

returned capital. When one comes to apply the principle it is a different matter. Then of course we get into, as we all know, very complex situations, and a trained economist is very much better able to explain it than a lawyer.

Hon. Mr. LAMBERT: The regulations that Mr. Gavsie spoke of have not been definitely formulated yet?

Hon. Mr. ABBOTT: They could not be, because they are provided under the statute, which is now under consideration. I am informed that they are in pretty good shape.

Hon. Mr. LAMBERT: They have been discussed.

Hon. Mr. ABBOTT: Yes; they are pretty well drafted. It should not take very long to complete them and bring them before the cabinet when the bill has been passed.

Hon. Mr. LAMBERT: I suppose it is fair to say that the regulations really represent a good deal of discussion.

Hon. Mr. ABBOTT: They represent this, Senator Lambert, that the same thing that the income tax department used to do by simple decrees or ministerial discretion is, under our new system, to be enacted, passed by cabinet council; they will be published in the official gazette, and become public knowledge to everyone. Representations can be made by a taxpayer, should he feel the regulations are oppressive, unfair or inaccurate, to have them amended, in the same way as he could ask to have a statute amended.

All of us who have had any experience in the practical application of tax law know that rigid statutory provisions cannot always be laid down; there must be a certain degree of flexibility in the operation of the law, otherwise there is real injustice to the taxpayer. I know that lawyers, experienced in tax matters, recognize that to be the case.

Some have had the view that we have perhaps gone a little too far in eliminating discretions, but I do not think we have. I do not care for it; I think it is important that every taxpayer should know the kind of treatment that is being obtained by others.

Hon. Mr. LAMBERT: The theory has been expressed by some that these depreciation clauses, 7 and 8, represent the thin edge of the wedge towards capital taxation, or a tax on capital gain. For instance, a man sells a property at \$10,000 which he has depreciated to \$5,000. The tax that would come into play in that case would apply to a certain extent as a capital gain tax.

Hon. Mr. ABBOTT: No; it is completely inaccurate to say that this so-called recapture principle involves anything in the nature of capital gain tax. For instance, a man who has a house, a piece of machinery or any other asset, takes his depreciation on it, and later sells it for more than he pays for it. In that way he makes a capital gain, but he has taken depreciation based on the assumption that he is getting year by year a return of his capital; and if it turns out that he has gotten greater return than that to which he was entitled, obviously he cannot have his capital both ways. On the other hand, under the new system, if he has under-estimated the amount of his depreciation, then he gets the benefit of that loss, or what would appear to be a loss, and he is entitled on realization to take what is in fact the real depreciated value of the asset.

Hon. Mr. EULER: Do you not think it is rather an onerous thing for a man who sells a property, after six or eight or ten years of taking depreciation, that you then recapture that, and that he has to pay the tax on that aggregate sum all in one year at the rates of that particular year?

Hon. Mr. ABBOTT: In practice, of course, he would not have to do that. It would be added back into his asset account, and I think I am correct in saying that the ultimate liability in the case of a business man really comes at the time when he finally goes out of business. That is really what it amounts to.