

Income Tax

status. This alternative will not apply in the future to any new pensioners.

Mr. Barnett: Following through on that, as I understand it, certain pensioners have, during the period when the old agreement lapsed, been subject to double taxation. Someone receiving a pension from the United Kingdom had to pay tax there, and then it was taxable income for the purpose of our tax laws. Will such people be reimbursed for the extra taxation that they have paid? For example, will a person who has had tax deducted in the United Kingdom be reimbursed from the United Kingdom or will he be reimbursed his Canadian tax?

Mr. Sharp: My understanding of the position, Mr. Chairman, is that they will be entitled to a refund from the United Kingdom. They should apply to that government for a refund when this new law comes into effect in Canada from January 1, 1965 and in the United Kingdom from April 6, 1965. They will have been overtaxed by the United Kingdom government and should apply to that government for a refund. I am referring to the cases which have been mentioned by the hon. member. Of course, if there are Canadians who happen to be in this group in Canada, then they apply to the Canadian government.

Mr. Barnett: Would a Canadian resident in the United Kingdom who has been taxed in Canada be reimbursed by the Canadian government?

Mr. Sharp: We do not tax pensions at the source in Canada, so no practical problem of that kind arises.

Mr. Knowles: Does that reimbursement which was just discussed go back only to April 6, 1965, or could it go back farther?

• (7:40 p.m.)

Mr. Sharp: Mr. Chairman, this is a very technical question. Perhaps it would be safer if it were put on the order paper or addressed to me as Minister of Finance, so we can get a precise answer. It depends partly on the kind of pension involved. If it were a governmental pension it might be treated differently from another kind of pension. My general understanding is that it would not have been overtaxed prior to April 6, 1965. However, I hesitate to give that as a general answer because there might be exceptions.

Mr. Knowles: The minister will find in his mail a letter I wrote a few days ago covering

a case where both kinds of pension are involved, governmental and non-governmental. I shall await the reply with interest.

Mr. Barnett: Mr. Chairman, there is a matter which arises directly under clause 2. It was raised by the hon. member for Edmonton West in respect of subclause 3 of that clause and it has been a matter of discussion from time to time in regard to various bills which have been before the house. I must say that I for one found the argument advanced by the hon. member for Edmonton West rather convincing, particularly in respect of the way this paragraph is written, at least as I see it. I would not quarrel with the fact that there must necessarily be room under a bill for the making of regulations, but reflecting upon the argument presented by the hon. member for Edmonton West it does seem to me that one particular phrase in this paragraph is unnecessary. I refer to the words "in his opinion".

I would not quarrel with the idea of granting the Minister of National Revenue the powers to make orders or regulations—and I say the same in respect to the governor in council—such as are necessary for carrying out the purposes of the agreement. But when it comes to our giving blanket authority to a minister to do whatever "in his opinion" may be necessary, it seems to me that this is extending a pretty broad power. If it ever came to the point where the minister was asked whether he had acted in accordance with the act of parliament which had been passed, he would say "Yes, in my opinion I did", as I see it. The way this subclause is phrased, that would end the matter.

It seems to me that apart from any other aspect of the matter this phrase is worthy of some consideration before we pass this bill. In fact, for the purpose of having this matter definitely discussed I would be prepared to move, and I so move:

That sub-clause (3) of clause 2 be amended by deleting from line 16 the words "in his opinion."

Mr. Sharp: Mr. Chairman, apparently this is an historic clause. It has been in bills to implement tax agreements for as long as my officials can remember. Moreover, they cannot recall the clause having been used many times. Certainly I have never heard any complaints that it has been abused.

Personally I would have no objection to the removal of those words, because in any event I think the discretion must lie with the Minister of National Revenue as to whether