

*Foreign Exchange Control*

But that is not all. We go a little further, and see, in the seventh place, that it is left to the foreign exchange control board to decide whether the undertaking has been to perform these services at less than the fair value of the services. Who is to determine the fair value of the services rendered by anybody within the wide scope of section 2, subsection 1(w)? The foreign exchange control board.

An hon. MEMBER: That is too bad.

Mr. FLEMING: And, number eight: payment must be "in a currency designated by the board as acceptable for such a transaction", and that, again, is for the decision of the board. It is obvious that an individual who has performed or entered into any kind of transaction just hasn't a chance. It is not a case of coming before a court; it is a case of having his transaction reviewed in all these respects by a board, the foreign exchange control board, whose decision in practically every respect is final.

An hon. MEMBER: Too bad.

Mr. FLEMING: Let us take a simple transaction to test the sense, if any, in a section of this kind. Suppose I have a friend in Scotland who writes to me and says, "Will you do such and such a service for me? I am pretty hard up right now; I don't know when I can pay you. You will just have to take that chance. I will pay you when I get the money, but I haven't it now and I don't know when I will have it." When I perform that service, it being a service ordinarily performed for remuneration, I cannot say to my friend in Scotland, "Don't worry; pay me whenever you like", without a permit from the foreign exchange control board.

An hon. MEMBER: Quite right.

Mr. FLEMING: I cannot say to him, "Don't worry; pay me any time," without a permit.

An hon. MEMBER: You are a man after my own heart.

Mr. FLEMING: Or suppose I have a relative in France who writes to me and says, "Here is a service I should like you to perform." My relative in France has undergone hardships during the war, and I say, "I am not going to charge that relative of mine according to the full tariff", so I write and tell him, "Here is my bill for services performed; actually it is about one-third of what would be ordinarily charged."

Mr. ABBOTT: You would not ordinarily charge your relatives, would you? They would be excepted from the act.

Mr. FLEMING: That is not an exception from this section. I could not in any cases of

[Mr. Fleming.]

necessity or other circumstances, submit to a friend or relative anything less than the normal tariff charge without a permit from the board. If I did I would be committing an offence under this measure, and the board could put an inspector in and examine that whole transaction.

Mr. ABBOTT: We shall be coming to that to-morrow.

Mr. FLEMING: They could go through my books, examine me, put me under oath, as provided for under section 41. And that is not all. Suppose, as in the case I cited of a friend in Scotland, I told him that he could pay me whenever he likes or whenever he is able, and they are going to prosecute me, you will see under section 58 that the burden of proof is on me.

An hon. MEMBER: I would say it is a good idea.

Mr. FLEMING: Look at this section:

58. (1) Where any person is charged with an offence under this act, if it is established in proof of the offence that the said person did any act or omission for which a permit is required under this act, it shall not be necessary to establish in proof of the offence that the person charged did not possess a permit or had not been exempted from the applicable provisions of this act, and the burden of proof that he possessed the necessary permit or had been exempted from the applicable provisions of the act shall be upon the person charged.

I go into the court with another strike against me. The burden of proof is on me to show that my case is one which under the terms of the act is an exemptable case.

That is not all. Look at section 60, subsection 2, and observe what follows in respect of penalties:

(2) Every person guilty of an offence under this act for which no penalty is provided under subsection one of this section—

Subsection (1) relates to property.

—shall be liable, on summary conviction under part XV of the criminal code, to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and such imprisonment.

An hon. MEMBER: Is that section 32?

Mr. FLEMING: Section 60, subsection 2. Will hon. members opposite restrain their mirth long enough to ask themselves this simple question. If a constituent of theirs so allows his judgment to be guided by the dictates of human kindness that, for the sake of assisting a friend in Scotland who has lost much during the war, he tells him, "You do not need to worry about paying me now; pay me whenever you like," and either does not know that he is committing an offence under the act or does not see any reason why he