

*Government Orders*

**The Acting Speaker (Mr. Paproski):** That is correct.

## MEASURE TO AMEND

**Ms. Joy Langan (for Mr. Butland)** moved:

Motion No. 1.

That Bill C-28 be amended in Clause 7

(a) by striking out line 26 at page 12 and substituting the following therefor:

“April 26, 1990, other than”

(b) by striking out line 30 at page 12 and substituting the following therefor:

“Time, April 26, 1990 under which the”

(c) by striking out line 37 at page 12 and substituting the following therefor:

“1990,”

(d) by striking out lines 40 and 41 at page 12 and substituting the following therefor:

“Daylight Saving Time, April 26, 1990 and before June 12, 1990, subsection 16.1(1) of”.

She said: Mr. Speaker, this proposed amendment to Bill C-28 is to change the date of implementation of the clause from April 26, 1989, to April 26, 1990. This clause is poorly drafted and the fear of leasing companies is that this change will cause many small leasing companies to go out of business, therefore, we should be taking a very careful second look at this clause.

The Income Tax Act amendments on leasing are an attempt by the Department of Finance to close off an area of tax revenue loss. The department feels that some firms are using leasing in preference to outright purchases because the leasing companies can capture some tax advantages that the lessee firms themselves cannot.

The strategy behind the amendments is to treat leasing companies as if they are financing companies making loans and to allow those lessee firms which can claim tax advantages to do so if they want to, but the assets are to be treated as a purchase of the lease asset for tax purposes.

The goal seems to be to make those lessees who were only leasing for tax reasons indifferent between leasing and buying with the purchase being financed by loan, and to put those lessees who were leasing for non-tax reasons in exactly the same financial position as before.

As I said earlier, the clause is poorly drafted primarily because it describes how lessees are to be treated under the new clause only, with the description of how lessors are to be treated under new income tax regulations as opposed to insertion of an entirely new clause into the Income Tax Act which is what clause 7 is.

The culmination of this new clause in the Income Tax Act and the new regulations introduce a fundamental change in the way leasing is viewed by the Department of Finance.

It is rather peculiar to do one-half of the changes through amendments to the Income Tax Act and the other half through amendments to the regulations.

The new regulations introduced a considerable change in the complexity of a leasing agreement. The calculations required are not of themselves difficult, nor do they require any information.

On the other hand, the old system is clearly designed to minimize bookkeeping by allowing aggregation over property classes. The new system does show a different approach by the Department of Finance to the ending of perceived tax abuses. Normally, the Department of Finance rewrites the act or regulations to stop the abuses directly by saying “you cannot”. The new system for leasing requires the lessor to compare two options and choose the least favourable.

In the words of the legislative committee’s researcher, it is not hard to believe that the conclusion of this computation is not foregone. If the Department of Finance had done its job of identifying loopholes in the tax system and found a mathematical formula that catches the abuse, then it is hard to argue that direct regulations or amendments could not be written that could equally well attack the abuse at lower compliance costs.

This confusing approach called “treatment by loan analogy” by finance officials has engendered fear within the leasing industry that the increasing administrative complexity it introduces will drive up costs.

On the other hand, companies that lease equipment fear that the disappearance of tax advantages for leasing as opposed to outright purchasing will constrain their cash flows. Both are problems, especially for smaller companies. The change of the date of implementation is designed to allow finance officials to implement the