

Canada Corporations Act

provided for the payment of expenses to be incurred in respect of an investigation of the affairs of companies.

I would therefore say there is sufficient authority to give a judge the discretion to recommend that Her Majesty pay the cost of the expenses of an individual who has been acquitted. After all, the Crown asks for the right of reimbursement of its expenses from a person convicted. All I am trying to do is see that justice walks down both sides of the street rather than only the one side.

• (3:40 p.m.)

I would put it to Your Honour that, on the basis of what I said with regard to the recommendation and my amendment, there is sufficient authority for the motion. But if proof of that be needed, let us go to Bill C-216 where, in the second paragraph of the recommendation, it is said:

To provide also that the salaries, travelling allowances and annuities payable to members, former members and widows of former members shall be paid out of the Consolidated Revenue Fund, and that all other expenditures shall be paid out of moneys appropriated by parliament for the purpose;

The first paragraph has only to do with salaries, annuities, and things of that nature. Let us consider Bill C-216, by which the Crown seeks to amend the act. The amendment is to section 101 of the Income Tax Act, which reads as follows:

101 (1) The court may, in delivering judgment disposing of an appeal, order payment or repayment of tax, interest, penalties or, subject to subsection (2), costs by the taxpayer or the minister.

It is left to the discretion of the court to order the minister, in the case of certain tax appeals, to pay the costs. But then let us look at subsection (2), which is an amendment, which reads:

(2) Where, on an appeal by the minister, other than by way of cross-appeal, from a decision of the Tax Review Board, the amount of tax that is in controversy does not exceed \$1,000, the court, in delivering judgment disposing of the appeal, shall order the minister to pay all reasonable and proper costs of the taxpayer in connection therewith.

Bearing in mind the recommendation that I read to Your Honour that all other expenditures shall be paid out of moneys appropriated by Parliament for the purpose, there is a provision whereby the judge in the Exchequer Court shall order the minister to pay. This is not a discretionary provision. It is absolutely clear that he will have to pay the costs of the taxpayer in connection with any claim that amounts to less than \$1,000.

Let us take the parallel situation where the recommendation of Bill C-4, refers to authorizing a provision for the payment of expenses. These two are in the same category. It is the expenses of the Crown that we are asking be paid, and the expenses of the Crown shall include, in appropriate cases, the costs that may be awarded against it by a judge in dealing with a matter. This is my case. We cannot distinguish between the two types of recommendation. They are recommendations for the payment of expenses, and if the costs that may be recommended to Her Majesty to be paid to a taxpayer are not the expenses of an investigation, that is straining the credulity of members of the House and also is an abuse of the English language.

Mr. Macdonald (Rosedale): Perhaps my colleague, the Minister of Consumer and Corporate Affairs (Mr. Basford) would like to participate in this debate also. The hon. member for Edmonton West (Mr. Lambert) raised a nice point with respect to the two recommendations. I suggest that the recommendations are different in that the time honoured use of the phrase with regard to Bill C-216 "and that all other expenditures shall be paid out of moneys appropriated by Parliament for the purpose" indicates that the numerous occasions which occur in other bills where the Crown may be exposed to financial expenditures are covered by those words. Of course, such funds will have to be appropriated from time to time in appropriation acts.

What the hon. member is seeking to do with regard to the recommendation in Bill C-4 is to expand the meaning of the word "expenses" so that it would refer not only to expenses which the Crown may incur on its behalf in connection with the type of investigation referred to but also to provide for punitive costs that may be awarded against the Crown from time to time in the case of a certain proceeding. I suggest that the principle should apply here that if a further obligation is imposed on the Crown it should be stated with greater precision. With respect to Bill C-216 the precision will be provided from time to time by the appropriations acts. With regard to Bill C-4, however, there has been no inclusion of penal costs against the Crown in the definition of expenses in the original bill. I suggest, therefore, that it would expand the word beyond its normal meaning to suggest that costs awarded against the Crown could be regarded as expenses for the purpose of the financial recommendation.