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of the
Legislative Assembly of Manitoba

STANDING COMMITTEE
on
STATUTORY REGULATIONS
and
ORDERS

31-32 Elizabeth II

Chairman
Mr. G. Lecuyer
Constituency of Radisson



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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Second Legislature

Members, Constituencies and Political Affiliation

Name	Constituency	Party
ADAM, Hon. A.R. (Pete)	Ste. Rose	NDP
ANSTETT, Andy	Springfield	NDP
ASHTON, Steve	Thompson	NDP
BANMAN, Robert (Bob)	La Verendrye	PC
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HARAPIAK, Harry M.	The Pas	NDP
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KOSTYRA, Hon. Eugene	Seven Oaks	NDP
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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON STATUTORY REGULATIONS AND ORDERS
Thursday, 11 August, 1983

TIME — 10:00 a.m.

LOCATION — Winnipeg

CHAIRMAN — Mr. G. Lecuyer (Radisson)

ATTENDANCE — QUORUM - 6

Members of the committee present:

Hon. Messrs. Storie and Uskiw; Mrs. Dodick;
Messrs. Banman, Harper, Kovnats, Lecuyer,
Orchard, McKenzie, Scott

MATTERS UNDER DISCUSSION:

Bill No. 60 - An Act to amend The Highway
Traffic Act (2). Passed with certain amendments.

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MADAM CLERK, Ms. C. DePape: Committee, come to order. Since our former Chairman, Mr. Santos, is no longer a member of the committee, we'll have to proceed with the election of a new Chairman. Are there any nominations? Mr. Storie?

HON. J. STORIE: I would recommend Mr. Scott.

MADAM CLERK: Mr. Scott.
Are there any further nominations?

MR. D. ORCHARD: I'd like to nominate Mr. Lecuyer.

MADAM CLERK: Mr. Storie, do you wish to withdraw your nomination?
Mr. Lecuyer, would you please take the Chair?

MR. CHAIRMAN, G. Lecuyer: The amendments are being distributed. Is it the wish of the committee that we proceed clause by clause? That is agreed.

On Page 1, are we ready to proceed? Section 172.2(1) - first clause.

MR. D. SCOTT: Mr. Chairman, I move:
THAT the heading to Section 1 of Bill 60 be struck out and the following hearing be substituted therefor:
Secs. 172.2 and 172.3 added.

MR. CHAIRMAN: Mr. Minister.

HON. S. USKIW: That's merely a technical amendment, Mr. Chairman. No changes.

MR. CHAIRMAN: Agreed? (Agreed)

MR. D. SCOTT: Next, Mr. Chairman, again, I move:
THAT Section 1 of Bill 60 be amended by striking out the word "section" where it occurs for the 2nd

time in the 3rd line thereof and substituting the word "sections."

HON. S. USKIW: Again, that's just a technical correction.

MR. CHAIRMAN: Section 172.2(1)—pass, as amended; Section 172.2(4) — (Interjection) — Page 1, Section 172.2(1), second paragraph of Page 1; Section 172.2(2) - the Member for Pembina.

MR. D. ORCHARD: Can the Minister indicate who makes the value judgment whether a seat belt has been modified, or partly or wholly rendered inoperative?

HON. S. USKIW: Mr. Chairman, one would have to assume that if one was charged under that section, the authority placing the charge would have to be satisfied that they can present a case backing up the charge. I think that's a standard procedure in enforcement of law. They would have to call on whatever expertise in the industry to substantiate that charge.

MR. D. ORCHARD: Which I would assume would have to involve some guidelines as to what renders partly or wholly inoperative a seat belt assembly. Will those criterion be drafted into the regulation?

HON. S. USKIW: Mr. Chairman, the answer to that is that the federal standard is what we are basing this legislation on.

MR. D. ORCHARD: Will the federal standard be adopted by regulation?

HON. S. USKIW: Yes, if the member reads that section, he will notice reference to Motor Vehicle Safety Act (Canada).

MR. D. ORCHARD: And just to make it clear that those regulations under The Motor Vehicle Safety Act are appended and become part of the regulatory backup to this Bill 60.

HON. S. USKIW: Mr. Chairman, I don't believe that's necessary to give it legal impact. I believe the fact that it's referenced here in this section, it's part of the bill.

MR. D. ORCHARD: Then I take it that all enforcement agencies, Winnipeg City Police, the RCMP, municipal police throughout the province, will have a copy of the regulations, the act and the Motor Vehicle Safety Act (Canada) so that they can become familiar with what is proper condition of seat belts and what constitutes a rendered partly or wholly inoperative seat belt system?

HON. S. USKIW: Mr. Chairman, the member is dealing with the question of ability of the enforcement agency

pursuant to the passage of a new act in Manitoba. All new legislation that is passed, of course, is acknowledged by the enforcement people, or at least they certainly have the information. It's an automatic process, once new laws are enacted, that the enforcement system proceeds to enforce them. We don't have to invent any new wheels here, Mr. Chairman.

MR. D. ORCHARD: So then could the Minister explain the new wheel that he's going to be using, that's going to get this information out to all police forces and, more importantly, to assure that they are familiar with his regulations and what constitutes legal seat-belt setup, what constitutes an illegal one?

HON. S. USKIW: Mr. Chairman, as I understand the process, once legislation is passed by this Assembly, the Attorney-General's Department assumes the responsibility of alerting the enforcement agencies and the judiciary with respect to any legislation.

MR. D. ORCHARD: Mr. Chairman, that's fine. That's a process that's been followed, I assume, for years. What, here, law enforcement officers are going to have to make is a somewhat subjective analysis of a seat-belt system in a car. They're going to have to, in their own right, become experts on what constitutes an operative seat-belt assembly and what doesn't.

HON. S. USKIW: Well, the member should be aware that the law enforcement system in Manitoba currently enforces the provisions of The Highway Traffic Act pursuant to federal standards, Mr. Chairman.

MR. D. ORCHARD: So, what does that have to do with whether they can make a subjective call basis whether the seat-belt assembly is operative?

HON. S. USKIW: Mr. Chairman, they now have to adjudicate on whether one's lighting system is functioning properly or the brake system; they have a whole range of items that they deal with on a daily basis. This is merely one more item that they will be looking at.

MR. D. ORCHARD: I'm not going to pursue it any further, but there's a fair bit of difference between determining whether a headlight is working or not working, or a turn signal is working or not working and whether a seat belt system has been modified or rendered partly or wholly inoperative.

HON. S. USKIW: Mr. Chairman, I would compare this section with that of the existing provisions with respect to proper brakes and steering mechanisms and so on, which are enforced by the same agencies.

MR. CHAIRMAN: Section 172.2—pass. Section 172.2(3) - Mr. McKenzie.

MR. W. MCKENZIE: As I read the section, they can wear the pelvic restraint only, but they can't wear the shoulder restraint only. Is that the way it reads? If the worst comes to the worst and a person decides they don't wear the shoulder restraint, they're legally

considered strapped in if they're wearing the pelvic restraint. So the shoulder one - that's not the compulsory aspect of it?

HON. S. USKIW: Mr. Chairman, this merely provides for the fact that certain vintage cars had separate assemblies, if you like, shoulder and pelvic; the newer ones are combined. So this permits a person that drives an older vehicle to wear one or the other.

MR. CHAIRMAN: Pass. Section 172.2(4) - the Member for Pembina.

MR. D. ORCHARD: Now that we've got both the driver and the passengers strapped in by passage of these two sections, can the Minister indicate whether in a circumstance where the driver is belted in and the passenger or passengers are not, does the penalty section automatically apply to the driver or merely to the passengers who are not belted in?

HON. S. USKIW: Mr. Chairman, there's a whole range of amendments dealing with that question. With respect to people who are the age of majority, they are all subject to penalty for not wearing seat belts, if they are passengers or drivers.

MR. D. ORCHARD: Is the Minister indicating we'll have another opportunity to deal with the penalty sections?

HON. S. USKIW: We have amendments dealing with that section, yes.

MR. CHAIRMAN: Section 172.2(4)—pass; Section 172.2(5)—pass. Section 172.2(6) - Mr. Scott.

MR. D. SCOTT: I have an amendment for this one. I would move:

THAT proposed new Subsection 172.2(6) of The Highway Traffic Act as set out in Section 1 of Bill 60 be struck out and the following subsection be substituted therefor:

Age restriction.
172.2(6) Subject to subsection (7), no person shall drive on a highway a motor vehicle in which there is a passenger

(a) who has attained the age of at least 5 years but has not yet attained the age of 18 years; or

(b) who is under the age of 5 years but whose weight exceeds 50 pounds; and who occupies a seating position for which a seat belt assembly is provided, unless that passenger is wearing the complete seat belt assembly in a properly adjusted and securely fastened manner; but where the seat belt assembly consists of a separate pelvic and torso restraint, the passenger may wear the pelvic restraint only.

MR. CHAIRMAN: Section 172.2(6) - Mr. Minister.

HON. S. USKIW: Mr. Chairman, this puts the onus of responsibility of the driver for minors who are passengers in a vehicle and also provides for a child

that is under five years of age who is fairly large in size, if you like, or weight, to be buckled up as opposed to having to use the child restraint mechanism.

MR. D. ORCHARD: I take it then that, in this instance, dealing with the penalty section, if the person or if the child is under age 18 and is not wearing the seat belt it is the driver who will be ticketed and responsible to pay the fine.

HON. S. USKIW: That is correct, Mr. Chairman.

MR. D. ORCHARD: If you have a driver who is belted in with five adolescents in his car, all of which have been provided seat belts, none of them are buckled in, would this amendment allow, or would the legislation allow for five separate tickets to be issued to those five individuals with an accumulative fine of \$100 up to \$500.00?

HON. S. USKIW: No, Mr. Chairman. There would be only one charge and that would be against the driver and, of course, the range of penalty as spelled out in the act would apply. The judge would have the discretion between the \$20 and \$100 level.

MR. CHAIRMAN: Section 172.2(6)—pass; Section 172.2(7)—pass. Section 172.2(8) - the Member for Pembina.

MR. D. ORCHARD: I would have comments on Paragraph (b).

MR. CHAIRMAN: I'm sorry?

MR. D. ORCHARD: We are dealing with 172 . . .

MR. CHAIRMAN: .2(8).

MR. D. ORCHARD: Mr. Chairman, my comments are on Paragraph (b), where "a driver where he is transporting a passenger for hire in a taxicab" is exempt from the law. When the Transit Bus Drivers' Union was before the committee, they indicated that they believed they should have an exemption. I note that exemption has not been brought forward; I don't believe it's been brought forward. I question how one establishes the logic of requiring bus drivers to be strapped in, where taxicab drivers are not strapped in according to the law. Could the Minister indicate the logic of the exemption for the taxicab driver, and the same logic as applicable to the exemption requested by the transit union drivers?

HON. S. USKIW: Mr. Chairman, we are relying to a fair extent on experience in other jurisdictions. As I understand it, this section is consistent with the same section in all of the other provinces that have passed similar legislation. It's been deemed advisable to allow taxi drivers an exemption for reasons which the member is well aware of. It has not been reasoned that bus drivers would be analogous in that way. The argument is not the same.

In fact, it is probably more crucial for a bus driver to be protected, since they are responsible for a bus

load of passengers. It seems that there is more logic in retaining the provision for bus drivers.

MR. D. ORCHARD: So then the logic of the exemption for taxicab drivers and the mandatory requirement for bus drivers is based on what other provinces do, not any conviction held by this government or this Minister?

HON. S. USKIW: Mr. Chairman, I thought I just dealt with that. I indicated, and I think I indicated this before, that it appears somewhat less than logical to have a bus driver not belted in driving a bus containing 50 or 60 passengers, and where on impact the bus driver could be dislodged from his driving position, leaving the bus out of control with a bus load of passengers. It seems to me that it makes sense to have the bus driver strapped in.

We have had examples, Mr. Chairman, not necessarily with bus drivers in the City of Winnipeg, but truck drivers, who drive these cab over type of trucks, where they have gone through the windshield and have been run over by their own vehicle. I hate to imagine what would happen if that happened with respect to a bus that was in collision with a vehicle and where the driver is thrown through his own windshield.

MR. D. ORCHARD: So then the logic is in the numbers. Where there are only five passengers in a taxi, their lives aren't as important as the 50 to 60 passengers that are in a bus? If one follows through on the livery aspect, a driver where he's transporting a passenger, for hire, in a taxicab or a livery, I would assume a livery could include some of the 9 to 12 passenger maxivans that are there. They also, by this definition, would be exempt. So we could have 10 people at the mercy of an unbelted driver, who may get thrown out his windshield, run over, and his vehicle go out of control. So what we're talking about is the logic prevails where there may be 50 people endangered, but doesn't prevail where there may only be one or several people endangered.

HON. S. USKIW: Mr. Chairman, there is other logic that enters into where we have a taxicab driver, who is exposed to dangers that perhaps bus drivers are not exposed to, not to that extent.

Everyone is familiar with the fact that on occasion we hear of taxi drivers being either mugged or knocked unconscious by one of their own passengers, etc. They need a fair amount of flexibility to give themselves some protection. That's the logic that enters into that exemption.

MR. D. ORCHARD: Well, then would that logic allow an ordinary driver of an ordinary car who was kind enough to pick up a hitchhiker, and the danger exists that the hitchhiker may mug the driver of a private car; would the same exemption apply to the driver of a private car that you just used with taxicabs?

HON. S. USKIW: I think the Member for Pembina knows that there is no logic at all in that. That is not an analogous situation. The discretion is on the driver whether he wants to take that risk of picking up someone that is hitchhiking along the road; whether

that person is intent on committing a criminal act, or whatever, is quite a large question mark in the mind, obviously, of the driver when he is picking him or her up. So that decision is made at the time that the passenger is picked up and full consequences that flow from that rest with the driver.

MR. D. ORCHARD: Mr. Chairman, I don't believe there's any statute in the Province of Manitoba that says that a taxicab driver must pick up a passenger simply because he wishes to hire the taxi. He can refuse a passenger, drive right by him or anything. The taxicab driver has a discretion as to what type of passenger he picks up, but yet you're offering him an exemption for much the same argument - if I listen carefully to the transit union spokesman - the same argument that they use, that attacks on bus drivers are becoming more frequent in the City of Winnipeg and they felt uncomfortable with a requirement to be strapped in while they're getting their head beat in by an errant passenger.

You assume in the original draft that your logic holds true to provide that exemption for a taxicab driver; you don't assume that holds true for a transit bus driver. The argument boils down, I guess, that 60 people are more valuable than one person, because all other logic is rather tattered and frayed in the Minister's explanation for an exemption for taxicab drivers.

HON. S. USKIW: Well, Mr. Chairman, we can go into long speeches on the difference, but the member surely must be aware that people who attack taxi drivers are motivated by the need for the vehicle or for money. It's a robbery situation.

With respect to a bus driver, a bus driver does not collect any money. The fees that are paid by the transit riders are deposited into a receptacle that is not readily accessible to anyone. It's very difficult for one stealing a bus to manage to get away with such a vehicle, so there is quite a difference between the two, Mr. Chairman.

MR. CHAIRMAN: The Member for Niakwa.

MR. A. KOVNATS: Thank you, Mr. Chairman. What's going through my mind is why does a bus driver get beaten up then, if what the Honourable Minister says is logical? The word "logical" has come up on a couple of occasions, where he said that it's logical that a bus driver be protected by wearing a seat belt because of his passengers.

We had a presentation from - I think it was a Mr. Cohen from the union. It was on the safety factors that he had made his presentation. Have his recommendations been considered at all, Mr. Minister?

HON. S. USKIW: Yes, Mr. Chairman. I believe we gave full consideration to that and decided that it was not in the public interest.

MR. A. KOVNATS: I would just hope that the Honourable Minister would just bear in mind, with all his logic, that the next time that a bus driver is beaten up - it doesn't happen that often, I wouldn't think, but it does happen because obviously it was presented that

it did happen - that he will not have a closed mind. As he said, it was given consideration and completely rejected. I don't know how you are going to tell the bus driver that gets beaten up that it's not logical that he wears a seat belt, Mr. Minister.

HON. S. USKIW: Mr. Chairman, if we were to entertain a situation where there is an attack on the bus driver - I'm sure every bus driver is aware of that potential or that possibility, especially at the end of a route where they have one or two passengers left - I would think that the bus driver would use their discretion as to whether or not they were suspicious people in their bus at the time and whether they shouldn't be on guard. I would hazard a guess that any bus driver - and I think I would look at it the same way if I were the bus driver - if I thought there was danger and I wanted that extra flexibility I would unbuckle, even though it may mean a penalty for so doing, but I would argue my case before a judge that I unbuckled for self-protection. I would suspect that if the evidence was there the judge would not impose the penalty, if the evidence was that the person was under attack.

MR. A. KOVNATS: I changed my mind. I feel that the Honourable Minister is being somewhat logical in this regard, but I think that you have rules and you're suggesting twisting the rules somewhat.

HON. S. USKIW: No, not at all.

MR. A. KOVNATS: I thought that's what I heard, that to unbuckle but it's just a matter of when the bus isn't in action. I think that what I tried to say was that the Minister had said that there was no reason for bus drivers to be beaten up, but I think that there is a reason. It's not for money, and it's not for the matter of stealing the bus. There should be some protection given to that bus driver, rather than just lip service saying, well, you know, if it looks like you're going to be attacked, unbuckle and protect yourself. There has got to be more protection written in.

I don't know what it is going to be, but I think that the chap, this Mr. Cohen, who made his presentation, should be a little bit more listened to than what it appears that he has not been listened to. That's all I have to say.

MR. CHAIRMAN: Section 172.2(8)—pass. Section 172.2(9) - the Member for Roblin-Russell.

MR. W. MCKENZIE: Mr. Chairman, on various sections of the bill here - I've had a couple of inquiries - this act only applies on provincial trunk highways and public roads, PRs. Is that correct?

HON. S. USKIW: I believe that's correct, yes.

MR. W. MCKENZIE: On municipal roads, it doesn't apply.

HON. S. USKIW: On municipal roads . . .

MR. W. MCKENZIE: I got my answer, thank you. So it's only on provincial trunk highways and PRs.

HON. S. USKIW: No, no, Mr. Chairman. The member should be aware that The Highway Traffic Act applies to all public roads that we have in Manitoba, municipal, provincial or whatever.

MR. W. McKENZIE: Well, then why wouldn't it read, like on 172.2(9), "No person shall operate, or permit the operation of, a motor vehicle," period? It says "on a highway."

HON. S. USKIW: Mr. Chairman, I appreciate the member doesn't have The Highway Traffic Act before him. The definition of a highway is what governs and, if the members will be patient, I will read it to him. "Highway means any place or way including any structure forming part thereof which or any part of which the public is ordinarily entitled or permitted to use for the passage of vehicles, with or without fee or charge therefor, and includes the space between the boundary lines thereof but does not include any area designed or intended and primarily used for the parking of vehicles and the necessary passageways thereon." So wherever vehicles are allowed to move legally, they are subject to this regulation.

MR. W. McKENZIE: Could I ask the Minister why the "highway" is in there? It should read, "No person shall operate, or permit the operation of, a motor vehicle" period.

HON. S. USKIW: Mr. Chairman, we are not attempting to control people on private property.

MR. CHAIRMAN: The Member for Niakwa.

MR. A. KOVNATS: Just one point and it just came to mind and I don't know how logical my question is, but to the Honourable Minister, does this include airplanes?

HON. S. USKIW: I'm afraid we have no authority to include airplanes. You would have to address that to the Government of Canada.

MR. A. KOVNATS: I thought we did have authority if they were flying over Manitoba.

HON. S. USKIW: No.

MR. A. KOVNATS: I don't want to make a big issue about this. It just came to my mind when you were talking, but I think that the Province of Manitoba does control the drinking in airplanes when they're flying over Manitoba. The drinking laws of Manitoba have to be observed, I believe. Why wouldn't the highway laws be observed when the highway is in the sky?

HON. S. USKIW: Mr. Chairman, it is common knowledge that the Government of Canada has authority over all air traffic in Canada. Provinces have no jurisdiction there whatever.

MR. A. KOVNATS: I don't mean to pass it up, because it is a safety factor. That is what I have been told in all the hearings, that seat belts are a safety factor. Why can we not, with some arrangements through the

Federal Government, if we're going to impose seat belts onto people who are driving cars, let's impose this safety factor onto people who fly in airplanes over Manitoba?

HON. S. USKIW: Mr. Chairman, the Government of Canada does have rules and regulations which require that as well for passengers in airplanes.

MR. A. KOVNATS: I want more out of it than that. If we're going to pursue the safety factor, Mr. Minister, I think that seat belts should be worn all the time that these planes are flying over the Province of Manitoba. If Saskatchewan is going to allow them to loosen their seat belts, as they suggest, but they do suggest that you keep your seat belts on when you're flying in an aircraft. If we are going to pursue the safety factor, Mr. Minister, let's pursue it to the fullest.

MR. CHAIRMAN: Section 172.2(9) - the Member for Pembina.

MR. D. ORCHARD: Mr. Chairman, the Minister has within his department a number of ferries. If a person is in his vehicle on one of the Minister's ferries, does this act require him to be seat belted into his vehicle?

HON. S. USKIW: Mr. Chairman, I believe that a ferry is not part of our highway system, as defined in The Highway Traffic Act. — (Interjection) — That is correct, Mr. Chairman.

MR. D. ORCHARD: The child restraint, it seemed to me that in Section 172.2(6) that a 50-pound exemption, that exemption is not repeated here. Does the first amendment to subsection (6) remove the requirement of child restraint systems for any child who is under the age of five yet over the weight of 50 pounds?

HON. S. USKIW: Mr. Chairman, I'm advised that one section complements the other; it doesn't challenge the other.

MR. D. ORCHARD: Mr. Chairman, I may be incorrect and legal counsel would be able to provide the legal opinion, but it would seem to me that the requirement, as amended in subsection (6), says that anyone who is under the age of five but whose weight exceeds 50 pounds must wear a seat belt, but subsection (9) says any child who is not yet of the age of five years must be in a child restraint system. It seems as if those sections don't complement, but rather could lead to conflict. You could have a child who is seat belted in, in contravention of subsection (9) unless you have the exemption duplicated there, and I'll read what would be a possible amendment in the third line, "who has not yet attained the age of five years or 50 pounds is properly secured." That would eliminate all confusion as to a conflict between the two sections.

HON. S. USKIW: Mr. Chairman, I have no problem with that; I'm not sure if it's necessary. Perhaps we could consult with our legal counsel. — (Interjection) — Mr. Chairman, legal counsel advises that it's not necessary to make that amendment. I think it would be more clear if it were there, but I'm advised that it's not necessary for legalities.

MR. CHAIRMAN: Section 172.9 - Mr. Minister.

HON. S. USKIW: Mr. Chairman, I'm just wondering if the member wishes to move such an amendment, I have no problem with it, just to add the words or . . .

MR. D. ORCHARD: Mr. Chairman, if legal counsel is satisfied that there's no conflict between those sections, I'm not a lawyer, we'll trust his advice.

MR. CHAIRMAN: The Member for Portage la Prairie.

MR. L. HYDE: Thank you, Mr. Chairman. I would like to speak to the Minister in regard to this particular section.

As I stated in my debate against Bill No. 60, I stated that I would have liked to have the Minister present this child restraint portion of the bill as a separate bill. I still say, Mr. Chairman, that the Minister would have been wise to do that.

HON. S. USKIW: Mr. Chairman, I raise a point of order. I don't think we are here to give second reading to a bill. We've already had that debate. I think that we have to deal with each section as we go along and the remarks of any member have to address the section that we are dealing with. The member is into a general discussion of the advisability of the bill. I don't think that we can entertain that kind of discussion at this stage. That can be done again on third reading, Mr. Chairman.

MR. CHAIRMAN: Did the Member for Portage wish to make a point which related specifically to this section?

MR. L. HYDE: I thought I was, in referring to the child restraint. I have further comments to make, but it would appear that I am out of order to bring them forward at this time. I will be prepared to deal with it and make it known when the bill comes to third reading.

A MEMBER: We can do that during the Bill being Reported.

HON. S. USKIW: That's right, once it's back in the House. Mr. Chairman, when the bill is back in the Assembly, I believe the member will have ample opportunity to make that point.

MR. D. ORCHARD: On a point of order, Mr. Chairman.

MR. CHAIRMAN: The Member for Pembina.

MR. D. ORCHARD: Before the bill is reported by this committee, general comments are in order, I believe, before the committee adjourns.

HON. S. USKIW: I believe that's true on the Title. Yes, that's right. If the member wants to make a statement, when we move that Bill be Reported, then he's entitled to use that option.

Mr. Chairman, we are going to, just to satisfy the Member for Pembina, make a change in that section so that there's no question as to the intent.

MR. CHAIRMAN: The Member for Inkster.

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

THAT the proposed new subsection 172.2(9) to The Highway Traffic Act as set out in Section 1 of Bill 60 is amended by adding thereto immediately after the word "years" in the 4th line thereof the words "and who is under 50 pounds in weight."

MR. CHAIRMAN: Is that agreed? (Agreed)
172.2(9), as amended—pass. Section 172.2(10) - the Member for Pembina.

MR. D. ORCHARD: Mr. Chairman, I would propose the following amendment, and I would move:

THAT proposed new subsection 172.2(10) to The Highway Traffic Act as set out in Section 1 of Bill 60 be amended by striking out the words "manufacturer of motor vehicles and no dealer, and no agent or employee of any manufacturer or dealer" in the 1st, 2nd and 3rd lines thereof and substituting therefor the word "person."

HON. S. USKIW: Mr. Chairman, we see no problem with that, but I would ask the member then whether we can accept his amendment along with our amendment, which is a mere technical one, and incorporate them as they should be.

MR. D. ORCHARD: I have copies of my amendment, if that's necessary.

MR. CHAIRMAN: There are two amendments being proposed. The amendment proposed by . . .
Mr. Minister.

HON. S. USKIW: Mr. Chairman, I wonder if we could just hold for a moment while legal counsel is looking at the amendment.

Mr. Chairman, I wonder if the member would agree to just simply insert the words "or person" after dealer. His proposal creates significant problems for us in that it detracts from the Federal Standard Provisions, where the manufacturer is involved. By just inserting the words "or person," we are covering the point that the member is concerned about.

Perhaps I should read it as it would be after the amendment.

MR. CHAIRMAN: All right - Mr. Minister.

HON. S. USKIW: "No manufacturer of motor vehicles and no dealer, and no agent or employee of any manufacturer or dealer, or person, shall sell a motor vehicle that is, or is advertised to be, a motor vehicle of the model or make of the year 1971 or of any subsequent year, unless the motor vehicle is equipped at the time of sale as required by The Motor Vehicle Safety Act (Canada)."

MR. D. ORCHARD: I detect the Minister's concern is that a person would not be broad enough to include manufacturers, etc. That would be your prime concern?

HON. S. USKIW: That's right. That's the point that Legal Counsel advises on, yes.

MR. D. ORCHARD: Could I make the suggestion that if we're going to leave the wording intact and add "no person" that we would do it after the word "dealer" as it first appears? It would read, "No manufacturer of motor vehicles, no dealer, no person, and no agent or employee of any manufacturer or dealer." Either that or we have to add "no person" in there.

My suggestion is that we add "person" plus "no person," like in the Minister's amendment, he just had "person" in there. If we used "no person," we could start out with, "No manufacturer of motor vehicles," delete the "and" and have "no dealer, no person, and no agent or employee of any manufacturer or dealer." That leaves it, I think, pretty precise whereas if it follows after the second "dealer" in the 3rd line, if you have "person" in there, I don't think it's quite as clear as if you have it after . . .

HON. S. USKIW: I think if we stick with the present wording and put the words "and no person" after "dealer" in the 3rd line, it would be much clearer because otherwise the person you're talking to appears to attach to the manufacturer or dealer rather than the individual.

MR. CHAIRMAN: The amendment proposed by the Member for Pembina is agreed to?
The Member for Pembina.

MR. D. ORCHARD: I move that we are not agreeing to that, Mr. Chairman, so my amendment as proposed has not been agreed to.

MR. CHAIRMAN: The amendment proposed by the Member for Pembina, and as further amended, as has been suggested by the Minister.

MR. D. ORCHARD: Can we just have it on the record that in concept we accept the "no person"?

HON. S. USKIW: You can leave it on the record that the Member for Pembina moved it and we accept it. I have no problem with that.

MR. D. ORCHARD: I didn't want the record to show that the first one that I proposed was accepted, otherwise, your bill would look different than what you had said.

HON. S. USKIW: Good point.

MR. CHAIRMAN: The amendment which is then agreed to is that after the word "dealer" in the 3rd line, the words added will be "and no persons."

A MEMBER: Singular.

HON. S. USKIW: Singular, no person.

MR. CHAIRMAN: "No person," in the singular.

HON. S. USKIW: Yes.

MR. CHAIRMAN: The Member for Inkster.

MR. D. SCOTT: I have an amendment for the same section and that is, I move:

THAT proposed new subsection 172.2(10) to The Highway Traffic Act as set out in Section 1 of Bill 60 be amended by striking out the figures "1968" in the 5th line thereof and substituting therefor the figures "1971."

MR. CHAIRMAN: Agreed?
Mr. Minister.

HON. S. USKIW: Well, Mr. Chairman, we erred originally in the bill when we used the figure "1968." It is 1971 and beyond where we have vehicles that weren't provided with seat belts in accordance with the act.

One further point of clarification. The federal act came into effect in 1971, Mr. Chairman.

MR. D. ORCHARD: Okay, you're complying with the federal act which stated that seat belts must be a component of any vehicle sold in Canada; that you're not necessarily complying with the fact that in 1967, I believe, most vehicles had seat belts.

HON. S. USKIW: Some of them had. — (Interjection)
— '68, yes.

MR. CHAIRMAN: 172.2(10) - the Member for Niakwa.

MR. A. KOVNATS: Thank you, Mr. Chairman. This item is headed by Requirement for seat belts; and it starts "No manufacturer of motor vehicles," and I would just like to bring to the Minister's attention whether it involves farm motor vehicles, because I'm now aware that some of the tractors that are used on farms have seat belts when they come manufactured, particularly in the last couple of years, and with roll bars. Is it logical that the Honourable Minister not consider protecting the farmer who has this type of vehicle also and include it in this bill?

HON. S. USKIW: Just a bloody minute.

MR. A. KOVNATS: Well, I think I'm just trying to be as logical as the Minister.

HON. S. USKIW: Mr. Chairman, the explanation is that if it's defined as a motor vehicle and it is a vehicle equipped with seat belts, then this provision would apply operated on a highway.

MR. A. KOVNATS: Fair enough.

MR. CHAIRMAN: Section 172 - the Member for Pembina.

MR. D. ORCHARD: Could the Minister repeat the answer that he gave there?

HON. S. USKIW: Yes, if the vehicle is defined as a motor vehicle and is manufacture equipped with seat belt assembly, then it falls under these provisions if it's used on a public highway.

MR. CHAIRMAN: The Member for Portage.

MR. L. HYDE: The definition that you gave, Mr. Minister, what do you mean, is defined as a motor vehicle? Tractors are not defined today as a motor vehicle.

HON. S. USKIW: That's right, That's what I am saying.

MR. L. HYDE: So otherwise, they're not covered.

HON. S. USKIW: That is correct.

MR. L. HYDE: Okay.

MR. CHAIRMAN: Section 172.2(10), as amended—pass; Section 172.2(11)—pass. Section 172.2(12) - the Member for Inkster.

MR. D. SCOTT: I have another change, Mr. Chairman: THAT proposed new subsection 172.2(12) to The Highway Traffic Act as set out in Section 1 of Bill 60 be amended by adding thereto immediately after the signs and figure "(6)" in the 2nd line thereof the sign and figure "(9)." It sounds like a typo.

HON. S. USKIW: Mr. Chairman, we, in the original bill omitted to provide for the penalty provision in Section 9. This now makes certain that there is a penalty provision attached to Section 9.

MR. CHAIRMAN: Section 172.2(12), as amended—pass?
The Member for Inkster.

MR. D. SCOTT: There is another amendment here on 172.2(12):

THAT Bill 60 be amended by adding thereto immediately after the proposed new subsection 172.2(12) to The Highway Traffic Act as set out in Section 1 thereof the following subsection:

Minors not subject to penalty.

172.2(13) Subsection (12) does not apply to a person who contravenes subsection (4) if that person at the time of the contravention is over 5 years of age but under 18 years of age.

MR. CHAIRMAN: Is that agreed? Mr. Minister.

HON. S. USKIW: Mr. Chairman, this provides for an exemption for minors from penalty. In other words, we are not going to charge minors in a vehicle pursuant to provisions in the other section where the driver is responsible for all the minors in his or her vehicle. So it's only the driver will be charged and adult passengers will be charged, but where there are minors they will not be charged. The reason for that, and it's a little different than what we've been doing in law over the years, is that it's our feeling that we don't want to drag parents into Family Court because their child wasn't wearing a seat belt while riding in someone's car.

We will have a whole raft of juvenile court cases where parents will have to take a day off of work to accompany their child to be heard in court, so the driver is going to assume this responsibility pursuant to the provisions of the other amendment. There will only be one penalty for the car load, if there is a driver and minors, and that's on the driver.

MR. CHAIRMAN: Section 172.2(13), the new one. Section 172.2(13), to be amended - the Member for Inkster.

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

THAT proposed new Section 172.2(13) of The Highway Traffic Act as set out in Section 1 of Bill 60 be renumbered as subsection (14).

MR. CHAIRMAN: Agreed? Pass. Section 172.3(1)—pass. Section 172.3(2) - the Member for Pembina.

MR. D. ORCHARD: That last amendment that we passed added Section 13, but the regulations are Section 13.

MR. CHAIRMAN: This section was simply renumbered.

MR. D. ORCHARD: Okay.

MR. CHAIRMAN: Section 172.3(2)—pass; Section 172.3(3)—pass. Section 172.3(4) - the Member for Pembina.

MR. D. ORCHARD: Have the regulations been drafted for helmet specifications?

HON. S. USKIW: Sorry, I didn't get that.

MR. CHAIRMAN: Would the Member for Pembina repeat his question?

MR. D. ORCHARD: Have the regulations been drafted to specify the design standards of the helmets that will now be required to be worn by all motorcyclists at all times?

HON. S. USKIW: No, Mr. Chairman.

MR. D. ORCHARD: I take it these will be drafted prior to proclamation of the act?

HON. S. USKIW: Obviously, Mr. Chairman, you can't give effect to the act if you don't have regulations in place so the answer has to be yes, to that question.

MR. D. ORCHARD: When does the Minister expect to have those regulations drafted?

HON. S. USKIW: Mr. Chairman, perhaps we should move to the next amendment which will give the member an outline of the regulations which we are proposing and have that discussion at that time, the scope of the regulations.

MR. CHAIRMAN: Section 172.3(4)—pass; Section 2—pass. Section 3 - the Member for Inkster.

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

THAT Bill 60 be amended by adding thereto, immediately after Section 2 thereof, the following section:

Section 292 am.

3 Section 292 of the act is amended by adding thereto, immediately after Clause (1)(rrr) thereof, the following clauses:

- (sss) prescribing and restricting the power and size of motorcycles that may be operated by a person during the first two years after he issued a licence to operate a motorcycle;
- (ttt) requiring any person who operates a motorcycle to wear eye protection equipment approved by the regulations;
- (uuu) requiring a person to produce to the Registrar written evidence that he has successfully passed a Motorcycle Rider Safety Program approved by the regulations before a licence to operate a motorcycle is issued to that person;
- (vvv) requiring the operators of motorcycles to have the headlights of the motorcycles on at all times while the motorcycles are in operation on a highway;
- (www) exempting certain persons, classes of persons or members of certain groups or organizations from the requirements of part or all of the provisions of Section 172.2 or 172.3.

MR. CHAIRMAN: Is it the wish of the members of the committee that these . . . Mr. Minister.

HON. S. USKIW: One further correction, if I may. On (sss) it should be, in the 3rd line, after "he" the word "is" should be inserted. We would agree to that as part of the motion.

MR. CHAIRMAN: Thank you, Mr. Minister. Is it the wish of the committee that we take each of these subsections one by one? (Agreed)

Section (sss) - the Member for Pembina.

MR. D. ORCHARD: Mr. Chairman, I assume this stems from recommendations made by a number of individuals who indicated to the government that their safety measures were ill-directed in that they were missing the boat, in terms of training and motorcycle learner identification plates on the motor bikes, etc., and that should they have those in place, they wouldn't need motorcycle helmets. I think there was a quid pro quo in all the presentations. All the motorcycle riders have succeeded in doing is having more regulations to pass in bringing new riders into their sport or their method of transportation, while the Minister is still requiring Section 172.3(1) where they must wear the helmet.

Is the Minister not somewhat concerned that he took half the advice and not all the advice from these people?

HON. S. USKIW: Mr. Chairman, I first of all want to respond by stating that we are very impressed with the presentations that were made by various groups and, in particular, by ABATE, on the question of what has to be addressed with respect to safety in the operation of motorcycles or motorized bicycles or whatever. They made a very good case, with respect to the need for these sections that we are now proposing by way of amendment, namely the training, the qualifications of the driver, the temporary provision for down-sized motors for beginners or novice drivers. I think they made an excellent case for that to take place.

I don't believe it's a quid pro quo, I think that this stands out by itself with or without helmets. It still makes sense to adopt those recommendations and I just want it to be noted that we appreciate very much that contribution that was made to this committee before this bill was finalized.

MR. D. ORCHARD: Mr. Chairman, I guess that's my entire point. Their presentations were excellent; they simply didn't deal only with some of the amendments that you're proposing, they also dealt with the dangerous aspect of the wearing of motorcycle helmets. They made an equally persuasive case against the wearing of helmets. They backed it up by demonstrating where the majority of rider accidents are caused by inexperienced drivers and a number of other difficulties that you're attempting to rectify with these following sub-amendments.

You've listened to them in the case of their presentation as to what is required to make safe drivers, but you didn't listen to them at all in the case they made, which I think was a fairly substantive case, that helmets, in a number of instances, can negate the supposed safety effect they're to have to protect the riders, that there are very persuasive arguments to be made that motorcycle helmets, in circumstances, can indeed be dangerous.

I simply say to the Minister that he's accepted good advice that suits him, and has rejected good advice that doesn't suit him, and I think that the motorcycle people far out-argued this government on the logic of their legislation. They presented a better case to leave the status quo where helmets are used by freedom of choice at the individual's discretion depending on the riding circumstances, the climatic conditions, etc., etc., for each individual rider. They made a better case to leave the existing helmet law as is, freedom to choose.

They made other persuasive arguments which the Minister had adopted. I hardly think the Minister and the government indeed listened to all the arguments. They selectively tuned in what they wanted to hear, and selectively tuned out what they didn't want to hear.

The argument that was made by various members to this committee on helmets was a well-rounded, balanced argument that proved that the government had not done its research properly, did not have the statistical or numerical justification for helmets. They won the argument, but they're losing the legislative battle because of the numbers of the government.

HON. S. USKIW: Mr. Chairman, I think if the member would read back his own statement, he would find his own contradiction. He said that the ABATE group and others presenting briefs made a case that was convincing that helmets would be dangerous to wear; they contributed to injury. Then at the same time, he said, but for beginners, they should wear them because it protects them when they're beginners — (Interjection) — well but that's the case they made. We, in adopting (sss) . . .

MR. D. ORCHARD: Mr. Chairman, on a point of order.

MR. CHAIRMAN: The Member for Pembina on a point of order.

MR. D. ORCHARD: Mr. Chairman, in no place in my remarks did I say that beginners should wear helmets. The Minister is caught in a bit of a dilemma. Now I don't believe anybody from ABATE or any of the motorcycle groups said that helmets should be worn for the first two years. No one has said that. The only people that have said helmets have to be used is the government.

MR. CHAIRMAN: I thank the member for that clarification.

HON. S. USKIW: Mr. Chairman, the member has contradicted his first statement again. Indeed the ABATE group and others did make the case for helmets for the novice rider, and tried to impress upon us that if we do this we should do it for a period of two or three years, after which they should be exempt. If indeed they were making the case that helmets are dangerous, then wherein lies the logic that a beginner should put on a helmet for his own safety? It doesn't add up. It doesn't make any sense.

Secondly, when the question was put them, to those that argued that there may be danger to the use of helmets, when the question was put to them, should we then disallow their use because they are a danger, they backed off on that because they want to wear them. They want to wear them at their own discretion, sometimes mainly due to climatic conditions of the day if you like and so on. So really there was no consistency in that area of debate. To argue that helmets are dangerous, but novice riders should wear them doesn't add up, Mr. Chairman.

We have accepted their recommendation that it's better for novice riders to have training and to have helmets and to have smaller-sized or down-sized motors on their vehicles. We have accepted that as good advice, and we are incorporating that in this legislation. But we can't argue it from both sides or in opposite directions, Mr. Chairman.

MR. D. ORCHARD: Mr. Chairman, but that is indeed what the Minister is doing. I believe that if it was in the questioning, and that will be determined from research, I don't believe any motorcyclist who presented a brief recommended that, for the first two years, a rider should be required to wear his helmet.

What the Minister or other members of the committee from the government did do was give the presenters of briefs the Russian roulette choice, that we're going to force you to wear helmets at all times. However, would you accept that if we didn't have the blanket requirement for helmets, would you agree with the first two years of use? Maybe the odd one agreed with that. I know several didn't.

There was no brief to my knowledge, and I would ask the Minister simply to indicate which of the written briefs of any of the motorcycle riders who presented briefs here made the recommendation that helmets should be used for the first two years. I don't believe he can table such a brief.

HON. S. USKIW: Mr. Chairman, I believe that members of this committee would recollect that in the discussions that took place, that point was made quite strongly. I

don't know whether it was contained in the briefs submitted, or whether it was on cross-examination, but I think the transcript will show that this was a recommendation that was coming through from a number of people. It could be that their position was based on the premise that, if it's got to be, then let's not have it for more than the first few years. That could very well be, but the point was made.

MR. CHAIRMAN: The Member for Flin Flon.

HON. J. STORIE: Mr. Chairman, I quite agree with the Member for Pembina that the ABATE people in particular did make a very persuasive presentation. We have incorporated a number of the suggestions.

I would point out too that, when representatives made a presentation to caucus, they acknowledged the safety factor in wearing a helmet. Indeed one of the members said that he believed that anyone that didn't wear a helmet was foolish.

Helmet legislation is not related to the cause of accidents. The causes are immaterial, in effect. What is at issue here is the safety of the rider. Despite the concerns that numerous people made in their presentations with respect to wearing helmets, there is certainly no persuasive evidence that helmets, in and of themselves, present serious complications to a motorcycle rider. There is, on the contrary, all kinds of evidence to indicate that the safety of the rider is much enhanced by wearing helmets.

I don't think that the ABATE members argued the opposite of that very vociferously either. There was some objection that it was an inconvenience and uncomfortable and there was some concern that it may contribute, but there is no evidence to support that contention.

MR. CHAIRMAN: Subsection (sss)—pass; subsection (ttt)—pass. Subsection (uuu) - the Member for Pembina.

MR. D. ORCHARD: Mr. Chairman, I assume with the passage of this (uuu) that no one shall be able to apply for his first motorcycle driver licence without having passed a Motorcycle Rider Safety Program - is that correct? Anywhere in the province?

HON. S. USKIW: That will be the case once this section is proclaimed, Mr. Chairman.

MR. D. ORCHARD: Does this have any effect on existing licensed motorcycle drivers?

HON. S. USKIW: No, there is no retroactivity built into the act, Mr. Chairman.

MR. D. ORCHARD: How available are motorcycle rider safety programs in Melita, in Swan River, in Flin Flon and Thompson, etc.?

HON. S. USKIW: Mr. Chairman, I think I answered that when I said, that will become effective after proclamation of that section. We are not sure just when we will be ready to enforce that provision. It depends on our state of readiness to make sure that service is available.

MR. D. ORCHARD: So in other words, you are saying that this is written into the act and may be proclaimed three years from now, four years from now as the province, I would assume, increases the funding towards motorcycle training course provisions throughout the province. Is that a correct assumption?

HON. S. USKIW: Mr. Chairman, the member knows that when legislation is subject to proclamation, it is put down in that way in order to give the government a period of time in which they would become ready for implementation of a program. I would hope that we are not going to long delay the implementation of this program, but we are not bound by any deadline by putting it into these regulations and the act coming into force by a proclamation. The member is aware that there is all kinds of legislation on the books, and has been on the books for years, that has never been proclaimed. So the flexibility that is required is there, although it is our intent to move on this issue as soon as we can, so that these courses can be made available in order to make motorcycle riding in Manitoba safer.

MR. D. ORCHARD: What's the cost of the motorcycle rider safety course?

HON. S. USKIW: We don't know precisely what the figure is. We believe that the private courses that are available run around \$100, Mr. Chairman.

MR. D. ORCHARD: Now if the safety aspect applies here for motorcycle riders, a similar case has been made by a number of safety groups that that kind of requirement should be in place for car drivers as well.

The argument that was made against making a driver training course mandatory for car drivers was, of course, the cost argument, that by adding \$100 - or at the time it was \$60 - to the cost of a person learning to drive a car, that you would discriminate against those who could not afford the \$60 to obtain a driver's licence. That argument was persuasive enough, I suppose, to prevent myself and previous Ministers of a number of government stripes to not bring that in.

How is the Minister now sort of balancing off that argument about cost and that this amendment may prevent someone of limited financial resources from obtaining a motorcycle driver's licence because he cannot afford the \$100, or whatever the cost may be, for this motorcycle rider safety program, which will be approved by regulation?

HON. S. USKIW: Well, Mr. Chairman, the member makes a valid point. I know that it's always been difficult for governments to approve enough funds to provide all of the programs that we would like to have, and therefore discretion was always used in a way which perhaps didn't bring about optimum results in these areas.

It is my hope and my intention that we progress however in this area with respect to all modes of travel. Safety packages have to be looked upon much more seriously than they have in the past.

The alcohol question is being looked at. The member is aware that there has been a study group looking at that side of it. A report has been tabled. There are a

whole range of issues here that we must deal with, and we're not going to deal with them all at one time, but hopefully over a period of time we will make progress in this area, indeed with respect to all motor vehicles. To the extent that we value life itself, I think we have to make that commitment.

MR. CHAIRMAN: Section (uuu) - the Member for Niakwa.

MR. A. KOVNATS: On (ttt), Mr. Chairman, would the Honourable Minister advise whether a windscreen at the front of a motorcycle would be sufficient, or is it going to require eye protection equipment other than just a windscreen? I know the reason for it was for bugs and things flying into the driver's eyes, and they do have these types of windscreens. Would that be sufficient?

HON. S. USKIW: Mr. Chairman, what the member is asking me to do is to predetermine today what we will decide upon some time down the road, after we have done some investigation of that question. It may be that we may deem it adequate, but I don't think I can give that answer today.

MR. A. KOVNATS: I just bring it to the Honourable Minister's attention so that he will be aware . . .

HON. S. USKIW: A very valid observation, Mr. Chairman.

MR. A. KOVNATS: It just came to mind when I read it.

MR. CHAIRMAN: Subsection (uuu)—pass. Subsection (vvv) - the Member for Pembina.

MR. D. ORCHARD: Mr. Chairman, are there any antique or vintage motorcycles that don't have headlights. I know that when we brought in an amendment to the act requiring turn signals to be on all motorcycles, there was a period of manufacture in which there were no turn signals on motorcycles. I wonder if there was ever any vintage motorcycles that did not have headlights and would become non-vintage or non-original if this amendment went through and required them to install a headlight.

HON. S. USKIW: Mr. Chairman, under The Highway Traffic Act, all vehicles must be equipped with lights or they cannot use the highway system in Manitoba.

MR. D. ORCHARD: So there is no requirement for a grandfather clause such as we had to bring in for the turn signals?

HON. S. USKIW: No, Mr. Chairman.

MR. A. KOVNATS: Mr. Chairman, I know when I drive on the highway with my truck, particularly when I'm going down to the farm, the first thing that I do is turn on the headlights in my motor vehicle, in my truck, and it's my choice whether it's done. I know it's done for safety purposes. Wouldn't it be logical to require not

only motorcycles, but trucks or other motor vehicles that drive on the highway to turn their headlights on and put it into the requirements, rather than freedom of choice. You have taken away every other freedom of choice, why not in this particular case, as a logical deduction for safety reasons?

HON. S. USKIW: Well, that is something that we'll have to look at, Mr. Chairman, when we deal with other sections of the act. Here we are dealing with motorcycles, so that we are not going to tie in regulations affecting other vehicles under a motorcycle provision. That is something for another day, Mr. Chairman.

MR. CHAIRMAN: Subsection (vvv)—pass. Subsection (www) - the Member for Niakwa.

MR. A. KOVNATS: Thank you, Mr. Chairman. It says, "exempting certain persons, . . ." would these certain persons be persons who wear turbans and fezzes, and under the requirements would turbans and fezzes be considered safety helmets if they were padded? Is there going to be any special consideration given to groups of that nature?

HON. S. USKIW: Mr. Chairman, I am advised that they don't meet CSA standards, so I'm not sure that they could be deemed to be protective. But it is intended that we give consideration to groups that want to be exempt, and I can think of a number - the Member for Niakwa has only mentioned one or two groups. Certainly, religious conviction is one part of it, but the other has to do with parades - the Shriners, etc., who put on quite a show, and I think during that period of time should not be forced to wear helmets when they are participating in a parade and so on.

MR. A. KOVNATS: I can understand that. Is there any way that you can ensure that people who are given special consideration, particularly the Shriners who drive these motor bikes in parades, is there any way that you could be given assurance that they don't fall off their motorcycles and bikes and bang their heads?

HON. S. USKIW: Mr. Chairman, I think what we are saying here is we are accepting a minor amount of risk by making that exemption, but it's a tradeoff. One has to recognize that when you want to participate in things like cavalcades, that it's a slow-moving event, there is still some risk, but certainly not a great deal of risk compared to regular travel. You trade off the risk factor against the benefits of having them participate in that way.

MR. CHAIRMAN: The Member for Pembina.

MR. D. ORCHARD: Mr. Chairman, when you exempt certain persons, classes of persons, members of certain groups or organizations, that's a pretty broad guideline for exemption. If I can offer the Minister a recommendation for an exemption of a class of person in here. I would like him to take it under consideration, that being the tourist who comes to Manitoba.

We advertise Manitoba in the United States and other provinces as "Friendly Manitoba." I would think that

if some American tourists were to drive across the border at Emerson and read the "Friendly Manitoba" sign, come from a state where there is no requirement, and there are a number of them, for seat belt usage, and they would be promptly handed a ticket five miles up from Emerson, welcoming them to Friendly Manitoba with a \$20 fine for not wearing a seat belt, compliance with a law they didn't know was in existence.

I would strongly recommend that the Minister make that exemption so our law enforcement agencies do not aggravate an image problem in the Province of Manitoba for tourists. I know that it is not a unique one. Newfoundland does have that exemption in their seat-belt law. I believe they've got either a 10-day or a two-week exemption for any out-of-province person who drives in the Province of Newfoundland.

The same case can be made, presumably, for a motorcyclist who comes in from out-of-country, particularly the United States where a number of states have repealed their helmet law for reasons that obviously didn't make any logical sense to the government. But they have repealed them and now, in coming to Manitoba, they will have to put on a helmet. Now if they come from a state where there is no helmet law, they may not have a helmet. In travelling through the province they may not only be faced with a fine, but they may be faced with the expense of buying a helmet to comply with a law they did not know existed.

I don't know how widespread that would be in the case of motorcycle helmets, but certainly when the Minister has got this broad exemption capability within the regulations, he should give very very serious consideration to tourist exemption from both helmets and seat belts and, particularly, Mr. Chairman, to the child restraint system law, because many tourists from out-of-province and in the States come to Manitoba for a family vacation.

If they have youngsters in the car who are under five and under 50 pounds, the law says, they must have a child restraint system. There are not that many states, although the numbers are growing, where they do have child restraint system laws. But certainly I think it would be highly unfriendly for Manitoba law enforcement officers to greet tourists from jurisdictions with no child restraint legislation, to have people with families coming to Manitoba for a "Friendly Manitoba" family vacation to be fined for not having child restraint systems.

Once again, the problem would be that, to comply with the law, they would have to buy a child restraint system in Manitoba for which they would have no use in their home state if it didn't have similar legislation.

So I think when the Minister is drafting regulations, he should give serious consideration to that. In fact, it might even be of sufficient persuasion that it be added as a section, "Wearing seat belts not required," 172.2(5), in which the Minister could introduce during third reading as an amendment to the act itself, rather than waiting for drafting of suitable regulations.

HON. S. USKIW: Mr. Chairman, I think the points that have been made by the Member for Pembina are good ones. That is why we must do this by regulation in order to give us the flexibility to be able to accommodate situations that we can't foresee at this stage of the game. It is very difficult to foresee every possibility, and to entrench that into legislation.

So I think the tourist angle is a very valid one although, for the benefit of the member, I would want to tell him that 39 states in the U.S. have child restraint laws.

MR. D. ORCHARD: Mr. Chairman, I am aware that 39 states have it, although some of the states don't even have a fine for their child restraint system. It's simply a summons. It is a very loosely-enforced law in some states.

Can the Minister indicate to me whether “. . . certain persons, classes of persons or members of certain groups or organizations . . . “ which, under (www), could be exempt from the law might include membership in the transit union of the Province of Manitoba, the bus drivers?

HON. S. USKIW: No, I don't believe, Mr. Chairman, one could stretch one's imagination to that end. That is a particular occupational group. It has nothing to do with religious conviction or the sort of unusual kind of circumstance that one would want to address.

MR. CHAIRMAN: The Member for Rupertsland.

MR. E. HARPER: I just wanted to ask the Minister for clarification maybe under this section in terms of exemptions for organizations, in particular to the reserves. As you know, the reserves have a clause under The Indian Act which says, Section 88, “That provincial laws of general application apply on reserves in the absence of any federal statute.”

Now my question is: How does the province intend to deal with terms of enforcement, because some of the reserve roads are considered private roads, and they are not up to any standard. Also they don't pay any insurance or licence. I can see some problems arising out of that. I can see some problems arising maybe in the southern part of the reserves where the province has a right-of-way, but these laws could be enforced.

In particular, let's say a situation on a winter road where vehicles are travelling back and forth from one reserve to another. I know of a particular instance where a collision took place on a winter road between a vehicle and a motor transport vehicle. The reserve owner didn't have any type of insurance. What if the province had sued on that road? What kind of coverage do they have? That's something that was brought up to me by some of the Chiefs, so how do you intend to deal with that?

HON. S. USKIW: Mr. Chairman, with respect to roads on reserves, if it's a provincial road, then the law would apply because it is the property of the public of Manitoba and accessible to the public. If it's a private reserve road, then of course it wouldn't apply. As long as it falls within the definition of a highway, it would have to be applicable. Winter roads are defined as a highway, so the law would apply on winter roads.

MR. CHAIRMAN: Subsection (www)—pass. Section 3, as amended - the Member for Niakwa.

MR. A. KOVNATS: Under Title, Mr. Chairman . . .

MR. CHAIRMAN: Section 3, as amended—pass.

HON. S. USKIW: There's one more amendment.

MR. D. SCOTT: Oh, I'm sorry, yes. Mr. Chairman, I move:

THAT Section 3 of Bill 60 be renumbered as Section 4.

MR. CHAIRMAN: Pass. Title - the Member for Niakwa.

MR. A. KOVNATS: Mr. Chairman, one last appeal to the Honourable Minister, would he break down this bill into the three parts that had been originally suggested so that those of us who want to support child restraints and want freedom of choice for seat belt legislation and for helmet legislation be allowed to vote on those separate items?

HON. S. USKIW: Mr. Chairman, I don't believe that is an argument that's in order at this time. We have just passed section by section. We now have to decide whether the Bill be Reported. So I don't think that it is appropriate at this time to make that argument. I think we're under Title.

MR. CHAIRMAN: Yes, under Title. The Member for Pembina.

MR. D. ORCHARD: Mr. Chairman, I think a number of people have made arguments to the government on Bill 60 and its contents and its applicability to the issue of safety in the Province of Manitoba. A number of people weren't heard because the committee chose to, at this sitting, consider the bill clause by clause. We didn't hear from some 15 or 16 presenters of briefs, some of them pro, some of them con, I would suspect probably 75 percent against, 25 percent for the act but . . .

HON. S. USKIW: Mr. Chairman, on a point of order, perhaps we should deal with the Title and then when we get to . . .

MR. CHAIRMAN: I was just going to suggest that to the Member for Pembina. Could we deal with the Title and then we could deal with the preamble and then the comments could be made under Bill be Reported.

Title—pass; Preamble—pass. Bill be Reported - the Member for Pembina.

MR. D. ORCHARD: Thank you, Mr. Chairman. The government and the members of the government who hold the majority on this committee have listened to a number of arguments and in trying to be objective in the analysis of what was said by various proponents and opponents to the legislation, I have to say that in all matters, with the exception of the child restraint system, where there was an emotional concept to it, that most people find it a little difficult to not try to protect a child and didn't use too much rational argument on the child restraint; certainly on seat belts and helmets where we got into the logic, the necessity and the benefit of both of those, presenters on the opponents' side, I think, left a pretty clear record for the government to consider.

The Province of Manitoba, both in seat belts and in helmets, can offer accident injury statistics that are

comparable to any province with those two measures mandatory. It's particularly dramatic in the helmet instance where I believe only Ontario has a slightly lower accident rate but it is not a statistically significant one. There are provinces with mandatory helmet legislation that have substantially higher injury and death rates than Manitoba does, without the helmet legislation.

In terms of the accidents in motor vehicles when compared with provinces with compulsory seat belt use, once again the Province of Manitoba is an outstanding example of a good safety record in a province that does not have mandated the use of seat belts. It is better than, in my knowledge, all of the provinces which have seat belts, in any kind of comparison that one wants to use, whether it be per 100 million miles driven, etc., etc. The Province of Manitoba, without seat belt legislation, has a superior safety record.

That brings about the argument that was never addressed and never dealt with by any of the proponents of the legislation or any member of the government, that how do you explain away the fact that the Province of Manitoba, without mandatory seat belts, without mandatory helmets, statistically has a superior accident record to any of the provinces, with very few exceptions, who have both of those measures as mandatory.

When you cannot prove it in a comparable situation with Saskatchewan who has helmets and seat belts, their accident rate is higher, etc., etc., their death rate is higher, their injury rate is higher. You cannot come up with any kind of numerical logic that says seat belts are going to be helpful. If anything, you can argue that seat belts are a neutral benefit, that they neither hurt nor help in accident circumstances.

But when you're taking global statistics, you cannot prove the case that seat belts have been beneficial to the driving population in provinces that have enacted them, nor can you prove that helmets have been beneficial to motorcycle riders in provinces that have that legislation enacted.

The only statistical attempt to support this legislation was made by a University of Manitoba research team who analyzed, in a reasonably substantive way, various accident circumstances. They come to the conclusion that, in a number of them, approximately one-third to 50 percent, if the person had of been wearing a seat belt he would have been spared.

But the problem with that kind of an analysis is that it does not analyze the accident where the person wasn't wearing the seat belt, sustained no injury, they haven't analyzed the reverse side of the coin to determine whether wearing a seat belt in those accident circumstances, would have caused injury or death.

So at best the best statistical argument that was made in support of this legislation, was half an argument and at worst was no argument, because the gentleman who presented that information indicated to us that next year we should expect 50 fewer fatalities on the highway, down from the 150 we hold now down to 50. That is going to be a statistic that will be watched very closely.

I think you will find, and I hope not, I hope that there are only 100 fatalities; I hope there are fewer. But I think you're going to find that after a full year of

implementation of this law, and it will be the first year where the user rate will be by force of law and threat of fine higher than what it will be two years, or three years, or four years from now because all provinces peaked at about 80-85 percent usage, and then dropped to somewhere between 45 percent and 55 percent in subsequent years. You will have in your very first year your very best statistical cases to the effectiveness of seat belts. You should achieve that 50 fewer fatalities next year, or for the next 12 month period, in which we have seat belt laws.

I simply ask members of the government who are forcing this legislation through, without having the statistical background and the statistical proof, that it has been beneficial when you make comparisons between seat belt provinces and non-seat belt provinces, I simply ask members of the government, a year from now, if the prediction of 50 fewer fatalities does not come true, if they will reconsider their position, and reconsider the fact that the Province of Manitoba was able to be a leader in safety in Canada, without mandatory use of either helmets or seat belts, that they were doing it by a number and a combination of efforts towards safety, be it driver training; be it licensing requirements; be it suspension of licences; be it safe roads; be it tribute to the car manufacturers who are building safer cars nowadays. Attribute it to any number of things but while we were doing it we didn't have mandated seat belts or helmets.

I don't believe that you're going to see a dramatic reduction in injuries and deaths because of this legislation, it hasn't been proven. What the government appears to be doing is on the one hand saying that we're bringing in seat belts and helmets and child restraint systems as a safety measure, but at the same time they are reducing funding through the Department of Highways and Transportation to other safety measures which have enabled in part, whether it be a small part, or a large part, Manitoba drivers to achieve one of the safest driving records in Canada.

So on the one hand I repeat the argument, and I've made it before, and others have made it. We've got a government that's bringing in this legislation which is a legislation that infringes on the freedoms of the individual to determine his own fate, they are bringing in this legislation as a supposed safety measure, and at the same time their reprioritization, which used to be called acute protracted restraint, has seen the Department of Highways forced to cut back safety spending in several key areas of safety within the Motor Vehicle Branch and, more importantly, has seen the Minister of Highways have his construction budget cut back dramatically, so that he is not able to reconstruct roads and remove obvious safety hazards in roads. Always when you rebuild a road, you rebuild it to a safer standard than what it was before.

This government brings in safety legislation and seat belts, helmets and child restraints, and reduces and ties the hands of the Minister in providing safe highways in the Province of Manitoba and safety programs on the highways of Manitoba and for the drivers of Manitoba, because of reprioritization - or born - acute protracted restraint.

HON. S. USKIW: Mr. Chairman, just to respond very briefly, the member wants to set up an objective there,

on which he then wants to gauge performance and wants to make comment on that performance later on. We would be quite happy if we had reduced our fatalities by 10 percent, pursuant to this legislation. Fifty is here nor there, that's just a number, Mr. Chairman. We would be happy if the evidence on each particular accident would give us positive results or show positive results.

One life is as important as 100. So we're not looking at any magic here, Mr. Chairman. We would be satisfied if it is shown indeed - I believe it will be - that the legislation that is now being put through will result in the saving of lives and the saving of expense to the people of Manitoba.

MR. D. ORCHARD: Just one final request before we move to report stage and third reading, could the Minister supply to myself and the members of this committee the design standards for seats in school buses, which allow the Minister of Education to take the position that she did two days ago, wherein the seats are designed so safely that school children do not need to wear seat belts?

Could the Minister provide two things to us: No. 1, the design standards of school bus seats, which have made them so safe that seat belts aren't required; and No. 2, the percentage, from a seating capacity basis, of school buses which have those extra safe seats in them in the Province of Manitoba?

HON. S. USKIW: Mr. Chairman, I think the member is out of order. He should address that question to the Department of Education, who is dealing with that issue within their own department. We have no jurisdiction over that department.

MR. D. ORCHARD: I appreciate the Minister must be embarrassed by the answer given by his Minister of Education the other day, but he's enacting legislation in this province which requires the use of seat belts in motor vehicles on the highways of this province. School buses probably transport as many children-miles as any vehicle in the Province of Manitoba, and they have been exempted from this legislation.

When questioned on why the exemption was there, the Minister - and obviously the Minister must agree with the arguments put forward because he has allowed the exemption - put forward that seats are safe. If that enters into a safety measure that seats in school buses are somehow safer than seats in cars, then we all would like to see this safety standard design that is there for seat belts in school buses, that allows the Minister of Education to make the statement she did, and allows the Minister to introduce legislation as he has, which does not require seat belts in school buses.

I don't think that the request is out of order. I think the request is very legitimate. We would like to see what these wonderful safety design standards are for school buses, and we would like to know how many school buses, in fact, have them.

HON. S. USKIW: Mr. Chairman, we did consider this whole question. It was on the advice of the Department of Education that we decided to set aside, for the moment, the question of seat belts in school buses, but it is set aside pursuant to their interest in developing

a safety package within the school program that they think will address this issue. If we are not satisfied down the road that they have addressed, we may have to come back with it.

MR. D. ORCHARD: Mr. Chairman, could the Minister indicate if in the information provided by the Department of Education, which persuaded the Minister to exempt school buses and their passengers from seat belt legislation, could the Minister indicate whether part of that persuasive reasoning was the fact that no buses have seat belts, and the cost to the government would have been substantial to install them in school buses, and therefore, this government, under the repriorization program, has chosen not to require the use of seat belts in school buses, because of the financial implications on the government?

HON. S. USKIW: No, Mr. Chairman, that question was not considered at all. The Department of Education advised that they are trying to develop a comprehensive approach to that issue themselves, and that they be given an opportunity to complete that. We will review that at some point in time. If it's deemed advisable, we will introduce an amendment to this act making it mandatory for school buses as well, if it proves to be needed at that time.

MR. CHAIRMAN: Preamble - the Member for Niakwa.

MR. A. KOVNATS: Thank you, Mr. Chairman. I guess this will be my last chance to bring one point to the attention of this committee, something to establish a point that I wanted to make . . .

A MEMBER: Jerry, Jerry.

MR. A. KOVNATS: There's going to be a vote, Jerry, is what they're saying. Don't go too far.

I just want to bring to the Minister's attention and ask him one question. The Honourable Member for Burrows - and let me complete my question before you try to answer, because it's quite a long, encompassing question.

The Member for Burrows is no longer a member of this committee, and has been replaced as the Chairman of this committee. Can the Honourable Minister advise whether the Honourable Member for Burrows has been replaced because of his endeavours to allow the hearings to continue after the last person to speak at the last hearing? Has he been replaced because he had endeavoured to allow the committee to meet again, and to allow those persons who hadn't made their presentations to be allowed to come back and make their presentations? Is that the reason that he has been replaced on this committee and as Chairman? If he has been replaced for that reason or any other reason, can the Honourable Minister advise whether the briefs that were to come from the people who hadn't made the presentations, the written briefs, if any of them have been received, or were they disgusted that they weren't allowed to make their presentation and they didn't send in the written briefs, because I have not received my briefs?

HON. S. USKIW: Mr. Chairman, the former Chairman is absent today, because of his attendance at the

Commonwealth Parliamentary Conference, which is being hosted by the Province of Manitoba this year. So he has other duties, in other words, that are more important perhaps to him than this particular function.

With respect to briefs that were sent in after the termination of hearings, I believe there were some - at least I know, I have received them. Now I don't know whether it's because they came directly to my office or whether they came via — (Interjection) — I think there are two that came in that I'm aware of, and they will be circulated, Mr. Chairman.

MR. CHAIRMAN: The Member for Roblin-Russell.

MR. W. MCKENZIE: Mr. Chairman, I have watched this seat belt debate in this Legislature, the same as the Honourable Minister, for many many years, and I'm still not convinced after listening to all these witnesses here, listening to the pro-seat belt lobby groups, as to whether we're doing the right thing or not for the people of this province. The child restraint portion of the bill, I have not too much problem supporting that aspect of it.

The motorcycle helmets is a longstanding problem that we had in this province. The Minister today in the government has admitted that they had the same concerns as I did with the motorcyclists, and they have come about 50 percent of the way.

I see no reason why the Minister and the government didn't go all the way with what the motorcyclists were offering to the committee and to the government, because their reasoning was sensible, it was sane, it was well-researched, well thought-out. The record I think that they put on the Hansards for us to study is well worth considering. However, for whatever reasons, and I don't know, the government has only seen fit to accept half of what they were proposing. There is still a vast majority of people in this province who are opposed to the compulsory use of seat belts through legislation.

As I read it there are basically two main reasons. There are a lot of people in this province - God bless them - who are strong believers in individual choice except where the general good of others is involved. There doesn't appear to me to be any clear evidence that this applies to seat-belt legislation, which witnesses put on the record.

Seat-belt legislation, Mr. Chairman, has not lived up to the promises and the predictions of the pro seat-belt lobby groups that we've been exposed to in this province all the years that I've been here and from other jurisdictions that already have compulsory mandatory seat belt legislation. It's been claimed by the lobby groups that seat-belt legislation will reduce motor vehicle accident fatalities by a third, as maybe a round figure, in one year.

At the same time it was stated to this committee that in the first year of the legislation, which my colleague put in the record, approximately 80 percent of the drivers in the province will be expected to use their seat belts and that rate of usage will drop down, or if you drop across the border where I live, in Saskatchewan, if you find 10 percent of the people wearing seat belts as you drive along the border there, because my wife and I have counted them time and time again. That would be, I would say, a good calculation of the number of people, and the law is mandatory there.

From this bill and from the arguments that the government is putting forth it would appear that the fatality rate in this province should drop drastically during the first year, next year. Like my colleague, I want to see the facts and the figures from that year's experience after this legislation. Then, of course, it will slow down as we understand it.

But the tragedy of all that argument, that has not been the experience, Mr. Chairman, in most of the provinces where this legislation has been mandatory. In fact, it was brought out to the committee here in one province, I think, that an increase of the fatality rate of some 12 percent for the first year. Even more surprisingly to me, Mr. Chairman, is the fact that the period in this province, in Manitoba, from January 1, 1977 to December 31, 1980, without any doubt, without any seat belts, without any of this legislation, this harangue amongst the people of this province, Manitoba had the highest percentage drop in fatality rate of any of the 10 provinces in Canada.

Now why are we still trying to tell the people of this province that these are not facts, that these things are not happening in this province, that we don't have a good province, that our safety record is one that's an enviable one and why should we be attacking it for that reason?

So, I hope and I look forward to what the members in this government are telling me, in this committee and the people of this province that this is going to bring dramatic changes to the fatality rate and the accidents in our province. I doubt it very much. It's a smoke screen in many many ways, and I don't know why we have to drag the people of this province through this type of harangue when our record in this province is one that's the best of anywhere.

Thank you.

MR. CHAIRMAN: Bill be Reported.
Committee rise.