

The CHAIRMAN. First, you have to decide whether the title passed in the United States, I take it?

Mr. HENDERSON. That is normally a very simple question of property law. Taxpayers do that now, and one of the great attributes of that provision is that it is simple. You can understand it.

The CHAIRMAN. That one is. So title passed abroad, you can decide whether it passed that way, 1 or 2.

Mr. HENDERSON. 1 or 2 is very simple.

The CHAIRMAN. How about the next one?

Mr. HENDERSON. The clerk would have to decide whether the sale was "attributable" to the U.S. office. To know that, you cannot normally tell it from a piece of paper. He would have to talk to the officer of the company or the salesman, whoever had made the sale, and ask him how the sale was made, where did the property come from, how did it arise, where did it go, who in the organization worked on the sale, did someone from the U.S. office work on the sale.

If someone from the U.S. office worked on the sale, what did he do with respect to the sale; did he simply send the paper record of the sale on Hong Kong to Great Britain after it had stopped here in the mail or did he talk to a customer who passed through the United States? Just what did he do? What were his activities?

After he finds out these facts, which we lawyers know are not always easy to assemble completely, he would then—

The CHAIRMAN. That is the kind of a thing that causes a salesman in an ordinary retail store to fall out with the boss and two salesmen to fall out with each other. If you go into a store, are waited on by one salesman and then the regular salesman gets into the act, and you finally buy a necktie, and you wind up with the question of who is entitled to the commission for making that sale.

Mr. HENDERSON. Yes, sir.

The CHAIRMAN. Oftentimes it is left in dispute among the people as to who is responsible for the sale or maybe the manager comes up and gives you a discount or the question comes up of what part did each person play in making that sale. That is one which is very difficult to decide.

Mr. HENDERSON. That is right. I would like to point out, Senator, that this problem would apply even to foreign-to-foreign sales. In other words, take, for example, a Philippine corporation making sales into Canada and also into the United States, which has an office, let us say, in Seattle in which there is a salesman.

Let us take a sale made from the Philippines to Canada shipped directly by ship from the Philippines to Canada. The clerk would have to find out whether the salesman in the U.S. office had anything to do with that foreign-to-foreign sale. If he did there would then have to be a value judgment as to whether his activity made the sale "attributable" to the United States and subject it to this new U.S. tax. That is the practical problem on that.

The CHAIRMAN. All right. Let us take the next one, item 5, destination United States. I guess that is easy enough to determine.

Mr. HENDERSON. Well, there is a question under the bill of what the test "destination" means. We have used that word "destination" here to simplify it, but the question under this bill would be whether the