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1950.  
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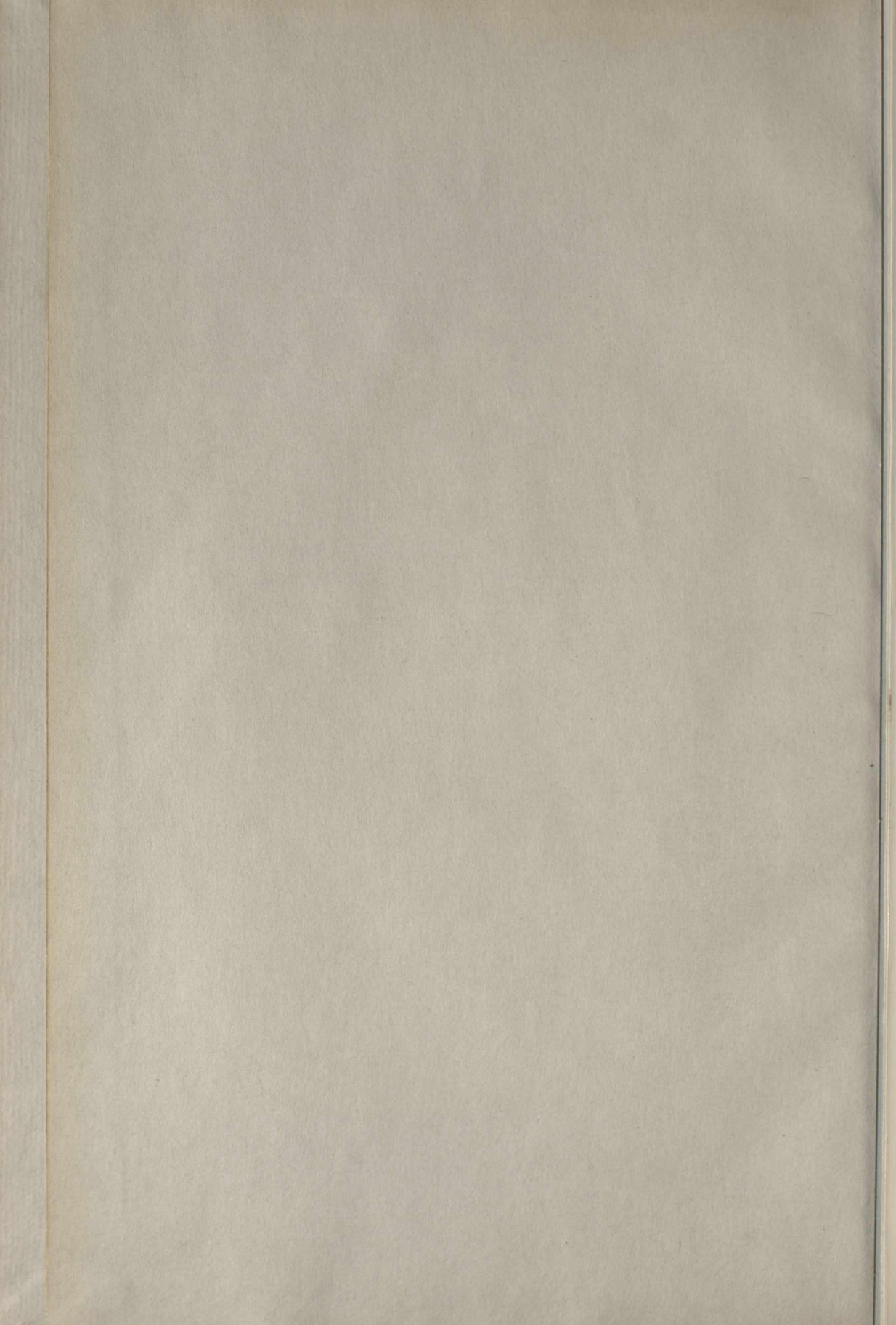
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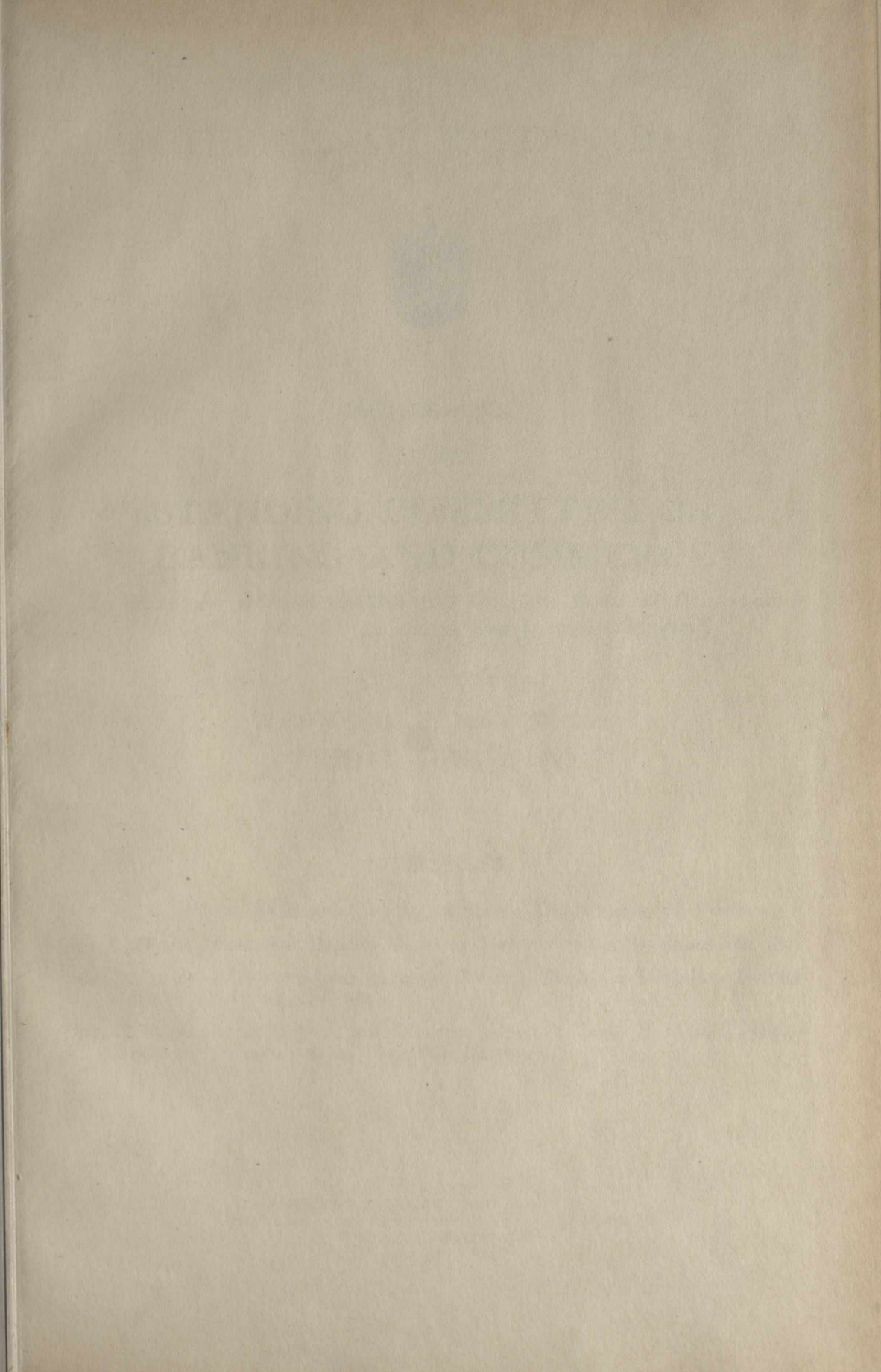
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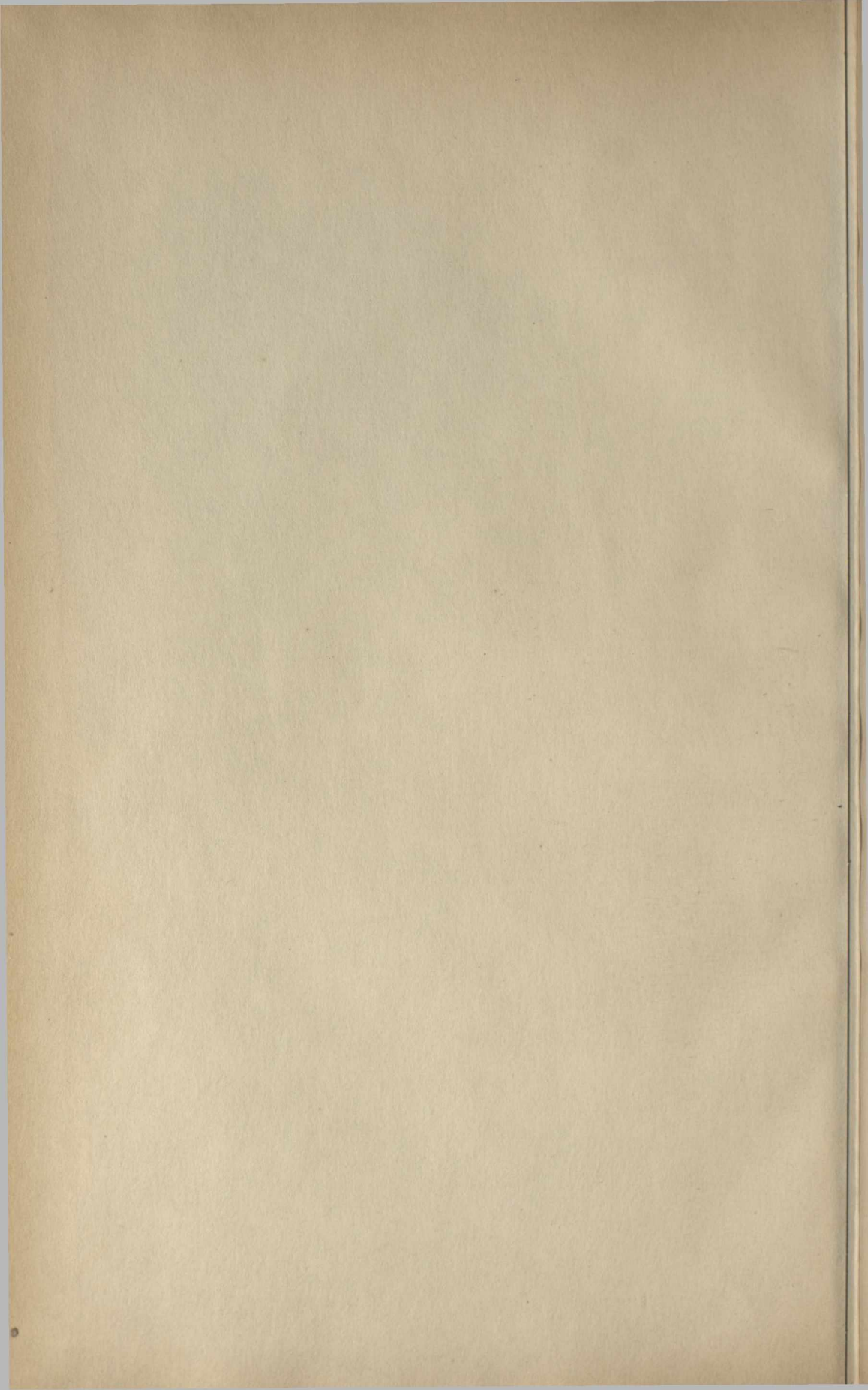
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# THE SENATE OF CANADA



PROCEEDINGS

OF THE

## STANDING COMMITTEE ON BANKING AND COMMERCE

To whom was referred the Bill (177 from the House of Commons),  
intituled: "An Act to amend The Income Tax Act".

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WEDNESDAY, MAY 31, 1950

FRIDAY, JUNE 2, 1950

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### WITNESSES

- Dr. A. K. Eaton, Assistant Deputy Minister, Department of Finance.
- Mr. C. Gavsie, Assistant Deputy Minister, Department of National Revenue.
- Mr. D. R. Pook, Finance and Services Section, Taxation Division, Department of National Revenue
- Mr. E. S. MacLatchy, Assistant Director General, Legal Branch, Taxation Division, Department of National Revenue.

OTTAWA  
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,  
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY  
CONTROLLER OF STATIONERY

1950

## ORDER OF REFERENCE

Extract from the Minutes of Proceedings of the Senate for Thursday, 25th May, 1950.

Pursuant to the Order of the Day, the Honourable Senator Hayden moved that the Bill (177), 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.*

## THE STANDING COMMITTEE ON BANKING AND COMMERCE

The Honourable J. W. de B. Farris, Chairman.

The Honourable Senators Aseltine, Baird, Beaubien, Bouffard, Buchanan, Burchill, Campbell, Crerar, Daigle, David, Davies, Dessureault, Euler, Fallis, Farris, Fogo, Gershaw, Gouin, Haig, Hardy, Hayden, Horner, Howard, Howden, Hugessen, Jones, King, Kinley, Lambert, MacLennan, Marcotte, McDonald, McGuire, McIntyre, McKeen, McLean, Moraud, Nicol, Paterson, Pirie, Quinn, Raymond, Robertson, Roebuck, Taylor, Vaillancourt, Vien and Wilson—(48)



## MINUTES OF PROCEEDINGS

WEDNESDAY, May 31, 1950.

Pursuant to adjournment and notice the Standing Committee on Banking and Commerce met this day at 11.00 A.M.

Present: The Honourable Senators Beaubien, Crerar, Davies, Euler, Fogo, Gouin, Haig, Hardy, Hayden, Kinley, Lambert, McDonald, McGuire, McKeen, Paterson, Quinn, Robertson, Taylor and Wilson.—(19)

In the absence of the Chairman, the Honourable Senator McDonald was elected Acting Chairman.

In attendance:

Mr. J. F. MacNeill, Law Clerk and Parliamentary Counsel.

The official reporters of the Senate.

Bill 177, "An Act to amend The Income Tax Act", was considered.

The following were heard:

Dr. A. K. Eaton, Assistant Deputy Minister, Department of Finance.

Mr. D. R. Pook, Finance and Services Section, Taxation Division, Department of National Revenue.

Mr. E. S. MacLatchy, Assistant Director General, Legal Branch, Taxation Division, Department of National Revenue.

The following amendments, moved by the Honourable Senator McKeen, were carried:

1. *Pages 6 and 7*: Delete "corporations resident in Canada and exempt from tax under this Part by paragraph (eb)" in paragraph (a) of sub-clause (1) of clause 10, and substitute "corporations or trusts resident in Canada and exempt from tax under this Part by paragraph (eb) or (ec)."

2. *Page 9*: Add the following as new sub-clause (3) of clause 11:

"(3) Notwithstanding subsection (2), subsection (1) is not applicable in a case where control of the payer corporation has been, pursuant to a right which existed on or before May 10th, 1950, acquired before June 30th, 1950."

Further consideration of the Bill was postponed.

At 12.30 P.M. the Committee adjourned to the call of the Chairman.

Attest.

JOHN A. HINDS,  
*Clerk of the Committee.*

## MINUTES OF PROCEEDINGS

FRIDAY, June 2, 1950.

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

*Present:* The Honourable Senators Beaubien, Burchill, Crerar, Euler, Gershaw, Haig, Horner, Kinley, Lambert, McKeen, Paterson, Quinn, Robertson and Wilson.—14.

In the absence of the Chairman, the Honourable Senator Paterson was elected Acting Chairman.

*In attendance:* Mr. J. F. MacNeill, Law Clerk and Parliamentary Counsel.

The official reporters of the Senate.

Consideration of Bill 177, "An Act to amend The Income Tax Act", was resumed.

The following were heard:

Dr. A. K. Eaton, Assistant Deputy Minister, Department of Finance.

Mr. C. Gavsie, Assistant Deputy Minister, Department of National Revenue.

Mr. E. S. MacLatchy, Assistant Director General, Legal Branch, Taxation Division, Department of National Revenue.

The following amendments were moved and carried:

### 3. Pages 13 and 14:

That subclause (1) of Clause 21 be amended by deleting the words "(within the meaning of that expression as used is subsection (1A) of section 27)" in paragraph (eb), by deleting sub-paragraph (iii) of paragraph (eb) and substituting the following therefor:

(iii) expended amounts each of which is

- (A) an expenditure in respect of charitable activities carried on by the corporation itself,
- (B) a gift to an organization in Canada the income of which for the period is exempt from tax under this Part by virtue of paragraph (ea), or
- (C) a gift to a corporation resident in Canada the income of which for the period is exempt from tax under this Part by virtue of this paragraph, and

the aggregate of which is not less than 90 per cent of the corporation's income for the period,

by adding the following paragraph within the quotation marks,

(ec) a trust all the property of which is held absolutely in trust exclusively for charitable purposes, that has not, since June 1, 1950, acquired control of any corporation and that, during the period,

- (i) did not carry on any business,
- (ii) had no debts incurred since June 1, 1950, other than obligations arising in respect of salaries, rents and other current operating expenses, and



- (iii) made gifts, the aggregates of which are not less than 90 per cent of its income for the period, to organizations in Canada or corporations resident in Canada the incomes of which for the period are exempt from tax under this Part by virtue of paragraph (ea) or (eb).

and that subclause 3 of Clause 21 be deleted and the following substituted therefor:

- (3) For the purpose of paragraph (eb) or (ec) of subsection one
- (a) a corporation is controlled by another corporation or by a trust if more than 50 per cent of its issued share capital (having full voting rights under all circumstances) belong to
- (i) the other corporation or the trust, or
- (ii) the other corporation or the trust and persons with whom the other corporation or the trust does not deal at arms length,
- but a corporation or trust shall be deemed not to have acquired control of a corporation if it has not purchased (or otherwise acquired for a consideration) any of the shares in the capital stock of that corporation,
- (b) there shall be included in computing a corporation's or trust's income all gifts received by the corporation or trust other than gifts received subject to a trust or direction that the property given, or property substituted therefor, is to be held by the corporation or trust for the purpose of gaining or producing income therefrom, and
- (c) subsection (4) of section 58 is not applicable in determining a trust's income.

4. Page 27:

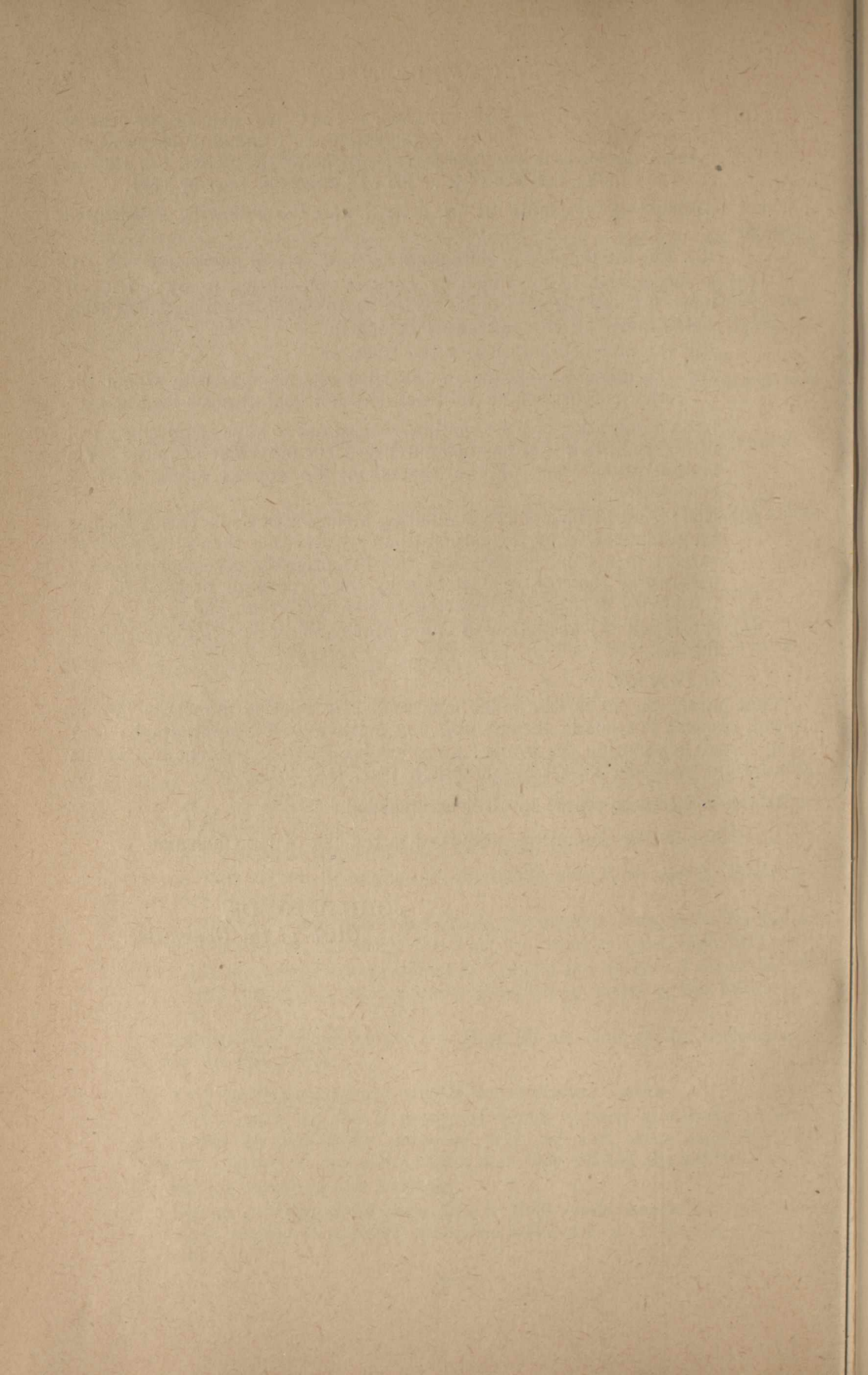
That paragraph (c) in Clause 36 be amended by deleting the words "a corporation resident in Canada exempt from tax under Part I by paragraphs (ea) or (eb)" and substituting the words "a corporation or trust resident in Canada exempt from tax under Part I by paragraph (ea), (eb) or (ec)."

It was resolved to report the Bill as amended.

At 12.30 p.m. the Committee adjourned to the call of the Chairman.

Attest.

JOHN A. HINDS,  
Clerk of the Committee.





## MINUTES OF EVIDENCE

THE SENATE

OTTAWA, Wednesday, May 31, 1950.

The Standing Committee on Banking and Commerce, to which was referred Bill 177, an Act to amend the Income Tax Act and the Income War Tax Act, met this day at 10.30 a.m.

Hon. Mr. McDONALD in the Chair.

The CHAIRMAN: Gentlemen, I will first ask the Clerk to read the minutes of the last meeting.

The minutes of the last meeting were read and approved.

The CHAIRMAN: What is the wish of the committee as to procedure in dealing with this bill?

Hon. Mr. HAYDEN: I would suggest that it be taken up clause by clause, because in that way we get a continuity of explanations.

The CHAIRMAN: If that is agreeable to the committee, we will proceed in that way.

On section 1—"death benefit".

Hon. Mr. HAYDEN: Could we have an explanation from the department as to the purpose and effect of section 1?

Dr. A. K. EATON: Honourable senators, first I wish to say that Mr. Abbott, the Minister of Finance, asked me to explain to you that he regrets his inability to be here this morning. He has to attend a Council meeting, and after that he is leaving for Toronto, to address a meeting at the International Trade Fair. He also asked me to mention that there were two items on which representations have been received since the bill was passed in the House of Commons. One is the amendment which disallows the deduction of dividends from the receiving corporation where it has acquired control following May 10. He has received representations that certain negotiations were in process at the time this amendment was passed by the House of Commons, and he is considering an amendment to take care of cases where rights to acquire control had existed. He has given me an amendment which he would like to have considered by this committee.

The second item has to do with charitable organizations. Since the passage of the bill in the House of Commons he has received representations that we had not quite adequately covered this field, and he has had amendments prepared that will cover three sections. He has asked me if I would request the committee to consider these amendments also.

The CHAIRMAN: What section of the bill are you referring to now?

Dr. EATON: Clause 10 of the bill.

Hon. Mr. HAIG: I think the remarks that are now being made should be reserved until we come to the appropriate sections of the bill. We are now on section 1, and I think we should be told what that section means.

Hon. Mr. ROBERTSON: Dr. Eaton was making a general statement on behalf of the Minister. I might point out to the committee that the Minister suggested that since he cannot be here we might postpone consideration of the bill till he came back, but I suggested that as consideration had already



been postponed once we should now go ahead, and if we reached any part of the bill upon which we wished to have the Minister's own explanation we could hold up that part until a later date when it is convenient for him to be here.

The CHAIRMAN: Have you any amendment to suggest to section 1 of the bill, Dr. Eaton?

Dr. EATON: No.

Hon. Mr. HAIG: What does the section mean?

Dr. EATON: Clause 1 has three subclauses. Subclause (1) adds an amendment relating to death benefits. It is really a cross reference. In the past death benefits have been regarded as taxable. This clarifies the law and gives certainty to it. The amendment also gives relief from the full taxation of death benefits, which benefits are in consideration of services of an employee before his decease.

Hon. Mr. HAIG: Let me put a question to you. Suppose a man was working for the Anthes Foundry Company and died. The company gives \$400 as a death benefit, which is used to pay the funeral expenses. Would that be considered part of his estate or not?

Dr. EATON: It is taxable income of the person who receives it, with an exemption up to the amount of three months of the deceased employee's salary. This in effect gives relief to the extent of three months of salary.

Hon. Mr. HAIG: That does not answer my question. While the man was working the company did not make any deduction from his salary, but put aside certain amounts, totalling \$400, and upon his death the company paid the \$400 towards his funeral expenses. Is that considered part of his income?

Dr. EATON: That is considered income of the person who receives it.

Hon. Mr. HAIG: The undertaker receives it.

Hon. Mr. HAYDEN: The estate would constructively receive it.

Hon. Mr. EULER: But the estate is not an employee. The estate would not be getting any salary, and the exemption is only to the person earning a salary.

Dr. EATON: The exemption is equal to three months' salary of the deceased employee.

Hon. Mr. FOGO: It is defined in clause 43 of the bill.

Hon. Mr. HAYDEN: As I understand it, if there was any benefit being passed by an employer to a widow or some other person connected with the deceased employee, in recognition of his services—

Dr. EATON: That is the important part.

Hon. Mr. HAYDEN: —then, under the law as it now stands, that would be income taxable in the hands of the person who received it.

Dr. EATON: Correct.

Hon. Mr. HAYDEN: And this amendment says that to the extent of an amount equal to the deceased employee's remuneration for ninety days or three months, the money that passes is exempt from taxation.

Dr. EATON: Yes.

Hon. Mr. HAIG: All right, I understand it.

The CHAIRMAN: Are there any further questions on section 1?

Some Hon. SENATORS carried.

Hon. Mr. HAYDEN: There is subsection 2 to section 1, which is a different subject matter. It has to do with a profit sharing plan.



Dr. EATON: It deals with the profit sharing plan, and makes taxable in the hands of the employee the amounts allocated to him under a profit sharing plan, by the trustee of the plan.

Hon. Mr. HAYDEN: Whether or not he is entitled to receive them in that year?

Dr. EATON: That is correct.

Hon. Mr. HAIG: O.K.

The CHAIRMAN: Subsection 3?

Some Hon. SENATORS carried.

Section 1 was agreed to.

On section 2—Stock dividends and stock rights.

The CHAIRMAN: Dr. Eaton, will you explain that, please?

Dr. EATON: This is an amendment to section 8 of the act, under which certain benefits received by an individual from a corporation may be taxable. This amendment states that stock dividends and rights to purchase stock shall not under this section be deemed to be benefits received by the shareholder.

Hon. Mr. HAIG: Pass.

The CHAIRMAN: Subsection 3?

Hon. Mr. HAYDEN: There is an item on page 2 of the bill, in subsection 3, dealing with interest on income bonds.

Dr. EATON: That is a re-arrangement. The substance of that, which was contained in section 9, is inserted in section 8 without change.

Hon. Mr. HAIG: Satisfied.

Hon. Mr. HAYDEN: Carried.

Section 2 was agreed to.

On section 3—repeal.

Hon. Mr. HAIG: Any repeal we will vote for.

Hon. Mr. HAYDEN: Yes, we will vote for any repeals.

Section 3 was agreed to.

On section 4—War Savings Certificates.

Hon. Mr. HAIG: Does this deal with Newfoundland certificates?

The CHAIRMAN: Yes.

Hon. Mr. HAIG: Carried.

The CHAIRMAN: As to both subsections 1 and 2?

Hon. Mr. HAIG: They deal with the same thing.

Section 4 was agreed to.

On section 5—Interest.

The CHAIRMAN: Dr. Eaton, will you please explain section 5?

Hon. Mr. HAYDEN: Section 5 is the one that becomes necessary by reason of the McCool case in the Supreme Court of Canada?

Dr. EATON: That is correct. It broadens out the law in respect of interest paid by a taxpayer. As the law stood prior to this amendment interest was deductible on borrowed capital used in the business. This allows a deduction in respect of interest payable in connection with the purchase of property; that is, the purchase of property that is not all paid for, and the purchaser has to pay interest in respect of the unpaid purchase price. That interest is also allowed as a deduction to the taxpayer.



Hon. Mr. HARDY: Do all these sections give relief to the taxpayer?

Dr. EATON: Yes.

Hon. Mr. HAIG: Is McCool going to get his money back?

Dr. EATON: I could not say.

Hon. Mr. HAIG: He ought to, because nobody in his right senses would say that a man who has a farm and has to pay off a mortgage on it should not deduct as expenses the interest on the mortgage.

Hon. Mr. HAYDEN: But this disallowed the interest the company paid on the indebtedness to McCool.

Hon. Mr. HAIG: It is the same principle.

Hon. Mr. HAYDEN: Yes.

Hon. Mr. HAIG: The courts in Saskatoon and Winnipeg followed the McCool case. The ruling was that one who bought a farm subject to a mortgage could not deduct the interest as expenses.

Hon. Mr. FOGO: That was the Trapp case.

Hon. Mr. HAIG: It followed the McCool judgment.

Hon. Mr. DAVIES: Could a farmer not deduct the interest if he rented the farm?

Hon. Mr. HAIG: No; not unless he gave the mortgage himself.

Hon. Mr. HAYDEN: How far is it intended that this section should go in relation to the McCool case?

Dr. EATON: My understanding is that it is to correct, or to reverse, the position with respect to that decision.

Hon. Mr. FOGO: With respect to that part of the McCool case which dealt with this point.

Dr. EATON: That is right.

The CHAIRMAN: Senator Hardy, did you get an answer to your question?

Hon. Mr. HARDY: Quite satisfactory.

The CHAIRMAN: Shall section 5, subsections 1, 2 and 3 carry?

Hon. Mr. HAIG: Do they all deal with the same subject?

Dr. EATON: No. subclause 3 . . . .

Hon. Mr. HAYDEN: Subclauses 2 and 3.

Dr. EATON: Subclause 2 is an amendment relating again to the profit sharing plan, and incidental to the general amendment with respect to the profit sharing plan. Subclause 3 corrects an awkwardness, or a disallowance, in the case of payment into pension funds with respect to arrears. The law has set a \$900 limit on the amount which may be paid in each year in respect of arrears. There are cases where an employee has had a sum of money paid in one lump; and this amendment allows him to pay \$900 in one year, carry the balance forward and take a further \$900 deduction the next year, rather than have the excess over \$900 disallowed in the year in which it was paid.

Hon. Mr. HAIG: Pass.

Hon. Mr. HAYDEN: It applies even in the government service when an employee is transferred to the general plan of pensions.

Hon. Mr. DAVIES: Supposing a pension plan is set up, and in order to allow elderly employees to be put on the same basis as the younger people the company pays a considerable sum of money into the fund. In those circumstances does the employee have to pay taxes on that money?

Hon. Mr. HAYDEN: No.

Dr. EATON: No, not until the pension is paid to him. Some years ago we revised our pension legislation, and made all pensions when paid out taxable,



with a deduction for the amounts paid in during the period in which the fund was being built up. That is the general plan. The employer's contribution and the employee's contribution which go into an approved pension plan are deductible currently, but the pension is fully taxable when paid out.

Hon. Mr. HAIG: Correct.

Hon. Mr. FOGO: Perhaps this is not a proper question to ask Dr. Eaton, but I was wondering if the subject matter of this clause could not have been expressed in more simple language. I refer now to subclause 3 of clause 5. The subject matter seems to be comparatively simple, but the drafting is so complex one can only follow it with great difficulty.

Dr. EATON: Well, all I can say is that this has been approved by the Department of Justice.

Hon. Mr. McKEEN: Is that an answer? They are lawyers, are they not?

Hon. Mr. HAYDEN: We are mainly concerned at the moment with what the section is intended to do, and if ultimately it should be held that it has not done that, then we expect the department to come back and ask for legislation to accomplish the intention.

Hon. Mr. FOGO: I was concerned with this point: It would be very desirable if a taxpayer could read this Act and understand it.

Hon. Mr. HAYDEN: I agree.

Hon. Mr. HAIG: There would be no work for the lawyers.

Hon. Mr. FOGO: I think the lawyers can look after themselves.

Hon. Mr. HAIG: I doubt it.

Hon. Mr. McKEEN: The point is, if in the excess of words the department has said something that may cause some lawyer or some judge to say that it does not do what the department intended it to do, then the taxpayer suffers. As long as this wording does what Dr. Eaton says it will do. I do not question it.

Hon. Mr. EULER: The interpretation as given by Dr. Eaton is satisfactory, but the question is whether he knows that that is the interpretation that is going to be given to it by the Income Tax Department.

Hon. Mr. HAIG: Before Dr. Eaton answers that I wish to say, Mr. Senator, that I asked in the house to have the *Hansard* reporters here today, and if the Income Tax Department tries to get around their explanations, they will have a lot of trouble doing so.

Hon. Mr. McKEEN: That will be a different department.

Hon. Mr. HAIG: No, it will not.

Dr. EATON: I am in the Department of Finance, but I think I may say that when these amendments are being considered and drafted it is done at a meeting of the representatives of the Department of Justice and the Department of National Revenue. The interpretation of the law does not rest with the Department of Finance. It is primarily concerned with policy. These bills are prepared with the three departments sitting together. I certainly can offer no guarantee as to what interpretation will be placed on this clause.

Hon. Mr. EULER: But you are agreed on that interpretation?

Dr. EATON: Yes.

Hon. Mr. HAIG: They were all present.

The CHAIRMAN: Are you agreeable to this, Senator Fogo?

Hon. Mr. FOGO: Yes, Mr. Chairman, but I was going to suggest that we might substitute the explanatory note on the right hand side.

The CHAIRMAN: You agree that the new subsection shall carry?



Hon. Mr. HAYDEN: I am just wondering if subsection 3 is applicable to 1949 and subsequent years. I notice the subsection itself deals with any payments into an approved superannuation fund during 1946 and subsequent years. Supposing in the year 1946 I transfer from a retirement to a pension plan with an accumulation of money in excess of \$900, and I paid it all over in 1946, 1947 and 1948, I do not get my benefit until 1949. By this time I have been taxed. Why is 1946 mentioned if the benefit is not to accrue until 1949?

Dr. EATON: My understanding of it is this, that any excess over \$900 which was in fact paid in in any of those years from 1946 onward may in 1949 and thereafter be deducted.

Hon. Mr. HAYDEN: What happens if I pay in the whole of that excess in the year 1946 or 1947, in those years; by now I would have been taxed on it, would I not?

Dr. EATON: You may take your deduction in respect of the excess in 1949 and get it then; rather than reopen the years from the year in which it was paid in and following, the excess in the year in which it was paid in may be deducted in 1949 and the following years.

Hon. Mr. HAYDEN: Is that clear? I understand it is the intention that if I have contributed in excess of \$900 in a lump sum in 1946, 1947 and 1948 my income tax returns have been filed and assessed, but under the law that excess would be taxable in my hands as income. In 1949 I can start recovering it at the rate of an extra \$900 until I have recovered the full amount: is that correct?

Dr. EATON: That is right.

Hon. Mr. HAIG: That is what it says.

Hon. Mr. HAYDEN: Except the tax rate in 1946, 1947 and 1948 may be higher.

Hon. Mr. HAIG: Even if we get a little back, don't kick too much.

The subsection was agreed to.

The section was agreed to.

On section 6: fiscal period for individual member of partnership wound up.

Dr. EATON: Section 6 is a technical amendment to take care of a situation where the partnership is wound up. In the explanatory note it points out that it is a relieving provision. A member of a partnership or a sole proprietor in a year in which a partnership has changed or a business has been disposed of may elect to file a return for the regular fiscal year of the partnership or proprietorship rather than for the period ended with the time of the change or disposition. The present law operates this way. A partner is taxable on a calendar year basis in respect of the profits of his partnership for the fiscal period of twelve months that ends in that calendar year. Suppose, for example, the regular fiscal period may be ended March 31. He has twelve months of profits to pay there. If the partnership is wound up in, say, September, then he will have had to pay twelve months' profits plus six months, which is eighteen months of profits in one year. This amendment will enable him to pay on his twelve months profits in one year and then carry on and pay in the next fiscal year on twelve months profits rather than have the profits pyramided within one taxation year.

Hon. Mr. McKEEN: This allows him the choice.

Dr. EATON: Yes.

The CHAIRMAN: This includes subsection 3?

Dr. EATON: This is the same substance.

The section was agreed to.



On section 7: lease-option, higher purchase, etc.

The CHAIRMAN: May we have an explanation of this, please, Dr. Eaton?

Dr. EATON: Section 7 extends the existing provision in our law—which is section 18, I believe. The present law deals only with movable property. This broadens out to cover all property other than property used in farming. The substance of the section is this, that where there is a lease-option agreement, for purposes of income tax the lessee is deemed to be the owner of the property, and accordingly is entitled to depreciation on the property. Now the problem that gave rise to the need for this amendment is the case where very short term leases were entered into with nominal purchase price as an option. The result of that would be that the taxpayer could pay these so-called rentals annually, say for five years, and at the end of five years acquire the property for a nominal sum. The effect of that is that he would have written off through the medium of rent practically the whole of the cost of that property, and then would be the owner of it; whereas the person who purchases outright has to write the property off in the ordinary orderly manner of depreciation. But for this amendment a person could, by paying rent, very high rent, rent in excess of use value, for property, get the whole property written off in five years, whereas with ordinary depreciation rates he might not get it written off for twenty-five or thirty years. The other feature is that in these agreements the taxpayer may not merely be purchasing depreciable assets; he may be purchasing land, which is included also in the property being purchased. There is no write-off depreciation or amortization in the case of land. Where land is included in these lease-option agreements, the taxpayer gets an undue benefit as compared with other property of taxpayers under the law. So this is to take care of the short-term lease options. Where the lease option is in fact for a long term, it may be that under this the taxpayer will get a higher annual deduction than he would get had he been on the ordinary rental basis.

Hon. Mr. HAIG: How do you arrive at that under the wording?

Dr. EATON: Under the diminishing balance principle, sir, the rate is about double.

Hon. Mr. HAIG: Is not this put in to get at people who, for instance, bought road machinery?

Dr. EATON: I believe that was the origin of it in the days of E.P.T.; but since that time it is quite common for companies to sell realty and then purchase it back, or enter into a lease-option agreement with an option to purchase back.

Hon. Mr. DUTREMBLAY: It would not be a sale, if it is a rent.

Dr. EATON: It is deemed to be a sale for income tax purposes.

Hon. Mr. HAYDEN: If there is a repurchase.

Dr. EATON: Yes.

Hon. Mr. HAIG: Is not the real argument this. Say road machinery cost \$30,000, the purchaser was to pay so much a year as rent, and he had an option at the end of the time to purchase the machine and be allowed credits for the amount paid in the meantime. You found it necessary to grant exemptions on this as expense in the current year. It is to get over that?

Dr. EATON: Yes.

Hon. Mr. HAIG: I had one such case.

The CHAIRMAN: That takes all of section 7. You agree to pass all section 7?

Dr. EATON: It all deals with the same topic, sir.

The section was agreed to.



On section 8: excess of proceeds over undepreciated capital cost.

The CHAIRMAN: Perhaps, Dr. Eaton, you will be good enough to explain it. We are sorry to call on you so much.

Dr. EATON: That is quite all right. This is many words for a very small but important amendment.

Perhaps I can sum it up in this way, that where purchase and sale of assets of the same class occur within a taxation year, one may be offset against the other. Instead of being required to take the proceeds of the sale into income subject to tax, to the extent of depreciation taken since the 1st of January 1949, instead of having that taken into profit and loss account the taxpayer can reduce the cost for depreciation of the newly purchased asset by that amount.

Hon. Mr. McKEEN: If I had a piece of property or equipment that was worth \$20,000 in 1949 and was depreciated to \$10,000 today, and if this was sold for \$20,000 and I bought a new piece of property for \$20,000, it would go on my books at \$10,000?

Dr. EATON: Yes.

Hon. Mr. HAIG: The other day in the Senate I asked a question of Senator Hayden, who explained this bill in the Senate. He telephoned me this morning and said that the answer he gave me was correct but was not an answer to my question. My question was this. Suppose I purchased a house on the 1st of January 1941 for \$10,000 and I immediately rented the property. It being a frame house, I depreciated it \$500 a year, which is the amount permitted by the department, for eight years, so that on the 1st of January 1949 it was depreciated to \$6,000. No depreciation is taken for 1949 or 1950. If during the summer of 1950 I sell the house for \$12,000, I suggest there is no recaptured money there at all.

Dr. EATON: That is correct.

Hon. Mr. KINLEY: How about vessel property, where there is accelerated depreciation?

Dr. EATON: Special depreciation prior to 1949?

Hon. Mr. KINLEY: Yes.

Dr. EATON: Yes.

Dr. EATON: That is subject to recapture.

Hon. Mr. CRERAR: Take a farmer who has \$10,000 worth of farm implements, which he has depreciated to a certain point. Then he goes out of farming entirely and sells those implements for \$2,000 more than their depreciated value. As I understand it, the \$2,000 comes into income.

Dr. EATON: May I ask Mr. Pook to answer that question?

Mr. POOK: This section may or may not apply to the farming business.

Hon. Mr. HAYDEN: Depending on the election made by the taxpayer?

Mr. POOK: Yes. Under the old system there would be no recapture, but under the new system the amount would be subject to recapture and brought into income in the year in which the property was disposed of.

Hon. Mr. CRERAR: But if on the sale the farmer realized \$2,000 less than the depreciated value, is he given credit?

Mr. POOK: If he sells all his machinery for \$2,000 less than the balance that is on his books, he can deduct \$2,000 in that last year, so long as he is using the new system.

Hon. Mr. CRERAR: But suppose he does not make any profit that year, can he go back?

Mr. POOLE: There is a carry-forward and carry-back provision.



Hon. Mr. CRRERAR: What I am concerned about is whether the rule works both ways.

Hon. Mr. HAYDEN: Yes, it does.

Hon. Mr. McKEEN: Dr. Eaton, getting back to that other point, the recapture is only up to the amount of depreciation charged after 1949?

Dr. EATON: That is correct.

Hon. Mr. McKEEN: Anything over that is capital gain.

Hon. Mr. HAYDEN: However, if an individual has acquired a property and sells it later, under the new system of depreciation, as a result of which there would be recapture, he will be given relief to the extent of being able to spread the amount of the recapture over a period of five years?

Dr. EATON: Yes.

Hon. Mr. DuTREMBLAY: The recapture clause does not apply to depreciation taken before 1949?

Dr. EATON: That is correct.

Subsection (2) was agreed to.

The CHAIRMAN: Subsection (3) reads:—

Subsection (6) of the said section 20 is repealed and the following substituted therefor:

Then the new subsection (6) is given.

Dr. EATON: Subsection (6) offers an option to farmers and fishermen who in last year's amendment were excluded from the new system of write-off of capital costs. They may now elect, effective 1949, to come under the new system, and many have expressed their desire to do so. But if they once elect to come under the new system it will be impossible for them to revert to the old system.

Hon. Mr. DuTREMBLAY: Why is the same option not given to the rest of the population? Most of the people are not fishermen or farmers, and I do not see why the choice should be restricted to those two classes.

Hon. Mr. HAYDEN: Under the amendments made last year, farmers and fishermen were exempt from the new system.

The CHAIRMAN: Because they wished to be.

Hon. Mr. HAYDEN: Yes. But a lot of them have said they would like to come under the new system, to have the benefit of the new system, and this amendment allows them to elect to come under the new system, if they wish.

Hon. Mr. DuTREMBLAY: I still do not see why the choice should be given to farmers and fishermen alone.

Mr. EATON: Well, sir, I think the fact is that the government decided to change the system generally, and after having introduced the necessary amendments in the House of Commons there were objections from farming and fishing groups, who wished to be exempted.

Hon. Mr. DuTREMBLAY: But why are not other classes treated in the same way?

Hon. Mr. HAYDEN: No representations were made on behalf of other groups.

The CHAIRMAN: I heard the debate in the House of Commons last year, and, as I recall, no objection was made on behalf of other groups.

Hon. Mr. DuTREMBLAY: Legislation should be the same for everybody, and I do not see why the other classes are not allowed the same choice as farmers and fishermen are allowed. In some cases it is better for people to choose to come under the old system.



The CHAIRMAN: We will bear your remarks in mind, Senator DuTremblay, and we may revert to this matter later, if necessary.

Hon. Mr. BURCHILL: Dr. Eaton, is it not so that even under the new system there is a wide option in the rates that may be used? Companies that have been using depreciation rates based on experience are still able to continue those rates?

Dr. EATON: Yes, sir. The rates published in the regulations are maximum rates, and a company that does not wish to take the maximum rates may proceed on the level basis on which it has proceeded in the past.

Hon. Mr. BURCHILL: But the principle applies in both cases?

Dr. EATON: Yes.

The CHAIRMAN: Does any other member of the committee take the same view as Senator DuTremblay, or shall we carry this subsection?

Some Hon. SENATORS: Carried.

The CHAIRMAN: Subsection (3) is carried.

Now, section 9, which repeals section 23 of the Act, has to do with transfer of rights to income. Have you anything to say as to that, Dr. Eaton?

Dr. EATON: This is a rather technical amendment to a provision blocking loopholes. As stated in the explanatory note, this amendment widens the application of the present provision in section 23 of the Act, the provision designed to prevent tax avoidance through transfer of rights to income between persons not dealing at arms length.

Hon. Mr. HAYDEN: Just in what way does it widen the application?

Dr. EATON: I think, sir, the difference lies in the fact that the present law is related to transfer of rights to income from property, and that that limitation is withdrawn in the new section.

Hon. Mr. HAYDEN: I think the more important change is the omission from the new section of the words "connected with him by blood relationship, marriage or adoption," and the insertion of the words "with whom he was not dealing at arms length".

Hon. Mr. CRERAR: What does "arms length" mean?

Hon. Mr. HAYDEN: It is defined in the Act, but, to speak candidly, I have never liked the definition.

Hon. Mr. BURCHILL: Can you tell us in ordinary laymen's language what "arms length" means?

Hon. Mr. HAYDEN: It is defined in section 127 of the Act.

Dr. EATON: Section 127 (5) reads:

(5) For the purposes of this Act,

(a) a corporation and a person or one of several persons by whom it is directly or indirectly controlled,

(b) corporations controlled directly or indirectly by the same person, or

(c) persons connected by blood relationship, marriage or adoption, shall, without extending the meaning of the expression 'to deal with each other at arms length', be deemed not to deal with each other at arms length. The persons connected by blood relationship, marriage or adoption, shall be deemed not to deal with each other at arm's length.

Hon. Mr. HAYDEN: The difference then is "arms length" includes blood relationship, marriage or adoption?

Dr. EATON: Yes.

Hon. Mr. HAYDEN: But the expression "arms length" is broader than that?



Dr. EATON: Yes.

Hon. Mr. EULER: How far does blood relationship go?

Dr. EATON: Perhaps Mr. MacLatchy, from the legal division, will explain that.

Mr. MACLATCHY: I do not think that the term "blood relationship" has been interpreted by the courts in the income tax law of Canada. I think generally speaking it can be said to refer to persons with common ancestry.

Hon. Mr. HAYDEN: That would be everybody.

Hon. Mr. CRERAR: We are all related on that basis.

Mr. MACLATCHY: It has never been subject to an interpretation, as to how far that relationship could go.

Hon. Mr. McKEEN: Should that point not be clarified, so that the taxpayer will know?

Hon. Mr. HAYDEN: We will bring to Dr. Eaton's attention that the term "blood relationship" in the definition section of arms length should be clarified.

Dr. EATON: I shall be very pleased to refer this to the Minister.

Hon. Mr. DAVIES: As I understand it, clause 23 refers only to where property is being transferred without any money passing between the parties. Is that correct?

Hon. Mr. HAYDEN: No. May I explain that?

The CHAIRMAN: Yes.

Hon. Mr. HAYDEN: For instance, you might have an arrangement under which you might be entitled to receive some income, and you direct the person to pay it to someone else, perhaps your son, your daughter, or your grandson. That is still considered your income under this section.

Hon. Mr. DAVIES: Yes, but the point I am trying to get clear is this: Is it not quite proper to carry on legitimate transactions with blood relations?

Hon. Mr. HAYDEN: Oh yes.

Hon. Mr. HAIG: But you have to show that you are dealing at arms length.

Hon. Mr. DAVIES: What do you mean by "arm's length"?

Hon. Mr. HAIG: "Arms length" is interpreted in the law.

Hon. Mr. DAVIES: But if there is a fair price passes between two persons, what difference does it make?

Hon. Mr. HAYDEN: That is perfectly all right.

Hon. Mr. HAIG: That would be for the court to decide whether or not it is at arms length when the facts are placed before it. The court would say what arms length means. It means that the relationship between two persons are equal, and that neither has an advantage or a control over the other.

Hon. Mr. HAYDEN: That is correct.

Hon. Mr. McKEEN: In a corporation what is regarded as "control"?

Hon. Mr. HAYDEN: Over fifty per cent.

Hon. Mr. McKEEN: But it was changed, I thought, to seventy per cent.

Hon. Mr. HAYDEN: That is where a corporation claims the ten per cent rate on its first \$10,000 of profits.

Hon. Mr. McKEEN: Then there is no change by this section; it is still over fifty per cent?

Dr. EATON: It is not stated. I presume it would be a matter for the court to decide what constitutes control.

Hon. Mr. HAYDEN: The Companies Act says that a controlled company is one of which more than fifty per cent of the stock is held by another company.



Hon. Mr. McKEEN: If we are going to pass this amendment, why should we not make it celar? Why should we leave this question to be decided by the courts? Dr. Eaton says corporation control is a matter for the court to decide.

Hon. Mr. EULER: Surely control always means more than fifty per cent.

Hon. Mr. McKEEN: Dr. Eaton does not agree.

Hon. Mr. HAYDEN: The Companies Act defines what is control, and that is a federal statute. If this act does not say anything, then that is the law.

Hon. Mr. McKEEN: Dr. Eaton, would the company law apply to this act?

Dr. EATON: Would Mr. MacLatchy care to speak on that point?

Hon. Mr. HAIG: I wouldn't say so, but "arms length" has been tried over and over again in our courts, and you can find cases by the dozen telling what it means.

Hon. Mr. McKEEN: Mr. Chairman, I still have not an answer to my question.

Dr. EATON: I am not a legal man, and I would not attempt to answer that question.

The CHAIRMAN: I was going to ask you, Senator McKeen, if you are agreeable that we should pass section 8, with the exception of this subsection?

Hon. Mr. McKEEN: I do not wish to hold up the matter, but I should like an answer to my question.

Hon. Mr. HAYDEN: We are on section 9. Perhaps the Law Clerk would express an opinion on that point.

Mr. MACNEILL: Mr. Chairman, a control company would be whatever the law says it is. This is an offhand opinion, but I think you would have to go to the Companies Act to find out what is a control company.

Hon. Mr. HAYDEN: Unless this act makes it specific.

Mr. MACNEILL: Unless this Act makes some change, you would go to the ordinary law to see what is a controlled company, and under the Companies Act it would be defined.

Hon. Mr. McKEEN: Mr. Chairman, I want to know if the Income Tax Department, which administers this law, will accept the Companies Act law. In some cases they do not.

Mr. MACLATCHY: I think we would in cases of Dominion incorporation, but you must remember that there are companies incorporated under the laws of the various provinces.

Hon. Mr. McKEEN: Most of them are.

Mr. MACLATCHY: Under different conditions. Generally speaking, I think control is fifty per cent.

Hon. Mr. HAYDEN: Fifty-one per cent.

Mr. MACLATCHY: Fifty per cent plus, as the senator puts it. The situation is that there are many types of stock issued under different circumstances, and it is pretty hard to set out a definition of "control" that would apply in all possible circumstances. There are many varying corporate set-ups. One senator mentioned that there are many cases in the law books as to what is meant by "control" under different circumstances.

Hon. Mr. McKEEN: Mr. Chairman, when the department used the word "control" it must have had something in mind. What was it? In British Columbia, for instance, most of the companies are incorporated under the laws of the provinces; in fact, federal incorporation is the exception, rather than the rule. Now, if the department has some idea of what it means by control of a corporation, can we not make that clear. It seems to me that the department officials are reticent today to say what "control" is. Our own counsel will give



us his opinion, but unfortunately when you are paying taxes you are dealing with the Department of National Revenue. Is this perhaps not a point on which we could have a definition later from Dr. Eaton?

Hon. Mr. HAYDEN: I would suggest that we ask Dr. Eaton when he is giving consideration to the question of blood relationship that he also inquire as to whether or not, under the Income Tax Act, it is necessary to clarify the meaning of "controlled company".

Hon. Mr. McKEEN: That is quite satisfactory.

Hon. Mr. DAVIES: Before we go on, I am still not quite clear on this question of arms length. Suppose that a man has an adopted son to which he sells a portion of his business at a fair valuation. Does he have to go to the court and have it decide whether the transaction is at arms length?

Hon. Mr. HAIG: No.

The CHAIRMAN: Can you answer that Mr. MacLatchy?

Mr. MACLATCHY: It is of course difficult to have all the situations covered, and generally speaking the department has not looked too closely at transactions where adequate consideration has been given. I would not like to say that that section makes an exception where consideration has been given.

Hon. Mr. DAVIES: It is a pretty complicated business, as far as I am concerned.

The CHAIRMAN: Shall we hold section 9 for further consideration?

Hon. Mr. McKEEN: No, carry on.

The CHAIRMAN: Dr. Eaton will inquire into the other points.

Hon. Mr. HAIG: Inquire into them and give us further particulars. Section 9 was agreed to.

On section 10—Charitable Donations.

Dr. EATON: The Minister requests that this amendment to clause 10 be presented to you.

The CHAIRMAN: Will you read it, please?

Dr. EATON: The proposed amendment is as follows:

That paragraph (a) of subclause (1) of clause 10 be amended by deleting the words "corporations resident in Canada and exempt from tax under this Part by paragraph (eb)" and substituting the words "corporations or trusts resident in Canada and exempt from tax under this Part by paragraph (eb) or (ec).

Now paragraph (ec) is in an amendment that will be introduced under clause 21. Perhaps at this stage I should explain what has happened.

Under clause 21 an amendment provides that a corporation which does not carry on charitable activities itself may be exempt from taxation if it makes gifts up to ninety per cent of its income during the year. The law wants to make sure that it is in fact a charitable foundation, and that it does give away ninety per cent of its income for each year.

Following the passage of this amendment by the House of Commons it was learned that there are certain trusts which are not incorporated, and which in fact do give away their income in the same manner as charitable corporations or foundations; but for the setting up of this other category to deal with trusts, persons contributing to a trust would be liable for a gift tax on gifts to the charitable trust, and would not be entitled to deduct up to ten per cent of their income with respect to contributions to trusts. We therefore propose later, by an amendment to section 21, to set up a further category of charitable trusts. There will then be charitable organizations, which carry on activities, such as



churches, colleges and so on—that is under (ea); under paragraph (eb) will come all corporations and charitable foundations; the proposed amendment will add a further category of charitable trusts. So that the substance of this amendment to clause 10 is that we are adding a new category (ec) which will later by clause 21 be exempt from tax, and this amendment will exempt the individual who makes contributions to charitable trusts during the year, up to the ordinary ten per cent of income in respect of charitable contributions.

Hon. Mr. KINLEY: In the United States?

Dr. EATON: In Canada.

Hon. Mr. HAIG: Carry.

Hon. Mr. BEAUBIEN: Mr. Chairman, before the clause is carried may I ask Dr. Eaton whether any representations have been made to have donations to the Manitoba Flood Relief Fund allowed over and above the ten per cent and five per cent which are now allowed to be deducted as charitable donations? I ask the question for the reason that corporations are making large donations to this fund, and individuals are also making generous contributions. As I understand it, an individual can deduct only ten per cent.

Hon. Mr. BEAUBIEN: And a corporation 5 per cent?

Dr. EATON: That is correct.

Hon. Mr. BEAUBIEN: Have they made any exception? Have the department taken that into consideration, to put in an amendment to exempt anything voted to that particular fund from the limitations of 10 and 5 per cent?

Dr. EATON: Yes, sir. I believe I am at liberty to say that representations have been made to the Minister of Finance urging that that exception be made. But I understand also that they have given it careful consideration and have not agreed to the request. They are not prepared to accept an amendment to that effect.

The CHAIRMAN: It would be an amendment to the statute?

Dr. EATON: It would have to be an amendment to the statute. Contributions are now limited to 5 and 10 per cent. I believe the requests have come in in terms of this particular disaster. But careful consideration was given to the form in which the law would have to be stated: whether it would require ministerial discretion, and to have the Minister of National Revenue decide "yes" in this instance and "no" in that instance. That would be necessary unless you specifically stated in the law one particular disaster, and that of course would not take care of any future disaster. I think those are some of the considerations that the government had in mind when they refused to accept this amendment.

The CHAIRMAN: Is the section carried?

Hon. Mr. HAIG: Carried with the amendment as proposed.

Hon. Mr. McKEEN: I moved that amendment.

Section as amended agreed to.

On section 11: dividends from controlled resident corporation.

Hon. Mr. McKEEN: The amendment I have here is different from the one I had the other day, but this is satisfactory to the department, and it amounts to the same thing:

"That clause 11 be amended by adding thereto the following sub-clause:

- (3) Notwithstanding subsection (2), subsection (1) is not applicable in a case where control of the payer corporation has been, pursuant to a right which existed on or before May 10th—

That is the date of the bill coming in force.

—1950, acquired before June 30th, 1950.



The purpose of that is that it makes the date June 30th instead of May 10th. The extension applies if the right to control was there on May 10th. The wording is different from what I had the other day, but it covers the same situation, only more of it.

The CHAIRMAN: Would you explain it, Dr. Eaton?

Dr. EATON: The general substance of the section?

The CHAIRMAN: Yes, the substance of the section with the amendment.

Dr. EATON: The general substance of the amendment is this: section 27 of our present law is the section of the law which allows inter-company dividends to pass freely without taxation in the hands of the receiving corporation. That is the general law. Ordinarily one corporation owning shares in another can receive a dividend from the controlled corporation without tax. It is in effect an avoidance of triple taxation. Where dividends move from one corporation to the other the law says that the second corporation need not pay a tax on it. This provision in clause 11 establishes an exception to that general rule. The exception is that, in the case of a corporation acquiring control of another, from a certain date onwards, namely May 10th, dividends passing from the controlled to the controlling corporation shall be exempt in the hands of the controlling corporation only to the extent of the earnings of the controlled company following the date of control—earnings less tax.

Hon. Mr. DUTREMBLAY: I do not understand what that means.

The CHAIRMAN: Would you repeat part of that again?

Hon. Mr. HAIG: I do not want to butt in, but I happen to know something about this.

The CHAIRMAN: We will ask Senator Haig to explain it.

Hon. Mr. HAIG: A company that has quite a large surplus composed of earnings wants to amalgamate with another company. The law has been that the new company would take over these surplus earnings into its capital structure.

Hon. Mr. DUTREMBLAY: That is, supposing a company actually has some interest in another corporation.

Hon. Mr. HAIG: No: what this amendment is proposing is simply this. Company A has no surplus, company B has a very large surplus of earnings which have never been paid out in dividends; company C is buying them both out and amalgamating them. I, representing company C, have got control of all the stock in A and of 97 per cent of the stock in B company. I know of a case where the people concerned in a transaction of this kind have been negotiating for about seven months; there are a large number of shareholders, scattered all over the province, and they have got them together, and the stock has all been deposited with a trust company, and all the money has been lodged with the company. Knowing nothing of this proposed legislation, they decided to have a meeting in order to pay over the money. Now they are caught with this amendment.

Hon. Mr. DUTREMBLAY: What will happen to those who in the meantime have bought some stock?

The CHAIRMAN: Just a minute.

Hon. Mr. HAIG: The law proposed under this section is that you cannot do this kind of thing in future unless you pay up under the 15 per cent tax provision, unless you pay the 38 per cent. Section 11 provides that in future two companies cannot be amalgamated in this way unless, before the amalgamation takes place, tax is paid on the surplus money.

Hon. Mr. McKEEN: I think what Senator DuTremblay wanted to know was whether companies which now have the control referred to can continue to pay back and forth. This applies only in the case of new companies.



The CHAIRMAN: Yes.

Hon. Mr. McKEEN: I imagine the reason for this amendment is that companies with a large earned surplus have been used to buying their own shares, through the process of putting the money into another company. They would transfer earned surplus to a company which had not an earned surplus. But that has nothing to do with Senator DuTremblay's question, because they were companies that were formed and had control before this date.

Hon. Mr. DuTREMBLAY: This amendment comes into force next April?

Dr. EATON: Where control is secured after May 10th. This is all forward-looking. Existing controls are not affected. This new amendment is to allow the dividends to pass freely so long as the right to acquire control had existed prior to May 10th: that is, negotiations in process may still go on, regardless of the amendment.

Hon. DuTREMBLAY: It does not affect transactions that could have taken place two or three months ago?

Dr. EATON: No.

Hon. Mr. DAVIES: I want to know whether this amendment of Senator McKeen is simply to give preferential treatment to one particular company?

Hon. Mr. McKEEN: No. This amendment is to cover the period of companies that had started previous to this law, companies that started last year to form a combination of various companies and had completed most of their arrangements before this could come into force, though they had not actually transferred the shares. There may be half a dozen such cases; I do not know. The purpose is to give them a little more time to transfer. But it cannot be done after May 10th; it must be done before that. This is just a case of the actual transfer of the shares.

Hon. Mr. BEAUBIEN: It will not be permissible after June 30th?

Hon. Mr. McKEEN: No, it will not be permitted after May 10th. In this particular case, arrangements were made and shares were actually deposited in the hands of the trust company in April, but the transfer to the new owners' hands was not to be made until June. The original shareholders had lost the rights of their shares, but the new owners had not taken them on. It was just a transition period, when they were in the hands of the trust company.

The CHAIRMAN: We have spent quite a lot of time on this section. Are we ready to pass it?

Hon. Mr. DAVIES: It is an important section.

Hon. Mr. LAMBERT: As to the relieving of taxation of one company purchasing another, what is the difference between that case and the case where a company which has acquired an earned surplus over the years and wants to reorganize its capital without being taxed on that surplus? Is it not, in both cases, an effort to put in the capital structure an earned surplus without being taxed? If a single company wishes to reorganize its capital by putting in any earned surplus that has accumulated over, say, ten or twenty years, it must pay 15 per cent. There is no question about that. I cannot see any distinction between the two cases.

Dr. EATON: Well, sir, I think there is this distinction, that the surplus moved from one company by dividend to another company is still technically in the second company, whereas if individuals received the surplus it would be taxable in their hands and would disappear as surplus. The surplus is still standing in the second corporation as undistributed income of that corporation, which income if distributed later will be taxable in the hands of the individuals.

Hon. Mr. LAMBERT: Up to date it has been permissible for a company to take over the earned surplus of another company in the form of dividends, and



under this amendment that will continue to be permissible until the 30th of June. I cannot see any difference between allowing one company to take over the earned surplus of another in the form of dividends and allowing a smaller company to use an earned surplus to reorganize its capital structure.

Hon. Mr. McKEEN: Mr. Chairman, this amendment does not do what Senator Lambert seems to think it does. The earned surplus is still there and cannot be distributed until the 15 per cent is paid. Whether it is in the hands of A Company or B Company, it is still an earned surplus and subject to taxation.

Dr. EATON: Yes.

Hon. Mr. DAVIES: If a company distributes its surplus to shareholders, an income tax is payable on it.

Dr. EATON: Yes.

Hon. Mr. DAVIES: But if it is paid to the controlling company, it is not subject to tax?

Dr. EATON: That is correct. The surplus still exists in the second corporation. It has moved from one corporation to another and has not been received by individuals, but when distributed to individuals it will be subject to tax. This amendment provides that when control is acquired in future the surplus cannot be moved tax free to the second corporation in future. The controlled corporation may elect to pay 15 per cent tax on that surplus which it has, and then the surplus may be moved over to the other corporation tax free.

Hon. Mr. DAVIES: Can there be a series of subsidiary companies? That is, can company No. 1 pay dividends to company No. 2 free of tax, and company No. 2 pay dividends to company No. 3 free of tax, and so on?

Dr. EATON: Yes, sir, where the control has existed in the past.

Hon. Mr. DAVIES: Then dividends might be paid to a series of companies, five or six or more companies, and in no case would there be liability to tax?

Dr. EATON: That is correct. Had the receiving corporations been taxed, the tax would have been paid four or five times, depending on the number of receiving companies, and when at last the surplus reached the shareholders the tax would have been payable again.

Hon. Mr. DAVIES: So that during the war the payment of income tax at high rates was avoided, and now when the surplus is distributed the rates of tax are lower. In the result the government has lost a lot of money.

Hon. Mr. PATERSON: According to what Dr. Eaton says, this amendment does not seem to be necessary. This affects only companies which have started negotiations after May 10, is that so?

Dr. EATON: The general amendment will apply where control is acquired from May 10 onward.

Hon. Mr. PATERSON: Then why is this amendment necessary?

Hon. Mr. McKEEN: This will cover any cases where transfer of shares has been arranged for and where the shares have been deposited in the hands of a trust company for transfer but have not actually been turned over. And the exemption applies only to negotiations that have been completed by June 30.

Hon. Mr. PATERSON: Dr. Eaton says that companies that started negotiations by May 10th are exempt.

Dr. EATON: So long as the negotiations are completed by June 30.

The CHAIRMAN: Shall section 11 carry?

Some Hon. SENATORS: Carried.

Hon. Mr. DAVIES: Does this mean that section 11, as amended by Senator McKeen, is carried?

Some Hon. SENATORS: Yes.

The CHAIRMAN: Yes, section 11, as amended, is agreed to.

Now we come to section 12. Can you explain this, Dr. Eaton?

Dr. EATON: This section makes good a minor omission or loophole in the law. Ordinarily payments out of a pension fund are fully taxable in the hands of the persons receiving them. A question arose as to what the situation would be when a pension fund was wound up. This provides that where upon the winding up of a pension fund the funds are distributed, they are taxable.

Section 12 was agreed to.

Hon. Mr. HAIG: Mr. Chairman, I move we adjourn.

The committee then adjourned, to resume at the call of the Chair.



# MINUTES OF EVIDENCE

THE SENATE

OTTAWA, Friday, June 2, 1950.

The Standing Committee on Banking and Commerce, to which was referred Bill 177, An Act to amend the Income Tax Act and The Income War Tax Act, met this day at 11 a.m.

The CLERK of the Committee: Honourable Gentlemen, in the absence of the Chairman is it your pleasure to elect an Acting Chairman?

Hon. Mr. ROBERTSON: I move the Hon. Senator Lambert occupy the Chair.

Hon. Mr. LAMBERT: I prefer to sit here because I want to ask questions.

Hon. Mr. ROBERTSON: I move that the Chair be occupied by Senator Paterson.

Hon. Mr. PATERSON in the Chair.

The CHAIRMAN: We have a quorum present. We will turn to page 9, clause 12.

Hon. Mr. HAIG: We passed 12.

The CHAIRMAN: Clause 13. Doctor, please explain?

Dr. A. K. EATON: A brief explanation is provided here: "This amendment affords relief from hardship when two fiscal periods of a taxpayer end in the same taxation year." What happens when, say, a partnership or a sole proprietor winds up in November and he has a fiscal period that ends at the end of March is, in the absence of this provision, that he would be taxable on twelve months of profits for the fiscal year ended March 31, and then he would have to take into income another chunk of profits from the end of that fiscal period up to the point at which he winds up. The mechanism here is that he may take into income twelve months of profits, establish the rate of tax, and apply that effective rate of tax to the profits for the short fiscal period rather than for, say, twenty months of profits bunched up which, applied on a graduated rate, would bring on a rate of tax on a higher bracket in the schedule. This avoids that by taking the normal twelve months' profits for the purpose of establishing the rate of tax, and applying that rate to the remaining profits.

Hon. Mr. HAIG: Thank you.

The CHAIRMAN: Any questions? Carried.

Dr. EATON: Subsection 2 refers to the abatement which was spoken of the other day, where, upon recapture, a large amount is required to be taken into income for one year. This is the mechanism for spreading over five years the recapture.

The CHAIRMAN: Any questions? Carried.

On section 14: dividends.

Dr. EATON: Section 14 is purely a technical amendment, taking care of cross-references.

Hon. Mr. HAIG: Pass.

On section 15: related corporations, etc.

Dr. EATON: Clause 15 revises the definition of what constitutes control for the purposes of enabling corporations to take advantage of the 10 per cent rate



on the first \$10,000 of profit. In the bill last year, mere control was the criterion. This broadens, or eases, if you like, the criterion by saying that a group can still each have a 10 per cent rate on the first \$10,000, even if there is control, so long as there is not 70 per cent ownership.

Hon. Mr. KINLEY: Is that referring to corporation control or to shareholders of each corporation? For instance, one corporation owns 75 per cent of another corporation. The members of one corporation may hold 75 per cent—that is, the directors.

Dr. EATON: It is based on share ownership, either by the corporation or by an individual.

Hon. Mr. HAIG: It affords some relief. Don't look a gift horse in the mouth.

Section agreed to.

On section 16: demands for returns.

Dr. EATON: I might ask Mr. Gavsie to explain this. It is an administrative section.

Mr. C. GAVSIE: This section deals with demands for income tax returns, and the main change here is to put in the words "demand by registered letter". Heretofore it merely said "demand in writing".

Hon. Mr. HAIG: This permits you, then, if I have not made a return, and you think that I should have, to write me a registered letter and I must make a return.

Mr. GAVSIE: That is right.

Hon. Mr. McKEEN: You have to have a receipt for the letter?

Mr. GAVSIE: We have to prove it was delivered.

Hon. Mr. McKEEN: It is not merely a matter of sending a registered letter.

Mr. GAVSIE: This gives the authority to demand a return. This states the mode by which to demand the return, namely sending a letter by registered mail.

Hon. Mr. McKEEN: Is it the sending, or do you have to have proof that it was delivered?

Mr. GAVSIE: There is another section in the Act which deals with the question of proof. You prove demand was made by registered letter by producing the post office receipt.

Hon. Mr. McKEEN: The receipt of delivery or the receipt of sending?

Mr. GAVSIE: The receipt of sending, and that the letter has been delivered.

Hon. Mr. McKEEN: That is the point I want to make sure of.

Mr. GAVSIE: All this section does is, if I can read the old section—

Hon. Mr. HAIG: You do not need to. When I send out a registered letter I do not have to ask for a receipt back, but if I want to prove that I did serve it on a man I have got to ask the postman. You have got to ask for that receipt.

Mr. GAVSIE: That is right.

The CHAIRMAN: But if it is not delivered it is returned to you and you know it has not been delivered?

Hon. Mr. HAIG: Not always.

Hon. Mr. ASELTINE: Sometimes that does not always happen.

Hon. Mr. HAIG: No.

Hon. Mr. ASELTINE: It is not always received by the addressee.

Hon. Mr. CRERAR: Under section 16, if a man figures out his income and decides or is advised by an accountant that he has no taxable income and he does not bother to make a return, would he be penalized?

Mr. GAVSIE: No, he is only obliged to make a return if his income is taxable.



Hon. Mr. EULER: But even though he has no taxable income you demand him to file a return, do you not?

Mr. GAUSIE: Oh, yes, otherwise he is subject to prosecution.

Hon. Mr. EULER: Yes, but do you prosecute?

Hon. Mr. CRERAR: If you did you would be prosecuting him not for not making a return, but for not replying to your letter.

Mr. GAUSIE: Yes, because it is the only way we can have a record.

Hon. Mr. LAMBERT: It is like a national registration, that is all.

The CHAIRMAN: Shall section 16 carry?

Some Hon. SENATORS: Yes.

Section 16 was agreed to.

Dr. EATON: Section 17, gentlemen, relates to penalties. It is an administrative clause. Would you explain this, Mr. Gausie?

Mr. GAUSIE: Clause 43, which is being repealed, provides that where a man omits from his return, dividends, rents, interests, royalties, or other similar amounts, and the Minister subsequently learns this, the Minister may then assess double the amount omitted from the return as a penalty. That section is now being repealed and the penalty provided in clause 19 of the bill is found at the bottom of page 12. We shall come to that later.

Hon. Mr. HAIG: Pass.

Hon. Mr. CRERAR: It would only cover a deliberate omission of a return.

Mr. GAUSIE: Not the section being repealed. The actual failure, deliberate or otherwise, to return dividends, rents, royalties and other similar income could bring on an assessment of a tax based on double the amount of the dividend or the other item omitted. However, we are repealing that.

Hon. Mr. CRERAR: And what takes its place?

The CHAIRMAN: We are coming to that, Senator Crerar. We have not got to it yet.

Some Hon. SENATORS: Carried.

Section 17 was agreed to.

The CHAIRMAN: Next is section 18 on page 12. Will you discuss that, Dr. Eaton?

Dr. EATON: Section 18 is a provision which gives relief to persons residing in Canada who have income in a currency which is blocked. That is, they have to take, under the law, that revenue into their income for tax purposes, even though they cannot use it. This is to give relief in such a situation.

Hon. Mr. HAIG: Until they do get it?

Dr. EATON: Yes.

Hon. Mr. HAIG: Thank you.

Hon. Mr. KINLEY: Are there any instances where countries forbid the export of income?

Dr. EATON: I think there are, senator. You run into quite a number of cases where a taxpayer is unable to take into his possession an income which he has coming to him from a certain country, because that country does not allow such income to flow to him. It does not permit that income to leave its possession.

Hon. Mr. EULER: Would that not be the case with Jamaica, for example?

Dr. EATON: I could not say as to that country, but we have had cases from the United Kingdom.



Hon. Mr. KINLEY: At the same time you could spend the money in the other country.

Dr. EATON: Yes.

Hon. Mr. CRERAR: If I understand this section correctly from a hasty reading, it is this: you have a resident in Canada who has an income, say, in Great Britain but he cannot transfer that income to Canada.

Dr. EATON: That is correct.

Hon. Mr. CRERAR: But do you reserve the right to consider that as part of his taxable income in Canada?

Dr. EATON: The law says it is taxable income in Canada.

Hon. Mr. CRERAR: Well, do you make any concession if he wants to make an appeal?

Dr. EATON: Yes. That is the purpose of this section. It is to give relief.

Hon. Mr. CRERAR: It is in the judgment of the Minister of National Revenue?

Dr. EATON: That is correct.

Hon. Mr. CRERAR: Supposing in your judgment you tax him on it, although the income is still in Britain, and subsequently conditions arise which mean that he never gets the money transferred to Canada. Do you compensate him for the tax he has paid?

Dr. EATON: No, not unless the Minister has decided there is hardship.

Hon. Mr. ASELTINE: Who establishes what is a hardship?

The CHAIRMAN: That is in the opinion of the Minister.

Hon. Mr. CRERAR: Would that be subject to the Income Tax Appeal Board?

Dr. EATON: Mr. Gavsie, will you answer that question?

Mr. GAVSIE: The answer is, "no", Senator Crerar, I am not quite certain whether you follow the section. The tax is levied and he is assessed in the year in which the income was his, but this section provides for postponement of collection, and if the collection is postponed then no interest runs on during the period of postponement.

Hon. Mr. CRERAR: And if the postponement is continued and he never gets the revenue?

Mr. GAVSIE: Then he will never pay it.

Hon. Mr. EULER: Could you collect from him even though he did not get his dividend?

Mr. GAVSIE: Unless this section is passed the Minister will have no alternative but to collect or attempt to collect.

Hon. Mr. EULER: But this will still be an alternative. For instance, I may have an income from Jamaica or the United Kingdom and I declare a dividend, I cannot get that dividend because of a restriction in Jamaica or in the United Kingdom, but I will be assessed for that. Can I be compelled to pay for it?

Mr. GAVSIE: Yes.

Hon. Mr. EULER: Is there not still an option at the discretion of the Minister.

Mr. GAVSIE: No.

Hon. Mr. CRERAR: What would happen if I should get an income this year and I am assessed on it, but the income is not transferred to Canada for three years, say?

Mr. GAVSIE: You pay the tax for the year in which you receive it.

Hon. Mr. EULER: I am not clear about that. This amendment permits the Minister to postpone the payment of tax.



Mr. GAUSIE: Yes, it authorizes the Minister to grant a period of postponement.

Hon. Mr. EULER: Supposing he does not do that.

Hon. Mr. HAIG: Then you have to pay the tax.

Hon. Mr. McKEEN: You will be no worse off than you are now.

Hon. Mr. CRERAR: The important point is the one raised by Senator Euler.

Mr. GAUSIE: Unless you can point to some ruling that grants relief the assessment for the year would not be disturbed.

Hon. Mr. CRERAR: Ordinarily if a taxpayer feels aggrieved by the decision of the Minister he may appeal to the Income Tax Board. Why should the right of appeal not be provided here?

Mr. GAUSIE: You would first have to lay down the rules of law under which an appeal would lie. This amendment gives the Minister authority to postpone the payment without interest, and presumably the Minister will use the authority in cases where he thinks it should be used.

Hon. Mr. LAMBERT: In other words, the Minister is given a discretionary power in cases of this kind?

Mr. GAUSIE: Yes.

Hon. Mr. LAMBERT: But his decision is not subject to appeal?

Mr. GAUSIE: No.

Hon. Mr. McKEEN: If the discretionary power was not given to the Minister a man might transfer all his holdings to the United Kingdom and invest them there, and he would not be subject to tax in Canada at all. I think the Minister should have the discretionary power to require payment of tax in such cases.

Section 18 was agreed to.

The CHAIRMAN: Now we come to section 19.

Mr. GAUSIE: The Act provides certain penalties. For instance, there is a penalty for late filing, which is 5 per cent of the tax that was outstanding at the time the return should have been filed. But we have no civil penalty that can be applied to a person who has wilfully, in any manner, evaded or attempted to evade payment of the tax payable by him under this Part. For that type of offence we can only bring a criminal prosecution, under section 120 of the Act. Section 120 reads:

Every person who has...

(d) wilfully, in any manner, evaded or attempted to evade, compliance with this Act or payment of taxes imposed by this Act, or

(e) conspired with any person to commit an offence described by paragraphs (a) to (d),

is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to

(i) a fine of not less than \$25 and not exceeding \$10,000 plus, in an appropriate case, an amount not exceeding double the amount of the tax that should have been shown to be payable or that was sought to be evaded, or

(ii) both the fine described in paragraph (i) and imprisonment for a term not exceeding 2 years.

If our investigation shows that a person has wilfully evaded tax, we have either one of two alternatives: either to let him off or to prosecute him. Now, I do not think it is feasible to prosecute in every case. In some cases, although you might have sufficient evidence to satisfy the civil court, you may not be able to prove the charge in a criminal court beyond a reasonable doubt. We



feel that in these cases there should be provision for a penalty of a percentage of the tax sought to be evaded, and that is why this section is suggested. This type of penalty is not automatic; it will be imposed only after the case has been personally reviewed by the Deputy Minister and the Minister. The taxpayer, if dissatisfied with the Minister's decision, can appeal to the Income Tax Appeal Board. I might point out that in the United States there is for such cases a mandatory civil penalty of 50 per cent. Here we are suggesting a penalty between 25 and 50 per cent, within the discretion of the Minister.

Hon. Mr. HAIG: In actual practice you would notify me, would you not, if you thought I had omitted to include, say, an item of interest, or dividend on mining stock?

Mr. GAUSIE: This penalty would never be imposed in a case of that type. What we are talking about here is wilful evasion. You will notice that these two words "wilfully evaded" are the words used also in the criminal section which I read, section 120. They have a definite meaning, and this proposed amendment would not apply to a case where a person overlooked to include a dividend.

Hon. Mr. EULER: In any event, the Minister would still have authority to forego imposition of the penalty?

Mr. GAUSIE: He would have the authority not to impose it.

Hon. Mr. McKEEN: Certain representations have been made to me about this section. It is suggested that the word "fraudulently" should be substituted for "wilfully", and that if an evasion is simply wilful and not fraudulent there should not be this penalty.

Mr. GAUSIE: That is wilful evasion. There would have to be malice of some kind; and, Senator, the criminal section has those words in it. I think Mr. MacNeill will substantiate that.

Hon. Mr. McKEEN: Under the criminal section you have to go before the court and prove the charge, but here the Minister decides the point.

Mr. GAUSIE: But it is subject to appeal to the Income Tax Appeal Board.

Hon. Mr. McKEEN: On this point.

Mr. GAUSIE: Yes. We assess it, and the taxpayer may say that he did not wilfully attempt an evasion, that the matter is open to argument.

Hon. Mr. CRERAR: In that case the appeal board would decide whether it was wilful or not?

Mr. GAUSIE: That is right.

Mr. CRERAR: That is all right.

The CHAIRMAN: Is that point clear?

Some Hon. SENATORS: Carried,

Section 19 was agreed to.

On section 20—Appeal to Exchequer Court of Canada.

The CHAIRMAN: Will you explain section 20?

Dr. EATON: It has to do with appeals.

Section 20 is intended to give power to the taxpayer to appeal directly to the Exchequer Court of Canada instead of to the Income Tax Appeal Board. In an important case, where considerable money is involved, it is well recognized that neither the crown nor the taxpayer is going to be content with an adverse decision by the board, and to save time and expense they go directly to the Exchequer Court. This option is given to the taxpayer, but is not given to the crown.

Some Hon. SENATORS: Carried.

Section 20 was agreed to.



On section 21—Charitable Organizations.

Dr. EATON: I have here an amendment which the Minister has requested.

Hon. Mr. HAIG: Please tell us first what the amendment intends to do, and we shall be able to follow it better.

Dr. EATON: Very well, sir. Following the passage of the bill in the House of Commons we have had representations of two sorts from charitable foundations. The first was that a charitable trust was in fact disbursing funds and not itself carrying on charitable activities. The bill as passed by the House of Commons deals only with charitable corporations. An amendment is introduced here to take care of charitable trusts in the same manner and under the same conditions as charitable corporations.

The second amendment arose through the fact that charitable corporations, so called, or foundations, already provided for in paragraph (eb) not only made gifts of their funds, but themselves also carried on charitable activities. The amendment as passed by the House of Commons provided that they had to make gifts of ninety per cent of their income. An amendment is here proposed to the effect that either they spend the money themselves on actual charitable activities, or give away up to ninety per cent of their income. Under those circumstances they are home free.

The amendments, Mr. Chairman, are as follows:

That subclause (1) of clause 21 be amended by deleting the words (within the meaning of that expression as used in subsection (1A) of section 27) in paragraph (eb),

by deleting sub-paragraph (iii) of paragraph (eb) and substituting the following therefor:

(iii) expended amounts each of which is

- (a) an expenditure in respect of charitable activities carried on by the corporation itself
- (b) a gift to an organization in Canada the income of which for the period is exempt from tax under this Part by virtue of paragraph (ea), or
- (c) a gift to a corporation resident in Canada the income of which for the period is except from tax under this Part by virtue of this paragraph, and

the aggregate of which is not less than 90 per cent of the corporation's income for the period.

by adding the following paragraph within the quotation marks,

(ec) a trust all the property of which is held absolutely in trust exclusively for charitable purposes, that has not, since June 1, 1950, acquired control of any corporation and that, during the period,

- (i) did not carry on any business,
- (ii) had no debts incurred since June 1, 1950, other than obligations arising in respect of salaries, rents and other current operating expenses, and
- (iii) made gifts, the aggregates of which is not less than 90 per cent of its income for the period, to organizations in Canada or corporations resident in Canada the incomes of which for the period are exempt from tax under this Part by virtue of paragraph (ea) or (eb).

and that subclause 3 of Clause 21 be deleted and the following substituted therefor:

(3) For the purpose of paragraph (eb) or (ec) of subsection one



- (a) a corporation is controlled by another corporation or by a trust if more than 50 per cent of its issued share capital (having full voting rights under all circumstances) belong to
- (i) the other corporation or the trust, or
  - (ii) the other corporation or the trust and persons with whom the other corporation or the trust does not deal at arms length, but a corporation or trust shall be deemed not to have acquired control of a corporation if it has not purchased (or otherwise acquired for a consideration) any of the shares in the capital stock of that corporation,
- (b) there shall be included in computing a corporation's or trust's income all gifts received by the corporation or trust other than gifts received subject to a trust or direction that the property given, or property substituted therefor, is to be held by the corporation or trust for the purpose of gaining or producing income therefrom, and
- (c) subsection (4) of section 58 is not applicable in determining a trust's income.

Hon. Mr. KINLEY: Mr. Chairman, the explanatory note says that this amendment is consequential on clause 27, which deals with employees profit sharing plans.

Mr. GAVSIE: Turn to page 13 of the bill.

Hon. Mr. KINLEY: But this section is consequential on that other clause.

Mr. GAVSIE: But what you are reading refers to subsection 2.

Dr. EATON: Sorry, I was dealing with subsection 1. There are three subsections, and all I have said is related to subsection 1, the part in respect of which the amendments are here proposed.

Hon. Mr. HAIG: Pass.

The CHAIRMAN: Carried. Now we are at subsection 2.

Dr. EATON: This is a consequential amendment freeing the trustee of a profit sharing plan from tax. You will remember that the other day we referred to the clause which said that the employee in a profit sharing plan is to be taxable on all amounts allocated to him by the trustee, even though they are not payable to him in the year. This provision frees the trustee from tax on that income, because the employee is being taxed on it; but for this provision there would be double taxation.

Hon. Mr. HAIG: Pass.

The CHAIRMAN: If that is not clear the witness could give an instance to make it clear. Does everyone understand it?

Some Hon. SENATORS: Carried.

Mr. MACNEILL: The amended clause is carried too.

The CHAIRMAN: The amended clause is carried.

Hon. Mr. HAIG: The amendment takes care of that.

Dr. EATON: Incidentally, sir, subsection 3 deals also with the subject matter of subsection 1. It was only subsection 2 that was extraneous to that.

The CHAIRMAN: All in favour of the section as amended?

Some Hon. SENATORS: Carried.

Section 21 was agreed to.

On Section 22—Income of Beneficiary.

Hon. Mr. HAIG: What does it do?

Dr. EATON: The substance of this is to allow the beneficiaries of a trust to secure an allowance in respect of depletion where a trustee holds mining shares.



Hon. Mr. HAIG: That is in their income tax return?

Dr. EATON: That is right, sir. That, I believe, was precluded by the existing law as introduced at the commencement of 1949. I believe that is the main point of interest in this section.

Some Hon. SENATORS: Carried.

Section 22 was agreed to.

On Section 23—Dividend from Personal Corporation.

Dr. EATON: Section 23, sir, is purely a technical amendment. Subclause 1 is merely a correction of cross reference, and subclause 2 is a technical amendment arising out of the new provisions in respect of dividends deemed to have been declared under section 73. It is purely to establish a technical sequence to avoid confusion.

Some Hon. SENATORS: Carried.

Section 23 was agreed to.

On Section 24—Non-application of par. (a), ss. (2), sec. 73.

Dr. EATON: This, sir, is an amendment taking care of a certain situation with regard to cooperatives. The general law is that upon redemption of common stock the shareholder is deemed to receive a dividend equal to the undistributed income on hand of that corporation. In the case of co-operatives it is the frequent practice that a farmer, for example, who is a member or shareholder of the co-operative wishes to retire, and the co-operatives like to keep their membership co-extensive with their patrons. When a farmer retires they frequently purchase his share from him; they redeem that share. This amendment relieves that shareholder from being deemed to have received a dividend upon redemption of his share.

Hon. Mr. McKEEN: Suppose that only a part is redeemed? Would it then be deemed to be a dividend?

Dr. EATON: No. This would free, in the case of companies incorporated under the co-operative law, any shareholder.

Hon. Mr. McKEEN: But what about the case of a man who does not wish to withdraw from the company, but just sells a part of his share?

Dr. EATON: It would be applicable to every shareholder.

Hon. Mr. McKEEN: But what is it intended to do? It was provided that when a shareholder withdrew from the company, his share would be purchased, his money given back to him, and it would not be deemed to be a dividend; but, if he stayed in the company and sold only part of his share, I do not see why the same provision should not apply.

Dr. EATON: I think you are correct. The redemption of any number of shares by a corporation incorporated under the co-operative legislation, would come under the section.

Hon. Mr. McKEEN: If it applies to co-operatives why should it not apply also to incorporated companies? Does not the same provision apply there?

Hon. Mr. KINLEY: It does not apply individually to co-operative companies. There is a difference here.

Hon. Mr. HAIG: It gives co-operatives a power that ordinary companies do not have.

Dr. EATON: That is correct.

Hon. Mr. HAIG: I do not like the idea, but it is being done.

Hon. Mr. KINLEY: An ordinary company has to take the reserves and put them into capital in order to do that; but they can do it individually in a co-operative. According to this, each individual shareholder in a co-operative has that privilege.



Dr. EATON: The individual has freedom from tax if the co-operative itself redeems common shares.

Hon. Mr. McKEEN: I do not think it is fair. If a man is withdrawing from a company and getting his money back, that is different; but if he is not withdrawing from the company, and simply wants to get some of this surplus they have there, and they redeem half or a quarter of their shares, I do not know why that provision should not be made for a private company as well as a co-operative.

Dr. EATON: In cases I am familiar with—and I am familiar with a good many—the ordinary set-up is, one member, one share.

Hon. Mr. McKEEN: There are others.

Dr. EATON: There are others: I admit that.

Hon. Mr. McKEEN: If this amendment gives the right to pay a man back for all his shares, I can go along with it; but if he is just going to take a dividend, the purpose of the Act is being defeated.

Hon. Mr. LAMBERT: What definition of "co-operative" do you go on?

Dr. EATON: Co-operatives that are incorporated under provincial legislation.

Hon. Mr. KINLEY: What does that "one man one share" refer to? A man may have a lot of shares, but only one vote.

Dr. EATON: I can only speak from experience of the co-operatives in the Annapolis Valley. For instance, the old system was one share one vote, and one share per man.

Hon. Mr. KINLEY: I know of corporations where you can have a lot of shares but only one vote.

Hon. Mr. EULER: Is this a discrimination in favour of co-operative shareholders as against shareholders in any other type of corporation?

Dr. EATON: I think so. It is a distinction.

Hon. Mr. HAIG: It is intended to do that.

Hon. Mr. LAMBERT: If, for instance, the Wheat Pool in the West, which is a co-operative organization, declares a distribution of—whatever you call it—reserve from its earned surplus, that is not taxable.

Hon. Mr. HAIG: Oh, yes, it is.

Dr. EATON: Well, depending on the method. This has to do with the artificial deeming of dividends to have been declared if the corporation redeems common shares.

Hon. Mr. LAMBERT: You are speaking about a joint stock company, as distinguished—

Dr. EATON: Under the old section 9, which is now, I believe, section 73, the general law is that any corporation which redeems common shares and has undistributed income on hand at the time, the shareholders are deemed to have received a dividend to the extent of that undistributed income on hand.

The CHAIRMAN: Might I ask the witness, did someone ask for this amendment; and is it liable to be abused?

Dr. EATON: I could answer the first part. This proposed amendment is the result of representations received by the government, and the amendment here proposed is to take care of that case.

Hon. Mr. EULER: From whom did these representations come?

Dr. EATON: I believe, sir, from the Co-operative Union of Canada.

Hon. Mr. McKEEN: Did they ask for this right when the shareholders withdraw, or did they ask for this in any case?



The CHAIRMAN: We can see here, witness, where the co-operative might build up a great big surplus, and each shareholder withdraw in turn and get his dividend without tax, and go back in the company again. Have you got a provision against abuse?

Dr. EATON: Well, sir, if it is just the redemption of stock, the surplus is still there in the company; the company has not been wound up; and although you can say that each member has received back a part of the capital which he put in, the surplus is still there in the company to be taxed whenever it is received by the member.

The CHAIRMAN: But does not this exempt him from tax when he takes out his asset?

Dr. EATON: The individual is paid back what he paid in upon receipt of that share.

The CHAIRMAN: But not a surplus?

Dr. EATON: Not a surplus.

Hon. Mr. HAIG: That is all right.

Hon. Mr. MCKEEN: He only can get back what he put in?

Dr. EATON: Yes.

Hon. Mr. HAIG: Oh, that is all right. You can get that in any company.

Hon. Mr. CRERAR: Why the distinction between provincial incorporation and Dominion incorporation?

Dr. EATON: Perhaps you will recall that we never had, and we have not in this present law, a definition of a co-operative; and there is no Dominion co-operative law. So to take care of the sort of case that was represented to us it is stated in terms of companies incorporated under provincial law.

Hon. Mr. CRERAR: The United Grain Growers, for instance, are incorporated by Dominion incorporation.

Dr. EATON: That is correct, sir.

Hon. Mr. CRERAR: The benefits of this section would not be available to their shareholders?

Dr. EATON: That is correct sir.

Hon. Mr. HAIG: His answer is wrong.

Hon. Mr. CRERAR: Just a moment. But a provincial organization carrying on precisely the same sort of operations as the United Grain Growers would have available to it the benefits of this section?

Dr. EATON: I believe that is right.

Hon. Mr. CRERAR: Why the discrimination?

Hon. Mr. HAIG: Wait a minute before you answer that. Please let me interrupt, because the answer is incorrect. Any company, co-operative or otherwise, can get its capital back and pay no income tax on it as long as the shareholders just get back the money they put in, but they cannot get back any of the surplus. The same applies here.

Dr. EATON: Wait a minute—

Hon. Mr. HAIG: That is what you said.

Dr. EATON: No. I was referring to this section which abated the general law for co-operatives. Perhaps I should say, incorporated under provincial co-operative legislation. That benefit is open to them. But it is not a general provision.

Hon. Mr. HAIG: But if I put money in a company—any company—there is no tax when I get my capital back and I have no further interest in it?

Dr. EATON: Yes, there is, if there is a surplus on hand.



Hon. Mr. HAIG: If there is none?

Dr. EATON: If there is none there is no tax.

Hon. Mr. EULER: But if there is?

Dr. EATON: If there is an undistributed income in the hands of the corporation, upon redemption of common shares, you are deemed to have received a dividend equal to your proportionate part of that undistributed income on hand.

Hon. Mr. HAIG: If I do not get any of it?

Dr. EATON: You have received money from the redemption of that share, and that is deemed to be a dividend.

Hon. Mr. HAIG: I put \$100 in a company and get one share. Ten years afterwards there is a surplus of \$50,000 in the company, and the company have the power to redeem my shares at par, and they pay me \$100. You say that is taxable?

Dr. EATON: You are deemed to have received undistributed income on that.

Mr. GAUSIE: That is the par share.

Hon. Mr. HAIG: That is not taxable?

Dr. EATON: Shares which would not participate in that upon winding up.

Hon. Mr. HAIG: This does not.

Dr. EATON: Oh, well, that is different.

The CHAIRMAN: Your understanding is correct, then.

Hon. Mr. HAIG: Sure.

Hon. Mr. LAMBERT: May I ask Senator Crerar if the United Grain Growers today is defined as a "co-operative" company?

Hon. Mr. CRERAR: Yes. The incident I have cited is the United Grain Growers—

Hon. Mr. LAMBERT: I know, but is it a co-operative company or not? That is all I want to know.

Hon. Mr. CRERAR: Well, leave that aside for a moment.

Hon. Mr. LAMBERT: You do not answer my question.

Hon. Mr. CRERAR: Here is the question: The United Grain Growers is incorporated in a federal charter and it does not have the benefit of this section, but a provincially incorporated company, doing precisely the same work as the United Grain Growers Company, may benefit from this section. Why the discrimination?

Hon. Mr. LAMBERT: You have said that several times now. I am asking you if the United Grain Growers is a co-operative company?

Hon. Mr. CRERAR: As a matter of fact, I will ask Dr. Eaton for the answer.

Some Hon. SENATORS: Oh, oh.

Dr. EATON: I cannot answer the question of whether the United Grain Growers is a co-operative company or not because I have no definition of what is a co-operative company.

The CHAIRMAN: In order to clear up this point may I ask Dr. Eaton this question: The Saskatchewan Co-operative Pool, say, charges their members \$25 to come in. A man is in it for a while and goes out and leaves an asset of \$25 plus \$10. If he has paid the \$25 and does not take the \$10 out, he is exempt from taxation on the \$10, but if he takes that \$10 out then he is charged income tax on it even under provision. He must only take back what he pays in.

Mr. GAUSIE: Oh, yes.



The CHAIRMAN: If he takes what he puts in plus a surplus, then he is taxed on it. This does not relieve him from paying on that?

Mr. GAVSIE: That is right.

The CHAIRMAN: That is clear, is it not?

Some Hon. SENATORS: Carried.

Hon. Mr. McKEEN: Before the section carries, there is one question which I think should be clarified. There is some difference of opinion on the point of par value shares. If any opinion went out from this committee and outsiders did not hear this discussion, they might get the idea that any share could be redeemed instead of those shares that are not participating in the surplus.

Hon. Mr. HAIG: Let me explain that. If a company is incorporated with the power to redeem common stock at par, then under this provision I would say they would pay no tax, but if there is no provision in the Act of incorporation and they redeem common shares, then it would be presumed they had got their shares out of the surplus.

Some Hon. SENATORS: That is right.

Hon. Mr. HAIG: That is the law.

Hon. Mr. McKEEN: That is clear.

The CHAIRMAN: Shall section 24 carry?

Some Hon. SENATORS: Carried.

Section 24 was agreed to.

The CHAIRMAN: Next is section 25 on page 16.

Mr. GAVSIE: The effect of this amendment is to omit the words "in Canada". The section is to be rewritten and the words "in Canada" are to be deleted. This section, of course, relates to employer's payment to pension plan. It has to do with a special payment by an employer in respect to past service benefits which he purchased for employees, and it is not limited to payments made in Canada.

Some Hon. SENATORS: Carried.

Section 25 was agreed to.

The CHAIRMAN: Next is section 26 on page 17.

Dr. EATON: Gentleman, this clause is similar in principle to the one discussed the other day relating to the amount paid into a pension fund in excess of \$900. You will remember we discussed that the other day. This provides for an abatement on the taxation of a pension where an amount is paid in for arrears in excess of \$300, which was the allowable amount in the past, is paid in. It avoids double taxation on the pension when it comes out.

The CHAIRMAN: Next is section 25 on page 16.

Hon. Mr. HAIG: It is a relieving measure?

Dr. EATON: Yes.

The CHAIRMAN: Shall this section carry?

Some Hon. SENATORS: Carried.

Section 26 was agreed to.

The CHAIRMAN: Next is section 27 on page 17.

Dr. EATON: Section 27 defines the profit sharing plan which I have discussed at various times here. The principle is that there shall be no postponement of tax. The employer gets a deduction when he makes a contribution into the profit sharing plan. The employee may also be making a contribution. There is no postponement there. The employee is also taxable on any amount



allocated to him. The trustee is exempt and the proceeds, when they come out, are completely free from tax. This is the definition of this kind of plan, and is the provision for the kind of taxing which I just described.

Hon. Mr. HAIG: Carried.

The CHAIRMAN: Does section 27, including 71A carry?

Some Hon. SENATORS: Carried.

Section 27 was agreed to.

The CHAIRMAN: Next is section 27 on page 18.

Dr. EATON: Section 28 repeals a provision in our law which imposes a corporation tax on the trustee in the case of what might be called a royalty setup in the industry. During the war when there was a high corporation tax rate, this provision was introduced. It is now repealed by this amendment.

Some Hon. SENATORS: Carried.

The CHAIRMAN: Shall this section carry?

Section 28 was agreed to.

The CHAIRMAN: Next is section 73 on the same page 18.

Dr. EATON: Gentlemen, section 73 is a re-enactment of the main substance of what was in section 9 of the old Act. You will remember that earlier in this bill section 9 was to be repealed. This is a re-statement of the main substance of that section 9, with the notable omission of subsection 6.

Hon. Mr. HAIG: Is this where you pay the 15 per cent on the surplus which is deemed excessive?

Dr. EATON: No, this provision is one which provides that upon capitalization and redemption of common stock and upon the conversion of common preferred stock, a dividend is deemed to have been declared. Now, the new piece of law here is related to this 15 per cent tax. That is, if in winding up, a dividend is deemed to have been declared to the amount of the undistributed income on hand, the shareholder is not taxable on the tax paid on undistributed income; so this introduces this new factor of tax paid income in respect of which the shareholder is not taxable, even if the dividend is deemed to have been declared.

Hon. Mr. McKEEN: When you say "tax paid" you mean the earned surplus which has been transferred to capital account by the 15 per cent tax?

Dr. EATON: Yes. It may or not be formally transferred to the capital account.

Hon. Mr. HAIG: But it is presumed to have been done?

Dr. EATON: Well, we just say that the tax has been paid upon it and it is no longer taxable when received by the individual.

Hon. Mr. McKEEN: Do you just put it in as a tax-paid reserve?

Dr. EATON: It can be left as undistributed income on hand, tax paid, which upon deeming to be a dividend is not taxable in the hands of the shareholder.

Hon. Mr. McKEEN: If a company has \$200,000 earned surplus and pays the \$30,000 tax on it, is that tax then deducted from the \$200,000 or does the whole \$200,000 go into reserve?

Dr. EATON: It is deducted.

Hon. Mr. McKEEN: So \$170,000 goes into reserve?

Dr. EATON: Yes.

Hon. Mr. McKEEN: If there is no other earned surplus, can that be paid out to shareholders by tax-free dividends?

Dr. EATON: No, sir.



Hon. Mr. McKEEN: Then, how does that go to the shareholders free of tax?

Dr. EATON: By redemption of shares or stock dividends.

Hon. Mr. McKEEN: Then some shares must be issued at the same time or stock dividends declared?

Dr. EATON: Or outstanding shares redeemed.

Hon. Mr. McKEEN: But it cannot be paid out in cash by the dividend route?

Dr. EATON: No.

Hon. Mr. EULER: But you may pay a stock dividend and then redeem that stock?

Dr. EATON: Yes.

Mr. GAVSIE: It is like a bank account. Having paid your tax, you have on deposit an amount that you may capitalize now or later.

Hon. Mr. HAIG: Or you may issue preferred stock?

Mr. GAVSIE: Yes. But if you pay a stock dividend or issue preferred stock, the shareholder is deemed to have received a dividend equivalent to the stock he got.

Hon. Mr. McKEEN: If there was no earned surplus at the time this paid, the shareholder would pay no tax at all?

Mr. GAVSIE: That is right.

Hon. Mr. McKEEN: As to the election, I have been asked this question. If there is a \$200,000 reserve, does the whole \$200,000 have to be put in at one time or can you put in a part of it at one time?

Mr. GAVSIE: If the \$200,000 represents the accumulation up to the end of 1949, you have to deal with it at one time. There is no time limit within which you must deal with it, but if you elect to deal with it in any one year you must deal with the whole amount in the one year.

Hon. Mr. McKEEN: Suppose a company has a considerable earned surplus but has not available the funds to pay the tax on it in one year, is there any provision whereby that can be paid over a period? Suppose there was an accumulation of half a million dollars, could the tax of \$75,000 be paid over a period?

Mr. GAVSIE: The company would have to wait till it was in a position to pay the \$75,000. There is no penalty on the company for waiting.

Hon. Mr. EULER: May I refer to the case mentioned by Senator McKeen? A company has a surplus of \$200,000, on which it pays a tax of \$30,000, leaving a balance of \$170,000. That cannot be paid out as cash dividends, without making the shareholders liable to tax, but stock can be issued to the shareholders to the extent of the \$170,000?

Mr. GAVSIE: Yes.

Hon. Mr. EULER: Then the company can redeem that stock, pay cash for it, and that is not taxable?

Mr. GAVSIE: Correct.

Hon. Mr. EULER: Is that not just an evasion?

Mr. GAVSIE: It has to be capitalized. It will be noticed that there are two parts to this. Incidentally, we are dealing with section 32 and it becomes a little complicated when you stick to section 28. The tax is dealt with in section 32 of the Act.

Hon. Mr. McKEEN: The redemption mentioned by Senator Euler can only be done when there is no earned surplus.



Hon. Mr. KINLEY: The explanatory note says:

Subsection (6) of section 9 is not re-enacted. This is the provision that gave the Minister of National Revenue authority to notify the corporation that its undistributed income on hand is excessive.

The CHAIRMAN: Is this carried?

Some Hon. SENATORS: Carried.

The CHAIRMAN: That takes in the whole of page 19, does it?

Some Hon. SENATORS: Yes.

The CHAIRMAN: Then we go to page 20, new section 73A.

Dr. EATON: Section 73A, sir, consists of definitions.

Some Hon. SENATORS: Carried.

The CHAIRMAN: Then we go to page 22, new section 73B.

Dr. EATON: This is a codification of the interpretation under the Income War Tax Act with respect to prospectors and persons who back prospectors. Under the Income War Tax Act they had been regarded as exempt, but in the Income Tax Act there was no provision for their exemption. This section 73B establishes a code of exemption for prospectors and those who back them, in respect of the proceeds they receive from the disposition of mining claims.

Some Hon. SENATORS: Carried.

The CHAIRMAN: That takes us to page 23, section 29 of the bill.

Mr. GAVSIE: This will permit one member of the Tax Appeal Board to hear a case by himself.

Section 29 was agreed to.

The CHAIRMAN: Section 30.

Mr. GAVSIE: Sections 30 and 31 are consequently upon the changes made with respect to appeals to the Exchequer Court.

Sections 30 and 31 were agreed to.

The CHAIRMAN: Section 32, page 24.

Dr. EATON: This is the main provision for the 15 per cent tax, which has already been so thoroughly discussed, Mr. Chairman.

Hon. Mr. HAIG: Mr. Chairman, I want to congratulate the government upon this section. A serious problem was created in this country because a company which had a surplus and distributed it had to pay 38 per cent on it before it could get into the hands of the shareholders. This cuts the tax down to 15 per cent, which I personally think is reasonable.

The CHAIRMAN: I agree with what you say. Your Chairman has been afraid to die.

Hon. Mr. McKEEN: This is a further step towards single taxation.

Hon. Mr. HAIG: I hope, Mr. Chairman, that you do not die before we get this bill through. You are doing good work.

The CHAIRMAN: I don't mind so much now, because I am assured that this will save me.

Hon. Mr. McKEEN: The bill has not passed yet, though, Mr. Chairman.

The CHAIRMAN: Shall section 32 carry?

Some Hon. SENATORS: Carried.

The CHAIRMAN: The next is section 33, on page 26 of the bill.

Dr. EATON: This is a technical amendment with respect to the taxation of non-residents. We have a law which imposes a 15 per cent tax on interest



payable to a non-resident in Canadian currency solely. We had to make the provision there that in the case of parent-subsidiary relationship the tax applied even though the interest was payable in a foreign currency, because it was so easy for the parent and subsidiary to re-write their agreement and avoid the tax. This merely broadens it out to include corporations not dealing at arms length; that is, not merely parent-subsidiaries but corporations not dealing at arms length. There are instances where corporations make payments to another company, both of which are owned by another corporation. Here collusion would be equally easy.

Hon. Mr. McKEEN: Is there any provision whereby a company not dealing at arms length can consult with the department about deals to be made between two companies, as to whether or not they would be considered proper deals?

Mr. GAVSIE: There is no provision in the act, but it is being done all the time.

The CHAIRMAN: Shall section 33 carry?

Some Hon. SENATORS: Carried.

Section 33 was agreed to.

On Section 34—Tax Non Payable by Non-Resident Persons.

Dr. EATON: This provision, sir, abates the 15 per cent tax on non-resident persons in certain circumstances. For example, it may be that a Canadian company owns the public utilities in another country, and the earnings of the public utilities come into Canada and may go abroad. If they go abroad to the other country in which the public utilities are located, the shareholders of the Canadian company are relieved of the 15 per cent tax. Their argument was that the profits were earned in their country, and merely came into Canada, to the head office, and went back to the other country.

Hon. Mr. BURCHILL: They would be residents of the country where the public utility was being operated.

Dr. EATON: That is correct. It applies to those, and no one else.

Some Hon. SENATORS: Carried.

On Section 35—Deemed to be dividend.

The CHAIRMAN: Will you explain that section?

Dr. EATON: The amendment is in part to correct a technical error, and in part consequential upon the repeal of section 9, which I spoke of a moment ago, and which is re-enacted in section 73. I think that substantially covers it. I may say that in drafting this rather complicated law we ran into a number of circumstances where there had to be purely technical corrections and cross-references. This is that type of clause.

Some Hon. SENATORS: Carried.

Section 35 was agreed to.

On Section 36—Gifts.

Dr. EATON: I have an amendment, sir, that the Minister of Finance asked me to request you to deal with.

The CHAIRMAN: Will you explain it?

Dr. EATON: A few minutes ago I referred to amendments which were necessary as to charitable organizations and charitable trusts. This amendment merely adds to the gift tax section, which exempts from gift tax certain contributions; and the amendment has the effect of exempting from the gift tax gifts to the charitable trusts as well as other charitable foundations and charitable organizations. This merely adds the provision consequential upon that previous amendment to clause 21.



The CHAIRMAN: The amendment to section 36 reads:

That paragraph (c) in Clause 36 be amended by deleting the words "a corporation resident in Canada exempt from tax under Part I by paragraphs (ea) or (eb)" and substituting the words "a corporation or trust resident in Canada exempt from tax under Part I by paragraphs (ea), (eb) or (ec).

Dr. EATON: The new paragraph is (ec).  
Section 36, as amended, was agreed to.

On Section 37—Interest.

Mr. GAUSIE: This section reduces the interest rate on gifts from 7 per cent to 6 per cent.

Hon. Mr. HAIG: Carried unanimously.  
Section 37 was agreed to.

On Section 38—Officers, clerks.

Mr. GAUSIE: Section 38 repeals the provision which says that the Governor in Council may make appointments in the Income Tax division. It is now brought under the Civil Service Act.

Section 38 was agreed to.

On Section 39—Repeal.

Mr. GAUSIE: This is an amendment consequential upon the change of bringing the tax division under the Civil Service Act.

Section 39 was agreed to.

Section 40—Information return.

Mr. GAUSIE: Section 40 adds a section giving the minister authority to demand information returns. The section we dealt with previously was as to income tax returns. One of the information returns is a T-4 return which is required to be filed by an employer with respect to reduction of wages from his employees. This section gives the minister authority to make demands for the returns.

Hon. Mr. HAIG: Does it not go further than that? If I collect rents, you can ask me for a return.

Mr. GAUSIE: Yes, there are a series of information forms; I have mentioned only the one.

Section 40 was agreed to.

Section 41—Penalty upon conviction.

Mr. GAUSIE: Section 41 brings about a change in the criminal section to tie the amendment provided by section 51A in with section 120, to say that the civil penalty, which we talked about a little while ago, must be assessed before a criminal charge is laid.

Section 41 was agreed to.

On Section 42—Proof of documents.

Mr. GAUSIE: The first part of this section provides that a document that has a printed signature of the minister or the deputy minister is a valid document, and that the form purporting to be issued by the minister is acceptable.

Section 42 was agreed to.



On Section 43—Interpretation.

Dr. EATON: This is an amendment to the definition section, and relates to provisions under sections which we have already dealt with.

Section 43 was agreed to.

On Section 44—Application.

Mr. GAVSIE: This amendment makes certain sections of the Income Tax Act applicable to the Income War Tax Act, in so far as we are still collecting arrears is concerned. We are amending it to make applicable additional administrative provisions of the Income Tax Act.

Hon. Mr. LAMBERT: It affects arrears only?

Mr. GAVSIE: Yes.

The CHAIRMAN: I should like to ask these two gentlemen that if there is anything behind these two clauses that this worthy body does not see, that they will call our attention to it. I presume there is nothing sinister about it.

Mr. GAVSIE: I am certainly operating on that basis.

Hon. Mr. McKEEN: There is nothing retroactive about it?

Mr. GAVSIE: No.

On Section 45—Newfoundland tax.

Mr. GAVSIE: This is an amendment to give relief to certain persons resident in Newfoundland for the transition period.

Hon. Mr. HAIG: I do not like it, but we have it.

The CHAIRMAN: Has Newfoundland anything to say about it? I suppose not.

Section 45 agreed to.

On Section 46—Deductions from income of corporation in petroleum or natural gas business.

Dr. EATON: The substance of this section is to renew for a further year the rights and privileges of oil, gas and mining industry.

The CHAIRMAN: Nobody would object to that.

Dr. EATON: There are certain other amendments; they are alleviating provisions. In the past the department has ruled that lease rentals, in the case of exploration expenses, were not deductible. This makes provision for their deductibility up to \$1.00 per acre, which is practically the standard rate. There is a further minor provision correcting an omission in the bill passed last year. The words "the lesser of" were left out of the act, and it made practical nonsense without them. There is a further provision relating to deep-test wells where the credit can be secured, if there is deepening of a deep-test well rather than a spudding in from the surface. Technical points of that kind, I think, cover what is in it.

Hon. Mr. HAIG: I cannot follow you.

Dr. EATON: The drilling expenses are deductible. The general principle is that the off property, wild-cat exploration and drilling expenses are deductible where they would otherwise not be. In addition, in the case of what are called deep-test wells which are approved by the Minister of Mines and Resources as being special cases, where the department is interested in securing information with respect to formations in that district, there is a tax credit in addition to the write-off equal to 20 per cent of the expenditure incurred on these deep-test wells.

Hon. Mr. CRERAR: Does that apply to mining corporations exploring for metals?



Dr. EATON: No.

Hon. Mr. CRERAR: Why the distinction?

Dr. EATON: The distinction arose during wartime. This provision was introduced in wartime, when there was particular concern over the oil supply. I might add, however, that the mining industry has certain provisions which are not available to the oil industry: for example, the three-year exemption in the case of the new mines. There is nothing comparable in the case of the oil industry.

The section was agreed to.

On section 47: application of 1949 (2 Sess.) C.11.

The CHAIRMAN: "The Canadian Vessel Construction Assistance Act is applicable to the computation of a taxpayer's income for the 1949 and subsequent taxation years." How long will that be in effect?

Mr. GAVSIE: This is alleviating. The Act was not brought into effect until 1950, and the purpose of this is to make it applicable to 1949.

The section was agreed to.

On section 48: gift to H.M. by wife or other dependent.

Dr. EATON: Section 48 is an alleviating measure. When the Income War Tax Act was repealed many taxpayers made gifts which under the new Act was unnecessary. They made the gifts through a misunderstanding. This is a specific provision whereby those gifts can be applied to the future tax liability of those taxpayers.

Hon. Mr. HAIG: Pass.

The section was agreed to.

Hon. Mr. HAIG: Senator Beaubien wants to bring up a point.

Hon. Mr. BEAUBIEN: I would like to have this matter clarified: supposing I am supporting a dependant, a non-blood relation incapable of earning her own living—related through marriage, or something like that—can I bring that person under the income tax law as a dependant and therefore exempt?

Mr. GAVSIE: There is no relationship?

Dr. EATON: Except by marriage.

Hon. Mr. BEAUBIEN: Supposing I am married but am supporting someone who has no means of support.

Mr. GAVSIE: Say a mother-in-law. She is a dependant.

Hon. Mr. BEAUBIEN: Can I support an aunt?

The CHAIRMAN: We are asking for the definition of a dependant.

Hon. Mr. HAIG: Whether it included the person the senator mentioned.

Hon. Mr. BEAUBIEN: What it includes. That is what I want to know.

Mr. MACLATCHY: It would depend on whether or not your wife was living. In the case of a man whose wife is living and who is supporting his aunt there would be no deduction. Now, as to a widower or an unmarried person who is supporting a self-contained domestic establishment, including a blood relation, he would be allowed to get the married exemption, but a person who has already got married exemption because he is married or because he is supporting a son and daughter would not get any further exemption for such person. You could get a deduction for the support of dependants such as your brothers and sisters under twenty-one years of age, or over twenty-one and infirm, and your parents and grand-parents, which includes your parents and grand-parents-in-law.



Hon. Mr. EULER: Did we ever get a definition of a "blood relation"?

Hon. Mr. BEAUBIEN: It would not include an aunt who is unable to earn her own living and is around eighty years of age?

Mr. MACLATCHY: No, it would not.

Hon. Mr. HAIG: I just want to say one word. I want to thank Dr. Eaton, Mr. Gavsie and other officials for the great help they have given in this examination.

The CHAIRMAN: Are you ready to report the bill as amended? The title carries?

Some Hon. SENATORS: Yes.

Hon. Mrs. WILSON: On a question involving a minister and a deputy minister: was that case ever settled where a judge found in favour of the plaintiff because an order had not been signed by the minister himself?

Mr. GAVSIE: Yes. That was reversed on appeal.

The committee adjourned.







