

*Income Tax Act Amendment*

a person legally entitled to this information, without defining who were the persons legally entitled to receive the information. Last year we had the case of an Ontario court which called for an income tax file and had it read into the evidence in a civil court case. The amendment that we are considering tonight does nothing more than protect the civil servants involved in passing this file from the department to the court. I suggest to the minister that while it may be all well and good to protect the position of the civil servants involved, I think the minister should take this matter up with the Minister of National Revenue, who has had much experience with income tax matters, and should be aware of the concern that this developing situation is causing in the professions of law and accountancy.

While I cannot object strongly to the protection that this clause is affording civil servants, I do protest the fact that amendments were made last summer which opened the files in the taxation department to all and sundry. I urge the minister to confer with his colleague, the Minister of National Revenue, to bring in in the very near future an amendment to the Income Tax Act which would close this gap once again.

**Mr. Sharp:** Mr. Chairman, it was because of this case that the present clause 22 which we are considering is being brought forward. This amendment provides that the Minister of National Revenue or an official or authorized person, as defined in section 133 of the act, may appeal an order or direction made by a court to require the minister or official to give evidence or produce information relating to information received under the Income Tax Act. This amendment is considered necessary, due to a recent case in Ontario where, in the opinion of the Department of Justice, a judge was in error in requiring the Department of National Revenue to produce certain income tax returns.

It is of interest to note that in similar circumstances a judge in British Columbia held that the returns could not be produced in a civil case. I do not know what more we can do in parliament than to provide for an appeal, nor how we could define any more clearly than is defined in the law who is legally entitled to the information. If a judge says that somebody is legally entitled to it in a civil court case, then I think the best way to deal with that is to provide for an appeal from the ruling.

[Mr. Ballard.]

**Mr. Monteith:** May I ask the minister, with respect to the Ontario case to which he referred, whether the judge's decision was based on an amendment which was brought in last year?

**Mr. Sharp:** I am so informed, Mr. Chairman. I do not think that this is good law and I would like to think that if that decision had been appealed at that time the judgment would have been reversed.

**Mr. Monteith:** In that case, Mr. Chairman, may I offer a word of warning? The minister has agreed that this was not a good move at the time and he is suggesting that there should be an appeal by the Minister of National Revenue against such information being brought forward.

It seems to me this is an indication to us all that some of these laws are brought in by the bureaucratic service with a view to making things easier for them, without respect for the rights of private citizens. I think the minister has admitted it by bringing forth this amendment. I think it is a good lesson for all of us to watch what is happening in these amendments that come before us from time to time.

**Mr. Bell (Carleton):** The fault is with the minister and not the civil service.

**Mr. Ballard:** I thought the minister was going to reply, but failing that I will ask him a direct question. He will recall that, in the case to which both he and I referred, the court ruled that the civil servant involved would be absolved from any penalty under section 133 (4) (c). If this was the case, then why was this amendment necessary?

**Mr. Sharp:** As I understand the question of the hon. member, he asked why section 133 was amended. I myself was not personally involved in this and I depend upon the advice of my officials.

They believe it was amended for two reasons: first of all to tighten the law so as to make it quite clear that the information was only available to legally authorized persons. There was some doubt previously as to whether a former civil servant might not have had access to this information, so the amendment to section 133 removed that doubt. I gather it was also meant to enable the Department of National Revenue to provide the information to its own agents to be used in court cases.

I submit that the amendments to section 133 did not have any effect upon the availability of this information, and certainly that