

*Succession Duty Act*

to access to the safety deposit vault of a testator, to be opened under the eye of the manager of the bank or trust company, usually; and in some jurisdictions this is done in the presence of a representative of the treasury. The executor is not allowed to take out anything, as I understand the practice, except the will and, in some instances, the life insurance policies. I think it is absolutely necessary that he should have the right to do that.

What I am coming to is this. Before he can liquidate sufficient assets to take care of these pressing charges, he must have a waiver from the department. In many instances this must be obtained even before the insurance companies will pay the life insurance. What provision is there in the statute—I do not know where else I could ask for it—to take care of that situation; and what process will an executor have to go through in order to expedite the business that I have attempted to indicate will be necessary to be transacted in order to get in this money? In practice, will provision be made for the delivery to executors, before duties are paid or security is given, of waivers in respect of particular rights intended to be liquidated? That is important in actual practice, as any solicitor will advise the minister.

Mr. ILSLEY: Sections 49 and 50 provide for consent in writing by the minister or his representative.

Mr. HANSON (York-Sunbury): Then the situation I have attempted to visualize will be taken care of in succeeding sections?

Mr. ILSLEY: Yes.

Mr. JACKMAN: In reference to section 34, just how is the minister going to determine what rate of interest should be allowed in the calculation of the present value of the annuities, incomes and so forth? It makes a great difference what will be the base rate, or what will be the principles determining the amount to be taxed.

Mr. ILSLEY: I assume the commissioner would take the advice of the superintendent of insurance, and apply the prevailing rate.

Section agreed to.

Section 36 agreed to.

On section 37—Decision of minister to affirm or amend.

Mr. MARTIN: Is there any provision in the bill for overpayments or mistaken payments?

Mr. ILSLEY: Yes; subsection 4 of section 35.

[Mr. R. B. Hanson.]

Mr. HANSON (York-Sunbury): Will the minister give us some assurance that these appeals will be considered personally, or will it be a matter of departmental routine as under the identical section of the income tax act? I understand the commissioner, under authority delegated to him by the minister, determines the appeal. I may be quite wrong in that. But does the minister have anything personally to do with it? When a power of this kind is specifically delegated to the minister, I suggest that he is under obligation to exercise it himself. What is the custom in the department in respect of the income tax act, and what would be the practice under this measure? Will the minister himself review the assessments, or will he leave it to the officials who have already made the assessments to review their own assessments? In these last few words I have indicated the weakness of the present position, if, indeed, that is the position.

Mr. ILSLEY: That is about the position.

Mr. HANSON (York-Sunbury): That is no review at all, is it?

Mr. ILSLEY: Well, it may be.

Mr. HANSON (York-Sunbury): It is like it used to be when we went to a judge under the old practice obtaining in the county courts of New Brunswick. In those days a trial would be held before a judge, and then one might have to move for a new trial on a point of misdirection. He would have to go to the same judge, sitting as a judge in banco on his own direction to the jury. We used to have that condition in New Brunswick. I remember only once in my experience when I persuaded a judge to agree that his charge was bad.

Mr. CASSELMAN: He must have forgotten it.

Mr. HANSON (York-Sunbury): I had such a case, and the judge directed a new trial. I agree that possibly the commissioner—and I say this with great respect, applying it not only to the present minister but to his predecessors—knows possibly more about the matter than does the minister. He will not be offended by that statement, because there is nothing personal about it. We are, however, now discussing a provision in the measure which the minister admits is null and void. It might as well be cut out first as last. Is there any merit in it, if it is not carried into effect?

Mr. ROSS (Calgary East): In the income tax act there is an express provision that matters referred to the minister such as those to which the leader of the opposition has been