

feel that in these cases there should be provision for a penalty of a percentage of the tax sought to be evaded, and that is why this section is suggested. This type of penalty is not automatic; it will be imposed only after the case has been personally reviewed by the Deputy Minister and the Minister. The taxpayer, if dissatisfied with the Minister's decision, can appeal to the Income Tax Appeal Board. I might point out that in the United States there is for such cases a mandatory civil penalty of 50 per cent. Here we are suggesting a penalty between 25 and 50 per cent, within the discretion of the Minister.

Hon. Mr. HAIG: In actual practice you would notify me, would you not, if you thought I had omitted to include, say, an item of interest, or dividend on mining stock?

Mr. GAUSIE: This penalty would never be imposed in a case of that type. What we are talking about here is wilful evasion. You will notice that these two words "wilfully evaded" are the words used also in the criminal section which I read, section 120. They have a definite meaning, and this proposed amendment would not apply to a case where a person overlooked to include a dividend.

Hon. Mr. EULER: In any event, the Minister would still have authority to forego imposition of the penalty?

Mr. GAUSIE: He would have the authority not to impose it.

Hon. Mr. McKEEN: Certain representations have been made to me about this section. It is suggested that the word "fraudulently" should be substituted for "wilfully", and that if an evasion is simply wilful and not fraudulent there should not be this penalty.

Mr. GAUSIE: That is wilful evasion. There would have to be malice of some kind; and, Senator, the criminal section has those words in it. I think Mr. MacNeill will substantiate that.

Hon. Mr. McKEEN: Under the criminal section you have to go before the court and prove the charge, but here the Minister decides the point.

Mr. GAUSIE: But it is subject to appeal to the Income Tax Appeal Board.

Hon. Mr. McKEEN: On this point.

Mr. GAUSIE: Yes. We assess it, and the taxpayer may say that he did not wilfully attempt an evasion, that the matter is open to argument.

Hon. Mr. CRERAR: In that case the appeal board would decide whether it was wilful or not?

Mr. GAUSIE: That is right.

Mr. CRERAR: That is all right.

The CHAIRMAN: Is that point clear?

Some Hon. SENATORS: Carried,

Section 19 was agreed to.

On section 20—Appeal to Exchequer Court of Canada.

The CHAIRMAN: Will you explain section 20?

Dr. EATON: It has to do with appeals.

Section 20 is intended to give power to the taxpayer to appeal directly to the Exchequer Court of Canada instead of to the Income Tax Appeal Board. In an important case, where considerable money is involved, it is well recognized that neither the crown nor the taxpayer is going to be content with an adverse decision by the board, and to save time and expense they go directly to the Exchequer Court. This option is given to the taxpayer, but is not given to the crown.

Some Hon. SENATORS: Carried.

Section 20 was agreed to.