

A brave try

Do we want our laws simplified, or do we not? My own experience of more than fifty years is that many complain of obscurity yet most find the topic supremely boring when it comes to doing anything active about it. Yet something is at last being done.

On January 15 the House of Commons gave a second reading to the Capital Allowances Bill, the first in a series designed to simplify our tax laws. As a former Finance Bill draftsman and long-term reformer I welcome this Bill.

The reform story began in 1968, when I founded the Statute Law Society. Its main object was (and I believe still is) to procure technical improvements in the form and manner in which legislation is expressed and published so as to make it more intelligible. The Society's first report, drawn up by a committee chaired by the late Sir Desmond Heap and published in 1970, said the primary rule should be that the procedures must be *governed by the needs of the user*. This was endorsed in 1975 by the Renton Committee, set up by the Government to deal with the Society's criticisms.

Dissatisfaction continued. In the debate on January 15 Mr David Ruffley MP mentioned vitriolic comment from accountants and solicitors in 1986 about the complexity of provisions of the Finance Act of that year relating to capital allowances, the subject of the present Bill. In 1994 the Institute of Fiscal Studies set up a tax law review committee which concluded that the tax system is too complicated and not working as intended. An Inland Revenue report published in 1996 admitted that the language of the existing law *could be simplified*. The rewrite project was born.

Introducing the project, the then Chancellor of the Exchequer, Mr Ken Clarke MP, said it was as ambitious as translating *War and Peace* into lucid Swahili. "In fact", he added, "it is more ambitious . . . *War and Peace* is only 1,500 pages long, while Inland Revenue tax law is 6,000 pages long and was not written by a Tolstoy". He might have added that neither is *War and Peace* a palimpsest of a thousand disconnected fragments from different years.

Moving the second reading the Paymaster General, Dawn Primarolo MP, said the Capital Allowances Bill was produced by an Inland Revenue project team. In fact of course it was largely produced by the labouring drafters known as parliamentary counsel, to whom Mr Michael Jack MP, a former Financial Secretary to the Treasury, paid warm tribute. The project team was supervised by a high-level steering committee chaired by the former Chancellor of the Exchequer Lord Howe of Aberavon, well known in committee circles for his almost inaudible utterance.

There was also a consultative committee drawn from professional users of tax legislation. The consultation process involved four separate exposure drafts, published at relatively early stages between October 1998 and February 2000. A final round of consultation on a draft Bill was published in August 2000. The procedure cannot be faulted for thoroughness.

Ms Primarolo quoted without naming "a leading figure in the tax world" who had told her that the Bill represented a revolution in accessibility. He added: "It has a logical structure and for the first time in my experience it has actually been designed to help the user". She said that other features of the rewrite include shorter sentences, modern language, clearer

signposts, more effective definitions, and greater use of reader aids. There were however some critical voices.

Mr John Burnett MP, a LibDem solicitor, raised a key point when he asked for an assurance that future Finance Acts would tailor changes to fit the format of the new Capital Allowances Act. He added: “We do not want to go back to the position of taxpayers and practitioners having to hunt around numerous Finance Acts to get to the law on capital allowances”. He did not receive that assurance, but his question is crucial. During the consultation process I raised it myself, also without result.

Mr John Redwood MP asked whether Ken Clarke would have been pleased had he known that “903 pages of legislation, annexes and explanatory notes would result, just for the purpose of capital allowances”? Mr Jack said some people would say of the Bill “It doesn’t look any less complex to me; but now I can understand the complexity better”. Mr Peter Lilley MP, also a former Financial Secretary to the Treasury, retorted that the complexity was largely due not to perverseness or incompetence but to policy decisions to discriminate between different classes of assets. It is policy that produces complexity.

More such measures are to come: also on January 15 the House of Commons voted to set up a select committee to join with one from the Lords as the Joint Committee on Tax Simplification Bills.

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