

*Income Tax Act*

minister is saying that he will give the taxpayers one chance to come in by consent, and that if they do not come in under section 173 he will bring them in under section 174. I do not generally agree with rule 75(c), and I do not agree with its being repeated in this bill.

I also do not know why, if the minister so desired and he had a number of cases of a similar type, the minister could not submit one of the cases as a model case to the court for the court's opinion. But regardless of the other things that he should or should not do, I object to that part of section 174 under which taxpayers can be told that, whether they like to join in proceedings or not they will be forced to do so, and that in order to escape it they would have to apply to the court.

Perhaps my amendment is not framed exactly in the wording the minister would like, but I want to take the compulsory aspect out of this provision and make it easier for the taxpayer who does not want to be a party to litigation. Surely, there is no principle of law—that I know of anyway—under which a person can be forced to go to court when he does not want to do so. If there is some other way that the same end can be achieved, then I would be happy to hear about it. I am happy to allow the section to stand for the time being, and incidentally I hope that if we have some answer to this point before too long we will be able to put the sections through.

**Mr. Gray:** Mr. Chairman, I hope to make some further comment in a definitive way on this matter shortly, if not before the supper adjournment then after supper.

**The Chairman:** Shall subclause 174 stand?

**Mr. Aiken:** Mr. Chairman, there is one other problem before standing the whole clause and it is this. In subclause (5) of section 174 I understand there is a "not" in the original draft that should not be there. It is at line 15 on page 448. Unless I have read it wrongly, I understand that the word "not" should not be there. It was noted in the Canadian Bar Association's presentation that they believed this "not" was a misprint. I did want to draw that to the attention of the minister now before finally dealing with this clause.

• (4:30 p.m.)

**Mr. Gray:** I would like to thank the hon. member for drawing this to our attention. When we are ready to come back to his earlier point we will also attempt to dispose of that one.

**The Chairman:** Section 174 shall stand.

Clause 1, section 174 stands.

Clause 1, sections 175 and 176 agreed to.

On Clause 1—Section 177: *Disposal of appeal.*

**Mr. Aiken:** Mr. Chairman, section 177 is former section 100(5) modified. I should like to ask the minister what the modification is. I do not have a cross reference. If the modification is not of substance then I have no objection, but I should like to have some clarification concerning what change has been made here.

**Mr. Gray:** I do not know if my comment will meet the point of the hon. member, but I am advised that this

[Mr. Aiken.]

section concerning disposition of appeals is similar to present section 100(5).

**Mr. Lambert (Edmonton West):** Mr. Chairman, the answer is very simple. I do not want to appear to be butting in, but is it not a fact that the modification is in respect of a changing of numbers. The figure 180 is being exchanged for something else. This was the explanation given to me of the meaning of the modification in many instances.

**Mr. Gray:** I am advised that the words "other than an appeal to which section 180 applies" is not in the original section and that these words have been added.

Clause 1, section 177 agreed to.

On clause 1—section 178: *Court may order payment of tax, etc.*

**Mr. Howe:** Mr. Chairman, I am wondering why in section 178 (2) the amount is \$2,500. Is there a particular cut-off area with regard to the amount? Why is there an arbitrary amount of \$2,500 in this clause?

[*Translation*]

**Mr. Béchard:** Mr. Chairman, I do not think there is anything new here; the point was raised before. Indeed this has already been amended in the Income Tax Act with respect to the Tax Review Board.

**Mr. Lambert (Edmonton West):** Right.

**Mr. Béchard:** The committee will recall that amount was raised from \$1,000 or \$1,500 to \$2,500 following a suggestion made by the hon. member for Burnaby-Richmond-Delta (Mr. Goode).

**Mr. Lambert (Edmonton West):** The piece of paper containing the amendment was handed to him.

**Mr. Béchard:** No, it was following a suggestion by the hon. member for Burnaby-Richmond-Delta and in the tax appeal board legislation this amount of \$1,000 or \$1,500—I do not remember exactly—

**Mr. Lambert (Edmonton West):** \$1,000.

**Mr. Béchard:** —was raised to \$2,500 and the Crown has to pay the costs win or lose.

[*English*]

**Mr. Lambert (Edmonton West):** Mr. Chairman, I suggest that a very fine point was raised concerning whether it was within the authority of the minister to put forward such a proposal, under the Federal Court Act, and I have not received a very satisfactory answer to that question. As you recall, Mr. Chairman, I used this particular clause as the reference in respect of a point I was making concerning discretion as to cost. My argument was turned down because it might impose another charge on the Crown. The Chairman, when comparing it with this section, found that somehow or other a mandatory direction as in this clause under discussion was not of the same category. I followed his argument. I did not share his reasons and I do not share his opinion. I am particularly conversant with this thing. The hon. member for Bonaventure is quite correct when he states that this was changed in the Justice Committee at the time the tax