

International Conventions

their income, and then if they lived in a country like Canada where world income is taxed, they would be faced with another burden of income tax on those earnings. So the original conventions were designed simply with that in mind.

I do not even know how long ago it was, but it was many decades ago that we had our first convention. There are now, significantly, 24 conventions in force with various countries, and another 13 that have been signed but are not yet in force. A number of those are covered by Bill S-2. There are a further 31 which will be renegotiated. Each of these agreements or conventions has had to be renegotiated, revamped, or at least restudied in connection with the revision to the income tax law which took place here in Canada in 1971.

One of the requirements for other countries which will have a treaty with Canada is that they must have a similar taxation system. I will say a word about that later on when we look at the various countries with which we have treaties. We are having some problems with countries which may not have system taxation similar to ours, and it may be undesirable for Canada to have treaties with countries that are considered tax havens, yet I think I may show that Canada may be considered a tax haven in some areas.

The purpose of the present bill is, as I said, because of the 1971 tax review, to expand the policy and to have more tax treaties than we had in the past. This bill, of course, is quite similar to the one which was introduced by the previous government as Bill S-4, but which never passed the House. In addition to the nine countries in the other bill, we now have Barbados and the United Kingdom included. The treaties will limit the tax rate on income transfers between the countries, that is, the withholding tax, so that individuals and corporations will not have the burden of double taxation upon them. Significantly, I think, the treaties will also deal with methods of amending those treaties in the future so that, when there are changes within a country, the kind of exercise that we are going through here today will not necessarily be required.

It was expected, when we had our tax reform in 1971, that we could have all the new tax treaties in place by 1976. Well, we know now, four years later, that we still have 11 tax treaties to ratify in this bill and another 31 under negotiation. It has certainly taken a lot longer than was expected. We have already renegotiated treaties with France, Switzerland and Belgium. We are also considering Morocco. Liberia and Roumania are being dealt with. The United States, one of major trading partners, is missing from the list today, although we are now considering Great Britain, New Zealand and Austria.

In some of these agreements which are being negotiated, the one with Germany, for instance, Canada is actually on the receiving side from the point of view of being seen as a tax haven. Although in 1976 we did reach an agreement with West Germany, the West Germans had their tax reform in 1977 and our treaty was not ratified. There are a few problems still at the bargaining table.

The problem is that the Canadian tax system is seen by the Germans as offering unfair advantages to some German taxpayers. As an example, there is mortgage interest earned in

Canada by Germans. While it is subject to a 15 per cent withholding tax here in Canada, it is subject to no further tax in West Germany. Similar concessions are available on rental income from real estate. There is a tremendous amount of money being invested from West Germany in Canada in the way of exploration for minerals in Canada, because there is a particular advantage to German investors when they invest in mineral exploration in Canada. In fact, I suspect it is another one of the cases where foreigners are actually given a better tax treatment in Canada than are Canadians.

The old treaty with Germany allows Canada to tax capital gains on immovable property such as land but not on other property, so that a West German resident can hold real estate through a corporation and escape Canadian tax on gains realized from the sale of shares of the corporation. Compare that with a Canadian resident holding a substantial interest in a similar corporation in West Germany where he may be taxed by that country. I think it is important that this treaty with Germany which had its origins in 1956, be ratified, but I think there might be some trade-offs.

I am sometimes concerned with the policies of other countries on apparently unrelated issues when we are renegotiating a tax treaty. In the case of West Germany, I refer particularly to the extradition provisions which they have for German-born naturalized Canadian citizens. I had a personal involvement in a case where the German authorities had convinced the authorities in the United States to arrest a Canadian citizen in the U.S. on some outstanding complaint that the West Germans had against this Canadian. You might say, okay, he should have been brought to justice. The fact was that Canada was powerless because this man was being held in the U.S. at the request of West Germany.

It was the United States authorities, without any help from Canadian authorities, who decided that the claim that Germany had on this Canadian national was not valid. They released the Canadian citizen who then returned to his country. When he returned to Canada, he found that he might be in jeopardy again because the treaty which Canada had with West Germany could make him subject to arrest, seizure, and extradition to West Germany. All right, we have extradition treaties with other countries, so why not with that one? The fact is that as part of that treaty and part of the German national law, no German national can be extradited by any other country if he is in Germany. Canadians do not offer the same protection to Canadian citizens at this time.

I am happy to say that this particular individual has not been arrested and extradited and, at the moment, he is safe, but he thinks he should have the protection of his own country. Perhaps when his adopted country, of which he is a citizen, is negotiating with his old country, a balance should be achieved to ensure that nationals of each country are treated equally.

● (1420)

Earlier I mentioned the similarities in the tax systems of the various countries with which we are dealing. One of the