

Income Tax Act

the notice. Having taken part in a good many situations of this kind, not all of them tax cases but appeals of different kinds, I feel that to have 10 days from the day notice is given by the minister in which to get an appeal filed is completely unreasonable. For example, notice can be mailed on a Monday or Tuesday to a point some distance away from Ottawa, and the notice may not reach the party concerned before four or five days at the very best, even when it is sent by registered mail. If it is either mailed or comes in on the weekend, you have lost the weekend. If a person happens to be away when the notice arrives, more time is lost. I do not know of any law in the world that requires a person to stay home waiting for the Minister of National Revenue to mail him a notice to which he has to respond in two or three days after the minister may have taken a year to reply.

I know there is a saving clause, and this can be brought forward, that a person may apply to a court of appeal or a judge thereof for further time, but for the average citizen it is a costly and time consuming procedure. A person may not have a lawyer available to file a notice of appeal when he is suddenly faced with a decision, and 10 days will have gone by. This is almost impossible. Even in the ordinary courts of most of the provinces in this country, you have 10 days from the day on which a summons or other document is served on you to put in an appearance in court, and that is 10 days after it is proven that the document has come into your hands. That 10 days is altogether too short a period, even in ordinary litigation.

I think it is absolutely unreasonable to expect anyone to file a notice of appeal in a federal court within 10 days after the minister has mailed a notice here in Ottawa. I would say that most of the time it would be an absolute physical impossibility. I protest against this strongly. I cannot see any reason for cutting the time so short. What difference is it going to make? Give the public a break and let them have 30 days in which to file their appeals. What difference is it going to make to the minister or to anybody else, if he has taken six months or a year to come to his decision? Now, he is going to turn around and require that the next day the person concerned must rush into court. I object to this time period. I would like to hear whether or not someone concurs in my belief.

• (4:50 p.m.)

[Translation]

Mr. Béchard: Mr. Chairman, having listened to the hon. member for Parry Sound-Muskoka (Mr. Aiken), I have to agree with him that the time period is too short. However, I must tell the hon. member, since we might run short of time, that we could undertake to study his suggestion along with the other amendments he has submitted earlier today.

[English]

Mr. Aiken: That would be quite satisfactory, Mr. Chairman.

The Chairman: Section 180 will stand. The committee will now proceed to the consideration of Part XV. The first section under Part XV is section 220. Shall section 220 carry?

On clause 1—Section 220: *Minister's duty.*

[Mr. Aiken.]

Mr. McCleave: Mr. Chairman, since Part XV covers a fair number of sections are we to be given leeway to make comments at the start which might be applicable to all sections, or are we to wait until the particular sections come up on which we wish to make specific comments?

The Chairman: The Chair suggests, and I think the committee will agree, that we should follow the practice established in the committee heretofore, so that general remarks might be made on all of Part XV. Is that the wish of the committee?

Some hon. Members: Agreed.

Mr. McCleave: The point I want to raise deals with the power given to the government under section 239(2), at the top of page 550, which reads:

Every person who is charged with an offence described by subsection (1) may, at the election of the Attorney General of Canada, be prosecuted upon indictment and, if convicted, is, in addition to any penalty otherwise provided, liable to imprisonment for a term not exceeding 5 years and not less than 2 months.

This gives the government rather awesome power in that it can pick and choose as to whether those who are delinquent in the payment of taxes are going to suffer jail penalties in addition to fines. I think everybody in this chamber is well aware of the fairly recent case concerning two Canadians, one of whom was treated in such a way that he did face a jail sentence, and the other in such a way that he faced only a fine. Both these gentlemen were very prominent in Canadian life. One has died since the charge against him was laid, and that disposes of his case except in so far as it relates to his estate.

I realize that this provision has been in the law for some time, but that should not prevent us from asking whether it is a power that any government or any minister of the Crown should enjoy. If the minister decides on a certain procedure, then the person involved, if convicted, goes to jail. I wonder if the parliamentary secretaries who are now carrying the burden of the debate can reply to this fundamental point?

Mr. Lambert (Edmonton West): Mr. Chairman, may I continue with this point to which reference has been made? I, for one, refuse to accept any suggestion in any act that it is a minister of the Crown who is to determine that somebody is to go to jail, without the option of a fine. Under section 239(2) every person who is charged with an offence described by subsection (1):

—may, at the election of the Attorney General of Canada, be prosecuted upon indictment and, if convicted, is, in addition to any penalty otherwise provided, liable to imprisonment for a term not exceeding 5 years and not less than 2 months.

It is unfortunate that the Minister of National Revenue is not present. I would have liked to have had a minister of the Crown, responsible for the administration of the act, explain why this provision, which I know has been in the act for a long time, should continue to appear in it. I think it is a most reprehensible principle that a minister of the Crown should have the right to determine that a man shall go to jail. This is something for a court to determine.

Under section 239(1) if a case is proceeded with by way of summary conviction, there is provision for the alternative of a fine "of not less than 25 per cent and not more than double the amount of the tax that was sought to be