onus there on the taxpayer as there is with respect to subsection (4), when we talk about the value of certain items that might be included in inventory.

It seems to me, when we consider these particular questions, of onus that we must, of necessity, consider the important step that the government has taken with regard to section 163(3), namely, introducing for practically the first time in this legislation, so far as I am aware, the concept that the burden of proof, at least for the purpose of assessing penalties, is on the department. If I am able to stay within the rules of relevancy, it seems that this is something that has not been dealt with to any extent so far in this discussion. I feel this is a very important point. The Income Tax Act, as well as the proposed legislation, are very complex. They will affect most Canadians very directly.

• (4:20 p.m.)

In connection with the philosophy of permitting the taxpayer to put down the burden of proof to a limited extent, I think the government is to be commended. However, I suspect it would be far better if this philosophy were carried on throughout the act. For example, as opposed to the Criminal Code, it is not in the spirit of the philosophy of section 163(3) that a provision be permitted that gives an information laid under the Income Tax Act a pre-eminence over the same or related type of information under the Criminal Code.

Section 244 refers to an information or complaint. It reads:

An information or complaint under this Act may be laid or made by any officer of the Department of National Revenue, by a member of the Royal Canadian Mounted Police or by any person thereunto authorized by the Minister and, where an information or complaint purports to have been laid or made under this Act, it shall be deemed to have been laid or made by a person thereunto authorized by the Minister—

This is the part to which I object:

—and shall not be called in question for lack of authority of the informant or complainant except by the Minister or by some person acting for him or Her Majesty.

This is not in the spirit of the very commendable attitude shown by the government in section 163(3). I question whether it is a good provision to have because it permits the government, through its agents in the department, to take away a defence that would be available under the Criminal Code. I do not think the Income Tax Act should be pre-eminent over the Criminal Code.

Section 243 is also interesting. It states that if a person has the unfortunate experience of running afoul of the Criminal Code and the Income Tax Act, and the criminal courts assume jurisdiction as the result, and I quote:

—the court has in any prosecution or proceeding under this Act, no power to impose less than the minimum fine or imprisonment fixed by this Act and the court has no power to suspend sentence.

This is repugnant as well, and should be looked at. I do not say this in criticism only, but in good faith hoping the parliamentary secretary will take it under advisement. In considering this bill as a whole, it is a fair comment to say that this is not so much tax reform as a tax revision. Although there is a need for a substantive and complete revision, we should not neglect the area of administration, and the attitude and procedures adopted by the departmental officials. There are some quite rough procedures involved in the provisions of this act, section 231 and following. While they may be necessary in some cases, they should be carried out with the greatest possible respect for the rights of Canadians. With this in mind, I raised this particular point.

There is another matter of more than ordinary interest. I do not think it has been dealt with, although I may have been absent for part of the time. In addition to the points raised by my colleague, the hon. member for Simcoe North, there is another factor that affects the well-being of the farmer, any land owner or taxpayer. He seems to get "whipsawed", not only because of the fact that estate taxes are being contemplated or retained by the provinces and capital gains are being imposed by the federal government, but we are told by knowledgeable tax accountants when having property appraised and making elections under this so-called tax free zone how taxpayers will value their property. Waiting patiently in the wings is the municipal assessor. He takes a considerable bite from the savings or revenues of most Canadians. The average Canadian does not care to whom he pays the tax. He only knows that when he pays, it hurts.

I can readily see the case of a tax appeal in a municipality. A man may obtain the services of a professional appraiser and have his property valued for his own particular purposes as high as is fair and reasonable for the concept of capital gains. When appealing his taxes at the municipal level, he will be asked whether he has had his property appraised recently. Being under oath, he will naturally have to say yes. The municipal assessor will probably thus get information that will completely destroy this man's chances of having his property appraised for taxation purposes on the same basis as those in that particular district.

We have imposed upon the Canadian taxpayer a rather cruel dilemma right from the bottom to the top as far as