

Hon. Mr. HAYDEN: What I am getting at is if a transaction took place before 1949, and the vendor and purchaser were not at arms length, for the purpose of this section you are assuming the capital cost is the depreciated capital cost to the vendor. Is that right?

Mr. GAUSIE: Not less than that.

Hon. Mr. HAYDEN: My question is why should it not be taken at the fair market value. If you are attacking the transaction, then why not put it on the fair market value? The original capital cost may not be correct.

Hon. Mr. NICOL: Out of the original capital cost you take the depreciation?

Hon. Mr. HAYDEN: Yes.

Hon. Mr. NICOL: And if it were taken at the fair market value, you could not take away the depreciation?

Hon. Mr. HAYDEN: Yes, it would be the fair value less—

Mr. GAUSIE: You might be picking up what heretofore was an untaxed property.

Hon. Mr. CAMPBELL: Is not the answer to Senator Hayden's question the fact that there is no real change of ownership?

Mr. GAUSIE: Yes. That is right.

Hon. Mr. CAMPBELL: And you have to come back to the capital cost, less depreciation?

Hon. Mr. HAYDEN: You are dealing with a legal assumption, because they were not at arms length. Some of these transactions might be at arms length, and the price paid might be at a fair market value at that time.

Mr. GAUSIE: If the parties were at arms length, the section does not apply.

Hon. Mr. HAYDEN: But you are assuming, legally speaking, they weren't at arms length, according to your definition; therefore, the price paid is a fictitious price.

Mr. GAUSIE: That is a presumption, and the rule is laid down; it is the lesser of those two items.

Hon. Mr. PATERSON: May I ask the definition of "arms length"? For instance, are the Canadian National Railways and the Canadian National Steamships at arms length?

Hon. Mr. HAYDEN: They are not at arms length, but it does not matter because they do not pay taxes.

Hon. Mr. PATERSON: Would the Canadian National Steamships and the Canadian National Telegraphs be regarded as at arms length?

Hon. Mr. HAYDEN: No.

Hon. Mr. PATERSON: Suppose the Canadian National Steamships sold a steamer which had been depreciated by half—?

Hon. Mr. NICOL: To whom?

Hon. Mr. PATERSON: Suppose they sold it to the railway?

The CHAIRMAN: It is a wholly owned subsidiary.

Hon. Mr. PATERSON: It is a wholly owned subsidiary, but what is the situation there?

Hon. Mr. CAMPBELL: They could not get depreciation twice.

Hon. Mr. HAYDEN: I have no further objections.

Hon. Mr. CAMPBELL: I move the section be carried.

Section 8 (3) was agreed to.

The CHAIRMAN: We are now on subsection 4.

Hon. Mr. CAMPBELL: Carried.