

Succession Duty Agreement

Some of the other agreements have included agreed rules for situs of property but this agreement with South Africa leaves this question open for determination by the governments involved in each case. Otherwise the agreement is similar in its provisions to the others. We can deal with the separate articles as we go along.

The Chairman: Is it agreed that I shall call the articles in the schedule for discussion?

Mr. Macdonnell: I should like the minister to deal with the questions he himself raised in his statement, and that is the question of situs. What arrangement has been made regarding it? My understanding is that there was difficulty in reaching an agreement and in fact an agreement was not reached. I presume that had something to do with the peculiar law in South Africa. I am struck by the words the minister used in saying how it was to be dealt with. As I took it down, he said that if any question arose it was open for determination by the government in each case. It seems to me like saying you have not any agreement and you have to make an agreement when the time arises. Might that be explained?

Mr. McCann: I am informed there is no trouble arising from this. We continue to apply death duties on property that is situated in Canada, and they continue to apply duty on properties or assets that are situated in South Africa. There did not come about a general agreement with regard to that.

Mr. Macdonnell: I have not quite understood that. I thought this was an agreement for the avoidance of double duties. As I have understood the minister it seemed to me he said that each government was to levy its own duty. How does that fit in with the idea of avoiding double taxation?

Mr. McCann: I think probably article III would explain the hon. gentleman's difficulty. It removes the double taxation incident, if one occurs. This article provides for credits by the country of domicile in the case of Canada and the country of residence in the case of South Africa where property in the estate is also taxed by the other country on the basis of situs, thus eliminating double taxation. If a South African had property in Canada, in the case of death duties the property would be taxed in Canada; and if a Canadian held property in South Africa and they claimed that the property was there it would be taxable in South Africa, and the other country would give credit for duties paid. May I read the rest of this. It also provides in the second paragraph for

[Mr. McCann.]

the sharing of credits in the estate of any person who was both domiciled in Canada and resident in South Africa.

Mr. Macdonnell: Where was the minister reading from?

Mr. McCann: Article III.

Mr. Macdonnell: Would the minister draw my attention to that again?

Mr. McCann: May I read it again.

Mr. Macdonnell: Which paragraph is it?

Mr. McCann: Paragraph 1 and 2 of article III on page 3.

Mr. Macdonnell: I am still not quite clear. The minister began by saying there had been no agreement on situs yet. As I read this it seems a very clear-cut way of dealing with the situation. Are we satisfied that we have a workmanlike and practical way of dealing with this situation even if there was difficulty in arriving at agreement on the technical aspects of it? Is this a workmanlike method, and is the minister satisfied?

Mr. McCann: I am informed that it is so. Articles III to VIII inclusive agreed to.

Clauses 1 to 5 inclusive agreed to.

Schedule agreed to.

Title agreed to.

The Chairman: Shall I report the bill?

Mr. Macdonnell: May I by leave ask for an explanation of clause 3 of the bill, which reads:

In the event of any inconsistency between the provisions of this act, or the agreement, and the operation of any other law, the provisions of this act and the agreement prevail to the extent of the inconsistency.

I am sorry I did not notice that when we were going through it. I would like to have an explanation of the words "prevail to the extent of the inconsistency".

Mr. McCann: This article is customary and almost standard in any of these agreements, and it means pretty much what it says. It means that the section would take precedence.

Mr. Macdonnell: That means that it is the last word?

Mr. McCann: That is the last word.

The Chairman: Shall I report the bill?

Bill reported.

Mr. Deputy Speaker: Shall this bill by leave be read a third time now?

Mr. Knowles: By leave.

Mr. McCann moved the third reading of the bill.

Motion agreed to and bill read the third time and passed.