

The CHAIRMAN: Section 41, subsections (1) and (2) carried. Subsections (3) and (4) stand.

Section 43.

Mr. LESAGE: In (b), Mr. Rasminsky, what are you going to cover with the first two lines, if it is not hearsay?

The WITNESS: In 43 (b)?

Mr. LESAGE: Yes, in 43 (b), the first two lines. I understand the last part of it, but what about the first two lines?

The WITNESS: You are referring to, that is "In any legal proceedings under this Act, give evidence"?

Mr. LESAGE: The information that will be obtained will be hearsay.

The CHAIRMAN: No. Just communicate to the board.

Mr. LESAGE: No, "In any legal proceedings under this Act, give evidence as to information..." and so on.

The WITNESS: I believe this originates in a flaw in the Income War Tax Act which Mr. Tarr can perhaps explain.

Mr. LESAGE: What would you cover with this which will be hearsay and which would not be covered by the two last lines?

Mr. TARR: Your point is that any evidence to which this might refer would not be admissible evidence?

Mr. LESAGE: No, it could not be admissible because it would be hearsay.

The CHAIRMAN: Income tax reports—

Mr. LESAGE: That is covered in the last two lines.

The CHAIRMAN:—signed by a person charged would not be hearsay.

Mr. LESAGE: But I was thinking precisely of the first two lines. Returns are covered by the two last lines. Written evidence is different.

Mr. TARR: For example, an officer of income tax might conduct an investigation under the Income War Tax Act in which he would obtain certain information.

Mr. LESAGE: Yes.

Mr. TARR: Which he under this section could give as evidence in a court if it was admissible.

Mr. RINFRET: Yes.

Mr. LESAGE: How do you imagine it can be admissible if it is not written? It would be hearsay, unless it is a verbal declaration of the accused himself.

Mr. MARQUIS: Yes.

Mr. TARR: I should think, for example, if an officer of income tax inspected a company's books and obtained certain information from those books, it at least might be admissible evidence for him to say what he did and what he found.

Mr. LESAGE: No, not if you do not produce the books.

Mr. TARR: In any event, it would be for the court to decide.

Mr. LESAGE: Yes. But it would not be according to our laws, or according to the Evidence Act.

Mr. MARQUIS: I do not think so.

Mr. LESAGE: There is only one case in which it would,—and that is the point I wanted to ask you about,—and that is if the accused person had made some declaration to a customs or income tax inspector.

The CHAIRMAN: No. Subsection (4) of section 41 protects him against that. The provision of the Canada Evidence Act applies. He has the right to