Assurances

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La Confédération et les sociétés d’assurances sur la vie

Volume 6, numéro 1, 1938

URI : https://id.erudit.org/iderudit/1102891ar
DOI : https://doi.org/10.7202/1102891ar

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Éditeur(s)

HEC Montréal

ISSN

0004-6027 (imprimé)
2817-3465 (numérique)

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Citer ce document

(1938). La Confédération et les sociétés d’assurances sur la vie. *Assurances*, *6*(1), 54–60. https://doi.org/10.7202/1102891ar

Résumé de l'article

La *Canadian Life Insurance Officers’ Association* a présenté un long mémoire à la Commission Rowell. Nous en avons extrait la partie qui a trait aux relations des provinces et de l’Etat fédéral et aux impôts qui portent sur les affaires d’assurances. On y trouvera les vues d’un des corps les plus influents, puisqu’il réunit les présidents et les employés supérieures des sociétés d’assurances sur la vie au Canada. – A.

La Confédération et les sociétés d'assurances sur la vie

La Canadian Life Insurance Officers' Association *a présenté un long mémoire à la Commission Rowell.*[1] *Nous en avons extrait la partie qui a trait aux relations des provinces et de l'Etat fédéral et aux impôts qui portent sur les affaires d'assurances. On y trouvera les vues d'un des corps les plus influents, puisqu'il réunit les présidents et les employés supérieures des sociétés d'assurances sur la vie au Canada. — A.*

JURISDICTION IN LIFE INSURANCE

Government Supervision.

The life insurance business in Canada is at present subject to supervision and regulation by both the Dominion and the provinces. The case presented to the commission by the province of Manitoba adequately describes the controversy which has arisen from such dual control in the past and includes a suggestion that the supervision and regulation of the business should be undertaken exclusively by the Dominion. While there is much to be said for this suggestion as recognizing the national character of the business and the desirability of the elimination of any duplication

[1] Extrait de *Canadian Insurance* du 18 janvier 1938. Depuis, l'Association a fait traduire ce mémoire.

of government services, nevertheless the provinces have for many years undertaken to enact legislation respecting life insurance contracts and to license life insurance agents in a manner quite acceptable to all. Through the medium of the Uniform Life Insurance Act uniformity of legislation in these matters has been attained in eight out of nine provinces.

Association's Submission.

The problem has been considered and thoroughly discussed by the executives of the member companies, in consequence of which the following resolution was unanimously adopted by the executive committee of this Association at its meeting in Toronto on December 7 last:

"The Canadian Life Insurance Officers Association, the membership of which includes the executive officers of practically all life insurance compagnies transacting business in Canada, suggests that the law of life insurance contracts as exemplified by the Uniform Life Insurance Act of the Canadian provinces and comparable provisions in the Quebec Civil Code, and the licensing of life insurance agents, be within exclusive provincial jurisdiction, but that all other matters concerning the supervision (licensing, solvency, investments, inspections and reports) of life insurance compagnies doing business in more than one province, and the regulation of life insurance business generally, be within the exclusive jurisdiction of the Dominion."

This Association submits that the foregoing resolution recognizes the national character of the life insurance business in its proper relation to local interests and existing political and other conditions in Canada and hopes that the commission will recommend that the British North America Act, 1867, be amended to give effect to the substance of the foregoing resolution and to make certain that the respective powers of the Dominion and the provinces with respect to life insurance are clearly defined to the end that in the future controversy may be avoided.

TAXATION OF LIFE INSURANCE COMPANIES, POLICYHOLDERS AND BENEFICIARIES

Commission's Instructions.

The commission is instructed "in particular . . . to investigate the character and amount of taxes collected from the people of Canada, to consider these in the light of legal and constitutional limitations, and of financial and economic conditions, and to determine whether taxation as at present allocated and imposed is as equitable and as efficient as can be devised . . ." Life insurance policyholders, as has been shown, represent a large proportion of "the people of Canada" and the taxation imposed upon them and their beneficiaries directly, and through life insurance compagnies indirectly, is very substantial. Unfortunately the full extent of this taxation is not generally appreciated because it is largely indirect taxation which the life insurance policyholder does not pay directly. Accordingly, there will be found appended to this submission schedules

containing particulars of the character and amount of these taxes, together with other information within the scope of your enquiry. The discussion of the subject which follows is limited to statements of principles and matters of policy which, it is believed, particularly deserve the attention of the commission.

Duplication and Multiplicity of Taxation.

Duplication of taxation, multiplicity of taxation generally and discriminatory taxes imposed by one municipality or province against the residents of other municipalities or provinces are much in evidence in the life insurance field. There is an apparent tendency to treat citizens of one part of Canada as foreigners for the purpose of taxation in another part of Canada, thus promoting sectionalism and impairing national unity. Detailed submissions are doubtless being made to your commission by other bodies regarding these matters. This Association would favor any system of control of taxation in Canada which would eliminate duplication and unfair discrimination between different parts of Canada, and which would promote national unity.

Indirect Taxes on Policyholders Paid Through Companies.

The fundamental principle of life insurance is one of mutual co-operation. Many co-operate to assume a risk which the individual could not bear alone. It is only right and proper that this co-operative enterprise should continue to be subject to the same general taxes which are imposed on individuals, partnerships and corporations. In addition, the relatively small cost of insurance supervision and regulation is reasonably chargeable to the insurance companies. The fact is however, that in addition to the burdens borne by all classes in the community, the business of the insurance has been compelled to assume other heavy burdens through a variety of forms of special fixation levied by the provinces and the municipalities. Policyholders pay as citizens all the usual forms and rates of taxes that citizens who do not carry life insurance pay.

Because of the nature of life insurance, taxation ostensibly imposed on life insurance companies is borne almost entirely by the policyholders. The tax levied by all the provinces on varying bases and at different rates upon the premiums received annually by life insurance companies accounts for nearly 90 per cent of the special taxation imposed upon life insurance companies. Upwards of 80 per cent of the life insurance in force in Canada has been written on participating plans whereunder policyholders may reasonably anticipate and do receive refunds of premium so-called "dividends" or "profits", at regular intervals. It follows that premium taxes are directly reflected in reduced refunds made to the great majority of Canadian policyholders and in a consequent higher net cost of insurance. The companies serve only as tax-collecting agencies when taxation is imposed upon premiums received on participating forms of life insurance. The indirect character of the tax — the fact that it falls indirectly but unmistakably as a special additional tax on the thrifty people — the people who are voluntarily making provision for their families, dependents and employees — should always be borne in mind when the taxation of life insurance is under consideration. To be borne in mind also is the fact that life insurance relieves governments of the potential burden of relief, old age dependency, and other social services. The social benefits inherent in life insurance are readily apparent. Unfortunately they are overlooked too frequently when additional revenues are required by governments.

The lack of uniformity in the bases and rates of taxation, particularly provincial premium taxation, and the multiplicity of special taxes imposed by the provincial and municipal authorities throughout Canada produce the following results :

(1) The cost of life insurance to the public is increased.

(2) Policyholders resident within the jurisdiction where taxes are relatively low bear a portion of the taxes which are imposed within jurisdictions where they are relatively high.

(3) Life insurance companies incur substantial expense in maintaining appropriate records, in assembling information and in furnishing tax returns on a variety of forms to many jurisdictions.

By reason of the fact that the contractual obligations of life insurance companies generally extend many years into the future and that most premiums are paid annually (the amount being fixed at the date of issue of the contract), the problem of taxation as it affects life insurance companies differs from that of an industrial corporation which can adjust prices readily to meet the necessities of increased taxation. The effect is particularly evident in the case of the provincial premium taxes. As these taxes have been imposed and increased from time to time, they have had a retroactive effect in that they have been made applicable not only to premiums in respect of new contracts, but also to premiums in respect of contracts issued many years prior to the date of imposition of the tax. This retroactive feature is particularly serious in connection with non-participating business. The imposition of taxes having this retroactive effect might impair the solvency of the companies. Furthermore, from a practical point of view it is desirable, although the rates of taxation may differ, for the companies to treat their Canadian business as unit and not to differentiate between the policyholders of one province as against those of another in respect of premium rates or policy dividends. Consequently, not only is the premium tax a substantial imposition upon policyholders as distinct from other Canadian citizens, but the varying rates of tax now imposed produce inequities between individual policyholders resident in different provinces.

Concerning municipal taxation, it is submitted that when the fields of regulation (licensing) and taxation (premium taxes) have been occupied directly by a superior taxing authority, it is clearly undesirable for numerous reasons that the same fields should also be occupied by municipalities. In every province of Canada these fields have been so occupied. In most of them municipalities have been prohibited from imposing such additional fees and taxes, but there are municipalities whose right to do so antedates the prohibiting legislation.

With respect to any special taxation on life insurance companies, it is submitted :

(a) That the principle of the premium tax is acceptable because its administration is simple and effective, and because it can be made equitable; it should replace all other forms of special taxation of life insurance by provinces and municipalities;

(b) that the formula for calculating the taxable premium income should be fair and both the rate of tax and formula should be uniform throughout Canada; and that, if necessary to accomplish this end, its assessment, collection and distribution should be centralized;

(c) that the rate should be fixed as low as possible because the premium tax is a special tax not shared by all the citizens of Canada generally, but paid by prudent citizens who, by buying life insurance, voluntarily make sacrifices so that they and their dependents shall not become charges upon the state; and that changes in rate should apply only to premiums on business written after the effective date of the change;

(d) that existing doubts as to the constitutionality of the present premium tax should be removed by an appropriate amendment to the British North America Act, 1867, making it clear that such taxation is within exclusive provincial or Dominion jurisdiction.

Direct Taxes on Policyholders.

If the matter of imposition of income taxes is one which comes within the purview of enquiry by the commission, it is submitted that the principle should be established and maintained that capital, as distinct from income thereon, shall not be taxed. This submission is particularly applicable to payments under annuity and life insurance contracts.

Annuitants and beneficiaries under policy contracts, the proceeds of which are payable in instalments, whether or not a life contigency is involved, are in receipt of payments which represent partly a return of capital and partly payment of interest. Representing such persons, whose numbers are increasing, the Association submits that for taxation purposes a clear distinction should be drawn to the end that only the portion of such payment which truly represents interest shall be subject to income tax. Moreover it is suggested that any taxation should encourage rather than discourage these instalment payments since this method of paying insurance money tends to preserve the benefits and the insurance over longer periods and to make more certain that the recipients will never become burdens on the state. In this connection attention is drawn to the recent amendments to the Ontario Succession Duty Act which have a comparable purpose (Statutes of Ontario, 1937, Cap. 3, S. 6).

The Succession Duty Acts of the several provinces have given rise to duplication of taxation, and to delay in the settlement of claims. There is also great diversity in the exemptions accorded to life insurance policy proceeds and to policies earmarked for payment of succession duties. It is submitted that there should be no duplication or double taxation, that the rates and incidence of the tax should be uniform throughout Canada, and that the prompt payment of small life insurance claims should be facilitated.

Possible Reallocation of Taxing Powers.

If, as and when there is an assumption of further responsibility by the Dominion for social services such as unemployment insurance, unemployment relief, etc., there will doubtless be some reallocation of taxing powers to give the Dominion exclusive jurisdiction in some of the fields of taxation now occupied by the provinces. In that event it is suggested that succession duties and premium taxes and income taxes are the kind of taxes which in the interests of uniformity and equality and efficiency might well be transferred to the Dominion.