

Succession Duties and Life Insurance

Desirability of Insurance to Cover Succession Duty is Marked in a Large Number of Estates—Many Difficulties and Much Good to Beneficiaries Is Thereby Effected.

At the recent annual convention of the Life Underwriters' Association of Canada, held at Ottawa from August 18th to 20th, Mr. John Cowan, of the Toronto General Trusts Corporation, read an interesting and valuable paper on "Succession Duties and Life Insurance," which has a great deal of practical interest to the business men. Mr. Cowan took up the creation of Succession Duty, its history and form and its relation to Canadian law. He reviewed in particular, the operations of the various Succession Duty Acts in all the Provinces with their rates as at present on the statute books, and concluded with the following practical considerations with regard to life insurance and its importance with regard to this certain duty.

When a person has died and his estate falls to be administered, one of the first duties of the executor who takes the estate in charge, after reading the will, is to go carefully over the assets left by the deceased, noting, among other things, any insurance policies which may be found among the deceased's papers, and ascertaining if these are in force and notifying the insurance companies interested of the death of the assured and of their appointment as executor and trustee of the estate. The experienced executor knows that these insurance policies are among the most valuable documents left by the deceased. Proof of death and the right of the executors or beneficiaries to collect the proceeds of these policies is all that is required to turn them into cash. The question as to the ability of the insurance company to make immediate payment does not arise, nor does the necessity of having to sell the security on a low market in order to obtain funds, as may sometimes be the case with listed stocks. These features make life insurance policies of special value among the assets of an estate.

When a testator by his will has provided that his widow shall be entitled to the income only from his estate and the capital divided among his children or others on her death, and has not specifically provided for payment of Succession Duty out of his general estate, then the duty is payable by the widow out of the income to which she is entitled within the time mentioned in the statute, namely, from 6 to 18 months (with the exception of one Province), from the death of her husband. The duty becomes a first charge against the income to which she is entitled, and therefore no income can be paid to her until this charge has been first met. In such cases this is the only charge for Succession Duty against the estate until the death of the widow, when the estate is re-valued, duty then charged on the balance of the estate and deducted from the shares of the remaining beneficiaries before payment to them of the same. Needless to say payment of the duty by the widow out of her income causes considerable hardship and inconvenience. To maintain a family of say, seven in number, a widow and six children, to provide food, clothing and education on the income from a \$30,000 estate leaves little, if any, of a surplus, especially when no provision has been made for payment of Succession Duty out of the general estate. Many wills left by testators make no such provision, and the consequent hardship caused to the widow and family is very great. By the exercise of foresight in drawing a will and by the deceased providing sufficient insurance funds to meet such claims, this hardship and inconvenience could be avoided.

Then again, it is often of material benefit to an estate when insurance moneys are made payable to the executors of the deceased and not to beneficiaries named in the policy, especially in cases where the estate comprises assets which

cannot readily be realized, such as unimproved real estate or unlisted stocks. In some instances executors of estates, and of fairly large estates at that, when they take over the administration of an estate find that there are no funds available for payment of taxes or for payment of claims, Succession Duty, etc., and in order to pay these it has been necessary for them either to advance the moneys out of their own pockets or to mortgage the real estate under their care. If the right to mortgage the real estate has not been conferred upon them by the will, it is necessary for them to make application to the Court for an order giving them this right, with all the trouble and expense involved. These are cases in which the use of insurance moneys greatly facilitates the administration of an estate for the executors.

In one case the assets of an estate consisted of improved real estate right in the heart of Toronto. The circumstances were such that in order to pay Succession Duty the property had to be mortgaged in order to raise the funds necessary, whilst in another estate the assets consisted of a valuable subdivision on the outskirts of the city, which, for the same purpose, was required to be sold when there was a depression in the real estate market, the sale resulting in considerable loss to the estate.

Similar circumstances frequently present themselves in the estate of a business man, especially in cases where his whole assets are tied up in a business. Let us take the case of a man leaving an estate valued at say \$160,000 in such shape. Under his will he has given his widow an annuity of \$5,000, to a brother who has been associated with him in the business he has given a legacy of \$15,000, and the remainder of his estate is bequeathed to his only son. The will directs that the business is to be continued until his son reaches the age of twenty-five years, when he is to become entitled to his father's share and take his place in the management. If the son does not wish to enter the business, it is to be sold, the first option to purchase to be given to the testator's brother. Meanwhile the executors have some bills to meet. There are personal obligations of the deceased, testamentary expenses, the \$15,000 legacy to the brother, and in addition to these succession duties amounting to between \$12,000 and \$13,000. It is found that the executors have not the funds on hand to meet these obligations, and are placed in a very awkward position. To withdraw the funds from the business at a time when it has lost its executive head may involve a serious curtailment of its operations or serious financial embarrassment. But the executors are anxious to continue the business and carry out the wishes of the testator as expressed in his will, and so are obliged either to advance the funds themselves or to arrange a line of credit with the bank, neither of which propositions are very likely of being satisfactorily arranged.

Another instance arises when insurance moneys would have proved of real assistance to an estate, is that of the case of a structural engineer. At the time of his death he had on hand several large contracts, which he was carrying out with the assistance of the bank. In order to realize as much as possible for the estate and for the benefit of his widow and children, the executors decided to complete these contracts. Arrangements with the bank entailed payment to them of all moneys received for the work as it progressed, and this left no funds available to the executors wherewith to pay Succession Duty or for the support of the dependents of the deceased, and it was only with great difficulty and after careful negotiation that arrangements were made with the bank whereby the executors were enabled to complete the contracts and finally wind up the estate with advantage to those interested. But in the meantime, what of the family? They had to wait pending the satisfactory outcome of these contracts and naturally suf-