

*Succession Duty Act*

Mr. HANSON (York-Sunbury): A principle is involved here, and the hon. member for Essex East has stated it clearly. There is no answer to his point. This is wrong, and it will not be found in any other jurisdiction. We do not find another instance where the opponent fixes the amount of security. Surely that is not proper, and the point is certainly unanswerable.

Mr. GRAHAM: I agree that in the whole of the provisions of this revenue-producing legislation there is embodied the principle of which complaint has been made. I believe, however, it has been recognized that in relation to the provisions of this particular type of measure, as they are found in other acts, we are arguing about only a single point in a great number. As a lawyer I should like to see reasonable access to the courts which can best discharge the judicial functions cast upon them, but I long since have given up any hope of that being a feature of a revenue-producing measure. I think we cannot complain of this one instance, if it carries out the principle recognized in the measure.

Mr. MARTIN: I am sorry the hon. member has taken that position, because with the greatest respect to him I say it is a weak position.

Mr. HANSON (York-Sunbury): It is a defeatist position.

Mr. MARTIN: Any lawyer who has had anything to do with the Department of National Revenue—I am not speaking now of any particular minister—knows that he constantly runs up against situations which are so repugnant to our conception of the rule of law that he realizes it is about time someone spoke out openly on this subject. I have in mind a situation which I do not think can be defended upon moral or any other grounds. The Chairman may call me to order, but I should like to mention it because it is brought to my mind by this section. This case involved hundreds of thousands of dollars, and the amount which it was alleged should be paid was paid under protest with the assurance from the then minister that if it should be regarded subsequently as not having been legally due, it would be refunded. Litigation ensued later between other parties, and the privy council held on the very same point that the tax was not due. The crown did not restore that money; the minister's undertaking was never carried out because the court held that the minister speaking for himself could not bind the crown in the absence of an order in council. I know of no principle of justice by which that contention can be supported in any way. Our hon.

[Mr. W. C. MacDonald.]

friends in the corner opposite are for this legislation, and I should like to see them take part in a discussion on these important sections. They are strong for the rule of law; they are strong for the due process of law and all that sort of thing, but here is an opportunity to defend a real principle.

Mr. MacINNIS: I think we can very well leave that to hon. friends opposite. It is about time that they defended something, but it is peculiar that they should be defending capitalistic interests, as always.

Mr. MARTIN: I was not defending any capitalistic interest.

Section agreed to.

Sections 40 to 43 inclusive agreed to.

On section 44—Exclusive jurisdiction of exchequer court.

Mr. HANSON (York-Sunbury): Is it quite clear that there is an appeal to the Supreme Court of Canada from the exchequer court as a matter of right? What is the legal position? Let us have it on the record that there is a right of appeal.

Mr. ROSS (Calgary East): Does the Supreme Court of Canada Act not cover that?

Mr. HANSON (York-Sunbury): I should like the minister to say whether there is or is not a right of appeal. My own view is that there is.

Mr. ILSLEY: I always understood that there was. It is just a question of law.

Mr. HANSON (York-Sunbury): I have been asked to find out about it.

Section agreed to.

Sections 45 to 48 inclusive agreed to.

On section 49—Transfer of property without consent of minister prohibited.

Mr. McCUAIG: The leader of the opposition referred to the rule which governs in his province, that nothing shall be taken out of a safety deposit box except the will. I can find nothing in this bill which would permit an executor to take a will from a safety deposit box. In many instances the heirs are leaving for other parts immediately after the funeral, and they are anxious to know what provisions are contained in the will. If there is no provision to permit the safety deposit box to be opened and the will produced, there is likely to be some delay. It may even be that the executor or the executors are at the funeral, and they might have to return afterward.

Mr. ILSLEY: I think it should be provided for.