

Supply—National Revenue

Once the decision had been made to settle on this basis with the two companies who had appealed to the Supreme Court of Canada, the same basis of settlement on this item of expense was made available to all other taxpayers with respect to assessments then under appeal or which were open to the appeal procedure.

I think that clearly outlines the whole situation, and I should be very glad to listen to the comments of the hon. member for Dauphin or to any questions he may have. I hope his understanding of the matter is clearer now than it was when he brought up the question in the house.

Mr. Zaplitny: Mr. Chairman, I want to thank the minister for his statement, and to assure him that in anything I have to say on this question I have no desire to carry on any kind of vendetta against the minister himself, but I still question the wisdom of the decision that was made. I think that on the basis of the very facts as recited by the minister himself.

What the minister did not include in his statement was the basis on which the exchequer court handed down its decision. He did say that the views of the exchequer court and of the income tax appeal board were diametrically opposed, that is to say that the decisions were opposed. That, of course, is the natural outcome of the fact that the decision of the income tax appeal board was reversed by the higher court. It was the only conclusion you could reach.

It is interesting to note that on the arguments that were presented to the income tax appeal board, which the minister has already mentioned, Mr. Justice Cameron of the exchequer court had some very definite views to express in handing down his judgment. I think it is a matter of public interest that we should have that on record, and that the members of this house should be in a position to judge whether the final decision arrived at by the government was a wise one.

The minister has already pointed out that there were two particular matters that the income tax appeal board took into consideration. One was whether the tax imposed by the Quebec legislature, in passing what is referred to as the education act, was actually a corporation tax. The other was whether the governor in council, in passing the order in council which defined what a corporation tax is within the meaning of paragraph (o) of subsection 1 of section 6 of the Income War Tax Act exceeded its powers by defining that as a corporation tax. We know the decision reached by the income tax appeal board. But when we come to the exchequer

court, I would judge offhand that the opinions expressed by the judges of the higher court should carry considerable weight not only in the minds of the members of this house but of the government itself.

Mr. Montgomery: They are not as good.

Mr. Zaplitny: Apparently in this case it was not considered as good. But it is rather strange that on a matter which was submitted to a higher court for decision and when that decision was rendered in favour of the government, the government should be the first body to question the wisdom of that decision. Apparently they were more inclined to agree with the income tax appeal board which ruled against the government, and whose decision became the subject of an appeal to a higher court, than they are to agree with the same higher court to which they appealed for a reversal of the decision.

It seems a strange position to take, particularly when the issue raised was so thoroughly considered and so explicitly stated in the judgment of the exchequer court. For example, on going through the judgment I find that Mr. Justice Cameron referred to the argument raised by the counsel for the companies concerned. Incidentally, the subject matter of this particular judgment had to do with the Shawinigan Water and Power Company, which was used as a test case, the facts being the same in relation to the companies we have been discussing.

To begin with, he pointed out that in one respect at least—and there were others—even the counsel for the various companies concerned did not agree among themselves. He pointed out that while some of the counsel argued that the Income War Tax Act—that is the section of the act we are discussing now, being section 6, subsection 1, paragraph (o)—was ultra vires of the Canadian parliament, counsel for two of the companies did not agree and did not question the validity of that legislation, a circumstance which makes it quite plain that even the counsel for the companies concerned were not in agreement as to the argument they were using in challenging the validity of the legislation.

He pointed out that counsel for the Ottawa Valley Power Company, for example, and for the MacLaren-Quebec Power Company did not join with the counsel for the other companies in arguing that this particular paragraph and section were ultra vires of the Canadian parliament. Further, he pointed out that at no point did counsel for any company successfully challenge, or even make any attempt to challenge, the contention that the governor in council did in fact have the