

Hon. Mr. Connolly (Ottawa West): Well, as I said when I explained the bill on second reading, this is a basket item; and I think that turkey would go into the basket. I would like to deal with this point in more detail later on.

Hon. Mr. Power: It might be advisable for the employer to fire the janitor the night before giving him the turkey.

Hon. Mr. Crerar: And rehire him the next day.

Hon. Mr. Connolly (Ottawa West): Yes. Perhaps the employee should have the honourable gentleman from Gulf as his lawyer.

Paragraph (b) of section 5 of the act provides that:

All amounts received by him in the year as an allowance for personal or living expenses or as an allowance for any other purpose except . . .

Then there are certain exceptions. I mention that because the honourable gentleman from Queens-Lunenburg (Hon. Mr. Kinley) referred to the fact that certain of his employees were paid expenses when they travelled outside their own municipality on company business. There is a section in the act to cover that situation, and this item here would not affect that position at all. There may be other specific examples which have been discussed here which perhaps I am overlooking, but I have mentioned these two to clarify just what the proposed amendment purports to do and not for the purpose of disagreeing with the honourable gentleman from Gulf.

I regret I must disagree with my honourable colleague from Inkerman (Hon. Mr. Hugessen), but lawyers are constantly disagreeing. If they didn't they probably would not be able to earn a living. However, I disagree with great deference, for I do value the opinions that he expresses, as I know all honourable senators do.

It seems to me that the legislation as it is now written is subject to this weakness, that a court might easily apply what is called the *ejusdem generis* rule. That simply means that the courts might very well interpret the language "board, lodging and other benefits" to mean "board, lodging and other benefits of the character of board and lodging". May I point out that it was not a court of law that had expressed an opinion on the interpretation of those words. It was the Income Tax Appeal Board which, strictly speaking, is not a court of law. May I point out that the *ejusdem generis* rule to which I referred is a rule well recognized in our courts. And I think that there is some reason to expect that if the rule is applied, benefits of a major

character might very well be given tax free to employees. Such employees, if taxed, might go to the courts. The courts might well say that a benefit like a Cadillac is not of the class of "board and lodging" or a benefit of that character and so is not taxable. To use some of the examples given by the Minister of Finance in the other house, I could mention refrigerators and life insurance premiums on the lives of executives where the beneficiary is not the company but persons of the nomination of the executive on whose life the insurance is taken, and perhaps even club memberships, and items of that character.

Honourable senators, as to the argument made by the honourable gentleman from Gulf (Hon. Mr. Power) in connection with a small benefit like a turkey, or the honourable gentleman from Lunenburg (Hon. Mr. Kinley) in connection with a \$25 gift at Christmas, I think there is some cause for concern when we look at this amendment. But when we look at the larger possible benefits which might be given by employers to employees, examples of which I have given, and which the courts might hold to be exempt under the present law, I think none of us wants to be in the position where such large benefits should escape taxation. In my opinion, the clear meaning of section 5 is that we do not want that to happen.

Honourable senators, I now depart from a discussion of the legal principle, and enter a realm which I know the honourable gentleman from Gulf will castigate me for entering. On July 31 of this year, in the other place, the Minister of Finance discussed this matter. I realize that I am slightly out of order in referring specifically to a debate in the other place, but I think it is important and useful for us to consider what he said. The minister was considering the position of the small man and of the small gift under this legislation, and he said, as appears from the Commons *Hansard* at page 6763:

. . . we do not intend to extend the present practice of assessing every kind of benefit . . . and . . . if at a later time it is brought to my attention that there has been an increase in the class of gifts or benefits provided for I will agree that that was not intended and we would then have an amendment to provide for it specifically.

By that language, as I understand it, he is giving an undertaking as minister—as representing the Executive of the day—that the administration of this section of the Income Tax Act is not going to change in so far as the present practice is concerned. May I say that so far as I know the present practice of trying to tax large benefits of the character I have described is a practice that is recognized under the law today. I think every honourable senator would want it to be