

*Estate Tax Act*

**Mr. Benidickson:** May I just say that the hon. member for Burnaby-Richmond was one of those who, as a new member, took quite an interest in the sittings of the banking and commerce committee and contributed to some of the amendments that I think were generally satisfactory. Quite a few members realize the opportunities that are open to them when we do have a chance informally to consider a bill in one of our standing committees. I think those who participated in the proceedings of the banking and commerce committee and criticized some of the provisions of the bill as originally presented will feel fairly satisfied in their own minds that they were fulfilling a worth-while purpose.

They will remember that at the opening of the sittings with respect to the estate tax bill the Minister of Finance made some reference to an analogous situation when the income tax revision was referred to the House of Commons banking and commerce committee in 1948, and he referred to the analogy there in so far as procedure is concerned; but may I say to the hon. member for Burnaby-Richmond that while we were discussing the Income Tax Act in 1948 I took a position very similar to that which was taken by several members supporting the government in the recent sittings of the banking and commerce committee, to the extent that he will find on page 716, the final meeting of the committee, a considerable compliment paid to me by one of the senior critics of the opposition, namely the late Senator John Hackett, because I did not choose to be a rubber stamp in connection with a matter of that kind. Mr. Abbott, of course, was piloting the bill, and just as an encouragement to the hon. member may I say that I ended up as parliamentary assistant to the minister at a later time.

Clause agreed to.

Clauses 44, 45 and 46 (1) inclusive, agreed to.

On clause 46, subclause 2—*Offence*.

**Mr. Hanbidge:** I was not a member of the banking and commerce committee. Is there a section in the act under which an executor or an administrator can obtain a clearance certificate?

**Mr. Fleming (Eglinton):** No, Mr. Chairman; this new act does not carry forward the old provision for the issuance of a certificate of discharge.

**Mr. Hanbidge:** Is there no way for an executor or administrator to get clear of the debt?

**Mr. Fleming (Eglinton):** Well, there is provision that he is in effect automatically

cleared when the tax had been paid. As to specific assets, it will be his responsibility to obtain his release in respect of particular assets. As to his liability, payment of the tax will discharge him from his liability, but there is no provision for issuance of a certificate of discharge now.

**Mr. Hanbidge:** Then it is not possible to get an order from the court discharging the executor or administrator without a clearance certificate?

**Mr. Fleming (Eglinton):** No. The court has no status in such circumstances to make a finding or order that an executor has discharged his liability in respect of the tax.

**Mr. Benidickson:** As an executor or administrator can he get it cleared by the court? Under the old succession duty act he could not; the court had no jurisdiction, under our rules, to give a clearance certificate, or at least to discharge an executor or administrator without that clearance certificate.

**Mr. Fleming (Eglinton):** The court has no status, as I indicated a moment ago, to make a finding. No court that I am aware of has the status to make a finding in such circumstances that the executor has or has not completely discharged his liability in respect of tax. That is a matter between him and the Department of National Revenue.

**Mr. Benidickson:** Of course under the old bill it was possible to get a certificate of discharge. This greatly exercised members of the committee, particularly, I must say, members of the legal fraternity who are supporters of the government. I think the minister and his officials should now, in their leisure, having regard to future opportunities to amend this bill, give this point very serious consideration. I am sure this particular void in the legislation was the subject of as much general discussion during the banking and commerce committee hearings as anything else, and I suggest to the minister that while we were pushed pretty hard, two sittings a day, to get through this bill—and it is a long one—I think if we had gone about it a little more leisurely we would have been able to arrive at something that would be an adequate substitute for the present certificate of discharge which is available to an executor.

**Mr. Fleming (Eglinton):** That matter was fully considered. It was fully considered before the bill was brought to the house, because representations were made about it. It was fully discussed before the banking and commerce committee, and the committee was fully informed as to the representations that had been made on the subject. I do not think