

Excise Tax Act

Mr. Speaker: Order, please. Perhaps this is an appropriate moment to interrupt the hon. member for Norfolk-Halifax (Mr. Knowles) to deliver, as I indicated earlier in the day I would, my conclusions in respect to the very interesting point of order raised originally by the hon. member for Edmonton West (Mr. Lambert), to which extensive contributions have been made in support thereof by the hon. member for Peace River (Mr. Baldwin) and by the hon. member for Winnipeg North Centre (Mr. Knowles). Arguments were made on the contrary aspect, initially by the Minister of Finance (Mr. Turner) and then by the Parliamentary Secretary to the President of the Privy Council (Mr. Reid).

Originally, three issues were raised on the point of order. The first, relating to the original exemption in the resolution to municipalities, is no longer being pursued. The point is no longer urged and need not be considered at this time. The second is the introduction into the legislation of a two-year limitation on applications for rebate. That was not in the resolution. The third is the substitution of the power of the minister in the resolution to describe, by regulation, further exempt persons in the current clause 5 of the bill, what would be Section 47(1)(f) of the act, which would describe that class of persons being those contained in Part I of the Income Tax Act.

The governing principles in respect to the arguments before us are not seriously in dispute. If I may be permitted, I might refer to the fact that the same kind of argument was made during the consideration of the last budget legislation. On December 18, 1974, a point that was in many ways similar to the one before us was raised. At that time, if I can paraphrase, I set out four or five basic principles that ought to be considered in a situation of this sort. I quote from that ruling:

First, that the ways and means motions which follow the budget presentation are, by virtue of time honoured practice and tradition, the very expression of the financial initiative of the Crown and therefore a most important aspect of our procedure.

Second, the relationship between that resolution and the bills which follow it are set out in Standing Order 60(11), which reads as follows:

The adoption of any Ways and Means motion shall be an order to bring in a bill or bills based on the provisions of any such motion.

As has been said many times, the operative words are "based on". In the search for the meaning of the words "based on", it is obvious that if the rule intended to say "identical with" rather than "based on", it would say so. It does not. Therefore I must say at the outset that in my consideration of the point on the two-year limitation, I have little difficulty. Each case has to be examined on its individual merits. However, with respect to the two year limitation the resolution says, and I quote from the bottom of page 9 of the ways and means motion:

—the Minister may, upon application by the purchaser, in such form and in such manner as the Minister prescribes,—

Those words seem to give the minister the authority to prescribe conditions under which the rebate, or an application for rebate would be made. The bill provides that the application, when made, must be made within a two-year period. I do not have difficulty in accepting the fact that that is a provision in the bill that is based on the resolution.

The other point gives me considerably more difficulty. It is proposed in paragraph 3 on page 9 of the resolution that the act be amended in section 47 by the following terms—for the purpose of this particular point the operative words are in subparagraph (g) which give to the minister the authority to describe the exempt class, and I quote:

—by a person of such other class of persons as the Governor in Council may by regulation prescribe,

On the other hand, subparagraph (f) of the proposed amendment to Section 47(1) uses the words, and I quote:

—a person within a class of persons exempt from tax under Part I of the Income Tax Act,

It is clear on all of the arguments that the change does not go beyond the power given in the resolution to the minister in bringing in the bill. In fact it is generally agreed it goes very much the other way. However, that fact alone does not bring the matter to a close.

I wish to refer to the closing paragraphs of the ruling I made on the earlier occasion to which I have referred. I said I must therefore find the point of order unacceptable. I quote:

—however, that the terms of the ways and means motion are a carefully prepared expression of the financial initiative of the Crown, and frequent departure from them can only invite deterioration of that most important power.

Furthermore, I have considerable sympathy for the argument that once the ways and means motions have been adopted by the House, changes of a nature any more substantial than the one before us now ought to be made by the House.

Obviously the most desirable practice is for the bill to adhere strictly to the provisions of the motion, and departures, if any, ought to be subject to the strictest interpretation. With that in mind, I examined the two clauses that are put forward.

Here we have something quite different from what we had in the case previously ruled upon. We have more than simply a change of description of a class of vehicles which would be subject to an exemption under the tax. We have a change in approach from that which could be done by regulation to that being done by legislation, from a class which, when addressing itself to the resolution, would be specifically described in a regulation, to a class which is taken from a description given in an entirely different statute. It might be that when a member of the House addressed himself to the resolution he did not anticipate problems he might now have in proposing, for example, amendments to a description of classes because that, on reflection, could be something very difficult for the hon. members to do at this stage.

I repeat that it is not for the Chair to decide which of the courses is more desirable, which gives members more power and more control over the minister's actions. That is not the question. The only question for me to decide at this time is whether this particular bill is "based on" this particular resolution. In my view the variations that I have described, being fundamentally different in approach, go beyond that relationship.

However, it has always been my view that procedure should serve the House and not enslave it. For example, we have here a situation in which there is an amendment that the bill be not now read the second time but that it be read a second time this day six months hence. I suppose in