

Estate Tax Act

I feel it would be proper in a small estate to have the wife left in a position that upon the death of her husband she will be considered as owning one half of the property up to a certain amount.

Mr. Fleming (Eglinton): This clause deals with exemptions and exemptions only. Every estate is exempt to the extent of \$40,000, regardless of circumstances, and in the case my hon. friend has referred to, the case of a man dying survived by a widow, in that case there is an additional exemption of \$20,000.

Now, my hon. friend raises the question as to why this additional exemption should apply whether or not the deceased has made a gift to that extent to his wife under the will; or, in the case of intestacy, whether or not the wife has received a benefit to that extent. It is regrettable that my hon. friend did not come to the meetings of the banking and commerce committee where this matter was discussed. I believe he is not a member of that committee but all hon. members, of course, whether members of the committee, or not, are perfectly entitled to attend. I commend to him the reading of the proceedings of the committee where this matter was discussed, as well as other matters, at some length. A good deal of time was spent on the subject of the exemptions and the bases of the provisions in clause 7 of the bill.

This clause illustrates the essential difference between the Dominion Succession Duty Act and the estate tax act. In the case of the succession duty regard is had to the succession of property from the deceased to the successor. In the case of an estate tax, regard is had to the mass of the estate, and the tax is laid upon the estate in the aggregate. In the case of succession duty the tax is laid on the succession from the deceased to the successor.

If the estate tax principle is sound—and this house has approved it—then, Mr. Chairman, I submit there is no ground for introducing into the estate tax principle the succession duty principle as well, and that is what my hon. friend is arguing for. But even though the estate tax principle is to be followed, he wishes us to go further and apply the old succession duty principle to the estate tax.

Now, Mr. Chairman, if we are to do that in that one case, where is the line to be drawn? We will be asked to do it in all manner of others, and what are you going to do? What is the net result in that case?

The difference is a \$20,000 exemption. There will be a \$40,000 exemption anyway, and I think virtually every province has enacted legislation to protect the rights of

[Mr. Godin.]

the widow in a case where her deceased husband has not made provision for her. In the province from which my hon. friend and I come that right of the widow is clearly protected by the dependents' relief act. No husband can be generous with others before he is just with his own dependents, including his widow.

There is another aspect of this matter that I commend to the consideration of my hon. friend. What about the case of the children? If you are going to make provision that the exemptions created by this clause, in cases where there are surviving dependent children, are dependent upon the benefit going to the child, how are you going to calculate the extent of the benefit? Suppose the deceased has left \$5,000 to a dependent child. What are you going to do there? This bill will provide an exemption of \$10,000 where there is such a child and \$15,000 if the child is an orphan, but how are you going to break this down? Are you going to have some pro rata treatment of the exemption, in the case where the deceased has made provision for the child, to the extent of part of the amount that is provided here by way of exemption?

These illustrations are put forward to indicate how confused and unsatisfactory a situation you can create once you depart from the estate tax principle and, Mr. Chairman, I do not know where you are going to draw the line.

Therefore we have proceeded on what I think is sound ground. This is an estate tax. The house has approved the estate tax principle. We are proceeding on that principle, and I think we can safely leave it to the provinces to ensure that the rights of the widow will be sufficiently protected in the estate of the husband in relation to succession.

Mr. Godin: Not being a member of the committee I have read what was said by the minister on July 21, as found on page 60 of the minutes of proceedings and evidence of the committee. Although he may have given some explanation, I feel he has not shown that the dependents' relief act of Ontario gives protection to a widow who for some years has not been living with her husband. Therefore the benefit of the exemption would go to a stranger in any event in Ontario, and possibly in other provinces also, where the widow is not considered to be entitled to the benefit upon the death of her husband. The dependents' relief act only applies in proper cases where a wife living with her husband under proper circumstances would normally be entitled.