

THE LEGISLATIVE ASSEMBLY OF MANITOBA  
2:30 o'clock, Wednesday, April 12, 1967

Opening Prayer by Mr. Speaker.

MR. SPEAKER: I understand our young guests in the gallery are on a very tight schedule this afternoon so I am taking this moment, if I may, and opportunity, to introduce them to the Members of the House. We have 150 students of Grade 11 standing from the Transcona Collegiate. These students are under the direction of Mr. McEwan, Mrs. Rempel and Miss Hewitson. This school is located in the constituency of the Honourable Leader of the New Democratic Party. On behalf of the Honourable Members of the Legislative Assembly, I welcome you all here today.

Presenting Petitions  
Reading and Receiving Petitions  
Presenting Reports by Standing and Special Committees  
Notices of Motion  
Introduction of Bills

The Honourable Member for Winnipeg Centre.

HON. JAMES COWAN, Q. C. (Winnipeg Centre) introduced Bill No. 116, An Act Respecting the City of Winnipeg and The Young Women's Christian Association of Winnipeg.

MR. GORDON E. JOHNSTON (Portage la Prairie): Mr. Speaker, before the Orders are called, I'd like to address a question to the Minister in charge of water conservation. I've been informed by one of my constituents that he, being one of the people who has had land expropriated for the Portage Diversion, has complained to me that his land has been expropriated and he has received no money yet but he is required to pay rental on the land. Is this true?

HON. WALTER WEIR (Minister of Highways) (Minnedosa): Mr. Speaker, I'll take the question as notice. I don't know.

MR. JOHNSTON: Mr. Speaker, would the Minister undertake to inform the House about this matter, if people who have had land expropriated and receive no money but are required to pay rental on the land till it is finally taken?

MR. WEIR: Mr. Speaker, I'll take the question as notice. I'll inquire into it.

MR. GILDAS MOLGAT (Leader of the Opposition) (Ste. Rose): Mr. Speaker, I'd like to address a question to the First Minister. On the 1st of April I asked the First Minister when we might expect the report of the Manitoba Economic Consultative Board which normally came to us in the month of March and he said then that he would look into it. He was asked the same question a few days later by the Leader of the NDP and replied that he would look into it. I wonder if he has completed his research.

HON. DUFF ROBLIN (Premier) (Wolseley): Yes, Mr. Speaker, I have looked into it and I can tell my honourable friend the report will be tabled some time in the first half of May.

MR. MOLGAT: Mr. Speaker, did I hear correctly? The first half of May? Will it not be tabled during the course of the session, Mr. Speaker, so that we can discuss it as we have in the past?

MR. ROBLIN: Well, it depends on how long the session lasts. It'll be available some time between the first half of May.

MR. RUSSELL PAULLEY (Leader of the New Democratic Party) (Radisson): Mr. Speaker, a supplementary question. Are the answers that the Honourable the First Minister to the Leader of the Opposition indicative that it's the intention to await until May 15th in the hope that the session will still be in operation and at that time he will be tabling this report?

HON. J. B. CARROLL (Minister of Welfare) (The Pas): Before the Orders of the Day I'd like to answer a question that was addressed to me by the Member for Carillon. He was asking about Old Age Assistance cheques. I'm advised that they've gone out on the regular date. There are some adjustment cheques that are not sent out at the regular time which went out - the March cheques this year went out five days earlier than normal, on the adjustment cheques only. The regular cheques went out on the regular date.

MR. LEONARD BARKMAN (Carillon): A supplement question: What about those that still haven't gone out? Which have not gone out?

MR. CARROLL: Well, the only cheques that might not have gone out could be for new applicants that are just coming on this month. They may take a little longer to process during the first month or two, but all the regular cheques have gone out on the regular date, as I understand the situation.

MR. PAULLEY: Mr. Speaker, I'd like to direct a question to the Honourable the Minister of Education. Have the accounts in respect of the cost of the Referendum that was held on March 10th - I understand the Government of Manitoba were to pay the cost of the Referendum - has the department progressed the payment for the Referendum to the respective districts in which there was a vote held?

HON. GEORGE JOHNSON (Minister of Education) (Gimli): These costs are being wound up. I have't received the final report from the Director in charge of the campaign but I will check again today.

MR. PAULLEY: May I draw to the attention of the Honourable Minister that a number of returning officers and deputy returning officers and poll clerks are inquiring as to when they may receive payment for their services and I enjoin my friend to pay his bills as quickly as possible.

MR. JOHNSON: Shall do.

MR. RUSSELL DOERN (Elmwood): Mr. Speaker, I'd like to direct a question to the Honourable the Provincial Treasurer. Some time ago we discussed the use of an advertising agency and so on to convey information to the public on a sales tax. When will this public information campaign begin in the press or by letter, etc.?

HON. GURNEY EVANS (Provincial Treasurer) (Fort Rouge): Mr. Speaker, as soon as I receive royal assent to the statute.

MR. MOLGAT: Mr. Speaker, I'd like to address a question to the Honourable the Attorney-General. Could he inform the House when we may expect to get a report on the inquiry he was conducting into the security of provincial jails; the inquiry which started as a result of some jail breaks both at Headingley and at Vaughan Street.

HON. STERLING R. LYON, Q.C. (Attorney-General) (Fort Garry): I'm hopeful that we will be able to discuss that, Mr. Speaker, during the course of the estimate discussion.

MR. MOLGAT: Will the Minister be tabling the report of this inquiry and has he the report in his hands now?

MR. LYON: We've had the report for some time and we've taken action on most of its recommendations.

MR. MOLGAT: A subsequent question, Mr. Speaker. Could the Minister indicate when the report will be tabled in the House?

MR. LYON: I don't know that it will be tabled in the House. We will look at that. It's a confidential report.

HON. HARRY J. ENNS (Minister of Agriculture and Conservation) (Rockwood-Iberville): Mr. Speaker, with the permission of the House, I would like to inform the Honourable Members of the appointment of Mr. Robert A. Wallace as the new Deputy Minister of Agriculture. Mr. Wallace was born and raised on a farm in the Kenton district; he attended the University of Manitoba, Faculty of Agriculture, and received his Bachelor of Science degree in Agriculture in 1950 and his Master of Science Degree in Soils in 1953. He has been with the Manitoba Soils Survey crew in 1950-1953 and then joined the Department as a Soils specialist with the Soils and Crops Branch in the years '53-'58 and Chief of that Branch of the Soils Division, '58-'64. He was appointed Assistant Deputy Minister on October 1, of '64 and I am very happy to announce to the House that he is now becoming the Deputy Minister for my department. I look forward to working with him as I know do other members of the House, particularly the rural members. Thank you.

MR. SPEAKER: Orders of the Day. Leader of the Opposition.

MR. MOLGAT: I'm not sure which Minister this should be addressed to. It's with regard to the claims arising out of the flood last spring and the Board that was set up to survey these claims. Under which department does this fall?

MR. ROBLIN: Ask your question.

MR. MOLGAT: Well, the question is, Mr. Chairman, whether there are still many claims outstanding, and the second question is, where an individual feels that he has not had proper treatment and wishes to appeal, what is his course of action? I've received a complaint that the only appeal is to the Board itself and that the Board does not give any reasons or breakdown of the bills that are refused but simply says, well, this is our decision, and that's where the matter ends. Now what does an individual do in that case?

MR. ROBLIN: Mr. Speaker, these are not payments as of right; these are ex gratia payments and under the present arrangements the Board does make the decisions.

ORDERS OF THE DAY

MR. EVANS: Mr. Speaker, I beg to move, seconded by the Honourable the Attorney-General that Mr. Speaker do now leave the Chair and the House resolve itself into Committee of the Whole to consider Bill 56.

MR. SPEAKER presented the motion and after a voice vote declared the motion carried and the House resolved itself into Committee of the Whole with the Honourable Member for Winnipeg Centre in the Chair.

COMMITTEE OF THE WHOLE HOUSE

MR. CHAIRMAN: Section 23, subsection (2) (c)--passed.

MR. EVANS: I have an amendment to propose. Honourable Members have already been notified of it. I move that Section (c) be amended by striking out the word "car" in the first line and substituting therefor the word "motor vehicle".

MR. CHAIRMAN presented the motion and after a voice vote declared the motion carried.

MR. CHAIRMAN: (c)--passed as amended; (2)--passed; Section 23--passed. Section 24 (1)--passed; (2)--passed; (3)--passed;

MR. EVANS: Mr. Chairman, I have an amendment to propose and I'd be glad to consider my honourable friend's point that subsection (2) be amended by adding thereto immediately after the word "than" in the third line of subsection (2) of Section 24, the words "one thousand dollars or to imprisonment for a term of not more than". I'm sorry, Mr. Chairman, there has been printed copies of these amendments and perhaps the Legislative Counsel will have a copy there for you. This is the one inserting the \$1,000.00 ... not more than".

MR. CHAIRMAN: The motion before the Committee is that subsection (2) of Section 24 be amended by adding thereto immediately after the word "than" in the third line thereof the words "one thousand dollars or to imprisonment for a term of not more than". Are you ready for the question?

MR. MOLGAT: Mr. Chairman, before that is put I think we should look at this section in consideration as well of Section 1, of subsection (1). Subsection (1) says that "each separate sale or transaction is a separate offence." Now under this basis and relating this to 2 is it correct to assume that if someone who has contravened the Act on say three sales of 27 cents each, which are taxable, is automatically under Section 2 guilty of a separate offence for each sale and therefore to a fine on each offence? This seems to me to be the reading of 1 where it says "each separate sale or transaction is a separate offence." Is that the intention that we would go through the books of each individual and under this item that on each contravention he will become guilty of a separate offence?

MR. LYON: Mr. Chairman, not automatically as the - I believe that was the word used by the Leader of the Opposition. This gives the investigating authorities the power to lay separate offences for each separate offence that does occur but it does not mean of course that separate offences will be laid. This is a form that you find in taxation statutes and in other - I can't just name any others off - but there are other statutes, penal statutes of a quasi criminal nature in the provincial jurisdiction where you find an offence to be, for instance, a continuing offence. If somebody doesn't do something before a certain day, each day thereafter he could conceivably be penalized. Theoretically he could be charged for each one as a separate offence. In practice what is usually done is to pick out the most serious one, charge on those and make other settlements on the others.

MR. MOLGAT: The way it reads now, we could jail a person for life on the basis of three months per offence for each 27 cents offence that he commits, if the Attorney-General decides to prosecute him on that basis.

MR. LYON: Theoretically possible; practically impossible.

MR. CHAIRMAN put the question and after a voice vote declared the motion carried.

MR. CHAIRMAN: Subsection (2) as amended --passed; Subsection (3)--passed ...

MR. T. P. HILLHOUSE, Q. C. (Selkirk): Mr. Chairman, regarding subsection (3) I fully appreciate the fact that in Taxation Statutes we must depart from certain principles which we hold dear and which we cherish in order to assure to Her Majesty the collection of her taxes, but it seems to me in subsection (3) that you have gone further than need be. Not only are you placing the onus upon an accused person to prove his innocence in respect of the offence with which he is charged, but you are going further; you are also placing the onus upon that accused person to show that the tax is not required to be paid or collected under the Act. Now to me

(MR. HILLHOUSE cont'd.) . . . . that's a most unusual provision. It is true that any person charged with an offence can always by way of defence say that he is not liable under an Act but here you have a case where the onus is upon the individual charged to prove that he is not required to pay the tax that is levied against him. I think that's a very unusual section; the first time I've ever seen it.

MR. SIDNEY GREEN (Inkster): Mr. Chairman, I know that the government doesn't need lecturing on the onus section. I am quite satisfied that they are very reluctantly indeed shifting the onus to the accused because they feel this is absolutely necessary. Nevertheless, Mr. Chairman, we must protest this type of provision. We think that if the government uses a little more ingenuity, which I am sure they are capable of, that this type of onus would not be necessary.

The other way of doing it is to permit the Crown to prove certain things and then say that once these things are proven, the others are matters of defence and the defence must prove them. This is not only acceptable in a statute regarding taxation but it appears in the criminal code, certain things once the government proves them the onus then becomes on the defence. For instance, I am sure that what the Minister doesn't wish to have to prove is that he didn't receive - the Minister would not like to prove a negative. He would not like to walk into court and prove that he didn't receive money. But I am sure that if the statute was worded in a way -- and I don't want to be a draftsman. The Attorney-General warned me of this and I accept it. I'm not a lawyer here, I'm a legislator -- but if the section was worded that the Minister can say that he didn't receive any money and then the onus becomes on the accused to prove that he paid money; if that's his defence that he paid it, that is something for the defence, it's not for the prosecution. I don't have to go on in this way. The counsel that are working for the Crown and the various lawyers on the government side know what I am talking about. I believe that they can do better than they have done if they try a little harder. Perhaps the rush to bring in the sales tax resulted in this type of section but we think that it should be protested against.

MR. LYON: Mr. Chairman, any discussion of onus sections is always an interesting one because this Legislature, I believe it was six years ago, did what I think very few other Legislatures in Canada have done, namely to set up a special committee of the House to go through our statutes with some considerable care and to repeal as we did most of the onus sections for which there could be no real justification. Even after that careful review by a special committee of the House, and report to the House which was subsequently accepted, action was taken immediately by way of Statutory Amendment to cure a number of onus sections in various statutes of the House which had been there for many years, we still found that there were some onus sections we had to leave in. And the basic rule, as my honourable friend from Selkirk and from Inkster will appreciate of course was that we had to leave onus sections in in those cases where the knowledge of a particular fact or set of circumstances was peculiar to the accused. In other words, where the Crown could not hope to have any knowledge of the particular fact because the Crown was not privy to the operation that took place and it was therefore felt by the committee, felt subsequently by the House which adopted the report, that there were still some onus sections which had to remain on our statutes and which are there today, which did leave the - the burden of proof was then left still on the accused because the accused was the only person who could give factual information or evidence on this particular point.

I take it from what my honourable friend from Selkirk has said that he finds not so much objection with the first part of subsection (3) - that is the onus of proving that the tax was paid, collected or remitted to the Minister - there we can see immediately that this is knowledge that is peculiar to the accused. He is the only one who will know, in the case of a vendor or the ultimate purchaser. I suggest that if we look at the second clause we can find that the same rule attaches there because here we are dealing with a situation which deals with the exemptions which are in our legislation which is before us. Let's read those words "or that tax is not required to be paid or collected under this Act, as the case may be." Now we need only consider some of the exemptions that we have under the Act where depending upon the use to which certain material is going to be put, the item may or may not be taxable. I suggest that here in this case, as well as in the first part of the subsection, the knowledge of this fact is peculiar to the person who is being charged and you can't of course call that person as a witness against himself. You are in a very awkward situation. That is why I feel the draftsmen in putting this subsection together -- and may I say that the Legislative Counsel of this province and his

(MR. LYON cont'd.) . . . . predecessor are very much alive to onus provisions and from time to time certainly bring them to our attention where they may appear in drafts or other ideas for legislation, because they know of the attitude not only of the government but of the whole House. This is not something that is peculiar to the government, the whole House takes a close look at onus sections. I think it was felt here, however, that the same rule did apply that the knowledge here, that a tax is not required to be paid, in relation to certain exemptions, and I'm sorry I can't put my finger on particular ones to outline the case, but in relation to those exemptions the knowledge would be peculiar to the vendor or to the purchaser as to the kind of use to which the particular article was going to be put or to the circumstances under which that article was acquired, whether by way of bequest or whether by way of a company transfer or whether by way of the sale of shares of a company from one entity to another. And here again I suggest that the knowledge is peculiar to the person who is being charged and this is the reason, and the only reason that I can think of, for having that onus appear as it does in this subsection.

I'll turn back to the exemption sections when I take my seat and take a look at those again in order to come up with perhaps a more crystal clear example of what I am attempting to express to you, but basically in general terms, what I'm trying to say is that this is knowledge that would be peculiar to the accused and this is the only reason that it is put in the words in which we find it in the statute.

MR. HILLHOUSE: Mr. Chairman, I quite agree with the Minister's interpretation of my remarks. I have no objection to the first part of this subsection, but I do say that the words "or that the tax is not required to be paid or collected under this Act as the case may be" should be stricken out of that subsection, because I think they are much wider and much more comprehensive than the example given by the Honourable Minister. In the first place if the Crown lays a charge, they must at least establish a prima facie case before the accused is called upon to put in any defence. Now surely the Crown will not lay a charge unless they are convinced in their own mind that a tax was payable, wasn't remitted or wasn't collected or whatever the charge is going to be. They must make that investigation in the first place. And as far as the accused having to prove that the tax is not payable, you don't need that in that section at all. That's his defence. If he wants to defend that action that's the only defence he can have, that the tax is not payable or that the tax was remitted or something else which would answer the Crown's case. I don't think that that expression should be left in that subsection at all because that expression is much wider than the interpretation placed upon it by the Honourable the Attorney-General.

MR. LYON: . . . helpful if Honourable Members would take a look at Section 4 of the Act. I would draw their attention particularly to page 8 of the Bill, sub-clause (t). Here I think you find examples of what I was trying to indicate to the committee, Mr. Chairman; where the knowledge of the sale and of the commodity that is being sold, the use to which it is being put, is peculiar to either the vendor or the purchaser and certainly not to the Crown. Take a look at (t). Tangible personal property used for the purpose of being processed into, fabricated into, manufactured into, attached to, or incorporated in, other tangible personal property for the purposes of sale or resale.

Now a man could under this section, and these are only hypothetical examples, but a vendor could quite easily sell a piece of equipment which could have a separate use unto itself, whether as a tool or as a piece of fabricating material or something of that nature, but which if sold in one set of circumstances would be taxable but which when sold in another set of circumstances would come within this exemption (t) and would not be taxable. But the Crown is not privy to that information; only the vendor and the purchaser are privy to the knowledge as to how that particular piece of equipment or whatever is going to be used as tangible personal property. The Crown doesn't know that.

It's pointed out as well that material could be for instance withdrawn from manufacturing stock, material which as manufacturing stock is not taxable but could be withdrawn from manufacturing stock, for instance by a vendor for his own personal use, thereby becoming taxable again. The knowledge of this is entirely peculiar to the vendor or to the person who's being charged.

Under (u), "Tangible personal property that is consumed to the point of destruction, or dissipation, or of uselessness for any other purpose, or of losing its separate identity, in the provision of a service at a retail sales." (What are we thinking of there?) Soaps, detergents, cleaning fluids, etcetera, sold in one context are taxable, sold in the context, that is sold to

(MR. LYON cont'd.) . . . . the ultimate consumer, or the housewife for instance in one context are taxable; sold to the dry cleaning plant on the other hand are not taxable because they are used up in the course of the dry cleaning process and are thereby not taxable. The onus here is that the vendor, for instance if he were charged would have to show - well, I sold this to 'X' who is a dry cleaning man and I presumed that 'X' was to use it in his plant. The inspectors might well find this material being put to some other use which does not fall within this paragraph and it is taxable. The vendor then has to establish why he sold it, under what circumstances and so on. The Crown can't establish it because the Crown has only the knowledge of the finding of the material in a certain place not being used in a manner in which even the vendor thought it was going to be used.

"Tangible personal property, under (v), declared in the regulations to be a catalyst or a direct agent for the transformation or manufacture of a product by contact or temporary incorporation, or in the rendering of a service, where that property is acquired for that purpose." I'm trying to think of a good example of that now -- refer to the Treasurer. Well here again you have material which is not destroyed in its use but which material also would have another separate identity and which could be used not in a manufacturing process but in say home cleaning or for any other purpose; and again that the knowledge as to how that material is to be used or how it is being used and how it fits into this section, is peculiar to the person who is using it, certainly not to the Crown. The agents of the Crown don't know how it's being used. They find it in a certain place, they ask if the tax is being paid on it or they find from the books that the tax is not being paid on it, then the onus I suggest must shift to the accused to show that if the tax is not being paid on it that it is not being paid on it because it is being used pursuant to clause (v) of Section 4 to demonstrate the kind of a process in which he is using it; because the Crown can't show it, the Crown doesn't know. The accused is the one who has the possession of it, who has the use of it. Surely it's not too much to then ask the accused if he is using this in accordance with the subsection which permits him to have the exemption.

(w) "Tangible personal property consumed or expended directly in the production of tangible personal property for sale." Industrial raw materials, the Treasurer points out, could be used here. Tangible personal property which when used for the purposes of clause (w) is not taxable but which has another use entirely and if used for another use would be taxable. I'm trying to think of a good example of a particular material and one doesn't come to mind quickly, but I believe the principle is clear enough. -- (Interjection) -- That's perhaps a good example that the Treasurer mentions to me, that you buy a 4 x 8 piece of plywood, or this is sold for instance to a cabinet maker and the cabinet maker is turning out furniture or whatever. If it's used for that purpose it is not taxable, but if the cabinet maker takes that 4 x 8 piece of plywood and then starts to floor his house with it or puts it to some use that is not exempt under the Act then it does become taxable. The Crown's agents are not privy to the kind of use that he is making of this. They find the material there, they ask whether or not the tax was paid, they find the tax wasn't paid, then it is up to the accused person, whether the vendor or the purchaser, to show or to demonstrate that the use to which he was putting the particular material fell within the exemption.

Now these are, as I say, hypothetical examples, but I think they tend in total to show the principle that is involved here and why the onus, much as we dislike onus sections, why the onus must be placed on the accused in particular circumstances to demonstrate that the use to which he is putting the material is one that is contemplated within the exemptions and thereby that he doesn't fall afoul of the provisions of the Act.

There's very little else I can say on the point other than to put forward those examples and to suggest that in the public interest and in the prosecution of breaches of the Act the Crown must have certain lessons, otherwise what might appear to be a small hole in the dike rapidly becomes an area for wide transgression by persons who find a large loophole and he must have I suggest the power under terms of your prosecutions in order to ensure that information which is privy only to the accused, whether he's the vendor or the purchaser, is brought before the court in the right way, and is brought before it by the only people who know, namely the person who is charged. This I suggest is not flying in the face of the principles that all of us accept in here that the burden of proof primarily must always remain on the Crown except in those cases where the Crown can't prove it.

MR. GREEN: Mr. Chairman, I don't want to interfere with the Honourable Member for Selkirk but as I understood his objection, and possibly I'm wrong, what he says is that the way the section is now worded it appears to make the onus of proving that the law has been complied

(MR. GREEN cont'd.) . . . . with is on the accused. It's almost proving a proposition of law that whereas under the law the burden of proof both as to the fact and that the law applies to these facts is ordinarily on the prosecution. In this section it says that to prove that you are not required to pay a tax, this is a burden that shifts to the accused, and the Honourable the Attorney-General has explained the section as meaning that really to prove that you are dealing with an exempt transaction that this rests with the accused. I'm just wondering whether that wouldn't solve that particular aspect of it. I'm still not satisfied with the section but if what you want to have the accused prove is that he engaged in an exempt transaction either because of the item or because of another exemption in the Act that he should have to prove his exemption, that would at least not require him to have the onus of proving that the law applies to his particular case. Now that's what I understand the Honourable Member for Selkirk to say.

MR. HILLHOUSE: . . . Mr. Chairman, I think that the wording here is much wider and much more comprehensive than the restrictive meaning given to it by the Honourable the Attorney-General. I think the objection would be fully met if that were confined to cases where the use of the goods was exempt under the provisions of the Act.

MR. MOLGAT: Mr. Chairman, it seems to me that under the wording that we have now the situation could be that an inspector for the department could suddenly decide that he thinks there might be an infraction here and launches a prosecution and it's up to the individual who is being charged to prove everything. The department can simply take the position that we suspect that something's wrong, now prove that there's nothing wrong, and it could be abused and would be unfair to the taxpayer. Now surely some other wording can be added here to make it clear that that is not the intent and to meet the objections that have been put forward.

MR. LYON: . . . here I'm breaching my own injunction to the Member from Inkster. There might be some area here where you could use the word "exempt" and include it as part of the section without in any way eroding the purpose of the section. I think we all see the circumstances under which it could be used.

Another example that is brought forward is that under the mechanical process of sales the wholesalers will sell to legitimate registered vendors tax exempt in certain cases. The Treasury Department will expect that wholesaler to keep his records in such a way as to show why he didn't collect the tax. He will have to keep his records in that way, otherwise we have no means of checking back on the transaction. His proof will be in his sales invoice showing the retailer's tax registration number and so on. In other words, the wholesaler is the only one who has the record of the exempt sale and we'll have to ask the wholesaler, the Crown will have to ask the wholesaler to prove that he had the right to sell the goods tax exempt, because only he will know that. The onus obviously has to be on the wholesaler because he is the only one who knows.

MR. GREEN: It's quite ordinary in both the criminal code and under a taxing statute where a person pleads that he is not guilty because of a certain exemption, that he has to prove the exemption. But the Honourable Member for Selkirk says that the wording of this goes a little beyond, it would be interpreted as requiring the accused to prove that both in law and in fact this tax is not applicable to him. The wording I'm afraid could leave that impression and I think this is the point that was being made.

MR. LYON: Well in the case cited by the Leader of the Opposition where he is suggesting that the Crown might do this just on the basis of suspicion, the Crown couldn't do that because the Crown of course in the first instance as part of its prima facie case before there would be any onus on the accused at all would have to establish first of all a sale, that a sale took place; that there was certain material found in the possession of (b) a purchaser which was sold by (a) a vendor and that the records of the Crown disclosed that there was no tax paid or remitted with respect to that, and then hypothetically the Crown's case is closed. They just say that materials in the possession of the purchaser, it was sold by the vendor to the purchaser, we have no record of any tax being collected on it, the use in which we find it is not a tax exempt use; so then the onus shifts immediately to the accused or to the - in this case it would be the purchaser in this hypothetical example - to show either that the use to which he was putting it was tax exempt, if he can show that, even though on the surface it may not appear to be, or to show alternatively that he did pay the tax to the vendor - and he may have record of that through a cancelled cheque or whatever - and that the vendor's books in turn are not accurate because they do not disclose this tax having been paid. But again the Crown has no knowledge of this and while it appears to be a heavy onus that is put on the accused, really

(MR. LYON cont'd.) . . . . when you come down to actual cases the only onus that is put on the accused is to show from his records that information that is peculiar to him, that only he knows and that only he has access to.

MR. CHAIRMAN: Section 24--passed.

MR. HILLHOUSE: Mr. Chairman, on 24 there's something in here. It seems to me that the period of limitations of six years is rather long is it not? And particularly too when you deal with a question where fraud is involved, it says the information of complaint may be filed at any time. I appreciate the fact that in common law that the statute doesn't begin to run until the fraud is discovered but at the same time I think there should be a period of limitations after the fraud is discovered; but my main objection is to the six-year period. I think that's rather lengthy for a statute of this nature.

MR. CHAIRMAN: I will interrupt the proceedings of the House to draw the attention of the Honourable Members to the Speaker's gallery where we have 17 Grade 11 students from Kelvin High School. These students are under the direction of Miss Speirs. This school is located in the constituency of the Honourable the Member for River Heights. On behalf of all the members of the Legislature, I welcome you all here today.

MR. LYON: I'm the first to admit, Mr. Chairman, that six years is a long time under a summary conviction statute. Six months is the maximum period under most of our quasi criminal offences and my honourable friend is bothered particularly by the question of fraud which goes on to infinity theoretically.

We are looking at these just at the moment now, the Legislative Counsel is, to see how these compare with certain other extended limitations. I can think for instance of The Securities Act where we have an extended period - two or three years, I think it is - for offences there. The point is made, of course, or can be made, that it's impossible with 24,000 vendors in the province, to be conducting a monthly audit of their books. In actual fact what will happen is that there will be spot audits made on an irregular basis of these vendors from time to time, maybe once a year, maybe once every two years, if they have enough staff to do it. I think the only purpose for this, on behalf of the administration of those who are charged with the responsibility of administering the Act, is to ensure that because they don't hire an inspector for every outlet that they still have the opportunity even by irregular spot audits, to uncover something that has occurred say two, three or four years back, in order that that person may not get out from under the law merely because we can't employ enough inspectors to conduct the kind of monthly or regular audit that other people might - or that might be required in the case of only certain people. Now here we're talking about a very small number of people undoubtedly who will try wilfully to breach the provisions of the Act, and having regard to those circumstances, it is felt that six years is probably the maximum period that is required in order to ensure that these will be picked up in spot audits once every year or two or three. I'm the first to admit, however, that it is an arbitrary period and argument can be made for or against it, but I think the administrators would like to try it on the basis of six years and they have in their support for this period, this is essentially the same period I am told as that which is permitted for a period of prosecution under The Motive Fuel Tax Act and The Gasoline Tax Act. Apparently both of them are akin in length of time.

MR. HILLHOUSE: . . . you have the same period of limitations in The Excise Act which is two years. But the main point was that there's no limit of the time after a fraud is discovered for bringing an action.

MR. LYON: Of course, I think this thought also would apply to the question of fraud; if there was culpable and provable fraud in a case the Crown I think would also have open to it the alternative of charging under The Criminal Code, where - here my memory escapes me - the Member for Selkirk or the Member for Inkster may be able to tell me. I'm not sure if there is a limitation for fraud under the Criminal Code?

MR. HILLHOUSE: . . . my point is that there should be a limitation after the fraud is discovered for bringing the action.

MR. LYON: From the time of discovery?

MR. GREEN: Did I understand the Minister to say that they're looking at subsection (4) - that you may be thinking in terms of both of the objections that were made by the Honourable Member for Selkirk, or do you wish to pass (4) as it is, as you said, so that we'll see how it works out?

MR. LYON: This is the thinking of those who would be responsible for carrying out the Act - to see how the six years works; to find out how their audit procedures work, and so on.



(MR. LYON cont'd.) . . . . This could be modified in time if it was found to be necessary or if indeed it was causing any undue hardship. I have no present information from the Treasury Branch as to whether or not this has caused any hardship under The Motive Fuel Tax Act or The Gasoline Tax Act. I personally have not heard of any but that doesn't mean that it hasn't. I admit that it's an arbitrary period; it's a longer period than usual but I suggest that with the new statute, with the kind of complex administration and inspection that is required under it, that it might be well in the first instance, at least, to try this out with the six year limitation period on it. If we find that it's onerous later on then we could moderate it then.

MR. GREEN: Mr. Chairman, I'd just like to point out that especially where the onus is on the accused, perhaps in all cases, but especially where the onus is on the accused, there should be a more definitive period and I think that this was pointed out. The accused is going to have to prove six years from now that a sale that he made was exempt or something of that nature. When we're sort of experimenting or we're trying something out, I think it's the better side of fairness to say that we'll test it with the benefit to the citizen rather than to the state and I think that under those circumstances, six years is an awfully long time. We'll have to wait six years to know whether there's any prosecution that they want to make in that interim. It's quite a long test.

MR. LYON: I would be hopeful, of course, that the audit procedures would be refined, after trial and error, would be refined to the point where the administration could then make a recommendation to the government that six years was not necessary, that they could maybe knock it down to three years, after the experience that they had with their audit procedures, when they get those established, and their spot audits and so on. But for the meantime I think it's in the public interest having regard to the fact that what you're after here is not the innocent man, what you're after is the guilty man, and the man who, because of his defalcations under the Act is thereby depriving the public of tax money which should be paid and as a result everyone else suffers. I think the balance, if I may say, the balance of weight should be put on the side of the public interest rather than on the side of the particular individual who may be trying to use this Act for his own purposes.

Now, I see my honourable friend from Rhineland shakes his head. I'm merely suggesting this as a trial and error procedure until they find out how the Act works; admitting throughout that six years is a long time.

MR. MOLGAT: Mr. Chairman, I may have missed it but I've so far been unable to find in the Act where we say how long records must be kept by an individual. Under a later Section - 28 - we say what type of records he has to keep. But assuming that we are going to keep this six year clause, I would assume that the individual, the vendor, would have to retain his records for a minimum of six years. He'd have to retain all his purchase invoices and all his sales invoices. Well, when we consider the types of businesses that are going to be taxed, let us say restaurants, if they have to retain every single restaurant check, every single sales slip and every department store has to retain every cash register tape or whatever basic information is required in order to defend themselves in case of an action launched against them some six years later, there's going to be a very practical problem I think for a lot of business establishments in the province so far as record keeping and the storage of some of this material. I know for example, in the restaurant business, very quickly a busy restaurant accumulates a fantastic amount of meal checks and I'm sure the Minister can appreciate what this would mean and yet I can't see how they could prove, without the check itself, indicating what the sale was, and the original document, that they are either guilty or not guilty. So I don't think we can look upon it simply as an administrative one; there'll be a very practical problem for each businessman insofar as this question of records.

MR. JACOB M. FROESE (Rhineland): Mr. Chairman, why cannot we reverse the situation and make it three years now and if it's necessary to extend it later on. I notice for instance, in the section dealing with refunds we are asking the people to remit the tax within a month and yet when it comes to refund we want to have three years time to make the refund in Section 26 (2) (d). Well certainly, Mr. Chairman, I think we can do a little better than that.

MR. CHAIRMAN: (4)--passed; Section 24--passed.

MR. MOLGAT: Mr. Chairman, I think the Minister is having a look at this. I have no objection to the matter being held, Mr. Chairman. There are a number of others presently held for discussion when we reach the end of the Bill and if that suits the Minister it's all right by me.

MR. EVANS: Mr. Chairman, I haven't been able to turn up the section of the Act here. I'd like to hold this subsection with respect to the length of time for keeping records and come back to it again with the other ones.

MR. CHAIRMAN: ... Section (4) be held in Committee? Section 25--passed; 26 (1)--passed; (2) (a)--passed; (b)--passed; (c)--passed; (d)--passed; (2)--passed.

MR. FROESE: Mr. Chairman, I move that we strike out the figure "2" - or the word "two" in Section (2) (d) in the last line and insert the figure "1".

MR. MOLGAT: I suspect that that wording is going to harm the vendor, the storekeeper and the merchant, and I don't think that is what my honourable friend has in mind. If I understand his motion correctly, he would remove the two year period during which an application can be made for refund by a vendor and reduce it to one year, which would be a hardship on the vendor and not one on the government, which I presume is his intention, Mr. Chairman.

MR. FROESE: I'm sorry. No, I wanted just that the refund be made within one year rather than two year period. -- (Interjection) -- I'm withdrawing the motion then.

MR. CHAIRMAN: Motion withdrawn? Agreed?

MR. GREEN: Mr. Chairman, I would like to ask the Minister whether this provision would apply - and I admit that I'm forgetting some sections of the Act - if he's paid a tax and then he appeals and he's successful and he's to get the tax back, would that apply to this section, or is there another section of the Act that deals with that? Do you follow what I'm saying? Let's say he's paid the tax and later the judge finds that he's not supposed to have paid it and he wants his money back.

MR. EVANS: My friend is asking whether he must make a separate application for refund and that being the case, if he has to make it within two years; is that the full question?

MR. GREEN: Yes, that's part of it and I want to know whether he gets interest when he gets a refund. You see, I know if he doesn't pay he has to pay interest. If a man pays a tax which he just overpays by virtue of his own possibly bad bookkeeping or other reasons, then I don't think he's entitled to interest, but if you take his money wrongfully and then have to give it back, then you should be subject to the same penalty as he is if he doesn't pay it. And I just wonder whether that's cleared up in the Act some place.

MR. EVANS: There is no provision for paying interest on overpayments of that kind, as my honourable friend points out. It is not provided for in the statute. It is not intended to pay interest in those cases.

MR. GREEN: Well, Mr. Chairman, again - if a man doesn't pay his tax, he must pay interest after there is a finding that he had to pay a tax. If the government has charged him a tax which he successfully appeals against, then I don't see why the government should have his money interest free. I repeat, I don't think this should apply where a man overpays by inadvertence or negligence or other reason of his own, but if he overpays because the government has swooped down on him with its vultures and he decides that he has to pay the money and then the court finds him right, then surely he should be entitled to the interest that you people have cost him for having to pay that tax.

MR. EVANS: My honourable friend would not wish to call civil servants vultures ...

MR. GREEN: ... I accept that. I withdraw the remark.

MR. EVANS: The purpose of charging interest is to make it unprofitable and to remove the temptation from a vendor to use his tax money as working capital. The levying of an interest rate, an interest rate of 9 percent makes it less profitable to use tax money withheld than it would be to go to his bank and get a loan.

MR. FROESE: Mr. Chairman, at the same time, the very thing that you are accusing these other people of, the government is going to do because they will then prolong and procrastinate and not pay the party that is entitled to a refund in time. Because they can get it interest free, why not carry?

MR. CHAIRMAN: (d)--passed; 2--passed. 3 (a)--passed; (b)--passed; 3--passed; Section 26--passed. Section 27--passed. 28 (a) ...

MR. MOLGAT: ... 27 ... means simply that the Provincial Government will pay sales tax itself on all taxable items. Is that the intention?

MR. EVANS: Yes, all levels of government including the Manitoba Government.

MR. EARL DAWSON (Hamiota): Mr. Chairman, would this be the proper place to ask the Provincial Treasurer if he has come to any decision on the question I asked about the sales tax on gravel and sand for making sidewalks, etc., for municipalities, roads etc.

MR. EVANS: I have not been able to give the time to study that rather complex matter.

May I say Mr. . . . if we have completed 27 . . .

MR. CHAIRMAN: 27. Yes.

MR. EVANS: Have you called 28 yet?

MR. CHAIRMAN: No. 28.

MR. EVANS: I would like to inform the honourable members that I propose several amendments under Section 28 and I would like to distribute copies of the amendments that I know about to this point, which I propose to add, including those we have discussed, and then my honourable friends will see that under Section 28, I propose to add several more and particularly to amend subsection (h) which came out in a form that I hadn't anticipated. So if the pages will be good enough to distribute these copies perhaps before you start to call Section 28, Mr. Chairman, then they would be able to follow more closely the amendments that I introduce.

Mr. Chairman, while the honourable members are looking over the paper, I might add that this whole series of amendments that has now been distributed will be introduced with a message from His Honour, because some of the items do affect the Consolidated Revenue. Therefore at this stage I will not formally introduce the motion to achieve the amendment but as we discuss them as we go along I see no harm in discussing the text of the proposed amendment.

MR. CHAIRMAN: (b)--passed; (c)--passed. . .

MR. DOUGLAS CAMPBELL (Lakeside): Mr. Chairman, as far as I see in glancing quickly at the proposed amendments I see nothing for (b) of 28 and I have the feeling that there is something missing in the wording here. Should we not say, should we not use such terms as prescribing the methods of keeping records or the form in which records are kept or something of that kind? It seems to me to be imperfect to say "prescribing the records of purchases." I don't think that even the Lieutenant-Governor-in-Council can do that, Mr. Chairman.

MR. EVANS: It's suggested that we add the words "and the forms and methods by which they are to be kept." That I think would clarify the meaning.

MR. CAMPBELL: I think that would be an improvement, Mr. Chairman.

MR. CHAIRMAN: The motion is that after the figure 12 in clause (b) the following be added: "and the forms and methods in and by which they are to be kept."

MR. CHAIRMAN presented the motion and after a voice vote declared the motion carried.

MR. MOLGAT: Mr. Chairman on both (a) and (b), in view of the fact that the government will be, as it is, putting a lot of business people to considerable expense insofar as cash registers and so on, is it the intention to supply to those who want it - I think this of course will be mainly the smaller operators - the forms and the record books and the basic items that the government will want them to keep or is this something that they must go out and purchase on their own?

MR. EVANS: . . . purchase on their own such things as invoice forms, ledgers, other records or normal bookkeeping requirements of any business and they will be at the expense of the vendor.

MR. MOLGAT: Mr. Chairman, I can appreciate for the normal things but are there special books that will have to be kept for the government? Will there be special books of entry, of remittance forms, and the things that are specially concerned with the work involved directly for the government?

MR. EVANS: The government forms that are required for the purpose of reporting will be supplied at no cost to the vendor. The other forms and records that we are discussing here will be normal bookkeeping forms and books, normal business stationery such as invoice forms, statements and so forth, which are a normal business expense and will be paid for by the vendors themselves.

MR. CHAIRMAN: (c)--passed; (d)--passed; (e)--passed; (f)--passed . . .

MR. EVANS: Mr. Chairman, I would like to draw attention to Page 3 of the proposed series of amendments and draw attention to the fact that I propose to move at a later stage that Section 28 of Bill 56 be amended (a) by adding thereto immediately after clause (f) thereof, a following clause: (g) defining, for the purposes of clause (e) of subsection (1) of Section 4, drugs and medicaments. And following that (h) defining, for the purposes of clause (h) of subsection (1) of Section 4, farm implements, farm machinery and repair parts therefor.

MR. CHAIRMAN: Are you ready for the question?

MR. EVANS: Mr. Chairman, I think I indicated that the right thing would be for me to move the formal motion after the Message from His Honour has been received.

MR. CHAIRMAN: Because there are some other changes to be made in 28, should we leave Section 28?

MR. EVANS: By all means. We'll hold the whole of Section 28 in order to be able to make these amendments in the right way. And perhaps at this stage then, if we are going to do that, I should draw attention to the fact that I propose to move to strike out subsection (h) and substitute therefor the words "describing any tangible personal property mentioned in Section 4 or any service mentioned in Section 5 for the purposes of clarifying the interpretation of those sections. That is on Page 3 of the proposed amendments; it's really the second last paragraph on the page.

MR. CHAIRMAN: Are you ready for the question?

MR. EVANS: No question but the item stand.

MR. FROESE: Under (e), I notice you already passed it but does this mean that under (e) that you will be able to put in these additional penalties in addition to what you can already do under the various other sections?

MR. EVANS: No the power to make regulations is only limited to the powers that are granted in the Act and for the purposes of carrying out the Act it is possible to make regulations. These do not add to the powers granted in the Act.

MR. CHAIRMAN: Balance of 28 after clause (f) will stand.

Section 29--passed.

MR. MOLGAT: Mr. Chairman, you don't intend to discuss (i) and (j) at this time. Is that correct?

MR. EVANS: I'm afraid that was my fault. I think we should continue on now as we have been doing with (i), (j), (k) and so on and then allow the item to stand.

MR. MOLGAT: Mr. Chairman, I believe we have reached item (i) have we not? I wonder if the Minister could enlighten the committee as to what the intention is here by this. What does he plan to do in his regulations on the matter of gifts? Is there any monetary limit? What is the structure?

MR. EVANS: There is no monetary limit. A number of illustrations were brought up during the course of the second reading debate. Was it intended for example to levy a tax on a wedding present that was delivered some time after - there will be a number of, I am sure, very diverse kinds of gifts that should be excluded from a retail sales tax, and in those circumstances it is thought right to be able to make regulations to cover them. The intention will be to exclude from sales tax anything that is in fact a genuine gift.

MR. MOLGAT: Mr. Chairman, would this then include what is a very common practice in business now - the Christmas gift for example. Many businesses make it a practice to give gifts, some very large at times to their customers at Christmas time. This is a business operation but is nevertheless a gift. Will this definitely be excluded?

MR. EVANS: I should think the business house would be the consumer of the goods purchased for the purpose of distributing as gifts. That would be a business expense, a normal business expense, and in that the consumer would be the person who purchased the goods for the purpose of distributing either as advertising or goodwill or whatever other business purpose he had in mind.

MR. MOLGAT: And the purchaser in that case, even if he purchased these items at wholesale, or if it happened to be an item that he produced himself, as a manufacturer, and gave it to his clients, would have to pay the sales tax on the item? He would be considered to be the consumer?

MR. EVANS: That would come under those cases in which a manufacturer with a licence for that purpose withdraws from stock certain goods for his own consumption or his own purposes and they would be valued at the fair market value for tax purposes.

MR. CHAIRMAN: (j) . . .

MR. MOLGAT: Mr. Chairman, under (j), this is to exclude the charitable institutions. I assume that this will mean that any group that is a non-profit organization and has a sale, for example, Kinsmen Club or Kiwanis or any of these groups who may be selling a product which would be a taxable product, would apply to the Minister for a licence to sell this. Exempt the sales tax. Is that the case?

MR. EVANS: We discussed two cases I think during earlier stages. One was where a tax exempt item -- no I think we did not discuss it. I should correct myself there. I have had

(MR. EVANS cont'd.) . . . . private discussion on two different kinds of cases. One is where an article of food is sold for the purpose of raising money and of course, food being exempt from the sales tax doesn't enter into the discussion. In other cases where a taxable item is sold for the purpose of raising money the tax will be levied against the organization at their cost. They would be the consumer of the goods for that purpose. The intention under this section is to include what is generally known as the church bazaar or church sales or occasional casual - I don't mean casual - I mean the occasional event at which charitable organizations raise money by devices such as bazaars and sales.

MR. MOLGAT: What would be the procedure here? They simply make application to the Minister for a licence to do so in each case? Is this the . . .

MR. EVANS: There is no provision to require a licence in those cases. The intention is to exclude these events as a matter of right and that further description will be given in the regulations and people notified accordingly.

MR. FROESE: How would this apply to, let's say American organizations of this type, would they have the right to exemptions too or from any other province?

MR. EVANS: . . . my honourable friend ask about American organizations?

MR. FROESE: Yes, or from some other province. I know we have an organization that is doing relief work and their home base is in the U.S.A. Supposing they bought goods here in Manitoba, could they qualify under this section?

MR. EVANS: I think I'd have to ask my honourable friend to give me a full description of the kind of organization and the kind of case that he is asking about and I'll seek an interpretation of it.

MR. FROESE: Well, why not be more specific. We have the Mennonite Central Committee which does a lot of relief work and they would purchase goods in Manitoba and send them abroad. Would they be entitled to get tax relief under this . . .

MR. EVANS: It's a complicated matter and I don't wish to give a firm indication at this time. It involves several vacuums. I think if my honourable friend will allow me -- we have the record now of his question and I'll be pleased to provide him with the answer to that question.

MR. CHAIRMAN: (k)--passed; (l)--

MR. MOLGAT: Mr. Chairman, (l) is a very broad sort of a clause allowing the Minister a good deal of leeway in many ways. It may be necessary. I'm not objecting to it, but I would like to know what it is intended to cover. I presume this would come from some Act in other provinces and I wondered why this was necessary and what type of circumstances would fall under (l).

MR. EVANS: Well I think there are -- this is put in largely to be able to do it in circumstances we don't foresee. The intention is to not be faced with a situation where indeed great public hardship would be inflicted or great inconvenience on the public unjustifiably and to grant discretionary power to the Minister to relieve in those cases.

MR. GREEN: Mr. Chairman, of course we've been using this argument against the imposition of tax in its entirety that great public inconvenience or great hardship or injustice to persons or individuals could not be avoided and we sympathize with the Minister in that this certainly may happen. However, it's unusual to say the least to say that the Lieutenant-Governor-in-Council is going to act as the adjudicator of this type of problem. We're not unfamiliar with cases where people feel that an Act should be passed for the relief of some individual by virtue of an inequity that has occurred in the laws. We would think, Mr. Chairman, this may happen, and when it does happen it's likely to happen in the instance of people who have to pay a huge tax, and where relief of that kind is granted it should be granted by the Legislature making an exception to the laws rather than having an arbitrary power vested in the Lieutenant-Governor-in-Council to do this. It could lead to the Lieutenant-Governor giving relief in instances where the Legislature felt relief wasn't justified.

MR. EVANS: Well there are so many circumstances in which I am given power to be unkind to people; I would like some little leeway to be kind to people in justifiable cases.

MR. SAUL CHERNIACK, Q.C. (St. John's): Mr. Chairman, that's an interesting answer and of course it's one given facetiously and I won't deal with it. But to me this section is a confession of the harshness that precedes it in all the 25 pages and a recognition that the powers granted to the government and to the Lieutenant-Governor-in-Council are so great that there are likely to be excesses and there are likely to be hardships and injustice imposed on people. And as I say I accept it as such, I do accept it as a confession of potential harshness.

(MR. CHERNIACK cont'd.) . . . . Maybe any tax statute carries that with it. But the fact is that there's so much discretionary power involved here and there's so much not spelled out, that the Minister admits quite freely that he cannot foresee the hardship that might be created but he obviously can foresee that there will be a hardship and injustice created and this supports our whole attack on the Act and on the principle behind it.

Now the one feature that I've always disliked about - well I presume this will then be part of the regulations; it will not be separate Orders-in-Council that would be passed for individual cases but rather as to classifications. And I'd like to be clarified on that, that it is classifications of articles or of property or of buyers or of sellers rather than individual relief granted to individual persons. I'd like an answer before we proceed further with it.

MR. EVANS: Well it's intended to give fairly wide discretionary powers to relieve undue strictness in the application of the law, and it is for the purpose of interpreting individual cases as they come forward. There may indeed be cases in which - a charitable sale does not fall under any of the classifications that have been given for it; charitable sales take many forms and it might well be that some form would come along that did not conform to the statute itself or to the regulations but which in justice should be exempted, and it's for use in those cases under my ministerial responsibility that I would use that part.

MR. CHERNIACK: Mr. Chairman, as I understand it, the Honourable Minister wants the power to grant relief in specific cases for specific persons on specific transactions, and I don't think that that is right. I think that if it is felt, as a result of what is learned and what experience is acquired, that a certain type of transaction ought to be relieved, then I think that the type of transaction by description as to the nature of it or as to the class of goods or persons affected could be inserted into a regulation, but if it means that from time to time the Minister will, through the Lieutenant-Governor-in-Council, make a regulation saying Regulation No. so and so, a transaction made by a Company (a) to Mr. (b) is hereby relieved of taxation because it is a hardship, then I think that's very dangerous and it opens the way for the Minister to be besieged by individuals asking for special relief, and means of course that those who don't take the trouble to apply to the Minister will not be able to have that consideration.

MR. EVANS: . . . the wrong language . . . my honourable friend, I've just been reminded that this comes under the heading of Section 28 which empowers the Lieutenant-Governor to make regulations, and one of the purposes for which it may be done is subsection (1); consequently, it is an action of the Lieutenant-Governor-in-Council by Order-in-Council, which is a public document, will be published and gazetted.

MR. CHERNIACK: The word "and gazetted", it means it'll be gazetted like all regulations are gazetted. Well, that's important and I'm glad that was mentioned. I recognize that it is not the Minister alone, it is the Treasury Bench or the Lieutenant-Governor-in-Council; but again, I am not clear as to whether it will be to affect a specific transaction or will affect a major or type of transactions which are found not to be covered. I think that's important.

MR. EVANS: I think the statute gives power only to impose the tax in certain ways over classes, and consequently it's within the powers granted by the Act that regulations may be issued, and only within those powers. Consequently it does apply, as my honourable friend suggests, only to classes.

MR. MOLGAT: Mr. Chairman, I think there needs to be more protection, though, in general here so far as the public, because the Minister says these will be published - the regulations. Well, I appreciate that the regulations do appear, but Orders-in-Council, as I know them, while they may be available to us - in fact we have asked here in the House on occasions for a copy of the Order-in-Council and we've been told, go to the Clerk of the Council and get one - the members are not given Orders, and yet if you go back to Section 28 you will find that the Lieutenant-Governor-in-Council may make such regulations and orders, and so we could find under Section (1) that regulations and orders could be published. Now, could we insert here in some way that any exceptions made to this particular clause should be reported to the House annually, that there be an annual report of any exceptions of this type made? Then they would come to the attention of the members of the House and I think would be a protection to the government itself, and for the Minister, so that he couldn't be accused of any special favoritism or anything of the sort - not that I am suggesting that he would do that, but I think that a section like this should be reported clearly to the House; any regulations or any orders under this item.

MR. EVANS: I'm informed that all such regulations are governed by the Regulations Act, that they are and must be - all regulations - of a legislative nature and that there's no difference

(MR. EVANS cont'd.) . . . . . between the words "orders" and "regulations", that they are both covered by The Regulations Act. Consequently, the manner in which it is done is governed by statute now.

MR. MOLGAT: Which means that the House will be informed in what way of any regulation taken? Will there be an annual report to the House or is it the one that comes to us in the booklet of all the regulations passed?

MR. LYON: Well of course the House -- members of the public and members of the House would be informed first of all through the medium of the Manitoba Gazette which comes out weekly in which all regulations are contained, and then ultimately a copy of all regulations passed each year must be filed in the Chamber each session pursuant to the rules of the House under which these regulations are referred to the Standing Committee on Orders and Regulations for review, so there's the double protection in that they get immediate publication in the Gazette.

MR. MOLGAT: There would be no Orders-in-Council in the terms of regular Orders-in-Council which don't come to us?

MR. LYON: If you look to the guiding words at the beginning of the section, Mr. Chairman, I think you will find there that for the purpose of carrying out the provisions of this Act according to the intent, and this is the standard enabling section that is put in all Acts, the Lieutenant-Governor-in-Council may make such regulations and orders as are ancillary, and this is a standard enabling section under which regulations -- I can't conceive of any regulations that would not be of a legislative nature, and immediately they are of a legislative nature they must be filed with the Registrar of Regulations, published in the Manitoba Gazette, and appear as Regulation No. 7 of '67 or whatever it is. If they have the force of law, that is, if they are of legislative nature, they must appear in that way.

MR. GREEN: Mr. Chairman, I don't think that we have made ourselves felt as to the real reason for being concerned with this Bill, with this section. The section purports to give relief and purports to give the Minister an opportunity of relieving injustice or hardship, and therefore we are in the peculiar position or the unenviable position of being the advocates against relieving hardship or injustice, but the Minister must know that if he relieves what he thinks is hardship or injustice to certain persons or individuals, he thereby collects that much less taxes from them and inflicts hardship and injustice on the people who will have to pay the revenue that's not collected by that tax.

Now we have gone through a very arduous procedure whereby the government has indicated that it will make certain exemptions and certain exemptions only. We have tried to get them to repeal the tax against cleanliness. We have tried to get them to repeal the tax against children's clothing, against repairing children's clothing, washing children's clothing, laundry and dry cleaning, and the government has stood there steadfast and said, "We require all of the sources of revenue we now have and we can't accede to the exemptions that you are now asking for and that you are asking to be determined by legislation, but we wish the right to put in our own exemptions when we see fit, where we think that there will be a hardship." Now we've argued in this House all kinds of hardships which the Minister has not yielded to, but he wishes to preserve to himself -- perhaps he doesn't wish to do this but this legislation gives him the power to do this, of saying that by regulation we will say that an exemption that has not been dealt with in the House, has not been argued in the Legislature, but which we think in our wisdom is necessary should operate.

Now Mr. Chairman, it puts the government in a terrible position of dealing with hardships on an individual basis and outside of the confines of the Legislature, and a government in that position is a government that is subjecting itself to pressure from one area or another. Isn't it better to discuss whether laundry is going to be exempt, in the Legislature rather than have 72,000 people converge on the Minister and say that this is a hardship and injustice. Those things should be argued out in this Legislature, because to not do it, to say that you are going to rob Peter, so to speak, to pay Paul; that you are going to inflict the tax on one person to save another person; and if you are going to engage in that kind of activity or if you want the right to engage in that type of activity, it should be done in the Legislature and not in the offices of the Lieutenant-Governor-in-Council.

MR. LYON: I don't want to interject myself into the debate at any length but my honourable friend has stated one way of looking at this proposition, or this particular clause of the Act; I suggest there is another way; and the way in which it is looked at, certainly by the Treasury bench, by the government, is that we admit that laws are made by men and men are not infallible; men are quite fallible. And we can't foresee, as the Provincial Treasurer has

(MR. LYON cont'd)...already quite well pointed out, areas where there may be undue hardship caused through no wilfulness on the part of the Legislature at all, through this Act, which do require a remedy before the House can again meet, and this is merely the section that provides the kind of lubrication, for the administration of the Act in order that the public interest may be served, that is required. Now I admit that it does give an area of power to the Lieutenant-Governor-in-Council that is not found in too many statutes, but it is still subject, of course, always to the guiding words at the beginning of the section which correspond to say: "For the purpose of carrying out the provisions of the Act according to their intent, and we may make ancillary orders" and so on and so forth, but that's the point. This is, if you wish, the cushion, the elasticity within the Act that is needed, I suggest, with a new statute of this kind to provide some minor degree of flexibility for the administrators who are charged with the responsibility of making this work, in order to make sure that it does not land with a crunch on a group or a class of goods or people or whatever, that was not contemplated by anybody in this House, and I think this is the type of thing that the honourable members should rather applaud than decry, because this will give that kind of flexibility to give better administration hopefully in the public interest.

MR. CHAIRMAN: (m), (n), (o). Section 29--

MR. FROESE: Mr. Chairman, it seems when we are asking for certain concessions on our part here and we've made a number of amendments to this bill from time to time, where we are seeking relief for certain parties, this was not granted. Now we find that, on the other hand, under this section they are asking for certain privileges and now we are just saying well and good, you'll be doing it in the best possible way, and we are just supposed to give our okay. I think they should have listened more closely to our requests that we made on behalf of the people of Manitoba and then we would have been more ready to grant them this section.

MR. CHAIRMAN: 29--passed; 30--passed; 31--passed.

MR. EVANS: It would be my intention now to introduce the resolution formally, and I begin by saying His Honour the Lieutenant-Governor, having been informed of the subject matter of the proposed resolution, recommends it to the House. If it's your wish, Mr. Chairman, I'll read the resolution, or if it were the wish of the House we might save that process and start item by item.

MR. MOLGAT: ...Mr. Chairman, advisable. We haven't had a chance to read these and to see if they fit into the discussion we have had previously on them. A number of them arose out of resolutions suggested from this side and then allowed to sit in committee. I don't want to delay the Bill in any way but would it be at all possible to have until tomorrow to have a look at these and make sure they fit in. I have no objection at all to moving them and then if we could simply have ...overnight and then tomorrow we'd be prepared to proceed. I don't want to delay but I just wonder in view of the changes that are proposed...

MR. EVANS: There's at least one further move that's required and are we not required to report this resolution to the Speaker? Perhaps my honourable friend would agree that we might report the resolution to the Speaker and then the next normal order of business would be to return to this Committee at which point we can have some discussion as to whether -- It seems like a massive amount of material to consider but I would ask my honourable friend to look more closely at it and he will find that a number of the sections refer only to re-numbering of sections because of certain amendments, that the various motions as one goes down the page are comparatively short and simple. I would be quite willing to take all the time at each paragraph as we go along that anybody would wish, and then if it does turn out that one of them appears to be too difficult, to deal with on whatever notice we have. I have never shown any disposition to restrict discussion; in fact, would have no power to. I think then perhaps, Mr. Chairman, if I may suggest, that you may wish to read the resolution at which point we can consider the Committee rising and reporting to the Speaker.

MR. MOLGAT: We have two separate sheets - oh I see, one is the changes that have already been made.

MR. EVANS: One is the changes that have already been made, and then those that are now proposed.

MR. CHAIRMAN: I understand that the proper procedure is to read these motions and adopt them and report to the Speaker.

MR. EVANS: ...been supplied to all the members. I wonder if my honourable friends would agree that a copy be supplied to Hansard and incorporated. If there is any objection, then we will ask the chairman to ...



MR. PAULLEY: Oh I'm not raising any objections, and I agree with the Leader of the Opposition that as far as the mechanics are concerned, that we go through them, it's quite all right. But just seeing the amendments for the first time, it raises one or two questions in my mind. For instance, the first motion, subsection (e) drugs and medicaments as defined in the regulations. These will be exempted. I don't know, maybe my friend the Provincial Treasurer has indicated what he intends to place in the regulations pertaining to drugs and medicaments. If he has, well then I'll read it in Hansard because this is one of the points of course that we were most vitally interested in during the deliberations on the first run-through, may I call it, of the Bill, and I can see that just taking literally the new section (e) drugs and medicaments according to the regulations that we are going to have quite a large volume of regulations if all of the trade names of medicines, medicaments and allied products are going to be contained within the regulations by trade name or other name, and I wonder if my honourable friend -- and I think this is what the Honourable the Leader of the Opposition had in mind too, Mr. Chairman, a little further clarification or an opportunity of studying these in order to arrive at them. And the first point that does come to my mind is the complexity of establishing medicaments in the regulations. Now maybe my honourable friend - I can just sit down, I'm sure - maybe my honourable friend can clarify what's in my mind and I'm sure that he knows what I'm thinking on at the present time.

MR. EVANS: Well we have already - perhaps if my honourable friend would allow me to answer this question while it's in my mind - we have already had some debate on this point, and providing this amendment was an endeavour to meet the wishes of the committee. At that time I stated that the regulations would be framed with medical advice and would have to correspond with whatever provisions there are in the Pharmaceutical Act and so forth, but the regulations would be issued only with proper medical advice. Whether every trade name would have to be mentioned I would have to get advice on. Now my suggestion would be that if it's advisable we should have a debate now on this resolution as a whole, and perhaps on the principle of it which is to introduce certain amendments that were discovered during the first examination in committee, and then come back into committee again and consider them clause by clause. If at that stage my honourable friends want to hold any clause for further study and it appears that it is not reasonable to proceed, there will be no resistance to me to holding that particular item in Committee but there may be others that we can dispose of.

MR. MOLGAT: Mr. Chairman, I...we go through the mechanics of the whole thing without debate at this stage, and have the debate on the individual clauses when we come back to the committee stage. I think it would be the best way, rather than have speeches again on the whole of the reasons for amendment.

MR. CHAIRMAN: The resolution is passed then...

MR. FROESE: Mr. Chairman, was it the intention of the Minister to include both of these copies in Hansard then?

MR. EVANS: I think my honourable friend is probably referring to a list of amendments that have already been made, and they will appear in Hansard as they were moved and adopted in the Committee, but I was referring only to a procedure which I hoped would enable the Chairman to avoid reading a somewhat long, somewhat dull resolution with a lot of figures and so on, but if that doesn't seem to be the right thing to do I'm sure that the Chairman will be willing to read it. --(Interjection)-- In that event, Mr. Chairman, I move the resolution which is before you and I would ask the Legislative Counsel if he will kindly provide a true copy of this resolution to Hansard, that it be incorporated in the regular Hansard.

Please insert resolution amendments here.

.....continued on next page.

## Proposed amendments to Bill 56 - The Revenue Tax Act

1. MOTION: THAT clause (e) of subsection (1) of section 4 of Bill 56 be struck out and the following clauses substituted therefor:

(e) Drugs and medicaments as defined in the regulations.

(f) Dental and optical appliances when sold on prescription of a dentist, optometrist, or physician.

2. MOTION: THAT clauses (f), (g), (h), (i), (j) and (k) of subsection (1) of section 4 of Bill 56, as printed, be re-lettered as clauses (g), (h), (i), (j), (k) and (l).

3. MOTION: THAT clause (l) of subsection (1) of section 4 of Bill 56, as printed, be struck out and the following clauses substituted therefor;

(m) Fertilizers, insecticides, fungicides, herbicides, rodenticides, and weed control chemicals.

(n) Binder twine, baler twine and baler wire.

(o) Barbed wire, farm, hog, and poultry fence, when purchased for farm use.

4. MOTION: THAT clauses (m), (n) and (o) of subsection (1) of section 4 of Bill 56, as printed, be re-lettered as clauses (p), (q) and (r) respectively, that clause (p) of subsection (1) of section 4 of Bill 56, as passed by the committee, be re-lettered as clause (s), and that clauses (q), (r), (s), (t), (u), (v), (w), (x) and (y) of subsection (1) of section 4 of Bill 56, as printed, be re-lettered as clauses (t), (u), (v), (w), (x), (y), (z), (aa) and (bb) respectively.

5. MOTION: THAT sub-clause (i) of clause (d) of subsection (1) of section 5 of Bill 56, as printed, be amended by striking out the letters and word "(e), (f), (g), (h), (m), (n) or (o)" in the second line thereof and substituting therefor the letters and word "(f), (g), (h), (i), (p), (q) or (r)".

6. MOTION: THAT subsection (1) of section 8 of Bill 56 be struck out and the following subsection substituted therefor:

8. (1) An applicant for a registration certificate, or a person whose registration certificate has been suspended or cancelled, may appeal against an order refusing to issue him a registration certificate or suspending or cancelling his registration certificate, as the case may be, by application to a judge of the Court of Queen's Bench.

7. MOTION: THAT subsection (2) of section 9 of Bill 56 be struck out and the following subsections substituted therefor:

(2) A person disposing of his stock through a sale in bulk, as defined in The Bulk Sales Act, shall deliver one of the duplicate certificates issued under subsection (1) to the buyer of the stock.

(3) Where a person who buys stock through a sale in bulk, as defined in The Bulk Sales Act, fails to obtain a duplicate copy of a certificate issued under subsection (1) in respect of the sale in bulk, he is responsible for payment to the minister of all taxes collected by the person disposing of his stock through the sale in bulk and not paid to the minister, and may, in a court of competent jurisdiction, recover any amount paid to the minister under this section from the person disposing of the stock through the sale in bulk.

8. MOTION: THAT subsection (2) of section 17 of Bill 56 be struck out and the following subsection substituted therefor:

(2) Where it appears to the satisfaction of the minister, or to the Deputy Provincial Treasurer, or to an Assistant Deputy Provincial Treasurer, or to a director or assistant director of the Taxation Division of The Treasury Department, or to any other officer of The Treasury Department of similar class and designated by the Lieutenant-Governor-in-Council, that any provision of this Act or the regulations has not been, or is not being, complied with, he may seize or cause to be seized any books of account, records, or documents, for evidence.

9. MOTION: THAT section 28 of Bill 56 be amended

(a) by adding thereto, immediately after clause (f) thereof, the following clauses:

(g) defining, for the purposes of clause (e) of subsection (1) of section 4, drugs and medicaments;

(h) defining, for the purposes of clause (h) of subsection (1) of section 4, farm implements, farm machinery and repair parts therefor;

(Proposed amendments to Bill 56 - The Revenue Tax Act cont'd) . . . . .

(b) by striking out the letter "(y)" in the second line of clause (g) thereof, as printed, and substituting therefor the letters "(bb)";

(c) by re-lettering clause (g) thereof, as printed, as clause (i);

(d) by striking out clause (h) thereof, as printed, and substituting therefor the following clause:

(j) describing any tangible personal property mentioned in section 4, or any service mentioned in section 5, for the purposes of clarifying the interpretation of those sections;

and

(e) by re-lettering clauses (i) to (o) thereof, as printed, as clauses (k) to (q) respectively.

MR. CHAIRMAN presented the motion and after a voice vote declared the motion carried.

MR. CHAIRMAN: Committee rise. Call in the Speaker.

Mr. Speaker, the Committee has adopted a certain resolution and requests leave to sit again.

IN SESSION

MR. COWAN: Mr. Speaker, I move, seconded by the Honourable Member for Pembina, that the report of the Committee be received.

MR. SPEAKER presented the motion and after a voice vote declared the motion carried.

. . . . . continued on next page

MR. EVANS: Mr. Speaker, I beg to move, seconded by the Honourable the Attorney-General, that Mr. Speaker do now leave Chair and the House resolve itself into a Committee of the Whole to consider Bill 56.

MR. SPEAKER presented the motion.

MR. EVANS: I moved the motion -- on a point of order, Mr. Speaker, I moved that Mr. Speaker leave the Chair and the House resolve itself into a Committee of the Whole to consider Bill 56.

MR. PAULLEY: Really, Mr. Speaker, do we not have to have the resolution? The purpose of the going back into Committee from which we just came out was to consider the message or the resolution altering the tax structure. Is this not so? I'm a bit bewildered at the fact of just coming out of committee and having achieved nothing and then going back into the Committee to consider Bill 56. It's my impression that we should have a resolution that we go back into Committee of the Whole to consider amendments to the legislation prefaced by a message from His Honour.

MR. LYON: This is a new procedure so I think we are all treading on new waters. My understanding of the procedure is this, that when we were in Committee the message from His Honour was presented to the Chairman of the Committee along with a series of new amendments. Those amendments were adopted when we were in the Committee. We then rose out of Committee, the Speaker returned to the Chair, the report of the Committee was moved by the Chairman of the Committee and it was accepted by the House. We now move back into the Committee, as I understand it, to then deal further with the amendments, the report of the Committee having now been adopted by the House with the Speaker in the Chair. Now, I'm subject to correction but that's my understanding of it.

MR. PAULLEY: ... if I may, Mr. Speaker, on the point of order, is can a Committee of the House receive a message from His Honour directly? Has it not got to be received by the House itself and then referred to the Committee - the reverse procedure actually. I don't know, now. It's just my idea and my thought that this is the way of doing it. I'm sure the Clerk can put me right or put us on an even keel. I don't want to delay.

MR. LYON: A message of His Honour, as has been pointed out, is always read in the Committee stage and it was read when we were in Committee just a few moments ago; it was adopted in Committee; we reported it back to the House; the House has now adopted the report of the Committee and now we are proposing to move back into the Committee to carry on with the clause by clause discussion. It's complicated but it apparently works.

MR. JACOB M. FROESE (Rhineland): Mr. Speaker, on a point of order, was it not agreed upon just a few minutes ago that these would not be considered at this time, that the members would have a chance to look at them before these would be brought in again?

MR. EVANS: Mr. Speaker, on the point of order, in Committee I'd like to tell you, Sir, that I suggested - and I thought I had general agreement - that if we came to any particular amendment that honourable members thought required further consideration before action would be taken I would raise no objection to holding it in Committee for a time to enable study to be made, and I give my honourable friend the assurance that I will. Even if I had the power, which I haven't, to force the debate ahead at an undue rate, I will not try to do so.

MR. SPEAKER put the question and after a voice vote declared the motion carried and the House resolved itself into a Committee of the Whole with the Honourable Member for Winnipeg Centre in the Chair.

#### COMMITTEE OF THE WHOLE HOUSE

MR. CHAIRMAN: The Honourable the Provincial Treasurer.

MR. EVANS: Mr. Chairman, perhaps you would wish to proceed through your records as Chairman and find if you have any items being held prior to Section 4 subsection (1) clause (e).

MR. CHAIRMAN: I think Section 3, subsection (9) was held up before I took over this job.

MR. MOLGAT: ... 2 (e) (ii)? It seems to me I have a note here that we would return to it later.

MR. EVANS: An amendment was made in connection with this subsection (e) and its relationship with a section much later in the Act - was it Section 17?

MR. CHAIRMAN: I understand that 2 (e) (ii) was held for awhile and then we went back to it and passed it. Is that correct?

MR. EVANS: I think my honourable friend will find that this interacts with another section at a later stage in the Bill in which the phrase "insufficient" was used and a motion was made to substitute in the later section the words "fair market value" for "insufficient" which I thought overcame the difficulty.

MR. MOLGAT: ... made to this particular section (ii) then?

MR. CHAIRMAN: I understand the only one that's held before 4 (1) (e) is Section 3, subsection (9).

MR. EVANS: Is there any further discussion on this point? If it shows in your records as having been held, I was not aware that it was held. I gave an explanation of the reason for referring like goods to be traded in on like goods and I wasn't aware the section had not been passed. But if there's any further discussion I would be glad to go ahead with it.

MR. MOLGAT: Mr. Chairman, one night, as I recall it, a number of Members were involved in this including my colleague the Member for Lakeside. This was dealing with things like someone trading in say an outboard motor on a car or vice versa. Now the Minister was going I think to find out exactly how far the term "same general kind" was going to apply. It was our feeling that from the original description it was a little too restrictive, that it really seemed to me to mean "car for car". Now has the Minister been able to find out if this is going to be broader than the original statement?

MR. EVANS: Mr. Chairman, this would be governed by the overriding principle that I discussed I think last Thursday evening and which discussion will be found on Hansard, the principle being this, that it's an endeavour to enable someone possessing an article to upgrade the quality of that article or to renew it without paying sales tax on the full sale price of the new article. It would not be regarded as upgrading of an article already possessed if a boat were turned in on a car, but that if any motor vehicle were turned in on another motor vehicle, it would be interpreted as an upgrading procedure and therefore the old car would be allowed as a trade-in.

MR. MOLGAT: Won't this really mean double taxation then in a number of cases, Mr. Chairman? Let's take the case of someone trading in a boat, motor and trailer on a car. The vendor in that case would have to charge him the full price of the car, sales tax on the full amount, regardless of the amount of trade-in of the other item. Then when the vendor turns around and sells that trade-in item, he will again have to charge the sales tax on the full amount of the trade-in. Now does this not involve then, really, taxation on both items to the full amount and therefore double?

MR. EVANS: The tax is applied to the purchaser and in the first case. The only possibility is that the purchaser does not already possess a car because he is buying a new article and not turning in an old one on it, is either buying a new car for the first time or buying a second car, and the purchaser of the boat is acquiring an article he didn't have before. The tax is applied to the purchaser not the article, so the purchaser acquiring an article at a retail sale is responsible for the tax on it. So it is not duplicate imposition of the tax upon any individual purchaser, because the tax is applied to the purchaser, not to the item.

MR. MOLGAT: Well, Mr. Chairman, to explain the problem I may have to go to a ridiculous extreme, but let's assume someone goes out and buys a new boat, motor and trailer, pays the full sales tax on it because he's just purchased it, changes his mind, or for some reason or other he's going to be transferred to another province and wants to trade it in on a car. He'll have paid the full sales tax price on the boat, motor and trailer; will pay again the full sales tax price on the new car; and when the boat, motor and trailer is sold again by the vendor, the car company, full sales tax will once again be paid on that item. Now is that not correct?

MR. EVANS: I gather that when the purchaser of the boat, motor and trailer changes his mind, he will turn it back to the vendor for a full refund of his purchase price and tax, at which point then he can use that money to buy his car.

MR. MOLGAT: Yes, if the vendor is prepared to take it back. But let's assume that the vendor is not - or he's used it for a period of three months - he still will have paid the full amount of the sales tax, will pay the full amount on the car, and when the item is resold again the full amount will be collected, or whatever it's sold for will be collected again. So that particular item - the boat, motor and trailer - will have paid sales tax, the full amount in the initial sale, and if it's very soon after the initial sale, presumably sales tax almost to the same amount. Now I just want to verify that this is going to be the rule. I suspect there are going to be some difficulties in the administration and many requests to the Minister for changes here because it is a common practice in our economy to trade in items that are not necessarily

(MR. MOLGAT, cont'd) . . . . related to the other item that you're purchasing, because this is fairly common.

MR. EVANS: The device of trade-in and charging the tax only on the additional amount is a device to relieve the tax in the case of people who wish to upgrade or to maintain the value of their present holdings, as is the universal case of automobiles, that you drive it so long and then turn it in on another one. The way the Act would have been drafted in the first place the sales tax would have had to be paid on the full value of the new car each time a purchase was made, so the trade-in device was put in the Act to make it necessary only to pay the tax on the increased value or the new portion of the car that he was buying. I think it's very difficult to explain in any other way except to say it's an endeavour to -- well it's a provision to make it unnecessary to levy the tax on the full sale price of a new car when a trade-in is turned in against that car. There would be other cases in which the sales tax would be evaded by making barter deals which would then escape the tax altogether, whereas it's intended to impose a tax on the purchaser at the time of purchase in proportion of the purchases that he makes.

MR. EDWARD I. DOW (Turtle Mountain): I was a witness to a deal over the weekend. It's just a little bit in reverse to what the Honourable the Minister mentioned, but this chap had an automobile that he wanted to trade for a colour television and there was a cash difference of a hundred dollars. Now does the tax have to be fully paid on the television and on the car on the sale the second time? This is in reverse, but these are the kind of deals that go on all the time.

MR. EVANS: Well, the tax would be imposed on the purchaser of the television set and then on the eventual purchaser of the car. There's only one tax applied to each purchaser.

MR. LAURENT DESJARDINS (St. Boniface): Mr. Chairman, only one tax, but like my Leader said, let's say somebody bought a car and just a question of months after they trade - well if they trade on another car they only pay on the difference, but if they trade on something else - let's say somebody dies and the widow can't drive the car - her husband has paid the full tax on the price of the car and now she might trade it in for something else that she can use. Why would there be this difference? If you get another car you only pay the difference, but if you get something else you pay on the full thing. Nobody would evade the tax, you would still pay on the difference. This way we're collecting taxes twice, three or four times maybe, and this is certainly a hardship.

MR. EVANS: No, I would think the taxes apply in the normal event to somebody acquiring something they didn't have before, and the tax is payable. It's like relief is offered in the case of a trade-in, or someone not buying a completely new article but only an improved one or an increased value of the same kind of an article that he already has, and it's in an endeavour to be fair to the people who are merely upgrading an article they already have. Upgrading of an article can be done several ways. For example, an automobile could be taken and very thoroughly overhauled, a new engine put in, new wheels, and all those transactions of repair with respect to both labour and spare parts would be taxable. So the owner of the automobile could upgrade his automobile, have a greater value of automobile, but he would pay tax on the upgrading. This is an endeavour to give someone who doesn't wish to go to all that trouble of overhauling the car and replacing its parts to buy one that's already better, and this is the reason behind the provision of trade-in of like goods on like goods only.

MR. DESJARDINS: I agree with what the Minister said, I think it's a good point, and my point is not that we should charge again if somebody bought a new car, I think this is quite fair, just on the balance, but surely a person can upgrade without doing and necessarily buying the same kind of merchandise. This is a form of discrimination. As I say, if somebody died after having a car for a few months but they want to get something else - maybe they can't afford the car. Now they've paid the full price and now they will pay again because they will have to pay on the boat - or whatever it is that they buy - they will pay the full amount again. I would suggest the Minister should look at this. His main concern seemed to be that somebody might use this, if I understand him right, to evade the tax, but I think we're protected on this, Mr. Chairman, we're protected because it would be the same thing - you turn around and you buy -- I think this is a good example, if a widow is left with a car she can't drive - she needs it as well as anybody else - she might put a payment on the house or something like this or even a boat - I don't know what - and I don't think she can evade the tax, she would pay on the difference. It's just the fact that you say, "Buy another car and you're all right, we're not going to charge you, but if you want to buy something else, you will have to pay." I think that this is some form of discrimination.

MR. EVANS: If I spoke again I'd merely repeat the statements I've made.

MR. JOHNSTON: Mr. Chairman, what about the trading in of a truck for a car? This is not upgrading, it's for a different need, yet they're both motor vehicles. Would you pay cash on the difference in the transaction or on both transactions?

MR. EVANS: They're both motor vehicles. Like goods traded in on like goods, the tax would be on the difference only.

MR. FROESE: Mr. Chairman, what is the situation in a case if a person would purchase a car and give flax seed instead of the actual cash? Is flax seed an item that is exempt or what is the situation?

MR. EVANS: There is no tax on flax seed.

MR. CAMPBELL: Mr. Chairman, I'm -- is my honourable friend finished or ...

MR. FROESE: ... be sure on this, because if I made a trade and bought a new car and gave him flax seed instead of cash, then I wouldn't have to pay the tax, am I right?

MR. EVANS: The tax would be levied against the car.

MR. CAMPBELL: Mr. Chairman, I'm very doubtful that I can add anything to the discussion but I would like to at least try to get my own point of view in here. Mr. Chairman, this Bill that we've been discussing for so long is to provide for the imposition of a tax on purchasers of tangible personal property and certain services. Well now as I look at it, it's a tax on the purchaser of this tangible property. We go back to the motor vehicle - that's tangible personal property that somebody's purchasing - but for goodness' sake, Mr. Chairman, if he trades in something of value that would also be subject to tax he's dispossessing himself of that tangible personal property which he trades in, so that he's not making a purchase of the full amount. He's traded something in which is of value, his wealth is lessened by the amount of the property that he trades in, regardless of what it is, if it's something that is itself subject to tax - not flax seed which I understand - but something that is itself subject to tax like a boat or a wheelbarrow or an old buggy, if it's subject to tax when it's sold again, shouldn't that apply because he has purchased only the difference between the two, for he has dispossessed himself of something that was of value to him.

MR. EVANS: I interpret the situation this way, that he is purchasing something of a kind or nature that he didn't have before and consequently should pay the tax.

MR. CAMPBELL: He may have had that kind of thing before. He may have had a car and he's getting another one. His wife has talked him into having a car for herself and so he's getting a car, this is the point, but in order to get, he dispossesses himself of something else of value that is going to have the sales tax applied to it when it is resold and I cannot see why he shouldn't get the advantage of that.

MR. PAULLEY: Mr. Chairman, one question rises in my mind on this following the point of the Member of Lakeside. Now say for instance the normal selling price of a Chevrolet is \$2, 100, and if the purchase was at the normal price of \$2, 100 and there was no trade-in involved at all, the tax would be on the \$2, 100. Now then supposing he turned in the wheelbarrow that my honourable friend from Lakeside would be trading in for the value of 50 cents, would the price then that would be subject to the tax be not \$2, 100 but \$2, 999. 50 on which the tax was paid.

MR. EVANS: ... anyway, but it would be \$2, 099. 50

MR. PAULLEY: Well - I'm sorry - yes, but that would be the price on which the tax would be paid. It would be reduced at the selling price of the vehicle because the selling price actually to the purchaser would be reduced by the amount of the value of the trade-in, or would you still insist on the average value of that particular vehicle. If you do, well then I suggest that you are in effect instituting double taxation. But if the purchase price of the article that is being purchased, the automobile in this case, is reduced by the consideration of the trade-in article, no matter what it is, and the tax is paid on the net resulting price then of course you're not.

MR. EVANS: No, I think the case my honourable friend describes is that of a purchaser acquiring an article he didn't have before. In the case of my honourable friend from Lakeside, he's getting an article he didn't have before, namely, a second car, and consequently the tax will be figured in proportion to the acquisition of that article and levied against the purchaser.

MR. MOLGAT: Mr. Chairman, I don't like to extend this discussion too much. On the other hand, it seems to me there's a question of principle here. I quite agree with the Minister that he has to prevent the barter type of arrangement where someone barter a non-taxable item against a taxable item and evades the tax.

(MR. MOLGAT, cont'd) . . . . There's no question in anyone's mind that this should not be allowed, that you couldn't come along and barter say food against an automobile and thereby evade the tax. But if you are trading in a taxable item on which you have paid the tax on to another taxable item, then I think that whether it's the same kind or not should not be the consideration, the consideration should be whether it is a taxable item in the first instance on which you properly paid the tax and on which the tax will be paid also by the next purchaser at the depreciated value.

We should remove from this this wording of the same general kind and approach it from the standpoint of taxable items, because the problem lies mainly in the field of household items where it is quite common, because of people moving from a house to an apartment block for example, in the house they had all of their furniture and kitchen equipment and so on; they move into an apartment block where frequently a good part of this is supplied to them - a washer, a dryer, a stove or a refrigerator, so they have taxable items on which they have paid the tax which they now want to trade in on now say furniture or a TV set or even an automobile. They've paid the tax on those items originally and yet they come along and buy the auto and they have to pay the full tax on the auto, and when the dealer turns around and sells the items that he has taken from them, he is going to charge the tax on it again.

So I would move the following amendment, Mr. Chairman: That the Committee of the Whole give consideration to the advisability of amending Section 3, subsection (9), by deleting the words in line one "of the same general kind" and substituting therefore the words "of a taxable variety," and adding the word "taxable" in line 3 between the word "other" and the word "tangible". Subsection (9) Section 3.

MR. EVANS: I hope my honourable friend will not think I am slighting his motion if I say that in light of the discussion that we have had that I must resist the amendment.

MR. FROESE: Mr. Chairman, on my previous question in connection with flax seed, I would like to know from the Minister where flax seed is exempted because it is not a food, it certainly doesn't come under the items listed here, and I don't see why this thing couldn't work.

MR. EVANS: Mr. Chairman, I am very sorry I didn't get the question.

MR. FROESE: I asked the question previously whether I could give flax seed in trade when I purchased a car, and the Minister answered flax seed was exempted and therefore the tax would have to be paid on the whole amount. I would like to know where this item is exempted?

MR. EVANS: Farm products or food. It's a farm product.

MR. GREEN: The farm products exempt - No. (1) (j) --(Interjection)

MR. DESJARDINS: On a point of order, we have an amendment haven't we? Well this I think should be brought in a little later. Let's decide what's going to happen with this amendment.

MR. GREEN: It's on the same point. The Member for Rhineland was speaking to this on that very subject and he is now asking for clarification before the amendment. . .

MR. FROESE: It's a trade-in and we are discussing the trade-in section.

MR. EVANS: I can tell my honourable friend that it doesn't make any difference whether it's taxable or exempt. It still requires that to get the advantage of a trade-in, it must be goods of the same character and flax is not the same kind of goods as a car.

MR. CHAIRMAN: Are you ready for the question?

MR. BARKMAN: Is the principle then involved that the government has in mind really a double taxation on these items - speaking to the amendment - is this really the intention that certain revenues must be derived from a so-called double taxation?

MR. EVANS: The tax is not applied to the goods. The tax is applied to the purchaser at the time and in proportion to his purchase.

MR. DESJARDINS: Mr. Chairman, the Minister can twist this around all he wants, the tax is twice on the goods. If I buy a car and pay the full amount, and then if I want to buy something else that costs \$100 more, well instead of paying the tax on just \$100 I'm paying another tax to whoever is going to - and it comes to the same thing because I'll have to pay on this other article - we will have to pay on that car again, the full amount again. Our point is that we have paid the full amount on this. Actually, the purchaser is buying something worth \$100 not \$3,000 or so, and by rights he should -- it doesn't matter if it's -- if he buys another car, a better model car, he'll get away with just paying the difference of \$100 - the tax on \$100 - but if he changed for a boat, it's the same trade-in and he owns this thing and the tax was fully paid on it, he has to start all over and pay the full tax on this new item. It is definitely double taxation for both people, for the person who has the boat and the one that has the car.



(MR. DESJARDINS, cont'd) . . . .

I think that maybe we should, Mr. Chairman, maybe we should wait, not decide on this now and let the Minister -- this is something that is going to be quite important and it's going to bring difficulties. Maybe the Minister could discuss this and bring this back tomorrow or so. This is too important to just pass this way because it is definitely double taxation. You are paying twice on the same thing. If you change your car you pay, and if you buy another car you pay only on the balance - you are not paying twice, but if I want a boat instead of a car or if I want something else that is taxable, instead of saying well all right, this is fully paid, the tax and all; all I'm actually doing is buying something worth \$100 and this is what I should pay on - the tax on this \$100. I think that this is the only fair way and we can't get away from it. If this is not done, if we follow the - not the motion but the way it is written now, we are imposing double taxation.

MR. FROESE: Could we have the motion read out? I'm not sure just what we're voting on.

MR. CHAIRMAN: That the committee give consideration to the advisability of amending Section 3, subsection (9), by deleting the words "of the same general kind" in line one and substituting therefore the words "of a taxable variety," and adding the word "taxable" in line 3 thereof between the words "other" and "tangible".

MR. CHAIRMAN put the question and after a voice vote declared the motion lost.

MR. MOLGAT: Yeas and Nays, Mr. Chairman.

MR. CHAIRMAN: Call in the Members.

A COUNTED STANDING VOTE was taken, the result being as follows: Yeas, 23; Nays, 27.

MR. CHAIRMAN: The motion is lost. Section 3, subsection (9).

MR. ALBERT VIELFAURE (La Verendrye): Mr. Chairman, I was paired with the Honourable Member for Souris-Lansdowne. Had I voted I would have voted in favour of the motion.

MR. CHAIRMAN: Section 3, subsection (9)—passed.

MR. EVANS: We come to the first of the items. I move that clause (e) of subsection (1) of section 4 of Bill 56 be struck out and the following clauses substituted therefor:

(e) Drugs and medicaments as defined in the regulations.

(f) Dental and optical appliances when sold on prescription of a dentist, optometrist or physician.

Honourable members will observe that the original clause is broken into two parts. It's simplified, and for the benefit of the Leader of the New Democratic Party, I might say that on the previous discussion of this matter I indicated that I would act on medical advice with respect to the items that should be included as drugs and medicaments and regulations will be issued accordingly.

MR. CHAIRMAN: Are you ready for the question?

MR. MOLGAT: Mr. Chairman, I don't intend to oppose the amendment although I frankly don't like referring the whole thing to regulations. It was our view that drugs should be exempt. Now I appreciate that we can't in the Bill write in all of the drugs, so I'm prepared to support the amendment on the basis of the understanding that we are in fact going to exempt, in general, the drugs, including a number of the patent medicines and so on, and not be involved strictly in the prescription type of drugs. The intent here is not to charge on the sick who are the ones who can least afford to pay any further charges, so we'll have to wait here to see if the thing is fully satisfactory until we get the regulations.

There is another item here though which possibly the Minister could clarify, and this was brought up by my colleague the Member from Emerson and is partly tied in with section (i). It was in the original (e) where we are dealing with Veterinarians and this then involves the drugs that are involved in animal feeds, and again we have to depend on the Minister's statement that it is the intention to make sure that these are in fact exempt, regardless of prescriptions or no prescription, and so on that basis I'm not going to oppose the amendment.

Under section (f) which the Minister has also moved, what is the situation where people purchase dental appliances from a denturist? Now I don't know what the intentions of my honourable friend the Minister of Health - we have been trying hard for some weeks at this session, for some weeks at last session, to determine his intentions in that regard, but the sales are going on and there is no exemption here. What does the government propose to do?

MR. EVANS: I imagine it will require a legal study to determine whether denturists,

(MR. EVANS, cont'd) . . . . whatever that means, is to be regarded as one exempt under this -- as a vendor of this particular type of article. I am not able to comment further at this stage.

MR. FROESE: Mr. Chairman, should we not deal with these sub-amendments item by item? Why should we have them both together, because I am in favour of one but I am not in favour of the other. I am not in favour of (f) and what is being proposed. I like the old (f) much better, because under the old (f) the dentures sold by denturists would not be applicable. I think we should vote on the amendments one by one.

MR. CHAIRMAN: The old (f) still stands, Honourable Member for Rhineland. It will be re-lettered as (g).

MR. CAMPBELL: Mr. Chairman, I presume that the intention is to take them separately as the Honourable the Member for Rhineland has suggested. In other words, you would be calling them (e) and (f) I suppose?

MR. EVANS: . . . has covered them and it will be up to my honourable friend to move an amendment if he wishes.

MR. CAMPBELL: Oh I see, they have been covered in one motion. Well, Mr. Chairman, before that is done and not wanting to interfere with my honourable friend's point of view, I must say that I am not encouraged personally by the undertaking of the Honourable the Minister to consult the medical authority in all cases that this subsection (e) deals with, because whether it be the medical men in their profession or whether it be the veterinarians in their profession, there is a certain resistance to the professional people to not only recommend but to even countenance some of the medicines - call them patent medicines if you wish - and other cures that some people believe and some farmers believe, as far as livestock is concerned, are useful; and I'm sure that if you ask the average medical doctor for his opinion of some of the patent medicines that are widely used and that many people believe are efficacious, the answer you would get from the professional medical doctor would be that they didn't see much use in them. But a lot of people see use in them, so I would counsel my honourable friend the Minister in seeking the advice of the medical authorities and the veterinarian authorities, to not allow them to - in the list that they advise the Lieutenant-Governor-in-Council to approve - not to allow them to strike out these remedies that many people believe, both for human use and for animals, are useful.

I should say, Mr. Chairman, that the Honourable the Minister of Education was in his seat when I first tried to get up to make these remarks. I would rather have made them in his presence than in his absence because I think he would be agreeing with me that the medical profession doesn't look with favour on a lot of these so-called patent medicines and others that are widely used, and the same is true with the veterinarians with regard to Doctor Bell's - is that the name of it - Medical Wonder --(Interjection)-- Yes, Dr. Chases's Nerve Food, and what was the other one? --(Interjection)-- I take it my honourable friend is referring to me again, is he? I just thought on the old basis that if the cap fits you're supposed to put it on and perhaps I'd better under the circumstances. But even if it should be a case of that kind, Mr. Chairman, and if I should have the impression that something of that sort would be useful to me, I wouldn't want my dear friend the Honourable the Minister of Education and other people like that advising the Lieutenant-Governor-in-Council that I shouldn't be able to procure it even if I wanted it.

MR. EVANS: I said that I would take the advice of medical people, which I must do. I promise not to be the prisoner of any particular people. The responsibility still is to carry out the intent of the Act.

MR. CAMPBELL: What my honourable friend I think wants to say is that he will get the advice of the medical authorities, not necessarily take it - get it.

MR. CHERNIACK: Mr. Chairman, since the old (f) remains re-numbered as (g), could the Honourable Minister explain what appears to be a contradiction between "dental appliances sold on prescriptions" and "dentures", which are apparently left tax-free in the old (f)?

MR. EVANS: I'm not able to explain that at this moment, no.

MR. CHERNIACK: Well, in view of that, Mr. Chairman, it seems to me that there's a contradiction, because a denture is certainly a dental appliance. I'm wondering if, whilst the Minister is thinking about that, he'll also consider whether orthopaedic appliances are not matters which are prescribed or ought to be prescribed by a physician and whether therefore that should not be changed.

MR. EVANS: I'm informed that dental appliances and dentures are a particular kind of dental appliance, and if it does seem to be included twice, at least they're exempt.

MR. CHAIRMAN put the question and after a voice vote declared the motion passed.

MR. EVANS: Mr. Chairman, I beg to move that clauses (f), (g), (h), (i), (j) and (k) of subsection (1) of section 4 of Bill 56, as printed, be re-lettered as clauses (g), (h), (i), (j), (k) and (l).

MR. CHAIRMAN put the question and after a voice vote declared the motion carried.

MR. EVANS: Mr. Chairman, I beg to move that clause (l) of subsection (1) of section 4 of Bill 56, as printed, be struck out and the following clauses substituted therefor:

(m) Fertilizers, insecticides, fungicides, herbicides, rodenticides and weed control chemicals.

(n) Binder twine, baler twine and baler wire.

(o) Barbed wire, farm, hog and poultry fences, when purchased for farm use.

I'd like to note that with respect to the first item, this grants exemption for all uses and by all users of these classes of goods used in agriculture generally and gets away from the difficulty we had over the term "in bulk". It was our view it would be better to exempt them all and make them generally available even though some may be used for smaller purposes such as lawns and so on.

MR. MOLGAT: Mr. Chairman, referring to the first item, the fertilizers and so on, we've done away then completely with the "in bulk" which was the problem. The Minister has gone further now; there'll be no tax at all regardless of the purpose?

MR. EVANS: Right.

MR. MOLGAT: On the next two items, I want to thank the Minister here. These were suggestions that we made and I had asked that he consult with the Minister of Agriculture as to any further extensions that might be required in this area. There is one item that is not included, and I don't know if it's an oversight or whether it could be included now, and this is an area where the Province of Manitoba should be increasing its production. I'm referring to sheep. --(Interjection)-- Yes, it's an item that surprisingly enough we are constantly importing from other areas, and in parts of our province, if we can get the predator problem settled, it is an item where I think we can look forward to an increased agricultural production and sheep fencing is not included specifically here. I just wonder whether we should not make that clear under this section as well. It is definitely a farm use.

MR. EVANS: I agree with the principle and I must ask the Legislative Counsel whether having received this resolution by way of message from His Honour whether there is any difficulties if I make an amendment to this as we meet here now.

MR. ROBLIN: None whatsoever.

MR. EVANS: Mr. Chairman, I don't know whether you wish me to make an amendment to my own amendment or merely to alter the wording of the amendment that I propose now to include the word "sheep" after "hog" in item (o).

MR. CHAIRMAN put the question and after a voice vote declared the motion carried.

MR. EVANS: Mr. Chairman, I move that clauses (m), (n) and (o) of subsection (1) of section 4 of Bill 56, as amended, be re-lettered as clauses (p), (q) and (r) respectively, that clause (p) of subsection (1) of Section 4 of Bill 56, as passed by the Committee, be re-lettered as clause (s), and that clauses (q), (r), (s), (t), (u), (v), (w), (x) and (y) of subsection (1) of Section 4 of Bill 56, as printed, be re-lettered as clauses (t), (u), (v), (w), (x), (y), (z), (aa) and (bb) respectively.

MR. CHAIRMAN put the question and after a voice vote declared the motion carried.

MR. EVANS: Mr. Chairman, I beg to move, that sub-clause (i) of Clause (d) of subsection (1) of Section 5 of Bill 56, as printed, be amended by striking out the letters and word "(e), (f), (g), (h), (m), (n) or (o)" in the second line thereof and substituting therefor the letters and word "(f), (g), (h), (i), (p), (q) or (r)".

I think I'm correct in saying, am I not, that this is purely re-numbering? This is just purely re-numbering of the sections.

MR. FROESE: Mr. Chairman, before the question is put, going further down the line, what about greases and lubricating oils? Are these taxable for farm use?

MR. EVANS: Well, I'm not sure they refer to the subject matter of the motion but they are taxable.

MR. CHAIRMAN put the question and after a voice vote declared the motion carried.

MR. EVANS: I move that subsection (1) of Section 8 of Bill 56 be struck out and the following subsection substituted therefor:

(MR. EVANS, cont'd) . . . .

8 (1) An applicant for a registration certificate, or a person whose registration certificate has been suspended or cancelled, may appeal against an order refusing to issue him a registration certificate or suspending or cancelling his registration certificate, as the case may be, by application to a judge of the Court of Queen's Bench.

I hope that takes care of the difficulties we discovered the other day as to the intent of the amendment.

MR. CHAIRMAN put the question and after a voice vote declared the motion carried.

MR. EVANS: Mr. Chairman, I move that subsection (2) of section 9 of Bill 56 be struck and the following subsections substituted therefor:

(2) A person disposing of his stock through a sale in bulk, as defined in The Bulk Sales Act, shall deliver one of the duplicate certificates issued under subsection (1) to the buyer of the stock.

(3) Where a person who buys stock through a sale in bulk, as defined in The Bulk Sales Act, fails to obtain a duplicate copy of a certificate issued under subsection (1) in respect of the sale in bulk, he is responsible for payment to the Minister of all taxes collected by the person disposing of his stock through the sale in bulk and not paid to the minister, and may in a court of competent jurisdiction, recover any amount paid to the Minister under this section from the person disposing of the stock through the sale in bulk.

MR. MOLGAT: . . . could explain exactly what — this is going to make it that the buyer must obtain a duplicate copy.

MR. EVANS: The original wording I think put the responsibility on the buyer to obtain the copy, but this puts the obligation on the seller, who receives the duplicate receipt for the taxes, to deliver one of the copies of the receipt to the purchaser so he's in a position to -- well, he knows where he stands.

MR. FROESE: Mr. Chairman, in case of an auction sale and if the auctioneer doesn't look after this, is that a bulk sale if he sells his whole herd? Is that a bulk sale?

MR. EVANS: No, I think it's generally intended to cover the class of sale such as the sale of a whole business in which there may well be a number of taxable or not taxable items. It might cover the store and its fixtures and its cash register and its food items on the shelves and its clothing items on the shelves and so on. It's a complicated matter and covered by this kind of transaction.

MR. CHAIRMAN put the question and after a voice vote declared the motion carried.

MR. EVANS: Mr. Chairman, I beg to move that subsection (2) of Section 17 of Bill 56 be struck out and the following subsection substituted therefor:

(2) Where it appears to the satisfaction of the minister, or to the Deputy Provincial Treasurer, or to an Assistant Deputy Provincial Treasurer, or to a director or assistant director of the Taxation Division of the Treasury Department, or to any other officer of the Treasury Department of similar class and designated by the Lieutenant-Governor-in-Council, that any provision of this Act or the regulations has not been, or is not being, complied with, he may seize or cause to be seized any books of account, records, or documents, for evidence.

This is to meet the objection that the large number of inspectors in the field should not be armed with this power to seize without authority from people of comparatively high responsibility in the department.

MR. DAWSON: I wonder if the Honourable Minister would let us hold this one over for a day.

MR. EVANS: If my honourable friend will indicate any way in which -- any reason for which it is necessary.

MR. DAWSON: Well, the reason is . . .

MR. EVANS: A very simple point was raised the other day and that is to avoid putting in the hands of a large number of comparatively junior people in the field the responsibility of -- the power to seize documents without authority from people of responsibility.

MR. DAWSON: Actually why I asked that it may be held over until tomorrow was to enquire or to make enquiries as to the type the Treasury -- it reads here, "The Treasury Department - Assistant Director of the Taxation Division of the Treasury Department or to any other officer of the Treasury Department". I'm not satisfied in my own mind what class of

(MR. DAWSON, cont'd) . . . . people - at least not what class of people they are, but are they out in the field as inspectors or what?

MR. EVANS: The Act would be to require them to be people of equivalent rank to those named in the statute itself and the Lieutenant-Governor-in-Council would be bound by the provision of the Act.

MR. MOLGAT: Mr. Chairman, does the wording, "and designated by the Lieutenant-Governor-in-Council", does this mean that each one of these specific categories who will be entitled to seize without warrant will be specifically so designated in advance? That is that each individual will be designated as one who can do this?

MR. EVANS: The effect of the section is to designate the offices - or the people who hold the offices named in the section. Then there is power to name other people by action of the Lieutenant-Governor-in-Council but they must be of equivalent standing. It requires an Order-in-Council to increase the list beyond the offices named in the section.

MR. MOLGAT: I would assume that it's not the intention of the Minister to name the agents who are going around as assistant directors. This is so, is it? The terminology here becomes the term, because we could end up by having a Director of Taxation and that every agent is an assistant director. I presume that that is not the intention, that the assistant director would really be a senior individual in the department here, not someone who is actually out in the field doing the calls.

MR. EVANS: It is a matter of record that these offices are provided in the establishment of the Provincial Treasurer and in the Taxation Branch. Those offices are named in the establishment and we could not escape from that classification as my honourable friend suggests.

MR. JOHNSTON: Mr. Chairman, could I ask the Minister if this would satisfy a problem whereby someone going in to inspect the books of a business could end up by walking out with the books. Does this mean then that the ordinary inspector in the field would have to go away from the business and someone else would have to come back and make the seizures?

MR. EVANS: Not necessarily, no. He might be authorized either by telephone or by runner or by otherwise to make the seizure, but he would have to be so authorized in this specific case.

MR. MOLGAT: The individual doing the inspection, if he felt there was something wrong and that he wanted to seize the books, would not have to leave the premises - and the danger would be that the books would not be there when he came back - so he could then proceed to phone but he couldn't do it on his own authority, he would have to obtain the authority from one of these individuals.

MR. EVANS: Yes, that's correct.

MR. MOLGAT: Mr. Chairman, I think that would satisfy the objections that we had.

MR. CHAIRMAN put the question and after a voice vote declared the motion carried.

MR. EVANS: Mr. Chairman, I move that Section 28 of Bill 56 be amended

(a) by adding thereto immediately after clause (f) thereof, the following clauses:

(g) defining, for the purposes of clause (e) of subsection (1) of Section 4, drugs and medicaments;

(h) defining, for the purposes of clause (h) of subsection (1) of Section 4, farm implements, farm machinery and repair parts therefor;

and within the same motion.

(b) by striking out the letter "(y)" in the second line of clause (g) thereof, as printed, and substituting therefor the letters "(bb)";

(c) by re-lettering clause (g) thereof, as printed, as clause (i);

(d) by striking out clause (h) thereof, as printed, and substituting therefor the following clause:

(j) describing any tangible personal property mentioned in section 4, or any service mentioned in section 5, for the purposes of clarifying the interpretation of these sections;

and

(e) by re-lettering clauses (i) to (o) thereof, as printed, as clauses (k) to (q) respectively.

This was the wording of the right to make amendments to change any word or phrase to be found in the statute that was of course wrong, and I offer this amendment to correct that error.

MR. CHAIRMAN put the question and after a voice vote declared the motion carried.

MR. MOLGAT: Mr. Chairman, were there some matters left outstanding from this afternoon?

MR. CHAIRMAN: Just in respect of this Section 28. I'll just have to see where we are.

MR. MOLGAT: Mr. Chairman, while we're waiting, I wonder if I might ask the Minister a question. Between these items that are before us now then - the first draft that was handed to us this afternoon, "The following changes have been made to Bill 56 in Committee of the Whole." Now do these include all of the changes that have been made or had been made to date including the original sheets that we got the other day? We had amendments proposed on four occasions. Are these now all concentrated in this?

MR. EVANS: That is my impression but let me make sure that I'm right.

MR. MOLGAT: I'm referring, Mr. Chairman, for clarification that on Monday the 3rd of April we received two sheets of amendments, on Friday the 7th of May we received three separate sheets, and I just wanted to be sure that these have now been accumulated into the three sheets of today's proposed changes.

MR. EVANS: I think if my honourable friend will refer to the double sheets, the last two of them were passed earlier this afternoon; then the sheet that I have here, a three-page sheet includes all of the amendments to deal with items that had been held up until the start of this afternoon's session.

MR. FROESE: I think 28 (b) was an addition this afternoon which was not in it. Am I right?

MR. EVANS: I'm awfully sorry, I didn't hear that.

MR. FROESE: The addition that was made to 28 (b) I think is not included in there. That was made this afternoon.

MR. EVANS: This afternoon, and consequently is not on that sheet.

MR. CHAIRMAN: New clause (i) of Section 28 --passed; new clause (k)--passed; new clause (l)--passed; new clause (m)--passed; new clause (n)--passed; new clause (o)--passed; new clause (p)--passed; new clause (q)--passed; Section 28 -- passed; preamble --passed; title --passed..

MR. EVANS: Mr. Chairman, before you finally move that last motion, I would like to be sure of my position with respect to the discussion we had this afternoon on the section which dealt with six years within which some action should be taken, and I'm not aware of any amendment having been offered. I just raise the question now as to whether we have indeed dealt fully with that section before we ask that the Bill be reported.

MR. MOLGAT: I believe that section has been left open as I recall it, Mr. Chairman, because the question of whether six years were too long or not had been discussed and the question of how long the records had to be kept was raised by myself and I think you undertook then to check with your people what that would mean, and that is still outstanding as far as I know.

MR. CHAIRMAN: That's correct, that hasn't been passed.

MR. EVANS: In that event, Mr. Chairman, you have not reached the stage of stating that the Bill be reported, in which event I suggest that we meet again to deal with that matter as it's now 5:30.

MR. MOLGAT: I wonder if I may, Mr. Chairman, in the meantime then ask the Minister if it would be possible to get all of the amendments together so that when we reach third reading we will be in a position to have them all in sequence rather than on separate items.

MR. EVANS: Yes, I'll undertake to do that.

MR. PAULLEY: Mr. Chairman, just before the committee rises - I appreciate the fact it is past the normal time of adjournment - but I think that it might be fitting for one of us fellows on this side of the House to say something in respect of the manner in which the Honourable the Provincial Treasurer has progressed this Bill that we don't like through the committee. I think it's fitting for us to say to our honourable friend the Provincial Treasurer: Well we don't like the medicaments that he has given us or the medicine that he has given to us, but we do appreciate the fact that he must have done a lot of homework and a lot of studying to be able to answer the many answers that were forthcoming from this side of the House, and may I, Mr. Chairman, offer my personal congratulations and those of my group for a bad job well done.

MR. EVANS: Mr. Chairman, I must express my deep appreciation for his very kind words. I would also like to express my appreciation for the valuable contributions that have been made to improving the Bill. This is a better Bill than when it was introduced and I would like to acknowledge that fact and the contributions that have been made by all sides of the House.

MR. PAULLEY: Yes, Mr. Chairman, but we are still going to fight, my friend, the Bill, but I thought at this stage it would be proper for what I said.

MR. LYON: Committee rise.

MR. CHAIRMAN: Committee rise. Call in the Speaker. Mr. Speaker, I wish to report progress and ask leave for the Committee to sit again.

IN SESSION

MR. COWAN: Mr. Speaker, I move, seconded by the Honourable Member for Pembina, that the report be received.

MR. SPEAKER presented the motion and after a voice vote declared the motion carried.

MR. SPEAKER: It is now 5:35 and I declare the house adjourned and will stand adjourned until 2:30 tomorrow afternoon.