

there is one strange situation which could occur under all these conventions. For instance, an Australian citizen in Canada, earning income subject to Canadian taxation, might conform in every respect to the tax laws of Canada in relation to his returns; but notwithstanding this, if his home country suspected that he was not making a full return, or if it just wanted to know whether he was paying or not, it is entitled to request all necessary information in relation to his earnings in this country. To me that seems to be giving a sort of extraterritorial sanction to the taxation law and possibly the criminal law of the other country. I have expressed this view when similar agreements have been before us but nothing has happened; the Government has continued to make agreements with exactly the same provision in them. Of course, by the time the agreements come to us they are in settled form and have been signed by the authorities of both countries. So we either give them the force of law or we do not; we cannot amend the agreements.

Hon. Mr. Brunt: Would the honourable senator permit me to ask a question? Would that particular clause allow Australia to compel our income tax officials to produce the income tax returns filed by an Australian, and give to that country all the information contained in his return?

Hon. Mr. Hayden: Yes.

Hon. Mr. Brunt: Would that not be in conflict with our present statute?

Hon. Mr. Hayden: Yes, but what you forget is that where there are inconsistencies between this agreement and our general income tax law in Canada, the bill provides that the law as contained in this agreement governs.

Hon. Mr. Brunt: It overrides the statute law?

Hon. Mr. Hayden: That is right.

Hon. Mr. Brunt: There is not much we can do, because if we amend the bill we would have to amend the agreement, and we have no power to amend the agreement in any way.

Hon. Mr. Hayden: That is what I have been saying. I have been repeating this argument on the theory that if little drops of water fall often and persistently enough they may wear away even the most solid of foundations. But we shall soon run out of countries with which to make these agreements, and the Government has not yet shown any repentance or change of heart. I doubt if it ever will, for I believe that taxation authorities like to have these agreements

where they can get a complete exchange of information without regard to underlying effects or how shocking it may be to one's sense of individual rights. It bothers me a bit when, in relation to a person who has been well behaved in Canada, we lend all the facilities of our law for the gathering of information about him and furnish it to another country to such an extent that we assist that country in the administration of its laws. However, beyond saying this, I do not know if we can do anything about it.

Hon. Mrs. Fergusson: I should like to ask the sponsor of the bill (Hon. Mr. Haig) if the legislation applies to exchange teachers and students who are in other countries.

Hon. Mr. Hayden: I think I can answer that question. In the case of our teachers and professors who go to Australia on a teaching mission for a temporary period not exceeding two years, the income they receive by way of remuneration in Australia is exempt from taxation in that country and they are subject to tax only in their country of permanent residence, Canada. This provision is similar to one contained in the income tax agreements we have with other countries.

As to students, I have just indicated that the student provision contained in the other tax agreements is not contained in this one.

Hon. Arthur W. Roebuck: Honourable senators, I would like to repeat now some of the comments I made about procedure at the time the Canada-Denmark Income Tax Agreement Bill was before the house.

This is beneficial legislation. I fancy it will be of advantage to some people in Canada and I am in favour of it to that extent. My objection is to the manner in which the legislation is being carried out. The honourable senator from Toronto (Hon. Mr. Hayden) has made the statement that continuous drops of water sometimes finally wear away even solid foundations, and it may be that if I keep on letting these drops of water fall I might make some mark or indentation upon the income tax authorities.

It is a general principle of law that the crown may enter into treaties and agreements with foreign countries, but if it requires legislation to carry out the terms of these agreements it must come to Parliament in the usual way and ask to have the necessary legislation enacted. Executives must get the consent of the law-making authorities of the countries which they represent. That general principle applies in this instance. It is all right for the Crown, as represented by the officials of the Income Tax Branch, to enter into agreements with Australia, Denmark, The Netherlands, and so on, and then come back to us and ask us