Income Tax Act

[*Translation*]

Mr. Béchard: Mr. Chairman, if the minister refuses to take action or to arrive at a decision along the lines mentioned by the hon. member for Parry Sound-Muskoka, one could ask the Federal Court to issue a writ of *mandamus* against the minister, depending upon the circumstances.

[*English*]

Mr. Lambert (Edmonton West): A writ of mandamus?

Mr. Béchard: Yes.

Mr. Lambert (Edmonton West): If they cannot have bread, let them eat cake.

Mr. Béchard: Pardon?

[*Translation*]

Mr. Lambert (Edmonton West): If they cannot have bread, let them eat cake.

[*English*]

Mr. Aiken: Mr. Chairman, surely these obscure procedures are not the kind that you would ask a Canadian charitable organization or amateur athletic association to go through—mandamus applications? In many cases the minister could appear before the court on such an application and say, "We are still looking into the matter." In this way the application could be stalled. In order to get the matter before the committee and on the record I move:

That clause 172 be amended by the addition of a new subclause—

(4) The Minister shall be deemed to have refused any application under 3(a), (b), (c) and (d) above, if he has not notified the applicant of his disposition thereof within six months after the date of submission of the application.

The Deputy Chairman: Shall the amendment carry?

Mr. Aiken: Mr. Chairman, I would first like to say that I think this amendment is reasonable. Some of my colleagues suggest I am being quite generous with the minister in allowing him six months in which to consider and decide on an application. They say 90 days would be enough, but what I am trying to do is simply close this loophole because it will cause some difficulties in the future. Through this bill we are trying to give the public a bit of a break; at least, that should be our objective. It certainly is the objective of the official opposition, and I am sure the government would say it has the same objective.

Here is a straightforward amendment. I cannot see any reason it should not be accepted. If the minister has not decided on an application within six months, he will be deemed to have refused it. I could have worded the amendment so that he would be deemed to have accepted the application, and then it would be up to the minister to appeal. But I am not trying to cause administrative difficulties for the department. I am merely saying, "You have to make a decision on an application within six months and, if you don't, then there is ground for appeal as if you had refused it; the people involved can take their appeal before the courts." I do not have much more to add. I think the request is reasonable. It would not change the substance of the section and, if accepted, would make

this provision much more clear for the average individual who wants to have an appeal heard but who is fed up with waiting. It would provide a definite time limit. I think that all those on the government side of the committee will concede this is a reasonable amendment.

• (3:50 p.m.)

Mr. Lambert (Edmonton West): Mr. Chairman, may I just add my support to the general thrust of the amendment proposed by my colleague. I think that the parliamentary secretary gave a very poor answer when he said that in cases of this kind a writ of mandamus is available. It seems to me that is a most cavalier attitude to display towards the taxpayer. There is one criticism of the amendment. Frankly, it gives the ministry too long a period in which to make up its mind with regard to registration under section 172(3)(a). I am referring to its right to refuse registration of an application or to revoke a registration, all of which is quite properly provided for in the bill. You know, people learn different things around Ottawa, and one of those things is that what are usually set out as maxima become minima. I would think that a 90-day period would be more than ample for determining whether a charity is a proper charity or whether some application should be accepted, refused or a registration revoked. Ninety days should be the limit, and from there on any remedies available should be open to a taxpayer.

[*Translation*]

Mr. Clermont: Mr. Chairman, may I suggest to the hon. member who has moved the amendment that, for the time being, proceedings should be delayed for a few minutes in order to give the Minister of National Revenue the opportunity to get a copy of the amendment which we do not have at present.

[*English*]

The Deputy Chairman: Shall section 172 stand?

Some hon. Members: Agreed.

Clause 1—Section 172, stands.

Clause 1—Section 173, agreed to.

On Clause 1—Section 174—*Reference to Federal Court or Tax Review Board of common questions.*

Mr. Aiken: Mr. Chairman, section 174(1) reads:

Where the Minister is of the opinion that a question of law, fact or mixed law and fact is common to assessments in respect of two or more taxpayers, he may apply to the Tax Review Board or the Federal Court—Trial Division for a determination of the question.

I think I understand the reasoning behind the section. In cases where the minister is in some doubt about whether a ruling involving, say, three different people who have brought forward similar cases, is right, it would be quite logical, I think, for him to take advantage of the section, refer the matter to the courts, and get the taxpayer to put his argument forward before the court. However, I think in this particular case the taxpayer should consent to that proposition, because we will not go to court unless he wishes to go. He may find himself in the position that the minister is appealing for him a case which he, the taxpayer, would just as soon let drop. Surely, the taxpayer should have the right to decide what he wants to do.