

Hon. Mr. HUGESSEN: Well, Mr. Chairman, in point of fact none of these companies ever did get this, did they?

Mr. GAUSIE: There is a very grave doubt as to whether the law does allow it. The department never allowed it. I don't think the law does allow it. There seems to be some contradiction as between two sections. This is a declaration as to what was intended. It is not clear either way.

Hon. Mr. HAYDEN: Surely that is for a court. I can understand you tightening something up from the beginning of the taxation period in which you pass an act, but to go back of that, where rights have been stated by statute, and to attempt by declaration of Parliament to say what the interpretation is, instead of letting the courts do it, is just the sort of thing we have been doing under other legislation, and we have got to draw the line somewhere. I think it is a dangerous practice to get into, to attempt to declare by Parliament what was intended and what the law is in regard to a statute that was enacted several years before. I have not any concern about the particular application; I am concerned about the principle of making declarations afterwards as to what the law was in an earlier period. That is what we have got the courts for. We could do away with courts and just have judicial decisions by statute of Parliament.

The CHAIRMAN: If there is a doubt as to something in the existing legislation would it not be proper to remove it?

Hon. Mr. HAYDEN: My friend says that innocently. He says there is a doubt. The department may say there is a doubt, but the taxpayer may say there is no doubt. That usually leads to a hearing in the court, in which the taxpayer is one party and the department is the other. Why should we come to the assistance of one party or the other?

Hon. Mr. NICOL: There are no cases pending?

Mr. GAUSIE: After this legislation was drafted, some time in, I think it was, the second week in November, there was a notice of objection filed against an assessment made by the department that did not allow this. The department has consistently refused to allow it. In that sense, if you mean that sort of litigation, yes, there is one case.

Hon. Mr. NICOL: And this legislation will settle that case?

Mr. GAUSIE: No. This legislation was drafted long before.

Hon. Mr. HAYDEN: But the effect of this legislation if it is passed will be to take away whatever right a person may have. He cannot even go to the courts.

Mr. GAUSIE: This will clear up what was in the resolution very clearly.

Hon. Mr. HAYDEN: It is the principle I am concerned about.

Mr. GAUSIE: I was not here, so I am going to sit out of the argument.

Hon. Mr. CAMPBELL: I agree entirely with Senator Hayden on trying to make a declaration which is retroactive to cure faulty language in a previous act, but in this case I think it was perfectly obvious what was originally intended when the other act was brought down. No one could have any doubt about it whatever.

Hon. Mr. HAYDEN: There is one taxpayer who has served a notice of objection. . . .

Hon. Mr. CAMPBELL: I move that this section be passed.

Hon. Mr. HAYDEN: I will second it, then.

The section was agreed to.

Hon. Mr. NICOL: How many corporations of the sort we are discussing this afternoon are there?

Hon. Mr. HAYDEN: Which are affected by this?