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of the
Legislative Assembly of Manitoba
STANDING COMMITTEE
on
LAW AMENDMENTS

31 Elizabeth II

Chairman
Mr. Phil Eyer
Constituency of River East



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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Second Legislature

Members, Constituencies and Political Affiliation

Name	Constituency	Party
ADAM, Hon. A.R. (Pete)	Ste. Rose	NDP
ANSTETT, Andy	Springfield	NDP
ASHTON, Steve	Thompson	NDP
BANMAN, Robert (Bob)	La Verendrye	PC
BLAKE, David R. (Dave)	Minnedosa	PC
BROWN, Arnold	Rhineland	PC
BUCKLASCHUK, John M.	Gimli	NDP
CARROLL, Q.C., Henry N.	Brandon West	NDP
CORRIN, Brian	Ellice	NDP
COWAN, Hon. Jay	Churchill	NDP
DESJARDINS, Hon. Laurent	St. Boniface	NDP
DODICK, Doreen	Riel	NDP
DOERN, Russell	Elmwood	NDP
DOLIN, Mary Beth	Kildonan	NDP
DOWNEY, James E.	Arthur	PC
DRIEDGER, Albert	Emerson	PC
ENNS, Harry	Lakeside	PC
EVANS, Hon. Leonard S.	Brandon East	NDP
EYLER, Phil	River East	NDP
FILMON, Gary	Tuxedo	PC
FOX, Peter	Concordia	NDP
GOURLAY, D.M. (Doug)	Swan River	PC
GRAHAM, Harry	Virden	PC
HAMMOND, Gerrie	Kirkfield Park	PC
HARAPIAK, Harry M.	The Pas	NDP
HARPER, Elijah	Rupertsland	NDP
HEMPHILL, Hon. Maureen	Logan	NDP
HYDE, Lloyd	Portage la Prairie	PC
JOHNSTON, J. Frank	Sturgeon Creek	PC
KOSTYRA, Hon. Eugene	Seven Oaks	NDP
KOVNATS, Abe	Niakwa	PC
LECUYER, Gérard	Radisson	NDP
LYON, Q.C., Hon. Sterling	Charleswood	PC
MACKLING, Q.C., Hon. Al	St. James	NDP
MALINOWSKI, Donald M.	St. Johns	NDP
MANNES, Clayton	Morris	PC
McKENZIE, J. Wally	Roblin-Russell	PC
MERCIER, Q.C., G.W.J. (Gerry)	St. Norbert	PC
NORDMAN, Rurik (Ric)	Assiniboia	PC
OLESON, Charlotte	Gladstone	PC
ORCHARD, Donald	Pembina	PC
PAWLEY, Q.C., Hon. Howard R.	Selkirk	NDP
PARASIUK, Hon. Wilson	Transcona	NDP
PENNER, Q.C., Hon. Roland	Fort Rouge	NDP
PHILLIPS, Myrna A.	Wolseley	NDP
PLOHMAN, John	Dauphin	NDP
RANSOM, A. Brian	Turtle Mountain	PC
SANTOS, Conrad	Burrows	NDP
SCHROEDER, Hon. Vic	Rossmere	NDP
SCOTT, Don	Inkster	NDP
SHERMAN, L.R. (Bud)	Fort Garry	PC
SMITH, Hon. Muriel	Osborne	NDP
STEEN, Warren	River Heights	PC
STORIE, Jerry T.	Flin Flon	NDP
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USKIW, Hon. Samuel	Lac du Bonnet	NDP
WALDING, Hon. D. James	St. Vital	NDP

**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LAW AMENDMENTS**

Tuesday, 22 June, 1982

Time — 10:00 a.m.

CHAIRMAN — Mr. P. Eyler.

MR. CHAIRMAN: Committee come to order. We are considering Bills No. 15, 20, 26, 28, 36, 37, 47 and 42.

Are there any more public presentations on Bills No. 42 and 47? Seeing none, we'll proceed to the clause-by-clause consideration of these bills.

It's been proposed that we do Bill No. 36 first in order that the Minister can then leave the committee - he's not a member - and get back to his duties. Are there any objections to that?

Mr. Graham.

MR. H. GRAHAM: We have sent somebody out to get Mr. Orchard. Maybe we can deal with something else first.

MR. CHAIRMAN: Mr. Penner.

HON. R. PENNER: May I propose, Mr. Chairperson, that Bill No. 28, which is - as uniquely described by Mr. Filmon - a short snapper, we could do that one?

MR. CHAIRMAN: Order please. Order. Mr. Penner. It was also proposed that Bills 22 and 37 be done at the beginning in order that Mr. Desjardins is able to get back to his duties as well.

HON. R. PENNER: I have no objection.

MR. CHAIRMAN: All right. Bill 22 then, is that agreed? (Agreed)

**BILL NO. 22 - THE MANITOBA
LOTTERIES FOUNDATION ACT**

MR. CHAIRMAN: Bill No. 22, how do you wish to proceed? Clause-by-clause? Line-by-line?

Mr. Scott.

MR. D. SCOTT: Page-by-page.

MR. CHAIRMAN: Page-by-page. Bill 22, Page 1, Clause 1, Definitions.

Order please. Mr. Storie.

MR. J. STORIE: I'd like to wait before proposing this amendment until the Clerk has distributed the copies of the amendment.

Mr. Chairperson, I'd like to propose the following amendment:

THAT the definition of "vendor" in Section 1 of Bill 22 be amended by striking out the word and figures "Part II" in the last line thereof and substituting therefor the words "the Criminal Code (Canada)."

MR. CHAIRMAN: Is that agreed? Any discussion? Mr. Desjardins.

HON. L. DESJARDINS: Mr. Chairman, we have a

problem. That also has to be done in French. I can read the French version. We can pass it together then.

MR. CHAIRMAN: Mr. Storie.

MR. J. STORIE: I can read it in French.

I would like to propose an amendment and the motion will be:

QUE l'article 1 du Projet de loi 22 soit amendé par la suppression, à la dernière ligne de la définition de "vendeur," des mots et chiffres "de la Partie II" et leur remplacement par les mots "du Code Criminel (Canada)."

MR. CHAIRMAN: An amendment has been moved to Article 1, Clause 1. Is there any debate? The amendment is agreed. Explanation, Mr. Desjardins.

HON. L. DESJARDINS: There is no change. It is just advice from the staff here that this is the way it should be, because the right comes from the Criminal Code. That's all.

MR. CHAIRMAN: Mr. Graham.

MR. H. GRAHAM: Mr. Chairman, when you're talking about definitions, I have been a little concerned about a connotation in one of the definitions that may leave a degree of suspicion in the eyes of the public when you start talking about a lottery scheme. That leaves a connotation with the public that there is some scheming and conniving going on to take things from people that may not be necessarily so.

MR. CHAIRMAN: Mr. Desjardins.

HON. L. DESJARDINS: Mr. Chairman, I could agree with those remarks. The only thing is I'm informed that we have to refer the way it is in the Criminal Code and that covers everything. It's not only the lotteries as we know them; it is casinos. It is all this gambling, all those games.

MR. G. FILMON: There certainly wasn't any scheming under our government. I don't know; things have changed around here.

HON. L. DESJARDINS: Your whole government was a scheme.

MR. CHAIRMAN: Clause 1, as amended—pass; Page 2—pass; Page 3—pass; Page 4—pass.

HON. L. DESJARDINS: There's an amendment on Page 5. Let me read the French.

QUE l'article 11(a) du Projet de loi 22 soit amendé par l'insertion, à la deuxième ligne, après le mot "(Canada)" des mots "pour la conduite et l'administration d'un système de loterie."

MR. CHAIRMAN: Mr. Storie.

MR. J. STORIE: I move:

THAT Clause 11 (a) of Bill 22 be amended by adding thereto, immediately after the word "licence" in the 1st line thereof, the words "for the conduct and management of a lottery scheme."

HON. L. DESJARDINS: That again, all these three amendments are suggested to me by staff. They figure that it's a better term; it doesn't change anything at all. If there's any explanation needed, I'll request permission to have Mr. Silver give you the explanation.

MR. CHAIRMAN: Page 5, as amended—pass; Page 5, French version, as amended—pass; Page 6, English version—pass; Page 6, French version—pass.

HON. L. DESJARDINS: There's an amendment on Page 7.

MR. CHAIRMAN: Page 7, English version - Mr. Storie.

HON. L. DESJARDINS: Can I read the French and then he can move both?

MR. CHAIRMAN: Page 7, French version amendment.

HON. L. DESJARDINS: QUE l'alinéa 23 1(b) du Projet de loi 22 soit amendé par l'insertion, après le mot "délivrées," des mots "par la Fondation."

MR. CHAIRMAN: Mr. Storie.

MR. J. STORIE: Mr. Chairperson, I move:

THAT Clause 23(1)(b) of Bill 22 be amended by adding thereto, immediately after the word "issued" in the 1st line thereof, the words "by the foundation."

MR. CHAIRMAN: Amendment as proposed, any debate? Pass? Page 7, English version, as amended. Mr. Penner.

HON. R. PENNER: Perhaps for Mr. Tallin or someone else. We amended at the very beginning where it said "Part II" on Page 1, we substituted for Part II, the words "the Criminal Code (Canada)," so it read "issued under the Criminal Code (Canada)."

I notice that in this section that we've just dealt with, that is 23(1)(b), we are still referring to licences issued under Part II and, again, we do it in (c), should that not be changed as was licence issued under Part II on Page 1 to be consistent?

HON. L. DESJARDINS: No, because the licensing comes under Part II. —(Interjection)—No excuse me, I'd better let you.

MR. CHAIRMAN: Mr. Silver.

MR. I. SILVER: Well, the reason we left Part II in 23 (1) and amended it in Section 1 is that in Section 1 we're talking about a licence issued under the Criminal Code by anybody who might be designated by the LG in C for the purpose. But in 23(1), we're talking only about licences issued by the foundation and the foundation would be issuing the licences under Part II. It's Part II . . .

HON. R. PENNER: As a designated . . .

MR. I. SILVER: Yes, Part II empowers the foundation in the event it is designated for the purpose to issue licences, that's the reason. That's why we are amending it, Clause (b), by adding the words "by the foundation" to clarify that very point.

HON. R. PENNER: Okay.

MR. CHAIRMAN: (Page 7, as amended, Pages 8 and 9, both French and English versions were each read and passed.) Preamble—pass; Title—pass. Bill be reported.

BILL NO. 37 - THE MANITOBA HEALTH RESEARCH COUNCIL ACT

MR. CHAIRMAN: Bill No. 37. How do you wish to proceed, page-by-page? There are some amendments which are being proposed and circulated. Mr. Desjardins.

HON. L. DESJARDINS: I can explain the proposed amendments we have on our sheet, although this will come later as the title,

THAT the title of the French version of Bill 37 be amended by striking out the word "médicale" therein and substituting therefor the words "en matière de santé."

That would be the same if you had in English, The Manitoba Medical Research Council Act. It is more than that, it's the Health Act, so that gets the same thing on the French side. Instead of medical, we are saying health.

MR. CHAIRMAN: How does the committee wish to proceed, page-by-page or clause-by-clause?

HON. L. DESJARDINS: Page-by-page. I don't think there is too much here.

MR. CHAIRMAN: Mr. Desjardins suggests page-by-page. Section 1, there is an amendment. Mr. Storie.

MR. J. STORIE: I would like to move, Mr. Chairperson: THAT the definition of "Conseil" in Section 1 of the French version of Bill 37 be amended by striking out the word "médicale" in the 1st line thereof and substituting therefor the words "en matière de santé."

HON. L. DESJARDINS: That's the same thing again, just making that correction that I suggested.

MR. CHAIRMAN: Any debate on this amendment? Pass. Section 2, there is an amendment. Mr. Storie.

MR. J. STORIE: Mr. Chairperson, I would like to move:

THAT Section 2 of the French version of Bill No. 37 be amended by striking out the word "médicale" in the 2nd line thereof and substituting therefor the words "en matière de santé."

HON. L. DESJARDINS: The same thing, the same correction.

MR. CHAIRMAN: Any debate? The amendment for Clause 2—pass.

Clause 3(b) - Mr. Storie.

MR. J. STORIE: Mr. Chairperson, I would like to move:

THAT Clause 3(b) of Bill 37 be amended

(a) by adding thereto, immediately after the word "persons" in the 1st line thereof, the words "of whom at least half shall be professionals in the health sciences";

(b) by adding thereto at the end thereof in the French version the words "dont la moitié au moins sont des professionnels dans le domaine des sciences de la santé."

HON. L. DESJARDINS: Mr. Chairman, this is something that was suggested by Dr. Israel and we felt that it made sense. Instead of just naming from 5 to 10 by Lieutenant-Governor-in-Council, this would amend it to make sure at least there are some professionals in health science on that board so they could deal with the grants and the requests that they have.

MR. CHAIRMAN: Any debate on the amendment? Order please, order. There is an awful lot of side conversations proceeding around here. Could you conduct them elsewhere?

The amendment as proposed—pass. Page 1, as amended, both French and English versions—pass.

MR. J. STORIE: Mr. Chairperson, I'd like to propose amendments, Page 2.

MR. CHAIRMAN: Order please.

Page 2, there is an amendment. Mr. Storie.

MR. J. STORIE: Yes, I would like to propose:

THAT Subsection 4(1) of the French version of Bill 37 be amended

(a) by striking out the word "médicales" in the 3rd line thereof and substituting therefor the words "de la santé";

(b) by striking out the word "médicale" in the last line thereof and substituting therefor the words "en matière de santé."

MR. CHAIRMAN: Mr. Desjardins.

HON. L. DESJARDINS: It's the same thing again, changing.

MR. CHAIRMAN: Any debate on the proposed amendment? Pass.

Mr. Storie for another proposed amendment on Page 2.

MR. J. STORIE: I would also like to propose:

THAT Clause 4(2) (a) of the French version of Bill 37 be amended by striking out the word "médicale" in the 2nd line thereof and substituting therefor the words "dans le domaine des sciences de la santé."

HON. L. DESJARDINS: Same explanation, Mr. Chairman.

MR. CHAIRMAN: Any debate on the proposed amendment? Pass.

Proposed amendment on 4(2)(d) - Mr. Storie.

MR. J. STORIE: Mr. Chairperson, I would like to propose:

THAT Clause 4(2)(d) of the French version of Bill 37 be amended by striking out the word "médicales" in the 2nd line thereof and substituting therefor the words "dans le domaine de la santé."

HON. L. DESJARDINS: Same explanation.

MR. CHAIRMAN: Any debate on the proposed amendment? Pass.

Page 2, as amended, French and English versions—pass.

Page 3, there is a proposed amendment. Mr. Storie.

MR. J. STORIE: I would like to move:

THAT Section 7 of Bill 37 be struck out and the sections following Section 7 be renumbered accordingly.

MR. CHAIRMAN: Any debate on the proposed motion? Mr. Graham.

MR. H. GRAHAM: Mr. Chairman, why would we want to leave it up to maybe one or possibly two members to hold a meeting that could be legally called a meeting? Most meetings do require a quorum, but why are we taking it out in this particular case?

MR. CHAIRMAN: Mr. Desjardins.

HON. L. DESJARDINS: Yes, if you see Section 9 after that, it of course was felt that "the council may make by-laws for the regulation of its proceedings and generally for the conduct of its activities," so that is pretty well left to the council.

MR. CHAIRMAN: Any further comments?

Mr. Graham.

MR. H. GRAHAM: Well, Mr. Chairman, they can certainly set their own by-laws and all the rest of it; but the thing is, do the people of this province want a majority to form a quorum or not, and should we have the say in whether that should be the case?

HON. L. DESJARDINS: Mr. Chairman, I feel that we are dealing with very responsible individuals here who are dedicated to research and it is felt that some of these people might - I don't know - it might be impossible to get a quorum and they might work in different committees. So I would like to wait and see what their regulation is. I feel confident that the public will be very well protected in this instance.

MR. CHAIRMAN: Any further comments?

Proposed motion—pass? Any further discussion?

QUESTION put on the amendment, MOTION carried.

MR. H. GRAHAM: Yeas and nays, Mr. Chairman.

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

Yeas, 10; Nays, 7.

MR. CHAIRMAN: The amendment is passed.

Mr. Storie on a proposed amendment to Section 8.

MR. J. STORIE: Mr. Chairperson, I propose:

THAT Section 8 of Bill 37, as printed, be amended

(a) by striking out the words "remuneration fixed by the Lieutenant-Governor-in-Council and" in the 1st and 2nd lines thereof;

(b) by striking out in the French version the words "de ce dernier la rémunération fixée par le Lieutenant-Gouverneur-en-Conseil et" in the 1st and 2nd lines thereof.

MR. CHAIRMAN: Any debate on the proposed motion? Pass.

Mr. Storie on a proposed amendment to Section 13(2).

MR. J. STORIE: Mr. Chairperson, I would like to propose:

THAT Subsection 13(2) of the French version of Bill 37 be amended by striking out the word "médicale" in the last line thereof and substituting therefor the words "en matière de santé."

HON. L. DESJARDINS: Same explanation - good.

MR. CHAIRMAN: Any discussion? Pass.

Page 3, as amended, French and English versions—pass.

Page 4 - Mr. Storie.

MR. J. STORIE: Mr. Chairperson, I would like to move:

THAT Subsection 15(2) of the French version of Bill 37 be amended by striking out the word "médicale" in the 3rd line thereof and substituting therefor the words "dans le domaine des sciences de la santé."

HON. L. DESJARDINS: Same explanation.

MR. CHAIRMAN: Any debate on the motion? Pass.

Page 4, as amended, English and French versions—pass; Preamble—pass.

Title - Mr. Storie.

MR. J. STORIE: Mr. Chairperson, I would like to move:

THAT the title of the French version of Bill 37 be amended by striking out the word "médicale" therein and substituting therefor the words "en matière de santé."

MR. CHAIRMAN: Any debate on the proposed motion? Pass. Title, as amended—pass. Bill be reported.

Are there any preferences as to which bill is considered next? Take them in order or whatever you wish. Any Ministers have any preferences?

Mr. Filmon.

MR. G. FILMON: Mr. Chairman, we are suggesting that Bills 47 and 42, which we believe are not going to be seriously amended and we have no objections to in principle, can be dealt with first. Then perhaps other matters that might involve a number of amendments and debate might be held later, so could we look at those two first?

MR. CHAIRMAN: Is that agreed?

Mr. Penner.

HON. R. PENNER: Yes, I have no objection to that except that the Minister, with respect to Bill No. 47, cannot be here until about noon.

BILL NO. 42 - THE EDUCATION ADMINISTRATION ACT

MR. G. FILMON: We'll deal with 42 then.

HON. R. PENNER: Yes, I have no objection.

MR. CHAIRMAN: Are there any proposed amendments for this? Page-by-page?

Mr. Filmon.

MR. G. FILMON: I just wanted the Minister to confirm. I believe she did indicate when I asked whether or not "institutions" was defined in the regulations, she, I think, assured me that it was. Is that right?

MR. CHAIRMAN: Mrs. Hemphill.

HON. M. HEMPHILL: Yes, Mr. Chairman. "Institutions" is defined, covered under Manitoba Regulation 249-80, and it indicates that university means University of Manitoba and its affiliated colleges or Brandon University or the University of Winnipeg . . .

MR. G. FILMON: Yes, I recall that.

MR. CHAIRMAN: Order please.

HON. M. HEMPHILL: . . . or any other university established under The Universities Establishment Act or any other institution so designated by the Minister.

MR. CHAIRMAN: Page 1—pass; Preamble—pass; Title—pass. Bill be reported.

Next bill, any preferences? Seeing none, how about in order, Bill No. 15?

BILL NO. 43 - AN ACT TO AMEND THE PUBLIC SCHOOLS ACT

MR. CHAIRMAN: Bill 43, it's been proposed that Bill No. 43 be next. Bill 43 then. What is the wish of the committee on how to proceed, page-by-page or clause-by-clause? Page-by-page. Page 1, are there any proposed amendments? Page 1, as printed, any debate? Pass? English and French versions?

Mr. Filmon.

MR. G. FILMON: Because this wasn't on the list and I wasn't anticipating it being here, there was a very minor amendment that I was going to be proposing to

certain wording. I haven't had an opportunity to have it drafted by the Legislative Draftsman, so could we hold this over until tonight?

MR. CHAIRMAN: Is that agreed? (Agreed)

MR. G. FILMON: I haven't the wording, but I think the Minister would prefer to look at it.

BILL NO. 15 - AN ACT TO AMEND THE MARITAL PROPERTY ACT

MR. CHAIRMAN: Should we do another bill then while we're waiting? Bill No. 15 - Mr. Penner.

HON. R. PENNER: With respect to Bill 15, there are some amendments. I think they should be distributed. I propose since it's short and there are amendments on both Page 1 and Page 2 that we start clause-by-clause.

MR. CHAIRMAN: Clause-by-clause, is that agreed? (Agreed) Clause 1—pass; Clause 2?

HON. R. PENNER: With respect to Clause 2, there is an amendment.

MR. CHAIRMAN: Mr. Scott.

MR. D. SCOTT: I move:

THAT Section 1 of the Act is amended by renumbering the section as Section 1, and by adding thereto, immediately after the section as renumbered, the following sections.

MR. CHAIRMAN: Excuse me, Mr. Scott, you will have to start at the top of your motion.

MR. D. SCOTT: Okay, Mr. Chairman, I move:

THAT Section 2 of Bill 15 be struck out and the following section substituted therefor - for what I just read beforehand. Do you want me to read it again?

MR. CHAIRMAN: Okay, if you would.

MR. D. SCOTT: Section 1 of the Act is amended by renumbering the section as Subsection (1) and by adding thereto, immediately after the section as renumbered, the following subsections: Life insurance, pension plans, etc.

1(2) Notwithstanding Clause (1)(d) but subject to subsection (3), the following assets are family assets within the meaning and for the purposes of this Act, whether or not the proceeds thereof or the benefits or payments thereunder, as the case may be, are used or intended to be used for shelter or transportation or for household, educational, recreational, social or aesthetic purposes.

(a) Rights under the life insurance policy.

(b) Rights under an accident and sickness insurance policy.

(c) Rights under a life or fixed term annuity policy.

(d) Rights under a pension or superannuation scheme or plan. Insurance for business purposes.

1(3) A life insurance policy or an accident and sickness insurance policy is not a family asset within the

meaning and for the purposes of this Act where the purpose of the policy is to provide funds that the beneficiary of the policy will likely require, or compensation for loss that the beneficiary of the policy will likely suffer, in respect of a business undertaking, in the event and as a result of the death, injury, illness, disability or incapacity of the person insured.

HON. R. PENNER: The reason for this amendment rises out of a suggestion made by the Member for St. Norbert, which I thought to be a good suggestion. He wanted greater clarity distinguishing the insurances for a business purpose which would not be included as family assets, and he did not feel that the wording as originally proposed added sufficient clarity, so this is the purpose of this amendment.

MR. CHAIRMAN: Is there any debate on the proposed amendment?
Mrs. Smith.

HON. M. SMITH: For clarification, could you tell me whether RRSPs are included under the current wording?

MR. CHAIRMAN: Mr. Penner.

HON. R. PENNER: They would be included under 1(2).

HON. M. SMITH: Thank you.

MR. CHAIRMAN: Ms Phillips.

MS M. PHILLIPS: For clarification also, in 1(3), could you tell me whether that includes things like rights under Workers Compensation or any plan that a worker might have in terms of a benefit, if they're injured on the job or is it just for a business, if it's an owner of the business that takes out insurance?

MR. CHAIRMAN: Mr. Penner.

HON. R. PENNER: Yes, it does not include something which becomes a personal benefit under something, let's say, like the rights that you might have under The Workers' Compensation Act. That would not be included in 1(3).

MR. CHAIRMAN: Any further questions or debate? Proposed motion then, —pass? Pass. Section 2, as amended—pass; Section 3—pass; Section 4—pass; Section 5?

HON. R. PENNER: Section 5, there is an amendment there.

MR. CHAIRMAN: Mr. Scott.

MR. D. SCOTT: Mr. Chairman, I move:

THAT proposed Subsection 14(3) of The Marital Property Act, as set out in Section 5 of Bill 15, be amended by striking out the words "a court deems" in the 3rd and last lines thereof and substituting therefor the word "is."

MR. CHAIRMAN: Any debate on the proposed amendment?

Mr. Penner.

HON. R. PENNER: Just by way of explanation, this amendment, it responds to several submissions that were made at the first part of Committee Stage in which there was some concern that the term "a court deems" left too much discretion, too much of a subjective approach, to the question of assets of this kind. Since it is better that it is clear that what is wanted is an objective appraisal of the way in which such assets should be valued, that is, on the basis of evidence adduced, this change is made to reflect that a little more clearly.

MR. CHAIRMAN: Any debate?

Mr. Orchard.

MR. D. ORCHARD: Mr. Chairman, then this amendment will basically cause Section 14(3) to read: "shall be determined on such other basis or by such other means as is appropriate for assets of that nature." Now, my question would be, what body of knowledge is going to be relied upon to provide that kind of subjective analysis as to —(Interjection)—or object of analysis.

MR. CHAIRMAN: Mr. Penner.

HON. R. PENNER: It seems to me that this would virtually require that the court receive evidence of actuaries, people of that kind, who are in the business of valuing pension rights and insurance benefits and people who can do the statistical analysis of life expectancy, value of pay outs over a period of time, people of that kind.

MR. D. ORCHARD: Okay, so it's going to be based upon - let's call it, I'm searching for a word, but - expertise in, for instance, the insurance industry would provide an opinion as to what a future value might be on an asset under discussion, nonmarketable asset. But am I not clear on the understanding that it would still be the court that would make the decision as to whose opinion represented the closest consensus as to the valuation?

HON. R. PENNER: Yes, that is correct and, of course, that is what happens almost daily in the administration of justice. In civil actions, there's, let us say, the collapse of a crane and damage suffered by a contractor and engineers are called by the plaintiff and engineers are called by the defendant.

Similarly, the question of medical malpractice. Doctors are called by the plaintiff, doctors are called by the defendant and ultimately it is for the court, weighing that evidence, to come to a conclusion as to which evidence is preferred. But the court has before it expert evidence and the court is not in a sense coming to a conclusion based on the court's own gut reaction or how the judge felt that day getting out of bed.

MR. D. ORCHARD: Okay, I understand what the Attorney-General is saying, but I don't make the connection as to the necessity to remove the words "a

court deems" because it is going to be the court which deems an opinion basis evidence presented theoretically, pro and con, on the situation. It's still going to require a court decision deemed on the evidence, is it not?

HON. R. PENNER: There is a difference, although I would agree with the Member for Pembina that it's not a difference of that significance. The difference is that we're referring here to the means, that is, the kind of evidence which is adduced and not referring to simply preferring one opinion over another. It appears to get at the requirement that the means used by the court, the judge, in coming to conclusion, should be those which are appropriate for assets of that nature. That is important, for this reason, that it forms part of a record. If the matter goes up to the Court of Appeal or to the Supreme Court where the Court would look at the record and at the Act and say, well, the Act says that the evidence must be appropriate for assets of that nature. Here it's clear. Let us say, that the judge took into account irrelevant, in that sense, material, that would be an error in law and might be grounds for reversal if the judge strayed from the rather narrow path which is being suggested here.

MR. D. ORCHARD: Well —(Interjection)— no, no. You'll pardon me once again in that I don't appreciate the subtleties of the law, but surely in a court action in which one of the moot points is the valuation of a nonmarketable asset, would it not be fair to assume that both sides of the issue are going to assure that they have presented the most expert witness available to prove their point? I believe that's just a normal trial action by both sides in the issue and it would still leave the court in a position to deem which side presented the most logical, I would assume, evidence in the question of valuation. I don't know whether this amendment, which seems quite simple, changes the requirement to any great extent. It's still going to have to be the courts that make the determination, theoretically, the judge that's going to make the final determination. I don't think the Attorney-General has really justified the reason why you need "is" rather than "a court deems," because it's going to end up being the court deeming anyway, is it not?

HON. R. PENNER: Let me use a real example to illustrate the point and it's taken from another area of the law, but it's analogous. When someone is charged criminally with the sale of obscene materials, the question of whether or not the materials are obscene has to be judged according to the wording of the Criminal Code by community standards or that's how the Criminal Code has been interpreted. That has been decided by the Supreme Court of Canada as a mean community standards of tolerance. The question arises, how is the judge to know what the community standards of tolerance are?

It's been further decided that a judge may receive expert evidence and so you would sometimes get, difficult as it is, expert evidence as to what are the community standards of tolerance which obviously change from time to time. Things are sold nowadays which would not have been tolerated 25 years ago, 50 years ago and so on.

Now, what has been further decided in that particular case - and here I'm coming to the point - is that a judge can't ignore that evidence, that he may receive expert evidence —(Interjection)— he can't ignore it; that the judge can in a sense say, well, I know in my gut whether or not this is a dirty book and I don't care about these accidents. That happens to be the law, for good or for bad or ill, in this area.

These words would prevent a judge saying, well, I've heard the experts and I don't give a damn about the experts; I say it's worth this much. I'm putting it rather crudely, but that's what this is designed to prevent.

MR. CHAIRMAN: Mr. Orchard.

MR. D. ORCHARD: Well, accepting that explanation, how do you accomplish that by simply saying "is appropriate," because when the question is before the judge, he's going to be the one who makes the decision as to which side made the most appropriate case, basis evidence given.

HON. R. PENNER: The Member for Pembina seems not to have understood what I have said. The judge receives evidence and the evidence by the very nature of the asset with which we're dealing, whether it's nonmarketable and you're looking at future contingent rights, there has to be - and the Member for Pembina has acknowledged this - expert evidence.

Now, it is true that if there are experts that differ, the judge will prefer one over the other. That's okay; that's not precluded by this. All that is precluded by this is the judge saying, I'm not listening to either expert. You know, it's like the story of the civil jury in an action in New York who were out for 10 hours, then came back and were asked by the judge whether they had arrived at a verdict and the foreman of the jury said you know what, Judge, we decided not to mix in. The judge can't say, well, I'm ignoring all of that; I'll tell you what my opinion is. The judge will have to deal with evidence which is objectively appropriate for assets of that nature.

That forms part, you see, Mr. Chairman, of the trial record and when it goes up to the Court of Appeal, the Court of Appeal sees in written form what evidence was offered and then reads the reasons for judgment. If in the reasons for judgment it is clear that the judge chose to not prefer one over the other, that would not be grounds for appeal, but ignored opinion evidence altogether and preferred his own gut reaction, that would be reversible error.

MR. D. ORCHARD: I think I'm coming around to what the Attorney-General is saying. In other words, this amendment is going to disallow - and let's take a very simplified example - where one person produces expert witness that says there is no valuation of a nonmarketable asset, there's no value to it, the judge can say I accept that testimony. The other side of the case comes in, says there is a great value to this and he can refuse to accept that evidence. Is that the nub of it? This prevents him from refusing the other side of the case evidence towards proof of value? If he so desired, if his gut feeling was from square one that there is no value, he can accept the testimony that

there is no value and not accept the testimony that there is value as the amendment is now written, but with your amendment, he cannot do that. He has to hear both sides. Is that what you're saying?

HON. R. PENNER: Well, he has to hear both sides and let us take your example, if I understood it correctly and I think I did. If two experts and one expert says that this asset not only has no market value, but it will never have a value, in that case the asset is precluded or excluded by Section 8.1; it's already dealt with. So, that's already covered in the statute, in the bill. Only really looking at that case in which it's agreed there's no present market value; there's a future value, but there's a difference of opinion as to what that future value is, as there may well be - actuarial science is still like any other science, soft at the edges - in which case, the judge will have to prefer one opinion over the other.

All this precludes is the judge saying, I'm not going to listen to any of that evidence; I'll tell you what I think.

MR. CHAIRMAN: Mr. Graham.

MR. H. GRAHAM: Am I correct then in the interpretation given by the Attorney-General that if there are two experts giving evidence and one says this is worth \$50,000 and the other one says no, it's only worth 25, then the judge cannot take a halfway position between; he must accept one or the other?

HON. R. PENNER: Not necessarily. Evidence usually by its nature, particularly evidence of this kind, is a little more complex. The judge can say, okay, I've heard the expert evidence. Expert "A" told me this and I think that's right. It was convincing, it was upheld and it stood up under cross-examination, but part of what he said did not withstand cross-examination; I'm not accepting that. With respect to expert "B" called by the defendant, part of what that expert said, I do not accept; part I do. Now, taking these two opinions, part of one opinion and part of the other, I come not to 50, not to 25; I come to \$37,500.00. A judge can do that.

MR. CHAIRMAN: Any further debate?
Mr. Orchard.

MR. D. ORCHARD: Basically then, if I can sum up in layman's terms what this amendment . . .

HON. R. PENNER: I am explaining in layman's terms.

MR. D. ORCHARD: . . . Yes, I know, but I have difficulty with lawyer's layman's terms; not yours, just lawyer's layman's terms. But the amendment is going to require the courts to listen to both sides of an argument and base his decision on whichever side presented the best argument. It's still going to be a decision made by the judge as to which opinion he happens to agree with, but he must listen as admissible evidence to both sides.

HON. R. PENNER: Yes.

MR. CHAIRMAN: Mr. Lecuyer.

MR. G. LECUYER: I'm just wondering if the word that should be there is "is" or whether it should be "are." By such other means or basis . . .

HON. R. PENNER: No, "is."

MR. G. LECUYER: Or by such other means as "is" . . .

HON. R. PENNER: Yes.

MR. G. LECUYER: . . . or as "are" appropriate?

HON. R. PENNER: No, means is a collective noun.

MR. G. LECUYER: Yes, means is a collective noun, but is basis as well?

HON. R. PENNER: The proper word is "is."

MR. G. LECUYER: Okay.

MR. CHAIRMAN: Any further debate?
Mr. Penner.

HON. R. PENNER: If I could refer to a decision in the Supreme Court on that very word.

MR. CHAIRMAN: The proposed amendment—pass.
Clause 5, as amended—pass; Clause 6—pass; Page 3, as printed—pass; Preamble—pass; Title—pass. Bill be reported.
Next bill, any preferences?

HON. R. PENNER: The Human Rights Act.

BILL NO. 26 - THE HUMAN RIGHTS ACT

MR. CHAIRMAN: Bill 26, An Act to amend the Human Rights Act.

HON. R. PENNER: I think there are some amendments here.

MR. CHAIRMAN: There are some amendments which are being circulated.
Mr. Penner.

HON. R. PENNER: Again, perhaps we can go clause-by-clause to begin with.

MR. CHAIRMAN: Clause-by-clause. Clause 1—pass; Clause 2—pass.
Clause 3 - Mr. Penner.

HON. R. PENNER: The amendment is under Section 6.

MR. CHAIRMAN: (Clauses 3 to 5 were each read and passed.)
Clause 6, section-by-section, 3(1)—pass; 3(2)—pass.
3(3) - Mr. Scott.

MR. D. SCOTT: Mr. Chairman, I would move:
THAT the proposed Subsection 3(3) of The Human

Rights Act, as set out in Section 6 of Bill 26, be amended

(a) by striking out the words "school district" in the 6th line thereof and substituting therefor the words "educational institution"; and

(b) by striking out the words "agent or servant" in the last line thereof and substituting therefor the words "agents or servants."

MR. CHAIRMAN: Any debate on the proposed motion? Pass.

3(3), as amended—pass; 3(4)—pass. (Section 6, Clauses 6 to 13 were each read and passed.)

Clause 14 - Mr. Penner.

HON. R. PENNER: With respect to Clause 14, there's an amendment to 6(6).

MR. CHAIRMAN: Mr. Scott.

MR. D. SCOTT: I move:

THAT the proposed new Subsection 6(6) to The Human Rights Act, as set out in Section 14 of Bill 21, be amended by adding thereto immediately after the word "sex" in the 2nd line thereof, the word "age."

MR. CHAIRMAN: Mr. Penner.

HON. R. PENNER: Yes, this was just a drafting error. The printer dropped it off the edge of the page and we're picking it back on. We didn't have time to have it typewritten and circulated.

MR. CHAIRMAN: Any debate on the amendment?
Section 6(6), as amended—pass. (Clauses 14 to 20 were each read and passed.)
Clause 21 - Mr. Scott.

MR. D. SCOTT: Are we going to take the first one first, 7.1(1), because this deals with 7.1(2), does it not?

HON. R. PENNER: That's the only one we've got.

MR. D. SCOTT: We've got two here.

MR. CHAIRMAN: We'll do this section-by-section.
7.1(1)—pass.
7.1(2) - Mr. Scott.

MR. D. SCOTT: Mr. Chairman, I move:

THAT the proposed section 7.1(2) of The Human Rights Act, as set out in Section 21 of Bill 26, be amended by striking out the word "customarily" in the 2nd last line thereof.

MR. CHAIRMAN: Any debate on that motion? Pass.
Section 7.1(2), as amended—pass. (Clauses 21 to 23 were each read and passed.) Clause 24, section-by-section, 28(3)—pass; 28(4)(a)—pass; 28(4)(b)—pass.
28(4)(c) - Mr. Scott.

MR. D. SCOTT: Mr. Chairman, I move:

THAT the proposed Clause 28(4)(c) of The Human Rights Act, as set out in Section 24 of Bill 26, be amended by striking out the words "is not" in the 3rd

line thereof and substituting therefor the word "form."

MR. CHAIRMAN: Any debate on that motion?
Mr. Penner.

HON. R. PENNER: I'll just explain again that, obviously, the only evidence that the Court of Queen's Bench should receive is that which forms part of the record and not evidence which didn't form part of the record. I did just a minor change.

MR. CHAIRMAN: Any debate or objections?

HON. R. PENNER: I may say that this was brought to our attention by the Chief Judge of the Court of Queen's Bench.

MR. CHAIRMAN: Motion passes. Amendment pass. Section 28(4)(c), as amended—pass; 28(4)—pass; 28(5)—pass. (Clauses 24 to 27 were each read and passed.) Preamble—pass; Title—pass. Bill be reported.

BILL NO. 28 - AN ACT TO AMEND VARIOUS ACTS RELATING TO COURTS OF THE PROVINCE

MR. CHAIRMAN: Bill 28. Any preferences on how to proceed?
Mr. Penner.

HON. R. PENNER: Page-by-page.

MR. CHAIRMAN: Page-by-page. Are there any amendments proposed to this?
Mr. Filmon.

MR. G. FILMON: Page-by-page.

MR. CHAIRMAN: (Pages 1 to 4 were each read and passed.) Preamble—pass; Title—pass. Bill be reported.

Next bill, any preferences? I believe you want to skip No. 36. Is that right? We have 36, 47 and 43 to go.
Mr. Filmon.

MR. G. FILMON: Apparently, we've learned there will be a presentation by the Manitoba Association of School Trustees and so we've agreed to delay consideration, because they were just notified about a half an hour ago.

MR. CHAIRMAN: Mr. Penner.

HON. R. PENNER: We're holding on 43.

BILL NO. 47 - AN ACT TO AMEND THE FISHERIES ACT

HON. R. PENNER: Is there anything that requires the presence of the Minister on Bill No. 47? Why don't we do 47? Nothing fishy there.

MR. CHAIRMAN: Bill 47. Clause-by-clause or page-by-page? Page 1—pass; Preamble—pass; Title—pass. Bill be reported.

The Minister of Highways will be here shortly. Did you have any proposed amendments on this?

MR. D. ORCHARD: Proposed amendment to Section 8 of the bill. I have an amendment for Section 8 of the bill. —(Interjection)— Yes, we can wait until we get there. I don't want to confuse you, John, it's too early in the morning.

MR. CHAIRMAN: The Minister has an amendment proposed for Section 6.
Mr. Orchard.

MR. D. ORCHARD: I'll tell you what we can do then, to speed this committee on in the orderly friendly manner that we have been operating this House for the last four months, how be we move a couple of —(Interjection)— the Member for Radisson thought that was a humorous comment. But, Mr. Chairman, I would suggest we could move to, I believe, a number of sections that are relatively straightforward. The first one —(Interjection)— okay.

MR. CHAIRMAN: Bill 36. Order please.
Mr. Graham.

MR. H. GRAHAM: No, that was facetious.

MR. D. ORCHARD: Since we enjoy this conversation that we have around the table, why don't we just have a five-minute recess and wait for the Minister to get here.

MR. CHAIRMAN: Is that agreed?

MR. D. ORCHARD: Can we deal with any of the bill, Mr. Chairman?

MR. CHAIRMAN: Agreed, we'll recess for five minutes until the Minister gets here.

MR. D. ORCHARD: No longer then.

MR. CHAIRMAN: No more than five minutes.

MR. D. ORCHARD: Thank you, Mr. Chairman.

BILL NO. 36 - AN ACT TO AMEND THE HIGHWAY TRAFFIC ACT

MR. CHAIRMAN: Order please, the Minister is here. We can proceed with consideration of Bill No. 36. Shall we proceed clause-by-clause? (Agreed)
Clause No. 1 - Mr. Orchard.

MR. D. ORCHARD: I just have a general question on probably most of these clauses. To the Minister, this is just to provide more visibility to volunteer fire department vehicles - where before they had that permanently attached light on the fender, now they can go to a roof mount for temporary circumstances.

MR. CHAIRMAN: Mr. Uskiw.

HON. S. USKIW: I'm sorry, I didn't hear the question, Mr. Chairman.

MR. D. ORCHARD: This is simply a convenience amendment, call it that, to allow more visibility to private cars used by volunteer fire departments to allow more visibility via a roof mount signal?

HON. S. USKIW: That's right, Mr. Chairman, yes.

MR. CHAIRMAN: Clause 1—pass.
Clause 2 - Mr. Orchard.

MR. D. ORCHARD: Clause 2, Mr. Chairman, where you're deleting "and shall not be carried on a motor vehicle that is driven on a highway," you ran into some problems. I assume that from time to time vehicles will be piggybacked on a properly licensed vehicle and the piggyback vehicle does not have a licence, that's the only thing you're trying to get around, isn't it?

HON. S. USKIW: Mr. Chairman, slide-in campers, provisions for them, some years ago were repealed and this is an area that was overlooked at that time and it's merely correcting that situation. It has to do with slide-in campers.

MR. D. ORCHARD: Okay, very good, thank you.

MR. CHAIRMAN: Clause 2—pass.
Clause 3 - Mr. Orchard.

MR. D. ORCHARD: Mr. Chairman, to the Minister, this simply allows the collection of a reassessed fee based on understated, shall we say, pro-rate mileage incurred by a CAVR registered vehicle in the province.

HON. S. USKIW: Yes, this is the sort of accounting system based on the amount of usage per province or interprovincially on the reciprocal agreement.

MR. D. ORCHARD: Are all other member provinces bringing in similar amendments?

HON. S. USKIW: All of the provinces are now involved in that arrangement.

MR. D. ORCHARD: And are bringing in similar amendments?

HON. S. USKIW: Yes, Mr. Chairman, I'm led to believe that's the case.

MR. CHAIRMAN: Clause 3—pass.
Clause 4 - Mr. Orchard.

MR. D. ORCHARD: The provisions here, Mr. Chairman, I presume, are at the request of the trucking industry to avoid some fairly substantial red tape to get a temporary authority to haul increased weights.

HON. S. USKIW: Well, Mr. Chairman, not only to make it more convenient for the industry but also to reduce the costs of providing that service, the cost which the public is bearing.

MR. CHAIRMAN: Clause 4—pass.
Clause 5 - Mr. Orchard.

MR. D. ORCHARD: Yes, Mr. Chairman, could the Minister further explain why he's removing the six-month requirement that's presently in the Act?

HON. S. USKIW: Well, Mr. Chairman, six months is an arbitrary figure, as I recall the decision when it was made, and this merely allows us to indicate a time definite that is quite precise in that sense.

MR. D. ORCHARD: This allows, when it eliminates the six months, the Registrar to say that, for instance, in an extreme case that tomorrow you must provide medical evidence.

HON. S. USKIW: Mr. Chairman, this provision will allow us a medical review to provide for a shorter term than six months or even a longer term. It gives us that flexibility based on the medical report.

MR. D. ORCHARD: Why do you need that kind of flexibility?

HON. S. USKIW: You have to prescribe, Mr. Chairman, a period of time by which a person must provide a medical report.

MR. D. ORCHARD: That is already in the Act and what you're doing is removing that in allowing the Registrar to be the sole determinant of how much time you allow. The need for that hasn't been adequately justified to date.

HON. S. USKIW: Mr. Chairman, it depends on the medical report. If the medical report is such that warrants a closer examination, it could be in the public interest that we would want to monitor a situation, a person or persons that has an acute medical problem and, if necessary, take the person off the road much quicker than allowing that person to continue on for a six-month period.

MR. D. ORCHARD: If it's the desire to establish a shorter time limit to take a person off the road in a shorter period of time, as the Minister indicates, has there been identifiable cases where a person should have been removed and by not being removed within that six-month present requirement in the Act that during that six-month period he was the cause of an accident because of his medical disabilities?

HON. S. USKIW: Mr. Chairman, we don't have any information here that would give an example as to where an accident or something has resulted out of not having a requirement for a shorter report situation, but logically the Registrar advises that the choices we now have are to suspend immediately or have the six-month provision invoked. In either case, it may not be the proper procedure. There may be a middle ground based on the medical opinion or evidence that the Registrar has, so that, in effect, this will allow us the discretion so that we don't have to make those hard choices which indeed from time to time do inconvenience the driver or the applicant.

MR. D. ORCHARD: That puts a great deal of discretionary power in the hands of the Registrar and I don't

have a particular problem with the current Registrar, but as we learned in the Estimates, he may not be the Registrar for instance, next year. I have some serious reservations where you can substantiate a documented case that failure to remove a driver from his driving privileges within that currently allowed six-month period that he was a hazard on the road and indeed contributed to an accident. Without that kind of back-up information and proof of necessity for this amendment, I question why the amendment is being brought in.

HON. S. USKIW: Well, Mr. Chairman, the intent here is that if a person is suspended for reasons of what is in the file, is on the medical report, and that for some reason ought to be challenged or the driver feels it should be challenged, the driver has access to the Medical Review Committee in that kind of a situation.

MR. CHAIRMAN: Mr. Penner.

HON. R. PENNER: Just perhaps to clarify the point or at least I hope. As the Act presently reads, 26(2) allows that the Registrar without hearing, by order, to suspend the licence or permit immediately and that's pretty severe; otherwise, then he can or she can wait six months if they decide not to suspend immediately, then the person who is suspect has a six-month period. It may be that the Registrar has some reasonable doubt and says, well, it's a little severe to suspend right now, but on the other hand, it might be a little risky to wait six months for the report. That's what this gets at.

HON. S. USKIW: That's right.

MR. CHAIRMAN: Mr. Orchard.

MR. D. ORCHARD: No, I appreciate what it gets at, but as the Minister has pointed out, the provision is there now to suspend immediately . . .

HON. S. USKIW: Or six months notice.

MR. D. ORCHARD: . . . and failing that, a medical report has to be submitted within six months to prove that the medical problem does not endanger the driving public by having this individual on the road. If the immediate suspension is triggered, the driver has access to the Medical Review Committee to make a determination as to whether that immediate suspension is necessary. I think the current Act provides the kinds of discretion that this amendment is attempting to do. My reservation on the amendment is that you do put a lot of discretionary powers in the hands of the Registrar.

I'll give you an example. Let's say that there is a person who is an identified alcoholic and he has enrolled in Alcoholics Anonymous, that program takes some several months before a doctor will certify that the person is a reformed alcoholic and, therefore, would not endanger the driving public by being granted a licence. A Registrar could at his discretion put him off the road within two months, if he set the time, when the cure takes six months and that kind of discretion —(Interjection)— no, I don't believe it is

good —(Interjection)— no, no. The alcoholic, if he's a severe alcoholic, can be suspended right now. The decision is to suspend him right now or to give him six months while he's enrolled in A.A., but the same individual could come to the Registrar and say I'm enrolled in A.A. The Registrar could give him two months to prove his cure which is impossible. I don't think anybody would certify that an alcoholic is cured after two months and at the end of two months put him off the road. That discretion could be exercised unevenly by a Registrar, if he so desired, whereas now it's rather clear what options a driver has. I again revert back to the situation where it hasn't been demonstrated where this six-month provision has caused unsafe drivers to be on the road. In lack of that kind of evidence, where there's a danger to the public with the present legislation, I feel to see the necessity of the amendment.

HON. R. PENNER: Well, you have two ends of the spectrum now; you have zip - off the road or six months. All this is saying is life is more complex than that. —(Interjection)— It could be in between. It's true you have the right to go to the Medical Review Committee, but by its very nature, it could take six months before you would use evidence before a Medical Review Committee, get it to convene and give its opinion. It just adds flexibility. In fact, the kind of discretion about which the Member for Pembina is concerned - I think we should always be concerned about unfettered discretion - is already contained in a sense in 26(2) and this softens, if you will, or makes it less necessary for the Registrar to exercise discretion in that way, that is, by immediate suspension.

MR. D. ORCHARD: I won't prolong the argument because it would seem as if the government is intent on this amendment, but the way the Act reads now is that the discretion is already there for an immediate suspension with an appeal to the Medical Review Committee. But if the Registrar does not exercise that suspension immediately, that driver now has six months in which he can cure, for instance, an alcoholic condition. Whereas, with this amendment, for personal reasons - personal reasons could enter into a discretionary power granted to the Registrar in this amendment - could say that you only have two months. Then the person is disqualified from driving, then he has to go to the Medical Review Committee and it may, as the Attorney-General said, take six months to hear that. He could be off the road for eight months whereas a six-month provision, as is now contained in the Act, could well be adequate to prove his cure of an alcoholic condition. It's the discretionary powers which always are subject to this kind of concern when amendments are passed like this.

MR. CHAIRMAN: Mr. Uskiw.

HON. S. USKIW: Mr. Chairman, a person, as described by the Member for Pembina, being an alcoholic is suspended indefinitely to begin with if it's known that the person is an alcoholic or it's reported voluntarily or otherwise. There's an indefinite suspension that takes place. If the person is being rehabilitated, this provision will allow for something to happen

within the period within which there is evidence produced that the person indeed has rehabilitated himself. It could be two months, it could be three, it doesn't have to be six, whatever the case may be; it rests on its own merits. The provision here merely provides for flexibility so that we're not stuck with an either/or situation where something in between is probably more reasonable and acceptable to all parties. It's moving in the direction of concern for the citizen. It's not more punitive, it's less punitive, if you like.

MR. CHAIRMAN: Clause 5 - Mr. Graham.

MR. H. GRAHAM: Mr. Chairman, whenever there is discretionary power given and it becomes flexible, as I recall several years of activity as an MLA, then it gets to the point of it isn't what the law is, it depends on who you know and how much pressure you can put to bear on the Registrar. I think we're opening a can of worms where the Minister may be inundated with personal requests to intercede on behalf of Joe, John, Bill, etc., to alter a suspension that has been put in place by the Registrar. I see trouble in putting that flexibility in there.

MR. CHAIRMAN: Mr. Penner.

HON. R. PENNER: We always seem to get these domino theories, you know, loosen the gates and the flood tides are going to - take a look at the situation. Jones has been an accident-free driver all of his life, doesn't drink a drop, he's as sober as Harry Graham, maybe soberer, and he's involved in a little sideswipe. You are involved in a little sideswipe, right? The policeman is on the spot and he says, "What happened, Jones?" He said, "I had this momentary dizzy spell." Oh, oh, it gets reported through the channel and the Registrar says, "Jones, I want to talk to you." So we've got Jones and the Registrar. "What's up, Jones?" "Well, I had this little dizzy spell." The Registrar says, "I've got to suspend you." "Oh, for Christ's sake, you know, I've got an appointment with my doctor two weeks from now, that's the earliest appointment I have and I'm going to find out what it's all about" - or a month from now. Why shouldn't the Registrar be able to say, "Well, okay, I am concerned, I'll give you that month but that's it. I want a report in a month, otherwise, I've got to suspend you." Why shouldn't the Registrar be able to do it? It's common sense. Why do we have to have all these arguments about the judicial system and discretion and what MLAs do? It's common sense, that's all it is.

We should try to make the law more common sense than it is and not balk at attempts to do that. The law is often described, rightly so, as an ass. Let's make it conform to our experience with reality. Why do we have to invent hypotheticals that, you know, bear no relation to reality?

MR. CHAIRMAN: Mr. Orchard.

MR. D. ORCHARD: Mr. Chairman, the hypothetical that we're developing here was adequately described by my colleague, Harry Graham, wherein he said that, under discretion, the Minister can be phoned by a

constituent saying —(Interjection)— right, and the Registrar is subject to advice from his Minister.

HON. R. PENNER: Oh, boy, if that happened, the Minister is out, you know that. No Minister can interfere with . . .

MR. CHAIRMAN: Order please. The discussion is losing direction.
Mr. Orchard.

MR. D. ORCHARD: The Registrar could be asked to reconsider a two-month extension of driving privileges pending a medical review to extend it to 10 months and that's the kind of discretion which the Act currently doesn't contain and will now contain. Whether one wants to sidestep the issue or not, this provision allows that to happen.

HON. R. PENNER: I don't want to prolong it, but if you imagine that's what is going to happen, that somehow or other the Minister is going to stick his short or long neck out, as the case may be short, and get himself involved by trying to interfere with what is a judicial decision, he can do that now. He can say six months rather than immediate suspension or immediate suspension rather than six months. He can do that now.

MR. CHAIRMAN: Clause 5—pass.
Clause 6 - Mr. Orchard.

MR. D. ORCHARD: I thought there was an amendment to this, Mr. Chairman? Clause 6. Mr. Chairman, in my remarks to this bill I posed the question to the Minister as to, No. 1, what kind of an advertising or awareness campaign that he would intend to undertake to make the driving public aware of this new legislated requirement, which I don't have any difficulty with; and secondly, how actively the Minister would envision the enforcement of this amendment?

MR. CHAIRMAN: Mr. Uskiw.

HON. S. USKIW: I would want to advise the committee that this section doesn't come into effect other than by proclamation, so that we are providing ourselves with time to do some publicity on this new provision and it is our intent to, indeed, widely publicize this provision.

The question of how to enforce it, I would think that things will take their course, so to speak, in that where there is an accident involving that particular time of day, either morning or evening, and it is determined in the report that the lights should have been on and weren't on, that will in itself determine whether or not a person should be charged for violating this section. Now I suspect that, notwithstanding that, the police will likely be wanting to warn people that they ought to have their lights on during that period of time as part of an information approach to the new requirement. Just how severely they would want to impose the new section, you know, it's a difficult area because a half-hour before sunset and a half-hour after sunrise is a judgmental thing. An accident report, for example, would probably determine how the judicial system will look at it, how the courts will look at it and of

course, presumably, there will be some benefit from the application of this section.

MR. CHAIRMAN: Mr. Filmon.

MR. G. FILMON: Mr. Chairman, I know and understand what the Minister is attempting to accomplish here but it seems to me that given the fact that the time of sunset and sunrise, during the course of a 12-month year, varies about five hours. It's almost impossible for a person to keep any track of when that time is in his mind. It just seems to me to be a very very difficult thing to try and enforce.

MR. CHAIRMAN: Mr. Uskiw.

HON. S. USKIW: The present requirement is that the lights must be on after sunset and the time of sunset is not determined either, so we do have a problem at the present time, depending on whether you have a cloudy day or a clear day. If you have a cloudy day it's pretty hard to determine whether the sun has set or it hasn't, so it's the same grey area and, hopefully, common sense in the enforcement end is going to prevail.

MR. G. FILMON: Given the indeterminacy of the situation, one might just as well term it, when there is sufficient visibility.

MR. CHAIRMAN: Mr. Penner.

HON. R. PENNER: Sufficient light to render . . . discernible, a person on a highway, at a distance of 60 metres ahead - incidentally, I notice that the previous government went metric in The Highway Traffic Act, which I think was not a bad move, but in any event that's neither here nor there. One can envision the same kind of difficulty when you stop this car and you say to your passenger, "Would you mind going 60 metres ahead, I want to see if I can see?" It doesn't matter which way you go you've got a problem.

MR. CHAIRMAN: Mr. Orchard.

MR. D. ORCHARD: Would the Minister envision an accident happening 15 minutes before sundown wherein the one person involved in the accident didn't have his lights on? Would the Minister envision that as sufficient grounds, if the driver were charged for violating this section, to cancel one's insurance?

MR. CHAIRMAN: Mr. Uskiw.

HON. S. USKIW: Mr. Chairman, I would imagine that the due process of law will take its course here and where the court has determined that a person was in violation, based on the evidence at the time, that will be a matter of record. I don't believe it's going to be up to us to determine that; I think that will be determined by a judge after he or she has heard the evidence.

MR. CHAIRMAN: Mr. Storie.

MR. J. STORIE: I'm not sure why the continued discussion. It seems a matter of common sense. Under

the provisions, as they are in the Act now, someone can be driving after sunset in the dark with their lights off and they say oh, is it after sunset. This is just a clear indication to the public that it is a safe driving practice to turn your lights on before sunset and to leave them on. Of course, it's going to vary and there's going to be a lot of discretion on the part of . . .

MR. CHAIRMAN: Any further discussions?
Mr. Orchard.

MR. D. ORCHARD: Just in summary, I know the Minister has exempted this section of the Act for proclamation at a later date. I would urge him to assure public awareness of this amendment before he proclaims it because - I don't want to get into the personal discretion thing again - but a police officer could use this to ticket a youthful driver that he's been waiting to nab for some offence for some time. Public awareness and discretionary enforcement is going to be key to the successful bringing in of this safety amendment.

MR. CHAIRMAN: Mr. Uskiw.

HON. S. USKIW: Mr. Chairman, I did indicate that it is our intent to publicize the new provisions prior to proclamation; and secondly, the normal arrangements with the enforcement people are that they tend not to come down hard on Day One in any event, that we try to phase it in over a period of time. After six months or so, then of course I would expect that there would be some measure of enforcement.

MR. CHAIRMAN: Mr. Hyde.

MR. L. HYDE: Yes, Mr. Chairman, this particular section, I just don't quite understand why it's even given any consideration because what point is there in including in this bill something that cannot be enforced? We've all driven in snowstorms; we've all driven in duststorms, I'm sure, when visibility has been almost nil if not nil and this particular clause, I don't think should be given consideration.

HON. S. USKIW: Mr. Chairman, I've already explained that the existing provision is also as indefinite as the proposed provision, but there is a positive intent with the proposed position. It's part of an educational program and that is that it's safer to have lights on during those two periods of our day, sunrise and sunset, or just prior to, because that is the most difficult period to see things on the highway because of the way in which the lighting during that part of the day is. It's clear that once it's dark that lights help. It's not always so obvious in that semi-dark situation that lights ought to be on and this merely says that they should be on. You're better to err on the side of having them on in the daylight rather than to err on the side of having them on in the darkness and that's all this is suggesting.

MR. L. HYDE: Mr. Chairman, to the Minister then, can you see yourself enforcing this law?

HON. S. USKIW: Well, Mr. Chairman, I believe that if we have a number of accidents wherein this question

comes into play, that in itself will be a very major enforcer of this provision, where someone has been charged under this section pursuant to a mishap. Over a course of time, I think the public will become educated to the value of doing precisely this, so that we can avoid or reduce accidents. It will have that value, Mr. Chairman. It will take some time.

MR. L. HYDE: Mr. Chairman, I can see the value in it all, but I think that we would certainly have to increase our police force considerably in order to see that this is enforced.

HON. S. USKIW: Mr. Chairman, there is no intention here to harass the public with respect to these new provisions. It's an educational thrust, by and large. There obviously will be situations where it's going to impact legally where there is a dispute or where there is an accident and so on, and that will be self-revealing and hopefully educational.

MR. CHAIRMAN: Mr. Filmon.

MR. G. FILMON: It appears to me, Mr. Chairman, that the difficulty members are having, and I can understand it, is that it may well be somebody gets into an accident 29 minutes after sunrise or 29 minutes before sunset and the visibility is absolutely perfect. There is a concern that somebody ought not to be charged or lose some privileges because of not complying with the letter of a particular law that maybe doesn't make sense in practice.

This is just off the top of my head and so you can take it for what it's worth. There are light sensitive, photo-electric cells that come on subject to the visibility. The amount of light triggers them on. I have lights in my yard that do that. It may well be that what needs to be done is to attach one of these periodically to all the road signs on the highways and the public will know then that when the lights come on, their lights have to come on. You could be a landmark in North America or in the world for this kind of thing.

I'm a great believer in the ability of science to solve things that the law cannot solve, so perhaps the Minister can take that.

HON. S. USKIW: Well, Mr. Chairman, I found out a couple of years ago when I purchased a car that my car had greater wisdom than I did with respect to when to put the lights on, since they were automatic lights as part of the package. So maybe that's the ultimate route, but in the meantime I don't believe we are doing anyone any harm with this provision.

MR. CHAIRMAN: Mr. Graham.

MR. H. GRAHAM: Thank you, Mr. Chairman,

MR. CHAIRMAN: Order please.

MR. H. GRAHAM: I've listened to the argument put forward by several and quite frankly, I don't really care whether it's a half-hour before or a half-hour, after but there does seem to be some concern about whether a person will be penalized. It might be interesting to know. Is the penalty spelled out in the Act or is that

entirely at the court's discretion, or is it in regulation?

HON. S. USKIW: No, it's the general penalty section, Mr. Chairman, that applies.

MR. H. GRAHAM: Perhaps the Minister could tell us what an appropriate penalty would be if a person was charged under this.

HON. S. USKIW: Mr. Chairman, there is no minimum under the general section and the maximum penalty is \$200.00.

MR. CHAIRMAN: Mr. Storie.

MR. J. STORIE: I'm interested that the Opposition is asking for flexibility with respect to this clause and didn't want flexibility with respect to Clause No. 5.

In response to Mr. Filmon's suggestion, I think it's a good one. There's only one problem, that if you put the reflectors or these light sensitive indicators on road signs, you might be caught at that exact minute in-between road signs. You went past one, it wasn't on; you were caught in the middle, it was on and . . .

MR. CHAIRMAN: Clause No. 6. Any further debate? Pass.

Clause No. 7 - Mr. Graham.

MR. H. GRAHAM: Mr. Chairman, when we're dealing with Clause No. 7, I want to go down to 36(4)(b), "Casting a red flashing light; and the lamp shall be affixed to the roof." I wonder if the Minister has considered being somewhat consistent with other jurisdictions in this particular respect, where quite often the red flashing lamp is mounted on the dash within the car and that does not cause any permanent disfigurement to the vehicle, which is a private vehicle, and whether the Minister had given consideration to having a lamp that could be mounted on the dash as, I know, occurs in other jurisdictions.

MR. CHAIRMAN: Mr. Uskiw.

HON. S. USKIW: Mr. Chairman, this provision does not require that these lights be permanently mounted. They can be mounted by magnetic mechanisms.

MR. H. GRAHAM: Yes, but in order to do that it has to be a battery operated one or else you're going to have permanent disfigurement to the vehicle in getting the wiring to it.

HON. S. USKIW: I concur, Mr. Chairman, with that observation.

MR. H. GRAHAM: I was just wondering if the Minister would consider removing the words "affixed to the roof," or does it cause him any serious problems?

HON. S. USKIW: Mr. Chairman, the volunteer fire fighters have requested that we have a provision that provides for maximum visibility of the flashing lights and the maximum visibility obviously must be on top of the car as opposed to the side of the car or on the fender or in the car. This is based on their representa-

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tions to us.

MR. H. GRAHAM: That's all. No, I just wondered if we'd give consideration to the other one.

MR. CHAIRMAN: Clause 7—pass.
Clause 8 - Mr. Orchard.

MR. D. ORCHARD: Mr. Chairman, I have an amendment for this, which adds another section, and basically the amendment allows - okay, the way this 39(6) is written is that regulations could be drafted specifying the type of air brake system which a vehicle should be equipped with.

It's my understanding that over the past, oh, 15 years even, there have been four successive changes to air brake systems. There is a spring lock-in system that has come in about eight years ago, which mechanically applied brakes when air pressure went down on a parked vehicle, and there have been requirements to have increased size of air reservoirs on air brake systems on particularly the last two or three years of manufacture.

My concern was that the regulations could be drafted in such a way that all trucks would have to comply to the most recent standard which would require retrofitting of air brake systems to, say, a perfectly serviceable 15-year old truck at considerable expense to the owner and sufficient expense to the owner that it would effectively put him off the road.

I would propose this amendment:

THAT Section 39 of The Highway Traffic Act, as amended by Section 8 of Bill 36, be further amended by adding thereto immediately after the proposed new subsection (6) thereof as set out in Section 8 of Bill 36, the following subsection:

Exception for older vehicles.

39(7) A standard for air brake systems prescribed under Subsection (6), except to the extent that it requires air brakes systems to be maintained in good repair, does not apply to an air brake system installed in a motor vehicle before the standard comes into force if the air brake system was at the time of its installation in compliance with a standard applicable to the system and in effect at that time.

In other words, this grandfather's previously accepted air brake system built to a standard, say, that was in effect 10 years ago and removes the potential conflict that may come up of prescribing a standard which exceeds the standard of a 10-year old truck and removes the possibility of insistence that owner of the 10-year old vehicle would have to retrofit his trucks to that standard.

MR. CHAIRMAN: Order please. Mr. Uskiw.

HON. S. USKIW: Well, Mr. Chairman, the intent of this Section is merely to enforce the standards that have been put in place by the manufacturer of an air brake system on a vehicle. It is not the intent that we will set up new standards wherein vehicles already on the market would not be able to conform to. So it's merely to make sure that whatever is in existence is in good repair and that if it falls into disrepair, then it would be in violation of this section. We are not intending to establish standards per se.

MR. D. ORCHARD: Then, certainly the amendment as proposed would certainly clarify that.

HON. S. USKIW: Well, no, Mr. Chairman. The amendment suggests - now, I want to read it for a moment - but as I understood the explanation, it wouldn't apply to certain vehicles that were purchased before a certain date. What we want is to be able to enforce the manufacturer's standard on all vehicles that are on the highway or that are licensed, so we wouldn't want to exempt any vehicle that is licensed.

MR. D. ORCHARD: Mr. Chairman, with all due respect to the Minister, that's exactly what my amendment proposes because the amendment 39(6), as in the bill, says that "A motor vehicle equipped with an air brake system shall comply with standards for air brake systems prescribed by regulation."

The position that I put forward is that the regulation could prescribe an air brake standard and let's call it the 1982 manufacturer specification. That would mean that a 10-year old truck, perfectly serviceable with air brakes in compliance with all manufacturing recommendations and standards 10 years ago, would possibly be required to be retrofitted at considerable expense to the 1982 standard.

My amendment simply says that the air brake system must be maintained in good repair to the standard prescribed at the date of manufacture, in essence; so that we avoid any potential requirement for retrofitting that may arise out of the regulation, because the amendment does not say anything about air brake standards as applicable to the date of manufacture. My amendment does and I think it removes all area of doubt in describing and drafting of regulations and I think, quite frankly, it's a very logical and good amendment to add in here. It doesn't in any way remove any obligation of an owner of a heavy vehicle to not keep his air brake system in good repair - that is implicit in my amendment - and it's in good repair to the standards of the date of manufacture of the vehicle, which were accepted standards at that time.

HON. S. USKIW: Well, Mr. Chairman, the intent of the amendment is exactly in compliance with the explanation that we have given. There is no conflict. I presume what the member is suggesting that we ought to put into the Act so that an enforcement agency would not use their own discretion and the enforcement agency, of course, would be the Lieutenant-Governor-in-Council. What the member is suggesting is that the Lieutenant-Governor-in-Council should not use their discretion in introducing regulations for air brakes on vehicles that would be other than those produced by the manufacturer.

That's really the concern that's being expressed, that the Cabinet of any government may go beyond what is the manufacturer's standard in requiring specifications and so on. That is not the intent of the legislation and I have so indicated. The intent of the legislation - and I have no problem with the amendment because it deals with the intent - is that we will maintain what is the manufacturer's standard of that given vintage, if you like. Maybe if it satisfies the member to spell it out, I have no problem with it, but that is the

intent of the legislation.

MR. D. ORCHARD: Well, certainly, I realize that's the intent of the regulation, but you know I sat in the Minister's chair for a period of time and a regulation, with all due respect, on air brakes could be drafted by departmental personnel which the Minister would recommend to Cabinet, which just may happen to - and I ran into this once already and they used a regulation that they said would not have any adverse effects on the industry. The moment I passed it through Cabinet, they went out and ticketed a group of truckers that they had a grudge against.

This amendment clearly allows for the Act — (Interjection)— well, this is not a situation that I take very lightly and I think that the amendment as proposed would allow such a thing to happen because, quite frankly, I don't suspect the Minister or members of this Cabinet are terribly familiar with air brake systems and the changes made to air brake systems over the past 10 years. This amendment I'm proposing clearly sets out that there is no intent to do other than the Minister is saying. In other words, the manufacturer's standard or the date of manufacture shall apply in good repair and that's all you want.

HON. S. USKIW: There's no problem with that, Mr. Chairman, and I'm prepared to accept that amendment. It conforms with our intent.

MR. CHAIRMAN: Any further debate on the motion? Motion, as presented by Mr. Orchard—pass.
Clause 8, as amended - Mr. Orchard.

MR. D. ORCHARD: Mr. Chairman, there's only a slight change in this as from the original Act, in that I believe it specifies, (a) and (b), any part of the windshield. What was the need? —(Interjection)— Oh, sorry.

MR. CHAIRMAN: Clause 8, as amended.

MR. D. ORCHARD: Yes, we are; yes, we are. Oh, 8. Sorry.

MR. CHAIRMAN: Clause 8—pass.
Clause 9 - Mr. Orchard.

MR. D. ORCHARD: Sorry, Mr. Chairman. Why was the need to specify (a) and (b), as compared to the original clause as written in the Act?

MR. CHAIRMAN: Mr. Uskiw.

HON. S. USKIW: Well, Mr. Chairman, this only clarifies that this section applies to any part of the windshield.

MR. D. ORCHARD: I realize that is what it does; but what was the problem? Is this designed to eliminate the paste-on strips on the top six inches of the windshield that provided a sun screen?

HON. S. USKIW: That's part of it, Mr. Chairman, yes.

MR. D. ORCHARD: That's part of it. What's the other

part of it?

HON. S. USKIW: Spray-on materials, Mr. Chairman. I'm not familiar with all of the spray-on materials that are used for tinting glass, but I presume there are a number on the market. This is to restrict the use of them with respect to certain portions, in particular, of your windshield.

MR. D. ORCHARD: This doesn't apply to the rear window of half-tons?

HON. S. USKIW: No, this is windshields.

MR. D. ORCHARD: Fine.

MR. CHAIRMAN: Clause 9—pass.
Clause 10 - Mr. Orchard.

MR. D. ORCHARD: Mr. Chairman, could the Minister give us the urgent need or the need - period - of having this section included in the bill, requiring parades, etc., to obtain a permit before they can hold such a parade?

HON. S. USKIW: Well, Mr. Chairman, the intent here is not to restrict these events. The intent is to make them happen in a way that is safe to the public. We would want to involve the local police, whether they be City Police or the the RCM Police in those situations, to assure that there are maximum safety precautions taken with respect to the use of highways or streets.

Quite often you will have an unadvertised, so to speak, or a gathering of people, a parade or whatever you would want to call it, which occupies the total width of a route against traffic, if you like, from time to time, albeit for a short distance and so on; but without proper precaution there could be injury or life lost if the unaware public were to intercede that particular area at that particular time. So, it's merely to do it in a more organized and orderly fashion for the safety of the public.

MR. CHAIRMAN: Mrs. Oleson.

MRS. C. OLESON: I was wondering, Mr. Chairman, through you to the Minister, why he has included officer commanding of the Royal Canadian Mounted Police only? What's the rationale? Could it not be the local authority?

HON. S. USKIW: Well, the answer to that is that we're talking about highways. We have no jurisdiction over streets in towns and villages. They have their own mechanism for control. But where a highway is involved, it's the RCMP that is the provincial enforcement agency and, therefore, they ought to be involved.

MR. D. ORCHARD: Well, the Minister made reference to safety of life and limb, in essence. How many instances of injury or loss of life or property damage have been reported officially to the department as a result of unauthorized parades or motorcades?

HON. S. USKIW: Well, Mr. Chairman, we are aware of

a number of incidents where there were injuries, which could have been prevented had proper precautions been undertaken. There have been no fatalities that we're aware of, but there were a couple of incidents of injuries.

MR. CHAIRMAN: Mr. Graham.

MR. H. GRAHAM: Mr. Chairman, I want to ask the Minister if it's the intention to go to the officer commanding the RCMP or the officer commanding the local detachment of the RCM Police?

HON. S. USKIW: Yes, the intent would be that it's a local detachment, Mr. Chairman.

MR. H. GRAHAM: Mr. Chairman, we have that in the bill.

HON. S. USKIW: The understanding that we have is that the officer commanding delegates that responsibility and authority to the detachments throughout the area, so it's implicit, Mr. Chairman. At least, we believe it is, that it would be the local detachment that would actually be on site, but under the authority of the commanding officer.

MR. CHAIRMAN: Mr. Penner.

HON. R. PENNER: Perhaps we might have an opinion from the Chief Legislative Counsel - the words in question in the section - "permit thereof has been issued by the Officer commanding the Royal Canadian Mounted Police." Would that, in your opinion, include anybody delegated by that officer?

MR. CHAIRMAN: Mr. Tallin.

MR. R. TALLIN: No, not in all of them. I would think not. In normal terms, it would be the commander or a person that was deputized for the commander solely.

HON. R. PENNER: So that if we wanted it to be more open, we would have to say the officer commanding the Royal Canadian Mounted Police or anyone authorized by him?

MR. R. TALLIN: Yes.

HON. R. PENNER: I think we could agree to that. I would propose - there seems to be a consensus that we amend. I would move, seconded - do we need a seconder?

MR. CHAIRMAN: Can you put this in writing, Mr. Penner?

Mr. Orchard.

MR. D. ORCHARD: Well, possibly I might assist. We've had a discussion on later sections in the bill that are going to not enable us to pass this bill today. Possibly we could come back with that amendment to this section at that time?

HON. R. PENNER: All right. Either the Minister or I will come back.

HON. S. USKIW: Yes, there's no problem there.

MR. CHAIRMAN: Mr. Orchard.

MR. D. ORCHARD: If we will return to Section 10 of the bill at another sitting of the Law Amendments Committee, I wonder if the Minister could bring to the attention of the committee the types of incidents that he has made reference to this morning, which involved personal injury as a result of an unauthorized parade or motorcade?

Secondly, I wonder if the Minister could indicate - and I'll use an example - let's say we have a farmers' protest against low commodity prices and the farmers block a highway or obstruct traffic on a highway through a tractor parade as their form of protest. Now that would fall under, I believe, the provisions of a motorcade, a rally or a special event under this amendment. Does The Highway Traffic Act not already have provisions to allow the RCMP to come in and remove those theoretically objectionable individuals from the provincial road system?

HON. S. USKIW: Well, Mr. Chairman, the intent of this section is to facilitate the kinds of events that are not confrontational with the authorities, if you like. The suggestion or the example that is being promoted by the Member for Pembina has to do with a situation where there is a confrontation between a group and the government of the day, if you like, or whatever authority. The present Act prohibits such events from taking place; it is against the law under the present Act to use a highway in that way. Now, I don't know what section - Mr. Chairman, perhaps we should proceed and come back to that one while the Registrar is looking it up in The Highway Traffic Act.

MR. CHAIRMAN: That'll be fine.

MR. D. ORCHARD: That would be fine if we come back to this one. We could come back to it at another sitting even if that information could be brought forward then.

MR. CHAIRMAN: So it's proposed that we skip Clause 10 and continue to Clause 11.

HON. S. USKIW: We've already decided that. Let's carry on.

MR. CHAIRMAN: Clause 11.

MR. D. ORCHARD: Mr. Chairman, just some general questions on 11, 12, 13, 14, 15, 16, 17 and 18. Those are only raising limits to reflect increasing costs in the auto repair business.

HON. S. USKIW: That is correct.

MR. D. ORCHARD: Do I interpret also, Mr. Chairman, that there was maybe an anomaly that existed in the Act where in some places it says \$200 and in other places it says \$300, all of which have been raised to \$500 now?

HON. S. USKIW: Yes, that is correct, Mr. Chairman.

MR. D. ORCHARD: Well, then I have no further questions. All those sections could pass, Mr. Chairman, unless anyone else had questions.

MR. CHAIRMAN: (Clauses 11 to 18 were each read and passed.)
Clause 19 - Mr. Orchard.

MR. D. ORCHARD: Mr. Chairman, there are no stocks of the old marked recapped tires left, I assume?

HON. S. USKIW: That's our understanding, Mr. Chairman, this is a fairly old provision.

MR. CHAIRMAN: Clause 19 —pass; Clause 20 - Mr. Orchard.

MR. D. ORCHARD: Mr. Chairman, is this 413 to 470 a new police band?

HON. S. USKIW: Yes, Mr. Chairman.

MR. CHAIRMAN: Clause 20—pass. Clause 21.

MR. D. ORCHARD: Yes, Mr. Chairman, could the Minister, once again - he introduced it in his remarks - enlighten us as to what he hopes to accomplish with this amendment?

HON. S. USKIW: Well, Mr. Chairman, it's obvious what is being attempted here, that is, we are attempting to discourage people from using a headphone set during the time that they are driving a motor vehicle for obvious reasons; that is, that the kind of volume that is now part and parcel of those sets is such that one can totally remove outside sounds from penetrating the set and therefore a person that is using it in that way is virtually deaf in terms of the operation of his vehicle. There are many arguments that can be made with respect to infringement of one's rights, I suppose, wanting to be tuned in to entertainment while one is driving to the exclusion of others in the same vehicle and so on. —(Interjection)— That's right, the Attorney-General said you can't have a television set in the front seat of a car either.

Obviously it is designed, at least, to prevent the use of these during a critical time that a person spends during the course of driving a vehicle. When the vehicle is parked, of course, there's no problem but I have sampled some of the sets personally. Just the other day I took some time to walk down Broadway and Osborne in the heat of traffic during the rush hour with the headphones on and —(Interjection)— it was quite a sight. I can assure you that with very little volume I was totally oblivious of the traffic situation. As a matter of fact, one has to think to look because one forgets that one is deaf for that moment. One assumes that one will hear the traffic, because you know that you're not deaf. A deaf person knows that he or she is deaf and therefore they are more alert in many other ways, but a person who is not deaf and momentarily is deafened by the use of the headphones is in a fairly precarious position, quite frankly, and it is the intent here to deal with that problem. I now that arguments can be made to also deal with question of volume control on stereos and so on and we may have to deal

with that someday through the manufacturers' level, but this is an option that is open to us. We do have an amendment on this one and perhaps maybe the Committee should hear the amendment and then have the discussion on it, if that is acceptable.

MR. CHAIRMAN: Mr. Storie.

MR. J. STORIE: I'd like to propose that the provision be amended that new Section 192.1 to The Highway Traffic Act as set out in Section 21 in Bill 36 be amended by adding thereto at the end thereof the words: "unless those headphones are of a type that enables the person to also hear sounds other than those emanating from the radio or recording."

I'm assuming there are those types that allow one to hear outside sounds thereby eliminating the quality of deafness that you might have using some headphones.

MR. CHAIRMAN: Mr. Penner.

HON. R. PENNER: Just a supplementary question. So it's as if you had the radio on in the car, you were hearing the radio but you were hearing all other sounds. This is of the same type?

MR. J. STORIE: That's my understanding, yes, that they have those types of headphones.

MR. CHAIRMAN: Mr. Graham.

MR. H. GRAHAM: Mr. Chairman, even with the amendment to this proposed section I find there are a great deal of things in here that really don't make sense. Unless you have some particular aversion to radio stations or tapes, it's perfectly legal - if I have a backseat driver and quite often I do have a backseat driver in my car - for me to wear a pair of earmuffs, cover my ears completely so I can't hear the backseat drivers. It's perfectly legal. But if I have a radio signal and I have a pair of headphones with a radio signal that only goes into one ear, that is legal. It's only illegal if the radio signal goes into each ear, so I find that it's almost unenforceable and it seems to lack any sense. If you want to abolish the use of headphones, fine, say nobody can wear headphones, whether —(Interjection)— or earmuffs. Whether it has a radio or not, I would think that would be much more sensible. But the way it reads right now, you can wear them, but if there's a radio attached to both of them, it's illegal. If a radio is only attached to one, it's okay. It doesn't make sense to me at all.

MR. CHAIRMAN: Mr. Orchard.

MR. D. ORCHARD: Mr. Chairman, to get down to the rationale behind this amendment, I think the Minister is attempting to disallow a device which might impair a driver's ability to hear outside traffic sounds, i.e., train-crossing bells, sirens of ambulances or fire trucks. Is that a fair assessment?

MR. CHAIRMAN: Mr. Uskiw.

HON. S. USKIW: Mr. Chairman, during the course of my experiment - part of the experiment was to ride in a

vehicle as a passenger - I happened to have the fortune that day of having two fire engines cross our path and they were not audible whatever. The sirens just were not coming through. Vision, yes, but that was all that I was limited to and that was on very low volume. That was less than, I would say, quarter volume on the set that I had, so it's not a good practice and I think that's what we're attempting to say here. To the extent of enforcement, the question of enforcement, of course is a fair one because I don't know to what extent it is enforceable but we want to give some direction to the public as to the use of these headphones.

MR. CHAIRMAN: Is there any further debate on the proposed amendment?
Mr. Orchard.

MR. D. ORCHARD: It boils down that the Minister is concerned about a particular device as identified in his amendment called "Radio Headphones on Both Ears." His concern is that this particular device may inhibit one's ability to hear, hence, one's ability to drive safely. Is that a fair assessment of the intent?

HON. S. USKIW: Sorry, I missed that question.

MR. D. ORCHARD: This amendment is designed to limit the use of a device and in this case it's a set of radio headphones on both ears because it is the Minister's belief that the use of such a device will impair hearing ability, hence, safe driving ability.

HON. S. USKIW: Yes, that is correct, Mr. Chairman.

MR. D. ORCHARD: Well, then his amendment - I don't have the wording of the amendment before me - but basically the amendment will allow a set of radio headphones on both ears to be used providing they're of, I think it's called the "clear-air variety," so that you can hear external sounds as well as the music. Are these clear-air type identified as such by a stamp on the headband so that the police officer, when he's coming up, can say to this man, "Your earphones are all right but the fellow in front of you, his aren't," even though they may look the same, etc., etc.? What kind of a subjective judgment as to the type of headphones are we insisting the RCMP or the City Police or town police forces determine - the amendment that he's brought in further confuses the intent of the amendment. Because even though they are clear-air type headphones, you could have the volume turned up on those to such an extent that you couldn't hear and yet they are a legal type headphone that he is now legalizing in this amendment to his amendment and it doesn't accomplish what he's wanting to do. Are you going to have an amendment to the amendment to the amendment which says you can't have your clear-air headphones above a certain volume? We're getting into a very very unenforceable amendment to The Highway Traffic Act.

MR. CHAIRMAN: The hour is 12:30. Is it the wish of the committee to continue until this bill is passed?
Mr. Penner.

HON. R. PENNER: Could I make a suggestion? I don't think we're going to be able to do that . . .

MR. D. ORCHARD: To do which?

HON. R. PENNER: . . . to finish just by going on at this time. There are two possibilities: one is to meet this evening as scheduled but that would then just leave us for this evening, the balance of this and 43; whereas it might be more productive, from the point of view of the House as a whole, to reserve the evening for Ways and Means and some of the things associated with that. What about - I'm just making a suggestion - we have to have Law Amendments again in any event, scheduling Law Amendments for Tuesday next and carrying on with this and any other matters referred, so that we have some real purpose for the meeting?

MR. CHAIRMAN: Mr. Graham. —(Interjection)—
Order please.

MR. H. GRAHAM: Mr. Chairman, all members have been alerted, notices have been put out, that Law Amendments is meeting this morning and this evening. That causes . . .

MR. CHAIRMAN: Mr. Uskiw.

HON. S. USKIW: Mr. Chairman, yes, that has to do with members of the committee. I don't believe the public is involved at this stage in making . . .

MR. H. GRAHAM: I believe we have a public presentation . . .

MR. CHAIRMAN: Mr. Graham, please wait to be recognized. Order please.
Mr. Uskiw.

HON. S. USKIW: With respect to Bill 36 though, the public representations have already been held, or at least there weren't any, but there was an opportunity for them to be held.

MR. CHAIRMAN: Mr. Penner.

HON. R. PENNER: We are aware of one public representation. They're here, they're not going to be heard now in any event, so it's a question of whether they come back this evening or next Monday or Tuesday, whatever the committee decides. I'm just suggesting we all want to conduct as much of the House business as possible most efficiently and to use this evening, because if Law Amendments meets this evening it means we're pre-empting a sitting of the House. I take it we really don't want to do that and if there are only the two items, then I would suggest that Law Amendments has the power to reschedule its meetings, that we should do that.

MR. CHAIRMAN: Mr. Filmon.

MR. G. FILMON: I ask the Government House Leader to which committee he intends to refer The Community Day Care Standards Act?

MR. CHAIRMAN: Mr. Penner.

HON. R. PENNER: Statutory Orders and Regulations which is meeting Thursday and only has a couple of items on Rent Review to finish and then can go right on with the hearing of delegations.

MR. CHAIRMAN: What is the will of the committee?
Mr. Storie.

MR. J. STORIE: Just a question, does the sitting of the House preclude a sitting of the Standing . . . ?

HON. R. PENNER: Yes.

MR. CHAIRMAN: Mr. Graham.

MR. H. GRAHAM: Mr. Chairman, there was a notice sent around yesterday. It was announced in the House and I'm sure that other members of the House who are not members of this committee have probably made plans and said, "Well, Law Amendments is meeting Tuesday evening" - they have probably made other plans. I would suggest that Law Amendments meet tonight and finish its business as was the intent when it was announced in the House.

MR. CHAIRMAN: Perhaps we can have a formal motion.
Mr. Uskiw.

HON. S. USKIW: Yes, I would then make a second suggestion, Mr. Chairman, that there's no need to complete Bill 36 clause-by-clause this evening. I had plans to be out of the city this evening. Can we agree to have the completion of clause-by-clause on 36 at the subsequent Law Amendments Committee meetings?

MR. CHAIRMAN: It is proposed that Bill 36 be completed at a subsequent meeting and not tonight.
Mr. Penner.

HON. R. PENNER: Mr. Graham makes a very good point. I think that he's suggesting it should be discussed with the Opposition House Leader and I think that's fair. I take it that all members of the committee will be in the House this afternoon; we can make the announcement this afternoon after I discuss it with the Opposition House Leader.

MR. CHAIRMAN: It's agreeable then that the two House Leaders will make the arrangements.

MR. J. STORIE: Would you inform the individual who was present to make the brief? Could you inform him as to the decision?

Committee rise.