



Canada. Parl. Senate.
Standing Comm.on Banking
& Commerce, 1952/53.
Proceedings.

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THE SENATE OF CANADA



MEMBERS
OF THE
STANDING COMMITTEE ON
FINANCE AND COMMERCE

To examine and report on the Bill (C-10) to amend the Customs Act and to amend the Income Tax Act

The Honourable SALTER A. HAYES, Chairman

WEDNESDAY, APRIL 9, 1953
THURSDAY, APRIL 10, 1953
THURSDAY, APRIL 11, 1953

WITNESSES

The Honourable D. C. Abbott, P.C., Minister of Finance; Mr. Charles Gault, Deputy Minister, Department of National Revenue; Dr. A. W. Eaton, Assistant Deputy Minister, Department of Finance; Mr. H. C. Wilson, President, Investment Dealers Association, Toronto; Charles H. H. D. Young, Chairman, Ontario Section, Investment Dealers Association, Toronto, Ontario.

1952-53

THE SENATE OF CANADA



PROCEEDINGS

OF THE

STANDING COMMITTEE ON BANKING AND COMMERCE

To whom was referred the Bill (228 from the House of Commons),
intituled: "An Act to amend The Income Tax Act".

The Honourable **SALTER A. HAYDEN**, Chairman

WEDNESDAY, APRIL 22, 1953

THURSDAY, APRIL 23, 1953

THURSDAY, APRIL 30, 1953

WITNESSES

The Honourable D. C. Abbott, P.C., Minister of Finance; Mr. Charles Gavsie, Deputy Minister, Department of National Revenue; Dr. A. K. Eaton, Assistant Deputy Minister, Department of Finance; Mr. H. S. Backus, President, Investment Dealers Association, Toronto, Ontario; Mr. N. D. Young, Chairman, Ontario Section, Investment Dealers Association, Toronto, Ontario.

ORDER OF REFERENCE

Extract from the Minutes of Proceedings of the Senate for Thursday, 16th April, 1953.

“Pursuant to the Order of the Day, the Honourable Senator Hayden moved that the Bill (228), intituled: ‘An Act to amend The Income Tax Act’, be now read a second time.

After debate, and—

The question being put on the said motion,
It was resolved in the affirmative.

The said Bill was then read the second time, and—

Referred to the Standing Committee on Banking and Commerce.”

L. C. MOYER,
Clerk of the Senate.

BANKING AND COMMERCE

THE HONOURABLE SALTER A. HAYDEN, CHAIRMAN

The HONOURABLE SENATORS

Aseltine	Gouin	McIntyre
Baird	*Haig	McKeen
Beaubien	Hardy	McLean
Bouffard	Hawkins	Nicol
Buchanan	Hayden	Paterson
Burchill	Horner	Pirie
Campbell	Howard	Pratt
Crerar	Howden	Quinn
Davies	Hugessen	*Robertson
Dessureault	King	Roebuck
Emmerson	Kinley	Taylor
Euler	Lambert	Vaillancourt
Fallis	MacKinnon	Vien
Farris	MacLennan	Wilson
Gershaw	McDonald	Wood
	McGuire	

* *ex officio* member.

MINUTES OF PROCEEDINGS

WEDNESDAY, April 22, 1953.

Pursuant to adjournment and notice the Standing Committee on Banking and Commerce met this day at 10.30 a.m.

Present: The Honourable Senators: Hayden, Chairman; Aseltine, Beaubien, Bouffard, Campbell, Davies, Emmerson, Euler, Farris, Gershaw, Gouin, Haig, Hawkins, Horner, King, Lambert, MacLennan, McDonald, Nicol, Taylor and Wilson—21.

In attendance: Mr. John F. MacNeill, Q.C., Law Clerk and Parliamentary Counsel, the Senate and the Official Reporters of the Senate.

Bill 228, An Act to amend The Income Tax Act, was read and considered, clause by clause.

Mr. Charles Gavsie, Deputy Minister of National Revenue for Taxation, and Dr. A. K. Eaton, Assistant Deputy Minister, Department of Finance, were heard in explanation of the Bill.

On motion of the Honourable Senator Beaubien, it was RESOLVED to report as follows:—"Your Committee recommend that they be authorized to print 500 copies in English and 200 copies in French of its proceedings on the said Bill, and that Rule 100 be suspended in relation to the said printing."

At 1.00 p.m. the Committee adjourned.

At 8.00 p.m. the Committee resumed.

Present: The Honourable Senators:—Hayden, Chairman; Aseltine, Bouffard, Campbell, Crerar, Davies, Dessureault, Gershaw, Haig, Lambert, MacLennan, Nicol, Pirie, Taylor and Vaillancourt—15.

In attendance: Mr. John F. MacNeill, Q.C., Law Clerk and Parliamentary Counsel, the Senate, and the official reporters of the Senate.

The consideration of Bill 228, An Act to amend The Income Tax Act, was resumed.

Mr. Charles Gavsie and Dr. A. K. Eaton were further heard in explanation of the Bill.

At 9.30 p.m. the Committee adjourned until tomorrow, Thursday, April 23, 1953, at 11.30 a.m.

Attest.

JAMES D. MACDONALD,
Clerk of the Committee.

THURSDAY, April 23, 1953.

Pursuant to adjournment and notice the Standing Committee on Banking and Commerce met this day at 11.30 a.m.

Present: The Honourable Senators: Hayden, Chairman; Aseltine, Beaubien, Bouffard, Burchill, Campbell, Crerar, Davies, Emmerson, Euler, Fallis, Farris, Gershaw, Haig, Hawkins, Horner, King, Lambert, McDonald, Pirie, Quinn, Taylor and Vaillancourt—23.

In attendance: Mr. John F. MacNeill, Q.C., Law Clerk and Parliamentary Counsel, the Senate, and the Official Reporters of the Senate.

The consideration of Bill 228, An Act to amend The Income Tax Act, was resumed.

Mr. H. S. Backus, President, Investment Dealers Association, Toronto, Ontario, and Mr. N. D. Young, Chairman, Ontario Section, Investment Dealers Association, Toronto, made representations to the Committee with respect to clause 37 of the Bill.

Mr. Charles Gavsie, Deputy Minister of National Revenue for Taxation, and Dr. A. K. Eaton, Assistant Deputy Minister, Department of Finance, were heard in explanation of clause 37 of the Bill.

At 1.00 p.m. the Committee adjourned until Tuesday, April 28, 1953, at 10.30 a.m.

Attest.

JAMES D. MACDONALD,
Clerk of the Committee.

THURSDAY, April 30, 1953.

Pursuant to adjournment and notice the Standing Committee on Banking and Commerce met this day* at 11.00 a.m.

Present: The Honourable Senators: Hayden, Chairman; Aseltine, Beaubien, Bouffard, Campbell, Crerar, Emmerson, Farris, Gershaw, Gouin, Haig, Hardy, Hugessen, King, Lambert, McDonald, Pirie, Taylor, Vaillancourt and Wilson—20.

In attendance: Mr. John F. MacNeill, Q.C., Law Clerk and Parliamentary Counsel, the Senate, and the official reporters of the Senate.

Bill 228, An Act to amend The Income Tax Act, was further considered.

The Honourable D.C. Abbott, P.C., Minister of Finance was heard with respect to clauses 37 and 82 of the Bill.

On motion of the Honourable Senator Haig, seconded by the Honourable Senator Campbell, it was RESOLVED to report the Bill with the following amendments:

1. Page 28, line 5: strike out the words "subsections are".
2. Page 28, lines 7 to 19: strike out lines 7 to 19 both inclusive.
3. Page 61, line 9: strike out the words "subsections are".
4. Page 61, lines 11 to 22: strike out lines 11 to 22 both inclusive.

At 1.00 p.m. the Committee adjourned to the call of the Chairman.

Attest.

JAMES D. MACDONALD,
Clerk of the Committee.

MINUTES OF EVIDENCE

THE SENATE,

OTTAWA, Wednesday, April 22, 1953.

The Standing Committee on Banking and Commerce, to whom was referred Bill 228, an Act to amend The Income Tax Act, met this day at 10.30 a.m.

Hon. Mr. HAYDEN in the Chair.

Hon. Mr. BEAUBIEN: I move:

"That authority be requested to print 500 copies in English and 200 copies in French of the committee's proceedings on Bill 228, an Act to amend The Income Tax Act."

The motion was seconded and carried.

The CHAIRMAN: I suggest that we consider the bill section by section, in the manner we did last year, and we can get the explanations as we go along. Does the committee, before we consider the bill section by section, want any general statement in connection with rate or anything of that kind?

Hon. Mr. HAIG: No.

Hon. Mr. BOUFFARD: It is better to discuss each section as it comes.

Hon. Mr. HAIG: Before we start, I want to say to Mr. Gavsie that his statement when he appeared before us last year was very helpful to lawyers and accountants all over the country. I hope he will proceed in the same way this time.

On section 1—Premium on redemption of shares.

The CHAIRMAN: Would you state the effect in a summary way, Mr. Gavsie?

Mr. CHARLES GAVSIE, *Deputy Minister, Taxation Division, Department of National Revenue*: Well, the purpose of section 1 and a later section in the act is to wipe out the present provision in the act which taxes the shareholder on the acquisition by the company of its preferred shares. As you all know, preferred shares are issued on the basis that they are subject to redemption or acquisition by the company in the open market; and under section 6, paragraph (g) of the present act there is a provision for taxing the shareholder on the premiums received on redemption or acquisition. The effect of this amendment is to repeal retroactively to 1949 the tax on the shareholder in respect of acquisition, leaving the tax on the shareholder in respect of redemption by the company, the redemption taking the form usually of a notice by the company that it is redeeming either the whole or a certain part of its preferred shares; the shareholder being in effect required to turn in that share for redemption.

Hon. Mr. BOUFFARD: On the redemption it is still taxable?

Mr. GAVSIE: It is still taxable, but you will see in a later section that the tax on the shareholder as far as redemption is concerned is wiped out as far as the future is concerned, and the tax is put on the company itself in respect of both redemptions and acquisitions.

Hon. Mr. NICOL: Suppose a company's issue, ten years, is redeemed at five or ten, interest being low, the investor buys the shares because he expects that the redemption will take place, and shortly after he makes five or eight per cent. Could he be taxed?

The CHAIRMAN: The company will be taxed in the future.

Mr. GAVSIE: If that redemption takes place in the future; that is, after the 30th of April this year.

Hon. Mr. NICOL: He will not pay?

Mr. GAVSIE: He will not pay, but the company will pay a tax on the premium, namely a 20 per cent tax, or if they have tax-paid undistributed income on hand, they can use that.

Hon. Mr. NICOL: Does not that mean that a speculator would make money and not be taxed?

Mr. GAVSIE: The premium paid on redemption is a charge against the undistributed income on hand, and in effect the company, in paying the premium on the redemption, is paying the shareholder part of the undistributed income on hand, so the theory is that the company will pay the tax on this amount of premium, which in effect is a distribution by the company of its undistributed income on hand. This would apply to preferred shares already issued. So that if the redemption takes place after the 30th of April in respect of shares already issued or to be issued, the tax will be on the company.

Hon. Mr. BOUFFARD: What will happen on a conversion; in case of conversion of preferred shares into common shares, or conversion of bonds into common shares?

Mr. GAVSIE: That is a conversion. This is redemption or acquisition.

Hon. Mr. BOUFFARD: There is no tax on the excess capital a shareholder would get out of that conversion?

Mr. GAVSIE: Unless the shareholder is a trader, and that is part of his business.

Hon. Mr. BOUFFARD: No. Outside of that?

Mr. GAVSIE: No.

The section was agreed to.

On section 2—Municipal officers' expense allowance.

The CHAIRMAN: Section 2 deals with the question of expense, and it enlarges the application of the section to include elected officers of incorporated municipalities.

Hon. Mr. HAIG: I presume that most of the governments in the provinces, who have control of municipalities, will try to pass legislation to come within this section.

Hon. Mr. BOUFFARD: It has already been passed in many provinces.

Hon. Mr. HAIG: Some of them have, but some have not, because their sessions were over before it was known that this legislation was coming down. Take Manitoba. Suppose the province has passed legislation, and suppose they find they should have passed rather different legislation: they intended to give their people an exemption on so much expense account: supposing that actually the lawyers of the Income Tax Department hold that they did not do that, and then they said, "All right, at the next session we will pass legislation to cover it." Would you accept that retroactive legislation and assume it to be passed?

Mr. GAVSIE: No. The section as it now reads says: "Where an elected officer of an incorporated municipality" (that is the first requirement) "has been paid by the municipal corporation an amount as an allowance in a taxation year for expenses incident to the discharge of his duties as an elected officer of the corporation." There are other limitations further on. That means if the municipality had authority to pass a bylaw to pay an allowance to its elected officers, such as aldermen—

The CHAIRMAN: Excuse me. That is not what Senator Haig has in mind. His case is where a particular province does pass legislation authorizing the municipality to award or pay to its elected officers an amount in remuneration which would be divided between expenses and salary or compensation.

Hon. Mr. HAIG: Correct.

The CHAIRMAN: But if the interpretation by your department is that the amount for expenses has not been named specifically to be an expense item, but has been tied in as a proportion of the salary, and the department then rules that the elected officers do not qualify for the expense allowance because it has not been specifically named, and the legislature in another year amends the bylaw and declares that the intention of the legislature had always been that this amount of money was for expenses—

Mr. GAVSIE: Although it was paid to the aldermen as a remuneration?

The CHAIRMAN: No. The municipality would interpret the authority, but they were paying so many dollars for expenses and so many dollars for salary.

Mr. GAVSIE: You mean there was a bylaw which provided that the elected officer would be paid a salary of say, \$4,000 and expenses of \$2,000?

The CHAIRMAN: Well, of course, if you had that situation there would be no question about it.

Hon. Mr. FARRIS: Supposing it is just \$6,000 for expenses and salary?

Hon. Mr. HAIG: That is what I am afraid of.

Mr. GAVSIE: That does not come within this section.

The CHAIRMAN: Supposing the provincial legislature, the next year, enacted something in the form of a declaration?

Mr. GAVSIE: In my opinion that would not come within the section.

Hon. Mr. NICOL: Supposing the legislature passed an Act providing that there would be a salary of \$4,000 and expenses of \$2,000?

Mr. GAVSIE: That would be fine.

Hon. Mr. NICOL: Could \$2,000 not be allotted for expenses provided that the elected official filed vouchers?

Mr. GAVSIE: Senator, the purpose of this amendment is to take care of a case where the municipality has by proper Act—whether it is through bylaw or resolution—said in effect "We are paying to the elected official \$4,000 as a remuneration and \$2,000 as expenses". Senator Bouffard, I believe you will agree that there is such a provision in the charter of the City of Quebec. It covers that case, but it will not cover a case where a person has been paid \$4,000 as remuneration, and then the provincial legislature comes along and says that \$2,000 of the \$4,000 this official got four years ago shall be deemed to have been received by him as an expense allowance.

Hon. Mr. BOUFFARD: It would only be valid from the time the legislature made such a declaration?

Mr. GAVSIE: That is right, if it is paid as an allowance.

Hon. Mr. HAIG: This is what I am afraid of. Let me give you an illustration of something that happened in Winnipeg, because I happen to know about this. The city was paying the aldermen \$150 a month. Just recently

they passed a bylaw to pay the aldermen another \$50 a month in the way of expenses. This money is to be for an expense account. I want to be sure that the legislation passed by the legislature will be effective in connection with this section, because these aldermen appear to get this as tax free money.

Mr. GAVSIE: It would be a matter between the legislature and the municipality as to whether the municipality acted in a legal way under the terms of its charter or the provincial legislation.

Hon. Mr. HAIG: Supposing I looked at the law as a legal man and said, "By golly, you can't do it". Wouldn't your officials look at it the same way and say that the Winnipeg aldermen are not entitled to this \$50 as an expense allowance because the Winnipeg municipal bylaw was not properly enacted.

Mr. GAVSIE: Would not the city council be faced with the question as to whether it illegally paid the \$50 to the aldermen?

Hon. Mr. HAIG: No, because the city council can pay what it likes to its aldermen.

Mr. GAVSIE: Well, as long as we were satisfied that the \$50 you have mentioned was paid to the aldermen as an allowance within the language of the section, we would not question it further. We would look at the bylaw to see whether it provided for this payment to the aldermen as an allowance.

Hon. Mr. HAIG: If the city council made it clear that this was a free tax allowance you would pass it?

Mr. GAVSIE: Certainly. However, it would not follow that they could pass a bylaw retroactively setting aside as an allowance \$50 of the \$150 paid as a salary.

Hon. Mr. BOUFFARD: We are talking about larger municipalities, but there are also smaller municipalities to be considered. In many of these smaller municipalities the elected officers are not paid a salary. However, it very often happens that the council, considering that the elected officers have certain expenses, want to give those officers an expense amount. Instead of voting a salary to the elected officers they vote the sum of, say, \$50 or \$100 a year for expenses incurred. In view of this section, would this be considered as an expense which would be deductible?

Mr. GAVSIE: No, that would not qualify under this section because there is a requirement that the expense allowance cannot exceed one-half of the amount paid to the elected official by way of salary or remuneration?

Hon. Mr. BOUFFARD: Then, the possibility of the municipality not paying the salary but just paying the expense does not exist.

The CHAIRMAN: That is right.

Mr. GAVSIE: Senator, the answer to your question is that the municipality always can reimburse the aldermen for the actual expenses incurred by them on behalf of the municipality. I am referring to such expenses as the making of a trip to the provincial capital, and so on.

Hon. Mr. BOUFFARD: That is to say, the only way to do it is to carry on an account and to have vouchers?

Mr. GAVSIE: Yes. That has always been the case.

Hon. Mr. HAIG: That is the way they do it for the most part in my province of Manitoba.

Mr. GAVSIE: Any officer or employee who travels or incurs expenses on behalf of the municipality has always been able to get reimbursement.

Hon. Mr. DAVIES: And they do not have to show it as income?

Mr. GAVSIE: No.

The CHAIRMAN: We may as well bring the situation into the open. My understanding is that in the province of Ontario, according to the legislation recently passed by the legislature, in giving the authority to the municipalities, the language of the statute was drawn in such a way that it would permit the municipality to pay by way of expenses up to either one-third or one-half of the salary being paid.

Now, that brings the issue right here under this section, because it may be that the interpretation of that Ontario legislation is such that the municipal officers will not be entitled to take that amount of money as expenses and deduct it under this section, for the reason that it is not separately ear-marked by the empowering legislation for expenses, but is just an apportionment of salary as between expenses and salary. Now, if the legislation of the provincial legislature is intended to cover such a situation and fails because of some oversight or other, should there not be some provision in this section by which if they make a declaratory enactment afterwards they could get the benefit of this?

Mr. GAVSIE: I have not actually seen the Ontario legislation, but I think the main purpose was to be retroactive so as to declare that out of the remuneration that was paid, some part of it, shall be deemed to have been paid as an allowance. That same point came up in the House, and the Minister of Finance said he was not prepared to accept that sort of a situation. Where the amounts are paid as remuneration without any amount being paid as an expense allowance he would not accept provincial legislation which deemed part of the remuneration to have been paid as an allowance.

As far as the future is concerned, here is the section, and they can authorize the municipalities to pay part of the amount as an allowance, so it may come within the section.

Hon. Mr. NICOL: But if the amount is not determined and part is paid as expenses—

Mr. GAVSIE: That total amount would be taxable, senator, but there would be nothing as far as we were concerned to prevent him filing his expense account with the municipality and getting reimbursed for it, and that would not be income.

Hon. Mr. BOUFFARD: That would be in excess of the amount that had been voted by the municipality?

Mr. GAVSIE: That is right. That would have nothing to do with this section. That has always been the case.

Hon. Mr. DAVIES: Would you allow the municipalities to pay portion of what he gets as expense allowance, and allow him to deduct that for income tax without vouchers submitted? You do not allow businesses to do that.

Mr. GAVSIE: The section says (and I am trying to tell you my understanding of the section) that if a municipality votes a remuneration or salary to the elected official it can, if it wishes, because it does not need our permission—vote any further amount by way of an allowance not exceeding one half of the amount it votes by way of remuneration, and if it does so for income tax purposes that allowance is not income.

Hon. Mr. DAVIES: But you do not allow business executives to do that sort of thing?

Mr. GAVSIE: This parallels, I understand, the provision for members of the House of Commons and members of the provincial legislature.

Hon. Mr. HAIG: Not the senators.

Mr. GAVSIE: Not being a senator, I cannot say it does apply.

Hon. Mr. DAVIES: If a business executive goes away and comes back he is supposed, and expected, to submit vouchers. If he does not, then the auditors will not pass it.

Mr. GAVSIE: That is right. That is what I do myself, senator, and I cannot get reimbursed for any expenses without vouchers.

Hon. Mr. DAVIES: In Ontario, if a company has an automobile allowance it has to submit vouchers, and if it does not use it it asks for a deduction from income tax. Why give this to municipal authorities and not business?

Hon. Mr. BOUFFARD: I think it should be given to business.

Mr. GAVSIE: I don't think I should answer that question.

Hon. Mr. HAIG: I agree with the policy.

The CHAIRMAN: The only observation I would make is that perhaps it does not go far enough. It is a question of policy, I think. If the gate is open, maybe we can push it open in the future. I am all against closing the gate. Carried?

Section 2 was agreed to.

On Section 3—Employer's contribution to pension funds.

The CHAIRMAN: That change is a very simple one.

Mr. GAVSIE: This has a limited application, and is a relieving section. Certain companies, such as steel companies, have worked out schemes of pensions with their unions, and they make a lump sum payment on retirement of the employee, which will take care of his pension. Although the employee is eligible to retire in a year, he does not always retire but continues to work. The way the section read before, the deduction would only be allowed to the employer in the year the employee retired. The added words are to make it clear that if he makes the payment in the year in which the employee became eligible to retire it will be deductible.

Section 3 was agreed to.

Section 4—Repeal:

The CHAIRMAN: This section, in the amendment section 4, is remarkable for what it does not say, but for the effect of what it contains.

Mr. GAVSIE: Yes. The amendment repeals a section which said that certain corporation taxes defined by regulation would not be allowed, and now by the repeal of this section all corporation taxes will be allowed, if in the normal course of events they are expenses of doing business. Those corporation taxes which are not an expense of doing business will not be allowed.

The CHAIRMAN: The repeal of section 4—well, it was a practical problem in the province of Quebec, and what would be the corporation taxes in Quebec, that would not be deducted?

Mr. GAVSIE: Corporation taxes, in the sense of business taxes, taxes on doing business, are normally allowed as an expense. Well, with the section in and with the regulation made under that section, certain parts of business taxes paid by the corporation to the province were defined as being corporation taxes, and therefore not allowed.

Hon. Mr. BOUFFARD: That was for business done outside the province, was it not?

Mr. GAVSIE: No. The example was the Quebec Education Tax. Now, with the repeal of this section, that regulation disappears, so the Quebec

Education Tax is a normal corporation tax. And since it is an expense incurred in doing business it is allowed. If the tax is a corporation tax on profit, it would not be allowed as an expense.

Section 4 was agreed to.

On section 5—Interest on Bonds.

The CHAIRMAN: Shall section 5 carry, that deals with interest on bonds?

Some Hon. SENATORS: Carried.

Section 5 was agreed to.

On section 6—Husband and Wife:

The CHAIRMAN: That is the husband and wife provision—its clarification, and it certainly is not relieving.

Mr. GAVSIE: Under the present law a husband in business cannot deduct a salary paid to his wife, and the purpose of that is to prevent splitting of income, which is not allowed in Canada. Last year or the year before we made certain allowances that salaried people could deduct from their salary, namely, the cost of hiring an assistant or substitute that you were required to pay for yourself. So that at the present time a man on salary could hire his wife as an assistant and pay her a salary. The purpose of this amendment is to make the two parallel. In other words, a man in business paying a salary to his wife cannot deduct that salary as an expense, and she is not taxable on it. The purpose of the amendment is to remove the words "income from a business". Even a salaried man cannot hire his wife as an assistant, pay her a salary and deduct it. That makes those two provisions parallel.

Section 6 was agreed to.

On Section 7—Dependent children.

The CHAIRMAN: Section 7 deals with the extension of the \$400 allowance for children over 21 years attending school or university.

Section 7 was agreed to.

On Section 8—Medical expenses.

Section 8 was agreed to.

On Section 9—Dividends received by a corporation.

The CHAIRMAN: Section 9 has to do with the famous section 27 which we have been concerned with at almost every session since the present act came into force. It is a relieving section. Do you wish to give us some explanation on that, Mr. Gavsie?

Mr. GAVSIE: By section 27 (1A) we now have a provision that when control of a corporation is transferred to another the surplus at the time of transfer is blocked and cannot be paid out by way of dividends from one corporation to another tax free. The purpose of this amendment is to grant relief where there are two corporations owned by the same parent company and control of one brother is transferred to the other brother. So long as the sale of the shares takes place at par value, or if no par value at book value, then the block does not apply.

Hon. Mr. DAVIES: I am not quite clear on that. Do you mean that the parent company and the two subsidiaries are on an entirely different basis?

Mr. GAVSIE: No. If for business reasons you want to transfer the control of company A, which is one of the subsidiaries, from the parent company to the other subsidiary, so as to make company A a subsidiary of the other

subsidiary, you cannot do that without blocking the surplus of company A as at the time of transferring control. In other words, the surplus as at that time could not be paid out tax free. That is the present provision.

The purpose of this amendment is to allow that transfer to take place without the block applying if the transfer is done at par value, or, if no par value, at book value.

The CHAIRMAN: There is clarification in the new subsection (1K) which is added by this section, is there not?

Mr. GAVSIE: Yes. Under the present provisions the blocked surplus is the surplus as at the end of the year preceding the year in which control was transferred. For instance, the situation might be that while the year end was December 31, transfer of control did not take place until July 1 of the following year; but before control was transferred on July 1, a dividend was paid, namely, on March 31. According to the language of the present section that dividend might be subject to tax as having been paid during the control period.

The amendment makes it clear that if the dividend was paid in the year control was acquired but before the time control was acquired, it shall be deemed to have been paid out of the designated surplus, that is, the surplus as at the end of the preceding year. In effect, that dividend shall be deemed to have been paid before the end of the preceding year.

The CHAIRMAN: And there is no block?

Mr. GAVSIE: There is no block. It is a beneficial section.

Hon. Mr. BOUFFARD: Would that be taken into account in the price paid by the company for the shares?

Mr. GAVSIE: I would imagine so.

The CHAIRMAN: It undoubtedly would have been.

Subsection 2 is for clarification, is it not?

Mr. GAVSIE: Yes. Subsection 3 of section 27 now provides that a trader in securities cannot get a dividend from these securities and also the loss when he sells the stock. Last year we put in a relieving section which said that if he could establish that he had less than 5 per cent of the stock the block would not apply; now the amendment is for the purpose of making it clear that 5 per cent is of any class of stock, rather than 5 per cent of the whole stock.

Section 9 was agreed to.

On section 10—Rates.

The CHAIRMAN: Section 10 simply deals with the rates for personal income tax.

Hon. Mr. HAIG: Why do you say "simply"? It really deals with them. That is the core of the whole bill.

The CHAIRMAN: It deals with them in a simple way.

Hon. Mr. BOUFFARD: Very simple?

The CHAIRMAN: It simply says if you have so much you pay so much.

Hon. Mr. FARRIS: Does it increase the amount of tax by very much?

The CHAIRMAN: No; as a matter of fact, it decreases it. It is a relieving section, because it gives the lower rates and it takes money away from you.

Hon. Mr. FARRIS: We better pass it before they change their minds.

The CHAIRMAN: Subsection 3 on page 7 provides that the Old Age Security tax exists in any event.

Mr. GAVSIE: The amendment deals with the tax table on taxable income up to \$3,000. This is authority to include in that tax table the Old Age Security tax.

Hon. Mr. DAVIES: Before the section is passed may I ask a question with regard to pensions? If a man retires from a company at 65 years and draws a pension to which he has contributed, can he, when he reaches 70, also get the old age pension?

Hon. Mr. HAIG: Of course he can.

Mr. GAUSIE: The two things are unrelated. One is entitled to the old age pension when he reaches 70, provided he qualifies as to residence and so forth. There is no means test.

Hon. Mr. NICOL: May I ask what is the effect if he does not take the old age pension? Does the law obligate him to take it?

Hon. Mr. HAIG: If you don't take it, it is not income.

Mr. GAUSIE: That is, if for any reason you do not get it . . .

Hon. Mr. NICOL: I did not apply for it.

Hon. Mr. ASELTINE: Perhaps you cannot prove your age. That is the difficulty we have in the West, where there was not a complete registration as to births.

Section 10 was agreed to.

On Section 11—Payments out of pension fund.

The CHAIRMAN: Have you anything to say about this section, Mr. Gausie?

Mr. GAUSIE: This section deals with the option on the part of anybody receiving a lump sum payment as described to pay an average tax instead of adding it to his income; in other words, he can pay the tax at the effective rate determined over the three preceding years. The amendment would include in a lump sum payments, amounts received by a person under a revised pension plan, notwithstanding the fact that he continues to be an employee. As the section stood, it was only applicable to a lump sum payment which he received on retirement. One case we know of is that of the C.N.R., which has revised its pension scheme, as a result of which some of its employees are entitled to rebates. This amendment is to accommodate those people.

The section was agreed to.

On section 12—Credit for dividends.

The CHAIRMAN: This deals with the credit for dividends, stepping that up from 10 to 20 per cent.

The section was agreed to.

On section 13—Rates, etc.

The CHAIRMAN: This deals with the question of corporation rates.

The section was agreed to.

On section 14—Deduction from corporation tax.

The CHAIRMAN: Section 14 deals with deductions from corporation taxes, and this provincial allowance, which was 5 per cent in the case of a province which had not rented its tax sources—that is stepped up to 7 per cent.

Hon. Mr. HAIG: It only affects one province.

The CHAIRMAN: It only affects one province at the present time.

The section was agreed to.

On section 15—Foreign tax.

The CHAIRMAN: Is there anything, Mr. Gausie, you want to say on 15?

Mr. GAUSIE: I can repeat what the senator gave by way of explanation on the bill on second reading. This deals with tax paid on income from foreign sources, and the purpose of it is to give credit for the tax paid on the income

from foreign sources; that is, the tax paid in the foreign country. There are some countries that have what we know as income taxes such as income tax or excess profit tax, and in addition have a declared capital tax, and the excess profits tax is determined by the amount of declared capital; so that you have a company which declares its capital to be X, and therefore that affects its excess profits: the higher it declares its capital to be, the less excess profits tax it will pay. The purpose of this amendment is to allow a company that reduces the excess profits tax it paid in foreign countries by declaring its capital to be higher, and therefore paying the declared capital tax, to get relief in respect of the declared capital tax which has been paid in lieu of the excess profits tax.

The section was agreed to.

On section 16—Averaging for farmers and fishermen.

The CHAIRMAN: This is the averaging section for farmers and fishermen.

Hon. Mr. ASELTINE: It is very important to us in Saskatchewan.

The CHAIRMAN: I should think there are other places in Canada where it is important too.

Hon. Mr. ASELTINE: The farmers out there pay most of the income taxes. According to the last record, the farmers in Manitoba, Saskatchewan and Alberta paid five times as much income taxes as all the other farmers in Canada put together; and we have during the past month been doing a lot of averaging. I would like Mr. Gavsie to explain section 16 to us again, in spite of the fact that we had a very fine explanation in the Senate by Senator Hayden. I did not happen to be present when he gave it.

Mr. GAVSIE: This is relieving, senator. The first part of it deals with the question of averaging. At the moment, in order to be able to average, farmers or fishermen must have filed their returns for the four preceding years on time and the fifth year on time.

Hon. Mr. ASELTINE: Is this made for the purpose of clearing up differences in the judgments handed down by the members of the Tax Appeal Board?

Mr. GAVSIE: The intention of this is to grant some relief. You drop the year in which you are late. As it is now, you are out of luck completely if you have not got a full consecutive five-year period in which your returns were on time; you have got to wait till you have the full consecutive five-year period. By this amendment, you drop the year in which you were late, you take the five years that you were on time, and average those five years.

Hon. Mr. ASELTINE: You just eliminate that one year you did not file on time?

Mr. GAVSIE: Yes. So while the penalty is still there, that is if you are late you cannot include that year, it is much less than it is under present legislation, namely that you are out of luck unless you had five consecutive years when you were not late. Let us assume that you filed on time in 1948, 1949, that you were late in 1950, and on time in 1951 and 1952, and that in 1953 you are on time.

Hon. Mr. ASELTINE: I understand that better now.

Hon. Mr. BOUFFARD: It is not necessary that the years shall be consecutive.

The CHAIRMAN: You can have a break in continuity without any penal consequences.

Mr. GAVSIE: You can only have two late years in that period. If there is a third late year the period becomes too long.

The CHAIRMAN: You have to start your five years over again if you have more than two late years.

Mr. GAVSIE: There is a second part to the amendment, and that is in connection with your revoking your election. At the moment, once you file your election, that is an election, even then you do not get all the benefits you thought you were going to get, for example you may have claimed something you were not allowed, and therefore your tax is increased for the year. You may feel that, while you are getting some benefit, you would like to revoke your election and save it up for next year. The amendment allows you to revoke the election within thirty days after you get your assessment.

The section was agreed to.

On section 17—Recapture of excess capital cost allowance.

The CHAIRMAN: This is dealing with one phase of recapture, in connection with capital cost allowance.

Hon. Mr. ASELTINE: This is rather difficult too, is it not?

The CHAIRMAN: No, this is relieving in the real sense of the word.

Hon. Mr. ASELTINE: I read the explanation you gave in the Senate, and—

The CHAIRMAN: Mr. Gavsie agrees with it.

Hon. Mr. ASELTINE: I refer you to your remark on page 415 of the Senate *Hansard*, when you said that "then sells the property at a gain."

The CHAIRMAN: Yes.

Hon. Mr. ASELTINE: What does that mean? Over the original cost?

The CHAIRMAN: Over his capital cost.

Hon. Mr. ASELTINE: Over the amount that the property was valued at when depreciation started under the new system in 1949?

Mr. GAVSIE: At its value as at the start of the new system.

The CHAIRMAN: Over the capital cost.

Mr. GAVSIE: Over the undepreciated capital cost. In other words, by the sale of the property he has received by way of proceeds an amount in excess of the written-down value of the property for capital cost allowance purposes, and to the extent that he has taken capital cost allowance since 1949 he has got to bring that back in.

Hon. Mr. ASELTINE: Only if he sells for more than the value of the property at the time he started depreciating.

Mr. GAVSIE: We do not deal with the amount in excess of 1949 costs. If he sells it for an amount in excess of the amount that the capital cost was for capital cost purposes at 1949, that excess is capital gain. Say a man paid \$100 for a property in 1940. As at 1949 the written-down value was \$50, and then by 1953 he has taken additional amounts so he has got it written down to \$30. He sells it for \$100. Well, he would have to bring back into income the sum of \$20, namely the difference between its written-down value at time of sale and its written-down value at the beginning of 1949.

Hon. Mr. ASELTINE: But not the capital gain?

Mr. GAVSIE: The amount in excess of that \$50 is pure capital gain.

Hon. Mr. ASELTINE: We have cases such as this. A farmer buys a house in town to live in. He lives in the house for several years during which time he does not depreciate it because he is not allowed any depreciation. Then he goes back to the farm and he rents the house. Then the house becomes investment income and he depreciates it, say, for a couple of years, and then he sells it. How do you work that out?

Mr. GAVSIE: We start off in this way. If you have an asset that is not used for the purpose of earning income and then you turn it into use for the purpose of earning income, you can depreciate it at its then fair-market value.

Hon. Mr. ASELTINE: But not at what it costs you?

Mr. GAVSIE: No, because it is as if you had acquired it at that time for that purpose; so you take your capital cost allowance based upon its fair-market value at that time.

The CHAIRMAN: That might be more than it cost you.

Hon. Mr. HORNER: Does this apply in the case of, say, farm machinery such as a combine where the farmer has written down the depreciation and then resold the combine for more than its depreciated value? Would he then have to pay that?

Mr. GAVSIE: The farmer has an option in the case of depreciation. He can elect to take it on the old straight line method or come under the new system. If he elects to come under the new system, this would apply to him to the extent that he has taken depreciation, and if he sells the machine for more than its written-down value, then to the extent he has taken depreciation he has to bring it back in.

The CHAIRMAN: Shall section 17 carry?

Section 17 was agreed to.

On section 18—Death of partner or proprietor.

The CHAIRMAN: This is a beneficial section.

Hon. Mr. HAIG: I agree with it. Let us pass it.

The CHAIRMAN: This covers the situation where the fiscal year of a proprietorship might end, say, October 31, and an income tax return would have to be filed in respect of that period. Then, say the proprietor dies in November, the present law requires that another return be filed for that period between the end of the fiscal year and the date of death. The amendment gives an option so that the estate may file one return for the two periods, or two returns, depending on which is more beneficial to the estate. There are circumstances where it might be more beneficial to the estate to file one return. It is an option and it is beneficial.

Hon. Mr. HORNER: It looks all right.

The CHAIRMAN: Shall section 18 carry?

Section 18 was agreed to.

On section 19—Dividends received by brokers.

The CHAIRMAN: This is the case of the accumulation in dividends in the hands of brokers in relation to street certificates where the beneficial ownership of the shares was not known to the broker at the time. It is now proposed to impose a withholding tax of 25 per cent starting in the year 1954 on these certificates in the hands of the brokers in relation to the twelve months of 1953. There is another subsection that goes back and gathers up all the accumulations.

Hon. Mr. HAIG: That first statement is all right.

Hon. Mr. ASELTINE: How far back can you go?

The CHAIRMAN: Under this section you can go back to such time as you are first subject to income tax.

Hon. Mr. ASELTINE: 1917?

Mr. GAVSIE: I would refer honourable senators to the bill as it stood at the stage of first reading in the House of Commons.

The CHAIRMAN: Well, Mr. Gavsie, because there was something worse in the first reading—

Mr. GAVSIE: I should like to explain this, Mr. Chairman. Section 5 of the bill as introduced in the House of Commons provided that where the broker received dividends on securities, and he didn't know the beneficial owner, he

would have a year in which to find the beneficial owner or include it in his income. That was the section as it stood. Immediately the bill was introduced we had representations from interested parties such as brokers and representatives of the stock exchange. They claimed they had been advised by their lawyers that this money was never the property of the brokers, that no statutory limitations applied to any claim by a person who was entitled to these dividends. In other words, you might have a widow who bought a street certificate and put it away in a box and left it there for years. When she died her executor would find this certificate and would begin to inquire as to where the dividends were on this security. He could go back and trace it and find the broker who received this security, and the broker would have to respond to that claim even though he had received it years and years before.

Hon. Mr. BOUFFARD: I think that is all right.

Hon. Mr. FARRIS: The broker would be a trustee.

The CHAIRMAN: Yes, in effect.

Mr. GAVSIE: In effect. They said "It is harsh to say to us that we shall be taxed on it as if it was our income, because there is always this liability." It was partly their suggestion that this withholding tax is levied against this unknown person. It is investment income and that unknown person should be taxed. They said "Why do you not have a withholding tax?" They said "We have the money. We do not know to whom it belongs, and therefore the person is not being taxed on it, but if you had a withholding tax the person would in effect be taxed, and when he becomes known he can make his claim or pay the additional tax, whatever the circumstances may be." We say that this accumulation they have on their books today has not borne any tax, that is, dividends they received ten years ago which they still have. Of course, there is no question about the ones they received ten years ago and have paid out because the person who received them was taxed on them when he became known. You have in the broker's hands today an account representing the accumulation of dividends of unknown persons because they say "We keep special accounts and we guard these religiously in the sense of proper bookkeeping entries." These dividends have never borne tax and unless you make this section apply to the dividends they have on hand, these dividends have not been subject—

The CHAIRMAN: Excuse me. These dividends as and when the owner appears, would at that time have to bear their share of income tax. Why should we go back, as far as, say, 1917?

Mr. GAVSIE: If they are never paid out they will never be subject to tax, and the broker will have them.

Hon. Mr. ASELTINE: What protection does the broker get against the proper owner?

Mr. GAVSIE: The law provides that by paying this withholding tax he is deemed to have paid it by reason of the provisions of the law, and he gets protection in the sense of having paid it.

Hon. Mr. FARRIS: The owner has to pay his income when he receives it, and he gets a credit for it.

Mr. GAVSIE: Yes.

The CHAIRMAN: There are two difficulties. I know about the representations that Mr. Gavsie was talking about, but I also know that in the city of Toronto, for instance, a number of the brokers have followed a practice over a period of years of bringing into their own income in so many years, maybe three or four, these unclaimed dividends, and paying the income tax on them. In such circumstances they have no protection under this section at all. In law those dividends are still dividends received on behalf of a beneficial owner who is unknown, and they would have to withhold 25 per cent.

Hon. Mr. NICOL: The owner is unknown to whom?

The CHAIRMAN: The broker.

Hon. Mr. NICOL: How many brokers sell or buy certificates and not know to whom they are selling or from whom they are buying?

The CHAIRMAN: That is not the case at all. It is a case of street certificates where the certificates pass between a series of brokers, and they may end up in the hands of one broker. That broker may go out of business. In the meantime the dividends are received, and naturally the company pays them to the registered holder.

Hon. Mr. NICOL: What about a man in the 75 per cent class who buys a large bulk of stock; the broker receives the dividends. He pays 25 per cent of 75 per cent.

The CHAIRMAN: The withholding tax of 25 per cent is only on account of what the owner would have to pay as and when he appeared.

Hon. Mr. HAWKINS: What would happen if the beneficiary would not be liable for the tax?

The CHAIRMAN: He would get a refund. Mr. Gavsie has not answered my question about the broker, and I know there are some of them in Toronto who have adopted the practice of putting this in their income tax and paying tax on it. When they account to the unknown person who suddenly appears they are going to have to pay him 75 per cent of it, whether they pay tax on it or not.

Hon. Mr. BOUFFARD: If they have paid that on their own income tax, would it not be agreed by the department that they have paid over the 25 per cent?

Mr. GAVSIE: I think we would have to look at those cases. It is not the intention to have both of them paid. Both people could not have received them as income. If the brokers have included them as income and have paid the tax, then the broker has paid tax incorrectly.

The CHAIRMAN: Under the general income tax law my right to claim refund is gone a year after the assessment has been made. So that unless there is some statement of policy as a matter of law, if you ever went to the tax appeal board or the Exchequer Court, they would say, "I am sorry, there is no relief we can give you", and that is a factual situation.

Mr. GAVSIE: As far as the department is concerned, they will look at the individual cases and work out some adjustment so that there will not be double taxation.

Hon. Mr. FARRIS: Agreed.

Hon. Mr. BOUFFARD: The department is ready to treat each case on its own merits?

Mr. GAVSIE: On its own merits.

The CHAIRMAN: And to work out some method of relief from double taxation if the broker has in fact paid it on income.

The other question that has not been answered yet, is the question of how far back the hand of the tax collector should go at this time.

Mr. GAVSIE: Well, Senator, I do not think, in fairness to all taxpayers, that there should be a gift; there should not be any gift either way on this dividend.

The CHAIRMAN: Well, there is not a gift.

Mr. GAVSIE: There is, unless you deal with the accounts the brokers have on hand, representing the unpaid dividends. If you are going to say this only applies to amounts, say received after the year "X", the balance of it is going to go free.

The CHAIRMAN: No, it is still taxable as and when the beneficial owner appears. You are not losing anything. You are now imposing a withholding tax. I think the principle is a sound one, and the only question is how far you should go back and levy that withholding tax. It is retroactive taxation.

Mr. GAVSIE: It seems to me we will have to deal with the brokers' accounts as they have them on the books now. The broker has an accumulation. He shows that in his statement through "X" thousand dollars as the account representing unpaid dividends. Now, he has either reduced that by putting part of it into his income, and paid tax on it, as you say, Mr. Chairman, and has his net amount in his account, or he still has got them on hand and has been using them in his own bank account in some cases.

The CHAIRMAN: 25 per cent is having regard to the rate of tax in 1953. We are prepared to accept the 25 per cent withholding tax, but if some of these dividends are accumulation from back in the early 30's and the broker still shows them on his record, 25 per cent is going to be a very substantial tax.

The second point is, there must be a lot of brokers who have accumulated dividends of that kind who have sold their businesses or gone out of business and it is not possible to get an accounting in relation to those.

Mr. GAVSIE: Then we will not be able to deal with them if they are out of business and gone.

The CHAIRMAN: Quite true; and then I say that this tax is going to fall in its retroactive effect on a person who has operated his business in a fair and proper way and who has maintained the continuity. The other person is going to escape. Now, should we impose that kind of tax retroactively?

Hon. Mr. NICOL: If the broker has the money, he has either paid on it or has the money, why should we pay?

Mr. GAVSIE: That is a fair statement of facts. He either has the money or has taken it into his income.

The CHAIRMAN: What we are overlooking is that when the income was received somebody should have been a taxpayer and that person still is and always has been subject to tax on that income. You are imposing a withholding tax. That is sound in principle, but when you carry a withholding tax back into as far as 1917, it is an extraordinary thing.

Hon. Mr. BOUFFARD: Why don't they deal with the amounts received, the same as the banks?

The CHAIRMAN: I do not think the brokers, even, would like that.

Hon. Mr. BOUFFARD: No, I do not either.

Mr. GAVSIE: That would solve our difficulties, senator, from the tax point of view.

The CHAIRMAN: Except that with banks you are not dealing with income.

Hon. Mr. FARRIS: If the broker has held that money, as they often do in a trust account—practically a trust account, since the time he received it, it is no hardship on him to retroactively collect that 25 per cent, because it comes from the fund.

Dr. EATON: It seems to me I might put forth one point of view. Instead of being retroactive, we are just now doing what should have been done many years ago. It is not retroactive in the true sense of going back. We are doing now what should have been done years ago.

The CHAIRMAN: But it is still retroactive, if you did not do it then and are doing it now.

Dr. EATON: From the taxpayer's point of view, he has had all this period of grace. You cannot have an income accumulated in trust for an unknown person and escape taxation on it. That is a pretty solid principle in law: When income flows to an unknown person, a trustee cannot sit still and receive the income without the tax being withheld or paid.

The CHAIRMAN: That is true.

Dr. EATON: It is just a matter of catching up now on the leak in the system.

The CHAIRMAN: But the catching up on the withholding tax has a retroactive effect?

Mr. GAVSIE: We thought we were being a bit ingenious in putting in the way we did. We are not in effect saying to the broker, regardless of the fact that you have had the use of this money for years back we are going to provide for 25 per cent withholding tax and also interest and other penalties. On the contrary, we deem him to have received it in 1953. So the whole thing is in the future. Even though he has had this money over a long period of time, we are asking for the 25 per cent on the basis of his having just received it in 1953. In that way the withholding tax would be a current payment in 1954. There is no hardship in the sense of penalties or interest.

Hon. Mr. ASELTINE: But if he was holding it in trust, he would not have the use of it.

Mr. GAVSIE: Perhaps, Senator, he did have the use of it. I do not know what they do with that money, whether they hold it as trust funds or use it.

Hon. Mr. CAMPBELL: This is in effect a change in procedure for the collection of tax, resulting in a tax being imposed on the broker for funds that have over an indefinite period come into his hands, but which belong to clients. Is that not what it amounts to?

Hon. Mr. GAVSIE: It is not a tax on the broker; it is a tax on the unknown person.

Hon. Mr. CAMPBELL: But he is liable for it.

Mr. GAVSIE: But it is credited to his liability when the unknown person responds to the liability. The broker gets credit for it. It is not a tax on the broker. It may be a tax on funds that the broker would otherwise have kept; to that extent it might be regarded as a tax on him. If the broker does not pay out the 25 per cent, he holds 100 per cent, not as being his income, but as money for an unknown person.

Hon. Mr. BOUFFARD: If he is acting as a trustee, he is supposed to have these moneys on hand at all times.

Mr. GAVSIE: I do not say this provision meets all the technical requirements of a trustee relationship; nevertheless, in effect this money does not belong to him, therefore he is holding it for an unknown person and is a trustee.

Hon. Mr. FARRIS: Once he undertakes to keep it and return it to the company, surely he is a trustee.

Mr. GAVSIE: It does not come within the technical meaning of "trustee" under our act.

Hon. Mr. FARRIS: That may be true.

Hon. Mr. BOUFFARD: The only question I am concerned about is that of prescription. I am not sure that the broker does not hold the money as prescription money.

Mr. GAVSIE: We were informed by representatives of the stock exchange that they had opinions from two of the largest legal firms in Montreal. In addition, the Department of Finance received a letter from a large legal firm in Toronto, stating that they have given the opinion that there is no Statute of Limitations applicable to this liability.

Hon. Mr. HAIG: I would think that would be true.

Hon. Mr. CAMPBELL: I think Dr. Eaton put his finger on the point when he said this should have been done a long time ago. It seems to me that it poses a certain obligation on the broker to account to and to make his records available to the tax department for a period of years in order to determine the extent to which he is liable for the 25 per cent deduction. As the procedure was not laid down years ago, I see no reason why when you lay it down today you should impose those obligations. What are you trying to get at? Is it the 25 per cent tax on the amount presently in the broker's hands, or are you trying to improve the Act so that from now on you will be able to catch all dividends?

Hon. Mr. HAIG: Both.

Hon. Mr. CAMPBELL: Which is the more important?

Mr. GAVSIE: I think they are both important.

The CHAIRMAN: The more important one would of course be from here in. As to the matter of moneys, as you say, accumulated in the broker's hands, subsection (3) says in part:

"Where an amount has been received by a broker or dealer in securities in the 1952 or a previous taxation year . . ."

It is not a case of what he may have on hand; it is whatever he has received, or whatever can be established that he has received, from 1917, has to be brought into 1954.

Hon. Mr. FARRIS: That would not be so if he later found out who the owner was.

The CHAIRMAN: No. But if by the end of 1954 taxation year the owner is still unknown to him, he has to pay the 25 per cent.

Hon. Mr. HAIG: Mr. Chairman, I can see some difficulty in this connection. There is the matter of finding men and women whose address has not been known for a long time.

Hon. Mr. GOUIN: In many cases they cannot be found.

Hon. Mr. HAIG: I can cite an instance from my own office. We have in our trust fund a small sum of about \$5 for a man who has disappeared. He has been gone thirty years. The last we heard of him he was in India or somewhere, and he may now be dead. I can foresee the brokers having to spend a lot of money trying to find people.

Mr. GAVSIE: But they will charge that as an expense.

Hon. Mr. HAIG: If they can.

Mr. GAVSIE: I would think that would be a proper expense. They will not be out of pocket any money.

Hon. Mr. HAIG: Mr. Chairman, I do not like retroactive legislation, and I never have. It depends, I think, on what is the attitude of the gentlemen in the tax department who are charged with this investigation. If they are out to get the money and it is there, let them have the 25 per cent; but I think they will run into a lot of difficulty by reason of brokers having gone bankrupt, businesses having been wound up, the old partners having gone and new partners having taken their place and so on.

The CHAIRMAN: Even in the case of a broker who has gone bankrupt, if during the period of 1925 to 1935 he received a certain quantity of dividends for an unknown person, he would have to account for it today and pay the 25 per cent.

Mr. GAVSIE: I should like to have Mr. MacNeill express his opinion on whether or not the bankruptcy would wipe out the liability.

The CHAIRMAN: It might and it might not. It certainly would not if there was a trust fund.

Hon. Mr. FARRIS: If the broker had done business properly, there would be a trust fund available.

Mr. GAVSIE: I was told that in one bankruptcy the trustee set up a trust account representing unclaimed dividends and did not include it in the firm's assets.

The CHAIRMAN: That may happen.

Hon. Mr. FARRIS: In the other case, he has misappropriated trust funds.

The CHAIRMAN: There are a lot of bankruptcies without the benefit of clergy.

Hon. Mr. FARRIS: It may be a matter of misappropriation of funds.

Hon. Mr. BOUFFARD: It is a matter of whether we should protect certain people.

The CHAIRMAN: Are we going back to resurrect all this old business? Is that the implication?

Mr. GAVSIE: We are entitled to credit for a little bit of common sense; and I would suggest that as far as these difficulties raised by Senator Haig go, they are not important in the scheme of things. We will take a look at them.

Hon. Mr. HAIG: That satisfies me.

Dr. EATON: I might add one word. This amendment is not effective until 1954, and the minister has undertaken to look into problems that may come up.

Hon. Mr. HAIG: There have been in my own city of Winnipeg many instances of stock being passed from hand to hand, and never being properly transferred. The truth was that nobody wanted to acknowledge that they owned it. Now in the oil business, some of that stock is coming to light. That is bringing up the question again.

The CHAIRMAN: I am not sure that in those earlier years the same systematized procedures were followed in the transfer of shares and things like that.

Hon. Mr. HAIG: I am perfectly satisfied with Mr. Gavsie's statement.

The section was agreed to.

On section 20—Interest on over-payment.

The CHAIRMAN: I should think all of you should say "Carried". You get an increase of interest on overpayments. If you want to get 6 per cent interest you just go ahead and overpay!

Mr. GAVSIE: It is not quite that simple. You have got to be assessed. It is only if you have been assessed and have paid, and then, either upon review in our department or the courts it is determined that the tax payment is too high.

Hon. Mr. HAWKINS: You do not get it because you file your own income tax.

Mr. GAVSIE: No, not if you overpay on your own statement. You have got to be assessed for this extra amount.

The CHAIRMAN: It has got to be some ultimate act of the department which creates this overpayment. I was just being a little facetious.

The section was agreed to.

On section 22—Deduction for foreign tax.

The CHAIRMAN: This deals with the deduction for foreign tax. Is there anything there we should know?

Mr. GAUSIE: The amendment is underlined. It gives the trust the right to allocate the foreign income among the beneficiaries, instead of having an arbitrary rule.

The section was agreed to.

On section 23—Dividend from personal corporation.

Hon. Mr. ASELTINE: This has to do with personal corporations. I would like to ask Mr. Gausie if this is any substantial change in the law, which I understand is that a personal corporation pays no tax, that the persons who receive the money from the personal corporation are the only ones taxed.

Mr. GAUSIE: Well, the income of a personal corporation is deemed to be distributed at the end of each year. The shareholders are taxed on that basis.

Hon. Mr. ASELTINE: Is that changed by this section?

Mr. GAUSIE: No, this is relieving. There are a few cases where there are personal corporations owned by personal corporations, and the purpose of this amendment is to allow both the dividend credit and the foreign tax credit to work its way up through the two personal corporations.

Hon. Mr. DAVIES: What exactly do you call "personal corporations"? Will you explain it in just a word or two?

Mr. GAUSIE: I don't think I can—in a word or two.

Mr. ASELTINE: I explained that in the house. You asked the same question there.

Mr. GAUSIE: Section 61 deals with personal corporations, and subsection (8) defines what a "personal corporation" is.

Hon. Mr. HAWKINS: Well, let us have it.

Hon. Mr. DAVIES: What—in two or three words—is a personal corporation? Is it incorporated?

Mr. GAUSIE: Yes. I will read subsection (8):

(8) In this Act, a "personal corporation" means a corporation that, during the whole of the taxation year in respect of which the expression is being applied,

- (a) was controlled, whether through holding a majority of the shares of the corporation or in any other manner whatsoever, by an individual resident in Canada, by such an individual and one or more members of his family who were resident in Canada or by any other person on his or their behalf,
- (b) derived at least one-quarter of its income from
 - (i) ownership of or trading or dealing in bonds, shares, debentures, mortgages, hypothecs, bills, notes or other similar property or an interest therein,
 - (ii) lending money with or without securities,
 - (iii) rents, hire of chattels, charterparty fees or remunerations, annuities, royalties, interest or dividends, or
 - (iv) estates or trusts, and
- (c) did not carry on an active financial, commercial or industrial business.

The section was agreed to.

The CHAIRMAN: I think we should meet later today to finish this up.

Hon. Mr. HAIG: We shall not be able to meet this afternoon, if the rumours I hear are true . . . I move that we meet at 8 o'clock this evening.

The motion was agreed to.

The committee adjourned until 8.00 p.m.

The Committee resumed at 8.00 p.m.

On Section 24—Undistributed Income.

The CHAIRMAN: We had got to Section 24. Section 24 is tied into subsection 1 of Section 35. Is that not right, Mr. Gavsie?

Mr. GAVSIE: Yes. The first two amendments deal with the calculation of undistributed income on hand and the first amendment is to provide for a deduction in arriving at the undistributed income on hand of the premiums that are paid by the corporation on the redemption or acquisition of the preferred stock; so that in arriving at this undistributed income a deduction is made in respect of premiums paid on redemption of preferred stock at any time since 1949 and in respect of the acquisition of preferred stock after February 20, 1953.

The CHAIRMAN: The second amendment is consequential, is it not?

Mr. GAVSIE: The second amendment is consequential upon the new Section 95B (3) which is found in clause 35, and the third amendment deals with the case of where a corporation is a shareholder in another corporation. The other corporation has tax-paid undistributed income, and the amendment provides for that tax-paid undistributed income passing up to the shareholder corporation as tax-paid undistributed income in its hands.

The Section was agreed to.

On Section 25—Mines.

Section 25 extends for a further year, that is, to 1956, the three-year exemption in respect of new mines. The Section was agreed to.

On Section 26—Interpretation.

The CHAIRMAN: Section 26 only deals with some Crown companies that are subject to income tax. If the Government turns over some property to them to sell and they make a gain on it, the gain is not income in their hands. Is that not right, Mr. Gavsie?

Mr. GAVSIE: Yes.

The Section was agreed to.

On Section 27—Electric, Gas or Steam Corporations.

The CHAIRMAN: With regard to Section 27, I do not think we need to waste any time on that. That is just those special rates we struck last year for electric, gas or steam corporations. Because the new corporate rates have changed, this one is changing. Is that right?

Mr. GAVSIE: Yes.

Hon. Mr. HAIG: I do not like it, but let it go. I do not like the principle underlying it.

The CHAIRMAN: I think we argued that.

Hon. Mr. HAIG: Yes, we did.

The Section was agreed to.

On Section 28—Benefits to Employees.

The CHAIRMAN: Section 28 adds a new Section 75A. This is the one in respect of which you asked a question about the benefits to employees; that is where you have these stock-option or stock-purchase plans in favour of employees.

Mr. GAVSIE: That is right.

The CHAIRMAN: And they must be in favour of employees; not that an employee can just happen to buy into a stock-purchase plan, they must be in favour of employees, otherwise this section does not apply. Do you want any further explanation?

Hon. Mr. HAIG: No. You gave the explanation there.

The CHAIRMAN: What I said was, that these stock-purchase and stock-option plans must be in favour of employees in order that this section will apply. If it just happened that a man who was an employee bought into something and was able to get a benefit under some stock-purchase plan that was not by agreement in relation to employees, this section would not apply.

Mr. GAVSIE: It applies to agreements made between the corporation and its employees.

Hon. Mr. HAIG: To buy in?

Mr. GAVSIE: To buy stock by giving them an option to purchase.

Hon. Mr. ASELTINE: At a lower price?

Mr. GAVSIE: There would only be a benefit if the option to purchase stock was at a lower price, or if in fact the price of which he had a right to buy was less than the price at the time as of which he bought it. In that case there is a special provision that the tax on him would be the effective rate of tax, that is, his average rate of tax for the last three years minus twenty per cent of the benefit.

The CHAIRMAN: If the stock is listed, of course, it is quite easy to ascertain the value of what benefit he has got, but if the stock is not a listed stock then do you provide the regulations by which you deal with that?

Mr. GAVSIE: Then it would be a question of fact as to what was the value of the stock.

The CHAIRMAN: Then we come to Section 75(B), which is under the same section, Section 28. We have passed Section 75(A), which is enacted by Section 28, and now we are dealing with Section 75(B). This is rather important, I think, dealing with special types of reserves. Would you just give an explanation there, Mr. Gavsie?

Mr. GAVSIE: There have been several cases decided by the Income Tax Appeal Board which held that tickets, such as those sold by the milk companies and the bread companies, are income of the company when sold, without the corporation being able to set up a reserve in respect of the milk or the bread that it will have to deliver later on to cover the tickets that it has sold. This section provides: (a) that all the amounts received shall be brought into income, and (b) that the taxpayer can set up a reserve, which in the case of articles of food, transportation and containers, is limited to the amounts received in the year less the amounts delivered in the year, or in other words, the unredeemed portion of the sale of tickets in the year.

Hon. Mr. HAIG: That is all right.

Hon. Mr. DAVIES: Does that affect advance subscriptions to newspapers and magazines?

Mr. GAVSIE: Yes. They would be dealt with on the same basis. You would have a reserve in respect of the period that the subscription had to run.

The CHAIRMAN: I thought when we were dealing with tickets, services, that the limitation was a reasonable amount for a reserve, and that this other question was in relation to containers.

Mr. GAVSIE: I said in the case of articles of food, transportation and containers, it would be limited to the amount of tickets sold or deposits in respect of containers received in the year, less the amounts redeemed in the year, or in other words, the unredeemed number of tickets that were sold during the year, or the unpaid deposits that were received in the year; in other cases it would be a reasonable amount.

Hon. Mr. HAIG: What about streetcar tickets?

Mr. GAVSIE: That is transportation.

The CHAIRMAN: That is services.

Hon. Mr. HAIG: I have three tickets here, have I not, two on London and one on Toronto. I have had them for a long time, and they are not likely to be any good by the time I get there. Are they allowed?

Mr. GAVSIE: They are allowed a reserve equal to the tickets sold during that year, less the tickets actually used in that year, or in other words the unredeemed portion of the tickets sold during the year.

Hon. Mr. HAIG: Then how do you get at the place where they have to bring it into income?

The CHAIRMAN: Each year.

Mr. GAVSIE: As they sell the tickets they bring the amount into income.

Hon. Mr. HAIG: Yes, and then they get a reserve?

Mr. GAVSIE: Then they get a reserve representing the unredeemed tickets sold during the year.

Hon. Mr. HAIG: But suppose I never use this? I may never use it.

The CHAIRMAN: But the reserve is gone after one year.

Hon. Mr. HAIG: That is what I wanted to get at.

The CHAIRMAN: At the end of each year you have to bring the reserve back in, and the new reserve can only be the difference between the one amount and the other. Is that not right?

Mr. GAVSIE: That is right.

Hon. Mr. HAIG: Very well.

The CHAIRMAN: I am not quite clear yet on the difference between these types of things. On page 21 you talk about a deduction of a reasonable amount as the reserve, and then on page 22 you talk about the reserve being only the difference between what you have received and what has been redeemed.

Mr. GAVSIE: Yes. Paragraph (c) on page 21 sets out the general rule, that is that you are allowed a reasonable amount as a reserve in respect of those items.

The CHAIRMAN: That is right.

Mr. GAVSIE: Paragraph (3), on page 22, limits or spells out what is reasonable in respect of articles of food, transportation and containers, and the rule is, as there stated, that the maximum of the reserve is the amounts included in the year for sales, in the case of tickets, or deposits in the case of containers, less the tickets used in the year or the deposits returned in the year; or in other words, the unredeemed portion of the tickets sold in the year and deposits received in the year.

Hon. Mr. HAIG: I presume the same thing applies in other places, but all I know about is Winnipeg. In Winnipeg about four months ago, the milk

distributors stopped distributing milk in bottles, and they distribute it now in paper cartons. At my house we have about a dozen of those bottles. I do not know whether they ever will come and take them away. What becomes of that as a company asset?

Mr. GAVSIE: I should mention that this rule does not apply to bottles, because as I understand it the soft drink people or the milk people never operated their bottle business on the basis of reserves. As they bought the bottles they charged them as an expense, and when they delivered them and got deposits, they brought those into income, and, as they were required to redeem them and paid out money to the customers, they charged that up; so there was never a problem about the bottles. That is why on page 21, paragraph (c) (iv) you talk about a reserve for containers other than bottles.

Hon. Mr. HAIG: Yes, I see. I have it now.

Hon. Mr. ASELTINE: You turn in your bottles and get milk for them.

Hon. Mr. HAIG: They would not take them.

Hon. Mr. ASELTINE: They should.

Hon. Mr. HAIG: They will say you never bought them in the first place. That is what they say.

The CHAIRMAN: Are there any other questions?

Mr. GAVSIE: As far as the paper containers are concerned, they are not returnable. As they use them they would charge them to expenses of delivering the milk, and that is the end of the paper containers.

Hon. Mr. HAIG: It is the glass bottles in which I am interested.

The CHAIRMAN: Then you have other reserves provided for on page 22, policy reserves, and insurance brokers' reserves?

Mr. GAVSIE: Yes. In the case of the policy reserves, the amount that is regarded as reasonable will be approved for the purpose by the Superintendent of Insurance. In the case of the insurance agent or broker when he gets commissions, the commissions are spread over the life of the policy; in other words, he is deemed to have earned that commission on a daily basis.

The CHAIRMAN: Then we go to page 23. Is there anything there?

Mr. GAVSIE: On page 23, subsection (4), provides for bringing into income the reserves standing on the books at the end of 1952.

The CHAIRMAN: Yes.

Mr. GAVSIE: And therefore setting up your new reserve in 1953. Similarly you have provision for bringing in the reserve each year and then setting up a new reserve.

The CHAIRMAN: That means that if I set up a reserve at the end of 1953 for instance, in connection with streetcar tickets, then at the end of 1954 I have to bring that reserve back into income for that year; but then I arrive at a new reserve which is made up of the difference between all the tickets sold and the tickets that have been used.

Mr. GAVSIE: During that year.

The CHAIRMAN: Just the ones used during the year?

Mr. GAVSIE: That is right.

The CHAIRMAN: So that if a ticket has been bought, or a strip of tickets, on the streetcar in 1953 and they are not turned in even by the end of 1954, I can no longer accumulate a reserve in connection with those outstanding tickets. Is that right?

Mr. GAVSIE: That is right.

The CHAIRMAN: I cannot accumulate a reserve in connection with these tickets for more than one year. After that if they do come back I can take them into operations.

Mr. GAVSIE: Yes. You are operating a streetcar, and the expenses are charged as expenses.

The CHAIRMAN: Then is the whole of Section 28 passed now?

Mr. GAVSIE: Subsection (5) provides that where your reserve at the end of 1952 is in excess of the reserve that you are allowed to set up for 1953, you work off that excess reserve over a three-year period; in other words, you take one-third each year.

The Section was agreed to.

On Section 29—Income Tax Appeal Board.

The CHAIRMAN: With regard to Section 29, I do not think that we need to spend any time on that; that is just upping the salaries of the members of the Tax Appeal Board.

Mr. GAVSIE: If I remember correctly, I think I read in *Hansard* that one of the Senators asked why the previous salary of the Chairman was \$13,333.33. The explanation for that is, that that was equivalent to a Judge's salary. When there was an increase made, I think it was a twenty per cent increase, that brought it up to \$13,333.33.

Hon. Mr. DAVIES: Are there any expenses in connection with this, in addition? There has been a lot of talk about part salary and part expenses.

Mr. GAVSIE: This is salary, Senator, and then in the annual estimates there is provision for expenses of travelling. They get reimbursement of their actual expenses.

Hon. Mr. HAIG: It is the same as the Judges.

The CHAIRMAN: They are reimbursed for their actual expenses, the same as the Judges.

The Section was agreed to.

On Section 30—How Appeal Instituted.

The CHAIRMAN: Then Section 30 is only dealing with procedure upon appeals.

The Section was agreed to.

On Section 31—Fee upon filing notice of appeal.

The CHAIRMAN: This section deals with the famous \$15 that is put up as a deposit.

Hon. Mr. ASELTINE: It is paid to the Appeal Board now.

The CHAIRMAN: It always was.

Mr. GAVSIE: The amendment provides that the fee shall be repaid to the taxpayer on the ultimate disposition of the case if the appellant receives any of the relief sought.

Hon. Mr. DAVIES: This is all very complicated. If a taxpayer does not understand the law can he get advice from the office of the income tax inspectors or does he have to hire some specialist such as a chartered accountant?

Hon. Mr. HAIG: He would have to hire a lawyer or an accountant.

Mr. GAVSIE: As far as the filing is concerned?

Hon. Mr. DAVIES: On any of these matters.

The CHAIRMAN: He is presumed to know the law.

Hon. Mr. DAVIES: I know he is, but of course he does not.

Mr. GAVSIE: We send a notice or a letter explaining what his rights are on appeal.

Hon. Mr. DAVIES: I am talking now about the ordinary taxpayer, not a company.

Mr. GAVSIE: During the rush period we spend most of our time dealing with questions from the taxpayers. As a matter of fact, during such period, in the Toronto office we handle approximately 20,000 inquiries a week from people who come into the office with different problems.

Hon. Mr. DAVIES: Can they get this information free?

Mr. GAVSIE: We make no charge for any information we hand out. It is contrary to the law.

Hon. Mr. ASELTINE: If I do not understand a certain section I can write in and they tell me what the amendment is?

Mr. GAVSIE: Yes, or if a person wants to take the trouble to come to the office and discuss a certain question if he does not understand the section. We provide that service. As a matter of fact, we go further. During this time of the year we send men to different towns. For instance, we send people to Flin Flon. They are available throughout the different towns for the purpose of dealing with any questions the taxpayers want to ask.

The section was agreed to.

On Section 32—Disposal of appeals.

The CHAIRMAN: This section deals with how appeals are disposed of.

Some Hon. SENATORS: Carried.

The section was agreed to.

On Section 33—Cross-appeal.

The CHAIRMAN: Is there any question here?

Some Hon. SENATORS: Carried.

The section was agreed to.

On Section 34—Corporation election.

The CHAIRMAN: Would you explain this, Mr. Gavsie?

Mr. GAVSIE: The first amendment is consequential upon the second amendment.

The CHAIRMAN: That is right.

Mr. GAVSIE: So if I deal with the second amendment perhaps that will explain the first. The second amendment extends the right of a company to elect to pay the 15 per cent tax on its undistributed income. At the moment a controlled corporation has not the right to elect under section 95A(2); that is, to pay the 15 per cent tax on an amount equal to the amount of the dividends it paid out in the years preceding the year in which it wishes to elect.

Hon. Mr. DAVIES: Who has permission to do that?

Mr. GAVSIE: A controlled corporation has not that right.

Hon. Mr. DAVIES: What do you mean by a controlled corporation?

Mr. GAVSIE: A corporation in which 50 per cent or more of the shares are owned by another corporation. The new amendment to this section permits a subsidiary controlled corporation, that is subsidiary to a personal corporation, to make an election on the same basis as corporations that are not controlled subsidiaries. A subsidiary controlled corporation to a personal corporation

really is not a subsidiary of another corporation in fact because the income of that personal corporation is deemed to be distributed; so an exception to the general rule that a subsidiary controlled corporation cannot elect under section 95A(2) is made in the case of a subsidiary controlled corporation that is subsidiary to a personal corporation.

On section 35—Tax on premium.

The CHAIRMAN: Section 35 ties into sections 1 and 24. It has to do with redemptions and acquisitions of preferred shares by a corporation. Would you summarize very briefly, Mr. Gavsie, what goes in that section 35?

Mr. GAVSIE: From now on, in lieu of the shareholder being taxed on the premium on redemption or on the acquisition by the corporation of preferred shares at a premium, the corporation itself has to pay a 20 per cent tax on the amount of the premium, or if it has "tax-paid undistributed income" it can use its tax-paid undistributed income" to deduct it from the premium and thus reduce or wipe out its liability for the tax on the premium.

Hon. Mr. DAVIES: Have you changed the regulation whereby companies can pay tax on 15 per cent on undistributed income—it is 15 per cent up, is it not? And then distribute their surplus free of taxation to the shareholders?

Mr. GAVSIE: That is not affected by this.

The CHAIRMAN: I was just wondering, Mr. Gavsie, I thought that while the company had to pay 20 per cent on the amount of the premium on a redemption or acquisition after the dates mentioned, the alternative basis was that you could deduct from your "tax-paid undistributed surplus" if it were big enough. It was to deduct the amount of the premium, not the amount of the tax on the premium, was it?

Mr. GAVSIE: Deduct the amount of the premium.

The CHAIRMAN: You said, the 20 per cent tax. I nearly fell into the same error when I was explaining the bill in the house.

Mr. GAVSIE: Let us say the premium is X dollars. If the company has tax-paid undistributed income of X dollars it would not have to pay the 20 per cent tax if it elected to use its tax-paid undistributed income to offset the amount of the premium.

The section was agreed to.

On section 36,—Interest.

Mr. GAVSIE: Section 36: the first amendment is to rewrite the non-resident tax in respect to interest. It provides for a 15 per cent withholding in the case of interest paid to a non-resident.

Hon. Mr. HAIG: We do that now.

Mr. GAVSIE: Yes, but this is merely a rewrite of the present section.

The second amendment provides for the case where, under section 21, 22 or 23—

Hon. Mr. ASELTINE: Why was it necessary to rewrite it?

Dr. EATON: There are two reasons in there, sir. The old law said that the tax applied when the interest was payable in Canadian currency. Now there are cases where physically the payment might be made in Dutch guilders; for example, the physical payment of the interest on the bond upon redemption was paid in that type of currency, but measured always by the Canadian currency. There was a question of law, where it was physically payable in a foreign currency, although measured by Canadian dollars, as whether it was payable in Canadian currency. The measure was rewritten to make it certain. We

find on line 35: "For the purpose of this subparagraph, interest expressed to be computed by reference to Canadian currency shall be deemed to be payable in Canadian currency."

The other change is a little more complicated. When this law came in force back in 1933 we started taxing non-residents in respect of interest payable in Canadian currency. The exception to that rule was the subsidiary interest—I mean a subsidiary in Canada paying to a parent in the United States—should be taxable regardless of the currency. Then there was an exception made to that exception, that for a bond that had been issued under an agreement before April 1, 1933, there should be an exception, that the general rule, payable only in Canadian currency, would apply. Now after twenty years, a period where it was regarded as reasonable that any bonds issued prior to 1933 would have run out, we pulled out that exception. The result is that all interest payable, by a subsidiary to a foreign parent is taxable regardless of the currency in which it is paid. In other words, the exception expires by the terms of this law.

The CHAIRMAN: Anything else in that section Mr. Gavsie?

Mr. GAVSIE: There is a second amendment. It deals with the case where, under the sections mentioned, that is 21, 22 or 23, the income from the security that was transferred, say to the wife or minor sons, is deemed to be the income of the transferor. If the wife or the minor son is an non-resident this section provides that she or he shall not be subject to the withholding tax. We are taxing the transferor who is in Canada, namely the parent or other transferor.

Hon. Mr. NICOL: I heard the other day of a man who transferred securities to his wife. I don't know what is the law in the other provinces, but in the province of Quebec no married man can transfer anything to his wife. Can you in Ontario?

Hon. Mr. HAIG: If you pay the gift tax on it.

Hon. Mr. NICOL: No matter what you pay, a married man cannot transfer to his wife; he cannot deal with his wife.

Hon. Mr. HAIG: You can in Manitoba.

The CHAIRMAN: You can in Ontario.

Hon. Mr. NICOL: Is that fair, if you establish a rule?

The CHAIRMAN: It is your own provincial law; it is the Ontario law.

Hon. Mr. NICOL: In the province of Quebec no man can transfer anything to his wife.

The CHAIRMAN: That is your provincial law.

Mr. GAVSIE: This section does not say he can, Senator; all it says is that if he does, the income from that is still deemed to be his income, and all that this amendment goes on to say is, that if the person to whom he transfers the property happens to be a non-resident there is no withholding. Let us take the case of shares—the shares presumably will be registered in the non-resident's name, and therefore there should normally be withholding tax. The purpose of this section is to say that since the transferor is being taxed, there shall not be withholding tax in respect of the transferee.

The CHAIRMAN: Then there is the new Subsection (8).

Mr. GAVSIE: Subsection (8) deals with the case where you have real estate in Canada that is owned by a non-resident and is rented in turn to a non-resident. The purpose of this section is to make it clear that there is withholding tax, because the property, which is the subject of the rent, is in Canada.

The CHAIRMAN: If you can get at them, you get the 15 per cent.

Mr. GAVSIE: Yes.

The Section was agreed to.

On Section 37—Interest on Bonds

The CHAIRMAN: Section 37 in the non-resident field corresponds to Subsection (5), with which we have been dealing, about interest on bonds, does it not?

Mr. GAVSIE: That is right.

The CHAIRMAN: Is the Committee clear on that, or do you want some explanation of Section 37? Maybe you had better summarize it very briefly, Mr. Gavsie.

Mr. GAVSIE: It deals with the case where a security is sold between interest dates, and Subsection (5) provides that the part of the interest during the period that the vendor held it shall be taxed in his hands; and the part of the period that the purchaser held it shall be taxed in his hands. Under this section, if the vendor is a non-resident and there would be withholding tax applicable if the interest was being paid at that time by the issuer of the security then there shall be withholding tax payable by the purchaser in Canada, who was in effect, paying that part of the interest to the non-resident.

Hon. Mr. NICOL: He will collect the tax for you.

Mr. GAVSIE: For all of us.

The CHAIRMAN: The purchaser of a bond from a non-resident must hold and remit to the Receiver General the withholding tax on the accrued interest element in that bond.

Hon. Mr. BOUFFARD: How do you know he has sold to a non-resident?

The CHAIRMAN: It is the purchaser who buys from a non-resident.

Hon. Mr. ASELTINE: How is he going to do that?

Hon. Mr. BOUFFARD: When he buys from a broker he does not even know whether the bond has come from a non-resident.

The CHAIRMAN: That is right.

Mr. GAVSIE: No. I think bonds are not handled in the same way as stock. As I understand it, taking the case of investment dealers, they do not act as brokers as such; they buy the bond and they sell the bond. That I am told is the practice in the case of investment dealers.

Hon. Mr. CAMPBELL: I received a call this afternoon from the Investment Dealers' Association in Toronto, and apparently Subsection 5, had only just come to their attention. I do not know why they did not discover it sooner. They told me they had been trying to reach Dr. Eaton. They have asked if we could defer a final decision on this matter until tomorrow morning when they will be here. I tried to get the objections over the telephone, but I am not sure that I have them. However, my understanding of the problem before them is this, that there is a market, and bonds are quoted both in New York and in Canada. There is a very ready market. Some of the investment dealer houses in Canada have New York offices and some do not have New York offices. They have said this is going to give rise to many complications in dealing with non-residents, where there will be a different quote, and the person who wishes to dispose of his bonds will deal in New York. They also say that they consulted their accountants, Clarksons, to see what sort of an accounting system they could set up to keep track of this, and Clarksons have advised them that it would be just impossible to set up a detailed accounting system to keep track of the deductions, where the credits would go and who was the person primarily liable for payment, and so forth. As I say, it is a pretty difficult thing to get over the telephone, but I was just wondering whether Dr. Eaton was aware of the position in regard to that.

Mr. GAVSIE: Are we talking about clause 5 of the Bill, Senator? That was not our idea as you will see. If you will look at the briefs and the file of representations that were made by Trust Companies and other people who deal in bonds. As we understand the law, without clause 5 of the Bill the recipient of the interest pays tax on the amount he receives regardless of the fact that he may not have held the bond for the whole period. The representations said, that is not the way bonds are dealt with in Canada. That is the system in England. In England you buy your bond flat, you pay so much money for the bond, and you have the bond. The unanimous practice in Canada is that when you buy a bond you pay so much plus accrued interest, and the accrued interest is shown as a separate item. So that in effect what you are doing is paying the purchaser of the bond his proportionate share of the interest representing the period from the last interest date up to the date of sale. We put in clause 5 to meet that practice. I do not think we should now be faced with the argument that this would not work, because that has been the practice.

Hon. Mr. HAIG: No, not quite. What happens is this: I go into the Canadian Bank of Commerce, and I say I want a \$1,000 bond, 1952 issue or 1945 issue. The bank say all right, they look at the book, and they say we will sell you a bond for \$98.75 plus interest. It is plus interest up to that date, and I pay it. Two months later when the interest payment is due, I have to pay the income tax on that other money I have paid out. I do not see any way to get over it, to tell you the honest truth.

Hon. Mr. ASELTINE: You do that now under this arrangement.

Hon. Mr. HAIG: But you are trying to get over it by this amendment.

Mr. GAVSIE: Up to the moment the position would be this: Let us say that it is a three per cent bond, and it is half-yearly interest. When you cashed that coupon and got \$1.50 for that particular coupon you would have to bring in the whole \$1.50 as income even though you only owned the bond for three months of that six months period.

Hon. Mr. HAIG: I see the injustice, but I do not see the remedy.

Mr. GAVSIE: We have been told that the practice is to bill you for \$98.75, being the principal amount of the bond, plus seventy-five cents in this case being the interest which accumulated from the last interest date up to the date you bought it.

Hon. Mr. HAIG: Yes, that is correct.

Mr. GAVSIE: And you pay the seventy-five cents.

Hon. Mr. HAIG: That is correct.

Mr. GAVSIE: You get the \$1.50 when you cash the coupon, but you only pay tax on seventy-five cents if Clause 5 of this Bill becomes law.

Hon. Mr. HAIG: But here is my answer to you: The amount of work to keep track of that will more than cancel out the profit the fellow will make in between, because you catch it coming and going. I cash that coupon, and about two months before the next payment is due I need the money, so I go and sell the bond, and the fellow who buys it pays it. I have had four months' interest and I do not pay any tax on it. It pretty well balances up, unless you are a big holder and just buy and buy and buy.

Hon. Mr. CAMPBELL: Suppose that a person has \$100,000 worth of bonds to sell, and he gets a quote on those bonds from a Canadian house and a quote from a United States house, the same company doing business in the United States: is there not going to be a difference in that quote to him under this new section?

Mr. GAVSIE: No. When you say a quote, a quote must be in respect of the capital. If the practice is as I have described it, upon the information we have, what you pay for the bond is the quote plus the accrued interest, which is shown as a separate item.

Hon. Mr. CAMPBELL: But not in the United States. If I have \$100,000 worth of bonds at the present time and I sell those bonds in New York or in Canada, everything I get is free of tax, is it not, before the interest date?

Mr. GAVSIE: No.

The CHAIRMAN: For the vendor, yes.

Hon. Mr. CAMPBELL: The vendor does not pay any tax, or become liable to pay any tax, under the present law, if he sells them before the accrual date.

Mr. GAVSIE: That is right.

Hon. Mr. CAMPBELL: When this law is passed then the vendor does become liable, does he not?

The CHAIRMAN: For the accrued interest.

Hon. Mr. CAMPBELL: For say, three-quarters of the interest. Therefore it is not going to be to his advantage to sell them in the United States.

The CHAIRMAN: Why?

Hon. Mr. CAMPBELL: He gets his quote. He gets his total sum without any deductions whatsoever.

The CHAIRMAN: Do they not sell them in the United States on a flat basis plus accrued interest?

Hon. Mr. CAMPBELL: No. It is a flat basis; there is no deduction at all. If you carry that to a non-resident who has securities to sell, then if he has \$100,000 worth of bonds to offer for sale in Canada, what is his position if this law passes?

Mr. GAVSIE: This section as I understand it only applies to the case where a resident in Canada is buying the bonds from a non-resident.

Hon. Mr. CAMPBELL: Yes, that is right.

Mr. GAVSIE: With Section 19 (A) covered by clause 5 of the bill, that purchaser would only pay tax on the interest that he receives from the time he acquires the bonds.

Hon. Mr. CAMPBELL: What happens?

Mr. GAVSIE: When he buys the bond from the non-resident he pays the non-resident the quote price plus the accrued interest, and it is in respect of the accrued interest that he pays to the non-resident that there would be withholding tax.

The CHAIRMAN: This section does not deal with the case you cited. You were citing a Canadian, that is, a resident, selling to a non-resident. This section does not cover that.

Hon. Mr. CAMPBELL: Does it mean that no non-resident will ever sell his bonds in Canada?

The CHAIRMAN: He may have to.

Hon. Mr. CAMPBELL: Yes, he may have to but I am sure Dr. Eaton will agree with me that a person may buy, say, a million dollars worth of bonds in the United States as a non-resident and place them for sale with a Canadian bond house.

Mr. GAVSIE: As I understand it, they buy them. That is the representation we had. They do not act as brokers.

Hon. Mr. CAMPBELL: Supposing they do buy them? If the person sells them to a Canadian house there is going to be a 15 per cent reduction of the portion of the interest accrued at the time of the sale. That is my understanding under the section.

Mr. GAVSIE: That is so if there would be a withholding tax, if the issuer of the security were paying the interest directly to the non-resident.

Hon. Mr. CAMPBELL: That is true.

Dr. EATON: I assume that the New York Branch, which is a branch, if you like, of the Canadian company, will buy from the individual owner in the United States, and then the sale will be from the New York owner to a Canadian owner with only one day or a half a day's accrued interest.

Hon. Mr. CAMPBELL: That may work as far as houses that have agents in the United States, but many of these dealers in Toronto have big transactions all the time and they have no connections in the United States whatsoever.

Dr. EATON: Will not the Canadian house, in doing business with somebody in the United States, be buying from somebody who is in effect in the position of a broker who will have bought them, say, with accrued interest, and who will sell them with only half a day's interest in Canada?

Hon. Mr. CAMPBELL: I was told not.

Dr. EATON: I may say I had two conversations with these people today, and I believe they were also talking to Senator Campbell over the long distance telephone. It is awfully hard to do business over the long distance telephone in connection with a complicated problem such as this. They put this matter up to me and I could not see where the problem was. I talked to them twice but I still could not see their problem.

Hon. Mr. HAIG: May I interrupt, Mr. Chairman? Why are we having this long discussion now? I thought we were going to agree to have this representation tomorrow.

The CHAIRMAN: Yes. I would suggest that this section stand until tomorrow.

Mr. GAVSIE: The only comment I wish to make is that you cannot have section 19A without a complementary section in respect of non-resident vendors.

Hon. Mr. HAIG: I grant you that.

Mr. GAVSIE: It might be that both sections should be struck out. I want to make my position clear. This section 19A is not our idea. It has been put in as a result of certain representations that were made, and if you are going to hear representations from the bond dealers I think you should hear representations from the trust companies and other people whose previous representations gave rise to this section 19A. It was following representations made by those people to the Minister of Finance that the Minister agreed to put section 19A into the Act.

The CHAIRMAN: If these people are to appear here tomorrow let us wait until then to discuss this section further. If their representations make sense we shall give further thought to them, but if they do not we will not take any action.

Mr. GAVSIE: I want to be fair. As far as we are concerned as an administrative department, we do not need either section 5 or section 37.

(It was agreed to defer consideration of section 37 until 11.30 a.m. tomorrow).

On Section 38—Procedure.

The CHAIRMAN: What have you to say about section 38?

Mr. GAVSIE: Well, this amendment removes a duplication of provisions for levying interest and excludes certain portions of "Division F" which have no application to the gift tax. It is just to make it clear that where there is reference back to other sections of the Act, the inapplicable sections are just ruled out.

Section 38 was agreed to.

On Section 39—Certificates.

The CHAIRMAN: This is a section in which you are giving power to the Minister to get a little tougher. If he made an assessment and was satisfied there had been tax evasion under the present law he could make a demand for immediate payment, but if he wanted to he could issue a certificate and obtain an execution from the Exchequer Court in 30 days. This gives him the right to get the execution right away.

Section 39 was agreed to.

On Section 40—Withholding taxes.

The CHAIRMAN: Section 40?

Hon. Mr. GERSHAW: Are those severe penalties imposed very rigidly? If a person does not understand the situation is he to be penalized to that extent, in section 40, and section 41, too?

The CHAIRMAN: Well, in section 40, these penalties are arbitrary. There is no discretion about them. Is that not so, Mr. Gavsie, except that it says he is liable to a penalty? I think we have had interpretations on that. They were entitled to penalties of \$10 a day. Does that mean in the discretion of the person who has the authority to impose that, that you have a levy up to \$10?

The LAW CLERK: That is the way it works under the Criminal Code, and I should think it would be the same here.

The CHAIRMAN: But the Minister would not know how to get away from the figure of \$10, would he?

Hon. Mr. MACLENNAN: If I charged 10 per cent I would be prosecuted, but here you do charge 10 per cent.

Mr. GAVSIE: It is a penalty.

Hon. Mr. MACLENNAN: I know, but it is 10 per cent just the same.

Mr. GAVSIE: Well, it is meant to be severe, because it is a failure to pay.

Hon. Mr. MACLENNAN: I think it is very harsh.

Mr. GAVSIE: This applies in the case where in effect you are dealing with trust moneys, where there are tax deductions or where there is failure to withhold in the case of non-residents; and the purpose of the amendment is merely to deal with cases of a non-resident, such as an insurance company. The regulations provide that the non-resident insurance companies carrying on business in Canada, instead of having a withholding on the interest and dividends paid to that insurance company, will file a return at the end of the year. The purpose of this amendment is to make the penalty provisions available to the non-resident insurance company who fails either to pay the tax or fails to make the return. It is extending the penalties to non-residents, such as non-resident insurance companies, who are required to file a return and pay the tax.

Hon. Mr. HAIG: And the \$10 penalty is in the law now.

Mr. GAVSIE: Yes.

Hon. Mr. HAIG: If you as an employer have an obligation to withhold certain moneys out of moneys you are paying out, and you withhold them and do not remit them—they are not your moneys—there should be a reasonably stiff penalty.

Hon. Mr. ASELTINE: How long have you to remit them?

Mr. GAVSIE: The 15th day following the month in which they are deducted.

Hon. Mr. ASELTINE: We have this quota system out west in marketing grain, and in the office we look after a number of farms for non-residents,

and we get in amounts of twenty-five and fifty dollars, and another quota comes, and we get a little more money. We cannot be remitting every two or three days, or every two or three weeks, for these people.

Mr. GAVSIE: No; you would only remit from month to month.

Hon. Mr. ASELTINE: No, we cannot remit from month to month.

Mr. GAVSIE: What an employer does is, he withholds from each pay period of an employee the amount, according to the tax table.

Hon. Mr. ASELTINE: We withhold the money, but we only remit about once a year.

Hon. Mr. HAIG: You are just subject to the penalty of \$10 or 10 per cent,—that is all.

The CHAIRMAN: Yes. We might give you a special rate!

Hon. Mr. ASELTINE: I know, but that is entirely unreasonable to me. It does not fit our way of doing business out there at all.

An Hon. SENATOR: Can you invest that money, in the interim, for the year!

Mr. GAVSIE: Have you been subject to any penalty?

Hon. Mr. ASELTINE: No.

Mr. GAVSIE: Well, I would rather not raise the issue.

Hon. Mr. ASELTINE: You see the position we are put in if this were followed literally.

Mr. GAVSIE: All that is being done by way of this amendment is to incorporate the same penalty provisions that now exist, to apply those to a non-resident who, in lieu of having deductions made as interest or dividends are paid to the non-resident, has under the regulations the right to make a return at the end of the year and pay the non-resident tax as of that time. The purpose of the amendment here is to make those penalty provisions applicable to these non-residents.

Hon. Mr. ASELTINE: In the meantime I have to withhold this money and pay it.

Mr. GAVSIE: Any amendment made here does not apply to a Canadian withholding agent.

Hon. Mr. ASELTINE: All right.

The CHAIRMAN: If you are "stuck", you are stuck under the present law.

Mr. GAVSIE: Yes; if you are subject to a penalty it is because of the present law.

The section was agreed to.

On section 41,—Penalty for failure to make returns.

The CHAIRMAN: Section 41 is the same type of thing.

Mr. GAVSIE: Penalty for the failure of a non-resident to make the return.

The section was agreed to.

On section 42,—"Child qualified for family allowance", etc.

Hon. Mr. HAIG: 42 is your definition section.

The CHAIRMAN: And in dealing with a child qualified for family allowance it enables a December child to qualify earlier for that \$400 when it grows out of the \$150 period.

Mr. GAVSIE: The purpose of the amendment is to give the parent of the December child the right to get \$400 exemption in the year the child becomes sixteen. Under the present wording of the law the father of the child born in December would only get the \$150 exemption.

Hon. Mr. ASELTINE: That is an improvement.

The CHAIRMAN: I think I have explained subsection 2 and subsection 3. A new subsection, 9, is added to section 127. That is to cover a special case, is it not, Mr. Gavsie?

Mr. GAVSIE: It deals with a case where you have a pension plan covered by annuities, and it provides for the case where the person leaves the employment and gets his contract out under the annuity.

Hon. Mr. HAIG: The Winnipeg School Board are all that way. If he just sits and waits for it to mature—

Mr. GAVSIE: He is taxed when he gets the payments. If he gets something and changes it, the value of what he has got is deemed to be the income as of the time he makes the change.

The section was agreed to.

On section 43,—Tax on tax.

The CHAIRMAN: You will notice that this does not add any section to the Income Tax Act. It is just a section dealing with a special situation.

Hon. Mr. BOUFFARD: What situation?

The CHAIRMAN: For instance, under a lease the agreement may be to pay so much a year for rent and also to pay another amount equivalent to the income tax that the lessor would have to pay on that rent, and it was to deal with the situation and get over the question of tax on tax that this special section was provided, and it is only in relation to such contracts that were created before this comes into force. It does not deal with the future. Now as to the formula, I will ask Mr. Gavsie to describe it. I think I could do it and make a good fist of it, but you are here, and may as well work!

Hon. Mr. BOUFFARD: Does this apply to successions where the tax is payable by the mass?

Mr. GAVSIE: No, it only has to do with income tax. There was a case before the board where the New York Central Railway leased some property and provided under that lease that there be paid a certain amount by way of rent and all taxes payable on that amount. The board decided that this was subject to pyramiding. In other words, each time the New York Central paid an amount of tax there was an additional tax on the tax; and the purpose of this amendment is to provide that you only have the tax once, and you stop there.

Hon. Mr. NICOL: Have you a provision here to deal with a new method that has been introduced by trust and insurance companies, of putting up buildings for industrialists and renting them for a period of twenty years: let us say, \$8,000,000 is spent in putting up a place and it is rented at \$50,000 a year and interest. At the end of the twenty years they do not give any promise of sale but there is an understanding that when the twenty-year period at \$50,000 a year is over, they will sell it. The industrialist pays say \$100,000 the first year and charges that as an expense, but at the same time he is acquiring a property. Do you tax that?

Mr. GAVSIE: Section 18 of the act, senator, deals with that case, if there is an understanding that at the end of the period he has the right to buy the building.

Hon. Mr. NICOL: There is no understanding.

The CHAIRMAN: That is why there is no understanding, senator!

Hon. Mr. NICOL: But there is one. You cannot prove it, but there it is. They are doing that kind of thing in the United States, and it is becoming very popular in Canada. A lot of people are putting up buildings that way. I do not think it is fair.

Hon. Mr. HAIG: I think they are covered in the act now.

The CHAIRMAN: They are, if there is an agreement. If there is no agreement—

Hon. Mr. NICOL: There is no agreement.

Mr. GAVSIE: If there is no agreement it is just a straight lease.

The CHAIRMAN: I can make up my mind to buy it.

Hon. Mr. NICOL: Yes, but that is not fair. Everybody knows there is an agreement, even though it is not in writing.

Hon. Mr. HAIG: That is provided for; you know the case I refer to. The road contractors buy large machines at high cost and pay an annual rental for seven or eight years which represents interest and much more—it is really on account of capital. There was no agreement, but the machine companies always said, for instance, "We have our capital back out of this machinery, except \$20,000; if you will give us \$22,000 we will sell it." But the machinery was then worth about \$45,000. I think you have covered the point.

The CHAIRMAN: It is covered by section 18. The test is, is there or is there not an agreement. There is no use saying everybody knows there is an agreement, because it becomes a question of fact to prove that there was an agreement. Otherwise, section 18 cannot apply.

Hon. Mr. NICOL: But it is not fair to let people who are doing legitimate business and putting up their own plants and paying for them, get no benefit from them.

Mr. GAVSIE: That was the purpose of putting in section 18 in the Act.

Hon. Mr. NICOL: I am not sure you have covered it.

The CHAIRMAN: You will find it in the Blue Book.

Hon. Mr. HAIG: If it is not covered, we will have to come back to it again.

Hon. Mr. NICOL: I know of plants that are being put up every day.

Section 43 was agreed to.

On Section 44.

The CHAIRMAN: Section 44 deals only with the correction of a printing error.

Section 44 was agreed to.

On section 45—Deductions for oil, gas and mining corporations.

The CHAIRMAN: Section 45 means that a mining company can now get the benefit of deductions for oil explorations, and an oil company can get deductions for mining. Is there anything else to it?

Hon. Mr. NICOL: If I may come back for a minute to the question I was discussing under the previous section. What happens if a plant is put up at a cost of a million dollars, and \$50,000 a year is paid, plus interest, although there is no understanding . . .

Mr. GAVSIE: I do not understand why such a person would be paying interest. It would have to be on a straight lease.

Hon. Mr. NICOL: He has a straight lease.

Mr. GAVSIE: You mean the rent would be \$100,000?

Hon. Mr. NICOL: The amount of the lease is, we will say, 10 per cent plus taxes. Who is going to pay 10 per cent on capital on a lease and pay the taxes besides, as well as looking after the repairs of the property and so on? There is something wrong with that situation.

Mr. GAVSIE: Section 18 reads:

A lease-option agreement, a hire-purchase agreement or other contract or arrangement for the leasing or hiring of property, except immovable property used in carrying on the business of farming, by which it is agreed that the property may, on the satisfaction of a condition, vest in the lessee or other person to whom the property is leased or hired shall, for the purpose of computing the income of the lessee or other such person, be deemed to be an agreement for the sale of the property and rent or other consideration paid or given thereunder shall be deemed to be on account of the price of the property and not for its use; and the lessee or other person in whom the property may vest shall, for the purpose of a deduction under paragraph (a) of subsection (1) of section 11, be deemed to have acquired the property at a capital cost equal to the price fixed by the contract or arrangement minus the aggregate of all amounts paid by him—etc.

Hon. Mr. NICOL: I will look it up and discuss it further with you. Thank you.

Mr. GAVSIE: It is directly along the lines you have mentioned. We cannot go much further than to say "If by a contract or arrangement". If there is no contract, arrangement or understanding, we cannot do much about it. If it is a pure lease, we can do nothing about it.

Hon. Mr. HAIG: This section was drafted to cover what you say.

Mr. GAVSIE: And it also covers the big machinery?

Hon. Mr. HAIG: Yes, it covers it.

The CHAIRMAN: Those payments of rent have been disallowed for years, in cases where you are satisfied it is only a guise, or a purchase plan. Are there any other features in connection with section 45 that you would like to draw our attention to?

Mr. GAVSIE: Dr. Eaton is the expert on all oil and gas mining corporations.

The CHAIRMAN: What have you to say, Dr. Eaton?

Dr. EATON: This year, for the first time, the law provides for deductions in respect of the so-called bonus payment to a government. For instance, the Alberta government auctions off the rights to a lease. Those are capital payments; they are lump-sum payments. In the past those have not been deductible as an expense.

Hon. Mr. HAIG: But they are now.

Dr. EATON: They will be now, if the area in respect of which a bonus is paid is abandoned without having found gas or oil.

The CHAIRMAN: Then there is the matter of the test well.

Hon. Mr. CAMPBELL: I should like to ask Dr. Eaton or Mr. Gavsie whether the law as amended goes as far as the United States law in so far as enabling individuals and corporations to engage in the exploration of oil.

Dr. EATON: It does not go as far, Senator. The rights are confined to those who are in the business.

Hon. Mr. CAMPBELL: But the United States law enables individuals or corporations to have the same chance as mining companies would get by this amendment.

Dr. EATON: That is right.

The CHAIRMAN: Would you care to say anything about test wells, Dr. Eaton?

Dr. EATON: Yes, sir. There is an extension of one year of the deep test provision, and there is a further provision whereby the tax credit which was 30 per cent last year is increased to 35 per cent. This is because of the repeal of the provincial corporation tax under which there was a 5 per cent credit allowed. That provincial 5 per cent credit following the abolition of the provincial tax, has been incorporated into the federal rate, which was formerly 30 per cent and now becomes 35 per cent.

Hon. Mr. NICOL: But the public does not get the benefit of that 5 per cent.

The CHAIRMAN: The public does get the benefit of it. In the drilling of test wells they used to get a 30 per cent write-off, and now they get 35 per cent.

Section 45 was agreed to.

The CHAIRMAN: Shall Part II, which is a repetition of these sections for the purpose of the Revised Statutes, carry?

Part II was agreed to.

The CHAIRMAN: Subject to our meeting tomorrow to consider representations with respect to Section 37, is the remainder of the bill approved without amendment?

Some Hon. SENATORS: Agreed.

The committee thereupon adjourned until Thursday, April 23rd, at 11.30 a.m.

OTTAWA, Thursday, April 23, 1953.

The Standing Committee on Banking and Commerce, to whom was referred Bill 228, an Act to amend The Income Tax Act, met this day at 11.30 a.m.

Hon. Mr. HAYDEN in the Chair.

The CHAIRMAN: We are waiting momentarily for Dr. Eaton and Mr. Gavsie. We have one section, 37, for consideration, and they are seeing some people who came from Toronto this morning. . . Gentlemen, we have here Mr. H. S. Backus, who is the President of the Investment Dealers Association; and Mr. N. D. Young, who is Chairman of the Ontario Section of the Investment Dealers Association. Gentlemen, would you agree on who is to make the representation?

Mr. BACKUS: We are just wondering if it would be possible for both of us to say a word.

The CHAIRMAN: Yes. Would you care to make your presentation first? Mr. Backus is President of the Investment Dealers Association, and he has some representations to make in connection with section 37, which deals with interest on bonds sold by non-residents to a purchaser resident in Canada.

Hon. Mr. HAIG: May I suggest that it should be explained why this section is in the bill? As I understood last night, the trust companies rather favour this legislation.

The CHAIRMAN: As I understand, Mr. Gavsie and Dr. Eaton last night supported section 5, and Mr. Gavsie's explanation, as I gathered it last night, was that, if you had section 5 dealing with the domestic situation, you had to have section 37 to deal with the foreign situation.

Hon. Mr. HAIG: I wanted the gentleman to know that.

The CHAIRMAN: Would you tell us whether the section is satisfactory to you, and if it is not, why not?

Mr. BACKUS: Well, you will realize, gentlemen, that we have to consider this section as we see how it affects our business and as we see it affecting investment in Canada. There are certain situations which have been discussed in committee of our members, and we have been asked to present our views to you here today. I would like to put some of them forward now, as to the application of this bill, were it to come into effect, as we see it.

In the first place, we are fully cognizant that this is the counterpart of the change in the legislation as far as the income tax affects accrued interest. But, carrying it a little further, and taking the dealer viewpoint, we can see a situation whereby certain dealers who are operating in the American market, having offices there, incorporated companies, in effecting a transaction with a non-resident, might be in a preferred position as against a purely Canadian dealer who has no office outside Canada.

It could happen this way, that the United States counterpart of the Canadian dealer, in other words the United States office of the Canadian dealer, might find himself in a position where he would be asked to make a bid for the purchase of bonds, whereby, being a taxpayer in the United States, and having a tax liability at the end of the year, he would be able to use as an offset the 15 per cent withholding tax which would have to be paid in the event that a dealer of purely Canadian origin were doing the same business. In other words, the Canadian would have to make the deduction and remit to Ottawa; the American dealer, having an offset, would probably be in a position where he could take the tax credit to the same extent as his tax liability. This would prejudice to some extent the position of the dealer who is operating only from Canada.

There are one or two other points that we have had under discussion, and perhaps, if it is in order, I might ask Mr. Young to mention them, and I could come back for questions.

Hon. Mr. HAIG: Let us ask this gentleman one or two questions.

Hon. Mr. CAMPBELL: The witness might elaborate on this by specific illustration. As I understand it: take the bond house that has a New York branch, which would be a separate corporation, and a Canadian branch: if they were in the market to purchase bonds from a non-resident, you feel that they could offer that non-resident more through their New York branch than they could through their Canadian branches?

Mr. BACKUS: I feel they might be in a position to do so.

Mr. CAMPBELL: Specifically, in which way?

Mr. BACKUS: Through the fact, senator, that they are taxpayers at Washington, and I think that they could claim a refund up to the extent of the tax liability that they would have at Washington; and the purely Canadian dealer would not be in a position to do that.

Hon. Mr. CAMPBELL: Let me follow that up so that we will understand it.

The CHAIRMAN: Where is the tax liability? Will you develop that point?

Mr. CAMPBELL: Yes. Let us just see where the liability is on the case which you mention. They are buying from a non-resident.

Hon. Mr. HAIG: From an American resident.

Mr. CAMPBELL: Well, a non-resident.

The CHAIRMAN: They are buying in the United States.

Hon. Mr. CAMPBELL: There is no liability with respect to the accrued interest at that point. Even if they are buying in Canada there is no liability. It is the vendor who is liable for the interest to the date of sale.

Mr. BACKUS: Yes, but if a purely Canadian dealer buys a bond he must deduct the tax. If a United States dealer buys it, it still is in the United States in the hands of a non-resident, and as such—

Hon. Mr. CAMPBELL: Then would you say he would have no obligation?

Mr. BACKUS: No, he would not have any obligation, but if he sold that bond into Canada, to a Canadian dealer, he might or might not have deducted it, from the vendor, according to the tax situation which might confront him, as far as his business was concerned, at the end of the year. He might feel he had a tax liability that would offset the tax credit that he is asking for.

The CHAIRMAN: But the deduction at that stage would only be the accrued interest from the date—on the American end of this Canadian business—the gap between the time that he acquired the bond and sold it, which might be only a day.

Mr. BACKUS: That is not the way we understand it. The tax liability goes back to the last date when interest is payable. In other words, the 15 per cent withholding is made on the accrued interest from the last interest date. Am I correct?

Mr. YOUNG: Right.

Hon. Mr. HAIG: I want to get some help on this. Here is the question. I am an investment dealer, and I want to buy from another American, a person living there, \$10,000 worth of Canadian bonds, 3 percenters. I go to that man, and I say "You have some bonds you want to sell?" He says "Yes. \$10,000 3 per cent Canadians, due in 1962." I ask, "What do you want for them?" He says, "I will take 98." Now, do I pay him 98 for the \$10,000, that is \$9,800, or do I pay him \$9,800 plus the interest from the last date up to that time?

Mr. BACKUS: You pay 98, plus the accrued interest.

Hon. Mr. HAIG: All right. I am the American. I have got the accrued interest. Then I turn around and sell those bonds, if I can, to another American; if I can't, I sell them to a Canadian. Well, then, when I sell them to Canada, why do not the Canadian say to me "Yes, that is all right. I will pay you \$98 and the accrued interest"? As an American you would have to pay 15 per cent on that accumulated interest, would you not?

The CHAIRMAN: That would be under this section 37.

Mr. BACKUS: This would not apply to Dominion of Canada bonds. They are not subject to withholding tax.

Hon. Mr. HAIG: You think that the broker at the end of the year, when the United States comes to tax him, can deduct that 15 per cent in the case of his income tax?

The CHAIRMAN: The American could.

Hon. Mr. HAIG: Could not the Canadian?

Mr. BACKUS: He is not taxable in Washington.

Hon. Mr. HAIG: No, but he is taxable in Canada.

The CHAIRMAN: The Canadian is paying out the accrued interest the American is entitled to get. He is not paying anything extra himself. It is a withholding tax. He is withholding it out of moneys he is obligated to pay to the American.

Hon. Mr. HAIG: Could not the Canadian do the same thing?

The CHAIRMAN: The Canadian has no liability for tax.

Hon. Mr. HAIG: The broker would have to report the amount he pays if he has to pay it, but I cannot see why the bids are different at all. I do not see why the American would have to bid higher than the Canadian broker.

Mr. BACKUS: The Canadian buyer has to deduct it from the vendor who would be a non-resident. The American buyer might chose not to deduct it if, as I say, he thought he had sufficient tax liability on his own that he could offset that tax and claim against it.

Hon. Mr. CAMPBELL: Let us get a specific illustration. I think it would help. Supposing you are dealing in, say, a million dollars worth of 4 per cent bonds, and you have a Canadian house and an American house making a bid on those bonds. Let us say that 6 months' interest has accrued. There would be an obligation to deduct 15 per cent, which would be \$3,000 in that case so far as the Canadian house is concerned. That would be the case if my figures are correct.

Mr. BACKUS: That is right.

Hon. Mr. CAMPBELL: So that the Canadian, when he purchased those bonds with an accrued interest, would deduct \$3,000 which he would remit to the Receiver General as being the liability of the vendor to that date. Now, so far as the United States bidder is concerned he says to himself, "I want this transaction and I will make my commission on it and I can afford not to deduct it or, if I have to deduct it, I get a tax credit. Therefore, I shall bid \$3,000 more for the block of bonds than the Canadian dealer." Do you feel that is the situation?

Mr. BACKUS: When you refer to the United States dealer you are referring to a United States dealer who has an office in Canada?

Hon. Mr. CAMPBELL: Yes.

Mr. BACKUS: Or just a United States dealer?

Hon. Mr. CAMPBELL: Yes. In the case of the United States dealer in the United States, is he under any obligation to make a declaration? Does this reach out to him?

Mr. BACKUS: No.

Hon. Mr. CAMPBELL: He is entirely clear?

Mr. BACKUS: Yes.

Hon. Mr. CAMPBELL: So he has a distinct advantage?

Mr. YOUNG: Correct.

Hon. Mr. EULER: Mr. Gavsie is here. Could he give us some information on that particular point?

The CHAIRMAN: Well, we were to hear a full representation first from these gentlemen.

Mr. BACKUS: We were discussing this as it affects the various members of our industry.

Hon. Mr. EULER: I doubt very much whether some of the senators sitting around this table follow this. I certainly am hazy on it, and I thought perhaps Mr. Gavsie could clear up the point.

Hon. Mr. HAIG: I understand what Senator Campbell has said and the answers that were given to his inquiries, but ultimately has not the American, or whoever buys it, got to pay when these bonds ultimately get back to Canada?

Mr. BACKUS: He will probably resell them at some point.

Hon. Mr. HAIG: I know that if he resells them to an American we cannot tax them.

Mr. BACKUS: Correct.

Hon. Mr. HAIG: But once the bonds come back to Canada surely we can tax them then?

The CHAIRMAN: As I understand it, a Canadian who has not a branch in the United States and an American who is a non-resident are both bond dealers and both bidding for a block of bonds for sale in the United States. The American is at an advantage and the Canadian at a disadvantage because if the Canadian bids for those bonds and there is accrued interest on them, he is going to have to withhold 15 per cent of the accrued interest.

Hon. Mr. HAIG: Right.

The CHAIRMAN: If the American bids for those bonds in the United States he is not concerned about any withholding tax because it is a straight transaction in the United States.

Hon. Mr. DAVIES: You are speaking of American bonds, are you?

The CHAIRMAN: They can be any bonds, but the transaction is being done in the United States, so that if the American in the States, even if he is an American branch of a Canadian house, knows his competition for those bonds is a Canadian house with no tie-up in the United States, he knows that that Canadian house is going to have to pay a 15 per cent withholding tax.

Hon. Mr. LAMBERT: Are Mr. Backus and Mr. Young interested in the sale of bonds in this country by an American dealer, that is, a non-resident sale as far as the American dealer is concerned, or does the point these gentlemen are trying to make apply to the sale of Canadian bonds by, say a New York dealer in the United States?

The CHAIRMAN: No, it is the sale of any bond.

Hon. Mr. LAMBERT: Well, any bond, say, by a New York competitor in the United States. Are you not mainly concerned with the sale in Canada by American dealers of any bonds?

Mr. BACKUS: The only point I was trying to make in looking at our own industry, and we have some 200 odd members in this Investment Dealers Association, is that those who are fortunate enough to have offices in the United States would probably be in a preferred position to those operating from Canada only.

Hon. Mr. LAMBERT: What percentage of your membership is in the position of having offices in the United States?

Mr. YOUNG: Four per cent.

Hon. Mr. LAMBERT: It is just a small number?

Mr. YOUNG: Yes.

Hon. Mr. LAMBERT: So you are really speaking for about 95 per cent of your membership?

Mr. YOUNG: Right.

Hon. Mr. LAMBERT: I assume that what you are really getting at is the competition the American dealers provide the 95 per cent of your membership in selling bonds?

Mr. BACKUS: Not American dealers altogether, sir.

Hon. Mr. LAMBERT: I mean, you are talking about American competition and Canadian competition, and that is what it boils down to.

Mr. BACKUS: Yes, that is right.

Hon. Mr. LAMBERT: Now, then, where does this 15 per cent factor apply to your prejudice? That is what I mean. We all know you have to pay 15 per cent on any dividends that come in from American sources, but where is the competition in the selling of bonds by American brokers from New York in this country? What are you afraid of in connection with that competition?

Mr. YOUNG: Under the proposed legislation the Canadian dealer must withhold tax from the accrued interest. If as a Canadian dealer we are purchasing from a non-resident, we must under the law withhold 15 per cent of the accrued interest.

Hon. Mr. EULER: I have just as much trouble understanding this section as any other senator, and I should really like to hear what Mr. Gavsie has to say as to the representations that have been made to us.

The CHAIRMAN: Senator Euler, you would like to hear from Mr. Gavsie?

Hon. Mr. EULER: Yes.

The CHAIRMAN: Mr. Gavsie, would you come forward, please, and give the senator an explanation?

Mr. GAVSIE: The situation is this. We are only dealing with the type of bond where if the issuer of the bond were to pay the interest direct to the non-resident he would have to withhold 15 per cent, or 5 per cent in the case of provincials. We are only talking about that type of bond. If the interest were paid directly by the issuer to the non-resident there would be withholding, and we are only limited to that type of bond. Now, as I understand the representations, if the bond is held by a non-resident and it is sold to another non-resident, naturally there is no withholding. If that non-resident holds it until the maturity date for the coupon and cashes the coupon, there would be a full 15 per cent withholding. Now, what happens in this case is that the non-resident sells it to a Canadian. Under clause 5 (section 19A), we say that the Canadian only pays tax on the interest portion during the time he holds the bond. Now, you have a bond that is sold to a Canadian by a non-resident. If that bond were sold by one Canadian to another the interest would be divided, the vendor taking into his account the interest representing the time he held the bond, and the purchaser would take into account the interest representing the period he held the bond. That is a domestic transaction. Now, you have a transaction from a non-resident selling it to a Canadian. We say to the Canadian purchaser, "You only pay tax on that part of the interest during the period you held the bond, but when you pay the non-resident the part of the interest representing the period he held the bond, then you shall withhold 15 per cent, or 5 per cent, in respect of that amount, depending on what the withholding rate is applicable to that particular type of security."

Now, as I understand the ideas presented by these gentlemen, it is that you might have a bond held by a non-resident and that as far as that non-resident is concerned he is at a disadvantage if he sells it to a Canadian, because the Canadian in paying interest has to withhold 15 per cent; whereas, if he were to sell it to another non-resident, that is, the non-resident holding it and selling it to another non-resident, there is not a withholding tax by the purchasing non-resident. All I can say in respect to that is that if that second non-resident holds it up to maturity and cashes the coupon he will be the fellow that is stuck with the 15 per cent tax. That is a disadvantage that he has. At the moment of purchase the non-resident vendor may get an advantage, but he is passing the buck to the next non-resident; and if he is the fellow holding the bond at the time of maturity that fellow pays the whole withholding.

The CHAIRMAN: In the meantime, the Canadian organization that has an American incorporated branch representing about 4 per cent of these investment dealers would be able to compete very successfully against the 95 per cent the corresponding non-resident.

Mr. GAVSIE: I think actually they are in the same situation. Where that American branch wants to sell that bond to Canada they are in the same position.

The CHAIRMAN: That is later.

Mr. GAVSIE: Yes.

The CHAIRMAN: That might be later.

Mr. GAVSIE: But there is no withholding.

Hon. Mr. CAMPBELL: There is a tremendous difference between Canadian non-residents and Canadian bonds.

Mr. GAVSIE: Yes.

Hon. Mr. CAMPBELL: And does not the obligation imposed by this section place some disadvantage on the Canadian house in making bids on those bonds as against American bonds?

Mr. GAVSIE: Yes, but as a non-resident there is an offsetting disadvantage because there will be withholding at maturity.

Hon. Mr. CAMPBELL: That is true.

Mr. GAVSIE: Because in the case of the sale of a bond from one non-resident to another non-resident there is no withholding, but the non-resident that holds the bond at the time the coupon matures and cashes the coupon has to pay the full withholding tax, that is, he pays 15 per cent on the whole amount of interest, not merely the amount of the interest during the period he held the bond.

Hon. Mr. BOUFFARD: He would be caught at the end.

Mr. GAVSIE: He would be caught at the end. He has an advantage when he buys, but somebody who cashes the coupon, if he is a non-resident, has to pay withholding.

Hon. Mr. EULER: Does he not take that factor into consideration if he buys, and maybe it affects the price when he buys the bond?

Hon. Mr. CAMPBELL: We are trying to get this, say, into interest periods. Now, you find Canadian bonds that will be in foreign investors' hands for periods of years. As I understand it, today there is a very big business done by Canadian houses with those foreign investors, and if you place this disadvantage on them there is no doubt that the American house can give better quotes on those bonds that are being turned in in the United States market or foreign market.

Mr. N. D. YOUNG: May I answer that in my own way? We can foresee a double market in Canadian bonds developing. In other words, the bond that is sold to the Canadian dealer must have the withholding tax applied to the accrued interest portion of the transaction. So that that is one transaction. Now, the non-resident who is going to sell his bond or bonds says to me, "If I sell now you have to withhold 15 per cent", just as Senator Campbell explained earlier. If I sell to an American dealer he does not have to withhold 15 per cent.

Hon. Mr. HAIG: But if I withhold the tax, I am stupid.

Mr. GAVSIE: You are going to collect that 15 per cent withholding tax on coupons.

Hon. Mr. HAIG: What about the case which Senator Campbell gave, where the Canadian has to pay the \$2,000? The fellow that bought that bond, as soon as the six months is up or whatever period it is, has to pay the withholding tax.

Mr. GAUSIE: Not if it is owned in Canada. It is only if it is owned in the States.

Hon. Mr. HAIG: But if it is sold in Canada they are all on equal terms.

Hon. Mr. CAMPBELL: I do not think you can consider the problem where the transaction takes place within the six months period, say. It is where the transaction takes place over long periods, all between foreigners. That is a different question—one in Canada, and one in the United States.

Mr. GAUSIE: As I understand it, what we are talking about here is a security that is sold between interest dates, and what happens to that particular portion of the interest. That is all.

The purpose of this section is to make it complementary to clause 5 which introduces section 19A in the bill providing for the splitting of that particular interest, namely, the interest that accrues on a security that is sold between interest dates. That is the only part we are talking about.

Hon. Mr. CAMPBELL: But that has nothing to do with it. The reason you are confining yourself between interest dates is not to have arrears of interest involved in it. Is that not so?

Mr. GAUSIE: No. It is to say who pays what tax in respect of that interest; and the rule is that each person pays tax on a day by day basis, calculated on the number of days he held a bond.

Hon. Mr. CAMPBELL: But that still does not affect my submission...

Mr. GAUSIE: I did not want to interrupt you; I merely wanted to make it clear that we are dealing only with that particular phase here.

Hon. Mr. CAMPBELL: I realize that you don't go back to get interest beyond the last interest date. But the fact is that you do catch these transactions by a Canadian dealer for a non-resident on bonds that may be in the United States for many years by imposing this obligation on him; whereas previously you caught that interest by a deduction at the time of payment. Is that not true? You caught the tax by a deduction of the tax at the time of payment. What is the position of the non-resident?

Mr. GAUSIE: The same thing happened to a domestic holder. A Canadian may have a bond bought from another Canadian in the middle of the interest period, and as an individual on a cash basis, he would have had to pay tax on the whole amount of that coupon, notwithstanding the fact that he held that security only for part of the period; he would have no deduction in respect of the amount paid to the Canadian vendor for his portion of the interest.

As I say, section 19A is introduced to change that rule and to apportion the interest, depending on the number of days each one held the bond. When you come to a non-resident who held it for all of the time, as an administrator it seemed to me that a non-resident ought to pay a withholding tax on the portion of the interest that he is getting, representing the period in which he held the bond. Having said that as administrator, that seemed logical, whether there are other questions which go to make it advisable to upset what to me is a logical rule, is another question. We do not want to get into that now.

Hon. Mr. BOUFFARD: Has the United States got similar legislation with respect to income tax?

Mr. GAUSIE: I would not like to say offhand whether they have or have not.

Hon. Mr. BOUFFARD: Otherwise, an American who holds a Canadian bond would not have any interest in selling it to a Canadian; he would sell it to an American, and there would be no splitting of the interest.

Mr. YOUNG: We are under the impression that there is no comparable legislation in any other country.

Hon. Mr. BOUFFARD: As I say, there would be no reason for an American to sell a Canadian bond to a Canadian, because he would have to split the interest; whereas, following the legislation in the United States, he would much prefer to sell to another American.

Mr. YOUNG: May I carry the point a step further. Under this legislation we would in effect be collecting the withholding tax. Let us take the case that has been cited, that of a non-resident selling a bond with five months accrued interest to a resident. In that case 15 per cent must be withheld. Assume, for some reason or other that within the next fifteen days the non-resident feels it is advisable for him to buy the same block of bonds back. He then holds the bonds and pays the 15 per cent on the six months interest on the coupon when due. In that way the Canadian Government has collected tax on eleven months interest but held the bond for only five months and fifteen days. He is paying tax on more interest than he has received.

Let us take it a step further: the tax becomes a turnover tax, in that every time a block of bonds changes hands between a resident and a non-resident the 15 per cent which he collects applies to the accrued interest portion, and applies again to the coupon, when the coupon is cashed by the non-resident. We are trying to devise an additional method of taxing nationals of other countries who are already being taxed on the coupons when they fall due.

Hon. Mr. FARRIS: Is that interest not received in the adjustment of the purchase price?

Hon. Mr. HAIG: I think it is.

Hon. Mr. FARRIS: If I buy a bond that has interest for half the interest period, the purchase price is affected, is it not?

Mr. YOUNG: No. The purchase price is determined by the market; you will pay the market price plus the accrued interest up to the date of sale.

Hon. Mr. FARRIS: But the market is affected the same way. If I buy a bond that has six or seven months accrued interest on it, I have to pay more for that bond than if it had no interest accruing.

Mr. YOUNG: You pay the same price for the bond plus the amount of accrued interest. You do not pay more for the bond; you are paying for the accrued interest or, in other words, you are paying the previous owner the accrued interest due him on his bond while he owned it.

Hon. Mr. FARRIS: My question may not be properly phrased, but the idea is correct: I pay more for the bond when it has accrued interest than when it has no interest.

The CHAIRMAN: The sum total of what you pay.

Mr. YOUNG: Yes, the sum total; but the price of the bond is the same; you are buying somebody else's interest and you are paying him for the interest during the period he held the bond.

Hon. Mr. HAIG: There is one point which Mr. Young has not made clear to me. I think Mr. Gavsie has the right idea under the law: Undoubtedly, somebody has to pay the tax on this interest. When the coupon gets back to Canada, regardless of how many hands it has passed through in the United States, it has got to be paid by the sucker at this end. One of the witnesses

said that he would have to pay 15 per cent which, on the case cited by Senator Campbell, was \$2,000. I want to know what he could charge that up to. It was said that he could set it off against his own income tax.

Mr. GAVSIE: In the United States.

Hon. Mr. HAIG: Surely no legislation in the United States would permit that?

Mr. YOUNG: If he were a non-resident—

Hon. Mr. HAIG: He is a New Yorker.

Mr. YOUNG: —he could charge the 15 per cent he collected against his tax liability.

The CHAIRMAN: He gets a tax credit otherwise payable in the United States on the same income.

Hon. Mr. HAIG: The man here gets credit for the tax, and they give him credit too.

The CHAIRMAN: It works both ways.

Hon. Mr. BOUFFARD: May I ask Mr. Gavsie whether the old system did not work quite well, and what is the advantage in the proposed amendment?

Mr. GAVSIE: I am sorry I did not bring some of the briefs we have received; but section 19A has been put in following representations made to the Minister of Finance by the trust companies, the Canadian Bar Association, the Institute of Chartered Accountants, the Canadian Chamber of Commerce and so on. I do not think the Investment Dealers' Association are opposed to 19A.

The CHAIRMAN: That is the domestic situation?

Mr. GAVSIE: The domestic situation. They visualize their position being jeopardized in the case where the vendor is a non-resident and there is to be a withholding. Section 19A says that when the vendor is a domestic person he is to include his portion of the interest in his income.

To me, as an administrator, it seems logical that if we are going to tax the Canadian vendor on the portion of the interest up to the time he sold the bond, if the non-resident is the vendor he too should be subject to a withholding tax, on the same principle.

Hon. Mr. BOUFFARD: That is quite all right, but as a result you are cutting the market.

Mr. GAVSIE: That, as I say, is out of my jurisdiction.

Hon. Mr. BOUFFARD: Your policy is perfectly correct, but it seems to me that you are going to get the Canadian completely out of the market.

Hon. Mr. HAIG: That is the problem.

Mr. YOUNG: We visualized this situation, and I do not presume anybody would disagree with it: With the developments taking place in Canada, it is more than likely that we will be unable to finance the whole of these undertakings within our own resources; therefore we are going to have to depend on foreign markets to raise capital. If we continue to place difficulties in front of foreign investors—which may be just, but are irritating—they are going to become less and less inclined to put capital into this market. We feel that in its practical application—and I am speaking only as a practical investment dealer, not as an accountant or a lawyer—this act has very serious implications for our members. I personally am speaking as one wearing two hats, because my own firm has an American office, but 95 per cent of the people we are here representing have no American offices, and we can see

that this presents tremendous difficulties for those dealers who up to this time had a very substantial volume of business with American purchasers of our securities.

The CHAIRMAN: You are talking about the secondary business, not the primary distribution?

Mr. YOUNG: That is correct. I am talking of the implications on the movement of Canadian securities between buyer and seller. We dealers are not investors, we are merchandisers of securities, and it is up to us to place them to the best advantage, where we can. Canadian dealers subject to this legislation will be at a distinct disadvantage as against their purely American counterparts.

Hon. Mr. BOUFFARD: May I make a suggestion to Mr. Gavsie: I do not know whether it is good or not. This subject is so complicated that sometimes we get lost. But would there not be an advantage to delay that withholding?

The CHAIRMAN: I was going to suggest something right along that line. There are two courses. One would be to delay the coming in force and to deal with it by regulation; the other, to delay our consideration of this section until some time next week, and let them try to resolve this problem into its simple components.

Hon. Mr. HAIG: Why not take the two sections, the one on the Canadians and the one on Americans; and make the whole thing subject to proclamation?

The CHAIRMAN: Is there any objection to that?

Mr. GAVSIE: Except that, as far as section 19A is concerned, that is retroactive to 1952, so as to continue the practice which was in existence.

Hon. Mr. HAIG: I have great confidence in the practical judgment of the Minister of Finance. I do not always agree with his politics, but I have a great respect for his practical judgment. And I believe that if what this gentleman says was put up to him he would seriously consider whether he would put the section into force at all. I know the pressure he has got. I know that when you sell a bond there is three months' interest and the purchaser has to pay income tax on that, and he hates like a trooper to do it but in large measure he sells and gets it back another way. I would not put either section before the house. I would make both subject to proclamation.

The CHAIRMAN: I do not see any difficulty about putting into force section 5 of the bill.

Hon. Mr. BOUFFARD: I do not, either. It is only a domestic transaction.

The CHAIRMAN: But section 37 might be made subject to proclamation. I do not want to get into another difficulty here and have another debate in the Senate like we had recently, so I would like to know, if a change is to be made to be effective by proclamation, whether it carries or does not carry the approval of the Minister of Finance, whose bill it is; and if that does not carry his approval, I would like to have him here, or someone on his behalf, to make representations.

Hon. Mr. BOUFFARD: Cannot we postpone this until next week?

Mr. YOUNG: Might I say, in support of your suggestion of a hoist, that this bill becomes applicable on the 1st of May as far as our dealers are concerned. We are advised by our chartered accountants that at the moment they can see no way of devising a system whereby we can parctically carry on this legislation from a business standpoint,—that it is so fraught with difficulties that to set up a bookkeeping system to withhold the tax and remit it to

Canada presents very serious implications. We can see it closing down Canadian branches and we can see it stopping a great deal of the business that is being done in securities across our borders.

Hon. Mr. CAMPBELL: I would like to go a little further than Senator Haig. This practice that has existed before this proposed amendment has been in for a very long time; that is, by which the tax is deducted and the interest is paid on the coupon. I know there have been representations to have this division take place and the obligation placed on dealers to deduct the tax and so forth, but it seems to me that it would be no great hardship to people who have been living under these conditions for many years, including trust companies and other investors, to have past practice continued until this problem can be studied more carefully. What I fear is the complications which may arise even with respect to Canadian transactions, which may be a very serious matter from a business point of view. I know that the trust companies have made representations saying that it is not fair to ask them to pay interest on an entire accrued amount of interest when they have only held a bond for probably a week. But I think they take into consideration that in some cases they would have to pay the tax on that interest, but in other cases they sell before the interest date and get the benefit of it. I would suggest, if there is no serious objection by Mr. Gavsie and Dr. Eaton, that we leave both these section out of the bill.

The CHAIRMAN: I do not see any reason for leaving out section 5, because 5 is a beneficial section in the domestic operations in Canada, in apportioning the interest; and Mr. Gavsie says he has done the same thing in section 37, because logic requires that you deal with the non-resident vendor the same way as you treat the resident vendor. But tax deals are not necessarily logical.

Hon. Mr. FARRIS: They never are!

The CHAIRMAN: And often they are irritating. And if we or the Minister decide that we are not going to be logical—

Hon. Mr. HAIG: Could we so amend section 37 as to not make the brokers liable, but when the coupon is presented here we could take off the 15 per cent tax?

The CHAIRMAN: That is the law now. I can envisage a situation where you may have section 5 and have not have section 37 at all. It may be illogical, but all it is doing is postponing the date on which the government gets its 15 per cent to the interest date, instead of some period in between interest dates.

Mr. GAVSIE: I hope you understand the situation. This applies to the case where you have a non-resident vendor selling to a Canadian. Under section 19A the Canadian will only pay the tax on the part of the interest he receives, that is, the part of the interest which accrues during the period he held it. So when you say that ultimately somebody is going to pay the whole tax, it is not quite true, because of the provisions of section 19A. In so far as the interest paid by the purchaser to the non-resident is concerned, there will be no tax paid in respect of that part of the interest, unless you have a section similar to section 37.

Mr. YOUNG: We quite recognize Mr. Gavsie's position in trying to collect the tax and make it reach into the pockets of foreigners. We feel that while that may be desirable, from the standpoint of its practical application it is not workable and has certain dangers that should be avoided.

Hon. Mr. BOUFFARD: Mr. Young, do you mean the difficulty of accounting is just as apparent on the Canadian transactions as it is on foreign transactions?

Mr. YOUNG: Yes, and it would involve a problem of financing for houses which had to withhold and remit where they might not get that money back until the end of the year. If the year ended with a loss the dealer might never recapture his payments.

The CHAIRMAN: This is what will happen if we do away with section 37 entirely. When the coupon becomes collectable at an interest date it will then be in the hands of the Canadian, and therefore there will be no way in which the Canadian can then exact tribute for the period in which he has paid accrued interest unless he has the law behind him, so the Canadian will be stuck with the full interest for that period. That is the net result of leaving section 37 out entirely.

Hon. Mr. HAIG: When a Canadian is bidding on an American security he will take that into consideration.

The CHAIRMAN: And then you are back where you started. I would suggest that we let this stand until next week so as to give the departmental officers a chance to review the situation.

Hon. Mr. BURCHILL: I so move.

Hon. Mr. HAIG: I suggest we seriously consider the representations made by Mr. Backus and Mr. Young. If all goes well in the next two or three years we will be financing the St. Lawrence Waterway and so on, and we are going to have a tremendous period of financing. We will have to go to the American market to get some of that money.

Mr. YOUNG: Yes, and in addition there is a lot of Swiss and other European capital coming into Canada.

Hon. Mr. HAIG: Yes. I would urge that we be cautious in dealing with this section. If a person buys a bond and he has to pay six months' interest instead of two months' interest, I do not think it would be very serious.

The CHAIRMAN: I have been given to understand that Mr. Abbott will be back here in time to consider this problem. I suggest that we adjourn further consideration until next Tuesday.

Hon. Mr. HAIG: Would it be possible for Mr. Backus and Mr. Young to be here at that time? I do not think we will get anywhere without their assistance.

Hon. Mr. BOUFFARD: They could take it up with the Minister of Finance themselves.

Mr. YOUNG: We would be glad to do that. We are concerned about when this section will go into force. Could there be any assurance that this portion of the Act would be hoisted for a certain period of time?

The CHAIRMAN: We might give thought to having a special going-into-force date for this particular section. I have in mind the 1st of June, for instance. We could give thought to that.

Hon. Mr. CAMPBELL: I would suggest that Mr. Young and his associates get in touch with the people who made the representations to the Department of Finance in connection with section 5. They could also get together with the Canadian Tax Foundation and discuss this problem between now and next Tuesday, and we could notify the other people, the representatives of the trust companies, to be here at the same time. In this way we might be able to find a solution to the problem. I am sure the department is always ready to co-operate in matters of this kind.

The CHAIRMAN: There is a motion to adjourn until next Tuesday.

Hon. Mr. HAIG: Why not adjourn until Wednesday?

The CHAIRMAN: Your chairman could not be available on Wednesday. However, the committee could proceed. I checked with Dr. Eaton and was informed that the Minister would in all probability be able to discuss this with us on Tuesday.

Hon. Mr. BURCHILL: We can adjourn tentatively until Tuesday, and if we are not ready we could proceed on Thursday.

Hon. Mr. HAIG: I would prefer it to put it over to Thursday right now.

The CHAIRMAN: Is the committee ready to adjourn until next Tuesday morning at 10.30 a.m.?

Some Hon. SENATORS: Agreed.

The committee thereupon adjourned until Tuesday, April 28, at 10.30 a.m.

OTTAWA, Thursday, April 30, 1953.

The Standing Committee on Banking and Commerce, to which was referred Bill 228, an Act to amend The Income Tax Act, met this day at 11 a.m.

Hon. Mr. HAYDEN in the Chair.

The CHAIRMAN: Honourable senators, the Minister of Finance is here. Shall we revert to section 37 of the Income Tax Act? That is the section that we "stood" for consideration by the minister.

Hon. D. C. ABBOTT: Mr. Chairman, I understand that when this section was under consideration the Investment Dealers Association made representations to the committee and indicated that they had some apprehensions as to the effect of this section on international dealings in securities, and they felt particularly that in the case of dealers who had offices in New York or outside Canada there would be an advantage as compared with the 90 or 95 per cent of Canadian dealers who have not.

We considered, when this provision respecting the apportionment of interest on securities between interest dates was being looked into, as to whether we would put this section in or not. Strictly speaking, it is logical, if you require this apportionment to be made between residents of Canada, to require that non-residents should pay their share of tax on it. However, I was not too keen on the section going in, because I shared some of the fears that have been expressed by the Investment Dealers. However, the strict logic of the thing did seem to indicate that it should be put in, and we put it in. This is a new provision, and in the light of the representations which have been made to your committee, and similar representations which have been made to me, I think it would be better, before a new provision of this kind is put in the law, to let it stand and see how it works. The revenue implications are negligible. As a matter of fact I think, under the new system in the case of sales from a Canadian resident to a non-resident, we will get a little more tax than we did before. So that on balance I am quite prepared to have the section struck out; To maintain my purity as far as Senate committees are concerned, I want to make it clear that this is being made at my request, and in order to save the time of this house and the other house in making an amendment there.

The CHAIRMAN: We are only concerned in the result.

Hon. Mr. ABBOTT: Yes. And the amendment is a very simple one:

1. That Bill 228, an Act to amend The Income Tax Act, be amended
 - (a) by deleting the words "subsections are" in line 5 on page 28 thereof, and
 - (b) by deleting lines 7 to 19 on page 28 thereof.

2. That the said Bill 228 be further amended

(a) by deleting the words "subsections are" in line 9 on page 61 thereof, and

(b) by deleting lines 11 to 22 on page 61 thereof.

I would be very happy if the Senate would accommodate me by making such an amendment.

Hon. Mr. HAIG: Will Senator Crerar move it?

Hon. Mr. CRERAR: I have been fighting this thing in committee. Let some of the protagonists who have been supporting it, move it.

Hon. Mr. HAIG: I will move it. I advocated it.

Hon. Mr. CAMPBELL: Seconded.

Hon. Mr. HARDY: Is the Securities Commission dealing with the Province of Ontario in this matter, or is this applicable all over Canada?

Hon. Mr. ABBOTT: I would not think this would be particularly important so far as the Ontario Securities Commission are concerned. The amendment which is being suggested simply relates to the case of the foreign holder of Canadian bonds who sells them to a Canadian; and under the section as it stands a Canadian who purchases that bond with accrued interest would be obliged to deduct from the accrued interest 15 per cent as a non-resident tax, and remit it; and the dealers feel that that might cause some dislocation in the market for these bonds. While I think their fears may be exaggerated, I do not think that the revenue implications are sufficient to justify raising this matter; and under the circumstances I think we had better see how the section works. I am quite happy to have this provision deleted.

The CHAIRMAN: Then we have the amendment to this section before us. All those in favour of the amendment?

Hon. SENATORS: Carried.

The CHAIRMAN: No opposition.

Hon. Mr. HAIG: I think we might, as senators, invite the Minister of Finance to join the Senate. We would like to have him in our circle.

Hon. Mr. ABBOTT: I would be very happy to come. It always appealed to me as a nice, quiet, respectable life.

The CHAIRMAN: You would not think so, sometimes! Shall I report the bill with the amendments?

Hon. SENATORS: Agreed.

The committee thereupon proceeded to other business.













