

1949, we shall have ample opportunity in the session of 1949 to give study to amendments. In all seriousness I ask the practicability of having amendments made to a new income tax law, which is supposed to be the foundation of our tax law in Canada. We pass it now, but we contemplate amending it at the very moment it is coming into force. Would we not then be asked to wait and see how the statute worked and to gather some experience before we started amending something so sacred and important that it must be dealt with immediately? The laws of our country, and the best interests of the people, require that immediate consideration be given to this measure. If we accept this principle, then we cannot accept the principle that we should amend it before it starts to work.

Honourable senators, there are one or two points in the bill to which I should like to refer. First of all, there is no doubt that the income tax law, in the form in which it appears before us today, tremendously improves the existing income tax law. I think a simple way to describe it is that the present Act just grew up something like "Topsy". It is a mess so far as finding anything in it or establishing its year to year continuity is concerned. The present bill is orderly, and being arranged in sequence or with continuity it is not difficult to follow. Of necessity the language is such that it is not always simple to ascertain what the liability is or what the incidence of taxation is. However, the Act is at least definitely and thoughtfully laid out, so that if an informed person studies it he can easily follow the course of taxation. I would say that those persons charged with the responsibility of preparing this measure deserve the greatest commendation. Some sections of the bill are beneficial, and others represent an effort in the direction of tightening the vice upon a practice that may have developed. I do not agree with some of the sections, but I can discuss them in committee.

I should like to refer for a moment to the question of discretion. A great deal of discussion took place on this point when the Senate committee dealt with the income tax problem two years ago. The position I took at that time—and I still take the same position—was that discretion is a good thing to have because it gives a flexibility to the statute that it otherwise would not possess. Discretion, which is the ability of a taxing officer to make a recommendation in a special case, is a good thing so long as the exercise of that discretion is circumscribed in some way by the right to have a check made upon it. The Senate committee put a check on the exercise of that

discretion by recommending the granting of a right of appeal. The government went so far as to provide for an Advisory Board which, although it would have no power to make a decision, could deal with matters of discretion and make recommendations to the minister, that he might or might not accept. All that has gone by the board.

My honourable friend who explained the bill tried to find some virtue in the taking away of this discretion. I usually find myself able to agree with my friend, perhaps more often than he is able to agree with me, but I am sorry that I cannot go along with him on this point. In the bill honourable senators will find these words occurring: "as is reasonable", "by regulation", "improper", and "reasonable amount". The bill does not say who is to determine these things. It is the same old story of the exercise of discretion by the minister. What is the difference between the effect of "as is reasonable" and "in the discretion of the minister"? The only difference is that, when you are assessed, you now have the right of appeal on your assessment, and that the question of the reasonableness could be determined by the Board. That is the only difference. At the present time an appeal can be made from an assessment to the extent that the minister has exercised a discretion. If we are able to show that the reason given for the exercising of the discretion is not sound in law, then we have the same ground of appeal as exists under the new Act. The only difference between the two therefore is that by removing the language "in the discretion of the minister" and substituting "as is reasonable" etc., the matter of discretion takes a new form; but under the "new look", as it was called by my honourable friend from Inkerman, there still remains the same old taxing master.

An Hon. SENATOR: The spinster.

Hon. Mr. HAYDEN: Yes, the spinster. The benefit of the change is simply that you will not have to justify your appeal on the ground that the minister either did not give reasons, or that the reasons he gave were unsound in law. It will be partially a question of fact and partially a question of law whether the minister's determination of the existing rate is "reasonable".

Hon. Mr. HUGESSEN: It extends the grounds from law to law plus fact.

Hon. Mr. HAYDEN: Yes. The present Act provides for a Board of Tax Appeal; there is a provision whereby a person can appeal his assessment to the Board of Tax Appeals through the minister.

At this stage I am not as familiar with the statute as is my honourable friend who ex-