

Mr. JACKMAN: What is the amount of diligence required by an executor tracing the assets of an estate? There may be cases where executors are appointed because they do not know a great deal about the history of the affairs of the deceased. This section would seem to leave in the air just the degree of diligence required by an executor. If an asset is found after the estate has been closed, it may be that a court would say, "You did not inquire as fully as you should into the affairs of the estate." In that case he would be liable to penalty.

Mr. ILSLEY: No, in such circumstances he would not necessarily be liable. He is not liable to penalty unless his omission to disclose was intentional. If it was due merely to negligence, he is not liable.

Mr. HANSON (York-Sunbury): I have in mind a case in which I was an executor. In that estate I found a stock certificate for so many shares in a certain company. To my horror, within a month I discovered another certificate for shares in the same company, and this happened after I had settled the duties with the Quebec government. I assure hon. members that I was diligent in bringing the matter to the attention of the authorities and filing a supplementary return, because I was afraid of what might happen.

It would seem, therefore, that an executor has to be alert. That, I believe, is the answer to my colleague's question.

Section agreed to.

On section 17—Demand for information.

Mr. MACDONALD (Brantford City): It seems to me the provision of this section is quite arbitrary, as indeed are the provisions of some other sections. It provides for the mailing of notice by registered mail, and for taking proceedings on affidavit of the commissioner that the notice was mailed. If I may again anticipate, the last line of section 19 provides for the mailing of the demand by registered letter. In no case is it necessary to show receipt of the notice by the person against whom action should be taken. It seems to me that no action should be taken against anyone under this measure unless the commissioner can establish not only that the notice was sent by registered letter but also that it was received by the person against whom action was taken.

Mr. HANSON (York-Sunbury): The hon. member is arguing for actual notice as opposed to constructive notice?

Mr. MACDONALD (Brantford City): Yes.

Mr. ILSLEY: This provision is taken from the Income War Tax Act. There has never been any difficulty in connection with it. Theoretically a commissioner or some other officer of the Department of National Revenue might make an affidavit that it was sent by registered mail, and he might not verify its receipt. But practically that would never happen. The reason it is sent by registered mail is that the person to whom it is sent may sign for it.

Mr. HANSON (York-Sunbury): Not necessarily; it might be a clerk.

Mr. CASGRAIN: I think there is a provision in the post office regulations under which when a fee of fifteen or twenty cents is paid the letter is delivered and a receipt obtained, signed by the person who receives the letter.

Mr. CASSELMAN: But you still do not get the signature.

Mr. CASGRAIN: The post office obtains it when this fee is paid. Once I had a case in court which my client lost because he could not prove that a letter had been received. The post office is authorized to issue such special receipts.

Mr. HAZEN: Perhaps the words "with an official receipt" could be added after the words "registered letter" in line 44.

Mr. HANSON (York-Sunbury): This is the practice followed by the income tax division. Perhaps the minister could tell us if any injustices have occurred by the use of this method of notification. The experience of that division would be the answer. There is no doubt that this is only constructive notice; before any penalty could be incurred a man would have to receive an actual notice.

Mr. ILSLEY: This is the section that has been in use since 1917 in the income tax legislation. The commissioner tells me that when he goes into court he produces the signature of the person to whom the notice is sent. I do not know whether it is necessary or not.

Mr. HANSON (York-Sunbury): I do not think it is of great importance.

Section agreed to.

Section 18 agreed to.

On section 19—Production of documents.

Mr. HANSON (York-Sunbury): Is this the first section in which provision is made for production on oath?

Mr. ILSLEY: Yes.