

Income Tax Act

important, but essential that we agree to consider in the House in a very serious fashion the comments and suggestions made by various bodies and, in the light of these, the Minister of Finance could improve his voluminous Bill C-259, by dividing it into smaller parts, as some speakers have suggested, because this bill is far too thick, not only in content, but literally.

We should therefore ask ourselves, when considering a bill, whether we are legislating according to the interests and wishes of the taxpayers we represent or in order to carry out mere mathematical acrobatics and satisfy our intelligence.

Mr. Speaker, there is a principle involved: most Canadian institutions and individuals are concerned with the content of this reform and it should therefore be lingered over. We must absolutely reconsider the various proposals contained in the bill and that is why I support the amendment brought forward by the hon. member for Edmonton West, which merely calls for the House to decline to give second reading to a bill which does not provide sufficient stimulus to the economy of Canada with appropriate tax cuts and incentives, does not contain adequate tax exemptions and is not calculated to materially improve business and labour conditions in Canada now or in the foreseeable future.

For, Mr. Speaker, whenever we in this House pass legislation, it is essential that such legislative measures as we adopt be acceptable to the people of Canada, and, also, that they benefit the population of this country. Of course, it may happen that the benefits are not immediate, but we should always ascertain that any act passed by this House is really going to benefit all Canadians.

This, Mr. Speaker, is the reason why I think that the Minister of Finance should back down and set this famous bill aside for the present, for it should be completely reviewed, taking into account proposals and even amendments suggested by individual Canadians or institutions eager to co-operate with their member in order to make sure that a really progressive bill is introduced which would be advantageous for the whole country.

• (4:10 p.m.)

[*English*]

Mr. R. Gordon L. Fairweather (Fundy-Royal): I want to discuss four aspects of the bill that are of concern to me at the moment. The first of these is the draftsmanship or the plain words aspect of the bill; second, the effect the bill will have on co-operative movements; third, the effect, should this bill pass in its present form, on farmers and fishermen; and lastly, what I might call the rather narrow outlook which the bill takes, if I may say so, of the whole matter of child care expenses.

I go at once to the subject matter of drafting and make a plea for clearness, for accuracy, and for brevity. I read recently of the rejoinder of a wise English judge when an expert medical witness was giving evidence at a trial. Finally, in frustration, he said something like this: "It is useless to go on giving complicated medical evidence because nobody will understand me". The judge replied: "We will understand if you use plain English". It seems to me that something of that philosophy should prevail in all legislative drafting.

The Income Tax Act, which is touted as an important element of the government's program of reform should, I suggest, be intelligible to most Canadians. Is it? I doubt that it is. A court said once that we ought not to be puzzled by such old scholastic questions as where a horse's tail begins and where it ceases. You are obliged to say at some time that this is a horse's tail. I am not sure whether within the ambit of the seven hundred odd pages in this bill anybody ever does say "this is, indeed, a horse's tail". I will not be drawn into a discussion of the other parts of the anatomy of a horse, Mr. Speaker, no matter what the temptation may be from those who call from my rear. But section 39 might be called a test section, the test being clarity, brevity and clearness. Here is what it says: I will try to read it in a straightforward manner. I do not want to miss any of the nuances or the elegances of language. It reads:

39. (1) For the purposes of this Act, (a) a taxpayer's capital gain for a taxation year from the disposition of any property is his gain for the year determined under this subdivision (to the extent of the amount thereof that would not, if section 3 were read without reference to the expression "other than a taxable capital gain from the disposition of a property" in paragraph (a) thereof and without reference to paragraph (b) thereof, be included in computing his income for the year or any other taxation year) from the disposition of any property of the taxpayer other than—

Then, there follow in draft form two and a half pages more of "notwithstanding", "whereases", and so on. But we are not through yet because we have to turn back to section 3. Section 3 only covers a page and a half which, in legislative drafting, is not really very bad, but it must be read as if it means the opposite to what it says. I fool you not, this is exactly the statement. By the way, section 40 carries on with two pages of general rules for the interpretation of section 39 which is to be read, as I say, in conjunction with section 3.

However, although it is easy to fall into this temptation, I will not make what could be called a hit and run attack on the drafters of the legislation for it has been said that what is commonly called the technical part of legislation is incomparably more difficult than what might be called the ethical or, in current language, the policy considerations. In other words, it is much easier to conceive firstly what would be useful law, than so to construct that same law that it may accomplish the design of the lawmaker. Another English judge said: "Nothing is so difficult as to construct acts of parliament properly and nothing so easy as to pull them to pieces". I do not think the debate will be helped by a pulling to pieces of this act just for the sake of having a pleasant afternoon's exercise in semantics.

The author of the "Complete Plain Words"—and here I do make a plea and I would hope that parliamentarians and senior civil servants would read the "Complete Plain Words"—I think was secretary to the British cabinet for some time, Sir Ernest Gowers. Whatever he was, he was a plainspoken man who had a love for the English language, and I think that if many of us read the book we would profit from it. We can see in the examples which this author uses some of the obscurantist phrases that creep into drafting, both of letters and our other exchanges with the public. But in "The Complete Plain Words" the author says: