



Second Session - Thirty-Seventh Legislature

of the

**Legislative Assembly of Manitoba**

**Standing Committee**

on

**Law Amendments**

*Chairperson*  
*Mr. Doug Martindale*  
*Constituency of Burrows*



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**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Seventh Legislature**

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**LEGISLATIVE ASSEMBLY OF MANITOBA**

**THE STANDING COMMITTEE ON LAW AMENDMENTS**

**Tuesday, July 3, 2001**

**TIME – 6:30 p.m.**

**LOCATION – Winnipeg, Manitoba**

**CHAIRPERSON – Mr. Doug Martindale  
(Burrows)**

**VICE-CHAIRPERSON – Ms. Linda Asper  
(Riel)**

**ATTENDANCE - 11 – QUORUM - 6**

*Members of the Committee present:*

Hon. Messrs. Ashton, Mackintosh

Ms. Allan, Ms. Asper, Mrs. Dacquay,  
Messrs. Faurschou, Gilleshammer, Ms.  
Korzeniowski, Messrs. Martindale, Praznik,  
Reid

**APPEARING:**

Mr. Larry Maguire, MLA for Arthur-Virden  
Mr. Marcel Laurendeau, MLA for St.  
Norbert

**WITNESSES:**

Bill 11–The Highway Traffic Amendment  
and Consequential Amendments Act

Ms. Sharon Stewart, Private Citizen  
Mr. Don Dewar, Keystone Agricultural  
Producers  
Mr. Shawn Feely, IMPACT, The Injury  
Prevention Centre of Children's Hospital  
Mr. Terry Johns, President, Coalition of  
Manitoba Motorcycle Groups

Bill 23–The Highway Traffic Amendment  
Act

Mr. Don Dewar, Keystone Agricultural  
Producers  
Mr. Greg Riou, Vice-President, HERAM,  
Heavy Equipment Rental Association of  
Manitoba

**WRITTEN SUBMISSIONS:**

Bill 11–The Highway Traffic Amendment  
and Consequential Amendments Act

Ms. Tristan Goertzen, Private Citizen

Bill 23–The Highway Traffic Amendment  
Act

Mr. Chris Lorenc, Manitoba Heavy  
Construction Association

**MATTERS UNDER DISCUSSION:**

Bill 11–The Highway Traffic Amendment  
and Consequential Amendments Act

Bill 23–The Highway Traffic Amendment  
Act

Bill 33–The Highway Traffic Amendment  
and Consequential Amendments Act (2)

Bill 35–The Improved Enforcement of  
Support Payments (Various Acts Amended)  
Act

Bill 36–The Enhanced Debt Collection  
(Various Acts Amended) Act

Bill 37–The Inter-jurisdictional Support  
Orders Act

Bill 46–The Provincial Court Amendment  
and Court of Queen's Bench Amendment  
Act

Bill 49–The Statutes Correction and Minor  
Amendments Act, 2001

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**Mr. Chairperson:** Good evening. Will the  
Standing Committee on Law Amendments  
please come to order.

This evening, the committee will be  
considering the following bills: Bill 11, The  
Highway Traffic Amendment and Consequential  
Amendments Act; Bill 23, The Highway Traffic  
Amendment Act; Bill 33, The Highway Traffic  
Amendment and Consequential Amendments

Act (2); Bill 35, The Improved Enforcement of Support Payments (Various Acts Amended) Act; Bill 36, The Enhanced Debt Collection (Various Acts Amended) Act; Bill 37, The Inter-jurisdictional Support Orders Act; Bill 46, The Provincial Court Amendment and Court of Queen's Bench Amendment Act; Bill 49, The Statutes Correction and Minor Amendments Act, 2001.

We have presenters who have registered to make public presentations on Bill 11, The Highway Traffic Amendment and Consequential Amendments Act; and Bill 23, The Highway Traffic Amendment Act.

It is the custom to hear public presentations before consideration of bills. Is it the will of the committee to hear public presentations on the bills, and if yes, in what order do you wish to hear the presenters?

**Ms. Nancy Allan (St. Vital):** I would like to suggest that we hear from the out-of-town presenters first, please.

**Mr. Chairperson:** Is that agreed? *[Agreed]* I will then read the names of the persons who have registered to make presentations this evening: Sharon Stewart, Shawn Feely, Don Dewar, Doug Houghton or Terry Johns, Greg Riou, Dale Wilson. Those are the persons and organizations that have registered so far. If there is anyone else in the audience who would like to register or has not yet registered and would like to make a presentation, would you please register at the back of the room.

Just a reminder that 20 copies of your presentation are required. If you require assistance with photocopying, please see the Clerk of this committee. Before we proceed with the presentations, is it the will of the committee to set time limits on presentations?

**Ms. Allan:** I would like to suggest 15 minutes for presentation and five minutes for question and answer.

**Mr. Chairperson:** It has been suggested that presentations be limited to 15 minutes and questions and answers to 5 minutes. Is that agreed? *[Agreed]*

How does the committee propose to deal with presenters who are not in attendance today but have their names called? Shall these names be dropped to the bottom of the list? *[Agreed]* Shall the names be dropped from the list after being called twice? *[Agreed]*

As a courtesy to persons waiting to give a presentation, does the committee wish to indicate how late it is willing to sit this evening?

**Ms. Allan:** I would like to suggest that we hear all of the presentations, and if we have time, I would like to suggest that we do all of the bills line by line.

**Mr. Chairperson:** All of the bills clause by clause? *[Agreed]* *[Agreed]*

I would also like to inform the committee that written submissions have been received from Chris Lorenc, Manitoba Heavy Construction Association, regarding Bill 23, and Tristan Goertzen, private citizen, regarding Bill 11. Copies of these briefs have been made for committee members and were distributed at the start of the meeting. Does the committee grant its consent to have these written submissions appear in the committee transcript for this meeting? *[Agreed]*

We will now proceed to public presenters. We are going to do two out-of-town presenters first, beginning with Sharon Stewart, private citizen, and then followed by Don Dewar, on two different bills.

### **Bill 11—The Highway Traffic Amendment and Consequential Amendments Act**

**Mr. Chairperson:** Is Sharon Stewart here? Please come forward.

**Ms. Sharon Stewart (Private Citizen):** Thank you. Good evening honourable members of the Legislature and ladies and gentlemen. I appreciate the opportunity to speak to Manitoba's long-awaited graduated licensing bill, Bill 11. Since our own crash four years ago, I have spent many hours studying this licensing concept. I do not speak today as an expert but merely as a

mother and as a parent, with a passion born of grief and loss.

I chose to take the road less travelled, and it has not been without risk. The road has taken many twists and turns, and indeed for a while it seemed like a very lonely journey, not unlike the journey through grief. A graduated licensing program would never work in Manitoba, I was told. We do not have the 401. It would penalize rural people unduly. Such a program would be discriminatory, and besides Manitoba's crash statistics did not warrant a graduated licensing system.

For all the honourable members of the Manitoba Legislature who represent rural ridings, refer to the Manitoba Transportation and Government Services Traffic Collision Report for 1999. Fatal collisions occurred two and a half times as often on rural roadways than in urban. A representative of The Insurance Bureau of Canada, in a letter to me dated May 26, 1999, was more convincing, and I quote: I must admit, however, to surprise at the negative comments attributed to the former government, suggesting that Manitoba does not need a graduated licensing system. There is absolutely no reason to expect that crash statistics involving new drivers in Manitoba would be any different than they are anywhere else in North America. New drivers are overrepresented in crash statistics, and graduating licensing can bring those numbers down.

In a recent RoadWise article entitled "Safety dilemma of wide-open spaces: too much room to take risks," Paul Allen, the road safety manager for MPI, said this: Manitoba is first in Canada for injuries per 10 000 vehicles and in third place for fatalities per 10 000 vehicles.

Mr. Allen attributes these 1997-98 stats in part to a high relative risk on Manitoba's roadways and what he calls the safety dilemma of wide-open spaces. The wide-open spaces of Manitoba allow plenty of room for errors and those big mistakes are on the rise. The statistics in Manitoba do warrant a comprehensive graduated licensing program. The implementation of a comprehensive driver licence program will go a long way in improving safety on Manitoba's roads. Even if the new rules save one life, it will be warranted. Costs of implementa-

tion will be covered through savings in health care costs, if the program saves even one Manitoban from a serious brain or spinal cord injury. Even if one parent were spared the agony of losing a child on the road, it would be worth it.

There were others who shared my vision. There were many in our province who recognized GDL is a life-saving program. IMPACT and the staff that comprise the Injury Prevention Centre of Children's Hospital have been instrumental in bringing about these changes. MLA David Fauschou has been a strong advocate of road safety. He felt he needed to do what was right and not what was politically popular. The NDP task force realized the far-reaching ramifications such a program could have on our province, and not just for new drivers but for all people who share the road. The task force recognized the future in licensing and brought the concept to the people through a successful public consultation process, which I was grateful to have had the opportunity to participate in.

In retrospect, there were aspects of the process which could have been done differently. An all-party initiative would have included members from both sides of the House in the consultation process. In an ideal parliament, each and every member of the Legislative Assembly should have seen a task force presentation and had an opportunity to study the proposals prior to debate. That, as one honourable member of the House suggested, would have given members an opportunity to debate this piece of legislation in an informed manner.

The public could have been given more information. The process did open the door though for a meaningful dialogue across the province. The accomplishments of the task force should not be underscored. The NDP task force recommendations brought forth following the public consultations signified a thorough knowledge based on research for many jurisdictions. The special needs of new drivers were taken into consideration, especially the need for a longer learner's period.

The program that was announced in April fell somewhat short of the initial recommendations. In particular, there were three areas

which contribute to the overall effectiveness of a GDL program which need to be mentioned here. First, any time you make compromises—example, a shorter learner stage—safety will be compromised. The supervised learner stage is recognized as a relatively safe period where crash rates are low. Once drivers move into the second stage of licensing where many of the restrictions are lifted and they can drive unsupervised, the crash risk goes up significantly.

There is compelling evidence for the starting age to be 16 or to hold the beginning driver in the learner stage until they are at least 16 and a half years of age. This was just one recommendation that was reported in the graduated licensing blueprint for North America which was released in December. Further, the Graduated Licensing Evaluation: Interim Report 1998 for Ontario stated: Since the implementation of GLS in 1994, the fatal collision rate for 16-year-old drivers is comparable to that of the general driving population. Since 1995, the overall collision rate for 16-year-old drivers is lower than that of the general driving population. How many 16-year-old drivers does that equate to? How many serious injuries were prevented? How many fewer hospital visits, emergency and medical services were required? Continue with the well-established starting age of 15 1/2 with the stipulation that drivers need be taken but hold them in the learner's stage for the full year, 15 1/2 to 16 1/2 years of age. This would also allow for all-season driving.

\* (18:40)

Secondly, the presence of vehicle sign plates indicating a new or novice driver is on the road is an important safety feature and was not included in the announcements. Sign plates are mandatory in B.C. and optional in Ontario. The safety component is built into the sign, as in the case in B.C., and have been used in parts of Europe extensively. I hope that the use of sign plates will be considered.

An advanced-level road test at the end of the second stage of licensing and prior to full licensing is important in determining the effectiveness of the program and gives the driver incentive to continue to improve their skills. In

Ontario, the costs of the second test are born by the driver.

I quote here from Alan Wood, Vice-President, Prairies and Northwest Territories of the Insurance Bureau of Canada, on the subject of the second road test. The concept is that the second test would involve some more complicated situations than the first. They take you into an industrial area to see how you handle lots of big trucks. They take you out in those high-speed roadways so your merging, passing, high-speed manoeuvring skills can be evaluated.

In Ontario, they take you onto a major freeway to see how you handle a six- or eight-lane highway. They expect you to evaluate potential hazards a block or more ahead of you. In short, now that you have been driving a couple of years, you had better be more competent than when you first got your licence. Again, the concept is that because you know you have that second road test to look forward to, your first couple of years of driving are psychologically still recognized by you as a learning phase. Once a driver completes the second stage of licensing or the newly licensed driver phase in Nova Scotia, the novice must complete a six-hour defensive driving course or a recognized driver education course. The only requirement of Manitoba's proposed intermediate stage is the passage of time and a clean driving record.

Most jurisdictions delay graduation to the next stage by a minimum time required for the stage for any licence suspension during either the learner's or the intermediate stage. Presumably, having to start a stage all over would reduce risk taking. The addition of a second road test or opportunity for driver education would further ensure competency on the road.

Research undertaken by the Insurance Institute for Highway Safety suggests that the presence of teenage passengers increases crash risk. According to one study, even the presence of one passenger doubled the fatal crash risk as compared to driving alone. With two or more passengers, the fatal crash risk was five times as high as driving alone. Manitoba's intermediate stage calls for a passenger restriction from midnight to five if not accompanied by a

supervising driver. It will remain to be seen whether this provision will be effective, as opposed to a more defined nighttime driving curfew. Surveys conducted in Ontario and in Nova Scotia suggest that parents strongly support night curfews.

As I have said in the past, no licensing program should ever be written in stone. Other jurisdictions which have only recently implemented forms of graduated licensing are making changes and strengthening their programs. I am encouraged by the Government's willingness to make changes as the need arises. Whether it would be more beneficial to have fewer regulations and more legislative clauses, I do not know. I do know that it took 30 years to make legislative changes to The Highway Traffic Act and that is too long.

Some of the discussion that was held regarding Bill 11 in the Legislature recently indicated that not all the information on the program is understood, and I take this opportunity to comment. The issue of driver education seems to be a prevailing area of concern amongst members. It is also a subject of intense scrutiny in other jurisdictions, particularly in light of the finding in Ontario showing that G2 novices aged 16 to 19 with driver education had a collision rate 45 percent higher than G2 novices without driver education. That finding is contrary to the public's perception of driver education. Where studies show that traditional driver education programs do not reduce crash risk for novice drivers, formal instruction is still desirable.

Many jurisdictions have recommended that no time discounts or time buy-downs be given for driver ed especially in the crucial supervised learner stage. An interesting finding came out of the *Graduated Licensing in Ontario: A Survey of Parents*. According to the survey, parents stated their teenagers took or intended to take driver education, not to reduce time in Level 1 but to reduce insurance costs. In Ontario, monetary incentives seem to have more of an impact than time discounts.

Broadening the scope and range of driver education and beginning safety lessons in nursery school may well bring about desired

societal changes. I believe that process has already begun with the incorporation of the Manitoba Public Insurance corporation Children's Traffic Club into daycare and nursery schools last year. The program is to be incorporated into the school curriculum from kindergarten to Grade 9 in 2002.

The task force is also recommending that driver-training standards be established, including instructor training, curriculum inspection of programs and statistical feedback. The Province can continue to build on the programs that are already in place. Ongoing research in Manitoba and other jurisdictions will provide innovative ways of delivering these programs and ensuring their effectiveness.

Another interesting point was raised in the Legislature. Will the restrictions limit the new driver from driving and gaining the necessary experience during the learner's period, or will the problem merely be bumped into the next age group or postponed to a later date? This issue was studied in Ontario's interim report for graduated licensing. It states: Under GLS, advancement to the second level or G2 means that novice drivers for the first time do not require an accompanying driver, and many of the restrictions imposed in the first level are removed. A separate collision analysis was done on the second stage drivers, and significant reductions in collision rates were still observed. This indicates that substantial improvements due to GLS are not solely due to the restrictiveness of Level 1. In other words, Level 1 is not merely postponing the problem but appears to be instilling safer driver habits amongst novice drivers.

The impact of graduated driver licensing in Nova Scotia also took into consideration the crash rates of young novice drivers but also of older novices and found improvements for all novices. It has been reported in the last few years that there is a growing population of novice drivers who are not young.

*Graduated Licensing in Ontario: A Survey of Parents* also studied the impact of the program on driving and mobility. Concerns that new drivers may limit their driving under the new system were unfounded. As the parent of a

beginning driver, I take my responsibilities as a co-pilot very seriously. We have an abundance of gravel roads around MacGregor so I have logged some miles on these surfaces. We have also allocated some of our practice time to night driving.

Some jurisdictions have required that parents keep a log and that they certified a certain number of hours. A recommendation in the blueprint for graduated licensing was 30 to 50 hours of certified driving including nighttime driving.

Parental involvement and the attitudes that parents bring to the task of driving are paramount. I gained much of my own driving experience on rural roadways, and we practised parallel parking in the pasture. I do have an appreciation for some of the issues facing the farming community, having lived most of my life in a rural area.

Graduated licensing was not put into place to curtail anyone's farm operation nor is it going to change the fact that rural children have exposure to farm equipment and vehicles at an early age. We are well aware that members of the farm community may not pay a lot of attention to the need for a driver's licence during harvest and seeding times. Certainly that is not one of the reasons that Alberta has allowed a learner's permit to be obtained at the age of 14. It remains to be seen what impact Bill 11 will have on crash rates for new drivers in Manitoba. As it becomes apparent over time which conditions will work and which ones will not, changes can be made.

Graduated licensing legislation is not an end but a bold new beginning for our province. An integrated approach to road safety would include increased traffic law enforcement, public education about the safety benefits of graduated licensing, drinking and driving road-watch programs and an expanded role for the Manitoba Public Insurance corporation. Other initiatives such as the implementation of photo radar and red light cameras have been shown to reduce traffic fatalities at intersections and speed related crashes.

\* (18:50)

An evaluation of the GDL program will need to be undertaken similar to the studies

conducted in Ontario and in Nova Scotia. The Insurance Bureau of Canada was actively involved in Nova Scotia with a public briefing document promoting graduated licensing in 1998. A similar program was undertaken in Alberta in 1999. The research into the impact of the GDL program in Nova Scotia was also supported by the Insurance Institute for Highway Safety and the Traffic Injury Research Foundation.

I hope that our Province will have the resources to undertake a thorough evaluation of Manitoba's program when it begins next April. I am confident that our Government will take the highroad on this legislation and will continue to work with stakeholders in road safety. If this is the last leg of this journey, I am glad that it is now over. I thank you once again for the opportunity to speak with you tonight about an issue that is dear to my heart and also to have had the opportunity and the privilege of associating with many dedicated individuals over the last four years.

**Mr. Chairperson:** There are members who have questions for you if you would like to stay at the podium. Are you willing to answer questions? Before you answer I need to acknowledge you by name each time. First we have the Minister of Transportation and Government Services.

**Hon. Steve Ashton (Minister of Transportation and Government Services):** I really want to thank you for your presentation. I can tell you the first meeting I had when I was minister of then-Highways, I asked the question why Manitoba did not have graduated drivers' licensing. I know prior to coming into government, coming into this portfolio, I know a lot of the work that you and others have done to raise public awareness to the fact that it has proven to save lives, up to 37% accident reductions.

I know very early on, and you mentioned the work of the task force, we were able to elicit feedback from the province, and I know many members of the Legislature, including the Member for Portage la Prairie (Mr. Faurshou), have raised it. But what really struck me, by the way, is what you said about rural Manitoba because I come from a community rural, northern, from Thompson, outside of the city of



Winnipeg. When you said that graduated drivers' licensing is not an attack on rural Manitoba, you hit the nail on the head because it is rural and northern kids and novice drivers of all ages that are dying disproportionately. We have a much higher accident rate.

I appreciate, by the way, some of the feedback we have had from rural areas. I think some of the amendments that you may be aware of I think address some of the legitimate concerns. KAP in particular raised some very legitimate concerns. But what is your message to people in rural areas who think that perhaps this is somehow targeted against them?

**Mr. Chairperson:** Ms. Stewart. *[interjection]* That was a question. If you would like to reply, this is your chance. Do you want to repeat, Mr. Minister?

**Mr. Ashton:** I was asking what you would say, because I have had discussions with people all across the province, and made it clear that this is not targeted against anyone. This is targeted for safety. I am wondering what your message would be. I realize it is very difficult for you, too, given what you have been through as a family.

You know, one of the things I have said to people—because I know a family in my own community, they were actually at the announcement. I do not think people realize that, with graduated drivers' licensing, you will never know whose life is saved in the future. Statistics do not tell you who is going to be sitting at a dinner table, and I am wondering what your message would be to people, throughout the province, about why this should be proceeded with.

**Ms. Stewart:** Certainly, from the research that I have done—it certainly makes sense. I do not think I know of any parent that would disagree that they want to keep their children safe. Certainly, as a parent, it will be a bit of an inconvenience. There is no doubt it will be an inconvenience for the rural people, as well. But I am willing to accept that inconvenience, and go the extra mile. We can car pool.

We have done everything for our children from birth to 16. Why all of a sudden would we then, all of a sudden, just throw them out on the

road and say go to it? I would question anybody who is worried about the inconvenience of it, really. I know that we do not have buses and taxicabs in the rural areas, but we have always got along before and will continue to do so.

I do not think that the learner's stage as it is right now, 16 years and 3 months, especially with the drivers ed, is going to be such a hardship, really. I would have liked to have seen it longer. I know I have been accused of being somewhat harsh, especially with the 15-year-olds around our area. But I would have seen it longer than 16 years and 3 months, simply because I feel that the 17-year-old drivers have more maturity. It is experience, as well as maturity. The whole idea behind the graduated licensing is gaining the maturity and the experience necessary. So 16 years and 3 months—I mean, they are still pretty young. You know, 9 months, I think, will be a pretty good learner's period, but I think it could have been longer.

**Mr. Ashton:** Certainly significantly better than the two weeks we have currently.

I can tell you one of the first things that just floored me, you know, you think you know the system, is when I found out that it was still only two weeks, in Manitoba, to go from a learner to a full licence. I could ask many more questions, but all I want to do is, because I know there are other members who have questions, indicate, too, that some of your comments on graduated drivers' licensing, perhaps some changes that might be made—this is very much a bill that allows us to start the process.

As you have put on the record with the committee, there are a lot of other jurisdictions that have brought in differing types of graduated drivers' licensing, so we will certainly take the concerns into consideration. I am just glad that, within a couple of days, we will have the legislation in place starting actually really for part of October this year for the zero blood alcohol to deal with it. So whenever this passes through the Legislature, we are going to be, really, I think, responding to the concerns of citizens like you. So thanks again.

**Ms. Stewart:** I believe the zero blood alcohol is certainly the crux of the whole program, certainly one of the cruxes.

**Mr. David Faurshou (Portage la Prairie):** Ms. Stewart, Sharon, I want to take this opportunity to express on behalf of not only myself, but I believe I speak for all members here to thank you for your tireless efforts in this regard. I know that you have spent hours and days, weeks and months in your research, as obviously displayed in the presentation you had this evening. I believe that all members of this committee, and most certainly, the minister, appreciate those efforts. They are not falling on deaf ears. I also want to recognize the horrific accident that started all of this, and our hearts and minds are with you always in this regard. I want to thank you, once again, for all of your participation.

**Ms. Stewart:** Thank you.

**Mr. Daryl Reid (Transcona):** Thank you very much, Sharon, for coming here this evening and for sharing your thoughts and your advice with members of the committee.

I know that this is obviously very difficult for you, considering the circumstances under which this process started for you and your family, but I would like to commend you for your spirit and determination in forcing us or causing this Legislature to move forward. I guess in many ways we could consider you to be the mother of graduated licensing in this province.

So we would like to thank you on behalf of the Government for your efforts in this regard, and, yes, we will continue to watch very closely how this process unfolds and whether or not we can make improvements along the way.

We have taken your advice to us to heart, and we will continue to work towards those ends. Thank you for your work to this point.

\* (19:00)

**Ms. Stewart:** Thank you, Daryl. Really, I cannot say that I have had a lot to do with this. I think there have been a number of people across the province who have been instrumental over the years. Certainly IMPACT has done a lot of work in this regard, and they have been extremely supportive of me.

Let us just say I was an opportunist. I saw an opportunity and I took it, and I believe that it has paid off.

**Mr. Chairperson:** Thank you for your presentation.

**Ms. Stewart:** Thank you.

**Mr. Chairperson:** The next out-of-town presenter is Don Dewar, representing Keystone Agricultural Producers on Bill 11 and also on Bill 23.

**Mr. Don Dewar (Keystone Agricultural Producers):** Mr. Chairman, we came prepared, if you would rather, to present on the one bill now and then the other bill when you are hearing it. We would be prepared to stay, or do you want the full load in one shot? That means I get half an hour.

**Mr. Ashton:** I am open to the will of the committee.

**Mr. Chairperson:** What is the will of the committee, both or separate? We offered him this time as an out-of-town presenter.

**Mr. Ashton:** If the presenter would prefer to do the two simultaneously, I do not think the committee would have any objection.

**Mr. Dewar:** Okay, well, they are two entirely different presentations.

#### Point of Order

**Mr. Faurshou:** On a point of order, Mr. Chairman, the presenter has the option to present on both bills as they are listed in our schedule this evening separately. So it is the presenter's option.

**Mr. Chairperson:** It is not a point of order, but you have up to 15 minutes for two separate presentations, each.

\* \* \*

**Mr. Dewar:** Okay, thank you very much.

Mr. Chairman, members of the committee. On behalf of Keystone Agricultural Producers, I am pleased to present our organization's position with respect to Bill 11, The Highway Traffic Amendment and Consequential Amendments Act.

KAP is a democratically controlled general farm policy organization which represents and promotes the interests of agricultural producers in Manitoba, including the social, economic, physical and cultural well-being. The organization is run and funded by its members which are farm units throughout Manitoba.

When the task force report on graduated drivers' licences was released late last summer, it caused a lot of concern among our members residing in rural Manitoba, and I think the questions of the Minister of Agriculture (Ms. Wowchuk) when she attended our annual meeting in January, the most important issue and virtually all of the questions were around the graduated drivers' licence program that was coming forward and what was going to be done at that time, and we thank you. We had been involved with consultations.

But the potential impact of those recommendations would have, we believe, caused a hardship for the producers, and as a result of the publicized contents of the report, we were very active in promoting and creating an awareness about our concerns with our membership, as well as with the Government. We are very pleased that the bill has been put forward with a lot of those recommendations and with the interests of rural Manitoba in mind. Minister Ashton has stated the opportunities available for a youth to obtain a learners' permit at 15 1/2.

I have to reiterate that is only if they can have access to a drivers' education program. The youth can then move to the intermediate stage at 16 years and 3 months, still involving nine months of a learning program. We will be closely watching that these programs are available in the rural areas of Manitoba so that our younger drivers firstly have the access to the programs for the educational side of it and the other side is so that they could perhaps move up to the next stage prior to being 17 years old. We really stress that it has to be, and we believe that the Government needs to be more proactive in promoting the drivers' education program. The training at the rural centres and the urban centres as well should include a percentage of skills development that is pertinent particularly to rural areas as well as the urban situations.

We are happy that the Government recognized that the restriction of one passenger as a supervising driver is not necessary, and particularly in rural Manitoba it could serve to limit the training time and the exposure to varying weather and road conditions because so far we are talking days, weeks and months rather than actually hours behind the wheel. So we need to have the opportunity to use the time to gain the experience. The restriction in the first year would have placed unnecessary limitation on the driving time. For example, a family going to church on Sunday, the beginning driver would not have had the opportunity, and again we thank you.

During the consultations, concerns were raised regarding rules enforced by vehicle suppliers that training cars could only be used on paved roads. Driver training courses should be practised on gravel roads as well, and for them to be really effective they must expose the students to the many situations that they face driving in rural areas, including the gravel and the dirt road conditions, unsupervised intersections, farm equipment on the roads, et cetera. We do not always have the luxury of paved road conditions, and we all know that the gravel and dirt roads do hold different hazards. The face of agriculture is changing in Manitoba in an effort to maintain the viability of our rural communities. Many issues that the Government can have an impact on positively and respecting the concerns of agriculture when considering the graduated drivers' licensing program has been one area in which we are pleased with the outcome thus far.

We are pleased that our recommendations were included which will ultimately reduce the cost and time for rural families and still achieve that goal of having safer new drivers on our roads. Again, thank you for the opportunity to present, and I hope that any upcoming regulations relating to the bill do not hamper but help sustain our industry.

**Mr. Ashton:** I would like to thank the presenter. Essentially what we have attempted to do throughout the process here is maintain a strong principle of graduated drivers' licensing. We will still have some of the longest periods of time in which novice drivers are in control situations,

particularly with zero blood alcohol. We have certainly increased the learner's period. But I do want to acknowledge that the feedback from KAP was very useful and to particularly acknowledge the work of the task force because what the task force did was take, not just the issue in a general sense, but some very specific sub-issues and look for a made-in-Manitoba solution. What we have before us is very much in that category. It tries to reflect the basic principle of graduated drivers' licensing but be aware of Manitoba circumstances.

I just wanted to indicate as well, and I certainly cannot speak for the Minister responsible for MPI (Mr. Mackintosh) or for the board, but I understand that MPI advise that they have included gravel road training in their training program, and I think that is a very good recommendation. I know the previous presenter referenced some of the unique circumstances out there on the learning side, but I know this has been something that has been raised in my own community. We have no shortage of gravel roads, but when it has come to driver training in the past there has been a complete lack of it, partly to do with vehicle availability. I can indicate to you that one of the reasons we do have a longer learner period in place is to ensure people have also all season, something that was raised by the previous presenter which is very important as well. Particularly in rural and northern Manitoba but also in the city as well, it is quite a different thing to be driving at minus 30 with glare ice on the road than it is during the summer, so I thank you for that.

I can certainly indicate that we will, as we develop this program, be looking very much at the concerns that have been put in place in terms of driver education. I do want to stress that, as the previous presenter pointed out, that driver education in and of itself is only a component of learning to drive, but the point is well taken that we need to make sure we can make it available throughout the province. I can just finish by saying that I understand MPI is already in the process of doing that and this will be very much a commitment of our Government to make sure that we can enhance driver education.

Thanks again for the feedback.

**Mr. Faurshou:** Thank you very much, Mr. Dewar, Don. I appreciate your diligence in this regard. I know that you have examined the legislation from front to back, word for word, and have a lot of input. I also would like to recognize Chris Hamblin and her input over the course of time on this particular legislation.

I do want to ask you, though, Don: Have you had dialogue with the Government in regard to the training program being available across this province? Currently you are probably aware that more than 17 000 drivers each and every year become eligible by age for obtaining a driver's licence and yet only about 12 000 are taking, at this point in time, the high school driver ed program. There are a number of reasons but having that program available is a concern. Have you had opportunity to express to the Government that particular point?

\* (19:10)

**Mr. Dewar:** Yes, as a matter of fact, part of our submission was that there be credit given time-wise to taking the drivers education course allowing, as now, to start at 15 1/2 and the beginning period to start with that, as long as the drivers ed course was part of it. This was, I guess, in part to answer some of the concerns that the membership had with the task force report that it last a full year, from 16 to 17. So we were very pleased at the inclusion of drivers ed and the nine month beginning period would work very well, but we did remind the minister and others at that time that we will continue to press for drivers ed to be available in all parts of rural Manitoba.

**Mr. Faurshou:** This is a follow-up, Mr. Chairman. Did you discuss as to whether the level of support offered by Manitoba Public Insurance corporation be transferable or available to those persons who are seeking out instruction outside of the in-school instruction, perhaps because of unavailable programming at a particular area in the province?

**Mr. Dewar:** We had not talked about that at that particular point. We talked about the importance of having it available in a broader area, in all areas, and referring as well to, I know in our town, you have two opportunities in a year to start it. If you are not 15 1/2 prior to the first one,

you have to wait until the second one which you could well be 15 years, 364 days. We need to have more opportunity to work the youth into it so that the concern that our membership has that people can become intermediate drivers at a closer age to 16 to have the learner's behind them and some of the experience gained.

**Mr. Chairperson:** Is there leave for Mr. Gilleshammer and Mr. Reid to ask questions?  
*[Agreed]*

**Mr. Harold Gilleshammer (Minnedosa):** Thank you, Don, for your presentation. I guess one of the challenges we have had with this legislation is that it has sort of been a moving target. We had the original presentation made by the task force. We had the first statement made by the minister and then a second statement. The problem we are having is that the meat of this initiative is in regulation and which can be made at the Cabinet table as opposed to putting it in legislation, so we have been struggling with this and I think you referenced it as well, that the fact that it is in regulation has not given us a clearer picture of how this legislation is going to unfold. I am sure, as we have, you have also encouraged the Government to put it into legislation so that Manitobans know what it is we are getting with this particular piece of legislation.

But I would just like to thank you then for the input that your organization has had. I think you have made a big difference in helping to shape this legislation the way it is coming out now.

**Mr. Reid:** Thank you, Mr. Dewar, Don, for your presentation here today. You played a very valuable role in advising us all, and I speak for, well, I guess both the Opposition and the Government, as well, on the GDL process. We welcome your input over many, many months.

Just so that we do not let this part go with respect to the High School Driver Education Training Program, I want to make you aware that under MPI we first reduced the fee for students from \$100 down to \$50, so that it would be affordable for more students in the province. I guess to ask you a question by way of information or providing you with some information, to see whether or not you are aware that the High School Driver Education Program is

now being offered during the summer months in the communities of Swan River, Niverville, Winkler, Lorette, Carberry, Landmark, Power-view and Carman and any other community that has a sufficient number of interested students and instructors in the province during this summer. Are you aware that that program is available?

**Mr. Dewar:** No, I was not aware that it had happened this quickly.

**Mr. Reid:** I just wanted to make sure, Mr. Dewar, that members of the public are aware. We did take the opportunity several months ago to advise members of the Opposition, to make sure that they were aware of it, too, so that they could notify their communities and find out where there were sufficient numbers of students interested in the program, and instructors, to make sure that those programs were made available to them during the summer months, as well, and not just have to wait for the spring and fall sessions. So I just share that with you as information.

**Mr. Dewar:** Thank you. The one concern that was raised, and I did not have it in my presentation with the school program, is that when we are bussing some of our kids 40 and 50 miles to the school from very, very small communities, perhaps some consideration should be given to incorporating part of it during the school day, so that they can attend as part of the curriculum or as an addendum to it, so that they can still catch the bus home after it is done.

**Mr. Chairperson:** Thank you for your presentation.

### **Bill 23—The Highway Traffic Amendment Act**

**Mr. Chairperson:** Do you wish to make a presentation now on Bill 23?

**Mr. Don Dewar (Keystone Agricultural Producers):** Okay, I will do it now.

**Mr. Chairperson:** Please proceed.

**Mr. Dewar:** Do you have copies of that one as well?

**Mr. Chairperson:** Copies have been distributed. Please proceed.

**Mr. Dewar:** Thank you. Well, KAP has many concerns with the introduction of this legislation since there are some sectors in our industry that do rely at certain times on what could be non-licensed employees. Due to a decrease in available labour everywhere but particularly farm labour, it is crucial that we be given the leverage to have employees moving equipment from one field to another without the requirement of a class 5 licence.

We believe that this bill will do very little to promote the safe movement of farm machinery on the roads of Manitoba but could add considerably to agriculture's cost. A farmer would be forced to take a licensed driver from other duties to move equipment on a road. That person may or may not be nearly as qualified as the unlicensed employee who regularly operates that equipment. In fact, it would require three people to be involved in moving one piece of machinery what could be half a mile or a mile down the road. Two operators have to be taken from their duties, stopping their machines, travelling to pick up the unlicensed operator's machine, move him and the machine down the road and then put him back to work. Sometimes that could be, as our farms are starting to spread out, 10 to 20 miles, involve a round trip of that or more.

The most safe mover of that equipment is the employee who is experienced, trained and competent with the aspects of handling and moving equipment. A class 5 licence does not ensure that the holder is capable of moving farm machinery safely on roadways. We also believe that it could leave MPIC, or MPI, with increased costs due to inexperienced operators moving machinery on roadways. It may also cost the farmer in two ways: Repairing the equipment that may get damaged in transport and the rescue job to eliminate the problems that were developed by the inexperienced driver.

As farmers, we are very aware of the short time frame to get the work done: seeding, spraying, harvest. Especially this spring, we see the amount of moisture we have had in the seeding and spraying, and go to great lengths to promote the safety so that we do not have down time. An accident or damage can result in significant down time, and through that, economic hurt. Now we would like nothing better to have

all employees with a class 5 licence or better, but, in the real world, that is not always there. As we grow, there is a ever-increasing need for casual labour. We carry liability insurance that covers our machinery both on and off the farm.

If this bill is passed, if the mover of farm machinery did not hold a class 5 licence, our farmer's insurance, owner's insurance, would be null and void, and could risk losing a lifetime of work and the family farm, in the case of an accident. It would be difficult for the farmer to know, after hiring an employee, whether or not he has maintained his licence in good standing.

Some people who may be employed as casual labourers possess the skills necessary to operate machinery, but may not have a high level of education. These people have been operating and moving machinery since they were introduced to the workforce. They possess great experience, and have a good track record moving and handling farm equipment. The farmer, by way of offering that person employment and a good working atmosphere where guidance and encouragement are present, is providing these employees with the incentive to perhaps seek full-time employment and acquire a valid driver's licence.

Farm equipment moving from one field to another travels reasonably short distances. It travels at slow speed, and, therefore, with experienced, competent operators, the potential for an accident is very low. In fact, the accident track record of farmers moving machines is excellent. Most of the time, the equipment moves on rural roads and highways. Farmers try to avoid travelling through any communities, towns and busy highways, if at all possible. Young, experienced drivers from the farm will be unable to move equipment on highways until they are at least the 16 and a quarter that we talked about, or, in some cases, there will be that lag through closer to the 16  $\frac{3}{4}$  years of age, the intermediate driving stage. This will impede their ability to gain experience being left out of the movement of any farm machinery, and they will not be even be able to pick up the operator that is wanting to leave the field.

\* (19:20)

We want our most experienced, competent trained people moving equipment on the roads at all times. There is a strong feeling that the proposed regulations do not lead to this goal. With the new lighting regulations of 1977 and the slow speed that farm equipment travels, we believe anybody with training and knowledge of the basic rules of the road should be able to operate implements of husbandry on roads and highways, and would do so in the safest possible manner for the farm community and the general public. The conditions under which we presently operate will provide the greatest safety and flexibility needed for agriculture in Manitoba.

Again, we would like to thank you for the opportunity to present, and we hope that you will give the utmost consideration to the concerns that we have raised. I should add that, as we are members of the Infrastructure Council of Manitoba, Chris Lorenc enclosed a letter, or asked us to add it to our presentation, to make sure that you saw their concerns as they relate to the operation of equipment on working on highways and travelling on highways, as they are very supportive of our position.

**Hon. Steve Ashton (Minister of Transportation and Government Services):** Thank you for your presentation. I guess the dilemma for us is dealing with the situation of the fact that, currently, some people on our highways are required to have a licence if you drive a truck, for example, or a car or a farm truck, you do, and these items of equipment are, in fact, in many cases significantly larger, involve some other factors as well.

But I guess the dilemma for us as a government in looking at this is the fact that if someone does not have a licence, I made a list of about four reasons why. One is because they are a drunk driver. Second is because of medical reasons, why they cannot drive a car. Third is they have a poor driving record. When I say poor driving, it takes a pretty severe run of incidents to have your licence taken away in Manitoba. The fourth is they never had a licence. Looking at the four, I am just wondering whether KAP has any comments on that.

I will give you an example. With drunk drivers, for example, currently all of our administrative provisions do not apply, essentially. The only road restriction is if someone has a Criminal Code conviction. They cannot operate this type of equipment on the highway. But, for example, if you have been drinking, you will not be impacted by the 0.05 to 0.08, and, in fact, if you have higher than 0.08 blood alcohol, you will also not be subject to any of the administrative sanctions in the operation of this type of equipment until there is actually a conviction.

So I am wondering if KAP does see a distinction between that, recognizing that apart from those who do not have a licence, drunk drivers, depending on the circumstance, people with medical situations and poor driving records can go to the Licence Suspension Appeal Board. For example, if a trucker loses their licence, they have that ability as well.

So I appreciate that like most things on the safety side, there is going to be some inconvenience for some, but I am just curious as to whether KAP does see any difference between those categories of people who would not have a licence.

**Mr. Dewar:** Well, I think the first point, for example, a professional trucker is travelling at much higher speeds. He is operating on the roadways 100 percent of the time and should make sure that he keeps his licence, and I think we are looking at maybe someone in a different social status in our society who is able to maintain it.

The comment that the farm machinery is significantly larger, I think it is an argument on the side of safety to make sure that you have somebody qualified to handle it. For example, my wife holds a class 5 driver's licence, but I would not want her to move my tractor and air seeder down the road, and you would be telling me that she can do that. My insurance would be in force and everything would be effective, but that operator who normally drives that piece of machinery does not have a valid driver's licence, he would be my choice, but he would be the one who would not be allowed.

I think we have to look at the safety and the practicality of it, if there are problems with medical suspensions, and we would wholly support a zero blood alcohol level for anyone operating any of this equipment on or off the road. I mean, I do not want them on my farm either. So I think there has to be found a way to deal with the problem that you have raised and also allowing people in the workforce to do their jobs that they are trained and able to do.

**Mr. Ashton:** It is not something that we pursued lightly. I know we have had this discussion before, but there have been six fatalities and accidents involving farm equipment between 1995 and 1999; 45 involving injury, 93 involving property damage.

So there is a concern. I just ask again, and I do not mean to belabour the point here, but if someone is irresponsible enough to become a drunk driver, if someone is irresponsible enough to lose their licence because they have a poor driving record or if somebody has a medical situation which means that they cannot drive a car, and I have had a report specifically of someone who was legally blind driving one of these types of equipment, do you not think that, in itself, should raise questions about the safety of those individuals?

I realize they may be skilled, but, you know, a lot of skilled drivers do things of that nature and they lose their driver's licence. I am wondering if you have any comments on that. I recognize again that there may be some inconvenience from this, but we are trying to ensure that people who are on our road system have a certain basic degree of qualifications, not just a skill level but a certain level of responsibility as well.

**Mr. Chairperson:** Before I acknowledge you, is there leave of the committee to have Mr. Dewar respond and have two more MLAs ask questions? *[Agreed]*

**Mr. Dewar:** Well, you have answered one of the questions that I had which is there have been six accidents in the last five years. At least one year is included prior to the new lighting regulations that came into effect in 1997, which I know should have had some impact.

But could you answer the question: How many of those accidents were caused by the fault of the operator of the machinery, and how many were caused by people trying to pass a piece of machinery, or otherwise drivers not paying attention? I think that is the issue that we are trying to raise here, that the accidents are not caused, I do not think, by the operators of the machinery.

**Mr. Harold Gilleshammer (Minnedosa):** Mr. Dewar, I gather there was no consultation with KAP prior to this legislation coming forward.

**Mr. Dewar:** There was not as much consultation as we have had previously, although we had spoken with the department at one time.

\* (19:30)

**Mr. Gilleshammer:** Often we start by saying what is the problem you are trying to fix. Do you see a problem with drunkenness amongst farm operators on the highway or in the fields? Is there within KAP statistics that show that there has been a problem that we are going to fix with this legislation?

**Mr. Dewar:** We have been told there are two problems: one that was raised tonight with medical reasons, and the other is a farmer using his tractor to go to the bar. In that instance, none of our membership has been able to even recall seeing anything like that.

I think those issues can be dealt with without using such a big hammer, if that is what we are trying to fix.

**Mr. Gilleshammer:** The other thing I would like to ask is the profile of this unlicensed driver who works either in construction or on the farm. I am given to understand this is somebody who goes through long periods of unemployment, and possibly the only work they do is driving for a farmer or for a construction company, and, in fact, this legislation would cut off that source of employment for this person.

Is this the type of person we are talking about, who works on the farm, who is employed part of the year and is on perhaps unemployment insurance or social assistance the other part of



the year, and, in fact, this is going to make them a full-time client of those aforementioned programs.

**Mr. Dewar:** Well, from the experience of one of our members who hires several employees on a casual basis, sometimes he is not sure which ones are coming to work the next day. So he has eight on the payroll and he needs five, for example. That is the kind of people we are talking about, just what you said, when they do come, and they are the best operators in the world when they are there because you train them that way.

**Mr. Gilleshammer:** So it would be fair to say that this could have some unintended collateral damage to those people who will no longer have a source of employment.

**Mr. Dewar:** Definitely, if the farmers are prepared to get them to work, but also the instance as I outlined here, requiring two other licensed drivers to help move the equipment what could be just to cross a highway actually or move it a hundred yards down the road.

**Mr. David Faurichou (Portage la Prairie):** Just, first off, I would like to acknowledge that the honourable Member for Transcona (Mr. Reid) would not want to be misquoted, assuming that everyone understood that it was he who reduced from \$100 to \$50 with MPIC. It was the previous administration working in co-operation with the Manitoba Public Insurance corporation. So I just clarify that.

I will also want to acknowledge that there is a letter attached to your presentation from the Manitoba Heavy Construction Industry that does recognize a similar concern which you have elaborated in your presentation. Would you care to comment on that letter?

**Mr. Dewar:** In a casual discussion at an altogether different meeting this came up, and they expressed their concerns. I, in fact, spoke with a contractor on the weekend who was visiting us, and I asked him what it would do on his job. Well, the licensed drivers, he says, we had a class 1 fellow put a trailer over it when he backed in, just because of inexperience. The licence does not mean anything. You need to

give them time. He says we do have operators who do not have licences, but they are good operators.

**Mr. Chairperson:** Mr. Faurichou, we are five minutes overtime, so one more question.

**Mr. Faurichou:** Thank you very much, Mr. Chairman. I appreciate all members in this regard.

I do appreciate all of your commentary here. Have you had opportunity to ask the minister: In relationship to ongoing farming, on either side of the roadway of a provincial nature as far as construction is concerned, when you are moving from one side of the road to the other side of the road which happens on a lot of occasions in construction, whether this has been elaborated with the minister?

**Mr. Dewar:** No, we have not talked about some of the specific instances that could arise. We would very much rather deal with the larger issue. What are we trying to fix, and how can we fix it, and still get the job done without costing our membership a lot of money.

**Mr. Chairperson:** Thank you for your presentation.

### **Bill 11—The Highway Traffic Amendment and Consequential Amendments Act (Continued)**

**Mr. Chairperson:** The next presenter on Bill 11 is Shawn Feely representing IMPACT, The Injury Prevention Centre of Children's Hospital. Please proceed.

**Mr. Shawn Feely (IMPACT, The Injury Prevention Centre of Children's Hospital):** Thank you very much. Could have used a shorter podium, though?

Again, my name is Shawn Feely. I am the program director for IMPACT, The Injury Prevention Centre of Children's Hospital. What we do is research on who is getting hurt and why they are getting hurt and then work with interested parties, governments, organizations, to address those issues. As IMPACT, we would like to commend the Government on the process

they used with the task force in gathering the information on graduated licensing. We understand the realities of the political process.

There are a couple of things we would like to make mention that would make ourselves true to ourselves in that there are three or four areas we would like to see enhanced, I am not sure if you are going to be having in regulations or legislation. I am not sure which way you are going, but be that as it may.

First of all, we would like to see an extension of the learner stage. The whole fundamental reasoning behind graduated licensing is to place a novice driver, not just a young driver but a novice driver in an area of low risk so they can gain the experience in a longer period of time, and so it will be, again, a low-risk area. With shortening that process it takes away from the learning and the experience that the person does not have the time to gain.

We know through evaluations of other graduated licensing systems that the highest rate of crashes happen right after the person is able to drive by themselves. So if you do not give a person the chance to gain as much experience as possible and shorten that period, the likelihood of the reduction that other jurisdictions have seen in crashes are going to be less.

We also take issue with the passenger restriction in that it is restricted. My understanding, based on what I have read from what was on the Web site, is that there is really no restrictions except for the number of seat belts. Last week on Highways 1 and 12, four teenagers were driving down the highway. They went off the road, and the 15-year-old died. Four teenagers, early hours in the morning. Could graduated licensing system in place already have saved that person's life? That is a question that we will be asking for a long time. We know that if there are passenger restrictions, anywhere from five to almost eight times greater the chance, if there are more than two passengers. So, if there are more than two passengers, there is a five to eight times higher chance that the person is going to be involved with a crash.

Well, let us move on to the night drivers' restrictions. Night driving restriction, again, there is four times the likelihood of someone

being killed at night, and there is no restriction with the system being proposed right now. Ontario saw a 62% decrease in the amount of crashes because they have a night restriction, so night restriction is a very important and fundamental part of a graduated licensing system. So these are just the three areas that we would like to see enhanced. One of the questions I have for this committee or for the Government is: Is there a plan for the evaluation, a plan in place or a plan being developed to evaluate this program? In a year from now or two years from now, if we do not see—and I would predict now we are not going to see the same amount of reduction in crashes that we have seen in other jurisdictions. But, if we are not, is there a process in place or will there be a process in place to make the necessary changes at that time?

There have been a lot of comments about drivers education. Drivers education is a good thing in that it reduces the amount of traffic highway infractions. It actually increases the likelihood of someone being involved in a crash. Because you take drivers education does not mean they are going to be better drivers. All it means is they know the rules of the road. They do have some experience, but the most important part of a GDL system is the length of time it takes for a person to move from a learner's stage to the next stage. A year is usually a good point. Nine months is not too bad. Some jurisdictions only have six months, but we would prefer to see one year and not credit given to the education component. Thank you.

\* (19:40)

**Hon. Steve Ashton (Minister of Transportation and Government Services):** I thank you for your presentation. In fact, one of the elements that is part of the Manitoba graduated drivers' licensing does involve restrictions in terms of night-time driving. This recommendation came from the task force which found that most other jurisdictions that have a curfew, most do not, there are exemptions put in place, and this does limit the number of passengers. For example, the scenario you were talking about, assuming they were novice drivers, if there were four people in the vehicle and they were in the intermediate stage, there would be that restriction in place, so that would be prevented.

I am also wondering too if you were aware that the net effect of the fact that we are not having a credit for drivers ed based on some of the analysis you put in place other than the fact that we are allowing the time, you know, at 15 ½, if people are in a drivers ed program, to be counted towards the nine months. The net impact of that will be perhaps not the one year I know that you referenced, but we will actually have the longest learners period in Canada in comparison to every other jurisdiction with graduated drivers' licensing. I think the emphasis has often been on the age at which people can start, but we will actually have, not accounting for the drivers ed discounts, the longest driver's period. I wonder if you are aware of that.

**Mr. Feely:** Yes, I am aware of that, and that is good. However, we would like to see better.

**Mr. Ashton:** I appreciate that, and it is always a tough call. I appreciate the feedback. Just if I could, our intention is to follow the same process that other jurisdictions have, which is certainly to review the application of graduated drivers' licensing in Manitoba. I look to the Nova Scotia, the Ontario study which has been referenced today. We do know it will save lives, but we will also be looking at the impact of specific provisions, including a number of the issues that have been raised tonight, so I appreciate that. That is a very important part of this and one of the reasons, by the way, why we will have some element of ability to make changes by regulation. It is not to hide anything from the process but to be able to adapt our graduated drivers' licensing program to developments both here in this province and in the many other jurisdictions that are bringing it in, so thanks for that recommendation. I think that is something you will see us follow through on.

**Mr. Harold Gilleshammer (Minnedosa):** Just for clarification. I was not sure what you meant by driver education. I think you said increases the number of accidents that happen.

**Mr. Feely:** It increases the likelihood or the chance of someone to be involved in a car crash with drivers education. It reduces the amount of infractions a driver has. For example, not stopping at a stop sign, that sort of thing. It reduces those infractions, but it actually in-

creases the likelihood of being involved in the crash. There have been at least eight or nine studies to say that.

**Mr. Gilleshammer:** Thank you.

**Mr. David Faurschou (Portage la Prairie):** I would like to ask, you were very adamant in your point that education does not have any positive spin. You said: It has a false sense of security that emanates from those that have taken the course. I am concerned with that particular statement on the basis that does not the actual road experience make drivers more familiar with driving? Is that not a positive experience?

**Mr. Feely:** I am sorry for giving the impression that we are saying education is not important. Education is very important, but we want to make sure that we are not resting everything and placing education as the be-all, end-all. It is education plus the time behind the wheel under many driving conditions, be it night, be it the gravel roads, be it winter conditions, that is the key. So putting those together, but education in itself, as it currently stands, with MPI in other jurisdictions, they have similar programs, is not the only answer. We are all for putting it in high schools, someone said, or making more opportunities for people to have, but the other very important side of that is the length of time someone is behind the wheel under many different driving conditions.

**Mr. Chairperson:** We have reached our time limit. Is there leave for Mr. Maguire to ask a question? *[Agreed]*

**Mr. Larry Maguire (Arthur-Virden):** Mr. Feely, thank you for your presentation. I just have a quick question. You referenced other provinces in regard to how they have provided education and how driver training is done and accident numbers and that sort of thing from other provinces because it is one of the larger ones: Can you give me some indication of what kind of drivers education, whether it is mandatory or voluntary and how broad it is offered in the province of Ontario?

**Mr. Feely:** I am sorry, I do not have that here. I can probably get it, but I do not have it here. I do

not know. I could probably get it within a few days.

**Mr. Chairperson:** Thank you for your presentation. The next presenter on Bill 11 is Terry Johns representing the Coalition of Manitoba Motorcycle Groups.

#### Point of Order

**Mr. Faurschou:** Mr. Chairperson, I would like the committee's consideration that, in light of the presenters, it is vital that we explore all of our questions in regard to legislation and to be unable to do that because of time restrictions and having to ask leave, not to condemn the minister for, obviously, his interest in all of this, but it does curtail and tie the hands of committee members to ask those very vital questions. I would like to see the committee consider that the time allocated to the minister's response to presenters, which is valuable, not be considered as time allocated to the presenters.

**Ms. Nancy Allan (St. Vital):** I think we established the rules at the beginning of the hearing, and I think that we have allowed leave so that everyone can have their questions answered. I think we should proceed.

**Mr. Chairperson:** It is not a point of order. It is a dispute over the facts, but your comments may have been noted in certain quarters.

\* \* \*

**Mr. Chairperson:** Will the presenter please proceed.

**Mr. Terry Johns (President, Coalition of Manitoba Motorcycle Groups):** My name is Terry Johns, and I am president of the Coalition of Manitoba Motorcycle Groups. I would like to thank you, Mr. Chairperson, and the committee members for allowing me to speak on Bill 11.

The Coalition of Manitoba Motorcycle Groups is an organization whose mission is to promote motorcycle safety and protect the rights of Manitoba motorcyclists by encouraging education, promoting legislative reform and disseminating information to aid in the continued safe enjoyment of motorcycling. The

CMMG also acts as a lobbyist on behalf of motorcyclists and appears at Public Utilities Board hearings where it has obtained official intervener status.

The CMMG, in its previous presentation to the Graduated Driver Licence Task Force, has generally supported a graduated licensing program. Our executive has reviewed the June 28 news release entitled "Graduated Driver Licensing To Be Extended to Motorcycles" and wishes to ensure that motorcyclists' concerns with respect to graduated licences have been adequately and fairly addressed.

The CMMG has only reviewed a copy of the draft bill, which is basically enabling legislation, and the recent news release which did not indicate whether proposed changes will be in the form of amendments to Bill 11 or in the form of regulations. Without a copy of an amended bill or proposed regulations, tonight's presentation to the standing committee is based on information contained in the news release, as well as some speculation as to what the proposed regulations may contain. The CMMG is in the position of having to make some assumptions and apologizes if the concerns have already been addressed.

The goal of the CMMG is to make motorcycling safer through better training, skill development and public awareness. We must ensure that motorcyclists have appropriate skills but, at the same time, not make it unreasonably difficult in terms of time, money and restrictions to obtain full licensing.

The proposed graduated licensing provisions outlined in the news release reflect many of the coalition's previous recommendations. However, the proposed time periods and associated restrictions for learner and intermediate stages are longer than recommended. The following comments are based on the assumption that graduated licensing will apply to all new motorcyclists, regardless of previous automotive driving experience.

Practical motorcycle training course. The CMMG supports training prior to issuance of a learner's permit. However, there are concerns as to its implementation and availability. According

to the news release, one of the requirements for obtaining a learner motorcycle licence is that the person complete a practical motorcycle training course. Will this be a classroom type of training course with videos, lectures and so on, or will it be a Manitoba Safety Council motorcycle training course taught on a motorcycle? If the latter, how can a person operate a motorcycle if they do not yet have a learner's licence? Also, will these training courses be universally available during the riding season, particularly in rural and remote areas?

Supervising driver: Although not in the news release, it is rumoured that proposed regulations will require that a learner motorcyclist be accompanied by a supervising driver. The CMMG is vigorously opposed to any such provisions and is of the opinion that such restrictions would be both impractical and unsafe, and you will notice the points.

\* (19:50)

It makes no more sense to have a supervising driver on another motorcycle than having a supervising driver follow or driving beside the motorcyclist in another automobile. This may only increase the chance of an accident as both the supervising driver and the learner motorcyclist may be cross-communicating rather than devoting full attention to their own riding.

Having a supervising driver does not have any merit unless the other person is a trained motorcycle instructor or a good experienced rider. If the other supervising driver motorcyclist is a buddy or a group of buddies, the learner may only be encouraged to keep up with riders having greater skill levels and in more complex traffic conditions than the learner could otherwise be involved. Rather than riding alone within their own skill levels, learner motorcyclists would have to wait until it is convenient for another fully licensed motorcyclist to accompany them.

Now, the motorcycle learner is less likely than the automobile learner to find a family member to qualify as a supervising driver and must rely on friends or acquaintances. In a rural farm or in remote areas, there may not be a fully licensed motorcyclist living near enough to serve this purpose.

Time restrictions for learner and novice stages: The CMMG would have preferred to see a situation where the completion of a motorcycle training course was used as an incentive to reduce the compulsory time periods of the learner and intermediate stages. It appears that the intent of the legislation or regulations is to have the learner stage extend over all of one riding season or at least part of two seasons.

In reality, given the seasonal nature of motorcycling, the nine-month learner stage will become twelve or thirteen months, and the fifteen-month intermediate stage will become two years. Assuming one obtains a learner permit in May of year one, one would be eligible to take the road test in January of year two but, more realistically, the following May. Similarly, one could not practically complete the intermediate stage until July of the third summer. With the additional year of zero-alcohol at the full-licence stage, the motorcyclist would be subject to a minimum of four seasons of driving restrictions.

The CMMG recommends that this requirement be amended so that the learner be given the option of nine months as proposed, or a minimum of five of the six months from April to September. The latter will provide for more experience during the riding season than a September to May nine-month period. It will enable the motorcyclist to obtain a learner's licence early in the riding season and advance to the intermediate stage before the season ends. Similarly, the fifteen-month intermediate stage should be reduced to twelve months, so that the full licence could be achieved before the end of the second riding season. The news released does not indicate if there are any tests or steps to pass from the intermediate to the full-licence stage. Also, there appears to be no difference in restrictions between the intermediate stage and the first year of the full-licence stage.

Once the intermediate stage has been completed, the CMMG recommends that there be no further restrictions on fully licensed motorcyclists, experienced drivers, unless they are still subject to graduated licensing restrictions for their automobile, as well. It is unfair to further restrict the mature person, with many years of automobile driving experience, once the

intermediate stage has been completed. The coalition wishes to thank the standing committee for the opportunity to speak to Bill 11 and pending regulations. The CMMG supports the overall initiative, in principle, but wishes to ensure that training and licensing is an expedient process, and that appropriate incentives are in place to reduce the time period that a motorcyclist is subject to restricted licensing. The details of implementing and administering a new program are very critical, and therefore, I would like to conclude by requesting that the CMMG and instructors of the motorcycle training course be involved and/or consulted during the actual drafting of the regulations respecting graduated licensing. A copy of the coalition's original policy statement with respect to graduated licences is attached for the committee's information. Thank you.

**Mr. Ashton:** I thank you for the presentation. I can certainly indicate our desire to work with your organization in terms of the development of the training course and acknowledge the importance of the input, both through the task force and in all the deliberations. I think there have been some very useful suggestions. I can indicate that one of the reasons we made the announcement prior to this discussion of the bill today was to make sure that there was some information out about the basic framework which will parallel the graduated drivers' licensing for other drivers in class 5. I can indicate we are not proposing that we have one of those supervisory drivers, but that we are basing what we are doing on the report from the task force. I certainly appreciate some of the other feedback in here. Rather than risk the wrath of my colleagues on the committee, I can commit to discussing some of the specifics with you further. But, just to indicate, I certainly appreciate the feedback. Thank you.

**Mr. Johns:** Thank you.

**Mr. Faurschou:** I appreciate the minister's brevity. Terry, I do want to say thank you very much for your continued efforts to promote safety as it involves operation of motorcycles here in the province. Your efforts are really commendable, and I want thank you for that and also take this opportunity to say that I appreciate the organization that goes into the annual ride, in co-operation with Manitoba Public Insurance

corporation, that comes each year in May. I am not putting the leathers on, but certainly I am enjoying the wind in the remains of my hair. Thank you very much, sir.

**Mr. Johns:** Thank you.

**Mr. Chairperson:** Thank you for your presentation.

**Mr. Johns:** Okay.

### **Bill 23—The Highway Traffic Amendment Act (Continued)**

**Mr. Chairperson:** The next presenter is on Bill 23, Mr. Greg Riou, representing the Heavy Equipment Rental Association of Manitoba. Please proceed.

**Mr. Greg Riou (Vice-President, HERAM, Heavy Equipment Rental Association of Manitoba):** Good evening, honourable members, ladies and gentlemen. My name is Greg Riou. I am the first vice-president of an association called HERAM, Heavy Equipment Rental Association of Manitoba. We are responding to recommendations for changes to The Highway Traffic Amendment Act, Bill 23.

HERAM firmly believes that all reasonable measures to ensure the safe operation of construction and other machinery on roads and highways should be taken. With this in mind, numerous proposed changes warrant the attention of our industry.

The bill proposes that all machinery operators have a valid class 5 licence. Currently, our industry has a limited base on which to draw equipment operators. This is primarily a result of the seasonal nature of our industry. Estimates of those currently operating equipment without a class 5 range as high as 20 percent to 30 percent.

Any action that results in a further reduction in the available workforce, or the quality of the workforce, will result in an increased risk to the public. This will occur as a result of many persons experienced in the operation of heavy equipment being forced from the industry only to be replaced by untrained, inexperienced operators.

We have specific proposals: Perhaps, an operator's permit to be issued for the completion of a one-day safe operation on roadways course, to be made mandatory for all new operators as of 2003. That all persons currently operating equipment without a valid class 5 be required to also complete this training in order to be allowed to continue operating without the valid class 5 licence. Persons prohibited from driving would not be eligible to operate any special mobile machines. Operators with more than one year of experience, validated by their employer, to be exempt from training requirements to receive an operator's permit. The permit would still be required through application.

HERAM is prepared to take an active role in the development and implementation of the proposed system. Our experience in providing training for equipment operators makes us well suited for providing the required training and validation. Program financing would be based on permitting the training fees charged to the applying operator, or his or her employer sponsor.

In closing, I would like to thank you for listening to our concerns.

**Hon. Steve Ashton (Minister of Transportation and Government Services):** I would like to thank you for the presentation. You indicated the people without a class 5 licence who are operating heavy equipment ranges from 20 percent to 30 percent. I was wondering if you could give me some indication if you know the degree to which they are either people who have been convicted on drunk driving, or have medical reasons where they cannot obtain a class 5, or have a poor driving record, as opposed to perhaps those that have never had a licence at all and are prohibited in any way? I am trying to get some idea of the breakdown between those two categories.

\* (20:00)

**Mr. Riou:** I do not really have any major statistics on that, but I can say in that behalf, as an employer, if they have medical reasons why they cannot be on that piece of equipment, more than likely we will not hire them.

As far as drunk driving, yes, we will. We would make sure, though, that their period is up, their probation is gone. We would monitor them.

We do not allow any alcohol at all present. We would send them home, or fire them, but we are not going to hold that against them. Everybody makes mistakes in this lifetime.

**Mr. Ashton:** I appreciate that, but my question was more against those who are prohibited from driving a car, or commercial vehicle, because they have been either convicted of drunk driving, convicted of various offences that would lead them to lose their licence, or medical, as opposed to those that have not had a licence in the past.

The reason I was asking that is because one of the reasons we are bringing in the legislation is to give plenty of advance notice, in companion with our graduated drivers' licensing system, to allow people who, perhaps, never had the opportunity to get a licence in the past to do so. So I am just trying to get some idea of, because the brief does say that you have no problem with not having people who have prohibitions from driving operating equipment, I was trying to get some sort of breakdown between the two categories, because I think it is fairly critical for us.

**Mr. Riou:** As far as people that have no licence because of drunk driving, you are probably looking at around 10 percent of that figure.

**Mr. Ashton:** I appreciate that there may be some difficulties, but I am wondering if you do not feel that, if someone loses their licence because of drunk driving, you know, if you are a commercial truck driver and you lose your licence, you have to go through the Licence Suspension Appeal Board to have it back for work purposes. Do you not see the same parallel that, if you lose your licence through irresponsible, in this case, dangerous behaviour, you should also have some restrictions put on your ability to operate heavy equipment on our roadways that would require that you go through the same process as a truck driver? Do you not see some consistency between the two?

**Mr. Riou:** I do, sir. I agree with you in that respect. We do not want to have anybody that is going to be a hazard on the road. On the same token, though, they have had a couple of extra drinks. They have lost their licence. They have done their mandatory six months where they

cannot drive anything not even a wheelbarrow so it seems. I see no reason why I will not put them on one of my pieces of equipment if they take a safety course and they are showing me that they are willing to stick by the rules of the law.

**Mr. Ashton:** In the interest of time, I just will indicate that the same provisions will apply under this legislation, if it is passed, that do apply generally, which is, once the suspension is up, people can, if they can drive a motor vehicle, they will be able to drive a truck or to drive these type of vehicles. So I just want to assure you that parallel will apply. The only new requirement is that you have a class 5 licence which currently in the province of Manitoba requires a two-week period.

**Mr. Harold Gilleshammer (Minnedosa):** I thank you for your presentation. As I said earlier, we often ask: Is there a problem that needs to be fixed when you bring forth legislation? In your mind, in the Heavy Equipment Rental Association or with the heavy construction industry, does there currently exist a problem with operators that are hired because they have not got a licence? Are we fixing a problem that is a risk to the public out there?

*Madam Vice-Chairperson in the Chair*

**Mr. Riou:** Yes, we sure are trying to fix that problem. All employers, as myself, we have certain guidelines that we follow in hiring that operator. If that operator has no licence, we want to know why, how long ago they lost it, and then we make our deductions on that. It is a problem with transportation as well. They have to get to and from the job site.

**Mr. Gilleshammer:** So what I hear you saying is that the industry is policing itself and that this legislation is a little bit heavy-handed and unnecessary.

**Mr. Riou:** I will not put words in my mouth like that, but I will say that we try to police ourselves as much as we possibly can. We are here this evening to possibly make some recommendations on making it a little bit better for our industry.

**Madam Vice-Chairperson:** Is there leave from the committee to allow Mr. Gilleshammer to wrap this up? [*Agreed*]

**Mr. Gilleshammer:** The solution that you offer is an operator's permit. In your mind, this would give sufficient training to somebody without a licence to enable him to operate the equipment.

**Mr. Riou:** Not only somebody without a licence, anybody out there who is going to run equipment on the road.

**Mr. Gilleshammer:** The individuals that come to work for your organization or for the construction companies that do not have a licence, presumably the image I have of these people is it is possibly the only job they have during the year, that they are brought to work by somebody with a licence and they do in fact do important work for the various companies, and this legislation may make it so that their circumstances are that they have no job at all and that they will have to rely on the state for their income.

**Mr. Riou:** That is true. It directly affects our businesses.

**Mr. Larry Maguire (Arthur-Virden):** Just quickly, Madam Chairman and committee. Mr. Riou, it is my understanding that this legislation also includes backhoe operators.

**Mr. Riou:** Yes, it does.

**Mr. Maguire:** If it is going to be the will of the Government to put this bill forward with that in it, I think another suggestion might be that backhoe operators in my experience practically move 10 feet at a time, or 30 feet at a time and can sometimes sit still in one place for many, many hours, working on a particular project. Do you believe that there could be an exemption for backhoe operators in this particular kind of legislation as well?

**Mr. Riou:** Can you restate that question, please?

**Mr. Maguire:** Yes, I was just wondering if you could express an opinion as to whether backhoe operators who do not move, they are basically stationary facilities, I know that they do end up moving 10 feet or 30 feet or loading the backhoe onto a flatbed to go somewhere else and they are not allowed to run the flatbed or the trailer. But, while they are operating the backhoe, do you



feel that they should be falling under the same bill in this kind of legislation?

**Mr. Riou:** They still have to get from point A to point B. That is our concern. We are worried about the safety issue. If they are going to be sitting situated in one place for most of the day, we have signage up for that to ensure that the public is well aware that, okay, here is a machine, and we flag them in if we have to.

**Madam Vice-Chairperson:** Thank you, sir, for your presentation. I would like to call on Dale Wilson, Mothers Against Drunk Driving, Winnipeg Chapter. Dale Wilson.

Okay, it would appear that the person is not here. The name being dropped to the bottom of the list, calling it one more time. Dale Wilson. So the name is dropped from the list.

That concludes the list of presenters that I have before me this evening. Are there any other persons in attendance who wish to make a presentation? Seeing none, is it the will of the committee to proceed with detailed clause-by-clause consideration of bills 11, 23, 33, 35, 36, 37, 46, and 49? If yes, in what order do you wish to consider these bills?

**Mr. Ashton:** I recommend that we do it in order.

\* (20:10)

**Madam Vice-Chairperson:** It has been suggested that we do it in order. Is that agreed? *[Agreed]*

If there is agreement then from the committee, the Chair will call clauses in blocks that conform to pages for all bills before the committee this evening, that is, bills 11, 23, 33, 35, 36, 37, 46, 49, with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose. Is that agreed? *[Agreed]*

*Mr. Chairperson in the Chair*

### **Bill 11—The Highway Traffic Amendment and Consequential Amendments Act**

**Mr. Chairperson:** Does the minister responsible for Bill 11 have an opening statement?

**Hon. Steve Ashton (Minister of Transportation and Government Services):** I just have a brief opening statement and that is that it is with great pride that I bring this legislation forward. It is the result of a lot of work, a lot of effort. I really want to credit everyone that has been involved with this. We will have further opportunity as this proceeds through the House to elaborate on that, but I do want to remind people that this will save lives. It is long overdue.

Just on a technical point, we have listened, in terms of the concerns expressed that the bill not strictly be implemented through regulation. In fact, we will be moving some amendments that will put in place in the legislation some of the significant elements of the graduated licence system in Manitoba.

The experience in other jurisdictions has been you have to allow for some ability to develop a program in response to circumstances that perhaps are unforeseen at the time, future developments both in the same province or other provinces, so that is why there will be a combination of the two factors involved. But I cannot say enough how much I appreciate the effort of people like Sharon Stewart, the Malleys from Thompson, my own community and others, who have been strong voices for this. I only wish it could have happened a long time ago in this province, and we are now going to be the eighth province. Soon we will be one of the ten out of ten provinces. It is a long time to getting to this point. As I said earlier, we will not know whose life will be saved from this, but it will save lives in Manitoba.

**Mr. Chairperson:** Does the critic from the Official Opposition have an opening statement?

**Mr. Harold Gilleshammer (Minnedosa):** This has been, in some ways, a frustrating experience in that, as I had indicated in an earlier comment, it has sort of been a moving target about where we are going with this legislation. I was critical of the fact that this was being done largely through regulation and not through legislation.

Now we find out that there are going to be amendments brought forward by the minister, amendments that we have not seen before. I

think this is sort of a difficult way to make law, that at the eleventh hour the minister is going to change the track here. Instead of doing it through regulation, he is going to put the regulations or the intent of this Government into the bill. It gives us very little opportunity to take a look at these changes and to be able to digest them and give fair comment to them.

So, on the one hand, I commend him for moving in this direction because I think it is something that should have happened in the beginning so that Manitobans would understand exactly what it is they are going to get with this legislation. As a result of the fact that the minister has wavered back and forth from the initial report to his first press conference to his second press conference and then to a third announcement on motorcycles, Manitobans are basically confused, I think, in where he is going.

Some are criticizing him for being too tough with this legislation and it not meeting the needs of Manitobans. Others are criticizing him because he has watered it down. I think that the process could have been better for all concerned if the basic tenets of this bill would have included the structure of the legislation and not have it put over to regulation. So, on the one hand, I commend him for putting more of it into the bill. It does not allow presenters to make comment on the final version of the bill, and it leaves us, as Opposition, sort of getting this at the last minute and having to digest it and understand it. So perhaps, in the long run, in the creation of legislation, for another time we will have learned something and perhaps try and do it right the first time.

**Mr. Chairperson:** We thank the minister and the critic. During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order.

Clauses 1 and 2—pass. Shall clauses 3 to 5 pass?

**Mr. Ashton:** I have an amendment after clause 4, between clauses 4 and 5.

**Mr. Chairperson:** Excuse me, I have been informed that Mr. Gilleshammer has an

amendment that comes before the minister's amendment, so we will consider Mr. Gilleshammer first. We will also pass whatever clauses come before the amendment before dealing with the amendment. So before I recognize Mr. Gilleshammer, we are going to pass the clauses before your amendment.

Clause 3—pass; clause 4(1)—pass; clause 4(2)—pass; clause 4(3)—pass. Shall clause 4(4) pass?

**Mr. Gilleshammer:** Mr. Chair, this amendment makes a slight change in the bill.

**Mr. Chairperson:** Mr. Gilleshammer, could you move your amendment. We will read it into the record and then you can speak to it.

**Mr. Gilleshammer:** I move

*THAT subsection 4(4) of the Bill be replaced with the following:*

*4(4) Clause 24(9)(a) is replaced with the following:*

(a) a driver's licence of any class to a person under the age of 16 years, except for a class or subclass of licence that may be held by a novice driver which may be issued to a person who is at least 15 years and three months of age;

**Mr. Chairperson:** The amendment is in order.

It has been moved by Mr. Gilleshammer

*THAT subsection 4(4) of the Bill be replaced with the following:*

*4(4) Clause 24(9)(a)—*

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Dispense.

**Mr. Gilleshammer:** The minister had made some changes to the legislation which allowed the young person to complete the first phase of the driver training at age 16 years, three months. This would simply push that back, or push it forward another three months and be consistent

with what young people have been accustomed to in many parts of the province, achieving the licence at 16 years of age. We would ask the minister and the committee to accept this amendment.

**Mr. Ashton:** Mr. Chairperson, I point out that the minimum age in which people can enter the learner's stage in other provinces, with the exception of Alberta which is 14, which, I would suggest, is far too young, the minimum age is 16 in every other province except Prince Edward Island and Manitoba. What we propose to do is maintain the 15-year, six-month entry point, but rather than reduce that once again, recognizing there are certain issues related to both physical development and maturity, I would suggest to the member that the appropriate thing to do would be to maintain the 15 years and six months entry point.

I also point out I appreciate his point about people getting their licence at 16, but I think the presentations earlier today pointed to the fact that the longer someone is in a learner's position and the more opportunity they have to develop the maturity and the skills required to become a proper driver on our streets, I think given the feedback I would suggest that we defeat the amendment and maintain the 15 years and six months, which still is at a younger age than every jurisdiction except Alberta. I do not believe there is any empirical information that would support reducing it beyond that, but we are certainly not proposing to raise it.

**An Honourable Member:** Question.

**Mr. Chairperson:** The question has been called. Shall the amendment pass?

**Some Honourable Members:** No.

**Some Honourable Members:** Yes.  
\* (20:20)

#### Voice Vote

**Mr. Chairperson:** All those in favour, please say yea.

**Some Honourable Members:** Yea.

**Mr. Chairperson:** All those opposed, please say nay.

**Some Honourable Members:** Nay.

**Mr. Chairperson:** In my opinion, the Nays have it.

The amendment is defeated.

Clause 4(4)–pass; clause 4(5)–pass. Shall clause 5 pass?

**Mr. Ashton:** We have an amendment.

I move

*THAT the following be added after section 4 of the Bill:*

*4.1 The centred heading before section 26 and section 26 are repealed.*

**Mr. Chairperson:** The amendment is in order.

It has been moved by Mr. Ashton

*THAT the following be added after section 4 of the Bill:–*

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Dispense.

**Mr. Ashton:** This is a fairly technical amendment. It is necessary to separate the repeal of the existing section 26 from the proposed section 26, which is renumbered section 26(1) in Bill 11. The existing section 26 will remain in effect until the full implementation of graduated drivers' licensing occurs in 2003. At the same time, the regulation-making powers in the renumbered 26(1) must be brought into force this fall to allow for the creation of regulations to support the early implementation of two elements of GDL, the zero blood alcohol restriction, which we would propose to bring in this fall, and then the nine-month wait period between the written test and the road test, which we have targeted to bring in next year.

**Mr. Chairperson:** Are we ready for the question?

Amendment—pass. Shall clause 5 pass?

**Mr. Ashton:** I have a further amendment to clause 5 and an amendment after clause 5. I move,

*THAT section 5 of the Bill be amended*

(a) *by striking out the part before the proposed centred heading "NOVICE DRIVERS" and substituting "The following is added after section 26:";*

(b) *by renumbering the proposed subsections 26(1) to (5) as subsections 26.1(1) to (5);*

(c) *in the proposed clause 26.1(1)(m), by striking out "or blood alcohol concentration levels of zero, for novice or" and substituting "for";*

(d) *in the proposed clause 26.1(1)(n), by striking out "his or her blood alcohol concentration level exceeds the prescribed level" and substituting "he or she has any alcohol in his or her blood";*

(e) *in the proposed clause 26.1(1)(r), by striking out "driver's blood alcohol concentration level exceeds the prescribed level" and substituting "driver has any alcohol in his or her blood"; and*

(f) *by adding the following after proposed clause 26.1(1)(r):*

(r.1) *respecting the removal and storage of a vehicle, and any towed equipment, being driven by a novice driver when he or she has been found to be driving with alcohol in his or her blood, and respecting the enforcement of the costs of removal and storage;*

**Mr. Chairperson:** The amendment is in order.

It has been moved by Mr. Ashton

*THAT section 5 of the Bill be amended*

(a) *by striking out—*

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Dispense.

**Mr. Ashton:** These amendments to (a) and (b) are required to renumber the proposed sections 26 and 26.1, as referenced earlier. Renumbering is necessary as the regulation-making powers in this section would be brought into force this fall to allow for creation of regulations to support the earlier implementation of GDL, the zero blood alcohol requirement and the nine-month wait period. At the same time, the existing section 26 must remain in force until full implementation of GDL in 2003. In other words, this is part of the transition to graduated drivers' licensing.

**Mr. Gilleshammer:** Just a bit of a dilemma. I have an amendment as well. The renumbering, I think, has created a bit of a problem, and I just want some guidance about whether to move this now or a little later. I will ask the Clerk for advice.

**Mr. Chairperson:** In the meantime, we will hear from the minister.

**Mr. Ashton:** Mr. Chairperson, I could explain, there are also a couple of other sections as well, which I would like to indicate. The regulation-making authority in clause 26(1) will be changed to allow the zero blood alcohol restrictions to be addressed in statute.

\* (20:30)

**Mr. Chairperson:** We are getting advice. In the meantime, we are going to deal with the amendment. The amendment from the minister is in order.

Amendment—pass.

**Mr. Gilleshammer:** My understanding is they are doing some renumbering so that my amendment can be accommodated.

Steve, do you have any more amendments?

**Mr. Ashton:** I was just commenting that this is the part which best reflects the comments, I believe, of Bismarck, that making legislation is like making sausages here. So I hope members of the committee and members of the public will bear with us. We are getting to the meat next.

**Mr. Gilleshammer:** My amendment, moved by myself,

THAT section 5 of the bill be amended by adding the following after the proposed subsection 26.1(5) Driver Education Available at all High Schools 21.6(6): The department shall ensure that driver education or training courses shall be made available to students at all high schools in the province.

I think, with the minister and the Government's commitment—

**Mr. Chairperson:** Mr. Gilleshammer, I regret to say that I need to rule that your amendment is out of order, because it would require the expenditure of public funds.

**Mr. Gilleshammer:** Well, I accept that, but, given that the intent is such a noble one, I would implore the minister to bring the amendment in himself.

**Mr. Ashton:** Well, whether it is noble or not, not only can I not agree to make this amendment order, but it actually requires an expenditure, in this case, not by the department, but by Manitoba Public Insurance corporation, which has the mandate and the responsibility for driver education.

Therefore, and I can guarantee, and I would have the Minister responsible for MPI and a board member here as well, that there is a commitment to expanded availability. I will predict there will be significantly increased demand as a result. So I appreciate that the member's attempting makes a point, but I do believe the Chair's ruling is correct, and I would suggest that we deal with the procedural matter, Mr. Chairperson.

**Mr. Gilleshammer:** Well, given that upwards of 40 percent of young people are not able to take a driver education program in their school, I think it would be incumbent on all of us to try and see that driver training is universally available to students across this province. There are a variety of impediments to that, and the minister can talk with this colleagues to try and remedy that.

**Mr. Chairperson:** Clause 5, as amended—pass.

**Mr. Ashton:** I have a further amendment. If I could read it into the record. This is the meat of this process. I move

*THAT the following be added after section 5 of the Bill:*

*5.1 The following is added after section 26.1:*

**Stages for Novice Drivers:**

**26.2(1)** A novice driver must hold a class or subclass of licence prescribed for novice drivers

- (a) in the learner stage, for at least nine months before being eligible to progress to the intermediate stage;
- (b) in the intermediate stage, for at least 15 months before being eligible to progress to the full stage; and
- (c) in the full stage for at least 12 months before he or she is no longer a novice driver.

**Exemption for existing licences**

**26.2(2)** Subsection (1) does not apply to a licence that is issued before the day on which this section comes in to force.

**Zero BAC level: novice drivers**

**26.3** No novice driver shall, while he or she has any alcohol in his or her blood, operate or have care or control of

- (a) a motor vehicle or off-road vehicle; or
- (b) an implement of husbandry, special mobile machine or tractor.

**Restrictions at learner stage for class 5 vehicles**

**26.4(1)** A novice driver who holds a class or subclass of licence prescribed for novice drivers in the learner stage entitling him or her to operate a class 5 vehicle shall not

- (a) operate a class 5 vehicle unless a supervising driver is in it;
- (b) operate the vehicle
  - (i) with anyone in the front seat other than the supervising driver, or

(ii) with anyone in the part of the vehicle behind the front seat except in a seating position that is equipped with a seatbelt;

(c) tow any vehicle; or

(d) operate an off-road vehicle on or across a highway.

**Restrictions at intermediate stage for class 5 vehicles**

**26.4(2)** A novice driver who holds a class or subclass of licence prescribed for novice drivers in the intermediate stage entitling him or her to operate a class 5 vehicle shall not,

(a) between 5:00 a.m. and midnight, operate a class 5 vehicle with more than one passenger in the front seat or with anyone in the part of the vehicle behind the front seat except in a seating position that is equipped with a seat belt; and

(b) between midnight and 5:00 a.m., operate a class 5 vehicle

(i) with more than one passenger in the vehicle, unless a supervising driver is in the vehicle, or

(ii) when a supervising driver is in the vehicle, with anyone else in the front seat other than the supervising driver, or with anyone in the part of the vehicle behind the front seat except in a seating position that is equipped with a seat belt.

**Mr. Chairperson:** The amendment is in order.

It is moved by Mr. Ashton

*THAT the following be added after section 5 of the Bill*

*5.1 The following is added after section 26.1—*

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Dispense.

**Mr. Ashton:** Mr. Chairperson, this specific amendment puts into the legislation the specific framework. These are the main components of the graduated drivers' licensing system. As we progress from deliberations with the task force through to discussions and consultations through to the release of our proposed graduated drivers' licensing system for Manitoba, it was felt it was reasonable to put in place the basic parameters.

I note that opposition members, certainly in their conversations and I believe the critic in his comments, did identify this as being a concern. None of the items that are being brought in this amendment are new. These are essentially what we have announced already. This does not take away our ability to make regulations related to other matters, but we felt it was a reasonable suggestion that we put the basic parameters of the system in place, and that is what this does.

Just to run through it for members of the committee: The nine-month learners stage, that is up from two weeks currently. The 15-month intermediate stage, the 12-month full stage are in place. We put in provisions related to phasing in the zero blood alcohol content which would come into place this fall if the legislation is passed this session. It does deal with some of the restrictions, both at the learner stage and at the intermediate stage. These are based on the task force report and subsequent feedback from Manitobans. The intent of this, again, is to put the basic framework of GDL in the legislation, which I believe was a reasonable suggestion on the Opposition's part. I would certainly urge support of this particular amendment.

**Mr. David Faurshou (Portage la Prairie):** I would like to query the minister in regard to the restrictions when operating a vehicle by a learner. The way it describes here, if I can think of a configuration of a pickup truck, you are saying there is only one person in the pickup truck other than the learner, so there could not be a passenger, in other words, three persons on the bench seat in the pickup truck by this definition.

**Mr. Ashton:** We are recognizing that there are many pickup trucks now that have more than a standard front bench seat, increasingly so. This keeps the same basic principle for pickup trucks

or other vehicles and recognizes that, in this learning stage, it is important to reduce the distractions to the driver, and that has been fairly standard in a lot of other graduated drivers' licensing regimes throughout the country. Essentially it is the same principle, whether it is a pickup truck or a car. It ensures that there is a minimum degree of distraction, recognizing again that there is an ability, both in the learner stage and the intermediate stage and, of course, in full stage to carry passengers. The main restrictions are in regard to the front seat, the number of seatbelts and also a varied restriction which is outlined in the legislation between midnight and five o'clock.

**Mr. Chairperson:** Amendment—pass. Clauses 6 to 8(1)—pass; clauses 8(2) to 8(5)—pass; clauses 9 to 12—pass; clauses 13 to 15—pass. Clauses 16 to 23(1).

**Mr. Ashton:** Mr. Chairperson, I have an amendment which would come in after clause 22, between clauses 22 and 23.

**Mr. Chairperson:** Clause 16—pass; clause 17—pass; clause 18—pass; clause 19—pass; clause 20—pass; clause 21—pass; clause 22—pass.

\* (20:40)

**Mr. Ashton:** I move

*THAT the following be added after section 22 of the bill:*

*22.1 Clause 319(l)(vv) is replaced with the following:*

(vv) prescribing classes and subclasses of licence required to operate or learn to operate a specified class or type of vehicle or more than one class or type of vehicle, prescribing fees for examinations for various classes and subclasses of licences, governing drivers who hold particular classes or subclasses of licences, and prescribing conditions and restrictions that shall apply to any class or subclass of licence;

**Mr. Chairperson:** The amendment is in order.

It has been moved by Mr. Ashton

*THAT the following be added after section—*

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Dispense.

**Mr. Ashton:** The proposed amendment, the regulation-making power in Clause 319(l)(vv), is required to provide adequate authority to address learner and supervising driver requirements for those drivers who fall outside the GDL Program. For example, experienced drivers who are upgrading to a higher licence class, in this case one to four, or who have been ordered to retake drivers' examinations.

**Mr. Gilleshammer:** Are you saying that exempts them from this process?

**Mr. Ashton:** Perhaps, the member can clarify that. I am not quite sure I understand the question.

**Mr. Gilleshammer:** Well, I am just trying to understand what it is you just said. You listed a group of people that the graduated drivers' licence will not apply to. So I am asking: Does that mean they are exempt from going through this procedure?

**Mr. Ashton:** What that does is ensure that the current requirement in those classes of licences remains in place, and that has not changed. Yes, so it is essentially to leave the situation neutral in terms of the current situation.

**Mr. Faursehou:** So, if I am understanding that you are trying to recognize other classes of licence, are you then suggesting that, for those individuals that hold driving privileges in other countries or other provinces, that this is addressing that situation so that individuals can then take their upgrading?

**Mr. Ashton:** The issue of reciprocity will depend very much on what the specific circumstances are. It is hard to give a blanket example, but we will assess where they would fall, relatively speaking, relative to our program. In some cases, people obviously will come with a licence that is fully recognizable. I should indicate to the member we currently are involved with a number of negotiations with other jurisdictions involving reciprocity of licences, most

recently Korea, and it is our intent certainly to continue to pursue that, as well.

With issues in terms of reciprocity it is hard to give a general answer, but generally we will recognize equivalent driving qualifications for the graduated drivers' licensing system.

**Mr. Faurschou:** I am just trying to get a full understanding of what is proposed here. You say prescribed fees for examination of various classes, subclasses of licences. Are you suggesting that re-examination of driving abilities of previously licensed drivers in other jurisdictions will be determined by the minister, and there is flexibility there to recognize the extent of the examination such as an added language consideration such as he suggested from Korea to Canada where French and English are the languages of instruction and examination?

**Mr. Ashton:** Well, the member is quite correct in terms of regulation-making power. Just to reiterate what I said when I introduced the amendment: The proposed amendment is required to give adequate authority to address learner supervising driver requirements for those who fall outside of the GDL program. So this is, again, clarifying the ability to make regulations to apply in that case.

I think the member's question on reciprocity goes somewhat beyond the specifics of the amendment. I certainly accept that this is an area that we will be placing a fair degree of attention on, and I want to stress again that we are involved with negotiating reciprocal licence agreements. Quite frankly, one of the advantages of bringing the GDL system is I think there could be some real questions raised about whether our drivers would be able to receive reciprocal recognition of their driving qualification in other jurisdictions. As it appears, we are going to probably be the eighth jurisdiction. I am confident within the next number of months there will be all 10 Canadian provinces having this.

So there are sort of two sides to reciprocity, one of which the general bill deals with, but there are issues related to reciprocity that we will be working on. We will continue to negotiate agreements, both with foreign governments and

also review the equivalent qualifications of most other jurisdictions.

By the way, I mentioned the Canadian example, but the vast majority of U.S. states currently have graduated drivers' licensing, as well. So this is important, maintaining the portability of our qualifications, and I think by extension, allowing for an equivalent recognition of similar qualifications from other jurisdictions.

**Mr. Chairperson:** Amendment—pass; clause 23(1)—pass; clauses 23(2) to 24(2)—pass; clauses 25(1) to 26(4)—pass; clauses 26(5) and 27—pass; enacting clause—pass; title—pass. Bill as amended be reported.

### **Bill 23—The Highway Traffic Amendment Act**

**Mr. Chairperson:** The next bill is Bill 23. Does the minister responsible for Bill 23 have an opening statement?

**Hon. Steve Ashton (Minister of Transportation and Government Services):** Mr. Chairperson, I want to indicate again that we view the current situation in Manitoba, in the case of a number of the aspects of this bill which will be on a more technical side, to essentially create loopholes. I just wanted to give a very brief description of why we are bringing this legislation in.

First of all, I put on the record before the number of accidents involving farm equipment; 6 fatalities, 45 injuries, 93 involving property damage, a total of 144 between 1995 and 1999. I would also like to put on the record the number of collisions involving construction equipment. There have been 72 leading to injury, 329 involving property damage. That is a total of 401 accidents. There have been a significant number of accidents and also higher injury severity related to these type of accidents, almost six times. So it is not that there are not accidents. That is happening.

\* (20:50)

The reality is many other Canadian jurisdictions do require a class 5 licence. I would like to just remind members of the committee this is currently something that requires two



weeks in the learner stage. That will increase with graduated drivers' licensing. It requires someone to pass a written test and a road test. Quite frankly, the view of our Government is that if you need a licence to operate a motorcycle or a car it is not unreasonable to expect that someone have a licence to operate heavy equipment on our provincial roads and highways.

I also want to remind people that the current situation leads to a number of real loopholes in the application of various parts of our legislation. For example, our administrative sanctions under provincial law in regard to drinking and driving do not apply. They do not apply because you do not need a licence. The only current restriction that is in place is that you not have a Criminal Code conviction involving drinking and driving and that you be 16. What that means, for example, if someone is caught being over 0.08 they are in a position where they can continue right up to the court date to operate an item of heavy equipment. Whereas, for example, if they operated a truck, that would not be allowed because of the administrative sanctions. Similarly, our administrative sanctions related to those who have a blood alcohol content of higher than 0.05 do not apply because of the fact that, once again, it is based on the licence system. So it does create real problems in terms of drinking and driving.

The second type of situation where someone cannot have a licence is where they can be suspended for medical reasons. That might mean, and this has been identified with me specifically, that someone could be legally blind and operate this kind of equipment on our highways. That is a specific case that was identified to me that exists currently. Once again, we believe as a government it is not unreasonable that if you have to have a licence to drive a car, if for some reason you are prohibited from driving a car, you should not be operating an item of equipment that is significantly larger and could obviously create difficulty in the highway.

I want to stress again I know there has been some reference to speed but, quite frankly, if you have difficulties related to eyesight, for example, that prevent you from operating a car, speed does not make much difference when it comes to

larger items of equipment. You have to have depth perception. You have to see oncoming traffic and be aware of that.

The third kind of situation are those who have lost their licence because of driving offences. Once again, we believe as a government it is not unreasonable that if someone has been irresponsible enough to drive to the point where they lose their licence they should not be driving a piece of heavy equipment on our highway.

I want to stress again in all of these provisions, drinking and driving, subject to some of the statutory prohibitions on driving in certain circumstances, whether it be that or medical circumstances, or other circumstances involving loss of a licence, people do have the option of going to the Licence Suspension Appeal Board. What we are doing in this particular case is bringing in an equivalency between what a commercial truck driver would face and what an operator of heavy equipment would face.

I would also just like to point out that we will be allowing for the opportunity for those who have never had a licence and are not prohibited from getting a licence to obtain that licence. We thought it was important to bring in this legislation in advance of the new graduated drivers' licensing system. Certainly we will be prepared to work with the presenters today in terms of some of the specific requirements, but I want to stress again that we view this as a loophole. It is a loophole for our drinking and driving legislation and other aspects of our driving system.

I want to just finish by saying that it is important to remember that driving is not a right in this province. It is a privilege. If someone, because of irresponsible behaviour, or perhaps through no fault of their own but because of some other circumstance that prevents them from being a safe driver, we do not believe it is unreasonable to require that, as a minimum in this particular case, you have a class 5 licence. Not a commercial licence, we are talking about a class 5 licence, which is what anybody is going to need to drive their vehicle home tonight from this Legislature. So we think this is reasonable. We have listened to some of the presentations,

but this is an important way of enhancing safety on our highways.

**Mr. Chairperson:** Does the critic from the Official Opposition have an opening statement?

**Mr. Harold Gilleshammer (Minnedosa):** I think we see two bills here tonight from this minister and two completely different processes. On the one, people are congratulating him for going out into the field and talking to people and doing the consultation prior to putting forth his press releases and his initial bill. On Bill 23, the major people that this is going to impact, the Keystone Agricultural Producers, the equipment rental companies and the construction industry, have had no consultation on this and, in fact, were quite caught by surprise by this legislation. The minister has given statistics of the number of accidents involving farm equipment. What was missing from his statistics was how many of those drivers who were in these accidents did not have a licence, and the minister has not given us that information.

The minister indicates he is fixing a loophole in the legislation. I think it is a loophole that, certainly, was there on paper, but in practice it was not a problem. We do not have a high incidence, or hardly any incidence, of accidents in the fields or taking equipment across roads or, in fact, in the construction industry. So I think the minister is bringing forward a bill that has a lot of housekeeping changes to it, and this is an add-on that is going to cause some difficulty both for the agricultural producers and the construction industry.

Who is it going to hurt? It is going to hurt people who are somewhat marginalized in our society, who have jobs on a seasonal basis either in construction, which is a very, very short season in Manitoba, or during the farm season of seeding and harvest, again, a very, very short season. These are people who probably have the only jobs that they have had in recent years and now they are going to be disenfranchised. So I think the minister should take a second look at this and see if he can work with the groups that were here today, the Keystone Agricultural Producers and other farm organizations, as well as the construction industry, to see that people are not hurt by this and, in fact, that the safety

aspects can be achieved in some other way, and to work with the groups to find solutions that will make everybody happy.

**Mr. Chairperson:** We thank the minister and the critic. During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order.

Clauses 1 and 2—pass. Clauses 3 through 6(1).

**Mr. Ashton:** I have an amendment. Mr. Chairperson, I move that—

**Mr. Chairperson:** Excuse me. We need to do some clauses before we get to your amendment.

**Mr. Ashton:** Oh, sorry. That is right.

**Mr. Chairperson:** Clause 3—pass; clause 4—pass. Is there leave to revert to the amendment? *[Agreed]*

**Mr. Ashton:** I move

*THAT the proposed subsection 24(1.1), as set out in section 4 of the Bill, be replaced with the following:*

**Licence required to operate tractors, etc.**

**24(1.1)** Every person shall, before operating an implement of husbandry, special mobile machine or tractor on a provincial highway, or a highway within the municipal boundaries of a city, town, village or urban municipality, obtain and have in his or her possession a valid and subsisting licence of a class that authorizes him or her to drive a class 5 vehicle, as defined in the regulations, without a full-time supervising driver.

**Mr. Chairperson:** The amendment is in order.

It has been moved by Mr. Ashton

*THAT the proposed subsection 24—*

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Dispense.

\* (21:00)

**Mr. Ashton:** This section, I can give a detailed explanation of it, but, essentially, it revises the legislation in light of the fact we are bringing in graduated drivers' licensing. As I indicated before, it is very much a companion piece. I can give the technical explanation if people wish, but generally that is the intent of this specific section.

I would like to point out again that we have looked at this in light of some of the developments of graduated drivers' licensing. Seven jurisdictions require special mobile machines to hold a driver's licence. In fact, we would become the sixth to require farm tractors. So, once again, what we are doing in this particular case is very much bringing our legislation in line with the experience of other jurisdictions that have graduated drivers' licensing in place. The specific wording of this does reflect that.

**Mr. David Faurichou (Portage la Prairie):** I just want to ask the minister for clarification: Does this then allow for an individual that is in the process of obtaining a driver's licence and is in the learner's stage at 15 1/2 and operate a tractor without a supervisor?

**Mr. Ashton:** Currently, that cannot take place anyway. You have to be 16 to operate this type of equipment on our highways. But what this will apply to will be starting at the intermediate stage. People will be able to operate this type of equipment because, at that point, they are not required to have a supervising driver. So it will not apply in the learner stage but at the intermediate stage where a supervisor driver is not required.

**Mr. Chairperson:** The amendment—pass; clause 4 as amended—pass. Clause 5.

**Mr. Faurichou:** Prior to this, I just wondered: In regard to cities, towns, villages, urban municipalities, the other municipal areas, does this act give jurisdiction for those particular municipalities to, in fact, enforce on their prescribed roadways this legislation by by-law, or are they just exempt, period? How does that fit in?

**Mr. Ashton:** It is outside the scope of this act that there are certain abilities for municipalities within The Municipal Act itself to make

regulations, pass by-laws, to have an effect of this nature.

**Mr. Chairperson:** Clause 5—pass; clause 6(1)—pass; clauses 6(2) through 11—pass; clauses 12 through 16(1)—pass; clauses 16(2) through 17(2)—pass; clauses 18 through 21(1)—pass. Clause 21(2).

**Mr. Ashton:** I have an amendment. I move

*THAT clause 21(2)( b) of the English version of the Bill be replaced with the following:*

*(b) in the subsection, by striking out "clauses (1)(a), (c) and (d) do" and substituting "clause (1)(d) does".*

**Mr. Chairperson:** The amendment is in order.

**Mr. Ashton:** I point out that the same wording appears in the French section, so this just showed that our English drafting missed this one and did not miss it on the French side.

**Mr. Chairperson:** Amendment—pass; clause 21(2), as amended—pass; clause 22—pass; clause 23—pass; clause 24—pass; clause 25(1)—pass. Shall clauses 25(2) through 25(4) pass?

**Mr. Faurichou:** I am trying to comprehend that the individual that you are now asking to be responsible is the owner of the vehicle of husbandry. If the individual presents a valid driver's licence and then subsequently loses it, when the owner has effectively asked for presentation of that licence, you are saying that the owner has the responsibility to continue to ask each and every time that individual climbs upon that tractor to make certain that that person has a driver's licence. If I am reading this correctly, that gives undue onus upon the owner of the vehicle.

**Mr. Ashton:** This section parallels the existing defence provisions under The Highway Traffic Act, which prohibit an owner of a motor vehicle or off-road vehicle from lending the vehicle to a person whose driver's licence is suspended, cancelled, or a person who is disqualified from operating such a vehicle. So this is not new. This is exactly the same provision we have, currently, for a whole other type of vehicle where a licence

is required. I am advised that, essentially, the defence obviously would be available to someone on this particular point.

I am not a lawyer, so I will not speculate on the legal side. But, obviously, if the person had made every reasonable effort, I would assume that that might be something taken into account in the courts. This is an important provision in the existing Highway Traffic Act, because I think it is very important to recognize that it takes two elements for someone to drive in this type of situation: One is the person themselves, and the second is the vehicle itself. I think it is an important provision in the HTA and all we have done is extended it for this bill.

**Mr. Faurschou:** I appreciate the minister's response. I do want to ask the minister at this juncture, again, the questions that were asked by my honourable colleague from Minnedosa, that being the number of accidents that were referred to in the minister's opening remarks as to how many did not have their driver's licences, and effectively, if they did not have their driver's licence, were they then at fault in the respective collisions that were referenced by the minister.

**Mr. Ashton:** Well, I point out that it might be possible to indirectly track that information down, but you have to remember that currently, you do not need a licence. That is not something that would necessarily be picked up in this situation because you have not broken any laws if you operate this kind of machinery, if you get into an accident. In fact, we had a call at my office from someone who was shocked to find in the city of Winnipeg, they were involved in an accident and they found out that the person who was operating, in this case, it was a street cleaner, did not have a licence. So it is not something that we would, in a normal course, be able to track statistically, because it is not a requirement. Right now, you can operate all sorts of machinery, street sweepers, graders, backhoes, tractors, I can go through the list, and you do not need a licence.

So my point of putting on the record the fact that there have been a significant number of accidents was to point to the fact that there obviously should be some concern in this area, because there obviously are accidents. I think it

is very important to recognize again, and I just put it to the member in this form. You know, if somebody, if they do not have a licence and they have not passed the most elementary requirements that it takes to have a class 5, or if they have had a class 5 licence and they have lost it due to drinking and driving, poor driving or a medical prohibition, I just say to the member, regardless of the fact that it is difficult to track this statistically, it only makes common sense that someone who has lost their licence or somebody who has never had a licence would be a greater risk of an accident on our road system than someone else. I mean, if you were to take the logical extension of the argument, which should not extend the classified requirement to people operating this type of equipment, the logical extension will be to argue we should not have anybody within a licence system. I do not think that is appropriate.

\* (21:10)

The licensing system is there for a reason. It has basic skills, and you keep it as a privilege if you are able to maintain certain basic medical aspects and also certain responsible legal behaviour. So, even though we cannot track it statistically, I think it makes common sense that somebody without a licence operating this kind of machinery would be responsible for a significantly higher percentage of accidents than others. That does not even deal, by the way, with what kind of a message we send, for example, to those who have lost their licence, that if you are a commercial truck driver, you lose your ability to drive a commercial truck where your licence is suspended, but if you are an operator of heavy equipment, you do not have to worry about it because it is not a requirement in the first place. So there are two dimensions: One is safety, on the prevention side, and the second is maintaining the integrity of our licensing system, and, particularly for me, it is really important on the drinking and driving side.

**Mr. Chairperson:** Clauses 25(2) through 25(4)—pass; clauses 25(5) through 32—pass; clauses 31 through 33—pass; clauses 34 through 37—pass; clauses 38(1) through 40—pass; clause 41(1)—pass; clause 41(2)—pass; clauses 42(1) and 42(2)—pass; clauses 43(1) and 43(2)—pass; enacting clause—pass; title—pass. Bill as amended be reported.

**Bill 33 – The Highway Traffic Amendment and Consequential Amendments Act (2)**

**Mr. Chairperson;** The next bill is Bill 33, The Highway Traffic Amendment and Consequential Amendments Act (2).

Does the minister have an opening statement?

**Hon. Gord Mackintosh (Minister of Justice and Attorney General):** We had some interesting perspectives offered on aspects of this legislation at committee earlier, and we are prepared to respond to one of the aspects raised, for clarity. As well, we have some minor change, really drafting improvements.

I just want to say that the main argument presented by MARL, and I have had some discussion with the critic on this one, centred around a concern on the part of that organization about the impact that the law might have in certain circumstances on a non-owner member of the offender's family. We did carefully consider that. I think it is important to listen to those perspectives that are offered, and the department and myself looked at the legislation again. We, first of all, have to recognize that, of course, the current forfeiture regime in this bill with regard to chronic, hard core, impaired drunk drivers, and these are the real hard core by the time you get to the forfeiture stage. These are the people who are refusing to get the message, but it is based on the forfeiture scheme introduced in the HTA under the former government to deal with johns. Having said that, we did consider the presentation in this respect.

Bill 33 does contain, I guess, what one could call, the buyback option. It allows all offenders, including those with special needs family members, for example, and that was one of the examples used, to have their vehicles released from forfeiture by posting a deposit equal to the value of their interest in the vehicle. We are concerned about any loophole. I see there was a brief article in the paper this morning on it, but when we look at the issue of designing exemptions for undue hardship, you immediately do create, I think, an opportunity for people who are the most hard-core repeaters, using a mechanism that, I think, is not necessary. I

mean, vehicle forfeiture is a very tough sanction, clearly, that will impose undue hardship upon the most serious offenders in most cases. So I think that there will be some hardship just by virtue of the provision.

Now the provision was never intended to impose hardship. It was intended, though, to make the public safer and take away what is essentially a weapon from the most serious offender. But problems in defining the exception, and that is where to draw the line and how to restrict the scope of eligibility, would result in a broad exception that could cause a loophole and undermine, in our view, the integrity and effectiveness of the forfeiture sanction. Even if the exception was limited to medical or health needs, potentially every resident of a community who does not have a local medical centre, perhaps an ambulance service, might want to make the argument and perhaps qualify.

The benefits of a special needs exception as well, in our view, do not justify its risks. It is estimated that the number of forfeiture cases could be perhaps 300 a year. We are hoping that it will be less because of knowledge of the new consequence. It is not likely that a significant number of those would be special needs situations, obviously, that could not be addressed by the buyback provision. It is just our view that the impact of forfeiture is justified. Clearly, if someone has gone through multiple convictions, they have gone through, therefore, multiple impoundments and clearly, the family would be aware of the situation, and steps surely would be taken by the family over that course of conduct, to deal with any special needs situation. So, as a result of that review, it is our intention not to introduce an amendment at this time to deal with that.

There is another clarification that is offered by an amendment and that is, where there are multiple offences emanating from one incident, they will be treated as one incident that would give rise to suspension. That is just to clarify a concern by MARL to have one incident treated as though it were multiple convictions, multiple offences.

**Mr. Darren Praznik (Lac du Bonnet):** I would just like to indicate for the record that the

Minister of Justice (Mr. Mackintosh) and I have had the opportunity to have several discussions about some of the details of this bill. I think we are looking to ensure that we get the best piece of legislation we can. I want to thank him for that opportunity.

So, just to understand, his amendment will be ensuring that the offences, there may be several offences arising out of the same incident, but they will not be counted as a group for the purposes of these suspensions. So the convictions within a 10-year period, as outlined in his chart on page 16 of the bill, would have to be rising from separate incidents?

**Mr. Mackintosh:** Yes, I think that is the best summary of it. In other words, one does not have three strikes you are out or four strikes you are out as a result of one incident.

**Mr. Praznik:** Mr. Chair, if there are, say, two or three offences arising out of the same incident, which of those offences will be the one that will be counted, should, in fact, another event take place within a 10-year period?

**Mr. Mackintosh:** The most serious offence.

\* (21:20)

**Mr. Chairperson:** During the consideration of the bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order.

Clauses 1 and 2—pass; clauses 3 through 7—

**Mr. Mackintosh:** I wish to move an amendment to Clause 7. I move—

**Mr. Chairperson:** Sorry, we are going to do the clauses up to 7 first.

Clause 3—pass; clause 4—pass; clause 5(1) pass; clause 5(2)—pass; clause 6—pass. Clause 7—

**Mr. Mackintosh:** I move

*THAT section 7 of the bill be amended by adding the following after the proposed section 242.3(40):*

**Sending confirmation statement**

**242.3(40.1)** Instead of sending a copy of a registered financing statement to a motor vehicle owner, secured party or insurance company under subsection (9), (11) or (36), the designated person may send the owner, party or company a copy of a statement, issued by the Personal Property Registry, confirming registration of the financing statement.

**Mr. Chairperson:** The amendment is in order.

It has been moved by Mr. Mackintosh

*THAT section 7 of the bill be amended by adding the following after—*

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Dispense.

**Mr. Mackintosh:** This amendment will enable the Seizure and Impoundment Registry to register forfeiture related liens against vehicles electronically in the Personal Property Registry.

**Mr. Praznik:** Since we are dealing with an amendment to this clause, and I would hope the Chair would grant me a little bit of leniency, for the purpose of clarification, when the Manitoba Association of Rights and Liberties spoke on this particular clause in subsection 3, they did raise a concern about the use of the word "committed" versus the word "convicted". I may have missed if the minister had made some action. Just while we are on section 7, before we amend it, section 7 is a long section, I just wonder if the minister could indicate whether he will be bringing in an amendment. The only reason I raise this, Mr. Chair, is his amendment has come after this point in the bill.

**Mr. Mackintosh:** The word "committed" is used here because there has not been a conviction. There may not be a conviction here. The forfeiture proceedings begin, of course, before there is the conviction. That is, the forfeiture scheme here where there is essentially a lien on the vehicle, which is then subject to forfeiture, so we cannot prejudge, pre-empt the justice system from unfolding, which may or may not end up in a conviction.

**Mr. Praznik:** Mr. Chair, to understand this again, in this scheme, if an offence is committed, and an individual is accused of that offence without having been convicted of it, the forfeiture begins. If the individual is acquitted, does that relieve them of forfeiture?

**Mr. Mackintosh:** The liability for forfeiture is there, but it does not crystallize until there has been the three convictions. In other words, this is a lien process. This is the result of ongoing discussions with the impoundment registry and with law enforcement officials, and this is the way we saw this being workable.

**Mr. Praznik:** I want to understand this, and I appreciate that my party, while in office, did bring in administrative penalties for drunk driving and that they were not dependent upon a conviction for charge. So I appreciate action that gets taken without a conviction. But I gather that, just so I understand this, the process, of course, begins when the offence is committed. Does the individual lose care and control of that vehicle at the beginning of the process? I see members shaking their heads. I take it that is a no. But, if they are convicted of the third offence, then the vehicle is forfeited. If the individual is acquitted of the offence and this process has caused them loss, what is their recourse? Particularly if the acquittal was based on, not what was argued would be a technical acquittal but it simply was the wrong person, there was some significant issue of identification, I only ask that theoretically to know if they have been inconvenienced and put to cost because of this process, not being able to sell the vehicle, for example: Do they have some recourse for their loss?

**Mr. Mackintosh:** Usually there would not be any loss, because the individual will still have care and control of the vehicle until such time as there is conviction and then the forfeiture provision crystallizes. In other words, the forfeiture kicks in. Other prejudice would be protected against by way of the buy-back provision which is in place up until such time as the forfeiture crystallizes.

**Mr. Chairperson:** Amendment—pass; clause 7 as amended—pass. Clauses 8 and 9(1).

**Mr. Mackintosh:** I have two amendments to clause 9(1).

**Mr. Chairperson:** Clause 8—pass. Clause 9(1).

**Mr. Mackintosh:** I move

*THAT the proposed subsection 264(1), as set out in subsection 9(1) of the Bill, be amended in clause (d) of the definition "Category A offence" by striking out "or section 263.1 or 265".*

This simply corrects what was a drafting error.

**Mr. Chairperson:** Amendment—pass.

**Mr. Mackintosh:** I move

*THAT the proposed subsection 264(1.1), as set out in subsection 9(1) of the Bill, be amended by striking out "a series" and substituting "an unrelated series".*

**Mr. Mackintosh:** This goes to the issue that we spoke about earlier to ensure that multiple offences out of one incident do not result in the consequences that would otherwise come from unrelated incidents.

**Mr. Praznik:** Mr. Chair, just for clarification again, not on this particular point but related to it. Perhaps, I have missed it in the minister's comments sitting at the far end of the table here. One of the concerns that MARL raised was about taking into account that this bill comes into force now and previous incidents would be counted. Perhaps I missed the minister's comment, but does he intend to deal with that by way of amendment, or has he already? Did I miss it?

**Mr. Mackintosh:** I have not dealt with that earlier, but I will certainly address that now. There was a considered approach here that the previous incidents are very important to be considered. In other words, we are not starting the world with the proclamation of this bill and disregarding what took place earlier. What this is about is not punishment. That is the job of the Criminal Code. This is about public safety. It is to catch those who repeatedly drive drunk at a risk to public safety, so the bill is there to

capture the reality. It is there to capture those individuals who have a history of repeat offences within a particular period of time. So, we think, to start looking at offences from this point on would be to create a fiction at the expense of public safety.

**Mr. Chairperson:** Amendment—pass; clause 9(1) as amended—pass; clauses 9(2) through 10(2)—pass; clauses 10(3) through 11—pass. Shall clauses 12(1) through—

**Mr. Mackintosh:** I have an amendment to clause 12(2).

**Mr. Chairperson:** Clause 12(1)—pass. Shall Clause 12(2) pass?

\* (21:30)

**Mr. Mackintosh:** I move

*THAT subsection 12(2) be amended by striking out "subsection 6(1)" and substituting "subsection 9(1)".*

**Mr. Chairperson:** The amendment is in order.

It is moved by Mr. Mackintosh—

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Dispense.

**Mr. Mackintosh:** This is just an error in the number that was printed.

**Mr. Chairperson:** Amendment—pass; clause 12(2) as amended—pass; clause 13—pass. Shall Clause 14 pass?

**Mr. Praznik:** Mr. Chair, if I could ask the minister at approximately what date he expects to proclaim this act? If he could give us a time frame in which it is his intention to proclaim this bill into law?

**Mr. Mackintosh:** Yes. As I said at the time the bill was introduced, this bill provides a road map as to where we are going. First of all, the suspension regime. We expect to be able to proclaim it in the coming months, perhaps. I think the thinking was that the system's changes could be completed and the work with Highways

by December, is preferable. It has been the experience over the last number of years actually, for these changes to be brought in in early December for the Christmas season, the holiday season, so that is with regard to the suspension scheme.

With regard to the forfeiture scheme, we are looking at next year. We want to bring in it now so that the system's changes can begin on that.

In terms of the ignition interlock, that is more problematic, we understand. We have contacted the contact with both Ontario and Saskatchewan. I believe Ontario's ignition interlock scheme—it was almost two years, I think, before there were actual ignition interlocks in place in the vehicles. In Saskatchewan, they are looking at almost a year and a half for that to be implemented. Now, the implementation challenges with regard to ignition interlock are beyond the purview of the Department of Justice. There are third parties that are involved here. There would be a call for proposals from the companies that provide this equipment. We will receive the technical aspects of the program and there would have to be, obviously, a consideration of any responses, the responses to that one, and then proceeding.

So, presumably, we could be looking at the next year for that one. So what we are doing is looking at a road map for over the course of roughly two years and perhaps, plus, because, like I say, on the ignition interlock, we do not have complete control over that. So that is based on the experience of other jurisdictions.

We have made it very clear that the bill has these three initiatives included, so we can proceed now with some certainty, in particular in the Department of Transportation and Government Services where the system's change is needed.

**Mr. Praznik:** Mr. Chair, with respect to the suspension portion, the middle portion that was in the minister's comments, he indicated next year. Could he tell us if he means January or December?

**Mr. Mackintosh:** It is our intention to have the proclamation of the suspension, the new lifetime



suspension scheme and the other changes in place this calendar year, and it is our hope and expectation that that will be proclaimed no later than December.

**Mr. Chairperson:** Clause 14—pass; enacting clause—pass; title—pass. Bill as amended be reported.

**Bill 35—The Improved Enforcement of  
Support Payments (Various Acts  
Amended) Act**

**Mr. Chairperson:** The next bill is Bill 35, The Improved Enforcement of Support Payments (Various Acts Amended) Act. Does the minister have an opening statement?

**Hon. Gord Mackintosh (Minister of Justice and Attorney General):** There will be one amendment proposed to this legislation as a result of our consideration of the issues raised about the retroactive nature of the provision regarding the super priority given to maintenance arrears. It is our intention clearly to ensure that there is a greater fairness for families as a result of this legislation. It was not our intention to create unfairness for any other parties. So, with regard to the super priority, the amendments will deal with that.

**Mr. Chairperson:** Does the critic for the Official Opposition have an opening statement?

**Mr. Darren Praznik (Lac du Bonnet):** In our Estimates process I had opportunity to discuss with the Attorney General some of the issues around gathering information on behalf of the payor and where parties were estranged, particularly if they had moved out of other jurisdictions, the ability to find out whether or not the conditions under which payment was being made were, in fact, being met. I raised the example, in particular, of a constituent I had whose former spouse was in the United States, two children both of whom have now reached the age of 18, finished their high school year, and this individual was not able to find out whether they were even alive or whether they were in post-secondary education and the ability to access a court without even knowing whether you had a case.

I know there are two bills involving maintenance, but I thought since we are on the subject. If, I understand, the minister has made some amendments or some improvements in these bills in that situation, I would appreciate if he might comment on the record with respect to that issue.

**Mr. Mackintosh:** It is a very important question that the member has been asking and I thank him for his input. The new clause, 55(2.1)(a), expressly authorizes the maintenance enforcement programs' officers to request information regarding the circumstances of a person for whom the payee receives support. An example was given by the critic, such as an older child, for example, in attendance at a post-secondary education institution.

The clause states: "Upon the request of the designated officer, the person required to pay maintenance or the person entitled to receive maintenance under an order, or both of them, shall (a) provide in writing to the designated officer all information of which he or she has direct knowledge relating to the financial means, or other circumstances of either or both of them, or of a person for whom support is payable."

Now, what are the consequences then if the payee does not comply with the request for information? There are several options open to the maintenance enforcement program. The designated officer may apply to the court for an order compelling the payee to provide the information. That is a new clause 55(2.5)(c). If the payee does not comply with the court order, the general penalty provisions under section 50(1) of the act can apply. The designated officer can write to the payee stating that the information is necessary to continue enforcing the order. The letter could further state that, if information is not provided within a set period of time, the program will assume that the child is no longer eligible for support. If the payee provides false information, of course, when requested to swear a statutory declaration, he or she can be charged with an offence under 55(3.1). The maximum penalty is 90 days in jail or a fine up to \$2,000.

So I think we have here now an innovative and yet a provision, I think, that does respond to

some ongoing concerns on the part of the program and, indeed, on the part of payors.

**Mr. Praznik:** I thank the minister for taking my party's issue with this under advisement and including it in the bill. Just another question on this particular point, and then I think we can get to the clause by clause and move through rather quickly. But, I would ask the minister: What if, in a circumstance, support was being obtained for fraudulent reasons over a period of time? For example, the child had reached the age of 18 years, was no longer in high school, was, in fact, working, not living with the receiving spouse. This went on for six months, a year, and that receiving spouse had received maintenance payments for that child under, in essence, false pretences. Would there be a recovery mechanism available through Maintenance Enforcement for falsely obtained income?

\* (21:40)

This is probably very rare, but it does happen from time to time in circumstances where spouses are living in different jurisdictions, where family contact has been lost. So the payor may not necessarily have any ability to learn the true state of affairs. The children may not be in contact or not even know money was being paid. It has even been brought to my attention in some jurisdictions, particularly in the United States, where their social allowance department actually takes the money. So the money might be going to subsidize a social allowance payment. The kids are not even eligible anymore. I know there was a case out of Vancouver involving Seattle that has not been undone.

What I am looking here to the minister is that, you know, no one here is saying that if maintenance is paid, under proper circumstances, it should be paid. It is just where you have a circumstance, which is very rare, where the payments are being received, circumstances have changed, children are no longer either eligible, or even with the receiving parent, and the maintenance continues to be paid. These will often be in circumstances where the payor does not have the financial means to go to court, to hire a lawyer to check this out, or the cost of checking it out through a lawyer may be more than it may be worth.

I appreciate these new provisions, but what will this minister do if circumstances and the odd case come up where, for six months or a year, maintenance has been paid on behalf of children who are now adult, not in post-secondary education, maybe not even living with the recipient of the dollars? There could be several thousands of dollars of money that was, in essence, fraudulently collected. Will the minister consider using the Maintenance Enforcement Program to retrieve the dollars the same ways they would have been collected?

**Mr. Mackintosh:** Currently and historically, of course, the Maintenance Enforcement Program has not pursued overpayments. That has been an issue that is between the parties. In other words, the payor would have to pursue that through civil remedies. But, more obviously, the payor would, in the usual course, go to court and get a variation order and have an adjustment made to the order because otherwise, the order would continue, is in force, and the regular payments would have to be made.

**Mr. Praznik:** Mr. Chair, I guess we have created a very strong regime to correct maintenance payments, of which my party was part of, including the denial of driver's licences, et cetera, denial of passports, federally. I would think we have an obligation where someone has continued to collect fraudulently and use that system, that we would have some mechanism to use it on them, in essence, to collect fraudulently-obtained overpayments. What we, in essence, say and again, my experience has been as an MLA, that most people caught in the circumstance are usually very low income, without the ability to come up with \$1,500 or \$2,000 to give a lawyer to pursue it in court. So, in essence, we use the full force of the law to collect the fraudulent payment, and then abandon the individual when it comes to collecting it back. So I would be comforted if this minister would take this point under advisement and look at, perhaps, making some adjustment in his law that, if the program has collected overpayments, it should also be used to get them back for the individual who has them taken away. There must be a basic fairness. You know the sword comes with two sides to the blade, and it should cut equally both ways.

So, first of all, I would like to know if he is prepared to examine this and consider in the next legislative session, perhaps, an amendment that would allow for the proper re-collection. It could be an individual who has a family and children. These are rare, but they are usually cases where people are distant, there is no communication. So there is not a way to determine it.

The second thing is if the payor has found that the conditions for the payment have ceased. Have I understood the minister correctly that that would give the Maintenance Enforcement people the ability to end the payment, or does the individual still have to go back to court to have it varied? Because the concern I raised with him back in Estimates was that, for most children after the age of 18 and the completion of high school, unless they have some medical or special circumstance or unless they are going to post-secondary education, the maintenance obligation ends. They are an adult, they are not in school, they now have to support themselves.

What troubles me is so many orders are written without an ending. They require the individual go back to court to end the payment, which may cost the individual \$1,000 or \$2,000 in legal fees. It seems to me that we, as legislators, should be requiring these orders to list the conditions under which payments are made, and when those conditions have ended, we should automatically see a cessation of the order. You know it seems like the reasonable thing to do, rather than force people to go back to court to have an order ended or varied when the circumstances on which it was based have changed significantly, i.e., the child has completed their post-secondary education.

Probably in the majority of cases, people just end the arrangements on their own, but it is in cases where there is acrimony or the recipient spouse is estranged from the paying spouse. They do not see each other, they do not talk. One could live in Thompson, the other could live in Grand Marais, or Winnipeg, and they have no ability, necessarily, to know what the true status is. I respect that this Government has now given them that ability to know, but it seems somewhat silly that we would set up a regime that has no ending to it without going back to court. I would be content if this minister would undertake to do

some more work in this area and, perhaps, consider some additional amendments. It is just that I think we all have trouble. We have to send people back to court to do what is somewhat obvious, and this is not to undermine the system, but if there is a court order based on certain circumstances and those circumstances have changed substantially, i.e., the child is 18, finished high school, not in post-secondary education, it should not necessarily require orders to be varied at court. I know those are rare, but when we make laws we should take that into account.

**Mr. Mackintosh:** The first question first. The amendment is a step forward in, hopefully, preventing overpayments. So an important first step in terms of whether the Maintenance Enforcement Program should then step in to collect the overpayment is an issue that we will consider, as the member has requested. I might add that this bill is not intended to be our only statement on maintenance enforcement in the course of the mandate. So there are ongoing reviews.

With regard to the second question, where there is a contingent event in the order, then there can be an immediate change to the payment by the Maintenance Enforcement Program making that decision. I think that would address almost all the circumstances, because I think we are usually talking about orders where it would say something to the effect that there shall be payments until such time as X and Y. So it is a matter of information only that is needed, not a matter of a revision of a court order. Otherwise, where the court order is specific and amounts are to be paid, that would usually be in circumstances where there are no contingent events. They are amounts to be paid until such time as the child maybe turns the age of majority or something like that, in which case the information should be available, but in other circumstances, I would think that there would not be a contingent event.

**Mr. Praznik:** My last question, and again I very much appreciate the minister responding to my inquiries in Estimates and including these provisions in the bill, but my last question in this area is a simple one. Is there a matter of right for the payee? I understand on reading his section, it is 55.2(1), if I am not mistaken.

I just look for a nod from the minister. It is the operative section. I appreciate you do not want somebody to be requesting every day as a matter of harassment for information, but I would hate to see a circumstance where any reasonable request would be denied for that information, that certainly the payor must have some reasonable right to request that. I take it, is the minister comfortable that this section is such that it does not require the—

**Mr. Mackintosh:** Of course, we have to recognize that the request is done by the Maintenance Enforcement Program, not the payor, but in the usual course of events, the payor's questioning or information is likely the information that will trigger the Maintenance Enforcement Program intervening and relying on the new section.

\* (21:50)

**Mr. Chairperson:** We thank the Attorney General and the critic. During the consideration of the bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order.

Clause 1 and 2—pass; clauses 3 through 5(2)—pass; clauses 5(3) through 5(8)—pass; clauses 6 through 8(1)—pass; clauses 8(2) and 8(3)—pass; clause 8(4)—pass; clauses 8(5) and 8(6)—pass; clauses 9(1) through 11(1)—pass; clauses 11(2) through 12(2)—pass; clause 13—pass; clause 14—

**Mr. Mackintosh:** We have an amendment, page 11, in section 13.

**Mr. Chairperson:** Is there leave to revert to Clause 13? *[Agreed]*

**Mr. Mackintosh:** I move

*THAT subsection 59.4(3), as set out in section 13 of the Bill, be amended*

(a) *in clause (a), by striking out "on the personal property of the person in default" and substituting "on all personal property of the person in default, including proceeds and after-acquired personal property"; and*

(b) *by replacing clause (b) with the following:*

(b) is deemed to have been perfected on the day

(i) the maintenance was due,

(ii) the enforcement provisions of this Part become applicable to the order, or

(iii) this section comes into force:

whichever occurs last.

**Mr. Chairperson:** The amendment is in order.

It has been moved by Mr. Mackintosh

*THAT subsection 59.4(3)—*

**An Honourable Member:** Dispense.

**Mr. Chairperson:** Dispense.

**Mr. Mackintosh:** This subsection is amended to clearly give the Maintenance Enforcement Program a security interest in proceeds from personal property or after-acquired personal property.

**Mr. Praznik:** Mr. Chair, this might be as good a time as any, when we are talking about the perfection of security, the Canadian Bankers Association made a rather extensive presentation on this bill, and they were concerned about the perfection of this debt. Again, as the minister fully appreciates and understands, the idea of the Personal Property Registry is to ensure that the public is able to be fully aware of liabilities or potential liabilities that may attach to an individual or their personal property that they may be using as security. The whole idea is to warn the world that there is a potential debt on this particular personal property just as we use the Land Titles system to warn people by way of caveat of debts and liabilities on land, so if they are advancing money, et cetera, they are forewarned as to who is before them in priority, should that individual go bankrupt or not be able to make their payments.

Unpaid wages, as we know, is a potential liability against an individual. I mean, there is an easy way to be able to check that with the Department of Labour. The minister, I know, was struggling with this. Perhaps he would like to comment, because their concern is a very valid one. One wants to try, I think, as a society to ensure as many liabilities are recorded in a public registry as possible, so that potential lenders are able to ensure that their credit risks are minimal. So I would appreciate the minister's comments on the presentation by the Canadian Bankers Association and what comfort level he can give them and ask this committee as to whether or not there are some issues that have been created that are going to wreak some havoc in the whole securities area.

The second question the minister may want to comment on is: Is the maintenance enforcement registry available to any potential creditor to be able to access whether any of us, any citizen, has an outstanding debt in maintenance?

*Madam Vice-Chairperson in the Chair*

**Mr. Mackintosh:** Yes, we carefully considered the critique of the Bankers Association, and so the amendments, I think, go a fair way to addressing the concerns while not detracting from our objective to make the arrears a super priority. I think that is very important to maintain, but I think the issue of notice was important.

As you can see from the presentation filed by the Bankers Association, their retroactivity was very important to them to be dealt with. So now with the amendment that is before the committee by applying prospectively, creditors will have the opportunity to adjust their practices or their due diligence procedures if necessary to the new provision. So there is notice now that there is a new priority in town, and I think that is fair. As I say, the intention was never to be unfair to any party anywhere. It is simply to be fair to families, but I think by being fair to creditors out there we have made the bill stronger.

I mean, the bankers have stated that Manitobans' access to credit may be affected. Their financing statements filed in the Personal Property Registry for maintenance arrears have priority over certain other registrations. Awards

for support are based on a payor's financial circumstances. So when support is ordered it is expected that payments will be made and arrears will not accrue. Support orders usually require regular, usually monthly or rather periodic payments just like any other bills a borrower may have. A lender can and should take a support obligation into consideration when advancing funds just as they consider obligations a borrower has in assessing their credit risk.

In answer to the second question, a payor is able to obtain a record that shows the status and history of the account with the Maintenance Enforcement Program. So all a creditor has to do is when assessing a borrower's risk the bank or the lender can require either the information directly from the applicant for credit or ask for a release, a very common practice, of course.

**Mr. David Faurshou (Portage la Prairie):** Madam Chairperson, being a layperson, I am just wanting to ask for clarity in regard to the proposed legislation, or perhaps if it was already in legislation and that being those persons in receipt of inheritance. When you speak of personal property and being in receipt of family heirlooms by inheritance, are we inclusive of those items when dealing with this particular clause, after acquired personal property?

**Mr. Mackintosh:** It is a good question and one that has been bandied around in the office. We have looked at the option of a clearance certificate, if you will, you know, probate and so on. That may well be an amendment that we will bring forward. As I say, this is not the only statement, the only change in improving maintenance enforcement. We are continuing to look at other options. There may well be something that we can present to the Assembly over the course of the mandate dealing with that. As you know, we are bringing in here a provision in respect of lottery proceeds. Sometimes windfalls come in other forms.

It is one that the department has looked at options on. We just at this point thought that the section was not ready to be introduced in this package this time.

**Mr. Faurshou:** So further to clarification then, if I may use an example of a seven-day clock

that has been in the family for somewhat over a century and a half, comes into the possession of an individual that is deemed in arrears in debts and obligations, whether that particular item would be considered personal property and in effect being considered for use in satisfying the debt.

**Mr. Mackintosh:** Now, the examples are getting pretty specific here. It is a constituent, right? Of course.

I should have said in the answer to the first question, when it comes to probate, we can do certain tweaking there, I think. But if that is property then of the debtor, it could be seized and sold under the maintenance enforcement scheme that is in place outside of this bill, but just with regard to the maintenance enforcement scheme that is in place in the province currently. In other words, there would have to be some knowledge that that was an asset that was available.

\* (22:00)

**Mr. Faurchou:** Still using my layman's naïve knowledge of the minister's response, the answer was yes in the example to which I cited that particular seven-day dome clock of a hundred and fifty year vintage would in fact be able to be seized by the individual that is owed the debt and that this would not be considered something of an extraordinary value not just by monetary value but personal, family, which is non-intrinsic value that this be deemed the history and the length of possession within the family.

**Mr. Mackintosh:** When there is an order of a court for payment of money in respect of anything in the province, there is the ability then on the part of the creditor, the person to whom the money is owed, to go and get garnishment and get the seizure and sale of assets of the debtor. So if that particular clock was an asset of the debtor, that would be liable for seizure and sale. Now, if there was a personal attachment to this property, an emotional attachment, I would think that that would trigger a response on the part of the debtor to come and pay off the amount. Often that is the case where assets are seized before there is a sale, the debtor will come and settle the account. But in the general law of

the province, there is no exemption from seizure for property that may be coveted by the debtor.

**Mr. Praznik:** Fine. Let us proceed.

**Madam Vice-Chairperson:** Amendment—pass; clause 13, as amended—

**Mr. Mackintosh:** No. One more. I have an amendment to subsection (5), so if we could pass sub (4).

I move

*THAT subsection 59.4(5), as set out in section 13 of the bill, be amended in the part before clause (a) by striking out "before or after the maintenance was due and payable" and substituting "after the lien and charge was perfected."*

**Madam Vice-Chairperson:** The amendment is in order.

It has been moved by the honourable minister—

**An Honourable Member:** Dispense.

**Madam Vice-Chairperson:** Dispense.

**Mr. Mackintosh:** Subsection 59.4(5) is amended to only provide a priority for support arrears over any other claim or right in the debtor's property that exists after the lien and charge for support arrears is perfected, rather than jumping interest which had priority at an earlier date. As in the original draft, this priority is subject to certain exceptions, such as a registration for unpaid wages, or personal money security interest.

**Mr. Chairperson:** Amendment—pass; clause 13 as amended—pass; clause 14—pass; clause 15—pass; clauses 16 and 17—pass; clauses 18 through 20—pass; clauses 21 through 23—pass; clauses 24(1) and 24(2) pass; enacting clause—pass; title—pass. Bill be reported.

*Mr. Chairperson in the Chair*

### **Bill 36—The Enhanced Debt Collection (Various Acts Amended) Act**

**Mr. Chairperson:** Does the minister responsible have an opening statement?

**Hon. Gord Mackintosh (Minister of Justice and Attorney General):** No.

**Mr. Chairperson:** Does the critic for the Official Opposition have an opening statement?

**Mr. Darren Praznik (Lac du Bonnet):** Yes, Mr. Chair. I have not spoken too much about this particular bill as it has fanned through the process, but I do have some concerns with the scheme. I guess it is always interesting to note that when Government wants to get its money, it always has the ability to change the rules of the game to get it. I have always had, personally, some difficulty with that, but if I may just ask the minister before we get into the clause by clause, my reading of this bill, he will now have the power. I am concerned it is obviously that issue and I cannot say to the minister here, today, that my party's hands were clean. We did the same thing in a variety of areas when we were in government. So that is one of the realities, but it is an interesting concept that Government gets to make its own rules to collect its own debts and the rest of the public does not always have that benefit, but that is just the musings of someone with a legal background.

The more specific concern I have is the ability to garnish and get into in essence, joint accounts that are owned jointly. If I understand the bill correctly, the minister will now have the ability to access jointly owned accounts. Is that correct?

**Mr. Mackintosh:** Yes. Actually, the model for that provision was brought in by the former government under the maintenance enforcement scheme, and I have not heard of any difficulties with the administration of that particular section. There is a check and balance in that section. There is the ability to object. It goes after what has been a long-standing concern, and that is, obviously, people can avoid their debts simply by putting their assets under the joint names and creating a fiction that way. So it is not as if this is a new provision. I think the other provision was brought in about four years ago, so we have some extensive experience with it.

**Mr. Praznik:** Mr. Chair, for what my advice is worth, somewhat as a legal purist, I have always been more comfortable when we used these

types of opportunities to sever the joint account, in essence, so they become two accounts owned in common. In other words, the Government has the right to access one-half of whatever is in there so that there is a severance of the joint ownership of an account as a better means of being able to access a jointly held account. So, in essence, what the minister is talking about is correct, that one can avoid payments and debtors by putting one's resources into a joint account and arguing, that while it would be an unfairness to the other person, but perhaps in future, and perhaps that is how the regime is intended to work now, I look for clarification, but I have always been much more comfortable if the law steps in to sever the joint ownership of that account.

\* (22:10)

The minister, as a fellow lawyer, knows full well that there are certain acts that can sever a joint ownership, that joint ownership does have that right of succession if one of the joint owners should die, but perhaps a severance is a better way to look at it, so that it is then, in essence, two accounts, and it makes the matter very clear. I am not saying it is a perfect solution, but I do think it keeps a better way of handling these. I am certainly not going to stand in the way of the bill, but it is a comment that I have reserved for the committee stage.

**Mr. Chairperson:** We thank the Attorney General and the critic. During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order.

Clauses 1 and 2—pass; clause 3—pass; clauses 4 through 6(4)—pass; clause 7—pass; clause 8—pass; clauses 9 through 10(2)—pass; clause 11—pass; clause 12—pass; clauses 13 and 14—pass; clauses 15 and 16—pass; clauses 17 and 18—pass; enacting clause—pass; title—pass. Bill be reported.

### **Bill 37—The Inter-jurisdictional Support Orders Act**

**Mr. Chairperson:** The next bill is Bill 37, The Inter-jurisdictional Support Orders Act. Does the minister have an opening statement?

**Hon. Gord Mackintosh (Minister of Justice and Attorney General):** We gave extensive remarks on this at second reading. If there are any questions, we can address them. We have no amendments proposed to this. This is as a result of drafting that was done by way of an interjurisdictional, interprovincial working group, and I hope this is a prototype for other provinces to follow suit.

**Mr. Chairperson:** Does the critic for the Official Opposition have an opening statement?

**Mr. Darren Praznik (Lac du Bonnet):** Mr. Chair, more just for the record, and I have raised some of these issues before in Estimates. One of my colleagues who is on another committee tonight, the Member for Ste. Rose (Mr. Cummings), asked that I just ensure this was placed before the Attorney General, but I think we are all in agreement that the need to modernize and improve inter-jurisdictional support orders becomes very, very important.

I just want to raise again another circumstance that he encountered with his constituent, and perhaps the Attorney General will put a few comments on the record as to whether or not this bill would provide relief in this circumstance. It is the case of an individual who has a child in the Yukon territory, resides in Manitoba, there is a support order against that individual. That individual, the nature of their income is that they work up north for a period of time during the year and make a rather sizeable amount of money and then are laid off. It is a seasonal job in which their income goes down. It really raises two problems. One is, at least what this individual tells us, his required variations of their maintenance order throughout the year when one would think there should be some way, given that repetition of income, that that could be taken into account. Whether that is a real problem or not, this individual believes it is, and I do not know if there are remedies available to him.

The second issue, of course, was that, whenever a variation was required, just the sheer distance of being able to apply for it and deal with courts in very far away jurisdictions has made it difficult.

The Attorney General may want to just offer some comment whether or not this addresses some of these issues.

The last point I make, which is with the advent of the child support guidelines from the federal government which, when we were in power, we adopted provincially for our piece of it make, in most cases, the amount of payment a pretty simple calculation based on income. There are still some areas where there are some issues that have to be decided, but for someone who is a wage earner, with a fairly well established income and known income, the guidelines are pretty clear on what one has to pay.

The good thing of these guidelines, of course, is it has taken out like the argument and acrimony because it says this is what you make, this is what you pay in most cases. So given people who do have those variations or need for variations based on seasonal income, the minister may want to comment on that matter. Secondly, the distance when a variation is required, given that there may not be many facts to dispute if a person's income has changed, the guidelines apply, results in a change. The minister, for the benefit of the member's constituent, who we will send this to, may want to comment on this to put on the record how this bill may in fact change or help that situation.

**Mr. Mackintosh:** First, with regard to the issue of when income varies over the course of a year, the child support guidelines that the member referred to indeed address this very issue. Now section 17 of those guidelines, and we can provide a copy to the member, provides that, in determining a person's income to set support payments, the court must look at the person's ability to pay in the current year, as well as his or her pattern of income, in other words, not just the income at a particular point in time. For example, the case of a worker with fluctuating income, the court will take into account the fluctuation by averaging income over the year. The support payments will remain the same over the course of the year but will be lower than otherwise required during the months income is at its highest and higher than otherwise required when at its lowest. It will balance out over the year.



With regard to the second aspect of the question, the applicable child support guidelines govern the determination of the support amount, but Bill 37 will provide a simpler, more streamlined process for either party to apply to vary the support amount based on a change in income or other circumstances.

**Mr. Praznik:** Part of the problem here, Mr. Chair, was that the person's order came in prior to the guidelines and may not have been updated and required some variation.

The second point, of course, is, in the previous bill dealing with this matter, we had ensured that there is a right-to-access information by the payor, and this again becomes very important when people are distant in jurisdiction. Often, the acrimony or the issues can be solved if proper information is obtained. So I would ask the minister to comment.

I take it that the ability to access information by the payor will also apply in inter-jurisdictional orders, so that someone who is paying in Manitoba to a payee who may be in the Yukon, in that case, or in Ontario, if they, in fact, want to obtain information—i.e., are the children alive, are they meeting the conditions of the order, are they living at home, are they in post-secondary education—will a Manitoba payor be able to request that information of a non-Manitoba recipient?

**Mr. Mackintosh:** Of course, the only jurisdiction we have control over is Manitoba. In other words, we could ask and require the provision of information from a payee in Manitoba, even on information from a payor outside of Manitoba, but we cannot, for example, require a payee in Yukon to provide information, although we would certainly relay any concerns there. But that would, of course, be within the jurisdiction of Yukon. So this legislation does not affect the operation of the Maintenance Enforcement Program or their maintenance enforcement scheme in Yukon itself.

\* (22:20)

**Mr. Praznik:** A place where I have a little bit of trouble here, because if we as a province are agreeing to enforce maintenance orders of other

jurisdictions, it is not a far-fetched request as part of that regime to be able to ask them, should a payor have a reasonable request for information. For example, I would like proof that the 19-year-old child I am paying for is, in fact, enrolled and attending the post-secondary education facility or institution that they are supposed to be in.

If we are going to enforce that order, surely as part of this inter-jurisdictional scheme we should expect that that information can be provided. Otherwise, if we do not, we could, in those very rare cases, be part of a fraud, and we could be collecting where there is a fraudulent circumstance. Why this becomes so important, so very, very important is that it is in these faraway inter-jurisdictional issues where people do not necessarily have access to the information, and then it becomes a very interesting question about enrolment in a post-secondary educational facility.

If someone is registered on a full-time basis with three courses and is not attending, is not writing exams, and basically sitting there so they can collect a support payment, that is fraudulent in itself. To a payor who may be thousands of miles away, particularly if the circumstances are estranged, we would be enforcing that order and they would have, maybe, very limited means to determine whether or not the conditions are in place. So it does cause me some concern, because it is even more imperative that that right or that ability to get information about the status of the payee and the conditions are still in place. It becomes more important in these cases.

If the Attorney General tends to agree that this is an issue, we would very much be supportive of an appropriate amendment being brought by him at third reading stage, if he would take some time. I appreciate there has been a lot of work done, but it is one of those areas that has been forgotten about in much of the legislation, including by my party when we were in power. So it is one, I think, that needs to be corrected.

**Mr. Mackintosh:** I really appreciate the comments because it goes to the whole issue of how we have to break down these barriers that exist across the country, but I am just advised by

staff that it must be recognized that, where there is a recipient living in another jurisdiction outside of Manitoba, Manitoba can ask for information from that recipient, either through the Maintenance Enforcement Program if the person is enrolled there, or directly, and if the information is not forthcoming, we can make a determination that perhaps payments may not be due any further. Perhaps that does deal with the issue. There can be that kind of inquiry and consequence to a recipient outside of Manitoba.

**Mr. Praznik:** Mr. Chair, I would ask the minister if he would entertain at third reading perhaps, considering, and I know he would take some time with his staff to look at this, but I think it would give a greater comfort level to our side of the House and to the public who would look at this act at some point in time, to know what people's rights are, that there would be some provision similar to the provision we put in the other act that would give an individual a right to request or the officers of the Maintenance Enforcement Program the right to make the request. I know we can say we do it as a matter of practice, but I think it is important to have these rights in the act because often, people will go to the act to find out what the scheme is, what their rights are, what the powers are, and it would be very useful to know that that was in our current statute. I would appreciate if the minister would undertake to at least explore that with his staff between now and third reading.

**Mr. Mackintosh:** The act before the committee deals with process. In other words, recognizing out-of-province orders and making variations on those orders. Process on the one hand and then, on the other though, are the substantive provisions and the enforcement provisions in each province's maintenance enforcement scheme. That is the earlier bill, so that is the challenge. Now, we do have in place in this country, all the ministers responsible for justice signing on to a protocol to look for improvements and work for improvements to maintenance enforcement and I think that, as that process continues, it is important that Manitoba has strong legislation to encourage others to adopt the legislation that Manitoba does with regard to seeking information from recipients to ascertain the current status of dependants, for example.

**Mr. Chairperson:** We thank the Attorney-General and his critic. During the consideration of the bill, the enacting clause, the table of contents and the title are postponed until all other clauses have been considered in their proper order.

Clause 1—pass; clause 2—pass; clauses 3 through 5(2)—pass; clause 5(3)—(pass); clauses 6(2) through 7(2)—

Is there leave to revert to 6(1)?

**An Honourable Member:** Leave.

**Mr. Chairperson:** Leave. Clause 6(1)—pass; clauses 6(2) to 7(2)—pass; clauses 7(3) through 7(6)—pass; clauses 8 through 9(2)—pass; clauses 9(3) to 10(3)—pass; clauses 10(4) to 12(1)—pass; clauses 12(2) through 13(4)—pass; clauses 14(1) through 15—pass; clauses 16 through 18(1)—pass; clauses 18(2) through 19(3)—pass; clauses 19(4) to 22—pass; clauses 21 through 22(2)—pass; clauses 23 and 24—pass; clauses 25(1) and 25(2)—pass; clauses 25(3) through 26(1)—pass; clauses 26(2) through 27(2)—pass; clauses 27(3) through 27(6)—pass; clauses 28 through 29(2)—pass; clauses 29(3) through 30(2)—pass.

Shall clauses 30(3) through 31(3) pass?  
[interjection]

**Mr. Marcel Laurendeau (St. Norbert):** I was just checking to see if there is another amendment, Mr. Chair.

**Mr. Chairperson:** Clauses 30(3) through 31(3) are accordingly passed. Clauses 32(1) through 33(2)—pass; clauses 34 through 35(2)—pass; clauses 36(1) through 36(5)—pass; clauses 37(1) through 39—pass; clauses 40 through 41(2)—pass; clauses 41(3) through 43(3)—pass; clauses 43(4) through 44(3)—pass; clauses 44(4) and 44(5)—pass; clauses 45 through 48—pass; clauses 49 and 50—pass; enacting clause—pass; table of contents—pass; title—pass. Bill be reported.

#### **Bill 46—The Provincial Court Amendment and Court of Queen's Bench Amendment Act**

**Mr. Chairperson:** The next bill is 46, The Provincial Court Amendment and Court of Queen's Bench Amendment Act. Does the minister have an opening statement?

**Hon. Gord Mackintosh (Minister of Justice and Attorney General):** No.

**Mr. Chairperson:** Does the critic for the Official Opposition have an opening statement?

**Mr. Darren Praznik (Lac du Bonnet):** I would just like to ask the Attorney General again, with respect to his new provision on the appointment of judges, that the community of Manitoba be considered by this committee. Would it be fairer to say I am on the right bill, I think. It would be fairer to say that that is just to make the selection committee cognizant of the fact that Manitoba is a very diverse province, that we have many lawyers coming up who are now eligible for appointment, who come from a variety of backgrounds, ethnic, cultural, racial and that that is a factor that should be considered in the appointment of judges. Was that his intent in bringing this into this bill? I mean, there is not a quota system or anything of that nature, but it is a clause to make that selection committee cognizant that the bench of Manitoba should be reflective, as much as possible, of the citizenry of our province. Would that be a fair assessment?

**Mr. Mackintosh:** Yes.

\* (22:30)

**Mr. Praznik:** I would indicate that that is very commendable and should be supported. Thank you.

**Mr. Chairperson:** We thank the Attorney General and his critic. During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order.

Clauses 1 and 2(1)—pass. Shall clauses 2(2) to 5 pass?

**Mr. David Faurshou (Portage la Prairie):** I just want to ask the minister, in regard to the term of office for the Chief Judge being designated to seven years, is this in keeping with other provincial jurisdictions as a term of office consistent with other terms?

**Hon. Gord Mackintosh (Minister of Justice and Attorney General):** I am advised that we

are the last jurisdiction to have term limits brought in, and in terms of the period of time, I think there are some provinces that may have eight, but I think the majority, by and large, are seven.

**Mr. Praznik:** Mr. Chair, and I will only be brief. With respect to some of the issues around compensation that are also included, I believe, in this bill, I would just, for the matter of record, indicate that this is a very difficult area. I mean I have been around this Legislature longer than the Minister of Justice (Mr. Mackintosh). I remember, in our early days, the Member for Burrows (Mr. Martindale) who came in 1990, and the Member for Transcona (Mr. Reid). We have sat on many committees that have looked at these issues of pay, and they are not easy issues to deal with.

I would just put this on record—that we certainly are going to support this bill. We are not necessarily endorsing this method. I think this Attorney General deserves his right, his kick at the can, at trying to resolve this issue. If it works to everyone's satisfaction, great. If it does not, then I think the Attorney General and this Legislature should feel free to consider this. We just want to indicate that with this particular provision, there may be some difficulties. We see some, but every Attorney General deserves his right to try to develop a method of determining and paying judges an appropriate salary, no matter how hard it is, and we would give this minister his latitude, but knowing full well that if it does not work, we reserve the right to be critical in the future.

**Mr. Chairperson:** Clauses 2(2) to 5—pass; clauses 6 to 8—pass; clauses 9 and 10—pass; clauses 11(1) to 11(3)—pass; clauses 12(1) to 13—pass; clauses 14(1) and 14(2)—pass; enacting clause—pass; title—pass. Bill be reported.

#### **Bill 49—The Statutes Correction and Minor Amendments Act, 2001**

**Mr. Chairperson:** The next bill is No. 49, The Statutes Correction and Minor Amendments Act. Does the minister have an opening statement?

**Hon. Gord Mackintosh (Minister of Justice and Attorney General):** Well, just going from

the sublime to the ridiculous, I wanted to make one comment on this one. It is that the title has been changed from The Statute Law Amendment Act to The Statutes Correction and Minor Amendments Act, and there is nothing sinister about this. It was simply to move to a plain-language description of what the bill is because, to a Manitoban, the words "statute law amendment" I do not think say what the bill did. So I just wanted to put that explanation on the record. If members have comments, I would be more than happy to consider them.

**Mr. Chairperson:** Does the critic for the Official Opposition have an opening statement?

**Mr. Darren Praznik (Lac du Bonnet):** Mr. Chair, just for the record, I notice that the New Democrats are already in government two years, and they are having to make corrections to their statutes because they got it wrong. That is how I read this title, and I am sure more Manitobans will come to see that point in future days. That is plain language.

**Mr. Mackintosh:** I think I am challenged to go through each statute and see if the corrections are to our bills or to their bills, but we will let that pass. It is getting late.

**Some Honourable Members:** Another day.

**Mr. Mackintosh:** Yes, that is another day.

**Mr. Chairperson:** We thank the Attorney General and the critic.

During the consideration of a bill, the enacting clause, the table of contents and the title are postponed until all other clauses have been considered in their proper order.

Clause 1—pass; clauses 2 to 5—pass; clauses 6(1) to 7(5)—pass; clauses 7(6) to 9—pass; clauses 10 to 14(1)—pass; clauses 14(2) to 18—pass; clauses 19 to 22—pass; clauses 23 to 25(3)—pass; clauses 26 to 28(2)—pass; clauses 28(3) to 30(5)—pass; clauses 31(1) to 31(5)—pass; clauses 32(1) to 34—pass; clauses 35(1) to 38(1)—pass; clauses 38(2) to 39—pass; clauses 40 to 42—pass; clauses 43 to 44(3)—pass; clauses 44(4) to 45(5)—pass; clauses 45(6) to 45(12)—pass; clauses 45(13) to

48—pass; clauses 49 to 52—pass; clauses 53 to 56—pass; clauses 57 to 61(1)—pass;

Shall clauses 61(2) to 62(3)?

**Mr. David Faurshou (Portage la Prairie):** I just wanted to ask the minister. We are making amendments to acts that have yet to be proclaimed. Is this standard procedure?

**Mr. Mackintosh:** Yes, better sooner than later.

**Mr. Chairperson:** Clauses 61(2) to 62(3)—pass; clauses 63 to 65(2)—pass; clauses 65(3) and 65(4)—pass; clauses 66(1) to 66(3)—pass; enacting clause—pass; table of contents—pass; title—pass. Bill be reported.

**Mr. Praznik:** Mr. Chair, a very quick word, I think tonight we have seen some tremendous work by Legislative Counsel in dealing with a host of amendments on a lot of bills and some very tough issues in terms of statute drafting. I think it is just worthy of acknowledging their supreme service to us this evening.

**Mr. Chairperson:** We thank the member for those comments. I think we all agree with them.

The hour being 10:40, what is the will of the committee?

**Some Honourable Members:** Committee rise.

**Mr. Chairperson:** Committee rise.

**COMMITTEE ROSE AT:** 10:40 p.m.

#### **WRITTEN SUBMISSIONS PRESENTED BUT NOT READ**

Bill 11—The Highway Traffic Amendment and Consequential Amendments Act

Re: Graduated Drivers' Licensing

Tell me I'm wrong. Comfort me by convincing me that it is I who is mad and not the entire Administrative and Media assemblies who are presently on-side in this matter, and if you can't do that, then hear the voice of reason and please embrace sanity, common sense and intelligence

by fighting this potential legislation with all the strength that you have in you.

Since there doesn't seem to be anyone speaking out on behalf of truth and our youth in this matter, I feel duty-bound to say a few words in favour of the possibly tens of thousands of young men and women whom you are about to punish unjustly for the past err(s) of a relatively small percentage of our population. In addition, you will be punishing me, the taxpayer, which I also take exception to; cause after all is said and done after the nightmare and expense of its administration and enforcement, the numbers will remain unchanged.

Isn't it true that the automobile is here to stay, at least for now?

Isn't it true that the automobile kills people every day, even without the involvement of youth or alcohol?

Isn't it true that the automobile, and one's early ability to operate one independently, is often a pre-condition of gainful employability in many cases?

Isn't it true that alcohol is here to stay and it, too, kills people of all ages and every day even without the involvement of youth or the automobile?

Isn't it true that some of the people (adults included) drink and drive some of the time and occasionally people get hurt and people get killed?

Isn't it true that, in view of the fact that some of the people behave irresponsibly some of the time, all the time, or at all times and that while they are doing so, they've elected to ignore the law, more law is simply not the answer?

Isn't it true that hundreds of thousands of us (adults) acquired our licences due and proper at age sixteen and proceeded, largely without serious mishap?

Isn't it true that the only path to acquiring greater responsibility is to be trusted with it?

Isn't it true that the only path to the acquisition of good judgment is through a series of bad experiences and that there is no adequate substitute for experience?

Isn't it true that the vast majority of our youth today are at least as intelligent and sensible (and not actually willing to die for foolishness) as we were in our time?

Isn't it true that few people of any age are outrightly stupid and/or suicidal in their ongoing habits and activities?

Isn't it true that those few bent on circumventing and ignoring the law will continue to do so regardless?

Isn't it true that our media and legislative bodies have allowed themselves to be lobbied and manipulated into being instruments of vengeance before the fact by a relatively small group of understandably angry yet misguided persons in this matter?

While we can all sympathize and even empathize with the many persons now mourning the loss of a loved one taken by automobile misadventure, holding all youth responsible and punishing them, in advance and in perpetuity, is simply wrong, unjust, ineffectual and misguided. We can no more single out youth itself as the scapegoat than we can the automobile, alcohol, or any number of other single factors. Yes, grief will seek a focal point for its anguish and anger. This we know and can understand, yet these things will continue to re-occur. They are a pre-condition of human existence and large bodies of population; and the punishing of vast quantities of the innocent as payment for the sins of a few is not the answer, nor will it bring back our loved ones. Grief finds healing only through unrestricted tears, not through anger, outrage or scapegoating. More rules beget only ever more outrage and anger, as ever more disregard for the rules becomes noticed. Won't someone stop the madness soon and begin the reversal of our self-created and ever-growing conflagration of indignance, rage and outrage?

Isn't it true that we already have sufficient law in place to punish the guilty when someone has or

is a problem, without resorting to punishment in advance?

Isn't it true that we are already experiencing significant difficulty in the fair and intelligent administration of justice even now?

Isn't it true that right now, even as I write, hundreds of men and women are already being held without trial (or bail) on accusation alone awaiting the pleasure of our horrendously expensive and ponderous wheels of justice to simply turn even?

Isn't it true that the tax burden of our justice system and its administration, even now, has already reached and exceeded insane proportions?

In our infinite wisdom, experience and kindness as adults, are we now going to add insult to the already numerous injuries of being a youth by legally withdrawing our confidence in them, thereby undermining the little they have? Or are we going to remember our own youth, the chances we took, the experiences we had and had to have, the limitations we found and established for ourselves and the good judgment and wisdom we gained thereby? Or are we prepared to accept the consequences for manufacturing criminals out of young men and women who will most certainly ignore both common sense and the law from time to time just as we do. Legislation of this nature visited upon the natural qualities of youth will set a predetermined downwardly spiraling course for many young men and women, ending, ultimately, with the weight of the entire justice system coming down hard on that which is simply a lack of good judgment, an obvious precondition of being, can you guess (?) young. So, where next then do we punish a teen for not behaving like a proper thirty year old?

We want them to think for themselves but then we do not allow them to. We want them to get jobs and run the 440 yards like we do but then we cut off their legs and their motivations.

With so many automobiles and so many people (of any age), there will always be a certain degree of bad judgment, ignorance, thoughtlessness, et cetera, and the resultant

consequences of such moments in time. Let us not manufacture criminals where formerly there were only ordinary and imperfect human beings much like ourselves, y'think?

One of the price tags attached to freedom is that of allowing freedom to others, including the freedom to screw-up. Closely linked to this is having the inner strength to accept the truth of that which is casting aside the arrogance, ego, and conceit, a prescription of how we think it should be.

Lastly, and at the risk of getting a little too philosophically esoteric, let me add this. Preachers may wax eloquent for hours upon the matter of Armageddon, but philosopher-statesmen have always known that the war to end all wars takes place inside, and between, the heart and mind of a human being. In this instance, let us allow truth and reason to prevail; the path out of a hog-tied and law-bound society is by way of cutting each other some slack not the other way round. To an over-zealous Legislature, the philosopher would say, stop helping already and give us a break from all this persecution.

And to a grief-stricken and anger-filled heart, the philosopher would say: I know and I understand; now, let it go; weep and don't stop weeping yet know this, your answer is to be found in forgiveness, not in visiting your anger upon the innocent, it was not their fault; they were not even there. Set your focus on the time you had, not the time you had to give up. The one you love is still alive inside you. Look there and you will find what you need.

Tristan Goertzen  
Portage la Prairie, Manitoba

\* \* \*

#### Bill 23—The Highway Traffic Amendment Act

The Manitoba Heavy Construction Association (MHCA), which was founded in 1943, represents the heavy construction and related industries in Manitoba. It provides gainful employment to in excess of 10 000 Manitobans in both a direct and indirect basis.

Via this communication we wish to have publicly recorded our industry views with

respect to the proposed amendments to The Highway Traffic Act captioned above.

While we support the provincial government's intentions to improve the safety of Manitobans on our public highways, we respectfully wish to express our concerns about the proposed amendments.

There are people employed in our industry who presently do not possess a valid driver's permit. Some would not qualify to secure one, others have been suspended, while others still are not interested in securing a permit. In each example they are however excellent heavy equipment operators and pose no threat to public safety when moving from one work site location to another while operating such machinery on a public highway.

The impact of the proposed amendments would be to instantly put such people out of gainful employment. Surely this is not the intended result of the proposed amendments.

We have had the opportunity of reviewing the brief prepared by the Keystone Agricultural Producers (KAP). Many of the concerns expressed by KAP apply to our industry and we therefore unequivocally endorse the positions articulated in its brief.

It is important in our view, in the amendment process, to recognize the need for some instant way of allowing heavy equipment operators who might otherwise not qualify for a valid driver's licence to be issued with an "immediate" permit only valid for the operation of heavy equipment. Otherwise the legislation will result in economic displacement of people whose livelihoods depend upon employment by and in our industry.

We thank you for your consideration and trust that this communication helps committee in its deliberations.

Respectfully,

Manitoba Heavy Construction Association  
(MHCA)  
Chris Lorenc, President