

THE LEGISLATIVE ASSEMBLY OF MANITOBA

8:00 o'clock, Tuesday, March 14, 1967

MR. LYON: Mr. Speaker, I wonder if you would be good enough to call the second readings of Bills beginning with Bill No. 38 which appears on page 21 of the Orders of the Day.

MR. SPEAKER: Second readings. Bill No. 58. The Honourable the Attorney-General.

MR. LYON: No. 38, Mr. Speaker. 38, about the middle of page 21.

MR. SPEAKER: Thank you very much. The adjourned debates for second reading.

Bill No. 38. The Honourable Member for Pembina.

MRS. CAROLYNE MORRISON (Pembina): I beg the indulgence of the House to have this matter stand, Mr. Speaker.

MR. SPEAKER: Bill No. 56 as amended by the Honourable Leader of the Opposition. The Honourable Member for St. Boniface.

MR. DESJARDINS: Mr. Speaker, I'm caught by surprise here a bit. I didn't think we'd go into this tonight but the few remarks that I have guess I might as well make them now.

We have an amendment from the Leader of the Opposition, Mr. Speaker, that asked that this Bill go to Law Amendments Committee. We are asking that the regulations should be made public immediately and especially that the public be given a chance to come in and make representation and clarify certain things. Now we are concerned with the potential impact of this tax on the Province of Manitoba, the effect that it might have on the development and the future of our province. Now, Mr. Speaker, I feel that this government, especially after what happened last Friday, would do well to support this amendment. I think that we should learn our lesson that the people insist on all information and the people want to have a chance to make representation and to discuss certain legislation that we have, that we pass in this House. I think that the government should be ready to give this full information and to have this discussion on this important Bill.

Maybe, Mr. Speaker, I should have asked a question before starting this speech. Maybe I should have asked the Minister if he intends to go on with this legislation - to bring in this legislation - because I think that we've been told yesterday that the rules of the game will not be changed - that's the education game, Mr. Speaker - and there'll be very little for 19 divisions in the rural part of our province. Now wouldn't it be a fair question to ask the Minister if this money will be required now. If we're not going to give grants in this education - and this is an education tax, we've been told, or at least the larger part of it is for education. We're supposed to spend so much money and now we're told that these 19 divisions will not -- nothing will be changed -- they will not receive the grants. I wonder if the Minister could indicate if he will proceed with the second reading of Bill No. 56. --(Interjection)-- Well that answers this. Maybe then it would be an added reason to support our amendment and give more information because the information certainly will be requested by the people of Manitoba.

There is one thing when we talk about taxes that any time we have a budget speech these last few years it seems that the member from Winnipeg Centre gets up following the speech from my Leader and stated that we have nothing to say, we should pass everything without discussion, we should never complain because after all we agree with the spending of money. There's probably no need in clarifying this. I think the Minister is saying this with tongue in cheek because no doubt he knows that we could, when we have a measure, a certain piece of legislation in front of us we vote on the principle and then it is up to the government that has the purse to decide what priority and what should be spent on different legislation so I think that this is certainly not valid. The Member from Winnipeg Centre has used that for the last two years at least, maybe three years, and I think that this is the best way that I can answer him anyway.

Now there's another thing that I think certainly has something to do with this legislation that we have in front of us, Mr. Speaker, is the question we are asking that the people be given a chance to discuss this, to talk about this. It's not a referendum but we had an explanation yesterday, the Attorney-General talking about referendum and even going in the past talking about a referendum for Metro. Now there are certain things that weren't explained. I think that at times it is permissible to have, and it might be advisable under certain conditions to have a referendum when you are taking certain rights away from the people and when you are dealing with money. But, Sir, I think that the First Minister should remember first of all, as I say if we have a referendum let's not only call it a referendum, let's bring in something where you have a choice. The honourable member referred to the Metro and it's true that I

(MR. DESJARDINS cont'd).... voted in favour of a referendum but I don't remember that we asked for a referendum in the Greater Winnipeg area where St. Boniface can say, "We vote ourself in," and St. James can say, "We're out of Metro", I think this is an important fact. I would be ready to have a referendum with everything explained on this question of tax or education but then that we take the will of the people -- all the people of Manitoba -- we can't start doing something for one constituency or one division and so on, especially when we're dealing with money matters. And another thing that it would be well to remind my honourable friend, when we were talking about Metro this -- I know that he said yesterday, and he was right, he was right. Mind you he played on my word. I think he understood exactly what I was saying when I tell the backbenchers that their first responsibility is to their constituency, but I felt that what is good for your constituency usually is good, if you're sincere, is good for the province, but he has a point when he says that the main thing is it's good for all the people of Manitoba. But this was a red herring. I was talking about not the first responsibility to your Party, not necessarily to your Party, when you are asked by the Cabinet or by somebody to do something that was hurting your constituents and the rest of the people of Manitoba. Well on this referendum that we were talking about of Metro there is another thing that we --

MR. LYON: on a point of order, but as I listen to him I feel that he is discussing a debate that is already concluded. We're discussing an amendment to a certain bill of the Legislature and I haven't really heard too much of his remarks directed toward that amendment.

MR. DESJARDINS: Well I'd like to thank the expert for his well chosen words. I thought that we had passed Metro in 1961 but he brought this question of referendum then and I want to tell him that in 1961 this Metro was something for the City and we asked for a referendum because all the members - the rural members voted also. I know that my honourable friend doesn't like this, yesterday he had the last word and he could bring in this red herring --(Interjection)-- I beg your pardon?

MR. LYON: you haven't said anything. You're just out of order.

MR. DESJARDINS: He's the Leader of the House, he's the future Premier and he's the Speaker. When you're talking about three in one there's three in one right there. Well you can't blame him, Mr. Speaker, it's not a bad job after all and it might be a stepping stone to something a little higher. But, Mr. Speaker, I must listen to him because he'll be mad at me again.

And coming to this debate here I think I was very much in order talking about referendum, talking about try to take the people of Manitoba in your confidence, and if I'm out of order my honourable friend is the only one that thinks so, because we're asking in this resolution that the people be given a chance, a voice. The Leader of the NDP acknowledged today that he had been wrong and I thought that was very nice of him to do this. I think that he acknowledged, he realized his mistake and he realized then that the Liberal Party talking about taxes had given the people of Manitoba a chance, and this is what we're asking in this resolution. Maybe I should do like the honourable member so -- to make sure that I'm in order, Mr. Speaker, maybe I should do like my honourable friend this afternoon, maybe I should say, "Well this is what we're suggesting, that the motion be amended by striking out all the words after 'that' in the first line therefor and substituting therefor the following: "In the opinion of this House, having regard to the public interest" - now I ask my friend, everybody agrees with me in this, eh, we're interested in public interest? I think this is what my honourable friend said this afternoon, "in this question of taxation I think we all agree", so nobody's against this. "Having regard to the serious effect that this taxation can have on the development and the future of our province" - I think that even my honourable friend the Attorney-General would have to say that this is very important, so, Mr. Speaker, surely, surely, Mr. Speaker nobody will vote against this. "And having regard to the need for full disclosure of the potential impact of such taxation", that's (1), "the regulation for Bill 56 be immediately made public." Well, I'm not too sure about this, maybe my honourable friends do not want to make this public now. Maybe they haven't learnt their lesson yet, but I would say that I think that the members on this side of the House, Mr. Speaker, and those in the last row out there if they could have really voted - if they had a secret ballot, let's say, I'm sure that they would go along for that - they'd go for this - and then --(Interjection)-- yes, the principle I'm sure is correct --(Interjection): Have a free vote.) - a free vote? Well, that's something interesting, Mr. Speaker, we should have a free vote. But Bill 56 also should be referred to the Standing Committee of Law Amendments. Now we're not creating another commission. I know that they're running out of defeated

(MR. DESJARDINS cont'd).... candidates. If they don't like this we won't have another commission, Mr. Speaker, just a Standing Committee of this House, that is well paid, this is our responsibility, full opportunity has been given for the public to make representation thereof. Now, what is in this that my honourable friend disagrees with? What? --(Interjection)-- If my honourable friend would just tell me which line I'd sit down and give him a chance to tell me, but I don't think he's ready for this now.

Now, are we unreasonable?

MR. SHOEMAKER: No.

MR. DESJARDINS: My Friend says 'no'. We're not unreasonable. Nobody said 'yes' --(Interjections)-- Well then if we're not unreasonable, I guess we can assume that nobody in his right mind will vote against this, so, Mr. Speaker, I think that we should have this as soon as possible because the people of Manitoba are very concerned. I think the government would be well advised to borrow a leaf from my honourable friend, the Leader of the NDP and say, "We were wrong - we were wrong - we saw that on Friday."

Let it go to Law Amendments Committee; let the people come in and make representation and then they'll understand better. This amendment, this is something else. This amendment is not saying that we shouldn't have the tax, but a government that is going to impose this kind of tax on the people of Manitoba, surely, Mr. Speaker, must be able to say to the people of Manitoba, "Well come on, what is it that you don't understand? Give us your suggestions; we want to be fair. We don't want to ask you to sign a blank cheque and then bring in the legislation as we see fit." I think that this is something that they should be able to do. I think that we should do this, Mr. Speaker.

Now we think that the people are entitled to some information. The people will want to know, why this tax? Why this tax? Why not the income tax? Not too long ago this government said, finally Mr. Diefenbaker gave us a chance to collect income tax right here in Manitoba and we are pleased. We are pleased because finally we will put in effect the principle of a tax with ability-to-pay, and most of the members clapped because they agreed with this tax.

Now this same government, Mr. Speaker, two years ago reduced this income tax by one percent. Why? Why, Mr. Speaker? I think this is one of the things that the people would ask them probably if they come in in front of this committee. Why this tax - why this kind of tax - why this tax now and why five percent? This was an education tax, Mr. Speaker, - this is what the Minister said when he introduced this Bill - it was an education tax. --(Interjection)-- I beg your pardon? Oh, revenue. Well I don't know, I thought I heard the Minister say this was an education tax. Of course there was so much laughing that maybe I made a mistake and I didn't hear him quite well, but I thought that he said an education tax.

Well now, Mr. Speaker, if this is the case -- and yesterday we were told we are not going to change the rules of the game. We are playing this game - like my honourable friend said this afternoon - we make the rules - we make the rules and we are playing a lot of these games - and the rules were that if you didn't go for this business and vote in favour of this referendum, you weren't going to get anything or very little, so therefore why five percent? You can't just say 5% without needing the money and not give any explanation to the people of Manitoba. They want to know, because those people will have to follow the same rules. They will pay this five percent to help the different divisions that voted in favour. Well they want to know why five percent if five percent is not needed. I think that this is one of the things that the government should be ready to answer.

I think it would be a good idea to have this committee, Mr. Speaker, because finally the backbenchers of the government side would have a chance to learn about this, to ask a few questions. We at least, we have our caucus and we could discuss certain things between ourselves, but these people, apparently the Cabinet decide and there comes the rubber stamp again, that's all. I'm not trying to be funny, Mr. Speaker, I'm not trying to be funny at all, because who in his right mind, or who -- you shouldn't laugh, you should tell me what page it is on -- on Page 13, Mr. Speaker, there's a resolution by the Honourable Member from Souris- Lansdowne and the resolution said, "Whereas the costs of building and maintaining farm buildings in the Province of Manitoba have greatly increased in the last three years; Whereas the costs of building and maintaining dwellings in the Province of Manitoba have greatly increased in the last three years; Whereas the costs of building and maintaining buildings used for industry in the Province of Manitoba have greatly increased in the last three years" -- well nobody will deny that that's true - nobody - and nobody in his right mind would vote against this resolution if it's ever introduced -- "Therefore be it resolved that we urge the Government of Canada to

(MR. DESJARDINS cont'd)..... rescind the 11% sales tax on building supplies."

Don't you think that we should have this committee so we could tell the Honourable Member from Lansdowne, and the rest of the backbenchers, explain a few facts of life? Maybe by then we'd introduce this legislation. My honourable friend has more cups of coffee every time this comes in. He drinks more cups of coffee on Tuesday and Friday than anybody I know. We would like him to bring in this resolution because we want to make an amendment. We want to help the people of Manitoba a little more and I think that this committee would give him a chance, Mr. Speaker, to learn about these things, and I'm sure that he's going to vote in favour - I'm sure he's going to vote in favour of our amendment.

Now you know, Mr. Speaker, you know me well enough, you know that I don't like to be too rough on the government to say anything about arrogance and things like that and I don't want to use these words, but I find it odd, to say the least, that on March 11th - this Bill had not gone to committee; we don't know anything about regulations - but on March 11th of both daily papers it says, "Province of Manitoba - Career Opportunities." This tax is here to stay, fellows. "Career Opportunities - Department of Provincial Treasurer - New Branch - Attractive openings - Compliance Officers - Salary range \$5, 112 to \$7, 932. Successful applicants will assist vendors by providing information on all matters relating to The Revenue Tax Act; conduct investigation and inspect records maintained by business concerns. Applicants should have matriculation standing plus a business background and some experience in investigative field work." In other words, they'd have to be a detective. "The above position offers full civil service benefits including three weeks annual vacation with pay, sick leave benefits, group insurance and pension privileges. Apply to Manitoba Civil Service Commission, Room 334 Legislative Building, Winnipeg 1, Manitoba." So it says "Career opportunities" - it's a long career - this tax is here to stay.

Now if I was like some of the members in this House I would say that the government is arrogant, but you know that I don't usually use these words so I'd just like to ask the government: Is this cricket? Is this quite right to advertise something before the Bill is passed? To advertise. We're told that we're anticipating all the time. Isn't that a little bit of anticipation? Who knows? Maybe the Attorney-General will be sick one of these days. Maybe we'll defeat the government. I mean sick enough to leave the House. There might be others, Mr. Speaker, and we might not need this. Well, this is money wasted. This is money wasted and I don't think --(Interjection)-- I beg your pardon? They're running short of defeated candidates. I told you I'd run against myself next election.

Now there's other things that we want to know about this Bill, things that are important enough that we should know. The other municipalities - will they be taxed? The Metro - will the Metro be taxed? Somebody said "Sure" - I don't know which side of the House that is. I'm trying to get this thing straight here. Will the hospitals be taxed? Will the Minister of Health next year say, "Well, we're giving them another two or three percent in their budget." Are they going to be taxed? What's going to happen? We're going to tax the people and we're taxing a tax, that's what it is. We want to take off the load, lighten the load of the people of Manitoba. Well, is it fair to tax Metro? Is it fair to tax the hospitals? Well there's a clever little trick here. If you tax the hospitals, Mr. Speaker, you're taxing the Federal Government, so what do you care because they pay half of it.

But I say tonight, Mr. Speaker, look out, because they can play the same game too. They'll even play your rules. What's going to happen after that? What's going to happen if they start taxing the hospitals and so on? I say that this is something very important. I don't think that we have the right - well the legal right, sure, because this government can do anything they want - but I don't think it's fair to tax Metro. They're buying new buses. Who's subsidizing this now? - the people of Manitoba; the transportation; the Metro. This will be taxed the same as they're paying tax on gasoline. They're paying tax on everything now. I don't think that this is quite right, especially the hospitals. We're talking now -- we see how difficult it will be to keep up and this tax is to raise money to pay for education and hospitals. This was thrown in after a while. We're going to tax them to give them more money. This is kind of ridiculous and I think this is something that should be -- maybe this is not what the Minister means at all, but I think we should have an explanation and I think that this is something that we want to know before we are asked to pass this Bill.

I think that the -- I hesitate to say anything about the dry cleaners because it looks like you probably want to be on their side. They're so interesting - I think I got 3, 000 of these little protests, I might say - but I think they have a point. You're buying a suit or a shirt and

(MR. DESJARDINS cont'd).... every time you want it cleaned you're paying for it. It's not only what it's going to cost, but does the government really think that they might get some of these people out of business? I think that this is an important point. I think this is something that's going to happen because the cost is skyrocketing all the time, unless these people want to pay the cost and I don't think that they can. So I think that they had a good point.

And here's something that I can't understand. I know I'm dense but I can't understand this business of clothes for children, unless children is a good word and if you're a friend of the children you're all right, but where does it stop? Why the clothes of the children? What about the students? I think that this was covered by one of the members. This is where we're spending the money. What about the students? They're spending a lot more on clothes. What about the old people? If we have a chance to talk about this I certainly will bring an amendment saying that the clothing of any dependents - at least this is more realistic - people that cannot afford this - students and so on, not just children to 12 or 14 or whatever it is. I think that this is something that we should look at.

I've read this thing about 15 times and I think the way it reads they're going to tax the pre-arranged funerals now. This will be another thing that'll be quite drastic. Somebody like my honourable friend, who is quite happy, might realize that it might be quite difficult. He might never be buried, because if he pays for his funeral and then he hasn't the money to pay for the tax, he'd better drink more than coffee if he wants to be embalmed properly.

Now the supermarkets. I can see what some of the people will do. If you pay less than 20 cents you're all right, so you know you have this large economy size, now it will be the small economy size and you'll run in and out with 20 packages, 19 cents each, tax-free. This is something that will be quite interesting. --(Interjection)-- Who? I need a sidekick. Where's my buddy?

MR. JOHNSON: You're just wasting your time with dead material.

MR. DESJARDINS: Just for that I had something about embalming fluid and I'm not going to say it. But I'll say this, if you're cremated there's no tax on the casket --(Interjection)-- No, that's right. Listen - just a minute - just a minute - "Tangible personal property when it's consumed to the point of destruction or dissipation or uselessness for any other purpose, or losing its separate identity in the provision of a service at a retail sale" --(Interjection)-- o.k., if you're cremated you're all right. --(Interjection)-- I'll send you a jar after, George.

Now there's something about the hotels, motels and so on and there's nothing about private halls. We're going to have the Pan-Am games here and this will certainly be something important. Is there a tax on private homes that are taking in some friends because the Pan-Am Committee is asking that the people of Manitoba do offer their homes. So I think that this is something that should be known also.

There's so many things, Mr. Speaker. Now there's certain points that I certainly will not, even if there was nothing else in here, I will not agree with 6, 7 and 8 because this is making a real dictator of the Minister because he can decide who is going to operate a business. He can. It says, "No vendor shall sell any tangible personal property or any service in the province at a retail sale unless he is the holder of a valid subsisting registration certificate issued to him by the Minister." Well, is that what we want, is that what we want in this Bill, that the Minister can go around Portage Avenue and close those that he doesn't want to open? I admit this would be a terrific way to get your campaign funds, but I don't think that this is quite cricket. "Where in his opinion" - this is what it says - so I think this is a thing that should be discussed before we abandon of course what was mentioned in the newspaper of yesterday, this question of the person will have to prove that he's not guilty. The lawyers understand that better than I, but I think that they all agree that this is not quite right and this shouldn't be done.

So, Mr. Speaker, I think that I am pretty well at the end of my time and there's many more pages, but I think that in all seriousness I think that the government will not lose faith if it votes for this amendment. I think it will do the people of Manitoba a service, and the members of this House, and I think that they would be well advised to vote in favour of this amendment and I certainly recommend it to the members of this House.

MR. SPEAKER: The Honourable Member for Burrows.

MR. HANUSCHAK: Mr. Speaker, I do believe that there is ample justification to send this Bill to committee, to Standing Committee of Law Amendments. I also agree that the regulations accompanying this Bill should be made public at this time. The sections of the Act in itself defining the taxable items are very broad. It certainly isn't clear, neither to the

(MR. HANUSCHAK cont'd)..... merchants nor to the consumers, just exactly what items are covered. There are also other sections to which opposition has been expressed. One section that comes to mind is the one which places the onus of proving one's innocence upon the accused, which I suggest to you, Mr. Speaker, is entirely contrary to our principles of justice.

But there's one other point, Mr. Speaker, that I would hope the Provincial Treasurer would provide some information on, and that is the manner in which he has calculated the amount of the sales tax that he hopes to collect this year. True, he has given us the figure of \$33 million for a nine-month period, and on that basis he estimates that the amount will be about \$45 million on a 12-month period. However, Mr. Speaker, I think that the members of this House and the public in general would appreciate if the Honourable the Provincial Treasurer would provide us with a more detailed accounting of how exactly he arrived at this figure, because I suggest to you, Mr. Speaker, that there is some doubt as to whether this is a valid approximation of the amount of money that he could expect to raise.

The reason why there is doubt about this is this. Comparing ourselves with our sister province to the west of us, it presently has a sales tax and the tax rate there is four percent with the exception of a few commodities, but by and large those commodities that are taxable in Manitoba are subject to a four percent tax rate in Saskatchewan. The Saskatchewan sales tax does not include services; ours does. It's quite true that in Saskatchewan the retail trade for last year exceeded the retail trade in Manitoba by somewhere in the vicinity of ten percent. However, figures do show that of the total consumer dollars spent in Canada, well over 15 percent are spent on services. In other words, Mr. Speaker, I suggest to you that the total amount of money, the total amount of money subject to sales tax spent in both provinces, Manitoba and Saskatchewan, would be approximately equal, and yet Saskatchewan is capable of raising \$47 1/2 million on that amount and Manitoba hopes to raise an equal amount, in fact somewhat less, at a higher tax rate.

Now this is the reason why, Mr. Speaker, I suggest to you that the Provincial Treasurer ought to disclose to us exactly how he had arrived at this figure. It makes one wonder - it makes one wonder, Mr. Speaker, particularly in this situation, why the five percent tax rate. Looking at other provinces, it becomes obvious that that rate will undoubtedly net the province a much higher return than the province had made it known to us. In fact I would suggest to you, Mr. Speaker, that it wouldn't at all surprise me to find the province netting between 55 and \$60 million over a period of a year at a rate of five percent, which is considerably higher than what the province hopes to receive. Why the huge surplus, I don't know. This is a question, Mr. Speaker, that I think the government should answer to us.

In closing, I'll just repeat again that the public has made it known, has made it known very clearly, that it does have questions to ask about the provisions of a sales tax. It should be given an opportunity to ask those questions and those questions should be answered.

MR. SPEAKER: Are you ready for the question?

MR. STEVE PATRICK (Assiniboia): Mr. Speaker, I beg to move, seconded by the Honourable Member for Turtle Mountain, that the debate be adjourned.

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

MR. SPEAKER: Bill No. 44. The Honourable Member for Rhineland.

MR. FROESE: Mr. Speaker, I have no objections if anyone else wants to speak, but I would beg the indulgence of the House to have the matter stand.

MR. SPEAKER: Second reading of Bill No. 58. The Honourable the Attorney-General.

MR. EVANS: Mr. Speaker, in the absence of the Attorney-General, I wonder if this item could be allowed to stand.

MR. SPEAKER: Bill No. 65. The Honourable Minister of Urban Development and Municipal Affairs.

MRS. FORBES presented Bill No. 65, an act to amend The Metropolitan Winnipeg Act, for second reading.

MR. SPEAKER presented the motion.

MRS. FORBES: Mr. Speaker, we realize that in speaking to this Bill on second reading we must speak to the principle of the Bill, but all of us will recognize that when it's an Act to amend The Metropolitan Winnipeg Act that there are several principles involved and therefore I will have to refer to these different principles as we move along in the Bill.

One of the first principles in the Act deals with an amendment which would permit the Metropolitan Corporation of Greater Winnipeg to have appraisers go on the land to value land in connection with expropriation. The Act does now permit engineers to go on the land but not

(MRS. FORBES cont'd). . . . appraisers, and the land must be appraised to determine compensations. So this amendment, if approved, would permit the appraisers to go on land and to value the land in connection with expropriation.

In another portion of the Act, it deals with agreements re interceptor sewers. Where an area municipality requests authority and permission to use an interceptor sewer as part of its municipal sewer system, the corporation and the area municipality may enter into an agreement concerning the joint use of the interceptor sewer to be constructed by the corporation. Authority is provided for Metro and the area municipality to share the joint use of the interceptor sewer, and where there is an agreement entered into, it will help to avoid duplicating services, that is two services where one would do. We gave authority to Metro to transfer any sewer line it had taken over back to the municipality, if the line was useful to the municipality as part of its distribution system, after Metro had installed a more adequate line. However, in the course of installation Metro may have constructed certain lines, some of which could be useful to the area municipality. The Act did not permit Metro to transfer lines it had constructed; it allowed Metro to transfer only the lines it had taken over from the municipality and this portion of the Act tends to correct this.

The Act also provides that any member of council may, in writing, resign his seat on the council, and such resignation shall take effect from the date of the receipt by the secretary of the corporation. This is the same provision as in The Municipal Act concerning members of municipal councils.

The Bill is also making provision so that an area municipality which fails to make any payment as provided for in the by-law, interest shall be added at the rate of one-half of one percentum for each month or fraction thereof that the payment is overdue. This is the same penalty as on unpaid taxes.

In another part of the Bill it is proposed that the amount of accountable advances the Treasurer may make will be allowed to be increased from \$125,000 to \$150,000.00.

In referring to another principle we refer to the additional funds which are vested in the Sinking Fund Committee. The Metropolitan Council is responsible for the Red River Exhibition debentures and 20 percent of the local share for hospitals. They accumulate monies for these purposes and a portion of this Bill proposes to grant the Sinking Fund Committee power to invest these funds pending time when Metro requires them for an expenditure.

In another portion of the Act, we attempt to clarify the type of provisions that may be included in the Metropolitan Development Plan. Metro had to designate localities every time provisions of the plan were to be made applicable and the new provision here permits Metro to pass by-laws for all localities establishing common regulations.

Provision is also being proposed in the Bill which will grant Metro authority to impose a charge on persons who are connecting to the Metropolitan or the municipal systems for the purpose of raising money to help defray the cost of providing sewer system and disposal facilities. Now provision is being made in this amendment for an appeal to the Municipal Board against the charge. The Bill provides for an appeal to the by-law which sets forth the method and the procedures used for computing the sewer connection charge by permitting the persons to make representations to the council between first and second reading of the by-law, and any person who appears before the Council may appeal to the Municipal Board between second and third reading of the by-law. The Municipal Board may require the Council to amend the by-law before it will grant approval of it and the procedure that is being followed here is the same format that is being followed in connection with appeals against the planning by-laws.

And the final principle which the Bill deals with proposes to permit any person who has an action against Metro in respect of any facility under its jurisdiction, to continue that action against the area municipality if the service is transferred to the area municipality. The present Act contains a similar provision where a service is transferred from a municipality to Metro and this proposes to make arrangements whereby the same will apply when Metro transfers it to the municipality.

These are the principles in the Bill and I recommend them to the honourable members of the House.

MR. SPEAKER: Are you ready for the question?

MR. T. P. HILLHOUSE, QC (Selkirk): I wish to move, Mr. Speaker, seconded by . . .

MR. CHERNIACK: Mr. Speaker, I think it's generally recognized that one of the main purposes of the enactment of The Metropolitan Winnipeg Act was to provide for a proper

(MR. CHERNIACK cont'd). . . . planning authority which will provide the needs for the Greater Winnipeg area and although I believe that the first bill that was presented for The Metropolitan Winnipeg Act was a government measure, I am under the impression that in recent years, or at least in my time, Acts to amend the Metropolitan Winnipeg Act were presented by someone, and I think probably the Honourable Member for Winnipeg Centre, as being a private bill. I'm wondering if there's anything to be read into what appears to me to be a change in procedure. This is clearly a government bill - apparently the government will stand or fall on this bill - and I'm wondering whether there will be an explanation as to the extent to which the government is officially participating in the changes which are intended to be brought about in the Act. Possibly we'll get clarification on that.

But there's something much more important that I object to that is missing in this Act and that is the reason I'm objecting. As I stated earlier I believe that the planning authority is the most important long-range objective of the concept of a metropolitan area such as Winnipeg and we find here a development has taken place which splinters the authority, splinters the responsibility, and destroys, in my opinion, an effective planning process which ought to be taking place. The planning of an area such as Greater Winnipeg, the zoning of various portions of an area such as Greater Winnipeg, carries with it economic and social implications based on the nature of the plan, the nature of the zone; and the economic impact is one of which I think we're all aware in the form of burden of taxation and burden of responsibility, and clearly as long as we have area municipalities within Metropolitan Winnipeg, there are certain area municipalities that are affected, adversely or otherwise, based on the permissible types of use of land in those areas. And we need only point to the what are often called "bedroom municipalities" on the outskirts of Greater Winnipeg which derive no benefit other than through the business tax and business assessment, of industry in that particular area municipality. And on the other hand we find that where they have large numbers of children in comparison with the total assessment, the burden of school taxation has been, and I'm sure will continue to be, a burden on the area municipality which has a preponderance of residential zoning. So that there is no doubt that planning and zoning affect the economics of area municipalities and the boundaries which delineate various of the area municipalities obviously are affected by and themselves do affect the zoning and land-use plans of Metro.

And what do we find occurs today? The question of boundaries has been removed from both the Legislature and is not within Metro's power, but has been given to a commission which is studying boundaries, re-alignment of boundaries, possibilities of unification of areas. That commission must, if it does its job properly, be concerned with land use and be concerned with the economics but as far as I know it has no power over either land use nor of tax contributions and responsibilities for providing of services. And therefore its function, although it must be concerned with these other areas, its function is to determine boundaries. But I stress again, it cannot decide as to the apportionment of the tax burden or the cost of services. It cannot say that there shall be a unified fire department for all of Greater Winnipeg; it cannot pass powers on to Metro. All it can deal with, as I understand it, is boundaries.

The planning authority is still within the Metropolitan Council as to zoning, as to land use and I'll come back to this. Having said that it is within the Metropolitan Council I will later indicate that it really isn't so.

The question of the financial burden and the distribution of the tax resources - the real property tax resources of the Metropolitan area are defined in the Act and are fixed by this Legislature. So that we find that the tax burden, that is the distribution of tax, is within the Legislature and in the Act; the boundaries are within the Boundaries Commission and the planning is ostensibly within the power of the Metropolitan Council, and I am not aware of any formal, or I should say informal either, liaison between these three bodies. I believe there isn't any, and certainly this government which fathered the Act, this government which has the responsibility of seeing to it that it's a workable Act, has not and is not preparing a way whereby these three very important functional bodies will meet, will share their problems and will attempt to arrive at decisions, each in their fields, which will complement each other.

Now dealing with the question of the planning authority which is presumably within the Metropolitan Council, we find that the Metropolitan Council has been working for some time on a development plan and on a zoning by-law - By-law 707- and as I understand it after the planning committee has dealt with it and after it has recommended to Council, there are public hearings, many of which have already been held, and then it will go to Council to deal with it and on second reading Council will have to pass it on to the Minister, and if I am correct

(MR. CHERNIACK cont'd)... or up-to-date in the procedure, the Minister will then decide whether or not she will approve of the by-law or - I was going to say "Pass the buck" (which it is) but she will really pass the by-law to the Municipal Board, assuming that there have been objections made, and then we find the Municipal Board will be reviewing again, and I suppose holding hearings again, and make a decision. I don't recall offhand whether the Municipal Board makes a recommendation or a decision, but if it is a recommendation, I am certain that the Minister accepts the recommendation as if it were a decision. If I'm wrong about that she'll correct me.

The point I am making which I think is valid, is that the decision, the ultimate decision on the question of the development plan or indeed of any change in land use, rests with the appointed body, that is the Municipal Board, and I feel that that means that we have passed on to an appointed body - be they of the utmost ability, and I do respect the ability, the integrity of the Municipal Board members - yet I think it is wrong that decisions of this nature affecting the future of the growth of various parts of Metropolitan Winnipeg, should be left with an appointed board and not with the people who are elected to represent and to make decisions. This is what I call a derogation of responsibility and a sloughing off or a giving up of the very important responsibilities with which we, and with which Metropolitan Councillors have been charged. Of course, I remember that the Honourable the Attorney-General said that politics is a matter of selling, but I said earlier, and I say again, I reject that. Our job --(Interjection)-- Oh, well I'm glad that he has now clarified that selling is a part of the business of politics. Well, I say that the most important part of politics -- and I hate to think of it as a business, although it is to many -- is the acceptance of responsibility and the decision to act on the basis of being empowered, entrusted and obligated to do what one thinks is right on behalf of the people that elect them. That is why we feel that referenda are wrong and that is why we feel that not accepting the responsibility is wrong and is not in accordance with the whole concept of democratic government. To us a true democracy, in action, is to represent the people and act on behalf of the people as empowered so to do and it's not to hold a popularity by saying, "Well now you put us in this job; we have to make a decision; we don't really know what you want us to do, we will therefore pass over back to you by referendum" - I know I'm veering slightly off this particular field - "asking you, what do you think, what's your emotional decision of the moment?" Well this doesn't apply in this case because I'm not afraid of the emotional decisions of the Municipal Board, and I'm not afraid of their calculated decisions either, because they are people who have a loyalty to their job. But they were not put there to make those decisions, they were not elected to be in that position, rather the legislature was elected, the Minister of Municipal Affairs was elected and then appointed by the elected body to look after this particular aspect, and I want to voice as strongly as I can my objection to the thought that the final decision on planning, on zoning, rests in the hands of an appointed body rather than in the hands of an elected one; and if it is felt that there should be a body other than the council of Metropolitan Winnipeg that should have the final authority, if it is felt that there should be an appeal - and I frankly don't think so - but if it is felt that there should be an appeal then I think the appeal could well lie to this Legislature but not to an appointed body. So that although I said that the planning authority is within the Metropolitan Council, I have already indicated that although it is ostensibly within the council because it must emanate from the council, the final decision on appeal rests in the hands of a body which is appointed, which is given a responsibility which is unfairly put on its shoulders. I don't think it should be the decision of an appointed group to make such decisions which affect the lives, the finances and the future plans of the citizens of Greater Winnipeg, and no one can question that fact that zoning restrictions, plans which say that a certain area may not develop in a certain way are matters that should be decided for the benefit of the people in the Greater Winnipeg area by people representing the people of the Greater Winnipeg area; so that I am critical of this method of appeal or final decision of the planning portion. I am even more critical of the fact that there is no liaison, no central body, no central or final authority which will be able to bring together these three different aspects of an interwoven problem, and that is boundaries, planning and zoning and finances within the Greater Winnipeg area. As far as I am aware, there does not exist any form of co-ordinated work along these lines and for all we know these three independently established bodies are maybe charging off in three different directions without a proper understanding on the part of each of what the other two are doing in an attempt by them to arrive at a well-planned orderly decision for the future benefit of Greater Winnipeg may well be the concept of, as I say, three horses each going in a different direction and having

(MR. CHERNIACK cont'd)..... a tug of war, the centre of which is peopled by the citizens of Greater Winnipeg.

So that to the extent that I may have been wrong I welcome the Minister's opportunity to correct me; to the extent that I am right I look forward to the Minister's earnest efforts in an attempt to correct the situation or ameliorate it in some way so that in the end we're all working, and so are all these bodies working, in the best interests of a co-ordinated well established Metropolitan Winnipeg which would stand out as an example of an effort to bring together the people and give them the services they need and distribute the burden in a fair and equitable manner.

MR. HILLHOUSE: I wish to move, Mr. Speaker, seconded by the Honourable Member for Lakeside the debate be adjourned.

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

MR. LYON: Mr. Speaker, I wonder if you would be good enough to call the adjourned debate on the two resolutions appearing on Page 20, and then the Committee of Supply thereafter.

..... continued on next page

MR. SPEAKER: The adjourned debate on the proposed resolution of the Honourable the Provincial Secretary. The Honourable Member for Inkster.

MR. GREEN: Mr. Speaker, the substance of this resolution has been very well covered by my colleague, the Honourable Member for St. John's and I don't think that I can add a great deal to what he said insofar as he observed that there have been numerous studies into the various matters that the Minister now says - should be referred to another committee.

I would however, Mr. Speaker, like to demonstrate by the Minister's own document, that is, the White Paper on the Citizen's Remedies Code, that in fact the government appears to be ready at this time for legislation and that the true examinations that should now take place is an examination of proposed legislation and not a study of what type of legislation should be brought in. My understanding, Mr. Speaker, is that the matter should be referred to a Standing Committee of the Legislature for study if in fact there are many matters in doubt which should be enquired into before the legislation or the principle of the legislation is agreed upon. But if we look at the document headed, "The Citizen's Remedies Code", I think it becomes apparent that the Minister's ideas and the Government's ideas with regard to many of these programs despite what we may think of them and despite the improvements that we say should be made on them, are fairly definite and are ready for legislation and that bringing in the legislation won't prejudice the government in connection with having changes made, that is that when the legislation comes in and is read in the House on second reading it will go to committee - either the Law Amendments Committee or another appropriate committee - and the necessary refinements either by the government or by the technical assistants or by the representations from the public can be made at that stage. We in this group don't see why that step isn't taken at the present time.

If the Honourable Minister would look at the Citizen's Remedies Code I think it expresses definite proposals with regard to matters which could be the subject of fairly definite legislation. For instance, the consumer credit proposal suggests that the principle be let the seller exercise caution when he extends credit or as was put by the Honourable Member from St. John's, caveat vendor; and then it's suggested that new legislation will extend these provisions by requiring in all credit transactions, and then No. 1, full disclosure of the costs of borrowing, prepayment privileges; notice to buyers or borrowers before resale on seizure; relief against acceleration and forfeiture; protection against inappropriate seizures and statutory standard conditions of all conditional sales contracts.

Now, Mr. Speaker, these are all definite proposals. They're matters which apparently the government has agreed upon in principle and we don't see why if the principle is agreed upon and the steps to implement the principle is agreed upon, why legislation can't be brought in and then if further study is necessary or further refinement is necessary why this can't take place at committee. We find the same thing, Mr. Speaker, throughout this White Paper, regulation in licencing, a central registry, a consumer's protection bureau, all contain detailed proposals and it appears that the only thing that is wanting is legislative provisions to implement these proposals. And I hasten to say, Mr. Speaker, that we might not agree with either the principle of some of these proposals or the efficacy of some of them but that shouldn't deter the government from bringing in legislation. They certainly don't have agreement from all sides of the House when they're bringing in other legislation, and certainly if their ideas as to what it should be and the principles are agreed upon that we shouldn't be going back to another committee to study the matter, we should be now studying legislation.

I think that this holds true, Mr. Speaker, especially in the area of compensation to victims of crime. I believe that the House passed a resolution in principle on this particular matter, I believe that my honourable friend and colleague the Member for St. John's indicated by both weight and volume the amount of study that has been done in these various areas and I think that the Minister by his definite proposals has indicated that this provision is ready for legislation. We have the principle of the scheme, the scope of the scheme, and the Criminal Injuries Compensation Board, all of which don't contain a broad outline, Mr. Speaker, of what is intended - describe what the legislation will ultimately contain. When the White Paper was read before the House I think it was read in such a manner and was interpreted by people on all sides and by the public generally as being a statement which indicated that legislation would be brought forward at this session of the Legislature.

Now I think, Mr. Speaker, that what has been said in other areas is equally of the Legislative Commissioner for Administration, and I think if "ombudsman" is a cumbersome name, that the Minister appears to have chosen even a more cumbersome name, and I am

(MR. GREEN, cont'd) afraid I can't offer any real assistance in this regard. I don't think the name is that important; I think the fact that the White Paper has several pages - I see 9, 10, 11 - three or four pages in which it describes what this legislative commissioner is supposed to do and how his job will be handled, and the various definite proposals which it makes with regard to how he will be used and the people who could take advantage of him indicates that the government is now ready for legislation in this regard.

I don't intend to cover the same ground, Mr. Speaker, that was covered by my colleague from St. John's, but I do wish to say that from an outsider's point of view, from a person who wasn't in the Legislature, I feel that the public wonders just how much study is necessary, and I as a member of the public believe that I served on various of the committees that were studying the very matters that are now before the House. I know I certainly served on a committee to consider various methods of consumer protection. I know that I appeared before a committee - and I can't recall the name of it now - but I appeared before a committee and presented a brief on behalf of the Manitoba Committee for Consumer Protection - my honourable friend from St. John's tells me it was a special committee of the House - that I find it rather distracting to know that I participated in all these committees, that the work of the committees was done, that apparently it was done so well that it enabled my honourable friend the Minister to come in with a comprehensive and fairly definitive White Paper with regard to the recommendations that grew out of many of these committees, in some of which I participated over the last three years, that one wonders when the committee stage ends. Let me hasten to say that I know that it doesn't even end with legislation, that when we do get the legislation we go to committee to further discuss refinements to the legislation and that the legislation itself can be changed during the courses of the three readings that take place before this House.

We wonder whether this delay - and here I speak as a Member of the Legislature and also as a member of the public who has had experience in both areas with regard to the matters now under discussion - whether this delay doesn't itself indicate some lack of real initiative to get this legislation passed, because we now have the government presenting a paper which indicates that they agree with the various proposals. They not only agree with these proposals but they have them fairly definitively set out and there doesn't appear to be any reason why we can't be discussing legislation in each of these areas at this session of the Legislature.

MR. SPEAKER: Are you ready for the question?

MR. SHOEMAKER: Mr. Speaker, I believe that this is the opportune time for me to bring to the attention of the House a certain incident that I referred to the Attorney-General's Department on September 1st last, and if it's not, why then they can stop me if I am not in order.

Like the honourable member who has just taken his seat, I believed, when I read the Throne Speech, that it was the intention of the government to bring in legislation at this session of the Legislature - that's what I thought and I am sure the public thought - that it was the intention to introduce legislation now and not two or three years hence. On December 8th last, there were several sheets from the propaganda department issued in respect to the Citizen's Remedies Code, and there is a note to the editor up in the corner that says, "Because of the importance and wide scope of the Citizen's Remedies Code, separate stories on particular items of the Code are attached." There's a whole series of them here, and they say that it is of such vital importance that they're bringing this to the editor's attention, putting it right up there in heavy black print all underlined. Well, if it is of such vital importance, why are we using the stalling tactics again? What is the point of this, mentioning it in the Throne Speech, issuing a whole series of propaganda sheets, saying how important it is and then stalling it all off for Heaven knows how long --(Interjection)-- He wouldn't do it, my honourable friend asks. Well, I hope that he wouldn't do it but there are indications that that is his intention.

Well anyway, Mr. Speaker, on September 1st last, I wrote a letter to the Department of the Attorney-General, and no doubt it got to my honourable friend, and I say: "Dear Sir: When The Consumers' Credit Act was passed by the Manitoba Legislature some months ago" - it's a year ago now or more - "I understood that it contained provisions for a customer to cancel his contract and obtain his money back, provided always that the customer made his request known within a specified time following the signing of a contract. Mr. Alex S. . . ., Riding Mountain, Manitoba, has made a sincere effort to recover his money under the said Act and has not been successful. I wonder if you will kindly inform me why people like The Fort Steel Buildings Limited" - and I don't think it's improper for me to name the company - "are allowed

(MR. SHOEMAKER, cont'd) to continue in business if they fail to obey the laws of the province. So that you will have a full and complete knowledge of the case in point or question, I am enclosing all copies of correspondence between the parties involved."

Now I don't know whether my honourable friend got the information or not, but certainly it went to the department. --(Interjection)-- You didn't? Well I have a reply from the Director of Prosecutions, Mr. A. A. Sarchuk - in fact I have two from him - and if I have to table them I'll table them. But I wrote mine, as I said, on September 1st. On September 6th - I will admit they were quite prompt - but they addressed the letter to me, "Re Fort Steel Buildings Limited and The Consumers' Credit Act. Your letter regarding the above named Mr. S. has been handed to me for attention. Please be advised that this matter will be investigated immediately, and if the evidence warrants, the necessary action under The Consumers' Credit Act will be taken. Yours truly, A. A. Sarchuk, Director of Prosecutions."

On November 21st, two months later or 2-1/2 months later, another letter from the same gentleman, the Director of Prosecutions, addressed to myself and "Re Fort Steel Buildings Limited and Alex S." Same subject matter. "Further to your letter of September 1, 1966, please be advised that the RCMP now have concluded their investigations and have submitted their reports to us. Insofar as The Consumers' Credit Act is concerned, I must advise you, with some regret, that the failure to comply with Section 7 of The Consumers' Credit Act is not an offence. It is my view that Section 7 of this Act is merely directory, a breach of which might give rise to a civil remedy, but as I indicated before, does not give rise to a prosecution. For obvious reasons I must refrain from expressing any opinion as to whether Mr. S. should or could attempt to obtain some redress by way of civil action. Yours truly, A. A. Sarchuk, Director of Prosecutions."

Now Mr. S. . . . isn't the only man in my constituency that was "sold a bill of goods" and I dare say that there isn't a rural member of this House that hasn't had complaints from some of the steel building companies that have been going around the country for the last five or six years attempting to sign farmers up for some of these steel buildings. Here is a clear-cut case where a farmer at Riding Mountain, not in my constituency but in the constituency represented by our Honourable Leader, signed a contract in the morning and paid \$100.00 and came in to see me the same afternoon, which is certainly the cooling off period. I directed him to a lawyer; he wrote a letter that night to the department, to the Attorney-General's Department, and outlined the whole story to them, and they say you can't even prosecute. Well what good is the law? What is wrong? What's gone wrong?

On April 29, 1966, nearly a year ago, from the propaganda department again, "Broadened Consumers' Credit Act is approved." It's a very short one but it says, "A Bill to broaden the application of the Consumers' Credit Act was passed at the recent session of the Legislature." This was a year ago - "Introduced by Provincial Secretary Honourable Maitland Steinkopf, Q. C., it extends the applications of the provisions that under certain circumstances a purchaser may cancel a time contract up to 48 hours after it has been signed. Under the Act proclaimed in August, 1965, this provision applied only in a case where the vendor, or a person acting on his behalf in the respect of a sale, initiates or negotiates a sale by going from house to house selling or offering for sale or soliciting orders for the future delivery of goods, or goods and services. Under the amendment the provision also applies if the vendor uses the telephone, telegram or correspondence in obtaining the sale."

So apparently the Act was passed in 1965, amended in 1966 and it's still no good. It is still worthless because the people who have attempted to recover under the provisions of the Act, they can't recover their money and the vendors cannot be prosecuted according to the letter that I have here. Well, we can't afford to delay and stall around as my honourable friend intends to do any longer. In 1965 we passed an Act; in 1966 we amended it. It's no good and this year apparently they do not intend to do anything about it, intend to stall around some more.

Now the Farmers' Union in their brief to us a year ago - I think it was a year ago - suggested that the farmers of this province were taken to the tune of three-quarters of a million dollars annually by these fly-by-night fellows that are travelling all over the country selling everything from books to steel buildings, and I know my honourable friends the lawyers like to use this term - caveat emptor - "let the buyer beware," but there's altogether too many slick salesmen going around taking advantage of people who are not in a position to know the facts, the facts of life. For instance, also in my honourable friend's constituency, the Leader of our Party, there was an old fellow there - he's still alive, in his eighties - they came along

(MR. SHOEMAKER, cont'd) and sold him a steel building and he paid them \$1,100.00 in cash. He hasn't got the building and he hasn't got a nickel back yet, and this is 18 months ago - 18 months ago.

A case at Neepawa where they had to get the lawyers and the law after them to get the building, and the - I forget the name of the company at the moment - but after the lawyers at Neepawa really put the thumbscrews on this company they eventually came out and put the building up. And what do you know? -- they still owe the Hotel Hamilton about \$600 for the room and board bill for the men that put the building up. These kind of things have got to come to a halt, they've got to come to a halt, and I'll bet you that every rural member here acting in his capacity as an ombudsman, or if he isn't he isn't doing the job that he's elected to do, has had calls from farmers in his or her constituency complaining of the same thing that I have mentioned here tonight.

So, Mr. Speaker, I am completely disappointed at my honourable friend if he intends once again to delay what I say is important legislation, and what he says is important legislation, said it in no uncertain terms in this propaganda sheet that went out on December 8th - thought it was so important that he drew it to the attention of the editors by putting a little special note up in the top right hand corner, and surely some of the backbenchers opposite over here are not going to allow this delaying tactics of the government. What is wrong with the amendment that's before us? Just one fellow in the back row get up and tell me, what's wrong with the amendment? Had anybody read the amendment, has anybody read the amendment opposite? I see there's some of them reading it now. And the proposed motion of Mr. Cherniack in amendment thereto as follows: "That the motion be amended by deleting all of the words after the word 'therefrom' in the fourth line of the operative section of the resolution and add the following: Be introduced by the government at this session" - not one, five years from now, at this session. What is wrong with that? Now if there's anything wrong with that I don't want a frontbencher to get up and start arguing the point, I want some of the people in the back bench to get up and start arguing the point with me. As my honourable friend the Attorney-General said this afternoon in speaking on an amendment of ours, "Anybody in their right mind", isn't that the words he used, "would vote for this one", suggesting that everybody that didn't was out of their mind. Well surely everybody in their right mind will go along with this one, Mr. Speaker, and I hope that there will be sufficient people in their right mind that the motion will carry.

MR. SPEAKER: Are you ready for the question?

MR. HARRIS: If nobody else wishes to speak, I'll adjourn debate, seconded by the Member for Inkster.

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

MR. SPEAKER: The adjourned debate on the proposed resolution of the Honourable the First Minister. The Honourable Member for St. George.

MR. GUTTORMSON: Mr. Speaker, I would beg the indulgence of the House to have this matter stand. However, if anyone else wishes to speak, we'd have no objection.

MR. EVANS: Mr. Speaker, I beg to move seconded by the Honourable the Attorney-General, Mr. Speaker do now leave the Chair and the House resolve itself into a Committee to consider of the supply to be granted to Her Majesty.

MR. SPEAKER presented the motion.

MR. SPEAKER: The Honourable Member for St. John's.

MR. FROESE: Mr. Speaker, the last time we

MR. SPEAKER: Order, please, I called the Honourable Member for St. John's.

MR. MOLGAT: Mr. Speaker, on a point of order, I believe it's standing in the name of the Honourable the Member for Rhineland

MR. SPEAKER: What was standing?

MR. MOLGAT: When we rose last time, was it not? He was speaking at the time.

MR. LYON: I may be wrong, Mr. Speaker, but I don't believe that these persist over. You speak on a grievance one day and when the time comes to adjourn then you've spoken and that's it as I understand it. The honourable member has, I would take it that what the Speaker is indicating is that the honourable member has exhausted his time to speak.

MR. SPEAKER: I'm at a loss to

MR. MOLGAT: Mr. Speaker, as I recall, the motion came up fairly late in the day, the Honourable Member for Rhineland got up to speak and he didn't conclude his comments before the House rose

MR. SPEAKER: When was this?

MR. MOLGAT: ... nor did he exhaust the 40 minutes. The House rose while he was speaking so we never entered into the debate at all, we didn't go into committee. He was speaking on a motion. Now as I understand the normal rules of the House if you are speaking on a motion and the time for adjournment comes, when the same motion comes up at the next session it is standing in your name.

MR. SPEAKER: Does the Member of the Opposition remember the motion? Is it on the Order Paper today?

MR. MOLGAT: The one you just called, Mr. Speaker. On the motion to go into Supply. He was speaking on

MR. GREEN: Mr. Speaker, on a point of order, surely we have now before you another motion, a new motion to go into Committee of Supply, and on the - we're not in an adjourned debate on the previous motion, we are now speaking to a new motion which has just been put by the Provincial Treasurer that we go into Committee of Supply, and anybody who seeks the floor can speak on that motion.

MR. DESJARDINS: Well Mr. Speaker, on a point of order, what happened to the motion of last Thursday then? Who disposed of that motion --(Interjection)-- Well, you didn't dispose of the motion. We didn't go

MR. SPEAKER: Holy Mr. Clerk

MR. ROBLIN: Mr. Speaker, I think this is a rather important point and I hope that you will be able to take sufficient time to consider it, but I must say that the Honourable Member for Inkster is in my view correct, that every time this motion comes up it is a new motion. That is something that's been well established in this House and other Houses on many previous occasions, and it seems therefore that if my honourable friend has spoken on it before he's exhausted his right to speak on this motion at any time, it's a new motion tonight and we start fresh.

MR. MOLGAT: Mr. Speaker, on a point of order. I agree that it is a new motion if the motion is voted upon, but it wasn't. What happened is this, that the Honourable the Attorney-General got up and moved that the House now go into committee. Now, no vote was taken, he made a motion at which time one honourable member got up to speak and he was still speaking and had not exhausted his time when the House reached its conclusion for the day. Now there was no vote taken on the motion so it seems to me that in our normal rules the motion stands and then the next time the House meets it is standing in his name, he can exhaust his time to speak, but there was no - we can't say the motion was disposed of, there was no vote on the motion --(Interjection)-- but there certainly is a vote on the motion because the motion is that we go into Supply and the House has to agree, yes, we go into Supply. The House didn't agree to go into Supply, so surely it stands in his name.

MR. ROBLIN: Mr. Speaker, I don't really think it does, because when that particular motion was before us last time it died when the House adjourned. A new Order Paper comes up and a new motion is before us; it's not the same old motion and the right to carry over does not adhere to it. In my view this is a new motion and should be dealt with in that way.

MR. PAULLEY: I would respectfully suggest, Mr. Speaker, I think it's almost similar to the motion that we do adjourn for the purpose of hearing a matter of urgent public importance which we did yesterday and never voted on, and yet by the intervention of the time limit of the House, it killed that particular proposition and if we wanted to debate another urgent matter, we would have had to have another motion. We have another motion before us and I think my colleague from Inkster is substantially correct.

MR. DESJARDINS: Mr. Speaker, I would like to suggest that there's only 15 minutes and this is about the time he had last time, that the House give him leave to take in the last 15 minutes.

MR. SPEAKER: That request could not be acceded to. I am inclined to follow the procedure similar to what we followed yesterday. This is a new order to be dealt with, and the Honourable the Provincial Treasurer has put forward his motion and seconded by the Honourable the Attorney-General. I noticed the Honourable Member for St. John and he has the floor if he wishes to take it.

MR. CHERNIACK: Mr. Speaker, this afternoon we directed certain questions to the Honourable the Minister of Public Works and you suggested then, when I asked of him whether he was prepared to undertake not to exercise the powers which he has taken unto himself under the recent regulations until it was debated in the House, you yourself suggested that there would

(MR. CHERNIACK, cont'd) be other opportunities when we would be able to debate it. Well, I'm making this the opportunity so that your promise will be in actual fact carried out and your prediction will be correct.

Last year, Mr. Speaker, I had the opportunity of being a member of this Committee on Statutory Regulations and I was distressed to discover that the procedure used last - well, used at all times - was what I considered a very perfunctory method of dealing with the regulations which consisted of a thick book, an inch or an inch and a half thick, and was dealt with in one morning. Now I asked then and I received a list, which was the basis of principles which are to be followed by that Standing Committee on Statutory Regulations in reviewing regulations, and since I had some difficulty getting it, I thought I might as well put it on the record now for honourable members to know for the future, and this was given to me by the Clerk of this House.

(a) The regulations should not contain substantive legislation that should be enacted by the Legislature but it should be confined to administrative matters.

(b) The regulations should be in strict accord with the statute conferring the power, and unless so authorized by the statute, should contain a retroactive effect.

(d) A regulation should not exclude the jurisdiction of the courts.

(d) A regulation should not impose a fine, imprisonment or other penalty or shift the onus of proof of innocence on to a person accused of an offence.

(e) The regulations in respect of personal liberties should be strictly confined to the authorization of the statute.

(f) The regulations should not impose anything in way of a tax as distinct from the fixing of an amount of a licenced fee or the like.

(g) The regulations should not make any unusual or unexpected use of the delegated power; and finally, the regulation should be precise and unambiguous in its parts.

Well, Mr. Speaker, we have had occasion, at least I know I have and the honourable other members of the House have had the occasion to criticize legislation by regulation, and there have been times when we felt that regulatory rights could go far beyond those of the Lieutenant-Governor-in-Council rather than of the Legislature itself.

We had before us the Public Works Department Act, and prior to that I think we had another Act which preceded it, when we debated the question of controlling the parking of these grounds on which the Legislature stands and the parking behind the Law Courts Building. It was learned that there seemed to be inadequate provision to regulate parking, and as I recall it, the Minister, whose responsibility it then was, undertook to bring in a Bill - and I believe that Bill was withdrawn or at least not proclaimed - and later we had this Public Works Department Bill brought in in 1965.

Now the Act which is Chapter 68 of the 1965 Statutes gives definitions of Department, Minister, public work and work, and no other definitions. The Act provides in Section 9 that the Minister has the management, charge, direction and control of the design and construction of all buildings belonging to the government

MR. SPEAKER: I regret I must remind the House again that there is considerable conversation going on when an honourable member is addressing the House. I wonder if you would kindly give him your attention, not only on this occasion but on future occasions, without any interruption on my part.

MR. CHERNIACK: Thank you, Mr. Speaker. I was dealing with Section 9 of The Public Works Department Act which gives to the Minister the management, charge, direction and control of the design and construction of buildings, heating, maintenance, repair, control of furniture and fittings and all engineers, firemen, caretakers, etc. So that Section 9 puts in his responsibility the management of the buildings in terms of heating, maintenance, control of furniture and the staff in the building.

Section 25 is the one which provides for the regulations which may be passed by the Lieutenant-Governor-in-Council and states that, "The Lieutenant-Governor-in-Council may make such regulations and orders as are ancillary thereto" - that is to the provisions of this Act - "and are not inconsistent therewith, and every regulation or order made under and in accordance with the authority has the force of law; and without restricting the generality, the Lieutenant-Governor may make orders respecting the use by any person of the grounds appurtenant to any public building respecting the parking of vehicles, respecting and restricting control of vehicular or pedestrian traffic on the grounds, respecting or prohibiting the use of any public works for purposes other than for which it was constructed, and prescribing fees

(MR. CHERNIACK, cont'd) that may be charged for parking privileges."

You will note that there's nothing in the Act which gives the Minister the authority to regulate the use of buildings in any way, and I remind the House that the principles to be followed in reviewing regulations should be that they should not be substantive legislation, they should be in, and I quote, "Strict accord with the statute, and that in respect of personal liberties, should be strictly confined to the authorization of the statute and should not be used to make any unusual or unexpected use of delegated power. The penalty for an infraction is a sum not exceeding \$25.00 or imprisonment not exceeding 14 days, or both fine and imprisonment." So that any contravention of the regulations may bring, as a result, a maximum of a \$25.00 fine plus 14 days in jail.

And what do the regulations do? The regulations, which are 21/67, regulation under The Public Works Act which was filed on March 2, 1967, firstly they purport to make definitions, and they now define the word "grounds", meaning the grounds of the Legislative Building complex, including the park known as Memorial Park, and any streets, roads and parking lots in the complex. Then it is spelled out more precisely: "The Legislative Building complex means the public works and the grounds appurtenant thereto and include the park known as Memorial Park, that part of the street known as Memorial Boulevard between York and Broadway and that part of the street known as Assiniboine Avenue between Kennedy and Osborne Street in the City of Winnipeg." So we now know what this regulation affects.

The regulation provides that without the consent of the Minister no person shall place, erect, maintain or use any structure on the building. I think that's a sensible regulation. That's No. 2 (1). The Minister is grateful for my -- he's pleased with the fact that I approve, and I only hope that he continues to listen and he will start agreeing with me as to those portions with which I disapprove. And he has the power then to remove or cause to be removed these structures.

The regulation provides also under Section 3 that where goods or property of any kind are placed, left or being used within the complex, the Minister may require the owner to remove the goods. This means to me, Mr. Speaker, that the Minister can require any Member of this House to take the contents of his desk in this room and remove it. And Sub-section (2) says that he may himself remove it or cause it to be removed. I think that he has the right to walk into any room in this building and take any item of goods which are being used there, which are not government property, and remove them or cause them to be removed. I'm not saying this Minister would do it, Mr. Speaker.

MR. PAULLEY: Oh, no, he's too nice a fellow.

MR. CHERNIACK: But I don't know who the next Minister will be and I don't like any Minister, including the present Minister, to be given that kind of power, Mr. Speaker. I don't think any person, Minister or otherwise, Minister of government or other type of Minister should have the power to remove or cause to be removed from this building or from this complex any goods or property being used thereon. And there is no appeal of that decision, Mr. Speaker.

It provides further that he may control, that is he may refuse his consent so that no person shall obstruct, divert or interfere with traffic on the grounds or obstruct or interfere with persons. That's reasonable. I don't know the extent to which he needs the power because I think the law is there to support him. But it goes on that no person shall erect or attach a sign onto the buildings. That seems reasonable - without consent of the Minister - and it provides that there shall be no selling going on on the premises without the consent of the Minister. That seems reasonable.

Then we come to Section 7 which gives him the right to cause a building to be closed and locked during any period specified by him. Well now we're getting a little Now he has the power to lock up any building that he chooses, "except at a time when the Assembly or a committee thereof is meeting." Then it says that no person shall enter a building between 12 o'clock midnight of each night and 7:00 o'clock in the next morning except with the consent of a person designated by the Minister. So as was indicated this afternoon by my honourable leader, if he should happen to find it necessary to work at his desk in his office in the hours between midnight and 7:00 o'clock he must obtain permission so to do. I object to that, Mr. Speaker.

MR. LYON: If he comes to the building tonight at 12:30 he will find the door locked. He will have to ring the bell and when the bell is answered by the man at the door, will he not have to get permission from that man, me or anyone else to come into the building?

MR. PAULLEY: At 12:30?

MR. LYON: Whenever they close the door. That's always been the case.

MR. PAULLEY: But if I'm inside I can get out, can't I?

MR. CHERNIACK: Well, let's go on because then if my honourable the leader wishes to get to the building to get the permission to open the door by the guard at the gate, he is breaking the law. --(Interjection)-- No, he can't even get permission because there is nothing that says the Minister can give him permission, because Subsection (5), and I direct the Honourable Attorney-General to it, says: "No person shall remain on the grounds between midnight of each night and 7:00 o'clock of the next following morning." Now that's the point which is actually covered.

MR. McLEAN: Mr. Speaker, will the honourable the member be good enough to read Subsection (7) as well in connection with that.

MR. CHERNIACK: I would be pleased to indicate to the Honourable Minister that I have read Subsection (7), which permits the operation of a vehicle on the streets and that's all it says: A person walking down the street, Assiniboine, or walking on - is it the Mall - is breaking the law, Mr. Speaker. I'm glad that the Honourable the Minister found it necessary to indicate to us the transgressions which he proposes to have where he will permit vehicular traffic but will not permit a person walking down the street. That's the way I read Subsection (7), which he pointed out to me.

And then, since time is running out, let me jump to Section 8 which is the worst of all. The Minister has the power at any time of the day or night to tell any person to get out of a building in this complex. Any person that may want to visit the galleries upstairs may be barred by this Minister who may say to him "out", and if the person does not leave, the Minister may then himself evict that person, or if he is at least careful of his own health, he may cause him to be evicted. Mr. Speaker, I think these go much beyond any powers that were ever designed or contemplated or enacted by this Legislature. They go contrary beyond all of this.

The Minister of course is not limited to the buildings; he has the power to rule them off the grounds. I say that he could not possibly have conceived of the need or desire to do this, but if there is a desire or need, it's dangerous. If he never conceived of it, it's worse, because I don't believe that regulations of this type can be conceived without the Minister having played a part in the conception of it. I therefore refuse to accept from him any allegation or denial of participation in the conception of this monstrosity, Mr. Speaker.

I think that all the protections that were necessary for the Minister against persons who are misbehaving, who are abusive or obstructive, are in the law today. To the extent that it was necessary to control vehicles, the parking of vehicles or the placing of objects improperly on the premises or on the grounds, I think that to that extent these regulations are necessary and desirable. But the powers, the extent to which they go I think are a matter -- they are a grievance not only to myself but a grievance for all people who come within the orbit, the physical orbit of these grounds, and I think that the Minister ought to hurry up to suspend this regulation or at least to make a commitment to us and to the people of Manitoba that it will be done before any act on his part will cause anyone to feel concerned about the rights that he may have in the future of a personal liberty nature such as contemplated in the principles established under the Statutory Regulations and Orders.

I think that the Cabinet is here; I'm sure they could have a meeting in a hurry and get rid of this regulation and then come back with one which is acceptable and which would be accepted by the people. Another conception of the needs and of the responsibilities would be something which I think would be highly desirable on the part of the Minister and of the Cabinet, because if it is thought that I have been accusing this Minister, I want again to say that it is not him I accuse but probably the company he keeps, because surely he alone did not take the responsibility for this. I did accuse him of fathering it, but he must have had considerable help, Mr. Speaker.

MR. LYON: Mr. Speaker, I hesitate

MR. CHERNIACK: I'm not quite through. --(Interjection)-- Did you want to move the adjournment?

MR. PAULLEY: Did you want permission to finish on this note?

MR. CHERNIACK: No, Mr. Speaker, I think I've made my point. I've certainly tried.

MR. LYON: I want to say, Mr. Speaker, I hesitated to interrupt my honourable friend while he was in the midst of this act of conception --(Interjection)-- misconception.

MR. CHERNIACK: I think I was interrupted for a specific motion, not a speech.

MR. LYON: I beg to move, seconded by my honourable friend the Minister of Welfare,

March 14, 1967

1669

(MR. LYON, cont'd) that the House do now adjourn.

MR. SPEAKER presented the motion and after a voice vote declared the motion carried and the House adjourned until 2:30 o'clock Wednesday afternoon.