

*Estate Tax Act*

**Mr. Fleming (Eglinton):** My hon. friend will agree with me that parliament has no power over the succession. Parliament can only tax in relation to the succession. The passage to which my hon. friend referred is not the only passage where this matter was dealt with in the committee. It was dealt with also on pages 14 and 15 on an earlier day when we were dealing with the broad features of the measure. But there is the principle, Mr. Chairman. The house has approved the principle, and I think the provision is quite clear.

**Mr. Godin:** I took it for granted that the passage to which I have referred contained the full extent of the ministers' remarks on the problem, since he ended his remarks by saying:

I think I have said enough or perhaps too much on exemptions, Mr. Chairman.

**Mr. Crestohl:** Would the minister be good enough to point out how the legislation deals with this problem? A man can deplete his estate by a gift of \$10,000 under the Income Tax Act in every province except the province of Quebec. In the province of Quebec his estate will always be stuck with the additional \$10,000, whereas husbands in other provinces can reduce their estates by a gift to their wives. The way I see it, we still have not brought the same measure of relief to the province of Quebec as in the case of the other provinces.

**Mr. Fleming (Eglinton):** Mr. Chairman, my friend is reviving or perhaps I should say exhuming the somewhat lengthy discussion we had on the resolution respecting amendments to the Income Tax Act earlier this session, and I do not think it touches the matter we have before us, estate taxation.

**Mr. Crestohl:** Indeed it does. Here we are talking about exemptions, and estates in all the other provinces except Quebec will be reduced. There will be exemption of the \$10,000 that the husband has given to the wife, but estates in the province of Quebec will not be able to benefit from that exemption.

**Mr. Fleming (Eglinton):** I think my hon. friend has overlooked the fact that the advantage so far as the taxpayer is concerned is much stronger in Quebec than it is in the other provinces by reason of the creation of community of property, and the recognition here of the ownership principle in relation to joint property. This bill goes further than the law of the country has ever gone before in recognizing the ownership principle in respect to property jointly held. That applies to property held under the rule of community of property in the province

of Quebec, so that far from taxpayers in Quebec being under a disability in this respect they actually have an advantage—

**Mr. Benidickson:** Some do.

**Mr. Fleming (Eglinton):** —where community of property exists.

**Mr. McIlraith:** I want to clarify in my own mind the matter that was under discussion a moment ago. Before doing so, may I say that I was rather interested in the minister's explanation to the hon. member for Nickel Belt. He based his whole defence of the point at issue in the legislation on the fact that he had followed the principle of survivorship as opposed to the principle of exemption based on succession. I would point out to him that his argument was not wholly logical, because in the very section he has drawn a distinction between types of survivorship, survivorship by the widow and survivorship by the widower. He has already drawn that distinction. The point raised by the hon. member for Nickel Belt was that he should move the line of distinction to a different place.

However, that is not the main point I want to raise now. If the minister will bear with me for a moment, I should like him to clarify my understanding of the significance of this section. I take it that the amount of the exemption is based on the relationship of the survivors. In other words, where there is a surviving widow and a certain number of surviving children, by that very fact the exemption is larger than it would otherwise be. But I think it should be clearly understood that one of the consequences is that the exemption is larger in an estate of a man dying in such circumstances, that is leaving a surviving widow and a number of surviving children, than it would otherwise be, and that larger exemption obtains even although the man dying gives the whole of his estate under his will to a total stranger.

I think that is a correct statement of the law. What I want to do is point out to hon. members how far-reaching that is, and what a substantial departure it is from any principle of taxation I have been aware of in the Canadian parliament. Its implications are very far-reaching, and I have grave doubts in my own mind as to its propriety. I am of the opinion that the minister, or whoever holds his office from time to time, will be back with amendments to this section before very long.

It is a principle that I, for one, cannot condone and which I cannot approve. I do not believe it is necessary in following the main principle of seeking to tax the estate as opposed to taxing the succession.