> out in the act are not necessarily the same as the principles laid down by the courts over long periods of time, and thus will be very confusing and perhaps be a source of unnecessary litigation.

This point was dealt with quite fully when we were on this clause. Mr. Linton went over these points, but perhaps the committee would wish to have comment on this objection and on the example that is put forward by the writer of the letter. Could Mr. Linton be heard on that point.

Mr. W. I. LINTON (*Administrator, Succession Duties, Department of National Revenue*): That is true. The two points are that the test of whether a provincial credit is allowable depends on the situs of the property, whereas in the Succession Duty Act it depends on whether the province taxes the asset; and secondly, that the rules will differ from the common law rules to some degree.

To take the second point first, one of the reasons why they do differ is to avoid confusion and not to create it, and it is hard to see how the rules would be a source of unnecessary litigation.

On the first point there will certainly be a difference in the credits granted as between the two acts, and the placing of the credit on the basis of situs is related to the tax-sharing arrangements with the province, on which you heard Dr. Eaton speak at an earlier stage.

Mr. FLEMING (*Eglinton*): The second point reads as follows:

> 2. Perhaps with certain specific individuals in mind, the new estates tax bill brings into the taxation value of an estate foreign real estate. I will not stress this point as it has been dealt with in the brief, but to cure certain cases a law of general application, as is contemplated, may have serious repercussions on the tax laws of other countries and thus discourage investment in the growth of Canada by foreign investors.

That point was also raised and we dealt with it specifically. Dr. Eaton made a comment on that. I do not know whether the committee wishes any further comment on it, but we dealt with that point very specifically.

The third point reads:

> The combined impact of succession duty and income tax on surplus of companies, lump sum payments of annuities on the death of the annuitant, premium commission funds of life insurance agents, etc., involve double taxation. I have in mind a company that has a total worth of $1 million, made up of $200,000 capital stock and $800,000 surplus. This company is owned by an individual who has very few outside assets, and on his death it will be necessary to realize on the assets of the company to pay succession duty on say $1 million, of which $800,000 will be subject to income tax at a high rate so that in effect the surplus of $800,000 will only net $400,000. The tax is levied at the value of $1 million instead of the proper value of $600,000.

May I suggest, Mr. Chairman, that Mr. McEntyre be asked to make a comment on this point.

Mr. J. Gear MCENTYRE (*Deputy Minister, Department of National Revenue*): Mr. Chairman, this has been a problem that has been coming up over a number of years and for that reason a special provision was enacted in the Income Tax Act to try to cure the situation that arose when the majority shareholder of a company died and there is accumulated surplus in the company.

Part II of the Income Tax Act provides that the company may elect and pay a tax of 15 per cent on the surplus as it existed in 1949, which would in effect free that surplus or that portion of the existing surplus for distribu-