

having exercised his discretion. In principle I think that is wrong. The alternative suggestion which has been put forward by the Department of Finance—and it is nothing more than a makeshift—is to constitute an advisory board. This would not be a judicial board in any sense of the word. In the case of an appeal to such an advisory board the minister would have the final say by exercising his discretion. I submit that is wrong in principle.

Hon. Mr. MORAUD: I hope you do not approve of that.

Hon. Mr. CAMPBELL: I do not in any sense of the word. This may be splitting hairs—

Some Hon. SENATORS: Oh, oh!

Hon. Mr. CAMPBELL: —but I suggest to the committee that that advisory board should be appointed from members of the court of appeal, so you would have an independent board, and I hope that within a year this legislation will be re-drafted in such a manner that the taxpayer will have an effective right of appeal on all matters of income tax assessment. There are sixty or seventy sections dealing with ministerial discretions, and the minister exercises his discretion in respect of almost every assessment. Under these circumstances, and before the act is revised and some of the recommendations which the special committee made in its second report are dealt with, I raise the question as to whether we should go so far as to say that the Income Tax Appeal Board shall have full and complete authority to review all matters relating to taxation.

Hon. Mr. BALLANTYNE: My honourable friend is a very capable lawyer. Why did not all these things occur to him when he sat for months in the Income Tax Committee? There seems to me to be a recent conversion on his part.

Hon. Mr. MURDOCK: He said the same thing in committee.

Hon. Mr. BALLANTYNE: At the time the committee was sitting why did he not say that there was no use making this report to the Senate because he was in favour of the minister's decision being final?

Hon. Mr. CAMPBELL: As far as I am concerned, I discussed this question at some length in committee in exactly the same way as I have here. In principle I am in favour of reviewing the ministerial discretion where it results in increased taxation; but I feel that we must take some precaution with respect to vesting power in this board.

Hon. Mr. CAMPBELL.

Hon. Mr. MORAUD: What precaution?

Hon. Mr. BALLANTYNE: You are a little late with your remarks.

Hon. Mr. CAMPBELL: Let us consider a specific case in which the minister says that he disallows depreciation at a certain rate and an appeal is taken from that decision. The board, as proposed, would have to consider many things in order to determine whether the depreciation was proper and allowable; and in view of the fact that over a period of years the department has tried to fix a more or less uniform rate of depreciation, the board would get involved in the administrative practice of the department.

Hon. Mr. MORAUD: It would be necessary to choose between the administrative practice—which is wrong, and which we have denounced since the beginning of this session—and the right of the taxpayer to have his case adjudicated by some other body than the officials of the department.

Hon. Mr. CAMPBELL: That is quite right.

Hon. Mr. BENCH: Honourable senators, I am not very much impressed with the argument that the action contemplated by the amendment should be delayed until there has been an opportunity to generally revise the act. It seems to me that if we adopted this amendment setting up a board of appeal with jurisdiction to review the ministerial discretion, it might hasten the revision of the act and reduce the number of discretions now vested in the minister.

Further, the provisions as contemplated by the bill are not to become effective, except in respect to taxes beginning with the year 1946. So that in practice it will probably be late in 1947 or the beginning of 1948 before a board of appeal will be called upon to deal with the exercise of ministerial discretion in the reviewing of assessments.

The special committee set up at the instance of my honourable friend who has just taken his seat (Hon. Mr. Campbell), spent considerable time on this question. The Deputy Minister of National Revenue for Taxation was a witness before that committee, and this point was discussed with him at great length. The suggestion was put to him that the appeal board then proposed should have jurisdiction to review ministerial discretion as well as matters of law and fact not involving discretion. He was strongly opposed to that proposition, and suggested as an alternative that there should be constituted the Advisory Board which is now provided for in this bill. I have not the report of