

Income Tax Act

evasion. Tax evasion is a criminal offence, and I would like to give the minister an opportunity to correct his words to tax avoidance, if that is really what he meant.

Mr. Chrétien: Mr. Chairman, I am extremely embarrassed because I do not recall my exact words in French. I understand the difference between the English meanings of evasion and avoidance. I was referring to avoidance when I was speaking French, but I do not know what the translator may have done with my comments. The word is avoidance and not evasion.

Mr. Stevens: Mr. Chairman, I thank the minister for clearing up that particular point. I will approach my question in this way: bearing in mind that in order to preserve the special tax small businesses can enjoy under this provision, no shareholder—certainly, no public company and no corporate shareholder—can own over 49 per cent of a small business. For example, if a public corporation took 51 per cent of a corporation which no longer has small business characteristics—and bearing in mind that all of the investments we are talking about by definition must be minority investments in the sense that, even if they are corporate, they cannot hold over 49 per cent of the company that they are investing in, would the minister indicate why they have made this section operative only from April 10? I can see the effects if they feel there is a loophole and they have made an error.

● (1612)

I can see some excuse to say that after April 10, if a person makes an investment in a small corporation, the dividends that are paid by that small business corporation upstream will not be eligible as far as the credits on the \$750,000 cumulative dividend account are concerned. I think that would be much fairer to those who have taken advantage of the income tax provision in good faith and who are now finding the dividends that they were anticipating no longer will be payable because of the retroactive effect of the amendment the minister is proposing.

Mr. Chrétien: Mr. Chairman, I am informed that under the regulations this applies only after April 10. It is not retroactive in the sense that we will not be looking back at what happened in the past.

Mr. Stevens: Mr. Chairman, obviously we can get into a definition of what is retroactive. But let us assume that somebody has invested \$100,000 on April 7 in good faith. He put that money in, anticipating that if the company makes a profit and dividends are paid, he in turn will be able to enjoy those dividends, and the small business corporations will not lose the credit they otherwise would get with respect to their \$750,000 dividend account.

My understanding of this section, and I hope the minister will correct me if I am wrong, is that as of April 10 what that person on April 7 thought he was getting into has now changed. If dividends are now paid to him at any time after April 10, the small business concern no longer will be able to treat it as a credit against the cumulative dividend account. If

[Mr. Stevens.]

that is so, that is why I am saying this is retroactive. It is applying to investments made before April 10 and saying henceforth that all dividends on those investments flowing upstream to some corporate entity will not be treated the same as if the dividends were payable to individuals.

Mr. Chrétien: Mr. Chairman, in my judgment this is a loophole which we are plugging. The hon. member is saying in effect, "make the loophole operative for everyone up to today so advantages taken will be made legal". This is a loophole that we are plugging. The intention of the legislation is clear when we determine that small businesses could accumulate up to \$750,000 in profit. I do not understand why the hon. member wants me to unplug it, or plug it only partially. I have no choice; either I plug it or I do not. You are either pregnant or you are not.

Some hon. Members: Oh, oh!

Mr. Stevens: Mr. Chairman, I only wish this minister was a little more pregnant with some suitable economic policies for Canada.

Some hon. Members: Hear, hear!

Some hon. Members: Oh, oh!

Mr. Chrétien: Mr. Chairman, I rise on a point of order. The hon. member for York-Simcoe has no sense of humour.

Mr. Stevens: Mr. Chairman, clearly the minister has no sense of humour because I meant my comment in the most humorous way.

Some hon. Members: Oh, oh!

Mr. Stevens: To come back to the main point, I believe the government and certainly this minister underestimate the lack of confidence that they generate every time they change the rules in midstream. In their wisdom if they saw fit to change the Income Tax Act to facilitate what is covered in this section, if they thought a loophole had occurred, they should have been content to say that "after April 10 we are not going to allow this to continue any longer. But if people did make an investment in good faith as a result of our provision, the government will not somehow or other retroactively kill the effect of the investment that they have made."

The minister should recognize that if the government is trying to encourage people to go into small businesses, which is a very risky investment area, the government will minimize future forms of encouragement because when people start to move and take advantage of what is a good income tax position, they then remember that back on April 10, 1978, in a similar provision they were retroactively legislated against, and the dividend structure which they thought they were getting into was changed to a less desirable one, certainly for small business. My question to the minister is: does this not concern him with today's lack of confidence in business generally, and with the crying need for more money to be invested in small businesses? Does he not feel he is treating the various people