

Estate Tax Act

a committee proceeds rather hastily in examining a bill of this kind, and the question of value is, of course, very important. I think some improvements have been made in the bill, not only in committee but also previously, but I have one or two suggestions I would like to make to the minister at a later stage, some of which have been made by the specialized insurance counsel. The particular suggestions I have in mind do not relate to this particular clause, however, so I shall defer my remarks until we reach the appropriate clause.

Clause agreed to.

Clauses 28 to 31 inclusive agreed to.

On clause 32—*Shares of controlled corporation where beneficiary of insurance policy.*

Mr. Benidickson: I would just like to make a comment on this clause, in that I feel it received a pretty fair overhauling from Bill No. 248, which was presented last session. I believe the members of the banking and commerce committee were gratified that that had happened because the protests in connection with Bill No. 248, as originally drafted, were pretty strong.

Clause agreed to.

Clauses 33 to 37 inclusive agreed to.

On clause 38—*Situs of property.*

Mr. Benidickson: Clause 38, as amended, still does not meet with the approval of some members of the committee. This, of course, deals with the situs of property and we referred to this matter this morning. The clause, of course, gives in detail the situs of property which henceforth will be statutory and will not have to be determined by common law. I must say, as I said in connection with the earlier section, that we oppose the adoption of this clause.

Clause agreed to on division.

Clauses 39 to 41 inclusive agreed to.

On clause 42—*Person leaving Canada or removing property.*

Mr. Benidickson: This is one clause of many in the bill where we see to the right in the explanatory notes that this is something new in so far as the collection of estates duty is concerned, and the explanation has been given in the other clauses, and is now given here, that this clause is similar in part to sections of the Income Tax Act.

These to my mind are new administrative privileges which are being asked for with respect to enforcement and so on. I think

they may provide simplicity to the administration, but one has some hesitation in extending to this type of property the same type of strong-arm authority on the part of administration which might now be provided under the Income Tax Act.

We discussed this question in the banking and commerce committee and the officials indicated, usually, fairly sound reasons for asking for this extension of privilege and authority. I may say that it was a member of the government on that committee who, I think very wisely, made an interjection that not every member of either the House of Commons or the committee was satisfied that it was enough to say that because it is in the Income Tax Act it is justified in being in the Estates Tax Act.

Mr. Fleming (Eglinton): The hon. gentleman said "a member of the government".

Mr. Benidickson: A member of the government party, I should say. A member of the government party very wisely said that he had never been satisfied that some of the administrative provisions of the Income Tax Act were perfect, and therefore it was not, in logic, good enough to say that a section was similar to something in the Income Tax Act.

I have heard hon. members opposite, when they were sitting on this side, complain very bitterly about some of the provisions of the Income Tax Act, and if they have those feelings I hope that as time goes on they will urge the minister to relax some of the authority that is contained in this bill generally—not especially in this clause—an authority which makes it less open to the taxpayer to argue and assert his point of view.

Clause agreed to.

Clause 42 agreed to.

On clause 43—*Lien for taxes.*

Mr. Benidickson: Would the minister tell us what effect this clause would have upon a mortgage, or upon a purchaser?

Mr. Fleming (Eglinton): Clause 43 creates a lien in respect to the amount payable as tax, interest or penalties on the real property of the deceased that is situated in Canada. There is one new provision in this respect. The provision in the present succession duty act which applies in this situation is section 25, subsections 3 and 4, and that provision creates a lien on the property of the deceased of the same nature as the lien created by clause 43 now under discussion, except that section 25 applies to the real property situated in Canada of only those deceased persons who died domiciled outside Canada. The one change this clause makes is to extend this lien to apply to all persons whether they