

THE LEGISLATIVE ASSEMBLY OF MANITOBA
2:30 o'clock, Wednesday, June 21, 1972

Opening Prayer by Mr. Speaker.

INTRODUCTION OF GUESTS

MR. SPEAKER: Before we proceed I should like to direct the attention of the honourable members to the gallery where we have 90 students of Grade 5 standing of the Regent Park School. These students are under the direction of Mr. Goldstein, Mrs. Douville and Mrs. O'Brien. This school is located in the constituency of the Honourable Member for Transcona, the Minister of Labour.

We also have 100 students of Grade 6 standing of the Van Belleghem School. These students are under the direction of Miss Wicks, Mr. Lamb, Mr. O'Kivgeski and Mr. Chomichuk. This school is located in the constituency of the Honourable Member for Riel.

And we have 20 students of Grade 8 standing of the Bloodvein School. These students are under the direction of Mr. McMahon, Miss MacDonald and Miss Young. This school is located in the constituency of the Honourable Member for Ruperstland.

On behalf of all the honourable members I welcome you here today.

Presenting Petitions; Reading and Receiving Petitions; Presenting Reports by Standing and Special Committees; Ministerial Statements and Tabling of Reports; Notices of Motion; Oral Questions.

ORAL QUESTION PERIOD

MR. SPEAKER: The Honourable Leader of the Opposition.

MR. SIDNEY SPIVAK, Q. C. (Leader of the Opposition)(River Heights): Mr. Speaker, my question is for the acting Minister of Mines and Natural Resources. I wonder whether he can indicate whether the Provincial Government has held any discussions with the Federal Department of Energy concerning the possibility of establishing national or regional guidelines for the purchasing of supplies or services for major new pipeline developments to be built in the north.

MR. SPEAKER: The Honourable Minister of Industry and Commerce.

HON. LEONARD S. EVANS (Minister of Industry and Commerce)(Brandon East): Mr. Speaker, there have been no recent conversations to my knowledge but that doesn't preclude of course certain informal discussions at the staff level. On the other hand I believe there has been some written communication in this regard.

MR. SPIVAK: I wonder if the acting Minister can indicate in his capacity as Minister of Industry and Commerce rather than as an acting Minister of Mines and Natural Resources whether his department would be prepared to initiate discussions with the Federal Government with respect to establishing such guidelines.

MR. EVANS: Mr. Speaker, as the honourable member knows full well as Minister of Industry and Commerce I'll do everything to promote the expansion of Manitoba's industry and I'll certainly look into the suggestion.

MR. SPEAKER: The Honourable Leader of the Opposition.

MR. SPIVAK: Yes. I have a question for the first Minister. I wonder when he can indicate whether he -- at what time, or how soon he will be meeting with the President of Pan Arctic Oil?

MR. SPEAKER: The Honourable First Minister.

HON. EDWARD SCHREYER (Premier)(Rossmere): Mr. Speaker, approximately within the next 30-day period. A precise date has not been determined, however, we've had conversation with the President of Pan Arctic Oil and there was agreement that approximately within 30 days from now it would be possible to meet and accordingly those arrangements will be made.

MR. SPIVAK: A supplementary question. I wonder if the First Minister can indicate whether there will be a member of the Federal Government, Federal Cabinet, present at such a meeting.

MR. SCHREYER: Well, Mr. Speaker, there no doubt will be an occasion in the future, rather near future I should think, when that will be the case. However the meeting that I have referred to is one which is being arranged sort of at the mutual convenience of the President of

(MR. SCHREYER cont'd) Pan Arctic and myself and my colleague, and therefore it may well be that there will be no representative from the Federal Cabinet present at this first meeting. But there may well be at the second and subsequent meetings.

MR. SPIVAK: A supplementary question. I wonder if the First Minister can indicate whether it's his intention to meet personally with the Prime Minister prior to the meeting with the President of Pan Arctic Oil.

MR. SCHREYER: Well, Mr. Speaker, there is implicit in the Honourable Leader of the Opposition's question the assumption that specific concrete action imminent with respect to the construction of a pipeline southward from the high Arctic oil and gas deposits. I have had communication with the Federal Minister of Energy, Mines and Resources and with the President of Pan Arctic Oil and matters have not advanced nearly as far as the Honourable Leader of the Opposition appears to think. However in the immediate future arrangements are being made for meetings such as I have just described.

MR. SPIVAK: Mr. Speaker, I have another question for the First Minister. I wonder whether he can inform the House whether the Provincial Government has confirmed the fact that Pan Arctic Oils are now commencing a study of the potential pipeline through two alternative routes, one through Manitoba and one through Quebec.

MR. SCHREYER: Mr. Speaker, it is correct to say that Pan Arctic Oil have been making very very preliminary studies of alternative routes and they are far from coming to any conclusive interpretations at this point in time.

MR. SPIVAK: Mr. Speaker, I have a question for the acting Minister of Mines and Natural Resources, or for the First Minister. I wonder if he can indicate whether the Provincial Government has held any discussions with Atomic Energy of Canada concerning the possible implications of the proposed Canadian British nuclear know-how exchange, the implications that it would have for Manitoba in the potential of the uranium enrichment plant.

MR. SPEAKER: The Honourable Minister of Industry and Commerce.

MR. EVANS: Mr. Speaker, not on that specific matter, but senior officials of my department were in conversation with the Atomic Energy Limited of Canada, is it, within the past year I believe, but not on this specific question.

MR. SPIVAK: A supplementary question to the acting Minister. Is it the intention of his department to be in contact with the Federal Government now that they've officially announced that there will be an exchange?

MR. SPEAKER: Order please. I do believe that the intentions are not valid to procedures of this House. I have reminded the Honourable Leader of the Opposition about that a number of times. The Honourable Leader of the Opposition.

MR. SPIVAK: Mr. Speaker, I'll frame it another way. In view of the announcement today, or yesterday, of the fact that there will be an exchange between Canada and the United Kingdom, is it the intention of the government to be in contact with the Federal Government to determine the implications for Manitoba.

MR. SPEAKER: Order please. Announcements too are not relevant to procedure unless they are government announcements of our own.

The Honourable Member for Churchill.

MR. GORDON W. BEARD (Churchill): In respect to the drilling in Hudson Bay would Manitoba be due 50 percent of the royalties in that area, the Aquitainedrillings in the Hudson Bay area?

MR. SPEAKER: The Honourable First Minister.

MR. SCHREYER: Well, Mr. Speaker, the Honourable Member for Churchill through his question affords me an opportunity to reply both to his question and to a question asked yesterday, I believe, by the Leader of the Opposition, that is with respect to clarifying, or indicating what Manitoba's stated position is relative to the question of offshore mineral rights. If I may, Mr. Speaker, I can summarize the reply to the question I took as notice, and indicate that Manitoba has agreed to the administration lines proposed by the Federal Government, subject to the proviso that such agreement in no way bears on or affects future discussions and decisions with respect to provincial boundaries, that any later agreements with other provinces, between the Federal Government and other provinces, in respect of administration lines that would be more favourable than that which has been agreed to in our case would result in equivalent favourable amendments being expected, not only requested but expected in respect of Manitoba, and that any oil spills affecting our shoreline should be the responsibility of the

(MR. SCHREYER cont'd) Federal Government. Manitoba has taken the position further that all offshore revenues that are beyond the agreed to administration lines should be pooled, including those deposits offshore of the Yukon and the Northwest Territory, not just the provinces, with 50 percent of the revenues divided among the ten provinces and the two territories as well on an equitable formula to be determined. And this is what we have communicated to the Government of Canada in response to their proposal. What is essentially different about our reaction is that we would insist that if there is to be agreement to the concept of pooling of off-provincial-shore revenues that it should include revenues obtained from the commercial sale of petroleum from offshore of the territories in the Yukon as well.

MR. BEARD: Well has the Minister received a reply from the Federal Government in respect to this?

MR. SCHREYER: Mr. Speaker, I'm not in a position to advise just up to the present day whether or not we have received a reply. It may be that the Minister of Mines and Resources has received further communication from the Government of Canada, however, the latest information I have is that there has not been finalization, certainly there has not been finalization and no specific indication from the Government of Canada whether our counter-proposal is regarded as deviating in any major way from what they are prepared to accept.

MR. SPEAKER: The Honourable Leader of the Opposition.

MR. SPIVAK: Well, Mr. Speaker, as a result of the statement that the First Minister has made there are a number of questions, but I wonder if he could indicate at what time, how long ago was this communication made to the Federal Government.

MR. SPEAKER: The Honourable First Minister.

MR. SCHREYER: I believe, Mr. Speaker, that initial communication was initiated very early in 1970 and that there have been communications back and forth between the Federal and Provincial Ministers of Mines, Energies and Resources throughout 1970 and 71, and I rather suspect that there will be follow-up communication now from Ottawa in the next month or so.

MR. SPIVAK: Well, Mr. Speaker, another question to the First Minister. In view of the announcements by the Maritime provinces with respect to this issue, has there been any direct communication from Manitoba indicating again their concern and asking for the opportunity to be present whenever such a decision is to be arrived at.

MR. SCHREYER: Mr. Speaker, I understand that the host Premier for the Premiers Conference early August in Halifax has arranged for this item to be put on the agenda of the Premiers Conference.

MR. SPIVAK: Yes. I wonder if the First Minister can indicate whether this matter will be discussed by the Prairie Economic Council in its meeting, and I would assume its meeting would be prior to the meeting in August.

MR. SCHREYER: Mr. Speaker, it is anticipated that the prairie premiers will be able to meet not only in Alberta next month but also that it may be possible for the prairie premiers to meet in Churchill on the very next day, and in any case it is anticipated that this subject matter will be discussed at the time.

MR. SPIVAK: Yes. I wonder if the First Minister can indicate at this time whether there is the possibility of a united prairie premiers position with respect to this issue or will each province be undertaking its own position.

MR. SCHREYER: Well, Mr. Speaker, of course I cannot say that just because Saskatchewan and Alberta do not have offshore areas therefore the question is not perhaps of as much direct interest to those two provinces. Nevertheless being part of Canada I would assume that they will be striking a position, if they haven't already done so, and therefore there is merit in discussing the matter. I cannot indicate at this time what the prospects are for achieving unanimity of attitude however.

MR. SPEAKER: The Honourable Member for Assiniboia.

MR. STEVE PATRICK (Assiniboia): Mr. Speaker, my question is to the Honourable Minister of Tourism and Recreation. Has the Minister received a request for a grant from the Manitoba Sports Federation and if he has, how large has the province committed itself for the administration and field house.

MR. SPEAKER: The Honourable Minister of Tourism and Recreation.

HON. LAURENT L. DESJARDINS (Minister of Tourism, Recreation and Cultural Affairs) (St. Boniface): Mr. Speaker, I've been meeting all along with the Manitoba Sports Federation and they have talked about their plans, and we've been discussing plans, but there haven't been

(MR. DESJARDINS cont'd) any outright requests for any amount, any specific grant at this time.

MR. PATRICK: Has the Minister committed -- or what amount has he committed to all sports organization, what amount of money to each one?

MR. DESJARDINS: Mr. Speaker, I couldn't give the honourable member an answer at this time. I think that I did announce that on the Lotteries Fund that a certain amount of money, I think it was about \$150,000, would be set aside to help the Federation, the sports bodies and the sports agencies, and maybe a possibility of housing some of these people, and I think that I've announced that we're negotiating for the use of the property, the old Imperial Bank of Commerce.

MR. SPEAKER: Orders of the Day. The Honourable Member for Crescentwood.

MR. CY GONICK (Crescentwood): I have a question for the Minister of Industry and Commerce. It regards the item that appeared today in the local press about a \$225,000 loan by the MDC to Dring (Canada) Limited and I would ask the Minister if Dring (Canada) Limited is a subsidiary of a U. S. company?

MR. SPEAKER: The Honourable Minister of Industry and Commerce.

MR. EVANS: Mr. Chairman, I'll have to check into the question. It was my understanding that it was largely local capital, but I will look into the matter.

MR. SPEAKER: The Honourable Member for La Verendrye.

MR. LEONARD A. BARKMAN (La Verendrye): Mr. Speaker, before the Orders of the Day are proceeded with I'd like to direct a question to the Minister of Health and Social Development. I wonder if the Minister could tell this House if it is the intention of this government, or the Manitoba Health Services Commission, to increase the amounts allowed for chiropractic expenses.

MR. SPEAKER: The Honourable Minister of Health.

HON. RENE E. TOUPIN (Minister of Health and Social Development)(Springfield): Mr. Speaker, like many other insured services under Medicare either cost-shared or not cost-shared with the Federal Government, this happens to be an area that is under review but no policy decision is taken at this stage, so no announcement is possible.

MR. SPEAKER: Orders of the Day. The Honourable Minister of Finance. The Honourable Member for Assiniboia.

MR. PATRICK: Mr. Speaker, I have a question for the Minister of Labour. I understand that negotiations between Dominion Bridge and its employees have broken down again. Has the Minister offered his services or from his office, and can he report anything on the situation at the present time.

MR. SPEAKER: The Honourable Minister of Labour.

HON. RUSSELL PAULLEY (Minister of Labour)(Transcona): Mr. Speaker, I don't know what my honourable friend means by "broken down again". The provisions of the labour laws of Manitoba have been adhered to completely insofar as the industrial dispute is concerned and I can say to my honourable friend that as usual the conciliation staff of the Department of Labour are constantly involved in this dispute as it is constantly attempting to avoid disputes in any area in Manitoba.

MR. SPEAKER: The Honourable Member for Assiniboia.

MR. PATRICK: A supplementary, has the Minister received a report from the Conciliation Officer?

MR. PAULLEY: Yes, Mr. Speaker, I received one about a month ago which gave the parties concerned the right to lock out or the right to strike and that is why, Sir, I said that the laws of Manitoba have been strictly adhered to.

MR. SPEAKER: Orders of the Day. The Honourable Minister of Finance.

HON. SAUL CHERNIACK, Q. C. (Minister of Finance)(St. Johns): Mr. Speaker, I beg to move, seconded by the Honourable the Minister of Labour that Mr. Speaker do now leave the chair and the House resolve itself into a Committee of the Whole to consider the following bills, Nos. 5, 6 and No. 55.

MR. SPEAKER presented the motion 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 Logan in the Chair.

COMMITTEE OF THE WHOLE HOUSE

MR. CHAIRMAN: Resolution 13 (1). The Honourable Leader of the Opposition.

MR. SPIVAK: Mr. Chairman, I rise only for a few moments, Mr. Chairman, to reply to the statement of the Honourable Member from Winnipeg Centre. I listened with rather, well with amusement to the remarks that were presented by him, presented in such a righteous manner. I have a high regard for the Member for Winnipeg Centre and I think he knows that and I do not want, in the remarks that I am going to make, in any way suggest that I have lowered my opinion of him but the Honourable Member for Winnipeg Centre is so typical of the New Democrats who stand up and argue piously about principle and about its application and who in the course of doing it, rather appear ridiculous. Mr. Chairman, the Honourable Member for Winnipeg Centre suggested that we in fact, have created a society of people who are trained to assist those who can, as a result of a law, avoid taxation and that in itself was inherently wrong. He suggested that those people who devote their time and energy to creating and establishing both corporate and private set-ups to be able to avoid the incident of taxation were in essence doing something that was essentially wrong in society. Now the truth of the matter is that the argument or the logic of his argument could be presented to those lawyers who are trained by our society to assist people who are criminals from avoiding the law by in fact applying all their talent and wit and wisdom to be able to take the criminal and defend him before the criminal court.

If in fact the honourable member opposite does not like the law which can in fact be an act or be applied for avoidance of taxation then he should change that law but the truth of the matter is that the individual is entitled in our society, in a society of freedom to in fact deal with his affairs in the best way suitable for himself and is capable and has the right and freedom to be able to set up his affairs to cause the least incidence of taxation on himself. Now let's not talk about what this succession duty bill really means for many people - there are people who have . . .

MR. CHAIRMAN: The Honourable Minister of Finance.

MR. CHERNIACK: The Honourable Leader of the Opposition is indicating he now wants to discuss the Succession Duty Bill. We are really on section 13 subsection (1).

MR. CHAIRMAN: The point is well taken, The Honourable Leader of the Opposition to 13 (1) please.

MR. SPIVAK: I will now talk in terms of the exemption of \$150,000 and suggest exactly what that means and refer directly to the remarks that the Honourable Member from Winnipeg Centre has presented in argument in this Committee this morning. What he suggested was that in effect the people who at the end of their lives have accumulated wealth have a responsibility to the state. They have accumulated it and they therefore should be both happy and should understand as a matter of right that that should be contributed back. The truth of the matter is that the people who have accumulated the wealth have had incidents of taxation during their lifetime with respect to the accumulation of the wealth.

I am not suggesting, Mr. Chairman, that there are not particular incidents where people have been more fortunate than others, where in fact there have been people who have been more successful than others in being able to avoid the incident of taxation.

MR. CHAIRMAN: Order. I would suggest to the Honourable Member for Radisson that if he wishes to gain the floor, he stand up and I'll recognize him in turn.

MR. SPIVAK: I should say, Mr. Chairman, to you that I would really welcome the Honourable Member for Radisson to stand on his feet and make his contribution to that, to this debate and I would be interested in hearing his logic with . . .

MR. CHAIRMAN: Order.

MR. SPIVAK: People have paid taxation, have accumulated wealth, have made provision for themselves and their families, have a right to recognize that the state will tax at the end the benefits that are to be conferred on either spouses or on children or other beneficiaries but at the same time they do not have to believe that at the end of their effort there is to be a punitive tax exercised by the state on the accumulation that they have paid tax on during their lifetime and I must tell you as well, Mr. Chairman, they have no right to believe that the Minister of Finance is the one to tell them that this amount of money is enough or that amount of money is enough and I say that quite frankly because the Minister . . .

MR. CHERNIACK: Point of order.

MR. CHAIRMAN: Order, please. The Honourable Minister of Finance.

MR. CHERNIACK: I believe the Honourable Leader of the Opposition is now talking about Estate Taxation which involves the taxing of estates whereas this Succession Duty Bill before us, is a tax on the successor for the monies which he received and is therefore not in accord with what he is discussing.

MR. CHAIRMAN: The Honourable Leader of the Opposition, on 13 (1) please.

MR. SPIVAK: Mr. Chairman, the Honourable Minister of Finance they want to throw every roadblock that he can with respect to the remarks that I'm going to address to him and whether he wants to talk in terms of estate tax or succession duty tax, the overall effect of the incident of taxation to the person who will be the recipient because it is the succession duty tax as opposed to the estate tax is the same.

In his few remarks at the end he basically said, isn't \$150,000 enough, isn't \$200,000 enough - and I want to tell him that it's not up to him to tell those people who in fact have paid, who have paid tax throughout their lifetime exactly what standard, what degree and what should be left for them. You know, Mr. Chairman, the Honourable Minister of Finance, indicated that there'll be \$100,000 of tax payable on a 400 or 500,000 dollar estate, and that sounds very good. But there's an assumption that's made that's false and he knows that. Any practising lawyer knows that and any accountant knows that.

So we're not talking about estates that are liquid and we can cash; we're not talking necessarily about people who are in a position to simply say, here take this portion of it - now the state has it, the rest is ours. We're talking in reality of situations where assessments will come in, where values will be determined that in reality in terms of marketplace may never be there. That in situations where people will not be in a position - particularly in terms of husbands and wives - not in a position to be able to become liquid, to be able to pay the taxpayer, not the tax collector, notwithstanding - in fact there's a provision - and that in reality there will be nothing but hardship for many people. And those people who on the other side who do not think this is true know nothing about what's happening. And so the individual who plans his situation, who knows that he pays the incidence of taxation in his lifetime; who provides for his family in the future - and for his spouse; and who wants the security, and who works during his lifetime for that security - is going to say insofar as Manitoba is concerned, if the risk is greater here, if in fact I cannot provide that - not that I'm unafraid of paying tax, I am paying taxes; not that I'm afraid of paying this tax at the end, but I am not going to put myself in a position where there will be confiscation by the state at the end. And I must say for those of you who believe that that kind of situation is any incentive for development and entrepreneurship in this province, you're mistaken.

And you won't see it and you won't be able to touch it today. But don't suggest that it won't happen. And those of you who believe that in principle you have accomplished something, I suggest you have not. Because the same individuals are capable because there is freedom in Canada of putting their estates in order and of being able either to deprive the province of that, not because they want to deprive it, but because they want to provide for themselves and maximize their benefits according to law as they have a right to - or they in turn can take their situation and travel to another province and start their life there.

MR. CHAIRMAN: Order, please. The Honourable Leader of the Official Opposition - I've heard that remark at least four times during debate. The member is becoming repetitious. We have rules against repetitious debate in this House. The Honourable Leader of the Opposition the Bill 5, Clause 13 (1) please.

MR. SPIVAK: Mr. Chairman, I think that - I'm not sure I've spoken four times on this particular clause, Mr. Chairman. Just for your information.

MR. CHAIRMAN: I can assure you that you have.

MR. SPIVAK: And I must say, Mr. Chairman, and through you to the members opposite, other provinces have raised the exemption; other provinces have provided other benefits; other provinces have made the situation lighter - and I'm not suggesting that this particular situation if there had been the ability for an estate tax to be provided in Canada, that it should not have been provided in Canada. Mr. Chairman, I'm one who believes that the Federal Government's estate tax which provided the transfer between husband and wife during their lifetime and the incidence of taxation to be paid on the passing to the beneficiary, whether it be a son or other beneficiary - I'm one who believes that that was a progressive measure, and that's the kind of taxation with respect to the transfer of wealth that should have occurred.

(MR. SPIVAK cont'd) Now the provincial governments do not have that power. We recognize that. And therefore we have had to put in a succession and gift tax. But there is one other statement that the Minister of Finance made which I think is a damaging statement. The statement which says that we will acknowledge that in the event there are problems we are prepared to change it.

Well, you know this is the first time that I have heard on the part of the government the acknowledgment that there could in fact be problems. And if you acknowledge that there will possibly be problems, why create them when it's obvious that if you're in an uncompetitive position with neighbouring provinces; if people are mobile; if in fact there are benefits for those people who want to plan to be able to maneuver and move around; and if you acknowledge as well as you should by all those who give you legal counsel, that the people who have the benefit of good legal counsel are going to be able to avoid it if they even remain here - depending on the state of their affairs at the particular time; and if you recognize that then why put ourselves in this position of passing a bill which will have the damaging effect, and which will basically indicate to the people that are accumulating and who have that desire, have that will, and some of whom have accumulated wealth already, others who are attempting to do it - and as a result are driving and pushing the economy in this province and in Canada ahead that we are - we do not want you, move somewhere else. And they will. And the energy and effort will be directed elsewhere, and the energy and the effort will be directed in the tax avoidance which they legally can do. And I do not believe in reality that you can justify your position with what's happening across Canada. And I do not believe without some uniformity in this that you can possibly put your position in Manitoba to make a situation and develop a situation which basically resolves itself in providing for Manitobans the highest succession duty and gift tax along with the highest corporation and personal tax.

MR. CHAIRMAN: The Honourable Member for Winnipeg Centre.

MR. J. R. (BUD) BOYCE (Winnipeg Centre): Clause 13 (1), Mr. Chairman; Whether or not we should pass this particular section which deals with exemptions for preferred successors. Preferred successors. And I will admit before I start, Mr. Speaker, that the Leader of the Opposition and I belong to a mutual admiration society personally, but really that's not relative to what we're talking about.

And if I have a misunderstanding of the semantics of the word "avoid" - it appears in the mind of the Leader of the Opposition that I have. "Avoid" to me means to avoid something which a person would encounter in the ordinary course of events. And it does have a smacking of surreptition if you will. But nevertheless the Leader of the Opposition is prone to use the expression "the truth of the matter is", "the truth of the matter is" and the truth of the matter is that the Leader of the Opposition keeps confusing estate taxes and succession duties. Succession duties is income.

Now relative to me as - Mr. Chairman, perhaps if I developed a rather simple scenario the Leader of the Opposition can see how really superficial his argument is. If I created an escape or amassed wealth to which this particular clause would apply, it is totally irrelevant to me, because I'm dead. Totally irrelevant. Who it is relative to is my successors, the people who are receiving that money as income. Everyone in this room I think would subscribe to the idea that - as I said earlier - that we have to have some system in our society of reward. And one of the rights that we have more or less up to this point of time enshrined in our society is that we have the right to bequeath. That we can earn as much as we can within our society, and then take care of our loved ones or those people we feel an obligation to, or someone we want to advance perhaps. We have the right to bequeath this estate.

Now what we're talking about is the income relative to those people who receive that money. This province and I certainly share with the Minister of Finance some of his frustrations in raising revenue, because if we would accept as a basic premise - which most rational people will - that a buck is a buck when it's income; and attacks the taxation problem on that total base - then we wouldn't be faced with the problem of whether we should or should not include this particular clause at this time. But we can't do that apparently. At least the Conservatives can't. The Liberals won't so the Minister of Finance does in this particular province - and by the way to a less degree than most other provinces, if I'm correct. The Minister pointed this out, that as far as the consideration of what is equitable is concerned, we are more equitable in this province than the others who are adopting similar measures. But nevertheless, Mr. Speaker, the Leader of the Opposition insists in trying to confuse the

(MR. BOYCE cont'd) issue. That what we're talking about is income relative to those people who have personally created that wealth. And really I use the expression argumentum adnausean earlier - and he keeps repeating this, and repeating this, and trying to confuse the issue. Once again I will repeat, Section 13, which deals with the exemption for preferred successors is just and equitable.

MR. CHAIRMAN: Clause 13 (1) -- Before we proceed . . .

MR. SPIVAK: Mr. Speaker, ayes and nays.

MR. CHAIRMAN: Call in the members. Order. For the benefit of the honourable members who were absent from the House we're on Bill 5, Clause 13 (1).

A COUNTED VOTE was taken the result being as follows: Yeas, 28; Nays, 20.

MR. CHAIRMAN: I declare the motion carried.

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INTRODUCTION OF GUESTS

MR. CHAIRMAN: Before we proceed, I'd like to draw the attention of the honourable members to the gallery on my right where we have 11 students of Grade 9 standing Jefferson Junior High School under the direction of Mr. Sawiak. These students are from the constituency of the Honourable Member for Seven Oaks, the Honourable Minister of Colleges and Universities. On behalf of all the honourable gentlemen, I welcome you to our Assembly.

(Clause 13 (2) to 13 (3) (c) of Bill 5 were read section by section and passed.) The Honourable Leader of the Opposition. 13 (c) ?

MR. SPIVAK: Well just before we go back in 13 (3) (c), I just want to understand correctly in terms of legal interpretation if I could just meet with the Legislative Counsel for one moment and then I'd be in a position to ...

MR. CHAIRMAN: 13 (3).

MR. SPIVAK: Mr. Speaker, I would like ayes and nays on this and I'm prepared to go to the same division if that coincides with you.

MR. CHAIRMAN: Agreed, same division? 13 (3) -- passed on division. 13 (4) (a) -- passed; (b) -- passed; (c) -- passed; 13 (4) -- passed.

MR. SPIVAK: Mr. Chairman, I'd like a vote or ayes and nays on 13 (4) and I'm prepared to go to same division as well.

MR. CHAIRMAN: Agreed? On division.

(Clauses 13 (5) (a) to 15 (1) of Bill 5 were read section by section and passed)

15 (2) ...

MR. SPIVAK: If I'm correct this would be the time that we would be dealing with the question of taxing charitable donations. And if you recall, Mr. Chairman, when we were in the definition section and we talked about definition of charity, I believe the Minister referred to 15 (2) as the item for this matter to be discussed under.

I think the point that has to be registered here, Mr. Chairman, to the members on the government opposite in this particular section you are leading Canada, and you may take a great pride in the fact that you have done something that no other jurisdiction was prepared to do, which is basically to tell people that they don't know how to handle their own money. What you're basically telling them by this legislation is that you really are not in control of what you're doing. Not only do you not have the incidence of taxation to pay during your lifetime and when succession takes place, but you are not in a position to make the disposition to those charities that you yourself may want to make the dispositions, even if they're legally recognized, because we the State know better than you do how to handle the money that's going to be left. And I think, Mr. Chairman, that we are dealing with a pretty fundamental principle, one which the honourable members pride themselves because they are always so concerned about principles. And I wonder realistically whether the principle can stand both argument and stand in the light of the developments that have occurred in Canada. On the basis of the proper rationale of the principle involved in this particular section, no charitable exemption should in fact be allowed. Realistically what you on the other side are saying, that nobody should have a right to be able to deduct for any charitable donation. Rather the money should be accumulated by the State and put in their hands because we the State know so much better than you do how to handle your affairs and what to do.

Now our society has been built as a result of the initiative and energy of people who have in the interest of profit for themselves ... our society and there are a lot of ills that have been caused as a result of their actions, and there's a lot of good that has been accomplished. And we have, we have problem areas and they're not going to be solved overnight, and they're certainly not going to be solved by this particular section. But we recognize as well that there is a tremendous initiative and energy, and there are tremendous resources that are available that can in fact be put as an input in those areas of concern that can better be achieved than by the State. And we have allowed in our scheme of things for charitable donations to be recognized because there are charities who are doing work that if they do not do the State would have to undertake it at a greater expense and in addition, the volunteer effort that is put forward produces a better result than the effort through the administration of government and its whole bureaucratic maze and machinery. So in effect that has been recognized, and it has been recognized in the past that in effect if contributions have been given by way of a direct gift by way of an estate, that they could be allowed.

Here we have a new principle, a principle which the Minister of Finance I'm sure is

(MR. SPIVAK cont'd) happy to declare is a good principle from his point of view in which we are going to have charitable institutions recognized legally now for exemptions and for deductions from income, who will be put in the same position as that of the successor. What it really comes down to again is a very essential point, that the New Democratic Party in the form of government believes that they know better than anybody else how to handle their money. And in effect if they had their way there would be no charity, there would be no charitable institutions, they would take over all the institutions and they would run it. It just so happens that they can't do it at this particular stage. But you know, they're on their way; and this is one way. And for those people who work with the various institutions throughout their lifetime, for those people who in fact have become alive to particular causes and who as a result of their efforts and as a result of their provision for the end of their life or for provision to be able to protect themselves against any eventuality, want the ability for those institutions which they have worked so hard for, to be able to benefit because of the circumstances that may come at death on their part, I think it is another strange anomaly that they are again hindered by the State that continually keeps telling him in every way they possible can through their taxation methods, we know better than you as to how to handle your affairs. I think if anything it reflects on the NDP Party, on its philosophy and there's no way in which the government or the Minister of Finance can now hide behind the cloak that this is what all the other governments are doing, because no other government in Canada is doing it.

MR. CHAIRMAN: The Honourable Member for Winnipeg Centre.

MR. BOYCE: Once again I would just like to --(Interjection)-- One of my colleagues says I'm a citizen lawyer. Well thank God, we don't believe entirely in making of laws to the legal profession. Sometimes they suffer from legal mind syndrome and they think by passing laws that that which they want to accomplish is accomplished. If that were so all we would need is his original ten down here and we could all go home. But nevertheless, it seems strange to me, Mr. Speaker, with reference to this specific clause before us that the Leader of the Opposition seems to be totally oblivious to the forces which are at work in our society.

Twenty years or so ago I would have supported his position, but there seems to have been a shift in public opinion and heretofore the Leader of the Opposition has demonstrated how much he's in touch with public opinion, but it has been generally accepted that the well-being of people within our society shouldn't be predicated on the benevolence of others, there should be some way of establishing fundamental basic existent rights within our society. Concomitant to this has occurred a phenomenon which has made it rather difficult for organizations which have heretofore fulfilled some of the social needs of our society - and I could name specifically the Red Cross, specifically the United Way. These organizations, a grouping of individuals to deliver social services, has served us well in the past, but it is becoming more and more difficult for these organizations to raise funds through voluntary contributions. That is one thing that is happening in our society.

Another thing that occurs is once you start a program and it becomes socially accepted then people expect that as a right. It really doesn't make any difference whether it's a benevolent association or a charitable organization or a church organization or even a government service, once you've put some program into practice then the people expect that as a right and it's very difficult to withdraw services once they have been established.

Specifically to this particular Clause, Mr. Speaker, I would like to mention one particular area in the City of Winnipeg, how something came into existence because of a well-meaning group of individuals. There was a service which was started relative to assisting people afflicted with alcoholism and it was a group that called themselves the Alcoholic Family Services, and they went through the process of becoming incorporated under the Companies Act of the Province. The prime mover of this particular organization was the past Magistrate, Mr. Rice, who was vitally concerned with many areas of our society. But Magistrate Rice in his concern for some of the problems was one of the prime movers of this organization coming into existence. And because of the strength of this individual in our community he was able to attract, on a voluntary basis, some - I will have to guess I haven't got the figure in my mind - some \$15,000 I think it was, somewhere in that neighbourhood. In addition to this one of the other service organizations in Winnipeg, the Kiwanis, funded this organization by allocating \$5,000, I believe it was to their campaign, which gave them an operating budget of a couple of, you know, of \$20,000 if you total up my guesses.

Well two things happened; No. 1, Mr. Rice, or Magistrate Rice is no longer with us so

(MR. BOYCE cont'd) the dynamism of this particular individual wasn't available to the organization. And No. 2, the support of the charitable organization was withdrawn from this group, but in the meantime they had created a need within my particular constituency because people had started to look to this organization for assistance in some specific areas of the treatment of alcoholism and the family problems that result from it.

At the present time this organization is totally funded by government funds -- and I use this example to epitomize how I was able to rationalize this particular clause, because as I said earlier, twenty years ago I would have supported the Leader of the Opposition's position, that by and large I personally have more faith in people operating freely than I do governments. Well I must say I have more faith in this government than others perhaps, nevertheless I don't like to see too much power or authority vested, or coalesced, or gathered together in any one group of peoples' hands, regardless of what their political philosophy is. Because once you --(Interjection)-- I'm doing very well thank you. For the benefit of the Member for Lakeside, to his remark, how I'm doing over here, I'm very comfortable, I'm very comfortable.

The suggestion was -- I don't mean to digress, Mr. Chairman, having shared your frustrations during the last session I realize how you sit there sometimes when people do digress -- but nevertheless the Leader of the Opposition said the Minister of Finance should listen to his back bench, and this group they do listen to their back bench. I regret to say they don't accept all of my wise, they don't accept -- they do accept some of my wise suggestions but not all of them. Of course I find that rather frustrating at times but if I was a benevolent dictator perhaps we could all go home. But, Mr. Speaker, when the Leader of the Opposition keeps trying to support positions which you know 20 years had some vogue or some reason for support, I think that really he's doing -- well not really I guess -- I was going to say he was doing the people of the Province of Manitoba a disservice, but in thinking that statement over just before I said it, perhaps he's really doing the people of the province a service, because he really shows the bankruptcy of the Conservative party in the province because they are really about 20 years behind times.

So just to sum up, Mr. Speaker, what we are really talking about as far as this particular clause again is concerned, is a matter of degree, at what level will we establish the amount that a person can once again give to a charitable organization and it is not considered income relative to that organization, it is a tax exempt income, relative to that organization. The amount that is suggested by the Minister of Finance I find acceptable, because here once again we place on the portfolio of the Minister of Finance the responsibility of raising amounts of money relative to the total program of the government. And in this particular area we are arguing for or against whether charitable organizations should be allowed an atmosphere of encouragement -- I think the Minister of Finance has taken this into consideration. He has also taken into consideration the necessity which members opposite apparently are unwilling to accept.

A MEMBER: Nonsense.

MR. BOYCE: Well perhaps it is nonsense that I should have to, you know, remind you but nevertheless if you keep reiterating your position which I would suggest is nonsensical, then somebody has to at least in my mind point out how nonsensical your position is; that on the one hand you're making further and further demands on the public purse, but yet on the other hand you say to the Minister of Finance that we shouldn't shift the tax collecting procedures to take into account those shifts which are taking place in our society. United Ways are finding it harder to raise money; Red Cross is finding it harder to raise money. --(Interjection)-- The Member for Morris wishes to . . .

MR. WARNER H. JORGENSEN (Morris): . . . government is taking it all.

MR. BOYCE: I pause, Mr. Chairman, because I'd love to respond to the point of the Member for Morris, but I'm finding great difficulty in how I can relate this to the particular clause that is under consideration. But having learned a few things from the Member of Morris I find that sometimes it is not necessary, you just stand out in the aisle and be bombastic and self-righteous, you don't really have to be related to the article under discussion. When he says "government have" I would agree with him, because there's a bunch of people opposite who have run through the country consistently through our history and said, you elect me to office and I will give you, I will give you -- what a bunch of -- I was going to -- Mr. Chairman, Mr. Chairman, they keep doing it, they keep doing it; they keep going through the country and say, you elect me and I will give you --(Interjection)-- No - no time did this

(MR. BOYCE cont'd) government say they'd give you that; they said they'd take these taxes from here and they'll shift them from this group to that group. No time did this government say they would give anybody anything. The best programs that we have come up with so far is Autopac and we say we're going to take a buck away from you and give you back 85 cents. No time did this government and the moment they start fooling the public, I'll leave it - because the best thing we can do, the best program we have come up with, we say we take a dollar and we'll give you back 85 cents. We'll give you - governments have done it. I would agree with the Member for Morris, because we have created a society that people expect the governments to do things for them - and really relative to this clause that is under discussion, what we are trying to do is take care of part of the situation which has been created by this type of government in the past.

MR. CHAIRMAN: Order, please.

MR. BOYCE: Mr. Chairman, I think you have already had occasion to call the Member for Radisson to order. I wish he'd stop interrupting me. --(Interjection)-- But I have perhaps had more to say on Clause 13 than I've had to say on any one issue during this session.

MR. CHAIRMAN: Order, please.

MR. BOYCE: Mr. Chairman, there's one thing I enjoy in this Legislature - please allow me this digression - is the personal relationship I have with the members opposite. And it kind of bothers me, you know, that I must be the one every once in awhile to take the Leader of the Opposition to task on - really the disservice that he does for the people of the province. But you know, I know with certainty that the Leader of the Opposition won't take, you know, cognizance of what I say and perhaps shift his position to, you know, face reality that under this particular section that we're considering, we are only answering present day needs.

MR. CHAIRMAN: The Honourable Member for Rhineland.

MR. JACOB M. FROESE (Rhineland): Mr. Chairman, just a few words - after listening to the Member for Winnipeg Centre. I take very strong exception to what is being done on this bill, when we're giving preference to the state over that of relatives of the deceased - and this is actually what we are doing. --(Interjection)-- Fine then. I wish the Member for St. Boniface or the Minister would get into the debate and see how he would justify what's being done in this bill. Certainly in my opinion I don't worship or honour the state to that extent. This is typical I think of the government that we have today, that everything is good if it goes to the state.

A MEMBER: The Almighty State.

MR. FROESE: The Almighty state, that's what it is and we are giving the state preference to that of the -- not the preferred successors, but to close relatives of the deceased in the family and I take very strong exception to that, Mr. Chairman.

MR. CHAIRMAN: The Honourable Member for Assiniboia.

MR. PATRICK: Mr. Chairman, I just have a few remarks. I tried to listen very carefully to the Member for Winnipeg Centre, and I just wasn't quite sure if he meant that there's no need any more for many of the charitable organizations that we have in the city or not, but I -- I know that the member stayed pretty close, right on the fence, and, you know, I couldn't determine from his remarks --(Interjection)-- Well perhaps when I finish my remarks maybe you should, because I do feel that many people in this community, in this city certainly donate a tremendous amount of their time to various organizations; some of them sit on three or four organizations and are doing outstanding work, and the kind of work that would cost, I believe, the government thousands of dollars, millions of dollars if it wouldn't be for many of these people.

Now I know that we're on the section dealing with charitable exemptions, and is it not true that the Winnipeg Foundation and the United Way did raise some objection to this clause in the bill? If not to the Minister directly, I know they did publicly - and I would hope that the Minister would tell the House if they had any communications or discussion with respect to this bill, as far as the charitable exemptions are concerned. And surely nobody would deny in this House that the United Way or Winnipeg Foundation isn't doing an outstanding job for this community. I think they're doing great work so my concern is with the legislation that the Minister proposes, what does it mean? Does it mean less money to United Way? How much less? Does it mean less money to Winnipeg Foundation, and how will it affect our many organizations, charitable organizations?

Now if I'm not mistaken, I believe some of the universities and the governors; and the

(MR. PATRICK cont'd) University of Manitoba I understand also raised this objection as well that it may have some effect on their budget if there is a limit about how much any one person can donate to any one charitable organization, except he's limited to a certain figure and the rest the government would have to --(Interjection)-- that's right - would have the rest of his money and do as they please. Now it does to me appear that surely the Minister has the responsibility to explain to this House just if Winnipeg Foundation, the United Way, and the universities, are satisfied with this legislation. I know they raised objections at first, it was made public - and I would like to know exactly what happened. Now that's what I'd like the Minister to answer.

The other point that was made by the Member for Winnipeg, I know that he mentioned that some of the organizations are doing good work and I agree with him - except that he said once they get started they can't operate, they have to be totally financed by the governments. And this may be true by some of them - not all of them - but still he has to admit that many people that serve on those organizations, that give their time - free time - sometimes much more than they really can afford because you get involved in any organization; it means two meetings a week or two evenings a week - so it is tremendous contribution, much more than anyone can ask to serve for no pay. This is no money involved, they're doing it as a charitable thing. So in my opinion, I think if these people would not donate this time it would cost governments a tremendous amount of money. Perhaps there's too many organizations; maybe some could be eliminated or amalgamated, and we'd have less and then there wouldn't be duplication of talent by many people in this community. But I would really like to hear from the Minister in respect what communications he had with these organizations, and what were the results?

MR. CHAIRMAN: The Honourable Minister of Finance,

MR. CHERNIACK: Mr. Chairman, I listened carefully to the Member for Winnipeg Centre, and I think that for the second time this afternoon he gave a very very clear exposition of the principles involved in the legislation which he was discussing, and I did not read into anything he said any indication that charitable organizations in the main are not doing a tremendous job. I think that anybody who knows him and his own activities knows the extent to which he participates and supports charitable organizations. And may I say that applies to most of the members on this side of the House whose activities I'm aware of. So I'm glad the Member for Assiniboia raised it clearly, there is no such thought. There is of course a recognition which he has that the state is becoming more and more involved in the funding of charitable organizations, and he's the one that suggested the possibility of duplication; and he is the one who suggested the possibility of a more orderly approach to the delivery of services that are now being delivered by charitable organizations. And the United Way indeed which is, I believe, the major fund raiser in Manitoba is one which has recognized exactly the principle of having an unemotional, logical, educated view and review of the programs and the budgets of all the agencies of the United Way in order to set certain priorities and certain proportions of the work they do, the value of the work they do and the money required to do it. The United Way for me is of all organizations the one which has the most objective and the most valuable approach to the way in which charitable funds are directed, and I do set it highest of all because it does not have a vested interest on behalf of one or another or emotionally instigated support for an institution. It's amazing how when we deal with people that their emotions take over to the extent where they will support or another to the detriment of all the others if they had their way. I only say that as an addition to what I think the Member for Winnipeg Centre said in such a clear way.

Now the people who donate their services are most valuable people, and it's not a question of who provides the funds. That to me is much less important; it's a volunteer who does work in the community who to me is worth much more than the bucks that are provided by philanthropists - and I would rather think that we concentrate our energies as leaders in the community, as we all have to assume we are, to support and encourage the volunteer in all charitable works and to see to it that they have the means whereby they can continue to provide the service. So I think again I must thank the Member for Assiniboia for even raising the question and giving me an opportunity to say something which I really I believe has been part of my life, and part of my wife's life, in our work within the community.

He asked whether we had heard from the United Way. To the best of my recollection we did not hear from the United Way. The United Way itself is one which is involved in ongoing programs where they raise their money every year and they distribute it every year. They're

(MR. CHERNIACK cont'd) not building a capital fund for the future, they're not really an agency which benefits to any extent from charitable gifts. The Winnipeg Foundation was in touch with us; we discussed it with them - it wasn't just the correspondence; we had a meeting with Mr. Hugh Benham and, as I recall, another one or two members of the Foundation - I'm not quite sure whether he was alone or not - and we discussed it and we reviewed the exemptions, and the exemptions I want to come to.

University of Manitoba and other organizations which are funded mainly by the government really have no fear, because to the extent to which there is a tax payable by them that bill will come through the government - through and to the government - and indeed it may well be that the monies provided for payment for charitable organizations, in the end are always a net, aren't they? If I leave a \$100,000 and there's a tax of whatever - I don't want to give a figure, I don't want to get involved in that kind of discussion - but if I give \$100,000 -- university or any other institution receives 100,000 and pays a tax, it still has a net gain, so let's not get hung up on that. The only problem which hasn't been raised is if there's a gift in kind - that is a gift of a statue or books or a library --(Interjection)-- art work, I said a statue -- in that case there may be a problem. In that case I can visualize that any government would be able to assist that kind of an organization - the Art Gallery, the educational institutions - to be able to accept that gift in the form in which it was presented.

Now the Leader of the Opposition talked about Manitoba being unique. We are unique in many respects. I will not depart from the subsection to describe the way in which we are unique. Of course B.C. really went it their way. They have provided that they will only give an exemption to charities if the money received is indeed spent in British Columbia - which means that the Red Cross, and the Women's Temperance League and I don't know how many other organizations are going to have trouble keeping separate sets of books in order to satisfy Mr. Bennett that monies that are given in B.C. are received and spent by charitable organizations in B.C. And I must say that there was discussion of the joint committee involved in this about whether it was justified that gifts should be limited to the province in which the deceased died - and Manitoba was amongst the first to say that we want to think that charities wherever they are in Canada are deserving of equal recognition. And what is that recognition?

One of the problems I've had, Mr. Chairman, is explaining to people why charities are getting preferential treatment under this bill over and above that of a wife; over, over and above that of a child of the deceased - because in fact what we are doing is giving a greater exemption to charities than we are to the wife, to the close family of the deceased. I have had to explain that. The members opposite are sort of saying, regardless - and let's assume for a minute that we all agreed that half a million dollars should be the exemption to the wife. What they are proposing on that side is that charities are more deserving of exemptions than is the wife, to the extent that the gift is an excessive of half a million dollars. I think we are being rational. I think that the other side is being, if not emotional, then they're not thinking it through. Because the Liberal Government of Canada - and I don't know whether the Member for Assiniboia voted for any other federal members than a liberal - and the Conservative Government before it always had an exemption, a limited exemption for income tax purposes when it came to charity. The member should well know - unless he hasn't been giving substantially to charity - but if he has been giving substantially to charity he should know that until this year he could only deduct 10 percent of his net income tax free; and that if he gave more than 10 percent of his income - and I would like to think that he did - then he voluntarily paid income tax on the monies earned which he transmitted. So let's not pretend that this is a new philosophy or a departure from a principle.

The Conservative Federal Government, the Liberal Federal Government, and as recently as last year reinacted legislation that provides that gifts to charity in the life of a person are exempt only to the extent of 10 percent of that person's earnings - and the excess of that are taxable at the full rate, let's remember, at the full rate. This year I believe the change is 20 percent - but beyond that, beyond the exemption they're taxable at the full income tax rate for the year - let's not overlook that fact - and it's at the full rate. What are we proposing here? Preferential treatment over preferred beneficiaries. We are saying that to the extent that the estates, the gift to preferred is not up to 150,000 - any difference is absolutely tax free. A person with a total estate of \$150,000 without wife or children can pass the total amount tax free. We're saying something else. Suppose he's wealthier than that - and aside from the provision made for the wife and children, the dependents, 20 percent of the estates is

(MR. CHERNIACK cont'd) tax free if given to charity. That's better than the old income tax law; it's equivalent to the present income tax law, let's not overlook that. But we're going further - we're saying that when a tax is payable it shall only be paid at half the rate, not the full rate, as is now and has always been in federal income tax - not the full rate, half rate and that is a recognition of the special status of charities. Let's not forget that.

Let's not forget also that gifts made in the life-time of a person - and as soon as a day before death - is not brought back into the estate of the tax. And that means that we recognize - and we will deal with that under the Gift Tax Act Bill 6 - that gifts made in the lifetime of a person are made tax free and are not counted back into the estate. Let's remember, that if you really need something to charity, do it in your lifetime; recognize the need; don't make a charity wait until you die - recognize the need - and the exemptions I think are substantial.

So let's just - let's if we need - to base further the question of the extent of the exemption - but let's not fool ourselves into thinking that this is a great departure from what is the present income tax law; that this is not a better advantage than given to preferred beneficiaries; that there is any prohibition on giving anything in your life - giving everything in your lifetime. And finally let's not pretend that the gift being made is taxed at 100 percent; and that's the impression I keep getting from that side. Every time they are critical of the exemption, they speak as if any monies given in excess of the exemptions are taxed at 100 percent. So let's remember that there is always the more substantial part of the gift; always the more substantial part of the gift is received net in the hands of the recipient, be it charity in this case or another area in the other cases.

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MR. CHAIRMAN: 15(2)--passed.

MR. BOYCE: Mr. Chairman, just before you proceed I would just like to make only one final point.

MR. CHAIRMAN: The Honourable Member for Winnipeg Centre.

MR. BOYCE: In reference to the presentation of Member for Assiniboia, I certainly didn't want to leave the - you know the issue confused. I'm glad the Minister of Finance agreed to do nothing in what I said, which could be misconstrued and say that I was talking in opposition to charitable organizations - I certainly wasn't. And I'm fully aware of the Member for Assiniboia's contribution in just this area - not over the past years, even when he was a football player, before he was a member of the House - and I think he personally has had a, you know, a terrific contribution in this area. I would just - the Minister of Finance's last presentation was really the main thrust to the argument that he used against me at a particular, at a particular point.

I would just draw to your attention though, just - on a local scene what has happened since I was a pup in this area. The brewery across the street was owned by the Shea family and, you know, this family when they controlled personally the corporate income - their own personal corporate income of that company - entered into many projects in the community. One specifically, they built the Paul Shea Hall for St. Paul's College down on - just off Ellice there. But bring into your mind the present day context relative to that corporate entity which did exist. If the people involved over there at that particular brewery wanted to do the same thing today they couldn't do it, because a family who has a local social conscience can no longer operate that way - because they're not in direct control of the corporate income. It is now part of Labatts and Labatts is part of the Brazilian Light and Power. You know, the corporate structure has shifted so much really all we're doing is trying in some small way - and as the Minister pointed out - at a very high level of exemption level, and only at half the rate, so that really at this point there is only a slight shift. But we're trying to take into consideration one of these anomalies which has been created by the very nature of the beast - you know, the society that we live in - and this is how I personally came to rationalize this particular clause in my mind.

MR. CHAIRMAN: 15(2)--passed.

MR. L. R. (Bud) SHERMAN (Fort Garry): Ayes and nays, Mr. Chairman. We'll accept the same division.

MR. CHAIRMAN: Agreed? Pardon me. 15(2)--passed; (b)--passed; 15(2) ayes and nays - same division.

MR. SHERMAN: Thank you.

MR. CHAIRMAN: (Sections 15 to 21 of Bill No. 5 were read and passed)

MR. BARKMAN: You have 22(2)? Oh, I'm sorry.

MR. CHAIRMAN: 20(2)--passed.

MR. BARKMAN: 20 or 22?

MR. CHAIRMAN: 20(2)--passed; (Section 21 of Bill No. 5 were read and passed) The Honourable Minister of Finance.

MR. CHERNIACK: Mr. Chairman, I beg to move that Clause (c) of subsection (2) of Section 22 of Bill No. 5 be amended by striking out the words "making of the gift" in the first and second lines thereof, and substituting therefor the words "death of the deceased." It's really a typographical error.

MR. CHAIRMAN: (Sections 22 to 29 of Bill No. 5 were read and passed) The Honourable Member for La Verendrye.

MR. BARKMAN: Mr. Chairman - 29. I want to be very brief on it, but this section seems to be more restrictive than the section of the Canada Estates Act, Section 37, and I would like to suggest that the two are identical - or they were identical as long as the Act existed - but I think they should, and that the allowance for "quick succession" is restricted to a period of one year in the bill, and I think it would be wise if this period could be extended to a five-year period, the same as the Canada Estates Act, instead of the one year. I wonder if this could be considered.

MR. CHAIRMAN: The Honourable Minister of Finance.

MR. BARKMAN: We've had considerable discussion on this. The members asked whether we had been consulted by various organizations. I should at this stage say, Mr. Chairman - maybe belatedly - that we had a comprehensive brief from the Manitoba and Canadian

(MR. BARKMAN cont'd) Bar Association, which is most helpful - and from the accountants as well, and this was a matter that was discussed. This again is a question of uniformity, and the former Estate Tax Act provided for a reduced assessment each year. That is on "quick succession" there was each developing year over five years provided for succession, "quick succession", at a rate where for example in the fifth year 90 percent of the estate was taxed. So it's not as if there was a straight five-year "quick succession" provision, it was only a ten-percent one at that time - and the fourth year was 80 percent taxable, so that there's a variation. This was accepted as uniform policy by all the six provinces. It was a compromise decision, but it makes it difficult to enforce because of the fact that the uniformity would be affected in that again it's a Succession Duty Act and it affects successors in various provinces and therefore was found to be difficult to change.

MR. CHAIRMAN: 29--passed; 30 sub (1)--passed; 30 --

MR. PATRICK: Mr. Chairman, on 30, what happens if the executor is outside the province? How do you get him to file their returns?

MR. CHAIRMAN: The Honourable Minister of Finance.

MR. CHERNIACK: Mr. Chairman, the answer to that question is - and possibly the member is following the Manitoba Bar brief on that - that we don't have jurisdiction over people who live outside of the Province of Manitoba. But we are informed that those three provinces which up to now have been in the succession duty field have never really had a problem getting the returns from other people, nor has the Federal Government when it came to foreign executors. And although it may be a problem, it's one that we cannot do anything else about but accept the fact that it has not proven to be any serious detriment to the proper administration of the present bills of those that have been in force for some time.

MR. CHAIRMAN: 31 -- The Honourable Member for Assiniboia.

MR. PATRICK: Mr. Chairman, shouldn't the onus be placed on the successor if he is resident in the province so, you know, the legislation could be clear?

MR. CHERNIACK: Yes, Mr. Chairman, I believe that the onus is in the bill on the successor primarily.

MR. CHAIRMAN: (Sections 30 to 35 of Bill No. 5 were read and passed) The Honourable Member for La Verendrye.

MR. BARKMAN: The liability to pay tax of a successor, a notice of assessment should be sent to him I believe, and provision is made in this section. However, for the sending of a notice of assessment to the executor and under section 35 (2) I know we've not reached that but that deals with 35. A notice is then deemed to have been sent to the successor - this revision I believe would give rise to inconsistency as far as the request is concerned and I think that through neglect or through carelessness, or whatever you wish to call it, and this person fails to notify the other successors of the receipt of the notice of assessment and I do believe it should be expanded to provide for relief to the successors in these kind of circumstances.

MR. CHAIRMAN: The Honourable Minister of Finance.

MR. CHERNIACK: Mr. Chairman, I listened to what the Honourable Member said and I would daresay that nobody quite understood him. May I suggest he might have been better off had he read the Bar Association Brief exactly rather than try to paraphrase it as he did. But this matter was raised by the Bar Association, it was discussed with them. We had occasion to point out that we deal with the executor in this subsection because indeed he is the person with whom we have these dealings and there has never been a problem in the past on this. The only problem that may arise is as mentioned by the honourable member that where the Executor gives a wrong assessment or there is one that adversely affects the successor then the other successors not involved would possibly be adversely affected. But there is provision for the court to provide relief on the assessment appeal and that is exactly the situation that would take place in the event that the matter, the problem described by the Bar Association would arise, that then there would be a correction possible by the court on an assessment appeal by the adversely affected successor.

MR. CHAIRMAN: (Section 35 (1) was read and passed) 35 (2) . . . The Honourable Minister of Finance.

MR. CHERNIACK: I move that subsection (2) of section 35 of Bill 5 be amended by striking out the word "conclusively" in the second line thereof.

MR. CHAIRMAN: 35 (2) as amended --passed; 35(3)--passed; 36--passed. (Section 37(1) and 37(2) were read and passed as corrected) 37(3)--

MR. CHERNIACK: Mr. Chairman, I move that subsection (3) of section 37 of Bill 5 be amended by adding thereto immediately after the word "deceased" in the fourth line thereof the words "or information provided to the minister".

MR. CHAIRMAN: 37(3) as amended --passed. 38, 39 - I believe there's an amendment.

MR. CHERNIACK: Mr. Chairman, I move that section 39 of Bill 5 be amended by striking out the word "conclusively" in the third line thereof.

MR. CHAIRMAN: 39 as amended --passed. (Sections 40 and 41 were read and passed) 42(1)--passed; 42(2)--passed; 42(3) . . .

MR. CHERNIACK: Mr. Chairman, I move that subsection (3) of section 42 of Bill 5 be amended by adding thereto immediately after the word "may" in the first line thereof the word "confirm".

MR. CHAIRMAN: 42(3) as amended --passed. (Sections 44 and 45 were read and passed) 46-- The Honourable Minister of Finance.

MR. CHERNIACK: Mr. Chairman, I move that subsection (1) of section 46 of Bill 5 be amended by adding thereto at the end thereof, the words "other than property on or in respect of which no duty is payable by reason of subsection (1) of section 18".

MR. CHAIRMAN: 46(1) as amended --passed. 46(2) . . . The Honourable Member for Assiniboia.

MR. PATRICK: Can the Minister explain his amendment?

MR. CHAIRMAN: 46(1)? The Honourable Minister of Finance.

MR. CHERNIACK: Mr. Chairman, at this stage I have really forgotten the implication in that change. It's one that we've discussed -- I'm now reminded. Subsection 1 of section 18 deals with certain types of insurance benefits that are exempted and without this addition the insurance companies might have to wait for a release to come in the normal course, and in this case it makes it possible for that to be dealt with quickly without the necessity of the release coming.

MR. PATRICK: Any amount of money as a result of the insurance policy or is it limited to any amount?

MR. CHERNIACK: The change does not bring any change in revenue, if that's the question.

MR. CHAIRMAN: 46(1) as amended --passed. 46(3)--passed; 46(4) (a)--passed; (b) . . .

MR. CHERNIACK: Mr. Chairman, I move that clause (b) of subsection 4 of section 46 of Bill 5 be amended by adding thereto immediately thereafter the word "life" in the second line thereof the words "accident or sickness".

MR. CHAIRMAN: (b) as amended --passed. (The remainder of section 46 was read and passed) (Section 47 clause (1) to (3) were read and passed) 47(4) (a), I believe there is an amendment.

MR. CHERNIACK: Mr. Chairman, I move that clause (a) of subsection (4) of section 47 of Bill 5 be amended by adding thereto immediately after the word "removal" in the first line thereof, the words "of any depository or".

MR. CHAIRMAN: 47(4) as amended --passed; 47(5), I believe there is an amendment.

MR. CHERNIACK: Mr. Chairman, I don't know if we need a formal amendment, it's a correction of a word, but I'll move it. That subsection (5) of section 47 of Bill 5 be amended by striking out the word "if" in the third line thereof and substituting therefor the word "of".

MR. CHAIRMAN: 47 (5) as amended --passed. (Sections 48 to 50 were read section by section and passed) 51 . . . The Honourable Minister of Finance.

MR. CHERNIACK: I move that subsection 1 of section 51 of Bill 5 be amended by adding thereto immediately after the word "successor" in the third line thereof, the words and figures "except subsection (2) of section 45."

MR. CHAIRMAN: 51(1) as amended --passed. (Sections 51(2) to 56 were read and passed) 57 . . .

MR. BARKMAN: I think the Minister is also aware that the Manitoba Bar Association on refunds - regarding the question of overpayment and refunds, I think . . .

MR. CHERNIACK: . . . speedily inform the member that after it was explained to the Bar Association they withdrew their recommendation on this item.

MR. CHAIRMAN: 57(1) --passed. 57(2) (a) . . . The Honourable Member for Rhineland.

MR. FROESE: Now we are dealing with interest on overpayments and the amount listed here as to interest is three percent. I think this is much too low because this is I think away behind times because the government no doubt can use the money and would normally have to pay probably seven, eight percent and here they are going to give three percent to overpayments. I think this is much too low.

MR. CHERNIACK: Mr. Chairman, interestingly enough I am informed that tax collectors found that when they had the kind of interest rate suggested by the Honourable Member for Rhineland people took advantage of the opportunity to overpay in order to have a short-term high-return investment and that really three percent is a deterrent for them to overpay so that they shouldn't have to invest it anywhere else but get a good return, and this was considered advisable, to keep it at a low so there shouldn't be that kind of incentive.

MR. CHAIRMAN: 57(2)--passed. 57(3), I think there is an amendment.

MR. CHERNIACK: I move that subsection (3) of section 57 of Bill 5 be amended by striking out the words "the Court of Queen's Bench" in the second line thereof and substituting therefor the words "a Court".

MR. CHAIRMAN: 57(3) as amended--passed; 57(4)--passed. (Sections 58 to 60(1) were read and passed) 60(2) . . . The Honourable Member for Assiniboia.

MR. PATRICK: In Manitoba Bar Association's brief they say that the property seized under circumstances described as one of the executors instead of that of I believe the deceased, . . . -- (Interjection) --

MR. CHAIRMAN: 60(2) page 37.

MR. CHERNIACK: Mr. Chairman, like the honourable member I have notes alongside of this and the response that I have by legal counsel - that's counsel in addition to the Legislative Council - that this type of provision now appears in the Federal Estate Tax Act and the Federal people need this for enforcement purposes. To the extent that we cannot get . . . , and outside executor, non-resident executor, then I have already explained the situation. But this is consistent with the previous Act and is considered by the Federal people who will be collecting this tax as desirable.

MR. CHAIRMAN: 60(2)--passed; 60(3), I believe there is an amendment.

MR. CHERNIACK: Mr. Chairman, I move that subsection (3) of section 60 of Bill 5 be amended by striking out the words "not exceeding thirty days" in the second line thereof.

MR. CHAIRMAN: 60(3) as amended --passed; 60(4)--passed; 60(5)--passed; 60(6) --

MR. CHERNIACK: Mr. Chairman, I move that subsection (6) of section 60 of Bill 5 be amended by striking out the word "are" in the second line thereof, substituting therefor the word "is".

MR. CHAIRMAN: Also in that same line there is a typographical error in spelling. In the word "Writ" strike off the "e". Section 60 as amended and corrected --passed. (Sections 61, 62 and 63 as corrected were read and passed). 64, there's an amendment.

MR. CHERNIACK: Mr. Chairman, I move that Section 64 of Bill 5 be amended by striking out the figures "47" in the last line thereof and substituting therefor the figures "48".

MR. CHAIRMAN: 64 as amended --passed; 65--passed; 66--passed; 67 . . . The Honourable Member for Rhineland.

MR. FROESE: The evaluators appointed, are they federal people or are they provincial people in most instances?

MR. CHERNIACK: Well, Mr. Chairman, I should make clear that it is intended that the federal people will be administering this bill and therefore since the federal people are, in a section, by agreement will be appointed the representatives of the Minister then they will be in charge of the entire administration including the evaluator. If for any reason the federal people are not involved in collection and this department or any other agency is used then they would represent the Minister.

MR. CHAIRMAN: (Sections 67 and 68 were read and passed) 69(1)(a)--passed; 69(1)(b) . . . The Honourable Member for Brandon West.

MR. EDWARD MCGILL (Brandon West): . . . 69(1)(b), in connection with the authority here for an inspector to remove books and seize and take away records if it appears to him that an offence under the Act has been committed. I think the explanation here was in going over this bill at an earlier time that this clause was identical with clauses in other jurisdictions. I'd just like the assurance of the Minister that this is the case and that this is not more onerous than other Acts covering similar circumstances.

MR. CHAIRMAN: The Honourable Minister of Finance.

MR. CHERNIACK: Mr. Chairman, I'm informed that it is the same as the Estate Tax Act which is just, you know, the Federal Estate Tax Act I referred to before. It differs from the present Income Tax Act in relation to say the seizure of solicitors' papers and in the Income Tax Act of course there is -- we've had a great deal of discussion on avoidance and for income tax purposes there is a greater fear than applies to succession duty taxation for the need of documents and the interference in solicitor-client privilege, and therefore there is a distinction which I think is an understandable one. I should add only that the entire Section 69(1) is a matter which it was agreed upon will be reviewed by the Continuing Committee.

The point made by the Bar Association which we have, have good ideas and they will be explored but we are informed that because of uniformity we can't really make the change ourselves. It has to be something that has to be dealt with by the six provinces which have undertaken to review this matter, but essentially I'm informed there is no difference from the previous Estate Tax, there is that difference I explained from the present Income Tax legislation.

MR. CHAIRMAN: (Sections 69(1) to 69(5) were read and passed). 69(6) . . . The Honourable Member for La Verendrye.

MR. BARKMAN: I'm not sure if the Minister is getting up or not. On this section, provision is made under this section 69(6) where also the Manitoba Bar Association suggests first (a) that a Hearing Officer should not be an official of the government, and (b) that the person or persons whose affairs are being investigated be entitled to be present and represented by counsel, and counsel be entitled to cross-examine all witnesses and be entitled to receive a transcript of evidence, and (c) that any other be subject to review of the Judge of the Queen's Bench. I wonder if the Minister is able to accept that?

MR. CHERNIACK: Mr. Chairman, if the honourable member had read the amendments which have been distributed he would find that we will be proposing subsection 7 which will, I think, deal with Item (b) that he just read. As to item (a) I should point out that the Hearing Officer does not make any final disposition and therefore there should not be an objection to anyone being the Hearing Officer since his disposition is not final. (c) therefore refers to that, and since an inquiry is not an order then the assessment which is based on the report of the inquiry, is subject to appeal under the Act and therefore (c) is effective in the Act itself.

MR. CHAIRMAN: 69(6)--passed; The Honourable Minister of Finance.

MR. CHERNIACK: I beg to move that section 69 be amended by adding thereto at the end thereof the following subsection: Right to counsel and to cross-examine. 69(7). In an inquiry being made under subsection (3) any successor to property of a deceased through succession or liability to duty is a subject of the inquiry and any witness called to give evidence in the inquiry made be represented by counsel and the successor may personally or through counsel cross-examine any witness called to give evidence in the inquiry.

MR. CHAIRMAN: New subsection 69(7) . . . The Honourable Member for Rhineland.

MR. FROESE: I think on this very section when I heard the Member for Assiniboia mention the Bar Association brief that it was also mentioned of the transcript. Has no consideration been given by the government in connection with that?

MR. CHAIRMAN: The Honourable Minister of Finance.

MR. CHERNIACK: Mr. Chairman, again I say that this is an inquiry from which a report emanates, that as a result of the report an assessment is made and then the assessment is subject to appeal to a court of proper jurisdiction. So that it's not the evidence given that is considered by the court, the court will hear the assessment and rule on it and therefore there should be no need for the expense involved because in effect it will not be that helpful.

MR. CHAIRMAN: (Sections 69(7) to 70(2) were read and passed)

INTRODUCTION OF GUESTS

MR. CHAIRMAN: Before we proceed to the next section I should like to draw the attention of the honourable members to the gallery on my left where we have 40 students of Grade 8 standing of the Glenboro School. These students are under the direction of Mr. Bill Schackel and Sister Marcella. The school and the students are located in the constituency of the Honourable Member for Souris-Killarney. On behalf of all the members of the Legislative Assembly, I bid you welcome this afternoon.

MR. CHAIRMAN: (Sections 70(3) , 70(4)(a) as corrected to 77(2) were read and passed) 77(3) . . . The Honourable Member for Rhineland.

MR. FROESE: This section deals with retroactivity and here we are, what is it? - almost the middle of June or past the middle of June and the legislation is to be retroactive as of January 1972. I think in past years very strong exceptions have been taken in connection with retroactive legislation and I feel that especially legislation of this type, where we are going to impose a tax on people, that it is doubly and probably more than that, irregular, and also wrong in my opinion. I take very strong exception to having this legislation passed at this late date. I think if the government - and they knew all along that they were going to do it - why didn't they bring in legislation long before this so that it wouldn't have to be retroactive.

MR. CHAIRMAN: The Honourable Member for Assiniboia.

MR. PATRICK: Mr. Chairman, when I spoke on the bill on second reading I raised the same objections in respect to retroactivity and I still feel that any retroactive legislation is very harsh legislation and it shouldn't be brought in by any government. I know that the government knew well ahead of time that they could have - even if they had to call a session last fall - to bring this legislation, this is what they should have done. But in my opinion I feel that there should be no retroactive legislation unless it benefits one, but if it will not benefit anyone in this case I feel it will penalize perhaps many people and for this reason I feel that retroactive legislation is not good legislation, it's not right, because you don't know from day to day what really the government has in mind and it's only in the last few years that we have seen a considerable amount of bills that have been coming before us with a retroactive clause in it. I believe it's a wrong principle, I don't think the government should resort to retroactive legislation unless it benefits one, then I have no objection. But if it doesn't benefit anyone and it may have some detrimental effects, financially or otherwise, then I feel that the government should not resort to retroactive legislation.

MR. CHAIRMAN: The Honourable Minister of Finance.

MR. CHERNIACK: Mr. Chairman, we have debated this at length and there's no use debating it at length now. There would be unfair situations occur for people who died up to and including December 31 of 1971 and the date when this legislation would be effective if it were not retroactive. It means if somebody died on December 31, his estate would be taxable; somebody who dies and whatever the effective date might be other than January 1, 1972, his successors would be taxed, and anybody who died in the interval would be home free, or his successors would be. So there's a certain amount of inequity involved there.

Secondly, secondly - by the way, Mr. Chairman, we're all out of order, we should be discussing this under Section 80 - but Section 77(3) which is before us now deals with regulations and the important thing about that regulation is that we have to get mortality tables passed, we have to get other matters passed that would be related to deaths that took place after January 1 until now.

May I say that I share the honourable member's regret as to the need for retroactivity. I'm quite prepared to blame his government in Ottawa substantially for the fact that we have had all this problem of getting a bill in which should have been able to be brought in before the Federal Government withdrew. I've already reported that all eight Premiers present at a meeting of Premiers pleaded with the Federal Government to give them one year at least to give us a chance to get our legislation passed and we got an absolute flat refusal from the Federal Government. So if he has any complaints I wish he'd address them to his colleagues in Ottawa.

Now, Mr. Chairman, what surprises me, I had expected that we would run into difficulties by having retroactive legislation by this bill not being passed. The fact is that no duty is payable until six months after death and as long as this bill is passed before the end of this month then there will not be that kind of a problem and I have not actually received any report of any problems that have arisen because of the delay in the passage of the bill. I thought I might have, but I haven't. I regret the fact that it's retroactive but that's the way we were forced to do it and that's the way it is.

MR. CHAIRMAN: (Sections 77 to 79 were read and passed). 80 . . .

The Honourable Member for Souris-Killarney.

MR. EARL McKELLAR (Souris-Killarney): I'd just like to say a word on this Section 80. The Minister made a statement just now that the interval - didn't want to have an interval between taxation and no taxation, but the difference is and I think what we all have to remember, it was 1968 that the Federal Government of that time passed legislation to permit the estate to be transferred to the wife or vice versa with no tax, with no tax. There is quite a bit of difference now, Mr. Chairman. Now we are taxing estates that are transferred to a spouse and I

(MR. McKELLAR cont'd). . . think the Minister should be reminded of this. Now I've always been against retroactive legislation even when I've been a member of the government side. I think it's wrong, it's wrong when you're dealing with estates especially but I can see we're not going to get anything anywhere with the Minister because he wants to collect every tax dollar that he can put his hands on and I'm sure he will continue to do this as long as he's Minister of Finance, so there is no use of me standing up and condemning him or praising him or doing anything because he's going to get the tax dollars one way or another. So that's all I have to say at this time, Mr. Chairman.

MR. CHAIRMAN: The Honourable Minister of Finance.

MR. CHERNIACK: Mr. Chairman, I'm happy that the honourable member did remind me because it gives me an opportunity to remind the House something I didn't say a moment ago that I wanted to say. And that is that all governments in this six province area gave ample notice to the world that we had every intention of proceeding with legislation. That was done probably - well certainly in the summer when we appealed to the Federal Prime Minister. It was done again in the fall, September, October, when we first met, and then the intent was clearly stated in December to the extent of exemptions, to the extent of all the implication, all the implications and the only changes made by any province after that was for the benefit of the taxpayer and not the reverse. So that there has been a good deal of notice given in this aspect.

MR. CHAIRMAN: Clause 80--passed. Page 46 schedule 1. The Honourable Minister of Finance.

MR. CHERNIACK: In Schedule 1, Table 1, is that the place for the amendment? I move that Table 1 and Schedule 1 of Bill 5 be amended by striking out the first four lines thereof and substituting therefor the following: \$7,000 on the first 50,000 of aggregate net value and 18 percent on next \$10,000 of aggregate net value.

MR. CHAIRMAN: Schedule 1 as amended --passed; Schedule 2 on page 47 --passed. Preamble--passed; Title passed. Bill be reported. All those in favour say aye. All those opposed. In my opinion the ayes have it. Call in the members.

MR. CHAIRMAN: Same division?

MR. CHERNIACK: Acceptable. Mr. Chairman, I think there was agreement on the same division.

MR. CHAIRMAN: Same division? (Agreed)

MR. CHERNIACK: Mr. Chairman, if you could proceed to Bill 6 I have a message on that.

MR. CHAIRMAN: Bill No. 6. The Honourable Minister of Finance.

MR. CHERNIACK: We have previously distributed proposed amendments to Bill 6 and I wish to table a message from His Honour which reads as follows: To the Speaker of the Legislative Assembly . . .

MR. CHAIRMAN: Order, please. The Honourable Minister of Finance.

MR. CHERNIACK: . . . I have been informed of the proposed amendments to Bill 6 the Gift Tax Act (Manitoba), copies of which are attached hereto. I recommend the proposed amendment to the House. Dated at Winnipeg this 12th day of May, 1972. Signed by the Honourable Mr. McKeag as Lieutenant-Governor.

MR. CHAIRMAN: Bill No. 6 The Gift Tax Act (Manitoba). (Clauses 1(a) to (i) were read and passed). The Honourable Minister of Finance.

MR. CHERNIACK: I move that clause (j) of Section 1 of Bill 6 be amended by striking out the word "exclude" in the fifth line thereof and substituting therefor the word "include".

MR. CHAIRMAN: (Section 1 (j) as amended to (q) were read and passed). (r) . . . The Honourable Minister of Finance.

MR. CHERNIACK: I move that clause (r) of Section 1 of Bill 6 be amended by adding thereto at the end thereof the words "and money".

MR. CHAIRMAN: (section 1 (r) as amended to 7(4) was read and passed) 8(1) . . . The Honourable Minister of Finance.

MR. CHERNIACK: Mr. Chairman, I move that subsection (1) of Section 8 of Bill 6 be amended by adding thereto immediately after the word "where" in the first line thereof the words "a donor who is".

MR. CHAIRMAN: 8(1) as amended --passed; 8(2) . . .

MR. CHERNIACK: Mr. Chairman, 8(2), I move that subsection (2) of Section 8 of Bill 6 be amended by adding thereto immediately after the word "made" in the fourth line thereof the words "by him".

MR. CHAIRMAN: 8(2) as amended --passed; 9--passed; 10(a)--passed; (b)--passed; (c)--passed; (d)--passed; (e)--passed; (f) . . . The Honourable Minister of Finance.

MR. CHERNIACK: Mr. Chairman, I move that Section 10 of Bill 6 be amended by adding thereto at the end thereof the following clause (g) Gifts made to a person by a donor in any year where the aggregate value of those gifts made to that person by that donor in that year do not exceed \$100.00.

MR. CHAIRMAN: (g) --passed; 10 as amended --passed; 11(1)(a) . . . The Honourable Minister of Finance.

MR. CHERNIACK: I move that clause (a) of subsection (1) of Section 11 of Bill 6 be amended by striking out the word "persons" in the first line thereof and substituting therefor the word "individuals".

MR. CHAIRMAN: 11(1)(a) as amended --passed. 11(1)(b)(r) . . . The Honourable Member for Fort Garry.

MR. (BUD) SHERMAN (Fort Garry): Mr. Chairman, although we have been over the ground before I would appreciate the Minister taking one more minute to re-explain to me the meaning of the final paragraph in 11(1)(b) after (ii). I would like to have a clearer understanding of how the aggregate of \$15,000 referred to is arrived at and how it applies in terms of determining the amount of exemption or the amount of deduction from taxable value of gifts that are available in the case of transfer of gifts from one spouse to another. That is to say, Mr. Chairman, that the legislation makes it fairly clear that the maximum deduction is \$5,000, the maximum exemption from gift tax rate where the donation of a gift from a spouse to his or her spouse is concerned and the final paragraph of the section talks in terms of an aggregate of \$15,000, and I need that explained again.

MR. CHAIRMAN: The Honourable Minister of Finance.

MR. CHERNIACK: Mr. Chairman, it's clear that, firstly we have a whole list of exemptions under Section 10, including the amended one of gifts of under \$100, so that takes care of complete exemptions, outside of that there can be a gift of \$5,000 to the spouse in any year, there can be any number of gifts up to \$2,000 in any year, but the total, the aggregate of all the gifts made under Section 11 would aggregate not in excess of \$15,000.00. If they are given in excess of that amount then there would have to be a proration of the exemption for tax purposes. -- (Interjection) -- It has been pointed out to me that if the donor gives more than \$15,000 then he is still the person who is the donor and he is the one who pays the tax. So that it is not the donee that would be paying the tax, it would be the donor in excess of that 15,000. To that extent it is much simpler than the succession duty where we would be taxing the recipients only.

This legislation does apply to the nine provinces, I think the honourable members know that all nine provinces have entered into the gift tax collection arrangement with the Federal Government. A couple of the provinces have put in the once-in-a-lifetime \$10,000 gift to the widow or to the spouse, which used to be formerly in the Estate Tax Act, but other than that the principle is the same.

. . . . continued on next page .

MR. CHAIRMAN: The Honourable Member for Fort Garry.

MR. SHERMAN: Mr. Chairman, the basic objection in opposition that we take into this legislation is on the record and I think it's clear to the Minister, but at this stage in the consideration of this legislation we would make the point briefly once again, Mr. Chairman, that the weakness, the biggest anomaly in the bill in our view is contained in section, in clause 11, the one we are dealing with at the present time, and consists in the fact that it fails to recognize the single economic entity of a married couple, single economic unity for taxation purposes of a man and wife.

The case on this level was made during consideration of the bill at second reading stage and we had hoped that there might be a disposition in the government's mind to take the enlightened and far-sighted view of a married couple where taxation instances of this kind are concerned that has been taken in the Province of Ontario and in fact is a pretty widely respected principle nationally in the field of taxation. Unfortunately the government is not disposed to see it that way so we rest our case and appeal to the Minister to continue to watch the effects and the impact of this legislation in the same way as he said he would do on Bill 5.

It seems to us that the provisions of Clause 11 where the taxation rate on a gift made by a spouse to his or her spouse are onerous and strict and unreasonable in the light of the approach to the question that's been taken as I mentioned in recent years in Ontario and in other parts of the country. There is no justification it seems to us, Mr. Chairman, for restricting the value, the tax free value of a gift between a man and his wife in any given year to a sum as low as \$5,000 and I would hope that the Minister will continue to examine and study the effects of this kind of legislation on Manitoba society in the spirit which he has said he will bring to Bill 5 and that if a revision of the exemption level and a raising of that exemption level commends itself to him that he will have the courage to act.

MR. CHAIRMAN: The Honourable Minister of Finance.

MR. CHERNIACK: There is a very important point that I want to make sure that the Member for Fort Garry appreciates, and that is that as of today, excepting only Alberta, all provinces do have a tax of a gift to a spouse - I'm sorry of a bequest to a spouse above a certain exemption. As a result, I want to disabuse his mind of the thought that any province would have complete exemption for a gift to a spouse.

Now I just checked with the Legislative Counsel who is not sure about just what British Columbia legislation is, but all the other eight provinces do have a provision which does not give complete exemption of an inter-spousal gift, and I'm not really aware that any province has any greater exemption than we have except where I mentioned in the case of a one time gift in a house as between the spouse. So that I believe that B.C. has similar legislation, but if Legislative Counsel isn't sure I can't say so. --(Interjection)--

Oh, apparently it's Ontario that we're not so sure about, B.C. is, and as a result we have to recognize that the situation in gift taxation and the exemption is different from the points that have been made and which I have of course noted very carefully in relation to the gifting by way of bequest to the spouse.

MR. CHAIRMAN: The Honourable Member for Fort Garry.

MR. SHERMAN: Mr. Chairman, I appreciate the Minister's remarks and we are not asking for total exemption. It would be certainly unrealistic and probably impossible in the current Federal fiscal taxation context of things as between the Federal Government and Manitoba and the rest of the provinces, but what we are asking is a more realistic level of exemption, a more realistic exemption rate than \$5,000.00.

MR. CHERNIACK: Mr. Chairman, let me only conclude by saying I recognize the point made. I am not aware that there is any great variance to the extent that there is, or to the extent there may be in the future. I reiterate what I said earlier and I really wonder that it's such a surprise to members opposite that we would be looking at all our tax legislation as we go along through the years of successful election and re-election to this House as a government.

MR. CHAIRMAN: 11 (1) (b) (i) -- passed.. The Honourable Member for Assiniboia.

MR. PATRICK: I wonder if the Minister has the figures for the other provinces, what they're allowed?

MR. CHAIRMAN: Would the honourable member speak into the microphone please, we can't hear him.

MR. PATRICK: I wonder if the Minister has the figures before him what other provinces have in respect to the same legislation in this area?

MR. CHERNIACK: Not at hand, Mr. Chairman.

MR. CHAIRMAN: (Section 11 (1), Section 11 (12) to 17 of Bill 6 were read clause by clause and passed) 18 (1) ... The Honourable Minister of Finance.

MR. CHERNIACK: Before I deal with the motion on 18 (1) I hope you will give me permission to refer back to the most recent discussion on gifts in other provinces. The impression that I'm getting is that Ontario does have an exemption for a gift to the spouse but the accumulated gifts for the preceding 15 years are taken in by Ontario for succession duty purposes, so that would be a pretty substantial amount of money that would be brought back into the estate - if honourable members follow my point. All gifts made in the 15 years prior to death, to a spouse, would be added back into the estate for succession duty purposes in Ontario. I am also informed that there is the impression that British Columbia has a \$15,000 exemption for the spouse. I'll try and get that information to honourable members but as was already suggested by the Member for Fort Garry, at this stage we do not propose to make any changes.

MR. CHAIRMAN: The Honourable Member for Fort Garry.

MR. SHERMAN: Well if I could just add one comment to that, Mr. Chairman. That's interesting information from the Minister and it's helpful, but it should also be recognized if Ontario is adding 15 years of gifts back into the estate for estate tax purposes they are also working on a different Estate Tax rate.

MR. CHERNIACK: Mr. Chairman, that's clear, their exemption is half a million dollars. In Manitoba I suppose five times fifteen is seventy-five thousand dollars that could be gifted without inviting tax over fifteen years, plus \$200,000, so at least you got \$275,000 in Manitoba in the same comparable situation.

Mr. Chairman, I move that subsection (1) of Section 18 of Bill 6 be struck out and the following subsection substituted therefor: "Every donor who makes a gift in any year, the aggregate value of which exceeds \$2,000, but not including in that aggregate the value of gifts exempt under clause (g) of Section 10, shall without any demand therefor file with the Minister on or before the 30th day of April in the next succeeding year a return in the prescribed form."

Mr. Chairman, this is just to make absolutely clear that a person who makes a Christmas gift or any other birthday gift does not have to make that kind of report.

MR. CHAIRMAN: 18 (1) as amended -- passed. (Sections 18 (2) to 22 (2) were read and passed) 23 (1) -- passed ... The Honourable Minister of Finance.

MR. CHERNIACK: Mr. Chairman, I move that subsection (2) of Section 23 of Bill 6 ...

MR. CHAIRMAN: Well do we pass (1) first?

MR. CHERNIACK: I thought you did pass (1).

MR. CHAIRMAN: No, I'm just in the process of passing it.

MR. CHERNIACK: Sorry.

MR. CHAIRMAN: 23 (1) -- passed; 23 (2), the Honourable Minister of Finance.

MR. CHERNIACK: I move that subsection (2) of Section 23 of Bill 6 be amended by striking out the word "conclusively" in the third line thereof.

MR. CHAIRMAN: 23 (2) as amended -- passed. (Section 24 to 26 were read and passed)

MR. CHERNIACK: I move that Section 27 of Bill 6 be amended by striking out the word "conclusively" in the third line thereof.

MR. CHAIRMAN: Clause 27 as amended -- passed. (Sections 28 (1) to 30 (2) were read and passed) The Honourable Minister of Finance.

MR. CHERNIACK: Mr. Chairman, I move that subsection (3) of Section 30 of Bill 6 be amended by adding thereto immediately after the word "may" in the first line thereof, the word "confirm".

MR. CHAIRMAN: 30 (2) as amended -- passed. (Sections 31 to 34 were read and passed)

MR. CHERNIACK: ... page by page except for the amendments? It seems to me that honourable members are ready to proceed in that way. May I ask?

MR. CHAIRMAN: Page by page? Page 17 -- passed.

MR. CHERNIACK: Well if that's acceptable, Mr. Chairman, I'll only interrupt you for the amendments.

MR. CHAIRMAN: For the amendment, right. The amendment on page 18.

MR. CHERNIACK: Yes, Mr. Chairman, I move that clause (d) of subsection (1) of Section 35 of Bill 6 be amended by striking out the word "has" in the last line thereof and substituting therefor the word "have".

MR. CHAIRMAN: Subsection (1) of 35 as amended -- passed. (Page 18 as amended, Page 19, Page 20 were read and passed)

MR. CHERNIACK: Mr. Chairman, I move that subsection (3) of Section 42 of Bill 6 be amended by striking out the words "the court of Queen's Bench" in the second line thereof and substituting therefor the words "a court".

MR. CHAIRMAN: 42 (3) as amended -- passed. Page 20 as amended -- passed. Page 21 ... The Honourable Minister of Finance.

MR. CHERNIACK: Mr. Chairman, I move that subsection (3) of Section 45 of Bill 6 be amended by striking out the words "not exceeding thirty days" in the second line thereof.

MR. CHAIRMAN: 45 (3) as amended -- passed. Page 21 as amended -- passed. Page 22 ... The Honourable Minister of Finance.

MR. CHERNIACK: Firstly, I move that subsection (3) of Section 45 of Bill 6 be amended by striking out the words "not exceeding thirty days" in the second line thereof.

MR. CHAIRMAN: We passed that. Page 22.

MR. CHERNIACK: I'm sorry I misread it, I'm sorry, I move that subsection (6) of Section 45 of Bill 6 be amended by striking out the word "are" in the second line and substituting therefor the word "is".

MR. CHAIRMAN: 46 as amended -- passed.

MR. CHERNIACK: Mr. Chairman, I move that Section 49 of Bill 6 be amended by striking out the word "and" at the beginning of the second line thereof and substituting therefor the word "the".

MR. CHAIRMAN: 49 as amended -- passed. Page 22 as amended -- passed. Page 23 -- passed. Page 24 ... The Honourable Minister of Finance.

MR. CHERNIACK: Mr. Chairman, I move that Section 51 of Bill 6 be amended by adding thereto at the end thereof the following subsection: "Right to counsel and to cross-examine" 51 (7) in an inquiry being made under subsection (3) the donor and any donee whose gift or liability for tax is the subject of the inquiry, and any witness called to give evidence in the inquiry may be represented by counsel and the donor and donee each may, personally or through counsel cross-examine any witness called to give evidence in the inquiry.

MR. CHAIRMAN: New subsection 51 (7) -- passed.

MR. CHERNIACK: Mr. Chairman, I move that clause (3) of subsection 3 of Section 52 of Bill 6 be amended by striking out the word "duty" in the last line thereof and substituting the word "tax".

MR. CHAIRMAN: 52 (3) (c) as amended -- passed. (Pages 24, 25 and 26 were read and passed) Page 27 ...

MR. CHERNIACK: Mr. Chairman, I move that subsection (2) of Section 55 of Bill 6 be amended by striking out the word "duty" in the second line thereof and substituting therefor the word "tax".

MR. CHAIRMAN: 55 (2) as amended -- passed. Page 27 as amended -- passed. Page 28 ... The Honourable Member for Rhineland.

MR. FROESE: I want to raise my objection again as I did on the previous bill re the retroactivity not only of the Bill itself but also the regulations that will be made under this Act and be made retroactive as of January of this year.

I pointed out before that I felt that if legislation and especially tax legislation should be brought in, that it should have been done at an earlier date than practically half a year late. Surely enough the government knew that they were going to bring this forward and that it should have been brought in at a much earlier date so that we needn't make legislation retroactive.

MR. CHAIRMAN: Page 28 -- passed ... The Honourable Member for Assiniboia.

MR. PATRICK: Mr. Chairman, I wish to make the same point on this bill as I did on the other one. I believe that legislation whenever it does not favour or benefit the person, I feel it's not good legislation that's retroactive, and for that reason I oppose retroactive clauses in this legislation.

MR. CHAIRMAN: Page 28 -- passed. Schedule 1 page 29 -- passed. Schedule 2 page 30 -- passed. Preamble -- passed; Title -- passed; Bill be reported.

MR. FROESE: Ayes and Nays, Mr. Speaker, please.

MR. CHAIRMAN: The same division as before?

MR. SHERMAN: The same division as recorded earlier.

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

Mr. Speaker, The Committee of the Whole has considered certain bills and directed me to report the same with amendments and ask leave to sit again.

MR. SPEAKER: Order, please. The Honourable Member for Logan.

IN SESSION

MR. WILLIAM JENKINS (Logan): Mr. Speaker, I beg to move, seconded by the Honourable Member for Gimli the report of the Committee be received.

MR. SPEAKER presented the motion and after a voice vote declared the motion carried. BILL NO. 5 The Succession Duty Act (Manitoba) was read a third time and passed.

MR. SPEAKER: The Honourable Member for Rhineland.

MR. FROESE: Mr. Speaker, I want to oppose third reading of the bill that has just been moved, this was the Succession Duty Bill. I for one, do not accept the legislation. During the course of the debate I objected to a number of the provisions in it and I don't feel that legislation of this type should have been brought in in the first place, and that we should not bring in a succession duty act here in Manitoba. I think the revenues that it will bring forward are not really worth the damage that we are doing with the legislation and therefore I object to it very strongly. It will certainly have an effect as far as investment is concerned in this province and that we will not be attracting the investment that the provinces that do not have legislation of this type on their books will be able to attract.

MR. SPEAKER: The resolution before the House is the adoption of Third Reading of Bill 5. Agreed? So ordered.

MR. FROESE: Ayes and Nays, please, Mr. Speaker.

MR. SPEAKER: The honourable member have support?

MR. FROESE: Sure --(Interjection)-- No, I think ...

MR. SPEAKER: Call in the members. Order, please. The motion before the House, the adoption of Bill 5 on third reading.

A STANDING VOTE was taken, the result being as follows:

YEAS: Messrs. Adam, Barrow, Borowski, Boyce, Burtniak, Cherniack, Doern, Evans, Gonick, Gottfried, Green, Hanuschak, Jenkins, Johannson, McBryde, Mackling, Malinowski, Miller, Paulley, Petursson, Schreyer, Shafransky, Toupin, Turnbull, Uskiw, Uruski, Walding.

NAYS: Messrs. Bilton, Blake, Ferguson, Froese, Girard, Graham, Henderson, McGill, McGregor, McKellar, McKenzie, Patrick, Sherman, Spivak.

MR. CLERK: Yeas 27; Nays 14.

MR. SPEAKER: In my opinion the Ayes have it, I declare the motion carried. The Honourable Minister of Finance.

MR. CHERNIACK: Mr. Speaker, I'm just wondering if it would be the disposition of the House to bring in third reading on Bill 6 and possibly on the same division.

MR. SPEAKER: Do we have agreement on that? (Agreed) The Honourable Minister of Finance.

MR. CHERNIACK: Thank you honourable members.

BILL NO. 6 The Gift Tax Act was read a third time and passed.

MR. SPEAKER: Is it agreed on same division? (Agreed) So ordered.

MR. PAULLEY: I beg to move, seconded by the Honourable the Minister of Finance that the House do now adjourn and stand adjourned until 8 o'clock this evening.

MR. SPEAKER presented the motion and after a voice vote declared the motion carried, and the House adjourned till 8 o'clock tonight.