

Income Tax Act

in mind because we shall soon be debating in this House another subject where fear will be quite an important consideration.

As stressed before, it might be necessary to carry out a new reform of our fiscal system rather than try to alter it by bits and pieces if it does not really meet present requirements. As for the amendment, which I might consider minor, I cannot support it for the good reason that I am one of those who are convinced we should maintain in our legislation the fear of imprisonment which has a very serious deterrent effect.

This, Mr. Speaker, allows discussion about a debate like this one—

Mr. Lambert (Edmonton West): A public servant makes the decision.

Mr. Comtois: —Yes, the civil servant.

Mr. Speaker, in reply to the observation of the hon. member for Edmonton West, I would say that the judge decides in the case we are concerned with here. The civil servant decides on the procedure to be followed, but the judge passes judgment and imposes the penalty within the limits of the law.

It is interesting to note, Mr. Speaker, that the discussion of clauses like this one gives several hon. members, including myself the opportunity to learn quite a lot about the law on income tax, perhaps because we have never before run into those problems. We realize that swindlers can be prosecuted in two very different ways, by imposing very different penalties. For instance, they may be prosecuted upon indictment in which case they are liable to imprisonment for a term not exceeding five years and not less than two months. However, there are cases where imprisonment cannot be avoided and that is the restriction the hon. member would have us do away with. For the reasons stated earlier as well as for . . .

Mr. Lambert (Edmonton West): Mr. Speaker, I rise on a point of order . . .

The Acting Speaker (Mr. Laniel): Order.

Mr. Lambert (Edmonton West): Mr. Speaker, I doubt very much that the parliamentary secretary means to mislead the House, but I must suggest to him that under the act there is, further to any other penalty, a monetary penalty as well as a compulsory jail sentence, while according to another view there is this monetary penalty and—to the judge's discretion not that of a bureaucrat—imprisonment.

Mr. Comtois: I thank the hon. member for Edmonton West for his corrections. I had probably misunderstood his remarks. I also expected the hon. member to present his plea in both official languages since he is perfectly bilingual, but the interpretation is rather difficult to follow and I apologize for having misinterpreted his remarks.

Mr. Speaker, I conclude by simply repeating that I disapprove of this legislation because the fear of imprisonment is enough reason I think to prevent a great many

[Mr. Comtois.]

people from misusing the law by evading it and the monetary penalty alone is insufficient in my opinion.

I hope therefore that hon. members will realize that in our judicial system we must maintain certain penalties which may constitute significant prevention factors.

[English]

Mr. John M. Reid (Parliamentary Secretary to President of the Privy Council): Mr. Speaker, the bill before us, Bill C-8, is substantially the same as the series of amendments which the hon. member for Edmonton West (Mr. Lambert) moved in the last parliament during the tax reform debate. Basically, it provides for a change in the way in which the Minister of Justice or the Attorney General representing the Minister of Justice may proceed in dealing with certain cases arising out of the Income Tax Act.

I have had an opportunity to look at *Hansard* of December 6, 1971, pages 10192 and 10193. The argument which the hon. member for Edmonton West at that time put to the then parliamentary secretary to the minister of finance who was piloting the bill through the House was basically summed up in what he said as recorded at page 10192. He said:

I do not think there is one hon. member across the way who would want to be in the position of the minister who has to decide whether a taxpayer should go to jail. The Minister of Justice, as Attorney General for Canada, has the right to do that under section 239(2) because non-compliance with the act within the terms of the section is a matter of fact. Wilfully refusing to file a return demands a great number of actions under section 239. These are matters of fact. There is no question that there may be other than a finding of guilty or a plea of guilty, yet by the minister proceeding through the indictment route there is a mandatory jail sentence.

I think that that is the essence of the argument which the hon. member put forward today. The whip for the NDP, the hon. member for Assiniboia (Mr. Knight), raised the issue in terms of a different proceeding for somebody who has committed a crime similar to that but of a different nature from one committed under the Income Tax Act. He raised the very real problem that in the case of crimes of a similar nature the courts should be in a position to consider crimes of different magnitude because they had been committed under different acts of parliament, in this case the Criminal Code and the Income Tax Act.

I think the answer to that proposition was put forward by the then parliamentary secretary in the debate as reported at page 10192 of *Hansard* for December 6, 1971.

Mr. Lambert (Edmonton West): That is why he is no longer here.

Mr. Reid: That may well be. He said the following in response to the hon. member for Edmonton West and to the hon. member for Winnipeg North Centre (Mr. Knowles):

• (1750)

I think the hon. member for Edmonton West is both over-dramatizing and over-simplifying the situation. It is not the Minister of Justice who decides whether someone will go to jail; that is a determination made by the courts.

What does happen is that the Minister of Justice may determine in this particular case, as I understand he can in some others, that