

Estate Tax Act

On clause 3—*Property included.*

Mr. Benidickson: I should also like to point out that I think this clause is much improved as a result of the reconsideration by the government of the briefs that were given to it by some of those national organizations of which I spoke earlier. In Bill No. 248 there was indication of an intention to tax certain forms of disposition that have occurred longer than three years from the date of death. However, much of this, in fact probably all of it, has now been altered.

The Chairman: Shall clause 3 carry?

Some hon. Members: Carried.

Mr. Benidickson: Mr. Chairman, this is an extremely complicated bill, as you know. Each clause has a number of paragraphs and those paragraphs in turn have subparagraphs. Clause 3 (1) has subparagraphs numbered from (a) to (m). I wanted to make a comment—but I had to turn the page—with respect to clause 3 (1) (1). This provision again is taxing something that hitherto had not been taxable under estates taxation. I referred to this matter in the committee. I still think this voluntary gift by an employer to a dependent of a deceased is something which it is extremely difficult to justify taxing. This is a class of property to which the deceased had no right. The estate could not claim anything against the employer. I do not see how something of that nature can be considered to be part of an estate. As such a contribution or receipt on the part of a dependent would be open to income tax, it seems to me that is a quite adequate tax under the circumstances.

Mr. Hanbidge: To what section is the hon. member referring?

Mr. Benidickson: That was clause 3 (1) (1), subparagraph (i):

under any disposition made voluntarily in recognition of services rendered by the deceased as an employee of that person—

In other words, it is something that not he nor the estate nor his dependents have any right to claim in a legal way, and I just do not see how that can be considered to be part of an estate.

The Chairman: Shall clause 3 carry?

Mr. Fleming (Eglinton): I think my hon. friend will appreciate the great difficulty that will arise if such a provision is not contained in the act. We have had a similar provision in the Dominion Succession Duty Act, in the old clause 3 (1) (g). This is not a new principle. It is a matter of trying to carry a principle to its logical conclusion, and also to close what is an obvious loophole in the existing legislation.

[Mr. Benidickson.]

Mr. Benidickson: This is a new form of tax. You did, of course, tax receipts by dependants, widows or children, which were in the nature of fringe benefits, something the deceased himself knew he was entitled to from his employer. When that benefit is received the recipient pays on it not only income tax but an estate tax. Sometimes, as we discussed in the committee, this payment involves considerable hardship. I know the difficulty of the minister where it is a pension that a man has made part of his contract of employment, but this particular death benefit is completely voluntary on the part of the employer after death. This one is completely voluntary, and there is no right of action with respect to it. I just do not see, therefore, that it is the property of the deceased.

Clause agreed to.

On clause 4—*Property not included.*

Mr. Benidickson: Mr. Chairman, I realize that it will take longer, but I wonder if you could follow through this bill by quoting the subheadings when we come to a long section such as clause 3. Would the committee not agree to say clause 3, subparagraph 1, subparagraph 2, and so on.

The Chairman: Is it agreed by the committee that I quote paragraph by paragraph and subparagraph by subparagraph?

Mr. Benidickson: In fact, Mr. Chairman, each of these items indicated by letters are sufficiently important to almost justify your calling (p), (q), and so on. We will go through them very rapidly, but I think there would be less attempt made to go back and less feeling of frustration if you were to go down the page and simply call major headings, paragraph 3, subclause 2, and then (a), (b), (c), (d), and so on.

The Chairman: Is it the pleasure of the house to accept the suggestion of the hon. member for Kenora-Rainy River?

Mr. Fleming (Eglinton): I take it that my hon. friend is confining his suggestion to the long clauses and not clauses such as Nos. 5 and 6.

Mr. Benidickson: That is correct.

Clause agreed to.

Clause 4 to 6 inclusive agreed to.

On clause 7—*Amounts deductible in computing aggregate taxable value.*

Mr. Benidickson: Mr. Chairman, I have already indicated that subclause 1 of clause 7 is the clause which has elicited a great deal of interest by the public, and this is the clause