

*Tax Review Board Bill*

In any event, I suggest that with the consent of the House we proceed with a consideration of the bill at this stage. The argument and position explained by the hon. member for Edmonton West will be looked into perhaps a little more closely at the time we reach another stage of the consideration of this bill. The Chair may then give a ruling and if the recommendation is found defective it can be remedied at that time.

**Mr. Lambert (Edmonton West):** Thank you, Mr. Speaker. I suggest that the amendment could be slight, requiring only one or two words. This would clear up the matter. In any event, I think I have made my point.

I should like to refer to the minister's statement of the other day, and I realize he is having to leave the House for other reasons. I hope we can welcome him back very shortly. In any event, this bill had its origin in the recommendations of the Carter commission. That commission indicated something I, too, have found over the years, particularly when I was connected with the Department of National Revenue as Parliamentary Secretary. The operations of the tax appeal board do become much too formal and very often assume the unnecessary trappings and formality of a court. Over the years it had become really a tax court, and that, in effect, is what the Carter Commission wanted. I think we are engaging in a sort of exercise in semantics or perhaps moving the men around on a chess board by saying that all the functions of the Tax Appeal Board, as it now exists shall be transferred to a tax appeal court which is part of the federal court set up under Bill C-172. I believe there is now a great deal of activity that really will be for naught. I cannot accept the minister's wishful thinking that this body, as he says, will be so informal that a mere letter or piece of paper sent in to the board will suffice to launch an appeal and that it can be done by a neighbour, accountant or someone on a very informal basis to just one commissioner and so on. This raises a great number of questions.

• (3:10 p.m.)

First of all, I wonder about precedents. Are all the precedents of the tax appeal board and the interpretations of the Income Tax Act to be set aside by this bill? Will this tax review board start afresh and say it entirely discards the decisions of the tax appeal board? If that is so, then there will be a complete revolution in respect of the Income Tax Act and the interpretations thereof. That is the first point. If there are to be precedents, then immediately I suggest to the minister and to his Parliamentary Secretary that some of the informality will be gone because expert tax accountants and expert tax lawyers will be the ones who will approach the tax review board and point out the existence of certain previous interpretations of the law.

Another point is that I think the bill proceeds *per incuriam*, that is, frankly in ignorance of the provisions of the Canada Evidence Act because in clause 9(2) it says that the board will not be bound by any legal or technical rules of evidence in conducting a hearing for the purposes of that act. I put it to you, Mr. Speaker, that

[Mr. Speaker.]

under no circumstances can we circumvent the rights granted by the Canada Evidence Act or the evidence act of any particular province by such provisions setting up a tax review board act. The right granted under the Canada Evidence Act is a fundamental right. It cannot be set aside very lightly by provisions such as those in clause 9(2). That is another question I raise.

Then, I want to ask questions concerning the mandatory requirement that all hearings shall be by one member. The minister indicated that he felt the hearings before the tax appeal board had become fishing expeditions or a form of preliminary hearing. In fact the Department of National Revenue people having seen the whole of the taxpayer's case would then be able to judge whether they should go to the Exchequer Court and could prepare their case before the higher court on the basis of what had been presented before the Tax Appeal Board. With the greatest respect, I ask just how this will differ. The taxpayer, in order to try to convince the tax review board, will have to lay out his entire case.

I am sure that neither the minister nor his parliamentary secretary will say for one moment that no one from the tax department will be present before the tax review board. The case will be laid out, and the mandatory requirement is that it be before one commissioner. What a fishing expedition for the Department of National Revenue this could turn out to be, if such appearances were ever fishing expeditions or preliminary hearings. I do not think the Minister of Justice remembers all of the Income Tax Act. I believe he forgets the fact that he practised law with a firm that enjoys probably the greatest reputation in Canada as a tax advisory legal firm. Before appearing before the tax review board the taxpayer will have to lay out his case before the deputy minister because the appeal must be to the deputy minister. The assessment is varied, vacated or confirmed. If it should be confirmed, or merely varied, the next recourse to the taxpayer will be to go before the tax review board. A look at the amendments to the Income Tax Act, as put forward in this bill, would indicate that the appeal to the deputy minister has not been eliminated. Therefore, the deputy minister has the first shot at the taxpayer's case.

Secondly, before the tax review board proposed under this bill, the taxpayer will have to lay out all his cards. The tax authorities will see the strength of his case. Then, if the department is not satisfied with the decision of the tax review board, proceedings will be started in the trial division of the federal court. I admit that until that proposed stage the taxpayer has not been involved in any costs, even if he loses, apart from his own solicitor-client costs. However, if he should go to the trial division of the federal court, in the event that the amount of the tax payable is in excess of \$1,000 costs may be assessed. If the amount of the tax payable is less than \$1,000, then in no instance will he pay costs since under this bill there is a direction that the costs will be paid by the Crown in all appeals involving a tax liability of \$1,000 or less. This is excellent but the minister, however, cannot eliminate the opportunity for a fishing expedition.