

Hon. Mr. DUPUIS: But the Exchequer Court has no power to review ministerial discretion.

Hon. Mr. BENCH: I will state the situation once more for the benefit of my friend. Under this legislation, apart from the amendment now proposed, there is an appeal on questions of law and fact not involving ministerial discretion, and a further appeal to the Exchequer Court. But I repeat that without this amendment there is no effective appeal and no right of redress for any taxpayer who may feel himself aggrieved by the exercise of ministerial discretion. That is the thing we have tried to get away from. I cannot therefore believe that the amendment is wrong in principle or that it will hamper or hinder the administration of the act. On the contrary, I am convinced that it will induce a great deal of public confidence in the administration of our income tax law.

I intend to support the amendment, and I am through answering questions.

Hon. Mr. DUPUIS: Does the amendment give the details of the powers of the new board?

Hon. Mr. MORAUD: They are in the law itself. If you read the bill you will see all the powers of appeal.

Hon. Mr. BENCH: In addition to the powers which the board would have under the bill, it is suggested that it have the power to review ministerial discretion in an effective way.

Hon. Mr. EULER: The honourable gentleman from La Salle (Hon. Mr. Moraud) referred to the first report of the Special Committee on the Income War Tax Act and the Excess Profits Tax Act, and quoted some remarks made by the chairman of the committee, who happens to have been myself, when the report was presented. Those remarks express pretty well what I thought then and what I think today. I have listened with considerable interest to my honourable friend behind me (Hon. Mr. Campbell). He describes himself as being in favour of the principle of this amendment, but for some obscure reason he is not going to vote for the amendment. I may say that earlier this afternoon I found a certain obscurity in his remarks on another amendment in which I was somewhat interested. But whatever the reason may be, he seems to have made a right-about turn. However, as one of the old hymns puts it, "While the lamp holds out to burn, the vilest sinner may return"—even at the eleventh hour.

Hon. Mr. BENCH.

To me the crux of the whole question is simple. This amendment proposes to give effect to what was recommended in the report of the special committee and adopted by the Senate. As has been pointed out, the committee's recommendations were supported by a number of senators, including the honourable gentleman from Toronto (Hon. Mr. Campbell). One of those recommendations was that the exercise of discretion by the minister should be appealable to a board, and that its findings should not be subject to review by the minister, which in these cases means the deputy minister. Though that was contrary to what the deputy minister advised, it was unanimously approved by the members of the committee.

There might have been reason for some members changing their minds after the government brought down the budget and announced what it was going to do. We knew then that the minister was not accepting our recommendation; we knew then that he was in favour of an advisory board, whose advice he could either accept or reject. But after that our committee met again and brought in another unanimous report, which also was supported by the honourable gentleman from Toronto (Hon. Mr. Campbell). In that report we commented on the proposal of the Minister of Finance, as indicated in his Budget Speech, for a certain limitation of the discretionary powers of the Minister of National Revenue, and we went on to say:

Such a limitation of ministerial discretion becomes all the more necessary, since, much to the regret of your committee, the Minister of Finance has not seen fit to adopt the recommendations made by your committee in Part One of this report relating to the establishment of a Board of Tax Appeals with authority to review administrative discretions.

The point I want to make is that after it was apparent that the government had disregarded our recommendation for the appointment of a board to which the taxpayer could appeal from the exercise of ministerial discretion, our committee again considered the matter and reaffirmed its view that such a board should be appointed. As I say, that was a unanimous report of the committee, and it was unanimously adopted by the Senate.

The Hon. the CHAIRMAN: Shall the amendment carry?

Some Hon. SENATORS: Yes.

Some Hon. SENATORS: No.

The Hon. the CHAIRMAN: Those in favour of the amendment will please say "Content."