

Income Tax Act

section—but also actually to engage in charitable work itself. The provision that ninety per cent of its income must be spent on charity each year still applies.

Mr. Macdonnell (Greenwood): Will the parliamentary assistant permit a question?

Mr. Sinclair: Yes.

Mr. Macdonnell (Greenwood): The illustration which he gives is clear, and I see no difficulty arising under it, because it is obviously an organization having wholly to do with charitable purposes. Is it considered that the definition of charity will be so clear that where you have an organization which itself is, let us say, not exclusively charitable, the gifts which it may make, and which will qualify it under the ninety per cent, will be to organizations so well defined that no question can arise as to their charitable nature?

Mr. Sinclair: I can assure the hon. member that it is the intention to spell out so clearly what is to be regarded as charity so far as the direct application of the funds is concerned that there will be no difficulty or possibility of evasion.

Mr. Macdonnell (Greenwood): When it is spelled out, where will it be spelled out?

Mr. Sinclair: By action of the Department of National Revenue, so far as the acceptance of the expenditure as being a charitable expenditure is concerned.

Then we come to the section with regard to trusts. Our original section covered charitable foundations which are corporations. There are, however, some trusts that are charitable foundations, broadly speaking, but they are not incorporated. It was drawn to the attention of the minister that these charitable trusts should also be covered. For that reason we have this amendment expanding this legislation on charitable foundations to include a charitable trust, with exactly the same provision, however, that at least ninety per cent of the income of the trust in any year must be spent on charity.

Then the other Senate amendment is with regard to the section on controlled companies; that is clause 11 of the House of Commons bill. This section provided for the disallowance of tax-free dividends from a corporation paid to a controlling corporation where control was acquired after May 10. There was no suggestion of this being retroactive. It was to apply only to corporations which became controlled by other corporations after May 10. It was found, however, that there were two ordinary business transactions of this nature well under

way at the time of introduction of the bill in the house, where a corporation had acquired the right to purchase control of another corporation, where the latter's shares were on deposit with a trust company, but the actual deal had not been entirely completed. There was no desire to have any suggestion in the bill of retroactive legislation, but these cases were not known until after publication of the bill. Therefore instead of keeping the deadline on May 10, which was the date of introduction of the bill in the house, the Senate amendment reads:

Notwithstanding subsection (2) subsection (1) is not applicable in a case where control of the payer corporation has been, pursuant to a right which existed on or before May 10, 1950, acquired before June 30, 1950.

As a consequence of the amendment, bona fide transactions which were almost completed before May 10 can go ahead to completion, provided it is done before June 30, 1950.

Mr. Smith (Calgary West): May I ask one question on that? I agree with the intention that is sought to be carried out. But suppose we have a charitable foundation trust corporation, or something of the kind that is used, as we know, as a method of avoiding taxation which normally would be paid by individuals in charge of that organization. I think we all agree with catching up with that. Income tax should be payable. But when you let that organization make these gifts to other persons it strikes me that great care will have to be taken to see that we are not just carrying on the old chain reaction that we had before. It should be made certain that instead of catching A you catch B where B is in fact the alter ego of A. I think the assistant to the minister appreciates the care that must be exercised. We do not want to interfere with real charity. What we want to do is to catch those who are parading under the name of charity and who are in a money-making business.

Mr. Sinclair: I agree with the hon. member. I think there is wide approval in the country of this legislation, which will permit a genuine charitable foundation to carry on its work, but at the same time will stop the type of income tax evasion which fortunately up to now has not been prevalent in this country but which has developed to an alarming extent in some of our neighbouring countries.

We have taken two steps. First of all, it is provided that at least ninety per cent of the income must be spent each year on genuine charity, before the foundation can qualify as a charitable foundation under section 21 of the present bill. Second, we have prohibited the passage of funds from a charitable foundation to a charitable trust or trustee for other