

Income Tax Act

studying at present? Perhaps the Chair could make the suggestion that the section be stood and that the committee carry on with the examination of the group of sections until we reach section 239.

Mr. Gray: Mr. Chairman, perhaps my choice of words was not the most appropriate. I do not claim to be completely familiar with the manner in which the committee has been dealing with subsections to which hon. members are proposing amendments which are then stood for study. I did not suggest that we attempt to dispose of clause 239 but, rather, that it should be stood to give the government an opportunity to consider the amendments just now proposed by two members of the official opposition, and that the committee dispose of the other sections under the general grouping before it.

Mr. Knowles (Winnipeg North Centre): The handling of this bill is unique in our history, but I really do not think there is any difficulty about the matter now before us. We are considering the group of sections from 220 to 244, but the one Your Honour called is 220, so we are having a general discussion. Now we have notice that when we get to section 239 there are two amendments that have been moved. All we are agreeing to is that those amendments wait until Your Honour calls section 239. In the meantime we are still on the general discussion sparked by the calling of section 220.

The Deputy Chairman: Shall section 220 carry? Clause 1, section 220, agreed to.

The Deputy Chairman: Shall section 221 carry? On clause 1—section 221: *Regulations*.

Mr. Bigg: Section 221(2) at page 530 provides for retroactivity of the regulations under the act. As we all know, the regulations are often more important than the statute. It appears to me that even when the act has been published the taxpayer will not know what he is facing until the regulations are out, and the regulations may well provide inherent, unseen dangers and pitfalls in the tax structure. Therefore it is most difficult today, when any businessman, farmer or taxpayer of any kind has to set his house in order, has to look to the future, see whether it would pay him to incorporate or not to incorporate, to be a partner or not to be a partner, to know what regulations he is facing. As I read this bill, he might even become delinquent under the law, faced by regulations of which he has no knowledge whatsoever. This is not only taxation in retrospect but in many cases it is jeopardy in retrospect.

When we are breaking new ground in almost every facet of Canadian life in this bill, it seems to me that we must be very careful that the taxpayer knows what dangers he is walking into. If we are to have regulations which are more intricate than ever—and goodness knows the bill is hard enough to understand with its seven pounds of intricate and devious writing; and the regulations will no doubt be more voluminous—the taxpayer must know exactly what his tax position is. We are breaking new ground in the matter of retroactivity, and I would like to see the point clarified. The regulations should be ready at the time the act is passed, certainly where they have any definite effect

[The Deputy Chairman.]

on the taxpayer, his right to his property and money that he may or may not owe the government.

This is a very dangerous section of the act in that apparently there is no limit on how far back you can go. I am only guessing, but I presume that he can only go back one fiscal or one taxation year. Today when you are putting the onus of proof on the taxpayer, the government can go ahead and do what it likes and it is up to the taxpayer to prove that he has been unjustly treated. If it is not written into the act, I presume he would have no resort. I do not like the word "presumption" and I do not like the taxpayer having to presume anything. He should be able to read in simple, basic English regulations which are not devious but are well understood and have no retroactivity whatsoever.

I would be quite willing to resume my seat if the minister or any person speaking on his behalf would clarify this issue and tell us how retroactive this section is and whether it is needed at all. I do not see any need for retroactivity. It is bad enough to be taxed in the new field, but how retroactive is that tax with its double and triple penalties and even the possibility, under section 239(2) which we have just discussed, of a taxpayer facing criminal charges for being negligent under this voluminous legislation?

• (9:10 p.m.)

If a person is a day late filing his income tax return he may be subject to all these penalties. The matter is left to the judgment of someone who is not even a judge and who may not even be trained in the law. That someone can be a member of the ruling party of the day, and under the legislation he will have the responsibility of determining who is and who is not to be treated as a criminal. Then when the trial takes place, the taxpayer suddenly finds himself in the very reverse of the position he occupied under common law and criminal law of being deemed innocent until proven guilty. Here we have a perverse regulation forcing the taxpayer to prove himself innocent of any offence under the law. Such a regulation can make a criminal out of him and he may carry a criminal record for the rest of his life. He may be sent to jail for at least two months, if I read the bill correctly. If it does not mean that, at least no one on the government side has risen to say exactly what it does mean.

The bill says in plain language what the penalty will be. It says it may be up to a five-year prison term and no less than two months. We have a retroactive provision in section 221(2) which is adding insult to injury. It is a very serious matter. People are worried about the unknown pitfalls of taxation. It is impossible for a man to order his business, arrange his family affairs and decide whether or not he should incorporate. I know that I am repeating myself, Mr. Chairman, but this is an important point. We are being asked to rush this bill through the House. We are getting the same old blackmail that we always get when Christmas is arriving: You won't get home to see your families unless you hurry up and pass this bill—which nobody wants or understands.

There have been 148 amendments already submitted. We are getting more every day. We are not unreasonable when we see a minister of the Crown attacking the problem with forthrightness, fairness and candour, and when an amendment is reasonable we will pass it with very little