

the committee before me, but it is my recollection that we said in the plainest language possible that after careful consideration the Deputy Minister's viewpoint in that connection had been rejected.

My views have not changed since that report was made, and I most certainly intend to support this amendment. Unless we adopt the amendment we are simply leaving a situation which has existed for thirty years and about which there has been a great deal of complaint. The recourse from the ruling of Caesar will be an appeal to a greater Caesar. I am as much out of sympathy with that viewpoint now as I was when the special committee made its report.

Hon. Mr. DUPUIS: May I ask a question about a matter which I do not understand? Under section 69A of the bill a taxpayer who is dissatisfied with his assessment may send notice of objection to the minister within a period of two months after the day of mailing of the assessment notice. He may then appeal to the Appeal Board named in section 69B. The Appeal Board studies the assessment, and its decision is sent to both the minister and the taxpayer. The minister or the taxpayer, if not satisfied, may appeal—

Some Hon. SENATORS: No, no.

Hon. Mr. DUPUIS: But according to section 69C either the minister or the taxpayer may direct an appeal to the Exchequer Court.

Hon. Mr. MORAUD: No.

Hon. Mr. BALLANTYNE: On law and fact.

Hon. Mr. EULER: On law and fact—and with discretion to no one.

Hon. Mr. DUPUIS: They are free to do that; but in view of sections 69A, 69B and 69C, which would appear to provide the machinery for appeal from ministerial discretion, I should like to know the reason for this amendment.

Hon. Mr. BENCH: My answer is, firstly, that in this bill there is no right of appeal to the Appeal Board from an assessment based upon the exercise of ministerial discretion.

Hon. Mr. DUPUIS: Then where does the ministerial discretion come in?

Hon. Mr. BENCH: If my friend will look at the explanatory note to Section 69E of the bill he will see in the finest possible print a list of the discretions. First of all, there is no appeal to the board from the exercise of ministerial discretion. That is the only point involved in this proposed amendment and the discussion now taking place.

Under the law as it now stands, an aggrieved taxpayer can go to the Exchequer Court by way of appeal from assessment; but on numerous occasions that court has held that it has no jurisdiction to review the result of ministerial discretions properly exercised. The practical result is that under the present law, as my honourable friend who is an able lawyer, must know, there is no recourse for a taxpayer who is aggrieved by an assessment based upon ministerial discretion. To overcome that situation our committee made the suggestion that the Appeal Board should be divorced from the department, and should have the right to review assessments involving not only matters of law and fact but also the exercise of ministerial discretion.

Hon. Mr. DUPUIS: I am not here to criticize what this important committee has done, but I am asking myself this question: If the Exchequer Court has decided on many occasions that it cannot review ministerial discretion because of some lack of power under the act, why did not this committee give the power to that court instead of creating a new body?

Hon. Mr. BALLANTYNE: It had not the power to do that.

Hon. Mr. BENCH: That proposal was very carefully considered, but the prime objective of the committee was to provide an inexpensive means of appeal to an independent board.

Hon. Mr. CAMPBELL: Instead of to the minister.

Hon. Mr. DUPUIS: Or instead of to the Exchequer Court?

Hon. Mr. BENCH: My friend has asked why the committee did not broaden the powers of the Exchequer Court so that it could review ministerial discretions and substitute its own. I believe I am stating it fairly when I say the committee considered the matter and decided that it was more appropriate to set up a board of tax appeal, independent of the department, to which a taxpayer would have recourse in an inexpensive way. If my friend wants to go to the Exchequer Court he must first post security for costs in the amount of \$400.

Hon. Mr. DUFFUS: If I remember correctly, the fee for the first appeal was to be \$15.

Hon. Mr. DUPUIS: If it is necessary to create an appeal board beyond the Exchequer Court, is section 69E of the bill a dead letter?

Hon. Mr. BENCH: I should say it is not a dead letter.