the agreements entered into under Bill C-8 which we are now considering.

The other matter I wish to touch on I raised during the second reading debate on this measure. I gave the Minister of Finance (Mr. Turner) notice at the first committee meeting on Bill C-8 that I would be dealing with this matter when the bill came before the House for third reading. Since the Minister of Finance might still be involved in this bill in his former capacity of minister of justice, I am surprised not to see him here. At any rate, I gave him notice of my intention and I therefore hope some member of the ministry will have the courtesy to give me a response on the point I am about to raise. This is what I said, Mr. Speaker, when the matter arose in committee, as recorded at page 9 of issue No. 1 of Minutes of Proceedings and Evidence of the Standing Committee on Finance, Trade and Economic Affairs:

The point that I made in the House was that as far as I could determine there was really no legality or legislation that I could find that gave any right to the federal authority to collect such taxes—

I was referring to succession duties.

—in those six provinces which are proposing to enter into the succession duty field. I wondered if the Minister, who had been Minister of Justice before, had advised the Minister of Finance then as to whether or not this course could be followed.

I might say, to refresh the memories of hon. members, that this point concerns clauses 9 and 10 of Bill C-8 which empower the federal government to enter into agreements with the provinces for the collection of succession duties. The Minister of Finance replied to me in committee as follows:

I cannot describe to the honourable Member, Mr. Chairman, what advice I gave to the former Minister of Finance when I was the former Minister of Justice, but I can say that the statutory framework for these collection agreements is found in the bill itself. In other words, it provides an umbrella situation for agreements for the collection of taxes to be made under the general statutory authority of the bill.

I then asked:

Am I right then in assuming from the minister's answer that the situation will become regularized by the passage of this measure and that no other authority exists other than that found in clauses 9 and 10.

The minister answered, "Yes, sir." That, Mr. Speaker, confirms the point I made originally in this debate, that we are now being asked by the government to legalize more or less an ad hoc arrangement which the government has entered into with the provinces. I submit that no legislative authority exists for such an arrangement and that it is in breach of our constitutional practice and parliamentary practice as they have been followed from the dawn of our parliamentary system. I shall deal with that matter in the remaining portion of my speech before founding my motion on that theme.

The government has given instruction to the banks to restrict the amount of assets which are to be released from an estate and it seems to act as though it has the power to collect succession duties. On March 3, 1972, I quoted part of a letter sent by Mr. J. C. Ruddy, director of the estate and gift tax division of the Department of National Revenue. Actually, the references to the letter begin at page 507 of *Hansard* and continue for several pages. I said that the government cannot claim that it has the power to give these instructions to banks under the Estate Tax Act for that act was repealed when Bill C-259 of the previous session became law. The government cannot claim it has such power under the authority of provincial legislation which is to be adopted.

Of course, we could negate Bill C-8 entirely. That is to say, we could throw it out and that would clearly be the end of any such claim on the government's part. I submit that clause 9 of Bill C-8, dealing with fiscal payments to provinces and related matters, provides that the government of Canada will be entitled to collect estate tax duties after an agreement is concluded with the provinces and after the appropriate provincial legislation is adopted. So far as I know, this is not happening with any one of the six provinces; therefore, I submit that the federal government is acting on agreements and legislation which are not in existence.

The authority for the federal government to prohibit the opening up or removal of any property in a depository or the delivering up of any property held in safekeeping for a deceased person was previously found in the Estate Tax Act. That act required the consent of the minister before such property could be released. As I say, Bill C-259 of the previous session effectively repealed the Estate Tax Act with respect to the death of any person who died after the stroke of midnight on December 31, 1971. Therefore, in respect of the property of these persons the federal government no longer has such authority.

I submit that until a province or the federal government enacts similar legislation there is no authority to require a bank to receive consent before releasing the property it holds on behalf of an estate. Clearly, if some crusty executor or lawyer of the old school got mad with the estate tax division of the Department of National Revenue and wished to raise cain about this matter in the courts of the land, he could. I suggest the courts would have no sympathy for the Department of National Revenue for entering into arrangements that in effect freeze estates in six provinces and say that only on the say-so of the federal district director of estate taxation shall assets be released.

That arrangement has been entered into without a jot or tittle of legislative authority. If some crusty Canadian wanted to test these rights in court now, he would make the Department of National Revenue look pretty sick in any court of the land. I do not know if such a crusty Canadian exists. However, if you read cases in the English law reports you will find that there was such a crusty Englishman. Some of those fellows fight until hell freezes over—

An hon. Member: Be careful now.

Mr. McCleave: —because they will fight over a point of principle. The case I have in mind is *Bowles v. Bank of England,* reported in 1913 Chancery Law Reports, page 57. The case was actually heard in 1912. What I found interesting was the length of the report. It begins at page 57 and ends at page 91 and many pages are devoted to the decision of one member of the court. I am not referring to the court of appeal. I found it fascinating because the report of the argument alone covers 25 pages and the report of the decision only eight. It is fascinating because