

railway crossings. Heretofore, the replacement cost of these items was charged to expense. Now it is proposed that it be done under rules respecting depreciation. For the information of lawyers and accountants in the chamber, the class within which this will fall will be class 4 and the rate will be 6 per cent.

I come now to section 1 of the bill, upon which there has been a good deal of discussion. It provides that board, lodging and other benefits "of any kind whatsoever" received in the course of employment shall be taxable. This amendment arises in a curious way. A decision handed down by the Income Tax Appeal Board in the case called the Windsor Hospital case, held that board and lodging and "other benefits" means "any other kind of benefit". Subsequent to that, there was an off-the-record remark made in another decision of the Income Tax Appeal Board, by another one of its members, in which he expressed the opinion that what the lawyer calls the *ejusdem generis* rule should apply. In other words, he thought that "board, lodging and other benefits" might mean "board and lodging and other benefits like board and lodging". The department felt that if there was that doubt, it might result in some litigation, and that that expense should if possible be avoided. So it is being made abundantly clear by the words "board, lodging and other benefits of any kind whatsoever." That would take it out of the realm of doubt.

Hon. Mr. Bouffard: May I ask the honourable gentleman if he can tell me what has been the practice of the department up to the present time in its interpretation of "board and lodging" from the standpoint of taxation?

Hon. Mr. Connolly (Ottawa West): I do not believe I can give an adequate answer to that question. I have read the explanation given by the minister in the other place. He said it was not proposed to change the existing practice. But, to my mind, there has never been any doubt about it: this legislation gives the department plenary power to decide what benefits an employee is taking in any given instance. That would include, I suppose, a casual Christmas present such as a turkey or small radio, or any other gift received by the employee, including money. Certainly, this is a basket into which everything can fall.

Hon. Mr. Hayden: It could include the purchase of products by an employee at the employer's price as against the retail price?

Hon. Mr. Connolly (Ottawa West): Yes, that could be included within this basket

provision. It is far reaching, but in practice I understand it is not proposed that it should be so used.

Hon. Mr. Bouffard: Is it not also true that the department would have no discretion in the matter? That is to say, it would have to impose the tax in such circumstances as have been described, and the minister is given no discretion in the matter.

Hon. Mr. Connolly (Ottawa West): I think most of the discretionary powers that were enjoyed by the Minister were long since taken from him; and perhaps I might add, largely at the instance of this honourable chamber.

Subsection 5 of section 3 also deals with board and lodging benefits, particularly as they relate to clergymen. This is the one exception proposed in the legislation. However I may say that clergymen, *qua* clergymen, do not acquire the benefit automatically; if, for example, they are teachers or professors they are not entitled to the benefit.

Section 28 contains a provision with reference to the solicitor and client privilege which might obtain in the event of documents being in the possession of a lawyer, or communications of any kind from a taxpayer client whose activity the department might be interested in investigating, and in the course of which the department might want to seize the records of the lawyer. Now the lawyer, knowing of the privilege—and it is the privilege of the client, not of the lawyer—can take advantage of a procedure and apply to a court and be relieved of the responsibility which he might otherwise have under provincial law by reason of the existence of the privilege. So far as the legal profession is concerned, I understand that the proposals carry the approval of a special committee of the Canadian Bar Association which has been dealing with the matter for a number of years, and finally this is the solution which has been adopted.

Honourable senators, I do not propose to discuss the details of the amendments dealing with undistributed surplus, contained in sections 22 and 26. I think those are sections which might properly and more helpfully be discussed in a committee when the officials are present. I am sorry to have taken so much time to deal with this bill, but I hope that by making the groupings that I have made, I have shortened the explanation to some extent.

Hon. Mr. Hackett: Will the honourable gentleman permit a question? He has said there is a distinction between the amounts paid to a province by a corporation and those paid to a province under personal income tax