

tion, and one which we, in varying degrees, anticipate will be accomplished. But honourable senators, if the act gives the minister the right of discretion—and in cases that are difficult to provide for by statute someone must exercise discretion—I feel that to set up a board which will be superior to the ministerial discretion is to strike at the very roots of government, one of the essential features of which is that the minister shall be responsible to parliament. I feel that the exercise of discretion should not be left to a board which is not responsible to parliament. The minister is subject to the Governor in Council and to parliament, and I do not think we should set up above him any board of what recently have been commonly referred to as bureaucrats.

Hon. Mr. DUPUIS: As I understand it, the bill sets up a board over and above the minister; and, according to section 69C (1), either party to a dispute may appeal from that board to the Exchequer Court of Canada.

Hon. Mr. ROBERTSON: According to my understanding—and if I am wrong I can be corrected by honourable senators who are more familiar with the subject—on all matters of law and fact there is an appeal to the Income Tax Appeal Board, and from that board to the Exchequer Court. The minister has nothing at all to do with such appeals. But in the past certain matters have been regarded as proper subjects for the exercise of ministerial discretion—perhaps because of the difficulty of framing the act so as to meet every possible situation—and the exercise of discretion has never been appealable to the Exchequer Court. The minister alone has taken the responsibility for whatever decisions were made with respect to such matters. Now an advance is being made in the setting up of an advisory board, which will advise the minister whenever a taxpayer appeals from the exercise of his discretion. The intention of the government, as explained to us, is not to make the members of this board civil servants. They are to be a representative group, who will travel around the country, review the minister's decisions that have been objected to, and advise him upon them. The act provides that in every such case the minister shall again reconsider his decision. Then he makes the final exercise of his discretion, from which there is no appeal. It seems to me that if there is to be any appeal at all from the exercise of ministerial discretion, the logical authority to whom to appeal is the Governor in Council. Why give the minister discretionary power and then set up a board with power to overrule him?

Hon. Mr. MORAUD: Honourable senators, although I am the mover of the amendment I am not its author, and I hope that some of the honourable members who drafted the report of the committee on income tax and explained it to this chamber will also explain the purpose of this amendment, which they can do much better than I. The committee's report recommending the erection of a board of tax appeals with power to revise any discretion exercised by the minister was unanimously adopted on the 30th of May this year. In presenting the report, on May 29, the chairman of the committee (Hon. Mr. Euler) said:

I should add here that while our committee was unanimous that there should be no authority exercised by the minister or his deputy over the board itself, Mr. Elliott, the Deputy Minister administering the Act, was not in agreement with us. He felt that while there might well be an appeal board, its decisions should still be subject to the approval of the minister. However, the members of the committee remained unanimous in their support of the recommendation as it stands, and judging from the representations made by the various organizations that appeared before us, I believe all our suggestions and recommendations will meet the approval of the great body of them and of the people generally.

That recommendation was approved unanimously by the committee and, as I say, the committee's report was unanimously approved by this chamber. The only purpose of the present amendment is to give effect to that recommendation. There was a long debate here on the committee's report and able speeches were made in support of it by a number of members, including the honourable senator from Toronto (Hon. Mr. Campbell), the honourable senator from Inkerman (Hon. Mr. Hugessen), and the honourable senator from Lincoln (Hon. Mr. Bench), all of whom were in favour of doing away with ministerial discretion.

There seems to be a misunderstanding about ministerial discretion. Neither the tax committee nor this chamber recommended that the appeal board should have anything to do with the discretion of the minister in the administration of his department, as a member of the government responsible to parliament. What the committee and the house unanimously recommended was in accordance with a principle of British justice, namely, that any subject—in this case, any taxpayer—who considers that he has not been fairly dealt with by a decision of the minister shall have recourse to a court of law. There is such recourse when a matter of fact or law is in dispute, and there should be similar recourse when a taxpayer objects to the way the minister has exercised his discretion. As the